


## Chapter 7-400 Personal Assistance Services

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Approved by:  7/19/2019  
*Name / Signature* *Title*

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### Summary.

This directive establishes the policy for providing personal assistance services (PAS) and prescribes the procedures for the processing of requests for PAS services at the National Council on Disability (NCD).

### Applicability.

The provisions of this directive apply to all Council Members and members of the NCD staff, regardless of type of appointment, applicants, employees seeking promotional opportunities, interns, volunteers and any person detailed to the NCD staff.

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## 1. References.

a. 29 CFR 1614, This final rule (Final Rule or Rule) amends 29 CFR 1614.203 to clarify the affirmative action obligations that Section 501 of the Rehabilitation Act of 1973 (Section 501) imposes on federal agencies as employers.

b. Equal Employment Opportunity Commission (EEOC) Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, October 20, 2000.

c. Titles I and V, Americans with Disabilities Act of 1990, Title 42 U.S.C. 12101-12117.

d. Rehabilitation Act of 1973, sections 501 and 505; Section 501 require federal agencies to provide Personal Assistance Services on the job as part of their affirmative action requirements, January 3, 2018.

e. Title 29, Subtitle B, Regulations relating to Labor, Chapter XIV—Equal Employment Opportunity Commission, Part 1630—Regulations to implement the equal employment provisions of the Americans with Disabilities Act

f. Federal Sector Equal Employment Opportunity, 29 C.F.R. § 1614, November 9, 1999.

g. EEOC Directive 715 (MD-715), October 1, 2003

h. Rehabilitation Act of 1973, sections 501 and 505; Section 501 updated regulations, January 3, 2017.

i. Executive Order 13078 and support the Office of Personnel Management initiatives to increase the representation of people with disabilities in the Federal workforce.

j. Executive Order 13164, MD-715 also requires agencies to have written procedures for providing reasonable accommodations.

## 2. Definitions.

Disability - With respect to an individual, means (1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; or, (2) a record of such an impairment, or; (3) being regarded as having such an impairment.  
(a) An example of “a record of such an impairment” includes having a history of, or

having been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities; (b) An example of “being regarded as having such an impairment” includes having an impairment that does not substantially limit a major life activity but is treated by NCD as constituting such limitation; having an impairment that substantially limits a major life activity only as a result of the attitudes of others toward such impairment; or, having none of the impairments.

Essential Functions - are the fundamental job duties of the employment position the individual with a disability holds or desires. The reasons a function may be essential may include, but not be limited to: (1) the reason the position exists is to perform that function; (2) the limited number of other employees who could perform that function; and/or (3) the function may be highly specialized so that the incumbent in the position is hired for his/her expertise or ability to perform the particular function. Determination of the essential functions of a position must be conducted on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.

Major Life Activities - are functions such as, but not limited to: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, thinking, sitting, standing, reaching, interacting with others, concentrating, lifting, sleeping, reproduction, running and working.

Qualified Individual with a Disability - an individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and, who, with or without reasonable accommodation, can perform the essential functions of such position.

Reasonable Accommodation - a change in the work environment or the application process that would enable a qualified individual with a disability to enjoy equal employment opportunities. There are three general categories of reasonable accommodations: (1) changes to a job application process to ensure that applicants with disabilities will have an equal opportunity to participate in the application process and to be considered for jobs; (2) changes to enable an employee with a disability to perform the essential functions of the job or to gain access to the workplace; and (3) changes to provide people with disabilities equal access to the benefits and privileges of employment.

Substantially Limits - means unable to perform a major life activity that the average person in the general population can perform; or significantly restricted as to the

condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

Undue Hardship - a specific accommodation requiring significant difficulty or expense. This determination is made on a case-by-case basis and considers the nature, cost of the accommodation, the financial resources of NCD as a whole, and/or impact of the accommodation on the operations of the agency.

Personal Assistance Services – Personal Assistance Services (PAS) means assistance with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a reasonable accommodation, including, but not limited to, assistance with removing and putting on clothing, eating, and using the restroom. Such services do not include medical care.

#### **4. Policy.**

It is the policy of NCD to provide PAS to qualified individuals with disabilities when such services are directly related to performing the essential functions of a job, competing for a job or to enjoy equal benefits and privileges of employment, unless the accommodation would impose an undue hardship. NCD is a model employer by providing this accommodation before the applicability date of the Rule. Within this framework, NCD has the following objectives:

- a. Allow a Council Member, employee or applicant with a disability, family member, health professional or other representative who is acting on behalf of the employee or applicant to initiate a request for PAS orally or in writing.
- b. Ensure requests for PAS are handled in an effective and expeditious manner.
- c. Enable the individual employee to perform the essential functions of the position, or to gain access to the workplace.
- d. Enable an applicant with a disability to have an equal opportunity to participate in the application process and to be considered for a job.
- e. Allow an employee with a disability an opportunity to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

#### **5. Responsibilities.**

a. Executive Director. The Executive Director, or designated official, shall:

(1) Ensure a continuing affirmative application and vigorous enforcement of the policy and procedures contained in this directive.

(2) Provide sufficient resources for program implementation to ensure efficient and successful processing of requests for PAS.

(3) Recognize and reward individuals who have demonstrated superior efforts in supporting the spirit of the law.

b. Americans with Disabilities Act (ADA) Coordinator. The Staff Assistant is designated as the NCD ADA Coordinator. In this role, he/she will:

(1) Manage requests for PAS and, where appropriate, determine which NCD management officials will handle the request, if possible, in a prompt, fair and efficient manner.

(2) Assure the maintenance of the records related to an employee's request for PAS in accordance with the Federal records disposition schedule. Ensure that medical records are kept confidential and maintained in files separate from the individual's official personnel file.

(3) Prepare, annually, a summary statistical report.

(4) Request relevant supplemental medical information if documentation submitted does not clearly explain the nature of the disability, reason for PAS, or does not clarify how the requested accommodation will assist the applicant/employee to perform the essential function of the job.

(5) Provide orientation, training, and advice to NCD supervisors regarding the implementation of the policies and procedures in this directive.

(6) Determine appropriate actions and coordinate with appropriate NCD supervisors and decision-makers involved in ensuring timely completion of individual requests.

(7) Recommend alternatives to address specific requests.

c. Employees and Applicants. An employee or applicant shall:

(1) Initiate a request for PAS orally or in writing in accordance with procedures outlined in Chapter 7-100 Reasonable Accommodation.

(2) Provide sufficient information and documentation, such as a description of the accommodation requested, and an explanation of how it would enable an employee to perform the job or assist an applicant in the selection process.

(3) When required, provide relevant medical information related to the functional impairment and the requested accommodation when the disability and/or need for accommodation is not obvious.

d. Servicing Human Resource Office (HRO). The HRO staff will:

(1) Process requests for PAS from applicants during the recruitment and application process, as needed.

(2) Make vacancy announcements available to applicants/employees with disabilities.

(3) Ensure that all vacancy announcements include a statement of reasonable accommodation, to ensure compliance with Executive Order 13078 and support the Office of Personnel Management initiatives to increase the representation of people with disabilities in the Federal workforce.

(4) Assist the Executive Director with reassignment, if reassignment is deemed as a reasonable accommodation, in accordance with EEO regulations and laws.