

# **S1630\_1 Exhibit 2**

## **Procedures – NRAC Review of Recommended Denials**

### **SECTION 1: PURPOSE**

These procedures implement the Social Security Administration's (SSA) two-tier reasonable accommodation review process for local requests set forth in the Reasonable Accommodation (RA) Program located in the Personnel Policy Manual (PPM) Chapter S1630\_1.

### **SECTION 2: DEFINITIONS**

#### **A. Recommended Denial**

Where the local delegated official (LDO) (local decision maker) recommends to the NRAC to deny a request for a reasonable accommodation (see potential denial reasons in Section 6.A. below).

The LDO will not recommend denial when:

- The employee agrees to an alternative accommodation in lieu of the original request;
- The employee withdraws his or her request; or
- The LDO refers the request to another component or body to take action on the request.

In situations where an employee fails to provide any requested medical documentation, the LDO may close the case as inactive for failure to cooperate; there is no need to recommend denial to the NRAC.

#### **B. Alternative Acceptable Accommodation**

Any reasonable accommodation that management or the employee proposes and both agree upon when the agency is not able to provide the originally requested accommodation or when there is a comparably effective alternative.

#### **C. Unacceptable Alternative Accommodation**

Any suggested reasonable accommodation that differs from the original request that management or the employee proposes, but one or both determine it is not acceptable or effective.

#### **D. Denial of Reasonable Accommodation**

Any request made by an employee for a reasonable accommodation to assist in performing the essential functions of a job or to enjoy the benefits and privileges of employment that the NRAC or a designee denies on behalf of the agency.

#### **E. National Reasonable Accommodation Coordinator (NRAC)**

The only SSA official who has the authority to deny requests for reasonable accommodations. The NRAC may delegate this responsibility to the Deputy Center Director or another CADS staff member, as necessary.

#### **F. Reasonable Accommodation Coordinator (RAC)**

The RAC is the person responsible for facilitating all local recommended denials in their respective region or headquarters component. RACs work closely with the first line supervisor, the LDO (if not the first line supervisor) and other relevant management officials to ensure timely responses and actions. RACs collect and gather information and documents from LDOs to send to the NRAC for denial recommendations. RACs do not recommend denial, but rather facilitate and manage the denial process on the local level. RACs ensure that local management adheres to timeframes and makes sure the process keeps moving forward with respect to engaging in the interactive process, obtaining medical documentation, and sending denial recommendations to the NRAC. Additionally, the RAC uploads documents into RAPIDS, (i.e. medical documentation, e-mails, memorandum) and enters all information on the status of local requests in RAPIDS.

#### **G. Local Delegated Official (LDO)**

The LDO makes recommendations for the denials on requests for reasonable accommodations in accordance with Section 6. of these Procedures. (Section 6.A. contains reasons for reasonable accommodation denial recommendations.) The LDO determines the need for medical documentation and requests any additional information or documentation. The LDO provides all required information to the RAC in a timely manner to submit a denial recommendation to the NRAC. Additionally, the LDO promptly implements decisions from the NRAC.

#### **H. First Line Supervisor**

The first line supervisor (1) makes recommendations for denial on requests for reasonable accommodations, if he or she is the LDO; (2) inputs reasonable accommodation requests into RAPIDS received from employees he or she supervises; (3) initiates and participates in the interactive process with the employee for reasonable accommodation requests; (4) monitors the effectiveness of approved accommodations; and (5) works with the LDO, if LDO is not the first-line Supervisor.

### **I. Center for Accommodations and Disability Services (CADS)**

Working with the NRAC, CADS receives and makes decisions on the recommendations for denial of reasonable accommodations. Analysts in CADS works closely with RACs, local supervisors, LDOs, and employees to obtain the needed information and documentation to assist the NRAC on making decisions on denials of reasonable accommodations in a timely manner. CADS maintains RAPIDS by uploading relevant documentation and inputting the status of decisions.

### **J. National Reasonable Accommodation Advisory Committee**

Group of designated employees with specific expertise appointed by Deputy Commissioners agency wide who assist and advise the NRAC in considering decisions relating to denial of reasonable accommodation requests and issues related to the reasonable accommodation program.

### **K. Reasonable Accommodation Process Information and Data System (RAPIDS)**

Web-based centralized database that allows real time management information and case tracking for reasonable accommodation requests.

## **SECTION 3: GUIDING PRINCIPLES**

The agency's Procedures relating to the denial of local reasonable accommodations will adhere to the following guiding principles:

- A. The agency will examine recommendations for denials for reasonable accommodations promptly;
- B. Each recommendation for a denial of a reasonable accommodation will be examined independently;
- C. Upon receipt of a request for reconsideration of a denial decision, the NRAC will fairly review the request (with or without additionally supporting material obtained from the requesting party);
- D. The NRAC and designees will act impartially when reviewing documents and statements in order to make decisions on reasonable accommodations;
- E. Prior to making a decision on a reasonable accommodation, input from all relevant parties, including the RA Advisory Committee, and all relevant documents will be obtained and considered;
- F. All parties will maintain confidentiality to the extent possible. Information will be shared only with those individuals who have a need to know;

- G. The agency will demonstrate transparency in the reasonable accommodation process by keeping all parties informed of the status of the reasonable accommodation request;
- H. If the NRAC determines that a request for an accommodation will be denied, the NRAC will promptly notify the RAC, LDO, and the employee;
- I. If the NRAC disagrees with a recommended denial, the NRAC will promptly return the request to the LDO explaining the reasons for the disagreement or reversal and instructions on the next steps to take to either approve the request and implement an appropriate accommodation or to work with the employee to attempt to find an agreed upon accommodation, depending on the circumstances;
- J. The agency will maintain documentation related to reasonable accommodation denials and actions in accordance with agency policy, the Federal retention schedule, and litigation hold notices; and
- K. The agency will not tolerate discrimination against an employee who makes a reasonable accommodation request.

## **SECTION 4: NRAC REVIEW TEAM**

The NRAC will appoint an NRAC Review Team within CADS. Each member of the Team selected by the NRAC must be qualified. The responsibilities include:

- Maintain the highest standards of ethical conduct and neutrality when handling reasonable accommodation requests;
- Maintain appropriate confidentiality;
- Track the status of assigned recommended denials;
- Review each case individually;
- Determine whether enough information has been received to make a decision on granting or denying the accommodation;
- Contact and interact with supervisors, management officials, RAC, and employee to gain additional information and documents;
- Contact members of the National Reasonable Accommodation Advisory Committee;
- Review all documents and information gathered;
- Input data into RAPIDS;
- Write justifications and support decisions for the denial of reasonable accommodations;
- Complete work in a timely manner;
- Submit draft decisions and memoranda to the NRAC for review and issuance;
- Attend all mandatory training; and
- Comply with all requirements as described in these Procedures.

## **SECTION 5: TIMELINESS OF REVIEW AND DECISIONS ON RECOMMENDED DENIALS**

Recommendations for denial of reasonable accommodations will be processed timely. All CADS staff, RACs, and NRAC Review Team members will adhere to timeframes.

- A. Decisions on reasonable accommodations are made within 45 calendar days of when the reasonable accommodation request is made or when the employee provides all requested documentation, whichever is later.
- B. The LDO will make a recommendation for denial of a reasonable accommodation through the RAC within 30 calendar days of receiving a request for a reasonable accommodation or receiving the requested documentation from the employee, whichever is later.
- C. Within two business days after the receipt of a recommended denial, the NRAC Review Team will contact the employee and inform the employee of their right to submit additional documentation or information to support their reasonable accommodation request within five (5) business days.
- D. The NRAC or a designee will issue a decision or return the request back to LDO for further action within ten (10) business days of receipt of the recommendation for denial of a reasonable accommodation.
- E. When a case is returned back to the RAC and the LDO, the LDO has up to ten (10) business days to take action consistent with the NRAC's decision (e.g., engage in the interactive process, grant an accommodation, explore alternative accommodations) and either issue a decision to grant an accommodation or send it back to the NRAC with a recommendation for denial.
- F. When an employee makes a request for reconsideration, the NRAC will review the request and issue a decision within five (5) business days.

## **SECTION 6: BASES FOR RECOMMENDING DENIAL**

### **A. When to Recommend Denial**

Not disabled. To determine if an employee has a disability, please refer to the Personnel Policy Manual (PPM) Reasonable Accommodation Program, S1630\_1, Section 3.2. To help determine if an employee has a disability, a LDO may require medical documentation. (See PPM S1630\_1, Section 5.7.2. Requesting Medical Documentation)

Where medical documentation is required and not provided with the original request, the employee has 30 calendar days to provide the requested medical documentation.

Where the employee submits documentation along with the original request, but it is insufficient, the employee has 30 calendar days to provide supplemental documentation.

If the information provided within the 30 days is not sufficient in a. or b. above, the LDO will provide the employee with an opportunity to

supplement the information by putting the request in writing and giving a due date of ten (10) business days.

LDOs may grant reasonable extensions, for circumstances beyond the employee's control.

If the LDO determines that the medical documentation does not establish that the employee has a disability, then the LDO should recommend denial of the accommodation(s).

No need for an accommodation. For example, an employee may already have an effective accommodation in place and has no need for a new one; an employee may be performing effectively in his or her position without an accommodation; or a job may have changed so an accommodation is not necessary.

Accommodation would not be effective. The accommodation the employee desires will not help solve the issues the employee is experiencing or help resolve the work related problem.

Does not support essential functions of the position. Accommodations must assist the employee in performing one or more essential functions of a position or allow the employee to enjoy the benefits of employment all employees receive. When the accommodation is not related to those essential functions and is instead related to, for example, secondary functions or personal desires, the LDO should recommend denial.

Removes essential functions. In situations where an accommodation, if implemented, would take away one or more essential functions of the job, the LDO should recommend denial of that accommodation.

Undue hardship. Situation where the requested accommodation will be a hardship to provide due to business reasons or cost. Determinations should be based on factors such as:

- Nature and net cost of the accommodation needed;
- Overall financial resources of the agency;
- Effect of the accommodation on expenses and resources; and
- Impact of the accommodation on the operation of the agency, including the impact on the ability of other employees to perform their duties and the impact on the agency's ability to conduct business.

Lowers performance standards. The agency does not have to grant a request for an accommodation where the request would result in lower productivity as compared to other employees in a comparative position.

Refusal to accept effective or reasonable alternative. The agency is not required to give the employee the accommodation of choice. If the delegated official cannot provide the requested accommodation, but offers an effective and reasonable alternative and the employee refuses to accept it, management should recommend denial.

Other reasons not listed. If a LDO is considering recommending denial on a reason not listed above, the LDO should consult with the RAC. If needed the RAC will contact CADS for guidance prior to forwarding the recommended denial.

## **B. When Recommending Denial Is Inappropriate**

A recommended denial is inappropriate when:

The employee fails to cooperate, as the RAC should close it out as a failure to cooperate. For example, when an employee fails to respond to requests for medical documentation for a non-obvious medical condition, the RAC will close out the case as inactive for failure to cooperate. This does not constitute a denial of a reasonable accommodation and the RAC will not send the case to the NRAC as a recommended denial.

Alternatives have not been explored;

The LDO and the employee are still engaging in the interactive process;

Situations where the LDO grants an acceptable alternative;

The employee withdraws the accommodation request; and

The LDO refers the request to another component or body to take action.

## **SECTION 7: RECOMMENDATIONS FOR DENIAL**

### **A. Notification and Submission of Recommended Denials**

After the LDO makes a decision to recommend denial, the LDO will notify the RAC and the RAC will:

Update the RAPIDS system <https://ope.ba.ssa.gov/RAPIDS>. Instructions for updating RAPIDS are included in [Tab A](#);

Prepare, or have the LDO prepare, the Recommendation for Denial of RA Request Form ([See Tab B](#)) which describes the information and documents required for submission of a recommended denial;

Upload the Recommendation for Denial of RA Request Form ([See Tab B](#)) and required documentation (case file) into RAPIDS. Instructions for uploading documents into RAPIDS are included in Tab A; and

Send an e-mail to ^DCHR OPE CADS NRAC REVIEW notifying the NRAC of the recommended denial and the RAPIDS Request ID # (s). The email will also confirm that the RAC has updated RAPIDS and the RAC has uploaded documents.

#### **B. Actions to take when there is a Partial Granting of An Accommodation/Partial Recommended Denial**

Where the LDO plans to grant at least one of the accommodations requested or agreed upon by an employee, but recommends denial to the NRAC of one or more remaining requests, the LDO shall:

Notify the employee via e-mail of the intent to grant the accommodation and recommend denial on other parts of the request ([See Tab C](#) for sample notification email); and

Begin implementing the granted accommodations as appropriate.

The RAC then sends a recommendation for a denial of the accommodation per procedures in Section 7. A. above to the NRAC.

The NRAC Review Team contacts the employee per procedures in Section 8 below.

### **SECTION 8: CADS – RECEIPT/REVIEW OF DENIAL RECOMMENDATIONS**

#### **A. Upon receipt of the recommended denial, the NRAC Review Team will perform the following steps:**

Notify the employee via e-mail ([Tab D](#)) and telephone of the recommended denial and basis for the recommendation.

During the initial notification, the employee will be offered the opportunity for one or both of following options:

Opportunity to set a time to talk by telephone; and/or

Submit a statement or provide additional information in writing within five (5) business days of receipt of notification of the recommended denial. (Additional information is not required.)

In the event the LDO recommends denial of a reasonable accommodation based on lack of disability, the NRAC Review Team will engage in a conversation with the employee to ensure that CADS is in receipt of all previously submitted medical documentation.

## **B. Contacts by NRAC Review Team**

The NRAC Review Team will contact the:

Requesting Employee;

Front-line supervisor or other relevant management official to clarify information received and gain additional information, if needed, and document conversations; and

Members of the Reasonable Accommodation Advisory Committee, if appropriate.

## **C. Requesting Additional Information**

The NRAC Review Team will:

Review the transmitted recommendation in RAPIDS, information in the case file, and initial information submitted by the RAC and employee;

Request additional information from the employee, as needed, and allow them to submit the information; and

If necessary, send a request for additional information by e-mail to the RAC to obtain needed documents or information from supervisor and LDO (if not the first-line supervisor) for upload into RAPIDS within five (5) business days.

## **D. Alternative Resolutions Reached During the NRAC Review Process**

We encourage the LDO to continue the interactive process while the NRAC is reviewing the recommended denial.

During the interactive process, if the employee and component management find and agree upon an effective alternative accommodation, then the LDO may approve the alternative accommodation.

Approving an alternative accommodation does not constitute a denial of a reasonable accommodation.

When component or regional management agree on an alternative resolution, the RAC or component will update RAPIDS and send notification to the NRAC of the resolution. At that point, the NRAC will stop reviewing the recommended denial.

## **SECTION 9: ISSUANCE OF DECISION**

### **A. Concurrence with Recommended Denial**

If the NRAC concurs with the recommended denial, the NRAC or a designee:

Issues the decision by sending the letter to the employee via e-mail with a delivery receipt, that:

Specifically states the reasons for the denial of accommodation, including the relevant facts leading to the decision;

Provides the procedures for requesting a reconsideration of the decision (See Section 10); and

Includes notification of the right to file an EEO complaint. ([See Tab E](#))

Updates RAPIDS with the decision letter and inputs the decision date and outcome.

### **B. Disagreement with Recommended Denial of Reasonable Accommodation**

If the NRAC disagrees with the recommended denial, the NRAC or a designee will send the request back to the LDO in a decision transmittal memorandum via e-mail. ([See Tab F](#)) The memorandum includes:

Reason why the recommendation will not be followed; and

Further instructions to the LDO with a copy to the RAC.

### **C. Partial Agree/Disagree with the Denial of Reasonable Accommodation Recommendation**

If the NRAC concurs with part and disagrees with part of the recommended denial, then the NRAC will take the following steps:

The NRAC or designee issues a letter to the employee via e-mail with a delivery receipt stating the concurrence with the denial of the requested accommodation, and outlines the steps the agency is taking regarding the remainder of the request.

The letter will specify the timeframe in which steps will be taken and completed in Section 9.B.2. above for the remainder of the items in which the NRAC disagrees with the recommendation.

The NRAC Review Team sends a memorandum to the LDO, with a copy to the RAC, indicating the partial Agreement/Disagreement with the Denial Recommendation and includes further instructions and timelines on the areas of disagreement.

The NRAC Review Team will not close the request as complete until decisions on all requests from the employee have been made.

## **SECTION 10: REQUESTS FOR RECONSIDERATION**

### **A. Employee Responsibilities and Actions**

The employee may request a reconsideration of the denial of a reasonable accommodation to the NRAC. The request:

Must be in writing; and

Will include a statement regarding why the employee believes the decision should be reversed.

The employee may include new information or documents with the request for reconsideration, but they are not required.

### **B. NRAC Responsibilities and Actions**

Upon receipt of a request for reconsideration, the NRAC Review Team will:

Acknowledge receipt of the request for reconsideration;

Notify the LDO and RAC via email of the request for reconsideration;  
and

Review all statements and additional information provided by employee.

Within five (5) business days of receipt of the request for reconsideration, the NRAC will issue a decision on the request for reconsideration.

The NRAC will notify the LDO and RAC via e-mail of the decision. If the NRAC decides to reverse the denial, the NRAC will provide the LDO with instructions on further processing.

The NRAC will send the decision to the employee in a memo via e-mail with a delivery receipt. ([See Tab G](#))

- C. The NRAC Review Team will update RAPIDS to reflect the reconsideration request and the decision.**

## **SECTION 11: WITHDRAWAL OF REASONABLE ACCOMMODATION REQUEST WHILE NRAC REVIEW IS PENDING**

- A. An employee may withdraw his or her request for a reasonable accommodation at any time by filling out a Notice of Withdrawal, or by sending an e-mail with the same information. ([See Tab H](#)) Management may not coerce the employee into withdrawing the request.
- B. If an employee withdraws a request for a reasonable accommodation while the NRAC is considering a recommended denial, the RAC shall notify the NRAC via e-mail.
- C. Upon receipt of notice of a withdrawal, the NRAC will terminate all processing of review of the recommended denial of a reasonable accommodation and send the employee a letter confirming the withdrawal. (See Tab I)