



United States Postal Service Office of Inspector General Reasonable Accommodation Written Procedures "Standards of Practice"

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I. INTRODUCTION TO REASONABLE ACCOMMODATION

A. Overview

The United States Postal Service ("Postal Service") Office of Inspector General ("OIG") Reasonable Accommodation Written Procedures, also referred to Standards of Practice ("SOP") is modeled after the Postal Service's Handbook EL-307, *Reasonable Accommodation, An Interactive Process*. The establishes procedures that enable the OIG's Reasonable Accommodation Committee ("RAC") to assist managers and supervisors with making sound decisions regarding reasonable accommodation of qualified individuals with disabilities and meeting our legal and regulatory responsibilities during the hiring process and during their employment with the OIG.

Pursuant to Section 501 of the Rehabilitation Act of 1973 (29 C.F.R. § 1614.203(d)(3)) and Executive Order 13164, these procedures have been established for processing requests for reasonable accommodations and are available to all employees and job applicants via the Postal Service OIG website and on the KCE Home Page. A written copy or other accessible format (larger print, brail, etc.) will be provided to job applicants and employees upon request.

B. Applicable Laws

1. The Rehabilitation Act

The Rehabilitation Act of 1973, as amended, prohibits discrimination against qualified employees and job applicants with disabilities in the federal government, including the OIG. The Rehabilitation Act also imposes an obligation on the OIG to find reasonable ways to accommodate a qualified individual with a disability. In other words, the Rehabilitation Act requires the OIG to consider ways to change the manner of doing a job to allow a qualified person with a disability to perform the essential functions of their position, or to be considered for another position he or she desires.

2. The Americans with Disabilities Act

The Americans with Disabilities Act (ADA) of 1990, as amended, covers private-sector employers while the Rehabilitation Act covers public-sector employers. Even though the ADA does not apply to the OIG, the two Acts mirror one-another and the same regulatory standards apply.

C. Individuals Eligible for Protection Under the Rehabilitation Act

The Rehabilitation Act protects four categories of people. An individual must be qualified to perform the job and show he or she fits into one of these four categories:

- A person with a disability.

- A person with a record of a disability
- A person associated with a person with a disability.
- A person regarded as having a disability

In addition, the Rehabilitation Act protects all individuals from improper medical inquiries and improper disclosure of medical information.

1. Determining Who Is a Person with a Disability

To determine whether an individual is a person with a disability, two questions must be answered:

- Does the person have a physical or mental impairment?
- If so, does that physical or mental impairment substantially limit a major life activity?

2. Defining Physical and Mental Impairments

A physical impairment can include:

- Any physiological disorder or condition.
- Cosmetic disfigurement.
- Anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, circulatory, cardiovascular, reproductive, digestive, Genito-urinary, hemic, lymphatic, skin, immune, and endocrine.

Mental impairments include:

- Any mental or psychological disorder, such as an intellectual disability or organic brain syndrome.
- Emotional or mental illness.
- Specific learning disabilities.

Physical and mental impairments do not include:

- Normal physical characteristics, such as being overweight but not
- Personality traits within the range of normal, such as poor judgment or a quick temper.
- Other conditions, such as normal pregnancy, that are not the result of a physiological disorder.

3. Defining Major Life Activities

Major life activities are those functions important to most people's daily lives. Examples are hearing, seeing, walking, speaking, caring for oneself, performing manual tasks, and breathing. Generally, a major life activity is something of fundamental significance to people in the general population, and not simply an activity important to a particular individual. Major life activities also include major bodily functions such as immune system functions, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

There are often times when it is easily determined that an impairment substantially limits a major life activity and is a disability. Examples of these "predictable assessments", identified in

29 CFR 1630.2(j)(3)(iii), include, but are not limited to:

- Deafness, which substantially limits hearing
- Blindness, which substantially limits seeing
- Autism, which substantially limits brain function
- Diabetes, which substantially limits endocrine function; and
- Epilepsy, which substantially limits neurological function.

While individuals claim they are limited in the major life activity of working, they must show that their impairment substantially limits their ability to perform either a class of jobs, or a broad range of jobs in various classes, as compared to most people with comparable training, skills, and abilities. Generally, an individual does not meet this requirement by demonstrating a substantial limitation in performing the unique aspects of a specific job for a particular employer.

4. Defining “Substantially Limits” Criteria

The “substantially limits” criteria is not a demanding standard. An impairment need not prevent, or significantly or severely restrict, an individual from performing a major life activity. Determining whether an impairment substantially limits a major life activity requires an individualized assessment; in most cases, this does not demand extensive analysis. Other factors to consider in evaluating “substantially limits” include the following:

- An impairment is a disability if it substantially limits an individual's ability to perform a major life activity, as compared to most people in the general population.
- Usually, the substantially limits assessment will not require scientific, medical, or statistical analysis.
- The substantially limits assessment must be made:
 - Without considering the ameliorative effects of mitigating measures (except for ordinary eyeglasses or contact lenses).
 - By considering the non-ameliorative effects of mitigating measures, such as the negative side effects of medication or the rigors of a treatment regimen.
- An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.
- An impairment that substantially limits one major life activity need not substantially limit any other to be a disability.
- The effects of an impairment that is temporary can be substantially limiting. The duration of impairment is but one factor to consider in determining whether an impairment is “substantially limiting.” Typically, impairments that last for a short period are not substantially limiting, but this is not a fixed rule, and an individual assessment and determination is necessary always. For example, limitations of short duration can be substantially limiting if the limitation is severe.
- Not all impairments will be substantially limiting. Consequently, when there is a doubt about the existence of a substantial limitation, it is appropriate to consider

the following when comparing an individual's performance of a major life activity to the performance of the same activity by most people in the general population:

- Scientific, medical, or statistical evidence.
- The conditions under which the individual performs the major life activity.
- The way the individual performs the major life activity.
- The time it takes the individual to perform the major life activity.

In considering condition, manner, or duration, you must consider the following factors:

- The difficulty, effort, or time required to perform a major life activity.
- Pain experienced.
- The length of time an individual can perform the major life activity.
- The way an impairment affects the operation of a major bodily functions.

5. Determining Who Is an Individual With a record of a Disability

An individual with a record of a disability is someone who does not now have, but in the past had, a medical condition that substantially limited a major life activity. Examples of individuals with a record of a disability may include:

- A person who suffered from cancer but whose cancer is in remission.
- A recovered drug addict with a record of addiction.
- A person who had repeated hospitalizations and numerous periods of leave for a long-term or permanent ailment.

6 Determining Who Is an Individual Associated with a Person with a Disability

The law prohibits discrimination against individuals who are associated with or take care of a person with a disability. The OIG may not refuse to hire a person simply because he or she must take care of a spouse or family member with a disability. However, individuals associated with a person with a disability are not entitled to reasonable accommodations to care for the person with a disability.

7. Determining Who Is an Individual Regarded as Having a Disability

The Rehabilitation Act protects a person who the employer erroneously believes has an impairment that substantially limits a major life activity. For example, an applicant for a letter carrier job who has a limp may be regarded as having a disability if the hiring official concludes without any inquiry that the applicant could not walk a full route. Here, the applicant may be erroneously regarded as having a disability because there is no individualized basis or medical support for concluding that the applicant cannot perform the major life activity of walking. An employee may also be regarded as having a disability if the employer believes the employee has an impairment that the employee does not have. For example, an employee who is infected with HIV (a treatable virus that is not spread by casual contact, through the air, or from food, water, or other objects) is believed to have AIDS.

8 Determining Who Is a Qualified Individual with a Disability

To be protected under the Rehabilitation Act, an individual must also be “qualified” for the job. “Qualified” means that the individual must be able to perform the essential functions of a job safely, with reasonable accommodation, if necessary, just like any other employee.

Note: An employee or applicant may not be “qualified” even though he or she can perform the essential functions of a job with or without a reasonable accommodation because he or she may be unable to meet certain “qualification standards” for a job, like having a valid driver’s license, passing a test, or meeting certain educational requirements. An employer may deny a job to an individual with a disability based on the failure to meet “qualification standards” just like anyone else if those standards are job-related and necessary.

9. Determining Direct Threat

An individual is not “qualified” for the position if his or her performance in the job would result in a direct threat. “Direct threat” means a significant risk of substantial harm to the health or safety of the individual or others that a reasonable accommodation cannot eliminate or reduce to an acceptable degree. The risk of harm must be more than just speculative or hypothetical. There must be a high probability of verifiable, substantial harm.

To this end, objective, factual, medical, or scientific evidence must support a determination that a person poses a direct threat. Determining whether an employee poses a direct threat must be based on an individualized assessment of that person’s actual ability to perform safely the essential functions of the job considering these factors:

- The nature and severity of the potential harm.
- The duration of the risk.
- The likelihood that the potential harm will occur.
- The imminence of the potential harm.

In assessing the degree of risk, consider:

- Input from the applicant or employee.
- The applicant or employee’s experience in prior jobs that were similar.
- The opinions of medical experts, rehabilitation counselors, and physical therapists.
- The opinions of engineering or other job specialists, when needed.

In determining whether the individual poses a direct threat, the OIG must also consider whether a reasonable accommodation would reduce the risk to an acceptable level.

D. Other Laws

Although an individual may not qualify for reasonable accommodation under the Rehabilitation Act, he or she could still be entitled to the benefits of other laws, rules, or regulations. For example, a

pregnancy by itself is not covered by the Rehabilitation Act, but she may be entitled to leave protection under the Family and Medical Leave Act (FMLA). Similarly, there may be times when the Rehabilitation Act and other laws, rules, or regulations cover an employee. An employee who sustains an on-the-job injury that results in permanent or long-term substantial limitations of a major life activity may be protected by both the Rehabilitation Act and the

Federal Employees' Compensation Act (FECA). Persons in permanent rehabilitation positions have the same rights to pursue promotional and advancement opportunities as other employees. In addition, an employee with a serious health condition covered by FMLA may also be covered by the Rehabilitation Act if the condition is long-term and substantially limits a major life activity. An employee's circumstances may meet the criteria for any one of the three statutes simultaneously.

1. Family and Medical Leave Act (FMLA) Requests

A request for accommodation may first appear as a request for FMLA-protected leave. For example, if an employee requests long-term leave for a reason related to (or possibly related to) a disability, then the supervisor or manager will consider this a request for reasonable accommodation and FMLA leave, make a referral to the RAC, and advise the employee of the referral. If the employee elects to pursue his or her rights under the Rehabilitation Act, the RAC need not rely solely on FMLA certification but may make additional medical or disability-related inquiries to determine whether the employee has a covered disability, is entitled to reasonable accommodation, or both.

2. Federal Employee's Compensation Act (FECA) and the Rehabilitation Act

The Rehabilitation Act prohibits employers from discriminating against applicants and employees because of a disability and to provide for reasonable accommodation in the workplace. The purpose of the Federal Employees' Compensation Act (FECA) is to provide a system for securing prompt and fair resolution of federal employees' claims against employers for occupational illness or injury. While the purpose of the laws do not conflict, the simultaneous application of the laws raises questions in several areas.

An employee who has sustained an occupational illness or injury and has an accepted claim under FECA can, but does not necessarily, have a disability within the meaning of the Rehabilitation Act. In other words, an employee may sustain an injury or illness on the job that does not meet the Rehabilitation Act's definition of a disability even if the employee is placed in a permanent rehabilitation assignment. This is because FECA is different in purpose than the Rehabilitation Act and uses different standards for evaluating whether a person has a "disability" or whether the employee is capable of working.

The Rehabilitation Act defines disability as a physical or mental impairment that substantially limits a major life activity. However, impairments resulting from an occupational illness or injury may not be severe enough to substantially limit a major life activity, or they may be only temporary, and have little or no long-term impact.

If an employee with an occupational illness or injury requests reasonable accommodation and the need for accommodation is not obvious or already known, the employer may require documentation to substantiate:

- The existence of a disability as that term is defined in the Rehabilitation Act.
- The employee's entitlement to reasonable accommodation.

If the impairment resulting from the occupational illness or injury substantially limits a major life activity and is permanent or long term, assess whether the employee can perform the essential functions of a position, with or without accommodations, and without posing a direct threat. The fact that an employee has a substantially limiting impairment caused by the occupational illness or injury does not, by itself, indicate that he or she is unable to perform the essential functions of the job or that returning the employee poses a direct threat. Refer to the five-step decision-making process, consult with your injury compensation office, and make an individualized determination about what accommodations will enable the employee to perform the job's essential functions.

Reasonable accommodation may include restructuring a position by reallocating or redistributing the marginal functions that the employee cannot perform because of an impairment resulting from a traumatic injury or occupational illness. However, the OIG need not eliminate essential functions of the position.

3. The Genetic Information Nondiscrimination Act of 2008 (GINA)

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits discrimination against employees or applicants because of genetic information and prohibits Employers from requesting and disclosing genetic information about their employees except as specifically allowed by this law. "Genetic information" means information about the following Genetic tests

- a. The genetic tests of family members.
- b. Family medical history, which means the manifestation of a disease or disorder in family members.
- c. Request for or receipt of genetic services.
- d. Participation or family member's participation in clinical research that includes genetic services.
- e. Genetic information of a fetus carried by the individual or a family member or an embryo lawfully held by the individual or a family member receiving assistive reproductive services.

4. Disability Retirement

Employees who meet eligibility requirements may apply for disability retirement through the Office of Personnel Management. The application for disability retirement includes an Agency Certification of Reassignment and Accommodation Efforts.

II. THE REASONABLE ACCOMMODATION COMMITTEE

A. Overview

The OIG has one RAC, which is a multifunctional task force that helps management to:

- Determine the eligibility of employees and applicants for reasonable accommodation.
- Assess the availability and feasibility of specific accommodations.

The RAC examines whether an individual applicant or employee qualifies for accommodation under the Rehabilitation Act. Working with the individual and management of the affected office,

the RAC also examines potential accommodations, including transfer or reassignment.

B. Members

The RAC should include, but is not limited to, the members listed in the table below.

Members of the Reasonable Accommodation Committee

Position	Recommended Roles and Responsibilities
Employee Relations Specialist or Senior Specialist (or designee)	Chairperson: Responsible for convening the RAC as necessary to consider requests for reasonable accommodation.
Human Resources, Reasonable Accommodations Coordinator (or designee)	Responsible for maintaining the RAC file for each applicant or employee considered by it, and for storing the file as discussed in Subsection, titled Record Keeping.
Mission Support, Business Operations Manager (or designee)	
OIG Medical Doctor (as needed)	Participate as necessary to help assess the medical information.
Safety Coordinator (as needed)	Participate when there is a question of safety of the individual or others within the OIG.
Equipment Coordinator (as needed)	Participate when special equipment is considered for a reasonable accommodation.

Each member of the RAC should be familiar with the contents of the process.

Any member may be the designated chairperson, The RAC may also elect co-chairs. The chairperson is responsible for the following:

- Maintaining a RAC file for each applicant or employee considered by the RAC.
- Convening the RAC as needed to consider requests for reasonable accommodation
- Storing the files. The individual’s file must include:
 - Reasonable accommodation requests.
 - All related paperwork, medical and non-medical, including the Reasonable Accommodation decision.

III. THE REASONABLE ACCOMMODATION PROCESS

A. Overview

Qualified individuals with disabilities may require reasonable accommodation during the hiring process, the course of their employment with the OIG, or both.

Questions about reasonable accommodation arise in several ways.

- When an applicant requests reasonable accommodation in the examination or hiring process.

- When the hiring official is making a decision regarding whether an applicant will be able to perform the job with or without reasonable accommodation.
- When an employee requests reasonable accommodation to perform his or her current job.
- When an employee requests an accommodation to enable him or her to enjoy equal benefits and privileges of employment as employees without disabilities enjoy.

B. Reasonable Accommodation Requests

The reasonable accommodation process is activated whenever a request for reasonable accommodation is initiated by the employee or applicant, or someone acting on behalf of the employee or applicant, such as a family member, legal guardian, health professional, or other representative acting on the individual's behalf. The process may also be activated when an employee with a known physical or mental impairment is observed having difficulty performing the essential functions of his or her job because of an impairment.

To request a reasonable accommodation, an individual may use plain language and need not mention the Rehabilitation Act or use the phrase "reasonable accommodation." The request does not have to be made in writing, nor are there specific forms required to request an accommodation. While the individual does not need to request a specific accommodation, he or she must let the OIG know that he or she needs an adjustment or change at work for a reason related to a medical condition.

An employee can make a request for accommodation at any time to any of the following:

- His or her supervisor or manager, or any management official.
- The manager, Human Resources
- Reasonable Accommodation Committee (RAC) Chair.
- Through KCE

A job applicant may make a request for accommodation to any of the following:

- The examiner.
- The selecting official.
- The manager, Human Resources.
- Any OIG employee connected with the application process (including those listed above, a contact listed on the job posting, an employee who assists in scheduling an interview, or a member of the review committee).

Requests for reasonable accommodation may not be that straightforward.

Example A: An employee tells her supervisor, "I'm having trouble getting to work at my scheduled starting time because of medical treatments I'm undergoing." This is a request for a reasonable accommodation.

Example B: A new employee, who uses a wheelchair, informs the employer that her wheelchair cannot fit under the desk in her office. This is a request for reasonable accommodation.

Incorrect Example C: An employee tells his supervisor he would like a new chair because his present one is uncomfortable. Although this is a request for a change at work, his statement is insufficient to put the employer on notice he is requesting reasonable accommodation. He does not link his need for the new chair with a medical condition.

When a manager receives an accommodation request, the manager must contact the RAC for guidance in processing the request promptly. The manager must advise the employee of the referral to the RAC. Referral to the RAC is also appropriate when an Appointing Official questions the medical suitability of an applicant.

C. Reasonable Accommodation Referrals

A supervisor, manager, or OIG representative must refer all requests for accommodation to the RAC promptly. The manager or OIG representative must advise the employee of the referral to the RAC. Referral to the RAC is also appropriate when an Appointing Official questions the medical suitability of an applicant.

All requests for reasonable accommodation must be documented for record keeping and to ensure that every request is processed timely.

- **Exception:** Once an employee requests and is granted a type of reasonable accommodation he or she is likely to need on a repeated basis (e.g., a sign language interpreter), then documentation for recordkeeping purposes is not required each time the accommodation is needed.

Whenever you activate the reasonable accommodation process, a five-step interactive process is followed to determine whether to provide an accommodation to the applicant or the employee. The steps are:

- *Step One:* Determine whether an individual has a disability and meets minimum qualification standards
- *Step Two:* Determine the essential functions of the job.
- *Step Three:* Identify the abilities and limitations of the individual.
- *Step Four:* Identify potential accommodations.
- *Step Five:* Determine the reasonableness of the accommodation(s) and whether implementation would impose an undue hardship.

The OIG does not require the five-step interactive process if it is definitively clear that an individual is not a qualified individual with a disability. For example, an individual with a broken leg that the individual expects to heal in the normal time frame and without additional complications is generally not a qualified individual with a disability.

D. The Interactive Process

The RAC will engage in the interactive reasonable accommodation process, which consists of the five steps described below. The five-step interactive process is not required if it is definitively clear that an individual is not a qualified individual with a disability. For example, an individual with a temporary condition such as pregnancy or a broken leg is not a qualified individual with a disability.

1. Step One: Determine Whether an Individual Has a Disability

The OIG is entitled to know that an employee or applicant has a covered disability which requires a reasonable accommodation. The OIG may not ask for documentation to support the existence of a disability when an applicant's or employee's disability is obvious (such as blindness); but may ask for documentation to clarify how the requested accommodation will assist the employee to perform the essential functions of the job. If you are unsure whether the employee or applicant has a disability or believe he or she does not have a disability, you must contact the RAC.

Questions to consider:

- Does the individual have a physical or mental impairment?
- Does the impairment render the individual unable to perform a major life activity? If not,
- Does the impairment substantially limit the performance of a major life activity as compared to the average person's performance of that activity?
- Is the individual qualified?

A qualified individual with a disability must also meet minimum qualifications for the job. Being minimally qualified includes meeting the requisite license, required examination(s), skills, experience, education requirements, and other job-related requirements for the position. At this first step, consider whether the individual has met the minimum qualifications for the job.

If the RAC has determined that the individual has a covered disability and is minimally qualified, proceed with steps two (2) through five (5) to determine whether he or she can perform the essential functions of the position, with or without accommodation, and what accommodation, if any, is appropriate. Informal dialogue with the individual to obtain relevant information is encouraged throughout the process and is necessary to make an informed decision.

2. Step Two: Determine the Essential Functions of the Job

Step two in the five-step reasonable accommodation process is to determine the essential functions of the job. The term "essential functions" is defined as the fundamental job duties of the position the individual with a disability holds or desires; the term excludes marginal functions of the position. Disabled individuals must be able to perform all essential functions and if they cannot, then the RAC must determine whether some accommodation will allow them to perform these functions.

It is important to note that when a function is essential, the OIG is not required to eliminate it or assign it to another employee. Instead, try to find new or alternative ways for the employee to perform the function. A job function may be considered essential for several reasons, including but not limited to:

- The function may be essential because the position exists to perform that function.
- The function may be essential because of the limited number of employees available to whom the performance of the job function can be distributed.

- The function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the function.

Evidence of whether a particular function is essential includes, but is not limited to:

- The employer's judgment regarding a determination as to which functions are essential.
- Written job descriptions.
- The time spent performing the function.
- The consequences of not requiring the incumbent to perform the function.
- The work experience of past incumbents in the job.
- The work experience of current incumbents in a similar job.
- Actual duties performed by a person holding the job.

Position descriptions, qualification standards, and job announcements can help determine the essential functions of a job. However, these materials generally describe the requirements of a job generically. The RAC may need to interact with others and go beyond generic descriptions to ascertain the actual essential functions of a specific job.

3. Step Three: Identify the Abilities and Limitations of the Individual

The next step in the interactive process is to determine the physical and mental abilities of the employee or job applicant. The individual can best tell you what he or she can do and cannot do. Therefore, discuss the job with the individual, including the nature of the job, the essential functions the individual is expected to perform, and the way the essential functions are usually performed.

a. Gaining the Individual's Participation

The RAC should meet with the employee or applicant in person, if possible. If not, the RAC must contact the individual to discuss the accommodation request. The affected manager or supervisor may also find it helpful to attend this meeting and should be invited. Before the meeting, the RAC must obtain medical documentation from the employee or applicant regarding the nature and extent of the impairment and its limitations (when the disability is not obvious or already known, e.g., an employee is blind or deaf).

Next, the RAC meets with the individual to:

- Review medical information.
- Discuss and evaluate limitations to major life activities.
- Discuss essential functions of the position in question and explore whether and how the individual can perform those functions without posing a direct threat.

- Elicit input regarding potential accommodations, including alternatives such as reassignment (where necessary and available and appropriate).

In addition, the RAC should advise the employee or applicant of the time frames for processing the request for accommodation and of the confidential treatment of the medical information relayed. The RAC should maintain ongoing communication with the individual throughout its proceedings, and advise that additional information may be sought later, should the need arise.

The following are examples of questions that may be modified and used to gain the individual's participation in the reasonable accommodation process:

- At the present time, the essential functions are performed in this manner. Can you tell us or show us how you can achieve the same results?
- This equipment is used on a regular basis in this manner. Can you show us how you would use it to complete required tasks?
- Historically, this job has been done using this sequence and method. Do you feel you could accomplish the same results in this or in another way?
- This is the normal arrangement of the work area. Do you have any suggestions regarding changes or modifications that may be necessary to enable you to perform the job?

b. Documentation

In some cases, further documentation may be required to provide more information about the disability and its effects and job restrictions, and to clarify how the requested accommodation will assist the employee to perform essential functions of the job.

When a disability and/or need for accommodation is not obvious or otherwise already known, reasonable documentation may be required to support the existence of a disability and the need for the accommodation requested. The RAC will provide a letter to the applicant or employee. This documentation must come from an appropriate professional to explain the nature of the disability and the need for reasonable accommodation, or to clarify how the requested accommodation will assist the employee to perform the essential functions of the job. The applicant or employee will be given 15 calendar-days to provide the requested information. If the requested information is not received within the 15 calendar-day period, the RAC will notify the individual and the request for accommodation has been placed on hold until the requested information has been received.

c. Defining Abilities and Limitations: Job Applicants

After making a conditional job offer, schedule a medical assessment to assist in defining the applicant's abilities and limitations. When physical limitations or restrictions are identified in the pre-employment medical assessment findings, the RAC must review the medical assessment

Additional sources of information to assist in making an individualized determination for an applicant include current medical knowledge, the best available objective evidence, or both, and the individual's work history and potential accommodations. The conditional job offer must precede any medical inquiries or scheduling of medical assessments.

d. Defining Abilities and Limitations: Employees

For employees requesting reasonable accommodation, consider medical information that their treating healthcare provider may provide to determine job-related limitations and how they could be overcome. Ask the employee what he or she thinks is needed to enable him or her to perform the job.

Other important sources of information include past medical records, current medical examinations, and work history. It may be necessary to schedule a medical evaluation to obtain a better understanding of the employee's abilities and limitations.

4. Step Four: Identify Potential Accommodations

Once you have identified essential functions of the job and the individual's abilities and limitations, determine:

- Whether the individual can perform the essential functions of the job.
- Whether accommodations can be made to enable the individual to perform the essential functions of the job.

Consult with several people to identify potential accommodations. First, ascertain from the job applicant or employee what he or she thinks is needed to enable him or her to perform the job. Second, consult with operations, safety, and/or medical personnel, as appropriate, to determine whether the employee's proposed accommodation is feasible and whether other accommodations can be made. The RAC may offer alternative suggestions for reasonable accommodations and discuss their effectiveness in removing the workplace barrier that is impeding the individual. Another option is to seek guidance from people outside the OIG, particularly state agencies and nonprofit organizations dedicated to assisting people with disabilities in the workplace. As an example, the national Job Accommodation Network (JAN) at 800-232-9675 can provide information, free of charge, about many types of reasonable accommodation.

5. Step Five: Determine the Reasonableness of the Accommodations and Select Options

Once potential accommodations are identified, the RAC will determine whether the potential accommodations are reasonable. Consider whether the proposed accommodation would:

- Eliminate or alter the essential functions of the job.
- Impose an undue hardship on the OIG.
- Fail to eliminate or reduce the direct threat of harm.

Consider the individual's preferences and the effectiveness of each accommodation and its cost. Select the accommodation most appropriate for both the OIG and the individual. The chosen accommodation need not be the best or most expensive, or even the one preferred by the individual. If the accommodation is reasonable and enables the individual to perform the essential functions, it is acceptable. An accommodation is not reasonable when it requires the elimination of legitimate selection criteria, lowers standards of performance or production, creates a job where none exists, reallocates, or eliminates essential job functions, or otherwise substantially changes

the fundamental nature of the job. The employer makes the ultimate decision as to what accommodations, if any, shall be adopted.

If the information provided is not sufficient to substantiate that the individual has a disability and/or needs the reasonable accommodation requested, supplemental medical information may be required including, if appropriate, examination by a medical specialist of the OIG's choosing and at the expense of the OIG. A medical expert of the OIG's choosing and at the expense of the OIG may also review the medical information submitted to support a request for reasonable accommodation.

Medical information obtained in connection with the reasonable accommodation process must be kept confidential and retained in the Employee Medical Folder. Supervisors and managers who need to know the information to perform their responsibilities may be told about the necessary medical restrictions or the need for accommodations, but medical information should be disclosed only when necessary.

Pursuant to 29 C.F.R. § 1614.203(d)(3)(i)(L), the OIG may disclose confidential medical information on a need-to-know basis. Confidential medical information may be disclosed to: (1) Supervisors and managers who need to know may be told about necessary restrictions and about the necessary accommodation(s); (2) First aid and safety personnel may be told if the disability might require emergency treatment; (3) Government officials to investigate the agency's compliance with the Rehabilitation Act; (4) Workers' compensation offices or insurance carriers; and (5) Agency EEO officials may be given the information to maintain records. Where medical information is disclosed, the OIG must inform those individuals about the confidentiality requirements that attach to the information.

a. Altering the Essential Functions of the Job

Sometimes an accommodation involves a job restructuring or altering the nonessential requirements of a particular job. The law, however, does not require the OIG to change or alter the essential functions of a job. For example, an essential function of an OIG employee is the ability to read personnel forms. It would be unreasonable for an applicant with a visual impairment to demand that the OIG hire a reader to assist him or her so the forms can be read. Under the law, the employer is not required to reallocate the essential functions of the job to another individual. Here, reading is an essential function. If reading were only a minor or unimportant aspect of the job, some form of accommodation would be in order.

b. Identifying Undue Hardship

Accommodations that would impose an undue hardship on the OIG are not required. "Undue hardship" in this context means a significant difficulty or expense in providing the accommodation. Factors, among others, to consider in determining whether an undue financial hardship exists are:

- The nature and cost of the accommodation.
- The overall financial resources of the facility.
- The number and composition of the workforce at the facility.
- The effect on expenses and resources.

An accommodation can also impose an undue hardship when it alters the fundamental nature of the business or operations. Factors to consider in this context include:

- Type of operations conducted.
- Composition and functions of the workforce.
- Impact on the office, specifically compliance with safety rules and policies.
- Impact on other employees' abilities to perform their jobs.
- Impact on the office's capability to conduct business.

There must be a strong fact-based analysis underlying the undue hardship determination. Generalizations or speculation about the effects of accommodations are not acceptable.

c. Minimizing Safety Hazards

In some situations, the disability of a job applicant or an employee may subject the employee, applicant, or others to a direct threat of harm. The RAC must determine whether the accommodation would reduce the risk of harm to an acceptable level. If no accommodation can adequately reduce or eliminate the risk, then the employer can deny employment to the job applicant or take other appropriate action concerning the employee. Before concluding that a person poses a direct threat of harm with or without reasonable accommodation, verify this conclusion is based on current recognized scientific and/or medical data and an individualized assessment of the situation and the individual in question.

d. The RAC's Findings

Once the interactive process is completed and all necessary consultations have been made, the RAC must make these findings:

- (1) Whether the employee or applicant has a disability as defined under the Rehabilitation Act. In making this determination, the RAC should:
 - (a) Identify the impairment.
 - (b) Determine whether the impairment:
 - (i) Renders the individual unable to perform a major life activity, or
 - (ii) Substantially limits the performance of a major life activity as compared to the average person's performance of that activity.
- (2) If a disability exists, determine whether the individual can perform the essential functions of the position held or desired, with or without reasonable accommodation. In making the essential functions determination, the RAC should obtain information on the essential functions of the position in question from the appropriate affected office or site and consider the input of the employee or applicant. At times, a site visit to evaluate the job functions may be necessary.
- (3) If a disability exists, whether accommodation, including reassignment (for an employee, not an applicant), can be provided without undue hardship.

e. Reassignment as a Reasonable Accommodation

Reassignment is a form of reasonable accommodation which may be required if no other accommodation will allow the employee to perform the essential functions of the position. Barring undue hardship, reassignment will be required as a reasonable accommodation of last resort if it is determined that no other reasonable accommodation will permit the employee with a disability to perform the essential functions of his or her current position. Reassignment to a vacant position for which an employee is qualified, and not just permission to compete for such position, is a reasonable accommodation. Where reassignment is or may be appropriate, applicants and employees should refer to the Job Announcements listed on KCE and/or the Postal Service OIG Website. Consult with Human Resources personnel for additional information.

Note: Reassignment is an accommodation of last resort and should only be considered if no accommodation is possible within the employee's current position. Reassignments to vacant, equivalent positions should be considered first, then reassignments to a lower-level position. Reassignment to a higher-level position is not a reasonable accommodation. Regarding findings (2) and (3), consultation with the management of the affected office is essential.

f. Final Decision

The manager of the operation or office affected by the request for reasonable accommodation must be consulted and must ultimately approve the request or determination using the RAC as a consultative source or guide.

When deciding on an accommodation, you must consider the individual's preferences and the effectiveness of each accommodation and its cost. Select the accommodation most appropriate for both the operation and the individual. The chosen accommodation need not be the best or most expensive, or even the one preferred by the individual. If the accommodation is reasonable and enables the individual to perform the essential functions, it is acceptable. The employer makes the ultimate decision as to what accommodations, if any, it will adopt. Once you select an accommodation, it is important that an appropriate party be responsible for implementing the accommodation. See the following examples:

- If equipment is involved, then the appropriate party must install it properly and train the employee on its proper use.
- If a schedule change or policy modification is involved, then the appropriate managers or supervisors may need to know of the change to carry it out effectively.
- In addition, it is important for an individual's manager or supervisor to check that the accommodation is working and to encourage the employee to communicate any issues that may arise with his or her accommodation.

You must do the following once the accommodation is in place:

- Keep the lines of communication open to help ensure that the accommodation remains effective and enable the employee to be a productive part of the workplace.
- Monitor the accommodation in case it becomes ineffective for several reasons such as, the employee's limitations change, workplace equipment changes, the job duties change, or the accommodation becomes an undue hardship for the employer.

- Periodically check on the ongoing effectiveness of accommodations and tell employees, who are receiving accommodations, to let their RAC, supervisor, or manager know if there are changes or problems with the accommodation.

If the manager decides not to follow the RAC's recommendation to accommodate the individual, the manager must consult with the Director of Legal Services – Civil (or designee) and document his or her reasons for that decision.

C. Time Frames for Processing Requests for Reasonable Accommodation

The time needed to process a request depends on the nature of the accommodation needed and whether it is necessary to obtain substantiating information regarding the impairment of the individual, the need for accommodation, or both. You must process requests for accommodation and provide the accommodation as promptly as possible given the facts and circumstances, but you should not take longer than 45 calendar-days from the date the request is received to provide or deny the accommodation. If referral to the RAC is required, the RAC must conduct an interactive meeting with the requesting individual within 15 calendar-days of receipt of the request; and absent extenuating circumstances justifying a delay, a decision must be made on the request within 45 calendar-days from receipt of request for reasonable accommodation.

You must be able to provide the decision as soon as reasonably possible after the conclusion of the interactive process when the following applies:

- The need for accommodation is clear.
- The requested accommodation is simple and straightforward,
- No extenuating circumstances apply.
- Unnecessary delay in rendering a decision can result in a violation of the law.

Expedited processing may be necessary where:

- The reasonable accommodation process is needed to enable an individual to apply for a job (for example, an applicant with a permanent disability resulting from a back injury requests a special chair with back support for a scheduled typing performance test).
- The accommodation is needed for a special activity that is scheduled to occur shortly (for example, an employee who is deaf or hard-of hearing is selected to participate in a focus group and requests an interpreter).
- An employee with a known disability has a recurring, predictable need for accommodation (for example, sign language interpreter or large print for an employee who has previously been granted this accommodation).

When a disability and/or need for reasonable accommodation is not obvious or otherwise known, the employee or applicant may be required to provide documentation. This documentation should be requested promptly and must come from an appropriate medical professional to explain the nature of the disability, the need for reasonable accommodation, or to clarify how the requested accommodation will assist the employee to perform the essential functions of the job.

If the RAC requests medical information, then it should make its decision to adopt or deny the requested accommodation within 15 calendar-days from the date the RAC receives the requested information, absent extenuating circumstances. When extenuating circumstances exist, the time for processing a request may be extended, as necessary. When all the facts and circumstances known to the OIG make it is reasonably likely that the individual will be entitled to an accommodation, but the accommodation cannot be provided immediately, the RAC will notify the individual an interim accommodation that allows the individual to perform some or all of the essential functions of the job, absent undue hardship, will be provided. The RAC will notify the individual of the reason for delay and the approximate date on which a decision is expected. The RAC will also communicate further developments or changes to the individual.

Extenuating circumstances are situations in which unforeseen or unavoidable events prevent the prompt processing of a request or of providing accommodation. The following are examples of extenuating circumstances:

- The purchase of equipment may take longer than anticipated.
- The employee with a disability needs to try working with equipment on a trial basis to ensure that it is effective before the OIG buys it.
- A medical expert is evaluating medical information provided by the individual.
- Additional medical information is necessary to determine whether a disability exists or if an accommodation is feasible, including where appropriate, examination by a specialist.
- The RAC has not received the requested medical

D. Denying a Requested Accommodation

If the RAC denies an individual's request for accommodation, it will notify the individual in writing of the denial at the time the request for accommodation is denied. The denial must:

- Be given in writing and in plain, specific language.
- Give the reasons for denial.
- Identify the individual or office that made the decision.
- Provide:
 - Notification of the individual's right to file an equal employment opportunity (EEO) complaint. It is important to note, if the individual wishes to file a complaint, it must be initiated within 45 calendar-days of the denial.
 - Notification of any other appeal rights to which the individual may be entitled.

The OIG encourages the use of voluntary informal dispute resolution processes to allow individuals with disabilities to obtain prompt reconsideration of denials of accommodation requests.

a. Reasons for Denial

Reasons for the denial of a request for an accommodation may include:

- Medical documentation or other evidence is inadequate to establish that the individual has a disability because the impairment does not substantially limit any major life activity.
- The applicant or employee is not a qualified individual with a disability.
- The evidence is inadequate to establish that the individual needs accommodation to perform essential job function(s).
- The requested accommodation will:
 - Require elimination of essential job functions.
 - Not be effective.
 - Result in undue hardship.
 - Not adequately eliminate or minimize the risk of harm to an acceptable level.
- The requested accommodation was denied, and alternative accommodations considered were ineffective.
- To deny an accommodation based on cost, the official must consider all resources available to the agency as a whole, excluding those designated by statute for a specific purpose that does not include reasonable accommodation.

b. Consultation with the Office of General Counsel

At times the RAC will need to consult with the OIG Office of General Counsel (OGC). Consultation is appropriate at any stage; however, the RAC must consult with the Director, Legal Service – Civil (or designee) before making a final determination to deny a request for accommodation or to refuse to hire an individual when:

- It is not readily apparent that an individual has a disability as defined under the Rehabilitation Act.
- It finds that an individual poses a significant risk of substantial harm to himself or others.
- It finds that the proposed accommodation poses an undue hardship.

IV. RECORD KEEPING AND CONFIDENTIALITY

A. Overview

All requests for reasonable accommodation and any documentation obtained thereafter are considered official records and must be stored and maintained by the Record Owner. This information is confidential and must be stored in accordance with Inspector General Manual (IGM)

711 and 712, Records Management Program and Records Management Schedule.

1. Record Keeping

Written documentation, such as the request for reasonable accommodation memos, notes, medical information provided or relied upon in the decision-making process, and other related information should be placed in a folder bearing the name of the applicant or employee. To finalize the process, forward the entire reasonable accommodation folder to the office responsible for retention of the official Employee Medical Folder (EMF).

Retain the reasonable accommodation folder with the EMF during the employee's tenure with the OIG or until any appeals are adjudicated, whichever is longer. Upon request, the file or portions of the file may be provided for review by personnel who require the information and have a need to know.

To comply with the nondiscrimination and affirmative action requirements, the OIG must keep records on those who requested or were referred for a reasonable accommodation. (1) the specific reasonable accommodation; (2) the job (occupational series, grade level, and agency component) sought by requesting applicant or held by the employee; (3) whether the accommodation was needed to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of employment; (4) whether the request was granted or denied; (5) the identity of the deciding official; (6) the basis of the denial; and (7) the number of days taken to process the request.

2. Confidentiality

In accordance with the Privacy Act, Inspector General Manual (IGM) 742 Freedom of Information Act (FOIA) and Privacy Act, and Postal Service Management Instruction EL-860-98-2, *Employee Medical Records*, an employee's medical records are to be treated as confidential information. The Privacy Act and the Rehabilitation Act specifically prohibit disclosure of medical information except in certain limited situations. For example, when an OIG employee needs to know specific information to provide a requested accommodation, that employee may receive access to the records needed to make that determination. However, the law prohibits an employer from disclosing that an employee is receiving a reasonable accommodation because that usually amounts to a disclosure that the individual has a disability.

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Glossary

Accessibility	The ease with which a site, facility, work environment, service, or program can be approached, entered, operated, participated in, and/or used safely and with dignity by a person with a disability.
Americans with Disabilities Act (ADA)	Legislation that prohibits discrimination based on a person's disabilities. It covers the private sector and state and local governments. The ADA requires such entities to accommodate individuals with disabilities in all phases of government services, public accommodations, transportation, and employment.
Americans with Disabilities Act of 1990, as amended (ADAAA)	An amendment signed into law on September 25, 2008, and effective on January 1, 2009. This amendment significantly broadened the definition of "disability" to ensure that the law would cover more individuals. In addition, it amended the Rehabilitation Act of 1973 so that it conforms to the ADAAA changes.
Bona fide job offer	An offer made to an applicant selected either competitively or noncompetitively after having met the overall eligibility and personal suitability requirements.
Code of Federal Regulations (CFR)	A codification of the rules published in the <i>Federal Register</i> by executive departments and agencies of the federal government.
Communication Accommodation	Reasonable accommodation designed to enhance effective communication for and with employees who are deaf or hard of hearing.
Communication Accommodation Plan (CAP)	Documents specific reasonable communication accommodations that the OIG will provide for employees and applicants who are deaf or hard of hearing.
Competitive employment process	The consideration and selection of individuals from a hiring register established because of rankings achieved on a competitive entrance examination.

Glossary

Direct threat	A significant risk of substantial harm to the safety or health of the individual or others that reasonable accommodation cannot eliminate or reduce to an acceptable level. A significant risk means there is a high probability of substantial harm, not a slightly increased risk. The OIG will base the determination that an individual poses a “direct threat” on an individualized assessment of the individual’s present ability to perform safely the essential functions of the job. The OIG will base this assessment on a reasonable medical judgment that relies on current medical knowledge, on the best available objective evidence, or both. In determining whether an individual would pose a direct threat, the OIG considers the following factors: (1) the duration of the risk; (2) the nature and severity of the potential harm; (3) the likelihood that the potential harm will occur; and (4) the imminence of the potential harm.
Disability	A physical or mental impairment that substantially limits one or more major life activities of an individual.
Disability retirement	An application for annuity filed by an employee claiming permanent, total disability for his or her job.
Division or Department of Vocational Rehabilitation (DVR)	State offices providing rehabilitation assistance for individuals with disabilities.
Equal Employment Opportunity Commission (EEOC)	The agency responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or employee because of the person’s race, color, religion, sex (including pregnancy, sexual orientation, and gender identity including transgender status), national origin, age (40 or over), physical or mental disability, genetic information, or previous complainant status.
Essential functions	The major tasks that must be accomplished on a specific job. They are tasks that, if the individual performs incorrectly or omits, will result in failure to attain the basic purpose of the job. Other factors to consider are (1) the amount of time an individual normally spends performing the function, (2) whether the function is uniformly performed by incumbents, (3) the experience of jobholders, and (4) the degree of skills and abilities needed to perform the function. Essential functions may vary from one installation to another for specific jobs with the same job title and occupation code.

Glossary

Family and Medical Leave Act (FMLA)	The federal law that requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. Generally, employees are eligible if they have worked for at least one year and for 1,250 hours over the previous 12 months.
Federal Employees' Compensation Act (FECA)	A law that provides compensation benefits to civilian employees of the United States for disability due to personal injury (including occupational disease) sustained while in the performance of duty. In addition, damage to or destruction of medical braces, artificial limbs, and other prosthetic devices incidental to a personal injury is compensable. FECA also provides for the payment of benefits to dependents if job-related injury or disease causes the employee's death.
Full duty	As used in this text, "full duty" includes marginal as well as essential job functions or may mean performing job functions without any accommodation.
Impairments	See physical or mental impairments.
Interactive Process	An informal, fact gathering and information sharing process whereby the individual who seeks reasonable accommodation and the employer explore available options. In most cases, depending on the disability in issue, the focus will be on the essential functions of the job in question and potential accommodations to enable the individual to perform those functions and not so much on medical evidence to establish a disability. Refer to Section III. D. for the five steps in the interactive process.
Job restructuring	Altering a job to enable a qualified person with a disability to perform the essential functions.
Light duty	Work, provided to an employee who is unable to perform the regularly assigned duties of his or her job due to a non-work-related injury or illness.
Limited duty	As used in this text, the term "limited duty" refers to a temporary assignment for an employee who is unable to perform the regularly assigned duties of his or her job due to an occupational illness or injury.
Major life activities	Functions such as, but not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
Medical assessment	Preemployment medical examination, medical assessment questionnaire process, or additional information to identify an individual's ability to perform the functions of the job in question without endangering the health and safety of the individual or others.
Mitigating Measures	Treatment or devices such as, but not limited to, medication, assistive technology, prosthetics, equipment, learned behavioral or adaptive neurological modifications, hearing aids/cochlear implants, and mobility devices. You must not consider mitigating measures when evaluating whether a disability exists. The only exception is ordinary eyeglasses or contact lenses.

Glossary

Noncompetitive employment process	The OIG's structured procedure for hiring and placement of qualified persons outside the competitive process (see competitive employment process); e.g., persons with severe disabilities evaluated, certified, and referred by state DVR or VA for employment consideration.
Physical or mental impairments	(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, Genito-urinary, hemic, and lymphatic, skin, circulatory, immune, and endocrine; or (2) any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
Privacy Act of 1974	A federal law that provides privacy protections for personal information maintained by agencies, including the OIG. The protections apply to information maintained in a "system of records," which is a file, database, or program from which personal information is retrieved by name or another identifier. The OIG maintains Reasonable Accommodation records in the system of records as outlined in Inspector General Manual (IGM) Records Management Program and Records Management Schedule.
Qualified individual with a disability	With respect to employment, an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the job in question without endangering the health and safety of the individual or others. A qualified individual with a disability must perform at a level comparable to that of other employees.
Reasonable accommodation	Modification or adjustments to the job application process, the work environment, or both, to allow individuals protected by the Rehabilitation Act to be considered for positions, perform the essential functions of a position, enjoy benefits and privileges of employment equal to similarly situated employees without disabilities, or all of these.
Reasonable Accommodation Committee (RAC)	Multifunctional group that assists management in considering and offering reasonable accommodations to qualified individuals with disabilities. The RAC facilitates interactive discussions with employees and supervisors or managers and assists with the development and implementation of reasonable accommodation solutions, including communication accommodations for employees or applicants who are deaf or hard of hearing.
Rehabilitation Act of 1973	Prohibits discrimination against qualified employees and job applicants based on a disability in the federal government. The Rehabilitation Act essentially applies the ADA's employment provisions to federal employers, including the OIG.

Glossary

Rehabilitation Assignment	An assignment into which the OIG places an injured employee when the employee's doctor notifies the OIG that the employee has reached maximum medical improvement and the employee still has medical restrictions that prohibit the employee from returning to his or her date of injury job. A rehabilitation assignment may or may not include essential functions of the employee's date of injury job.
Restrictions	See work restrictions.
Restructuring	See job restructuring.
Substantially limits	The substantially limits criteria is not a demanding standard and does not require extensive analysis. An impairment need not prevent, or significantly or severely restrict, an individual from performing a major life activity in order to be substantially limiting.
Targeted disabilities	Disabilities targeted by the EEOC for emphasis in affirmative action program planning. The disabilities and the codes that represent them are as follows: 02 (developmental disability), 03 (traumatic brain injury) 19 (deafness or serious difficulty hearing), 20 (blindness or serious difficulty seeing), 31 (missing extremities), 40 (significant mobility impairment), 60 (partial or complete paralysis), 82 (epilepsy or other seizure disorders), 90 (intellectual disability), 91 (significant psychiatric disorder), 92 (dwarfism), and 93 (significant disfigurement).
Undue hardship	The OIG is required to make reasonable accommodation to known physical and mental limitations of a qualified individual with a disability unless the accommodation would impose an undue hardship on the operation to which the OIG assigned individuals with disabilities. The OIG must base undue hardship on an individualized assessment of current circumstances that show that a specific accommodation would cause significant difficulty or expense. In determining undue hardship, you must consider the following factors: (1) the overall size of the operation with respect to the number of employees, number and type of facilities, and size of budget. (2) the type of operation, including composition and structure of the workforce; and (3) the nature and cost of the accommodation.
Department of Veterans Affairs (VA)	An agency of the federal government, formerly called the Veterans Administration, serving the needs of former members of the United States armed forces.
Work restrictions	Functions or tasks that a person should not perform (e.g., no heavy lifting over 50 pounds).

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