

FEDERAL MEDIATION AND CONCILIATION SERVICE

Privacy Act of 1974; System of Records

AGENCY: Federal Mediation and Conciliation Service

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Federal Mediation and Conciliation Service (FMCS) proposes to amend and reissue a current system of records notice, titled FMCS-0005, Religious Accommodation System, with a change in title to Reasonable Accommodation System. The system will include information that FMCS collects and maintains for applicants for employment and federal employees who request and/or receive reasonable accommodations for medical or religious reasons. The notice amendment adds medical accommodations. It also includes administrative updates to refine details published under the summary, supplementary information, system name, authority for maintenance of the system, purpose of the system, categories of individuals covered by the system, categories of records in the system, record source categories, routine uses, policies and practices for storage of records, administrative safeguards, and record access procedures. These sections are amended to refine previously published information about the system of records. The addresses, for further information contact, system number, security classification, system location, system managers, policies and practices for retrieval of records, policies and practices for retention and disposal of records, contesting records, and notification procedures remain unchanged. This amended SORN deletes and supersedes the SORN published in Federal Register on October 27, 2021.

DATES: This system of records will be effective without further notice on **[INSERT**

DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL

REGISTER] unless otherwise revised pursuant to comments received. New routine uses

will be effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may send comments, identified by FMCS-0005 by any of the following methods:

- Mail: Office of General Counsel, 250 E Street, SW, Washington, DC 20427.
- E-mail: ogc@fmcs.gov. Include FMCS-0005 on the subject line of the message.
- Fax: (202) 606-5444.

FOR FURTHER INFORMATION CONTACT: Doug Jones, Director of Information Technology, at djones@fmcs.gov or 202-606-5483.

SUPPLEMENTARY INFORMATION:

The notice amendment adds medical accommodations. It also includes administrative updates to refine details published under the summary, supplementary information, system name, authority for maintenance of the system, purpose of the system, categories of individuals covered by the system, categories of records in the system, record source categories, routine uses, policies and practices for storage of records, administrative safeguards, and record access procedures. These sections are amended to refine previously published information about the system of records. The addresses, for further information contact, system number, security classification, system location, system managers, policies and practices for retrieval of records, policies and practices for retention and disposal of records, contesting records, and notification procedures remain unchanged.

In accordance with the Privacy Act of 1974, 5 U.S.C. 552(a), this system is needed for collecting, storing, and maintaining records on applicants for employment, employees, and other individuals who participate in FMCS programs or activities who

request or receive reasonable accommodations from FMCS for religious or medical reasons.

Title V of the Rehabilitation Act of 1973, as amended, prohibits discrimination in services and employment based on disability, and Title VII of the Civil Rights Act of 1974 prohibits discrimination, including based on religion. These prohibitions on discrimination require Federal agencies to provide reasonable accommodations to individuals with disabilities and those with sincerely held religious beliefs unless doing so would impose an undue hardship. In some instances, individuals may request modifications to their workspace, schedule, duties, or other requirements for documented medical reasons that may not qualify as a disability, such as a temporary medical condition, but may necessitate an appropriate modification to workplace policies and practices. FMCS may address those requests pursuant to the general authority of the Director contained in Title 29 of the United States Code.

Reasonable accommodations may include, but are not limited to: making existing facilities readily accessible to individuals with disabilities; restructuring jobs, modifying work schedules or places of work, and providing flexible scheduling for medical appointments or religious observance; acquiring or modifying equipment or examinations or training materials; providing qualified readers and interpreters, personal assistants, service animals; granting permission to wear religious dress, hairstyles, or facial hair or to observe a religious prohibition against wearing certain garments; considering requests for medical and religious exemptions to specific workplace requirements; and making other modifications to workplace policies and practices.

FMCS processes requests for reasonable accommodations from employees and applicants for employment, respectively, who require an accommodation due to a medical or religious reason; and processes requests based on documented medical reasons that may not qualify as a disability but that necessitate an appropriate

modification to workplace policies and practices. The request, documentation provided in support of the request, any evaluation conducted internally, or by a third party under contract to FMCS, the decision regarding whether to grant or deny a request, and the details and conditions of the reasonable accommodation are all included in this system of records.

SYSTEM NAME AND NUMBER: FMCS-0005 Reasonable Accommodation System.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: Federal Mediation and Conciliation Service, Office of General Counsel (OGC), 250 E Street, SW, Washington, DC 20427.

SYSTEM MANAGER(S): Angie Titcombe, Director of Human Resources, and Natalie Samuels, Benefits and Retirement Specialist. Doug Jones, Director of Information Technology, will not access content in the internal folder, will only troubleshoot any technical issues regarding electronic files. Send mail to Federal Mediation and Conciliation Service, 250 E Street Southwest, Washington, DC 20427.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 29 U.S.C. 172, et seq.; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq.; 42 U.S.C. 12101; The Rehabilitation Act of 1973, 29 U.S.C. 701, 791, 794; E.O. 13164, as amended by E.O. 13478; E.O. 13548; E.O. 14043; 29 C.F.R. part 1605; 29 C.F.R. part 1614; 29 C.F.R. part 1615; 29 C.F.R. part 1630.

PURPOSE(S) OF THE SYSTEM: The purpose of this system is to provide a system for collecting, processing, and maintaining religious and medical accommodation requests on applicants for employment, employees, and other individuals who participate in FMCS programs or activities who request or receive reasonable accommodations or other appropriate modifications from FMCS for medical or religious reasons; to process, evaluate, and make decisions on individual requests; details of request, including final

determinations, and any supporting documentation; and to track and report the processing of such requests in FMCS to comply with applicable requirements in law and policy.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: The categories of individuals covered in the system of records includes both current and former Federal employees who have requested religious and medical accommodations, applicants for employment, and other individuals who participate in FMCS programs or activities who request or receive reasonable accommodations or other appropriate modifications from FMCS for medical or religious reasons.

CATEGORIES OF RECORDS IN THE SYSTEM: These records contain the following:

- Requester's name;
- Requester's status (applicant or employee);
- Requester's contact information (addresses, phone numbers, and email addresses);
- Date of the request;
- Employee's position title, grade, series, step;
- Description of religious belief and how it will impact the ability to comply with agency requirements and perform official duties;
- Description of the medical condition or disability and any medical documentation provided in support of the request;
- Supplemental medical records or medical certification documents in support of the request or determination;
- Description of the accommodation being requested;
- Description of previous requests for accommodation;
- Whether the request was granted or denied, and if denied the reason for the denial;
- Documentation of how the request was made;

- Documentation of any extenuating circumstances that prevent FMCS from meeting relevant timeframes;
- The sources of technical assistance consulted in trying to identify a possible reasonable accommodation;
- Any reports or evaluations prepared in determining whether to grant or deny the request; and
- Any other information collected or developed in connection with the request for a reasonable accommodation.

RECORD SOURCE CATEGORIES: Information in this system of records is provided by:

1. The Federal employee, applicant, or other individual submitting an accommodation form.
2. FMCS Human Resources officials who provide confirmation approval or denial of requests.
3. Supervisors who provide information regarding how the requests would impact agency operations.
4. Medical providers or professionals who evaluate the request or who provide supplemental or supporting documentation.
5. Religious or spiritual advisors or institutions who evaluate the request or who provide supplemental or supporting documentation.

Additional record source categories could include documents pertaining to the employee's religion and religious practices, and medical requests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND PURPOSES OF SUCH USES: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to

authorized entities, as is determined to be relevant and necessary, outside the FMCS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

- a) To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule regulation or order where FMCS becomes aware of an indication of a violation or potential violation of civil or criminal laws or regulations.
- b) To disclose information to the National Archives and Records Administration (NARA) for use in its records management inspections; to the Government Accountability Office (GAO) for oversight purposes; to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.
- c) To disclose information to the National Archives and Records Administration (NARA) or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.
- d) To disclose information to contractors, grantees, experts, consultants, detailees, and other non-Government employees performing or working on a contract, service, or other assignment for the Federal Government when necessary to accompany an agency function related to this system of records.
- e) To officials of labor organizations recognized under 5 U.S.C. Chapter 71 upon receipt of a formal request and in accordance with the conditions of 5 U.S.C. 7114 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

- f) To disclose information to a Member of Congress or a congressional office in response to an inquiry made on behalf of, and at the request of, an individual who is the subject of the record.
- g) To disclose information when FMCS determines that the records are relevant to a proceeding before a court, grand jury, or administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.
- h) To disclose information to another Federal agency, to a court, or to a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding. Such disclosure is permitted only when it is relevant and necessary to the litigation or proceeding.
- i) To any agency, organization, or person for the purposes of performing audit or oversight operations related to the operation of this system of records as authorized by law, but only information necessary and relevant to such audit or oversight function.
- j) To disclose information to a spiritual leader, religious scholar, medical professional, or medical provider when necessary to obtain information relevant to the request.
- k) To another Federal agency, including but not limited to the Equal Employment Opportunity Commission and the Office of Special Counsel to obtain advice regarding statutory, regulatory, policy, and other requirements related to reasonable accommodation.
- l) To an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator, or other duly authorized official engages in investigation or settlement of a

grievance, complaint, or appeal filed by an individual who requested a reasonable accommodation or other appropriate modification.

- m) To a Federal agency, FMCS personnel, or entity authorized to procure assistive technologies and services in response to a request for reasonable accommodation.
- n) To FMCS clients needing to accommodate FMCS employees performing official duties.
- o) To first aid and safety personnel if the individual's medical condition requires emergency treatment.
- p) To another Federal agency pursuant to a written agreement with FMCS to provide services (such as medical evaluations), when necessary, in support of reasonable accommodation decisions.
- q) To appropriate agencies, entities, and persons when (1) FMCS suspects or has confirmed that there has been a breach of the system of records, (2) FMCS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, FMCS (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FMCS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
- r) To another Federal agency or Federal entity, when FMCS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: These records are maintained in hard copy and electronic form in locations only accessible to authorized personnel. Electronic records are stored on the agency's internal servers with restricted access to authorized Human Resources staff and designated deciding officials as determined by agency policy. Hard copy records are stored in a locked cabinet accessible to authorized Human Resources staff and designated deciding officials as determined by agency policy.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: These records are retrieved by the name or other programmatic identifier assigned to an individual in the electronic database and paper filing system.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF

RECORDS: All records are retained and disposed of in accordance with General Records Schedule 2.3, issued by the National Archives and Records Administration. Records are updated as needed, retained for three years after separation and/or for the entirety of the employee's active employment, and destroyed by shredding or deleting.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Records are located in a locked file storage area or stored electronically in locations only accessible to authorized personnel requiring agency security credentials. Access is restricted, and accessible to limited Human Resources officials, and/or individuals in a need-to-know capacity. FMCS buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RECORD ACCESS PROCEDURES: If an employee would like access to their Religious or Medical Accommodation Form, please send a request with the specific information needed to the resource mailbox at FMCSMedicalInfo@fmcs.gov. A copy of the requested information will be provided via email in an encrypted file.

CONTESTING RECORDS PROCEDURES: See 29 CFR 1410.6, Requests for correction or amendment of records, on how to contest the content of any records.

Privacy Act requests to amend or correct records may be submitted to the Privacy Office at privacy@fmcs.gov, FMCS 250 E Street, SW Washington, DC 20427. Also, see <https://www.fmcs.gov/privacy-policy/>.

NOTIFICATION PROCEDURES: See 29 CFR 1410.3(a), Individual access requests.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: This amended SORN deletes and supersedes the SORN published in Federal Register on October 27, 2021, at 86 FR 59389.

Dated: November 17, 2021.

Sarah Cudahy,

General Counsel.