



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



MAY - 5 2008

PERSONNEL BULLETIN NO. 08-09

SUBJECT: Procedures for Conducting a Department-wide Search and Position Reassignment for Cases Involving Reasonable Accommodation

1. Purpose:

In compliance with Executive Order 13164, the Department of the Interior has established procedures for processing requests for reasonable accommodation by Departmental employees with disabilities (see 373 DM 15, Reasonable Accommodation for Individuals with Disabilities). In certain situations, DOI qualified employees with disabilities may be eligible for job position reassignment (reassignment) as a last resort form of reasonable accommodation. This document outlines the Department's reassignment procedures and the process by which a Department-wide search should be conducted when reassignment is being considered as a reasonable accommodation. It also contains the procedures specifically related to reassignment, and must be used in conjunction with 373 DM 15. The DM provides definitions and procedures essential to appropriate application of the reassignment process as a result of a request for reasonable accommodation.

2. Authority: 29 CFR 1614.203(g), Executive Order 13164

3. Policy:

a. Understanding Reassignment as a Reasonable Accommodation:

1. What is Reassignment?

Under 29 CFR 1614.203(g), reassignment is a last resort form of reasonable accommodation. Reassignment must be offered, if reasonable and available, absent undue hardship, to an employee who, because of a covered disability, can no longer perform the essential functions of the position he/she currently holds, with or without reasonable accommodation.

- Reassignment is available only to employees, not to applicants.
- Reassignment is a reasonable accommodation of last resort only after it has been determined that 1) there are no available and effective accommodations that will enable the employee to perform the essential functions of his/her current position, or 2) all other available and effective reasonable accommodations would impose an undue hardship for the Department. The

law does not require that agencies create new positions or move employees from their jobs in order to create a vacancy.

- Reassignment may be made only to a vacant, funded position for which the employee is qualified. This may include both equivalent and non-equivalent positions based on the employee's stated preferences.
- Before considering reassignment as a reasonable accommodation, employers should first consider those reasonable (e.g. feasible and effective) accommodations that would enable an employee to remain in his/her current position.

2. Equivalent vs. Non-Equivalent Positions:

Equivalent positions are those that are the same (or similar) as the job currently held by the employee in terms of pay, grade level, career level, promotion potential, supervisory status, pay system, type of appointment, (competitive/excepted service), and other relevant factors.

Non-equivalent positions are those that are not equal to an employee's current position in terms of pay, grade level, career level, promotion potential, pay system, type of appointment (competitive/excepted service), or other relevant factors.

3. Defining Roles and Responsibilities:

Servicing Human Resources Office (SHRO): The employee's SHRO is responsible for coordinating the initial search, as described below. The SHRO will also assist the Bureau's Human Resources Office Point of Contact (HRO POC).

Bureau Human Resources Office Point of Contact (HRO POC): Each Bureau shall designate a primary point of contact (HRO POC) within the Human Resources Office to facilitate Department-wide reassignments consistent with the procedures specified in this document. The HRO POC, in coordination with the applicable SHRO, will be responsible for coordinating the bureau's efforts to identify vacant positions; facilitating communication with HRO POC's in other bureaus; assisting bureau management, in conjunction with the SHRO, in clarifying employee qualifications; making final qualification determinations with respect to vacant, funded positions within his/her bureau; ensuring the smooth and timely processing of any reassignments into or out of his/her bureau; and appropriately documenting the expanded search process.

Deciding Official: For the purpose of this Bulletin, the deciding official refers to the supervisor/manager, Office Director, or designee within the bureau responsible for coordinating the accommodation, in conjunction with the SHRO and HRO POC. The deciding official provides assistance to the SHRO and HRO POC in clarifying employee qualifications and coordinating reassignment efforts.

b. Initial Search:

Prior to initiating the search, the SHRO shall review the employee's current and previous position descriptions, obtain an updated resume from the employee (including relevant education), and determine equivalent positions for which the employee is qualified. The SHRO will also provide Appendix A (Employee Questionnaire for Reassignment) which should be completed by the employee and returned to the SHRO within 7 calendar days. Appendix A identifies relevant information that the SHRO, and HRO POC if applicable, should use to facilitate and document an interactive discussion with the employee. The employee's signature is required on this document. The HR Worksheet/Checklist Appendix B (HR Reassignment Worksheet/Checklist) identifies the relevant information for a DOI search for vacant, funded positions and should be used to document the reassignment process. The checklist is used by the SHRO and HRO POC to ensure all appropriate actions have been taken for the search process and identifies data the SHRO should complete. This entire process should be completed within 15 calendar days.

Search for a vacant, funded position to which the employee can be reassigned, should occur first within the Bureau/office and geographical area where the employee is currently employed. (For this purpose, the term "vacant, funded position" shall include positions that are actually vacant, as well as positions that bureau management or the SHRO reasonably anticipates will become vacant in a reasonable period of time. Here, a reasonable period of time should generally be no more than 30 calendar days.) This initial 30 calendar day search, conducted by the SHRO, should focus on vacant, funded positions within the employee's current bureau/office that are equivalent to the employee's current job in terms of pay, grade, promotion potential, status, benefits, geographical location, and other relevant factors.

If an equivalent, vacant, funded position is found, the employee must be offered that position. He/she is not required to compete for that position; however, the employee must be qualified for and able to perform either with or without reasonable accommodation the essential functions of the vacant, funded position that is available for reassignment. Any offer of a vacant, funded position will be made in writing and will specify the consequences of declining the offer. An employee shall respond to the offer letter within 10 calendar days.

Appendix C is a sample offer letter. Actual offer letters, however, should address the unique circumstances of a particular accommodation request. If the employee declines the offer, or fails to return the completed form within 10 calendar days, additional searches will not be conducted. Declination of this offer will cancel any further consideration of reassignment as a reasonable accommodation for the employee's current covered disability.

In the event an equivalent, vacant, funded position cannot be found in the employee's current Bureau/office and geographical area, the SHRO will conduct a search for a non-equivalent vacant, funded position if the employee has indicated they will accept a non-equivalent position on Appendix A. If a non-equivalent, vacant, funded position is

found, the employee must be offered that position. He/she is not required to compete for that position; however, the employee must be qualified for and able to perform the essential functions either with or without reasonable accommodation of the vacant, funded position that is available for reassignment. Any offer of a vacant, funded position will be made in writing and will specify the consequences of declining the offer as described above. The employee shall respond to the offer letter within 10 calendar days.

If there are no equivalent or non-equivalent vacant, funded positions (or anticipated to be vacant positions) within the same Bureau/office and commuting area as the employee's current position, the SHRO must document the unavailability of a vacant, funded position on Appendix B.

c. Conducting an Expanded Search within the Department:

1. Transfer of Search Responsibilities from SHRO to HRO POC:

The HRO POC will be responsible for conducting an expanded search in the event an equivalent or non-equivalent (if acceptable to employee as indicated on Appendix A) vacant, funded position cannot be found in the employee's current bureau/office and local commuting area.

A suitable position may be identified in the current Bureau/office outside the employee's local commuting area or in a different Bureau/office either within or outside the employee's current commuting area. Therefore, if on Appendix A the employee has expressed interested in vacant, funded positions in other bureaus and/or outside the local commuting area, the SHRO shall, within 5 calendar days, provide the HRO POC with the information gathered in Appendix A, Appendix B, as well as the employee's current and previous position descriptions, updated resume (including relevant education), and a list of equivalent positions for which the employee is qualified.

2. Expanded Search:

Generally, the HRO POC shall conduct an expanded search for a vacant, funded position for a period not to exceed 30 calendar days. An expanded search generally consists of a search for vacant, funded positions (either equivalent or non-equivalent) within the bureau outside the local commuting area, within other Bureaus within the same local commuting area, and outside the bureau outside the local commuting area. The parameters of each expanded search will be based upon information provided by the employee in Appendix A. In conducting a 30 calendar day Department-wide expanded search, the Bureau HRO POC should use the following process:

Step One— Document the Expanded Search for a Vacant, Funded Position:

The HR Reassignment Worksheet/Checklist (Appendix B) identifies the relevant information for an expanded DOI search for vacant, funded positions and should

be used to document the request for reassignment. The checklist is used by the SHRO and HRO POC to ensure all appropriate actions have been taken up to and including the Department-wide search process and identifies data the HRO POC should complete.

Step Two— Determine/Clarify the Employee's Qualifications: To understand the employee's capabilities, Bureau HRO POC should hold interactive discussions with the employee as deemed necessary and review and/or clarify the information provided by the SHRO.

Step Three— Identify Vacant, Funded Positions: Check current and upcoming vacancies throughout DOI. This can be accomplished through contact with other Bureau POCs and internet search of USAJobs and/or DOI Jobs. If a potential vacancy is identified, the HRO POC shall work with the HRO POC in the bureau where the position is located (if other than the current bureau) to obtain additional information concerning the vacancy and provide information to the SHRO concerning the employee's qualifications for the position (if it is a non-equivalent position).

Step Four—Contact and Coordinate with the Bureau HRO POC: Provide all relevant information on the employee to the receiving Bureau HRO POC (if position is located in another bureau). The receiving Bureau HRO POC will confer with the potential receiving supervisor and local SHRO to ensure the employee is qualified for the position in question and determine whether the employee would need an accommodation to perform in the position. If a suitable position is identified for which the employee is qualified, and which the employee has indicated is acceptable, the position must be offered to the employee.

Step Five— Offer the Vacant, Funded Position: Any offer of a vacant, funded position will be made in writing and will specify the consequences of declining the offer. An employee shall respond to the offer letter within 10 calendar days. Appendix C is a sample offer letter. Actual offer letters, however, should address the unique circumstances of a particular accommodation request. (If an employee is reassigned to a different geographical area, the employee must pay for any relocation expenses unless the transferring bureau/office routinely pays such expenses when granting voluntary transfers to other employees.)

If, at the conclusion of the search period, no available vacant, funded position is identified, the SHRO or Bureau HRO POC conducting the search must document this on Appendix B and provide the date that the reassignment efforts closed.

Note: The Bureau HRO POC is encouraged to consult with the Office of the Solicitor, Employee Relations staff, Disability Program Manager, and/or Equal Opportunity Office of the current bureau, and with the Office of Civil Rights for advice, as needed.

- 4. Point of Contact:** The point of contact for this policy is Jodi Vargas, 202-208-7764, or by email at <Jodi_Vargas@ios.doi.gov>.


Sharlyn A. Grigsby
Director, Office of Human Resources

**APPENDIX A: Employee Questionnaire for Reassignment:
Preferences on Parameters for Conducting an Expanded Search for a Vacant Position**

This form must be returned to your servicing human resources office (SHRO) within 7 calendar days. Your SHRO is available to provide assistance with completing the form if needed.

You are being considered for possible reassignment as a form of reasonable accommodation as discussed on _____. The initial search, which will convene after completion of this questionnaire, will be limited to vacant, funded positions and those that are anticipated to become vacant within a reasonable period of time (here, a reasonable period of time should generally be no more than 30 calendar days) in the local commuting area that are equivalent to your current position in terms of pay, grade/career level, promotion potential, status, etc., and for which you are qualified.

Based on your preferences as indicated below, if the initial search is unsuccessful, an expanded search for vacant, funded positions may be conducted in accordance with this Guide and may include positions in other bureaus/offices and/or other geographic areas.

To assist you in making informed decisions, any offer of a vacant, funded position will be made in writing and will specify the consequences of rejecting the offer.

To enable an effective search to be conducted, you must answer the following questions. Your answers to these questions will determine the specific parameters of the expanded search. If you answer "no" to any question, or fail to answer any question, a search for vacant, funded positions in that category will not be conducted and you will have waived your right to consideration for such positions as a form of reasonable accommodation. Therefore, you are strongly encouraged to complete this form in its entirety.

1. Will you accept a non-equivalent position (not equal to your current position in terms of pay, grade level, career level, promotion potential, pay system, type of appointment ((competitive/excepted service)), or other relevant factors) in your current bureau/office and local commuting area?

Yes No

2. Will you accept a non-equivalent position (not equal to your current position in terms of pay, grade level, career level, promotion potential, pay system, type of appointment ((competitive/excepted service)), or other relevant factors) in another bureau but within your local commuting area?

Yes No

3. Will you accept an equivalent position within your current Bureau/office that requires you to relocate to another geographic area, at your own expense*?

Yes No

4. Will you accept an equivalent position outside your current Bureau/office that requires you to relocate to another geographic area, at your own expense*?

Yes No

If yes to either 3 or 4, please state any geographic areas to which you would not consider relocating to accept a vacant position _____

5. If you will accept a non-equivalent position, do you prefer to be considered for non-equivalent positions in other Bureaus/offices within your current commuting area before being considered for equivalent positions that require relocation at your own expense?

Yes No

6. If you will accept a non-equivalent position, do you prefer to be considered for equivalent positions in other Bureaus/offices within your current commuting area before being considered for non-equivalent positions within your current bureau but outside your current commuting area and requiring relocation at your own expense*?

Yes No

**In the event the transferring bureau/office does not routinely pay such expenses when granting voluntary transfers to other employees*

**APPENDIX B:
HR Worksheet/Checklist for Search for a Vacant Position**

Human Resources should use this worksheet/checklist to document a Departmental search for vacant, funded positions for position reassignment in reasonable accommodation cases.

1. **Employee's Name:** _____

2. **Employee's Current Position:** (to be completed by SHRO)

- Bureau/Office: _____
- Title of position: _____
- Pay plan, Series: _____
- Grade/Career level: _____
- Promotion potential: _____
- Location (City/State): _____
- Work schedule: _____
- Other factors (if any): _____

3. **Interactive Discussion with Employee:** (to be completed by SHRO)

Date of discussion: _____

_____ Discuss search options with employee (document employee choices for commuting area and non-equivalent positions, and order of preference for search; attach Appendix A: Parameters on Preferences for Conducting an Expanded Search for a Vacant Position form signed by employee)

_____ Discuss employee qualifications for other positions. Ask employee for updated resume/application, detailing all qualifying experience, including volunteer work, and education (attach copy of the resume/application if provided by employee)

List prior positions held (include both government and non-government, paid and unpaid jobs). If any positions are in the 301 or other general series, get description of actual duties, (i.e., copy of position descriptions), if available:

List other qualifying education:

List all series and grades/or career levels for which employee is qualified, and/or which employee will consider:

- a) **Initial Search for Position** (to be completed by SHRO).

Date initial search began: _____

For each option, search first for open vacancy announcements; if none, contact Bureau HRO POC for pending vacancies within the employee's current bureau and local commuting area.

Place a check mark in the appropriate blocks below for each category in which a search for vacant funded positions was conducted.

For each vacant, funded position found, that is deemed viable as a potential reassignment opportunity, list the Bureau/office, pay plan, series, grade/or career level, title, location, promotion potential, and work schedule. Note the contact person in the Bureau/office in which the position is located and whether there were any limitations on the position (e.g., funding, FTE, etc). State whether the employee is a qualified employee with a disability i.e., can perform the essential functions of the position with or without a reasonable accommodation.

____ Equivalent positions in current Bureau and local commuting area.

Position(s) found? ____ No ____ Yes (If Yes, please list)

____ Non-equivalent positions in the local commuting area within the employing Bureau/office.

Position(s) found? ____ No ____ Yes (If Yes, please list)

4. **Expanded Search for Position** (to be completed by HRO POC)

____ Equivalent positions in other geographic areas within the employing Bureaus/office.

Position(s) found? ____ No ____ Yes (If Yes, please list)

____ Equivalent or non-equivalent positions in the local commuting area within other Bureaus/offices.

Position(s) found? ____ No ____ Yes (If Yes, please list)

____ Equivalent positions in other geographic areas within other Bureaus/offices.

Position(s) found? ____ No ____ Yes (If Yes, please list)

____ Non-equivalent positions in other geographic areas within the employing Bureaus.

Position(s) found? ____ No ____ Yes (If Yes, please list)

____ Non-equivalent positions in other geographic areas within other Bureaus.

Position(s) found ____ No ____ Yes (If Yes, please list)

5. **Position Offer:**

____ Employee was offered the following position(s), in writing (attach copy of offer):

Date of offer: _____

Date employee decision due by: _____

6. **Position Acceptance/Declination:**

____ Employee accepted the following position:

Date of acceptance: _____

EOD date for new position: _____

____ Employee declined offer(s)

Date of declination: _____

Bureau HRO POC

Disability Program Manager

HR Specialist (SHRO)

Date reassignment efforts closed

APPENDIX C
Sample Reassignment Offer Memorandum

(Note: If delivering this letter in person, provide signature block for the affected employee to sign and date. If this letter is mailed, it must be sent by certified mail, return receipt requested. These actions will indicate when the 10-business day response period described below begins.)

TO:

FROM:

SUBJECT: Reassignment Offer

In accordance with 373 DM 15, you are hereby offered reassignment to the position of _____, GS/WG-__ - __, in the __Bureau/Office__ as a form of reasonable accommodation. A copy of the position description or career level definition for this position is attached for your review. (NOTE: The bureau must also provide information concerning unique aspects of the offered position affecting appeal rights, benefits, career status etc.)

Please sign and date the appropriate space below indicating your acceptance or declination of this offer, and return the form to me no later than ten calendar days from your receipt of this notice. It is important that you give this matter your prompt attention, as failure to return the completed form within this timeframe will be considered a declination of this offer. Although you must return the original copy of this form, to ensure timely receipt in this office, you may also fax a copy to _____ at _____.

Please note that if you decline this offer, or fail to return the completed form within 10 calendar days, additional searches will not be conducted. Declination of this offer will cancel any further consideration of reassignment as a reasonable accommodation for your current covered disability.

In contrast, acceptance of this offer constitutes your agreement that the [Bureau] has met its obligation to offer reasonable accommodation. By accepting the offer, you are acknowledging that you have voluntarily accepted the offered reassignment.

If you have any questions concerning this offer, and/or need assistance completing this form, please contact person name and number at _____ as soon as possible.

Attachment

Accept: _____
Signature Date

Decline: _____
Signature Date

Note: If you choose to decline this offer, please specify your reason:

