

ARTICLE 46 HARDSHIP REASSIGNMENT

Section 46.01 - General. The Department and the Union recognize that there are situations that arise during an employee's career where a personal hardship exists that could be alleviated if the employee relocated to another office and/or program area. A Hardship Reassignment is not an employee entitlement and is at the discretion of management. However, if an employee requests a hardship reassignment, the Department will consider a change of duty station which may include a change of the work assignment. The employee must demonstrate a hardship that can be relieved by a relocation of duty station.

It is incumbent upon the employee to search for positions in locations that meet their hardship needs, and not rely on these provisions alone. Management will work with the employee to identify available positions that meet an employee's hardship needs.

Section 46.02 - Purpose. These procedures are intended to accommodate the employee, if possible, due to family difficulties and issues which would necessitate the permanent relocation of the employee. These procedures do not impede the program office's ability to make employee assignments.

Section 46.03 - Definitions.

- (1) **Hardship:** Serious health condition or circumstance that affects the health and/or welfare of the employee and/or a family member, and requires the employee to permanently relocate to a vacant position in another geographical area.
- (2) **Vacant Position:** A position in which management has an interest and an authorization to fill. A position is considered vacant even if management has not posted a notice or announcement seeking applications for that position.
- (3) **Family Member:** An individual with any of the following relationships to the employee:
 - (a) **Spouse or domestic partner:** A domestic partner is considered a partner for which the employee is in a committed (same sex or opposite sex) relationship.
 - (b) **Sons and daughters.** This includes biological, adoptive, step or any child for which the employee, spouse or domestic partner raised under a foster care or legal guardian situation.
 - (c) **Parents, grandparents and grandchildren.** This includes biological, adoptive, step or foster parents, or legal guardian of the employee, spouse or domestic partner.
 - (d) **Brothers and Sisters.** This includes biological, adoptive, step or foster brothers or sisters of the employee, spouse, or domestic partner.
 - (e) **Aunts, Uncles or any other blood relation** for whom a close bond may exist of the employee, spouse, or domestic partner. Living with an Aunt or Uncle could be considered as an example of a close bond.

Section 46.04 - Examples of Hardship -Examples of hardship situations or circumstances may include, but not be limited to:

- (1) The employee's family member is unable to care for him/herself and permanent relocation is needed to assist in routine daily care and assistance.
- (2) The employee's family member who is under the care of the employee requires specialized care for a disability or illness in another location.
- (3) The employee demonstrates that their current location creates a burden due to the relocation of a spouse or domestic partner.
- (4) The medical condition of the employee or the employee's family member residing in the employee's household requires relocation to a geographical area deemed medically necessary to improve or maintain health or receive health services.
- (5) Access to a medical care facility that specializes in treatment of a specific life threatening disease or condition would qualify as a hardship, even though there is a general medical care facility in the employee's current location.
- (6) The employee is endangered due to personal issues (e.g., domestic violence, divorce, etc.).

Section 46.05 - Procedures for Hardship Reassignment Request.

The Department will consider all requests to non-competitively reassign employees to a vacant position in another location due to hardship. The Department will review and process requests for hardship reassignments in a fair and expeditious manner. Any employee may request consideration for reassignment due to personal hardship. Employees shall be treated fairly and equitably in considering hardship reassignments. These negotiated Departmental hardship reassignment procedures do not guarantee placement. Employees will follow the procedures of the Departmental policy dated July 2010 on Hardship Reassignment, except in those instances where the provisions of the Departmental policy on Hardship Reassignment are inconsistent with this Agreement, in which case this Agreement will govern.

If a hardship reassignment cannot be accomplished by the employee's assigned program area, the employee may utilize the Department's established procedures to allow the employee to apply for vacant positions within the Department and if qualified, their application will be considered under a noncompetitive referral process.

- (1) Employees Hardship Reassignment Request. The Employee's request for Hardship Reassignment shall be submitted on HUD 25060, Hardship Reassignment Application and Agreement", and include the following:
 - (a) An attached letter which explains the need for a permanent reassignment to a vacant position in another geographical location, and describes the hardship. It also includes a summary of his/her attempts to alleviate the hardship without permanently relocating to another geographical location.

(b) A current resume, no standard format required.

(c) Other documentation that supports the request. Requests based on a serious health condition of a family member will require medical documentation from a health care professional which includes, at a minimum, the medical reasons why the requested permanent reassignment to another duty station is expected to resolve or alleviate the hardship. Employees shall be permitted to use the Department's Hardship Policy to seek relocation to another duty station to address issues that cannot be covered under the Reasonable Accommodation Policy.

- (2) If Management requests additional information or documentation, the employee will be advised in writing of the specific information needed.

The Department must obtain a release signed by the employee and/or the employee's family member before contacting appropriate sources, when such release is required by law and/or the Privacy Act, for the purpose of clarifying any supplied documentation.

Section 46.06 - Time Frames For Processing Hardship Request.

- (1) Absent exigent circumstances, the immediate supervisor will ensure all appropriate documents are included and forward the request to the Assistant Secretary or equivalent, or designee within five (5) days.
- (2) The Assistant Secretary or designee shall review the request and approve/disapprove within ten (10) work days. If additional information is required, the employee will be advised in writing and will have at least seven (7) days absent exigent circumstances to obtain and submit the additional information. If not submitted, the Hardship request will be disapproved and the decision will be provided to the employee.
- (3) Upon approval the Assistant Secretary or designee shall determine if there is a vacancy in the requested geographical location for which the employee is requesting a reassignment. If there is such a vacant position, the employee will have seven (7) days or a mutually agreed upon timeframe to accept or decline the offered reassignment to a vacant position. If the employee declines the placement, further consideration under hardship is forfeited. Upon declination of a position, the approved hardship application is forfeited and the employee will not receive consideration for any other positions within the program office under the Hardship Reassignment policy. Reapplication can only be considered for changes in conditions or the expiration date of one (1) year.
- (4) If the hardship is approved but a vacant position does not exist in the program area, their application will be considered under the non-competitive referral process, as described in Hardship Policy and Procedures Handbook 650.1. .

Section 46.07 - Disapproval. If there is a final decision of disapproval the employee shall be notified within ten (10) days of the decision and a copy of the decision with an explanation will be provided to the employee. Should circumstances change, the employee may reapply.

- (1) If a hardship is approved but the reassignment cannot be accommodated, Management may consider valid options including, but not limited to, the possibility of out-stationing.

- (2) In the event of a final decision of denial, Management shall consider the possibility of a detail with a mutually agreed upon term. If a detail is approved, Management shall periodically review the circumstances of the denial to determine if permanent reassignment or if another option is possible. Extension of the detail may be done on a case by case basis. Examples include:
- (a) Within the program office. Offer the employee a 120 day detail to the appropriate office as an interim measure.
 - (b) To other program offices. Offer the employee a 120 day detail to the appropriate office as an interim measure, on a reimbursable basis.
 - (c) A temporary reassignment or temporary change-to-lower grade for non-competitive short-term organizational needs, and the duration is less than one year within the program office. These assignments are accomplished through a noncompetitive process outside of this policy.
 - (d) If a final decision is not provided within 90 days, the Department will notify the employee and provide them a reasonable time to relocate.

Section 46.08 - Voluntary Change to Lower Grade. In the event the offered position results in a voluntary change to lower grade, a signed statement from the employee will be required acknowledging the agreement. Hardship reassignments shall not involve the loss of grade unless voluntarily requested by the employee.

The Department has determined that employees who accept a voluntary change to lower grade in order to receive a hardship reassignment will be assigned work commensurate with their grade level in the new position. A reasonable effort shall be made to reassign the employee to the same grade, series and rate of pay that the employee holds upon approval of the hardship reassignment. In the event a like position at the same grade is not available, and the employee agrees to accept a voluntary change to lower grade, the employee's pay will be set using the highest previous rate rule as outlined in 5 CFR 531.

Section 46.09 - Position Description and Performance Standards. An employee who is reassigned due to a hardship will be provided a position description of the newly assigned position. New performance standards will be provided to match the employee's duties in the new position.

Section 46.10 - Training for Newly Assigned Position. When appropriate, the employee will be given a reasonable training period in which to become proficient in performing the new duties. A reasonable amount of training time will be determined on a case-by-case basis.

Section 46.11 - Travel and Relocation Expenses. Where the decision to effect a hardship reassignment is based upon an employee's application for a vacancy announcement and the position announcement states that relocation funds will be provided, the employee will not be denied relocation funds based upon the hardship reassignment.

If management requests to meet the hardship reassignment employee in person, the Department will pay all costs associated with the meeting.

The Department may consider reassigning the FTE between locations or program areas for a hardship reassignment request.

Section 46.12 - Expiration of Consideration. Hardship reassignment applications expire one (1) year after the Hardship Reassignment request is made, or when a hardship reassignment is accepted or declined by the employee. An employee may reapply for a hardship reassignment upon the expiration of the application.

Section 46.13 - Employee Assistance. The Department shall support employees experiencing hardship with empathy and understanding. The employee may request assistance and advice through the Employee Assistance Program, and may authorize them to share information regarding the hardship situation with Management. The Department's career counseling and job search counseling services shall also be made available to the employee if needed.

Section 46.14 - Confidentiality. Pursuant to the Privacy Act, all information in support of a hardship reassignment or disapproval shall be confidential. All documentation obtained in connection with a request for a hardship reassignment shall be kept in files separate from the electronic Official Personnel Files (eOPFs).

Section 46.15 - Exclusion from Hardship Reassignments. It is always at Management's discretion to reassign an employee outside of the hardship reassignment policy process. This may be the case in an emergency situation where an expeditious reassignment may be necessary.

The Department's procedures for considering Hardship Reassignment requests is not intended to circumvent the Department's Procedures for Reasonable Accommodations for Individuals with Disabilities, or any employee's opportunity to apply for vacant positions with promotion or promotion potential opportunities under merit promotion.

Section 46.16 - Information. Upon request, Management shall provide the Union with a list of all hardship transfer requests and the number of requests accommodated.