

Reasonable Accommodation Policy

Federal Retirement Thrift Investment Board

Effective Date: December 31, 2015

Reasonable Accommodation Policy

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1. Overview

The Federal Employees' Retirement System Act of 1986 (FERSA) authorized the Federal Retirement Thrift Investment Board (FRTIB), an independent agency of the U.S. Executive Branch, to administer the Thrift Savings Plan (TSP), one of the three components of the new Federal Employees' Retirement System (FERS). The TSP is a defined contribution plan for U.S. Federal civilian employees (including those covered by the older Civil Service Retirement System (CSRS)) as well as members of the uniformed services. FRTIB and TSP are collectively referred to as the Agency. The mission of FRTIB is to administer the TSP solely in the interest of its participants and beneficiaries.

The Office of Resource Management (ORM) supports and manages human resources and administration activities for FRTIB in accordance with Office of Personnel Management (OPM) regulations and other applicable Federal regulations. ORM serves as a strategic partner with FRTIB leadership to drive the design of innovative, effective administrative services and human resource programs that support FRTIB employees and its overall mission. The Human Resources Division (HRD) is a sub-office within ORM that manages the key business processes related human resources programs and initiatives.

Executive Order 13164 requires all Federal Agencies to establish procedures on processing requests for reasonable accommodation. The Order supports implementation of the Rehabilitation Act of 1973 that requires agencies to provide reasonable accommodation to qualified employees or applicants with disabilities unless the accommodation would pose an "undue hardship." The FRTIB is committed to providing reasonable accommodations to its employees and applicants for employment to ensure that individuals with disabilities enjoy equal access to all employment opportunities.

This document sets forth FRTIB's policy related to processing, determining eligibility for, or otherwise handling reasonable accommodation requests submitted by FRTIB employees, their

authorized representatives, and applicants for employment. This policy affects all offices. The FRTIB office responsible for this policy is ORM.

2. Policy

The policy on processing, determining eligibility for, or otherwise handling reasonable accommodation requests submitted by FRTIB employees, their authorized representatives, and applicants for employment is comprised of the following components:

Reasonable Accommodation Request

A reasonable accommodation is a change in the work environment or in the application process that would enable a person with a disability to enjoy equal employment opportunities. There are three general categories of reasonable accommodations:

- Changes to a job application process to permit people with disabilities to be considered for jobs;
- Changes to enable people with disabilities to perform the essential functions of a job; and
- Changes to give people with disabilities equal access to the benefits and privileges of employment. Benefits and privileges of employment include, but are not limited to, such things as employer-sponsored training services, employee assistance programs (EAPs), credit unions, cafeterias, lounges, gymnasiums, auditoriums, transportation, and parties or other social functions (e.g., parties to celebrate retirements and birthdays, and agency outings).

A request for reasonable accommodation can be made at any time, orally or in writing, and should be made to an immediate supervisor, the Reasonable Accommodation (R/A) Coordinator, or any FRTIB official in an employee's chain of command. Requests by applicants should be made to the R/A Coordinator or to any FRTIB employee involved in the application process. A family member, health professional, or other authorized representative may request an accommodation on behalf of an employee or applicant. When a third party requests accommodation on behalf of an individual, to the extent possible, an individual with a disability should be contacted to confirm that he or she in fact wants a reasonable accommodation before proceeding.

A request does not have to include any special words, such as “reasonable accommodation,” “disability,” or “Rehabilitation Act.” A request is any statement in which an individual asks or states that he or she needs an adjustment or change at work or in the employment application process for a reason related to a medical condition.

A FRTIB official is generally prohibited from asking whether a reasonable accommodation is needed. FRTIB officials, including immediate supervisors, should consult with the Human Resources Division with all reasonable accommodation issues..

Qualified Individual with a Disability

FRTIB will provide accommodations to qualified individuals with disabilities. An individual with a disability is an individual who has a physical or mental impairment that substantially limits one or more of the person's major life activities;¹ has a record of such impairment; or is “regarded as” having such impairment. However, FRTIB is not obligated to provide a reasonable accommodation to an employee or applicant that is “regarded as” having a disability.

A physical or mental impairment is any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, hemic, lymphatic, skin and endocrine; or any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

A disability substantially limits a major life activity when the individual is unable to perform a major life activity that most people in the general population can perform; or being significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity

¹ Major life activities include but are not limited to the following: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. Major life activities also include the operation of a major bodily function, including, but not limited to functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive function.

as compared to the condition, manner or duration under which most people in the general population can perform that same major life activity. The term "substantially limits" will be construed broadly in favor of expansive coverage.

An individual is considered to have a record of impairment if he or she has a history of or has been classified as or was once misclassified as having a substantially limiting impairment (e.g., someone erroneously deemed to have had a learning disability but who did not).

An individual is considered to be "regarded as" having a disability if he or she has been the subject of an employment action (e.g., hiring, demotion, promotion, termination, etc.) because of an actual or perceived physical or mental impairment. FRTIB is not obligated to provide a reasonable accommodation to an employee or applicant who is "regarded as" an individual with a disability.

An individual with a disability is qualified if they satisfy the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such position. Essential functions are those job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function can be "essential" if, among other things: the position exists specifically to perform that function; there are a limited number of other employees who could perform the function if assigned to them; or the function is specialized and the incumbent is hired based on his/her ability to perform it.

Interactive Process

The interactive process is a dialogue between the employee, R/A Coordinator and FRTIB official to determine the essential functions of the position, gather medical information, identify the limitations caused by the condition, discuss possible reasonable accommodation options and assess the effectiveness of identified reasonable accommodations. The interactive process is generally needed when the specific limitation, problem or barrier caused by the medical condition is unclear; an effective accommodation is not obvious; or the participants involved are considering different forms of

reasonable accommodations. The interactive process begins as soon as the request for accommodation is made either orally or in writing.

While the R/A Coordinator has responsibility for facilitating the interactive process, the R/A Coordinator may work closely with an employee's supervisor or Office Director in responding to the request, particularly those involving performance of the job. In addition to the supervisor or Office Director, the R/A Coordinator may also include other FRTIB officials who have information relevant to providing assistance in considering and implementing different types of accommodations, where appropriate.

The time frames indicated in this policy and the Reasonable Accommodation procedures indicate the maximum amount of time it should generally take to process a request and provide a reasonable accommodation. The R/A Coordinator will strive to process accommodation requests in as short a period as reasonably possible.

Requesting Medical Documentation

When an individual's disability is not obvious and/or the need for accommodation is not obvious, the individual requesting an accommodation is required to provide appropriate medical information related to the functional impairment and the requested accommodation. The requested medical information will not require disclosure of information protected under GINA². All requests for medical information will explain the nature of the requester's job, the essential functions the individual is expected to perform, and other relevant information. If medical information or documentation is required, the time frames noted in this policy and the Reasonable Accommodation procedures will stop on the day that the R/A Coordinator makes a request to the individual to obtain medical information, and will resume on the day that the information or documentation is received by the R/A Coordinator. The request for medical documentation must be individually tailored to seek only that information necessary to establish that the

² The Genetic Information Nondiscrimination Act of 2008 is an act prohibiting covered employers from requesting or requiring genetic information of an individual or family member of the individuals with specific exceptions. "Genetic information" as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistance reproductive services.

individual has a disability, and that (s)he needs reasonable accommodation or the particular accommodation requested. The requested medical information or documentation will normally be limited to information or documentation as to the following, as applicable:

- The past, present, and expected future nature, severity, and duration of the individual's impairment, if any (e.g., functional limitations, symptoms, side effects, side effects of any treatments, etc.);
- The life activity or activities that the impairment limits, if any;
- The extent to which the impairment limits, if any, the individual's ability to perform the activity(ies), if any;
- Why the individual needs accommodation or the particular accommodation requested; and
- How the requested accommodation will assist the individual to apply for a job, perform the essential functions of the job, or minimize or eliminate a physical workplace barrier.

If the information provided by the health care provider (or the information volunteered by the individual requesting the accommodation) in response to the request does not clearly explain: the nature of the disability; the need for the reasonable accommodation; or explain how the requested accommodation will assist the employee to perform the essential functions of the job or assist the applicant with the employment application process, the R/A Coordinator will ask the individual requesting accommodation to provide additional medical documentation. The individual may then ask the health care provider to submit the missing information, or the R/A Coordinator and the individual requesting the accommodation may agree that the individual will sign a limited release to permit the R/A Coordinator or Agency contracted medical consultant to contact the health care provider directly.

The R/A Coordinator may request that an individual be examined by a physician of FRTIB's choosing and at its expense, but only if the R/A Coordinator finds the requesting individual has not provided sufficient documentation from his or her health care provider to establish the existence of a disability, the extent of the individual's functional limitations, and/or the need for a reasonable accommodation. Before arranging an examination with a physician of FRTIB's choosing and at its expense, the R/A Coordinator must:

- Explain to the requesting individual why the submitted medical documentation is insufficient;
- Identify the specific additional medical information needed; and
- Allow the individual or his or her health care provider the opportunity to submit the additional medical documentation.

Failure to provide necessary documentation where it has been properly requested or failure to agree to a medical examination could result in a denial of reasonable accommodation.

When an individual's disability and/or need for reasonable accommodation is obvious or the individual has already provided the agency with sufficient information to document the existence of the disability and his or her functional limitations, the FRTIB will not normally seek medical information.

Accommodation Selection

To determine what, if any, accommodation should be provided, the R/A Coordinator will consult with the individual requesting the accommodation, and other FRTIB officials with a need-to-know, regarding the request, the nature and extent of the individual's impairment, and potential accommodations. Resources, which are available to help the R/A Coordinator and the individual requesting the accommodation to identify possible accommodations, are listed in Attachment A. Although the individual may request a specific accommodation, the individual is not entitled to the accommodation of his/her choice. All that is required is an effective accommodation that will allow the employee to perform the essential functions of the job. Potential accommodations include, but are not limited to:

- Adaptive equipment, including information technology and communications equipment;
- Specially designed or reconfigured furniture;
- Removal of architectural barriers, including reconfiguring work spaces;
- Sign language interpreters for the Deaf and Hard of Hearing;
- Written materials in alternative formats (e.g., Braille or large print); or
- Flexible work schedules, ability to telework, and extended leave.

Reasonable accommodation for job applicants may include extending the time frames in the selection process, providing an accessible location for job interviews; sign language interpreters; providing other assistive devices; and other accommodations that may be needed in the application process.

Reassignment as an Accommodation

Reassignment normally will be required as a reasonable accommodation only as a last resort and only if a vacant position exists or is forecasted to exist within a reasonable period of time. The FRTIB is not required to create a position as a means of reasonably accommodating an employee. Reassignment will only be considered as a reasonable accommodation if a determination is made that the employee is qualified for the vacant position, with or without reasonable accommodation; and that no other accommodations are available to enable the individual to perform his/her current job; or the only effective accommodation to enable the individual to perform his/her current job would cause undue hardship to the FRTIB.

In considering whether there are positions available for reassignment, the R/A Coordinator will identify all vacant positions for which the employee may be qualified, with or without reasonable accommodation, and all positions which the R/A Coordinator has reason to believe will become vacant over the next sixty workdays and for which the employee may be qualified.

The R/A Coordinator will focus on positions that are equivalent to the employee's current job in terms of pay, status, and other relevant factors. If there is no vacant equivalent position, the R/A Coordinator will consider vacant lower level positions for which the individual is qualified. If the R/A Coordinator is considering reassignment to a vacant position as a reasonable accommodation for an employee, the R/A Coordinator will consult with the Office Director who holds the vacant position and obtain concurrence from the Director, ORM prior to making a decision to effectuate a reassignment as a reasonable accommodation.

Reassignment as a form of reasonable accommodation can only be offered to FRTIB employees and is not available as an accommodation for job applicants.

Disposition of the Reasonable Accommodation Request

The FRTIB will make every attempt to determine whether to grant or deny accommodations within twenty work days of the date the R/A Coordinator receives the request or as soon as practical under the circumstances. The twenty work day time period does not include the time period during which the FRTIB is awaiting receipt of medical information from the employee or an opinion from a medical expert of FRTIB's choosing. When the FRTIB is unable to meet the twenty work day time period, the requesting individual will be advised of the reason for the delay and an approximate date on which a decision or the provision of the accommodation will be made. Requests for reasonable accommodation will be expedited in instances such as when the accommodation is needed to enable an individual to apply for a job, or the accommodation is needed for a specific agency activity that will occur in a short span of time. When making a reasonable accommodation decision, the R/A Coordinator should consider the following factors:

- Whether the employee is a qualified individual with a disability and thus entitled to a reasonable accommodation;
- Whether an accommodation is necessary to enable the employee to perform the essential functions of his or her job or to enjoy equal access to the benefits and privileges of the job;
- Whether the requested accommodation is reasonably designed to help the employee perform the essential functions of his or her job, or the enjoy equal access to the benefits and privileges of the job;
- Whether any alternative accommodations would help the employee perform the essential functions of his or her job, or to enjoy equal benefits and privileges of the job; and
- Whether an accommodation would impose an undue hardship on the FRTIB's business operations. An undue hardship is defined as one that causes FRTIB significant difficulty or expense. The FRTIB determines undue hardship on a case by case basis, considering factors such as the nature and cost of requested accommodation and the impact of the accommodation on the operations or resources of the FRTIB.

Once a decision is made that a reasonable accommodation will be provided, whether it is the requested accommodation or an alternative effective accommodation, the R/A Coordinator will communicate the

decision to the individual who requested it. If the accommodation is not immediately available, the individual must be informed of the projected time frame for providing the accommodation.

The FRTIB will strive to provide the actual accommodation that has been determined to be appropriate as a result of the interactive process as quickly as possible, but no later than fifteen working days from the date the request is granted, absent extenuating circumstances. Examples of extenuating circumstances include purchase of equipment, architectural barrier removal, job reassignment, etc. When there is a delay, the FRTIB will strive to provide temporary measures to assist the requesting individual on an interim basis. Employees and applicants may decline an accommodation offered by the agency.

Once a decision is made that a request for reasonable accommodation will be denied, the R/A Coordinator will communicate the decision to the individual requesting it. The notice must be in writing, clearly state the reasons for denial, explain procedures available for dispute resolution, and inform the individual that he or she has the right to file an EEO complaint or grieve the decision using the administrative grievance procedure, as appropriate. The individual must meet the appropriate EEO time frames for filing, even if the individual requests reconsideration of the denial decision.

Requests That Do Not Involve Reasonable Accommodation

FRTIB Officials have broad discretion to assist an employee in the performance of official duties, including when an employee is confronted with a temporary medical condition.³ Assistance can be given to an employee who has not been determined by the R/A Coordinator to have a disability. The FRTIB encourages employees needing assistance to first meet with their supervisor to discuss available options. FRTIB Officials are encouraged to seek guidance from HRD on types of assistance that may be provided.

³ A temporary medical condition is a physical or mental limitation that is temporary and does not result in characterizing the employee or applicant as an individual with a disability.

Dispute Resolution

An individual dissatisfied with the resolution of a reasonable accommodation request may ask the Director of Resource Management to reconsider the decision. The request must be submitted within 10 workdays of receiving a denial. An individual's participation in any dispute resolution process does not satisfy the requirements for bringing a claim under EEO or FRTIB administrative grievance procedures.

If the requesting individual wishes to pursue an EEO complaint for the denial of an accommodation, he or she must address his or her concerns through the Agency's EEO complaint process as specified in the Agency's EEO Program. If the requesting individual wishes to pursue an administrative grievance for the denial of an accommodation, he or she must file a grievance in accordance with the Agency's Administrative Grievance System. A request for reconsideration will not extend the time limits for initiating administrative or statutory claims.

Information Tracking and Reporting

The FRTIB will maintain records relating to reasonable accommodation requests for the duration of the employee's tenure, or three years, whichever is longer.

An annual report will be prepared, which will provide a qualitative assessment of FRTIB's reasonable accommodation program, including any recommendations for improvement of FRTIB's reasonable accommodation procedures and this policy. The annual report will not include individual names or other personal identifiers, but will include the following information:

- The number and types of reasonable accommodation requests made in the application process or to perform essential functions of an employee's current position and whether they have been granted or denied;
- The jobs (occupational series, grade level and agency office) of the requesting applicant or employee;
- The types of reasonable accommodations that have been requested for each of those jobs;
- The number and types of requests that relate to the benefits or privileges of employment, and whether these requests were granted or denied;

- The reasons for denial of requests for reasonable accommodation;
- The amount of time taken to process each request; and
- The sources consulted for technical assistance in identifying possible reasonable accommodations.

Confidentiality and Disclosure

All medical information obtained by the FRTIB regarding the requests for reasonable accommodation will be maintained in HRD's confidential reasonable accommodation files that are maintained separately from other official personnel files. The records are maintained in accordance with the Privacy Act of 1974, *as amended*, 5 U.S.C. § 552a, and 29 C.F.R. § 1611.

FRTIB officials must keep all requests for and provisions of reasonable accommodation confidential. Individuals who have access to information necessary to make a decision about whether to grant a requested accommodation may not disclose this information except as follows:

- supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s);
- first aid and safety personnel may be told if the disability might require emergency treatment;
- government officials may be given information necessary to investigate the agency's compliance with the Rehabilitation Act; and
- the information may in certain circumstances be disclosed to workers' compensation offices or insurance carriers.

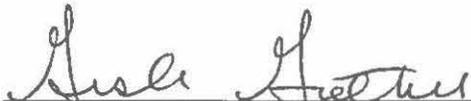
3. Applicable Procedures

- Reasonable Accommodation Procedures
- EEO Program Directive
- Administrative Grievance System

4. Revision History

Date	Version	FRTIB Author	Comments <i>(briefly summarize change)</i>
10/23/2015	0	Kristin Hanmer	Initial Version

5. Approval

Name:  Date: January 11, 2016
Gisile Goethe

Title: Director, ORM

Name:  Date: 1/13/16
Mark Walther

Title: Deputy Executive Director, FRTIB

Attachment A – Selected Reasonable Accommodation Resources

Job Accommodation Network (JAN)

1-800-232-9675 (Voice/TT)

<http://janweb.icdi.wvu.edu/>

A service of the President's Committee on Employment of People with Disabilities. JAN can provide information, free-of-charge, about many types of reasonable accommodations.

ADA Disability and Business Technical Assistance Centers (DBTACs)

1-800-949-4232 (Voice/TT)

The DBTACs consist of 10 federally funded regional centers that provide information, training, and technical assistance on the ADA. Each center works with local business, disability, governmental, rehabilitation, and other professional networks to provide current ADA information and assistance, and places special emphasis on meeting the needs of small businesses. The DBTACs can make referrals to local sources of expertise in reasonable accommodations.

Registry of Interpreters for the Deaf

(301) 608-0050 (Voice/TT)

<http://www.rid.org/>

The Registry offers information on locating and using interpreters and transliteration services.

RESNA Technical Assistance Project

(703) 524-6686 (Voice) (703) 524-6639 (TT)

<http://www.resna.org/>

RESNA, the Rehabilitation Engineering and Assistive Technology Society of North America, can refer individuals to projects in all 50 states and the six territories offering technical assistance on technology-related services for individuals with disabilities. Services may include:

- information and referral centers to help determine what devices may assist a person with a disability (including access to large data bases containing information on thousands of commercially available assistive technology products);
- centers where individuals can try out devices and equipment;
- assistance in obtaining funding for and repairing devices; and
- equipment exchange and recycling programs.