

	CFTC Policy: Reasonable Accommodation Program
Division:	Division of Administration (DA)
Description:	Policy to comply with reasonable accommodation requirements
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Date Approved	September 29, 2023
Approved By:	Rostin Behnam, Chairman
Supersedes:	CFTC Instruction 475-1 (April 2002)
Contact:	Policy Contact: Angela Ameen, Chief, Workforce Relations Section Send Questions To: Workforce Relations, WorkforceRelations@cftc.gov

I. Purpose

This policy establishes the Commodity Futures Trading Commission (CFTC) policy to provide reasonable accommodations to qualified employees or applicants consistent with authorities under federal law and other applicant governing documents, as listed in Section III of this document. The goals of this policy are to:

1. Provide reasonable accommodations to qualified employees or applicants with disabilities, as defined by the Rehabilitation Act, in order to perform the essential functions of the position unless doing so would cause undue hardship on the agency;
2. Provide Personal Assistance Services (PAS) to employees with targeted disabilities, as required by the Rehabilitation Act;
3. Establish a standard operating procedure to process and evaluate reasonable accommodation requests in a prompt, fair, and efficient manner; and
4. Provide for temporary accommodations due to medical conditions or impairments that are minor and short in duration, at the agency's discretion.

II. Roles and Responsibilities

A. Executive Director:

1. Designates the Disability Program Manager (DPM) for the CFTC;
2. Issues decisions for informal dispute resolution claims in consultation with the DPM;
3. Ensures that CFTC leadership allocates the staff, training, and financial resources necessary to ensure that the CFTC maintains a viable and responsive reasonable accommodation and PAS program; and
4. Maintains the confidentiality of medical information and documentation as stated in Appendix A Section XI.

- B. Disability Program Manager:
 - 1. Has the authority to evaluate and approve or deny reasonable accommodation or PAS requests;
 - 2. Provides consultation to the Executive Director in their role issuing decisions regarding information dispute resolution claims;
 - 3. Maintains the confidentiality of medical information and documentation as stated in Appendix A Section XI; and
 - 4. Through this document, the Chief Human Capital Officer (CHCO) is designated as the DPM.

- C. Human Resources Branch (HRB), Workforce Relations Section (WRS) is responsible for managing and overseeing the agency's reasonable accommodation program and PAS:
 - 1. Facilitates and processes reasonable accommodation requests, which are provided to the Disability Program Manager for a decision;
 - 2. Receives and processes reasonable accommodation requests from CFTC supervisors, employees, or applicants, and consults with them on those requests;
 - 3. Consults with employees on PAS issues;
 - 4. Provides guidance to management officials on whether an individual has a qualifying Rehabilitation Act disability;
 - 5. Determines the essential functions of a position on a case-by-case basis in consultation with the employee's supervisor or the hiring manager;
 - 6. Requests medical information and documentation to support reasonable accommodation or PAS requests, if necessary;
 - 7. Reviews medical information and documentation to determine whether the employee or applicant is a qualified individual with a disability and provide information to the Disability Program Manager for review and decision;
 - 8. Coordinates the notification of the DPM's decision to all stakeholders (e.g., employee, applicant, supervisor, and hiring manager)
 - 9. Coordinates the implementation of the reasonable accommodation or PAS;
 - 10. Assists in the informal dispute resolution process with the Executive Director and DPM if necessary; and
 - 11. Maintains the confidentiality of medical information and documentation as stated in Appendix A Section XI.

- D. Office of Minority and Women Inclusion (OMWI):
 - 1. Provides advice, technical assistance, and support to WRS in relation to this policy or federal statutes and regulations regarding reasonable accommodations.
 - 2. Works with WRS to ensure that periodic training will be made available to employees concerning reasonable accommodations, and that managers and supervisors are trained in the requirements.
 - 3. Coordinates with WRS to develop and implement guidelines for evaluating and monitoring trends under this policy, to include plans for assessing the overall effectiveness of this policy and implementing best practices to help provide timely and effective accommodations.

- E. Employee:
 - 1. Can request for a reasonable accommodation or PAS by initiating an oral or written request to either their immediate supervisor, a manager in their immediate chain of command, the staff in the WRS, or OMWI, or the DPM;
 - 2. May have a representative submit the request;
 - 3. May participate in the interactive process, or designate someone to do so on their behalf, in accordance with the procedures outlined in Appendix A, including providing documentation as requested; and
 - 4. May make a request at any time and does not need to have a particular accommodation in mind before making a request.

- F. Applicant:
 - 1. Can request for a reasonable accommodation by initiating an oral or written request to either the hiring manager or the HR Specialist;
 - 2. May have a representative submit the request;
 - 3. May participate in the interactive process, or designate someone to do so on their behalf, in accordance with the procedures outlined in Appendix A, including providing documentation as requested; and
 - 4. May make a request at any time after receiving a tentative offer letter (TOL) for employment with the CFTC.

- G. Supervisor or employee involved in the hiring process shall:
 - 1. Recognize requests for reasonable accommodation or PAS;
 - a. Requests do not need to include special words such as “reasonable accommodation,” “disability,” or “Rehabilitation Act.”
 - 2. Notify the DPM or staff in the WRS within two (2) business days of such a request;
 - 3. Consult and provide assistance throughout the processing, notification, and implementation of a reasonable accommodation or PAS as requested by the DPM or WRS;
 - 4. Refrain from asking an employee or applicant about their disabilities unless they disclose their disability to a management official or their disability is obvious and the agency reasonably believes a reasonable accommodation or PAS is required to perform the essential functions of the position; and
 - 5. Maintain the confidentiality of medical information and documentation as stated in Appendix A Section XI.

III. Authorities

- 1. The Rehabilitation Act of 1973, as amended (29 U.S.C. § 791 *et seq.*);
- 2. 29 C.F.R. § 1614.203;
- 3. Americans with Disabilities Act (ADA) of 1990, as amended (42 U.S.C. § 12101, *et seq.*);
- 4. Americans with Disabilities Act Amendments Act (ADAAA) of 2008 (42 U.S.C. § 12101 *et seq.*);
- 5. Genetic Information Nondiscrimination Act (GINA) of 2008 (42 U.S.C. § 2000ff *et seq.*);
- 6. Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation;

7. Executive Order 13548, Increasing Federal Employment of Individuals with Disabilities;
8. General Records Schedule 1, Item 24;
9. EEOC's Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA ([LINK](#))
10. EEOC's Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the ADA ([LINK](#))
11. EEOC's Questions & Answers: Federal Agencies' Obligation to Provide Personal Assistance Services Under Section 50 of the Rehabilitation Act ([LINK](#))

IV. Appendices

- A. CFTC Reasonable Accommodation Procedure

Appendix A. CFTC Reasonable Accommodation Procedure

I. Definitions

- **Accessible Format:** An accessible format is a format that meets an individual's particular need, including braille, large print, etc. Documents including these procedures can be provided in an accessible format upon request.
- **Disability Program Manager (DPM):** The DPM has the authority to evaluate and approve or deny reasonable accommodation or PAS requests. Through this document, the CHCO is designated as the DPM.
- **Genetic Information:** 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 assistive reproductive services.
- **Individual with a disability:** The Rehabilitation Act defines a person with a disability as one who:
 - Has a physical or mental impairment that substantially limits one or more of the person's major life activities;
 - Has a record of such impairment; or
 - Is regarded as having such an impairment. This means that the individual has been subjected to an action prohibited by the ADA as amended because of an actual or perceived impairment that is not both "transitory and minor."
- **Interactive Process.** An informal communication process between agency officials and the employee or applicant in which they discuss a reasonable accommodation request. The interactive process helps identify what type of accommodation might best help the person apply for a job or perform the essential functions of a job.
- **Job Functions:** Those job duties so fundamental to the position that the individual holds that they cannot do the job without performing them. A function can be "essential" if, among other things: (1) the position exists specifically to perform that function; (2) there are a limited number of other employees who could perform the function; or (3) the function is specialized and the individual is hired based on the individual's ability to perform it. For example, an essential function of a particular computer programmer job might be described as "ability to develop programs that accomplish necessary objectives," rather than "ability to manually write programs." A reasonable accommodation will not remove an essential function of a position, nor will a reasonable accommodation alter conduct, performance, or production standards of a position.
- **Personal Assistance Services (PAS):** Assistance with performing activities of daily living that an individual would typically perform if they did not have a disability, and that is not otherwise required as a reasonable accommodation, including, for example, assistance with removing and putting on clothing, eating, and using the restroom. Not everyone with a targeted disability will

be entitled to PAS because only some individuals with targeted disabilities require assistance with basic activities like eating and using the restroom.

- **Physical or Mental Impairment.** Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- **Qualified individual with a disability:** An individual with a disability is qualified if they: (1) satisfy the requisite skill, experience, education, and other requirements of the position; and (2) can perform the essential functions of the position, with or without reasonable accommodation.
- **Reasonable accommodation:** Any change in the work environment or in the way that things customarily are done that enables an individual with a qualifying disability to enjoy equal opportunities. A qualified individual with a disability is entitled to an “effective accommodation,” which may or may not be the preferred accommodation of the individual
 - The three categories of reasonable accommodation are:
 1. Modifications or adjustments to a job application process to permit a qualified individual with a disability to be considered for a job;
 2. Modifications or adjustments to the work environment to enable a qualified individual with a disability to perform the essential functions of the job;
 3. Modifications or adjustments that enable individuals with disabilities to enjoy equal benefits and privileges of employment that are enjoyed by similarly situated employees without disabilities.
 - Examples of reasonable accommodations could include:
 1. Making existing facilities used by employees readily accessible to and usable by an individual with a disability;
 2. Restructuring a job;
 3. Modifying work schedules;
 4. Acquiring or modifying equipment;
 5. Providing qualified readers or interpreters;
 6. Appropriately modifying examinations, training, or other programs; or
 7. Reassigning a current employee to a vacant position for which the individual is qualified.
- **Rehabilitation Act:** The Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs conducted by Federal agencies, in programs receiving Federal financial assistance, in Federal employment, and in the employment practices of Federal contractors. The standards for determining employment discrimination under the Rehabilitation Act are the same as those used in Title I of the ADA.
- **Targeted Disabilities:** A subset of conditions that would be considered disabilities under the Rehabilitation Act, which the federal government has recognized that are above and beyond the

barriers faced by people with the broader range of disabilities. A list of targeted disabilities can be found on the [SF 256, Self-Identification of Disability](#).

- **Undue hardship:** If a specific type of reasonable accommodation causes significant difficulty or expense, then the CFTC does not have to provide that particular accommodation. The DPM determines undue hardship on a case-by-case basis considering the nature and cost of the reasonable accommodation needed and the impact of the accommodation on the operations of the CFTC. In order to deny an accommodation based on cost, the DPM 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.

II. Initiating a Request for Reasonable Accommodation or Personal Assistance Services

Employee. An employee must direct an oral or written request for reasonable accommodation or PAS at any time to either their immediate supervisor, a manager in their immediate chain of command, the staff in WRS or OMWI, or the DPM.

Applicant. An applicant for employment has the right to request a reasonable accommodation at any time during the hiring process. For more information see section X.

Representative. A family member, health professional, or other person may request an accommodation on behalf of an employee or applicant at any time.

III. How to Make a Request for Reasonable Accommodation and Personal Assistance Services

Reasonable Accommodation Form. Employees seeking reasonable accommodation or PAS should complete CFTC Form 475a “Confirmation of Request for Reasonable Accommodation” and submit it to their immediate supervisor or the DPM. Individuals do not need to have a particular accommodation in mind when making the request. The employee’s supervisor or DPM or WRS should begin acting on an oral or written request as soon as the request is received, regardless of whether or not the confirmation of request form has been submitted.

Qualified Disability. A written notice may not be required each time an individual requests a reasonable accommodation or PAS for a chronic or long-term disability. For example, the services of a sign language interpreter or reader for the same employee may be provided on an ongoing as-needed basis. In these cases, the written form may be required only on the first request although appropriate advance notice would be required each time the accommodation is sought. However, the DPM or WRS may ask for periodic updated written requests in order to maintain a current justification.

IV. Processing a Request for Reasonable Accommodation or Personal Assistance Services

Once a request for reasonable accommodation or PAS is made, WRS will process the request within the time frame specified in Section VIII. Requests for reasonable accommodation or PAS involve an interactive process between the employee or applicant for employment, WRS, the DPM, and the hiring manager or immediate supervisor to resolve issues of accommodation. During the interactive process, consideration will be given to:

- The essential functions of the job;
- The employee's functional limitations and needs; and
- Possible accommodations to address the limitations and needs identified above.

WRS is responsible for communicating with the employee or applicant throughout the decision-making process. The DPM is responsible for making the decision either to grant the requested accommodation, or some alternative form of accommodation, or to deny the request.

V. Evaluating Medical Information and Documentation

The CFTC is entitled to determine whether an employee or applicant for employment is a qualified individual with a covered disability, thereby triggering an obligation to provide reasonable accommodation that would not pose an undue hardship on the agency. In some cases, the CFTC may not need medical information or documentation, for example, and will not request documentation where the disability and the need for reasonable accommodation are obvious or where the agency has already received sufficient documentation from the individual to document the existence of the disability and the functional limitations.

Request for Medical Information. If WRS believes that medical information or documentation is necessary in order to evaluate a request for reasonable accommodation, WRS may request information sufficient to substantiate that the individual is a qualified individual with a covered disability and that a reasonable accommodation is necessary. All requests for medical information or documentation must be in writing and describe the nature of the job, the essential functions the individual is expected to perform, or any other relevant information. The types of medical information or documentation that may be requested to evaluate the appropriate reasonable accommodation are:

- the nature, severity, and duration of the individual's impairment;
- the activity or activities that the impairment limits;
- the extent to which the impairment limits the individual's ability to perform the activity or activities specified; and/or
- why the individual requires a reasonable accommodation or the particular reasonable accommodation requested, as well as how the reasonable accommodation will assist the individual to apply for a job, perform the essential functions of the job, or enjoy the benefits and privileges of the workplace.

The WRS determines if documentation is necessary. If it is necessary, the individual will be requested to obtain such documentation from a licensed health care practitioner. In most situations, access to a person's complete medical record may not be requested by WRS because it is likely to contain information unrelated to the disability at issue and the need for accommodation.

In order to comply with the Genetic Information Nondiscrimination Act of 2008 (GINA), individuals should not provide any [genetic information](#) when responding to requests for medical information unless specifically requested.

Insufficient Information. If the information volunteered by the individual requesting the accommodation or PAS or the documentation provided by the health care licensed practitioner is

insufficient to assess whether an accommodation is appropriate, WRS may ask the individual to provide additional information or documentation within a reasonable timeframe. In this case:

- WRS will explain to the individual requesting the accommodation why the information or documentation is insufficient and identify the information or documentation still needed.
- The individual may ask the licensed health care practitioner to provide the missing documentation, or WRS may request that the individual sign a release of medical information pertinent to their condition allowing WRS, the DPM or designee to communicate directly with the health care provider. The medical release obtained from the individual should be limited to an authorization to release medical information necessary to determine whether 1) the person is a qualified individual with a disability and 2) has an entitlement to an accommodation. WRS or the DPM may submit a list of specific questions to the individual's health care licensed practitioner if the information necessary for a determination is not provided.

Failure to Provide Medical Information. Failure by an individual to provide appropriate information or documentation or to cooperate in the CFTC's efforts to obtain such information or documentation can result in a denial of the reasonable accommodation or personal assistance services request.

Determination of a Qualified Disability. The DPM will review the medical information and documentation and determine whether the employee or applicant is a qualified individual with a disability and process the request. Supervisors and managers who have an official need to know may be told about necessary work restrictions and/or necessary accommodations. If necessary, the DPM and/or WRS may, at the CFTC's expense and with the consent of the individual, consult with a physician chosen by the CFTC.

Temporary Medical Condition. In some cases, CFTC may determine that the individual does not have a disability under the Rehabilitation Act, but they may have a temporary medical condition that warrants other consideration. For example, broken limbs, sprains, a concussion, appendicitis, or influenza generally would not be disabilities. In such cases, the individual may consult with WRS on leave or other temporary arrangements appropriate to the circumstances. This should be distinguished from an impairment that is episodic or in remission, which would be considered a disability if it would substantially limit a major life activity when active.

VI. Selecting the Appropriate Accommodation

The individual requesting accommodation or PAS may not be entitled to the specified accommodation or services they requested. In cases where an accommodation or services are warranted, the accommodation or services provided must be: (1) appropriate for the medical condition; (2) not cause undue hardship to the CFTC; and (3) allow the individual to perform the essential functions of the job.

WRS and/or the DPM can suggest possible accommodations in consultation with appropriate CFTC officials, such as staff in the Information Technology Branch (e.g., assisted technology or TTY telephone services) or the Business Operations Branch (e.g., furniture, special procurement items, removing architectural barriers) of the Division of Administration. The Job Accommodation Network (JAN), the Department of Defense Computer/Electronic Accommodations Program (DoD CAP), or other technical assistance resources such as vocational rehabilitation specialists can provide help in selecting the

appropriate accommodation. Additional resources can be found in the EEOC's [guidance on reasonable accommodation and technical assistance documents](#).

VII. Reassignment

One form of reasonable accommodation is reassignment. This accommodation is only available for employees and not applicants seeking employment. Reassignment is not just permission to compete for a vacant position but when an employee is transferred to a vacant position for which an employee is qualified.

The CFTC is not required to:

- Reassign an employee to another position, if the reassignment would cause the Commission undue hardship.
- Create a position as a means of reasonably accommodating an employee, including reassigning essential functions of a position to create a position which the employee is able to perform. While supervisors, in consultation with WRS, may temporarily allow an employee to perform less than the full range of essential functions of a position as a form of light or limited duty due to a medical condition, such arrangements will be of limited duration.
- Pay relocation expenses for employees who accept a reassignment as a reasonable accommodation.

Reassignment will be considered only if:

- No accommodation is available to enable the employee to perform the essential functions of their current job and the employee is a qualified individual with a disability;
- There is an unencumbered established position for which the employee is qualified, and the employee can perform the essential functions of that position with or without additional accommodation; or
- The only other effective accommodation would cause the CFTC undue hardship.

Where reassignment is being considered, WRS will work with the employee and the HRB Talent Management Section to identify:

- All funded vacant positions within the Commission for which the individual is qualified, with or without reasonable accommodation; and
- All positions that HRB anticipates becoming vacant over the next 60 days for which the employee may be qualified that are at no higher grade or higher promotion potential than their current position.

VIII. Timeframes for Processing a Reasonable Accommodation or Personal Assistance Services Request

General Timeframes. WRS shall confirm receipt of the request for accommodation or PAS and begin the interactive process with the employee within 10 days of the request being made. The time limit for providing or denying the accommodation starts when the accommodation is first requested. When a particular reasonable accommodation can be provided in less than the maximum amount of time

permitted under 29 C.F.R. § 1614.203(d)(3)(i)(M), failure to provide the accommodation in a prompt manner may result in a violation of the Rehabilitation Act.

WRS will review relevant information and/or documentation and determine whether the individual has a Rehabilitation Act covered disability or targeted disability. After reviewing all documentation, WRS will recommend to the DPM whether to grant or deny the accommodation in as short a period as reasonably possible, unless there are extenuating circumstances such as difficulty in obtaining medical information or documentation. The decision to grant or deny a request should be made within 15 days of receiving all relevant documentation. The CFTC will not be expected to adhere to its usual timelines if an individual's health professional fails to provide needed documentation in a timely manner.

Timeframe to Request Medical Documentation. If medical information or documentation is needed, the decision shall be made within 15 business days **from the date that the CFTC receives sufficient medical information** to determine whether or not the individual has a Rehabilitation Act covered disability or targeted disability and is a qualified individual with a disability.

Timeframe to Provide the Accommodation. If the decision is to grant the accommodation or PAS, WRS will inform the requesting individual of the projected time frame for providing the accommodation. The time frame necessary to provide an accommodation or services will depend on the nature of the accommodation or services, but should be as short as reasonably possible. Some accommodations may be provided within the 15-day time frame for reviewing a request (e.g., permitting breaks for an employee with diabetes to conduct a blood test or developing an alternative work schedule). Other accommodations may require a longer time frame (e.g., purchasing special equipment or removing architectural barriers). Absent exigent circumstances, the accommodation will be provided within 30 days of request. When the accommodation can be provided within this time, failing to do so may result in a violation of the Rehabilitation Act.

Delay. If there is a delay, WRS must notify the individual in writing of the reason for the delay, any extenuating circumstances that justify the delay, and, to the extent possible, also keep the individual informed of the date on which WRS expects to complete the process. During delay periods, the DPM will consider whether there are temporary measures that could be taken to assist the individual requesting the accommodation. In such a case, the WRS must notify the individual in writing that the accommodation is provided on a temporary basis pending a decision on the accommodation request. Accommodations should typically be provided no later than 30 days from the receipt of the request.

Interim Accommodations. When all the facts and circumstances known to the agency make it reasonably likely that an individual will be entitled to a reasonable accommodation, but the accommodation cannot be provided immediately, the agency shall provide an interim accommodation that allows the individual to perform some or all of the essential functions of the job, if it is possible to do so without imposing undue hardship on the agency.

Employment Applicants. With respect to employment applicants requesting reasonable accommodation, the DPM, in coordination with the HRB including WRS, may expedite processing of the request or may extend time frames in the selection process to allow reasonable accommodation for disabled applicants to compete for job vacancies.

Tracking. An employee or applicant can track the processing of a request for reasonable accommodation or PAS at any time by contacting WorkforceRelations@cftc.gov.

IX. Accommodation Denial Process

Denial of Request. If the DPM, after consulting with the supervisor, determines that the requested accommodation or services would cause undue hardship or is not otherwise supportable, the DPM will notify the individual requesting the accommodation or services. If the DPM determines that the request will be denied, the DPM will respond in writing to the requesting individual, on CFTC Form 475b “Decision on Request for Reasonable Accommodation”. The denial letter will state the specific reasons for the denial. The denial letter will also contain information about the individual’s right to file an Equal Employment Opportunity complaint, reconsideration request, informal dispute resolution, or grievance. Form 475b can be provided in an accessible format upon request. The denial letter will provide instructions on how to file an EEO complaint and explain that the individual must initiate contact within 45 days of the denial, regardless of whether the applicant or employee participates in an informal dispute resolution process.

Informal Dispute Resolution. If an employee or applicant for employment wishes reconsideration, they may ask the Executive Director, who will consult with the DPM, WRS, and Division or Office Director as appropriate, to reconsider the determination. The individual may present additional information in writing in support of the request. The Executive Director will issue a written final response within 20 business days of receipt of the request unless the Executive Director notifies the individual of extenuating circumstances that require additional time in order to make the proper determination. Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation.

Impact on Claims. Pursuing the informal dispute resolution procedure identified above does not affect the time limits for initiating statutory and collective bargaining claims. An individual’s participation in an informal dispute resolution process does not satisfy the requirements for filing a claim under Equal Employment Opportunity, Merit Systems Protection Board, or union grievance procedures.

X. Reasonable Accommodation in Hiring Process

An applicant for employment (or their representative) may make a request for reasonable accommodation oral or in writing to any CFTC employee connected with the application process or any other individual designated to accept such requests at any time during the hiring process. The applicant (or their representative) need not have a particular accommodation in mind before making a request. When processing these requests, the procedures for evaluating medical information and documentation, selecting the appropriate accommodation, and timeframes for processing the request will be followed as stated above.

During the Application Process. Applicants have the right to request a reasonable accommodation in order to complete the application process (submission of application, interviews, tests, etc.) even if there may be speculation that the CFTC may not be able to accommodate the applicant in order to perform the essential functions of the position they are applying for. These requests will be evaluated separately from accommodations that may be needed in order to perform the essential functions of the position they are applying for.

Interviews. CFTC supervisors and employees are prohibited from asking applicants if a reasonable accommodation is needed for the position before a conditional offer is made **unless**:

- The applicant discloses a disability; or
- The disability is obvious and the agency reasonable believes the applicant will need a reasonable accommodation to perform the essential functions of the position.

If the applicant states they will need an accommodation, the CFTC supervisor or employee may ask what type of accommodation is needed.

XI. Maintaining Confidentiality of Medical Information

The DPM or WRS will track information regarding the disposition of requests for reasonable accommodation or PAS. All of the documentation that the CFTC obtains in connection with a request for reasonable accommodation or personal assistance services will be kept in safeguarded files separate from the individual's Official Personnel File (OPF). In addition, the medical records related to a request for reasonable accommodation will be maintained separately from the rest of the documentation for the request (and also separate from the individual's OPF). The records will be separately stored in the custody of the DPM or designees. Individuals with a need to know 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 an employee and about the necessary accommodation(s);
- First aid and safety personnel may be told if the disability might require emergency treatment or for emergency planning purposes;
- Government officials, such as EEOC staff, may be given information necessary to evaluate the efficacy of the CFTC's reasonable accommodation procedures and to determine the CFTC's compliance with the Rehabilitation Act;
- The information may in certain circumstances be disclosed to worker's compensation offices or insurance carriers; and
- Agency EEO officials may be given the information to maintain records.
- Where medical information is disclosed, the agency must inform those individuals about the confidentiality requirements that attach to the information.

XII. Records Retention

In accordance with the General Records Schedule 1 Item 24, the CFTC will: (1) retain records related to an individual's request for three years after that individual separates from the CFTC or until all appeals are concluded, whichever is later; and (2) retain for three years, and be able to provide to the EEOC, information or any cumulative records used to track the Commission's performance with regard to reasonable accommodation.

The agency will keep records about each request for a reasonable accommodation, including at a minimum:

- 1) The specific reasonable accommodation requested, if any;
- 2) The job (occupational series, grade level, and agency component) sought by the requesting applicant or held by the requesting 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 (which may include an accommodation different from the one requested) or denied;
- 5) The identity of the deciding official;
- 6) If denied, the basis for such denial; and
- 7) The number of days taken to process the request.

XIII. Resources and Training Devoted to the Reasonable Accommodation Program

The Executive Director provides oversight to ensure that the agency leadership allocates the staff, training, and financial resources necessary to ensure that the Commission maintains a viable and responsive reasonable accommodation program. Additional resource materials for applicants, employees, managers, and supervisors are available on the EEOC's website, located at <http://www.eeoc.gov>.