

SUBCHAPTER 1606

PROCEDURES FOR PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION

- References:**
- (a) Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791
 - (b) Americans with Disabilities Act of 1990, Titles I and V
 - (c) Executive Order 13164 of 26 Jul 00
 - (d) 29 Code of Federal Regulations § 1630
 - (e) EEOC Management Directive 715 (MD-715)
 - (f) DON Civilian Human Resources Manual, Subchapter 1601, Equal Employment Opportunity Program Policy

Cancelled: DON OCHR memo 12720 Ser 00G/020-05 of 1 Feb 05, Department of the Navy Procedures for Providing Reasonable Accommodation

1. Purpose. This subchapter outlines the procedures for processing requests for reasonable accommodation within the Department of the Navy (DON). *Practitioners are reminded that this subchapter is intended to be utilized as a guide. Every request must be reviewed, analyzed and decisions to provide or not to provide an accommodation based on the individual, attendant circumstances of the request.*

2. Policy.

a. In accordance with references (a) through (e), it is DON's policy to provide reasonable accommodation to qualified employees and applicants with disabilities. An effective reasonable accommodation policy is an important aspect of DON's commitment to create employment opportunities for individuals with disabilities.

b. All DON military and civilian supervisors and employees will make every effort to provide reasonable accommodation to qualified employees or applicants with disabilities, unless to do so would cause an undue hardship.

c. It is DON policy to reassign a qualified employee with a disability to a vacant, funded position within the agency if the employee is unable to perform the essential functions of their present position with or without accommodation because of

their disability and is able to perform the essential functions of the identified position, with or without accommodation.

3. Responsibilities

a. In accordance with references (a) through (e), the Secretary of the Navy (SECNAV) is responsible for ensuring that a system for the timely processing of requests for reasonable accommodation is established for the DON.

b. The Assistant Secretary of the Navy (ASN) (Manpower and Reserve Affairs (M&RA)), as DON Director of Equal Employment Opportunity (EEO), is responsible for establishing and maintaining a DON-wide EEO Program, to include the processing of requests for reasonable accommodation, that is consistent with legal and regulatory requirements. The Director of EEO ensures that adequate resources are allocated to effectively manage and process requests for reasonable accommodation. EEO practitioners in servicing EEO offices are responsible for managing programs and implementing processes in support of the responsibilities of the Director of EEO and their respective activity EEO Officers.

c. Per reference (f), The Deputy Assistant Secretary of the Navy (DASN) (Civilian Human Resources (CHR)) is delegated the responsibility for the development of DON-wide policies, programs and directives to ensure successful accomplishment of all aspects of the EEO Program. This responsibility includes the establishment of policy and procedures for processing requests for reasonable accommodation on behalf of SECNAV. The DASN (CHR) has the authority to further delegate these responsibilities to enforce compliance with this instruction.

d. Office of Civilian Human Resources (OCHR) shall:

(1) Develop the DON's procedures for processing reasonable accommodation requests.

(2) Ensure that reasonable accommodation requests throughout the agency are processed in a timely, consistent and efficient manner.

e. The DON Program Director, Office of EEO and Diversity Management shall:

(1) Develop and implement the DON's procedures for processing reasonable accommodation requests.

(2) Provide advice and guidance to DON officials who are responsible for the processing of reasonable accommodation requests.

(3) Track and monitor the number/types and processing times of reasonable accommodation requests.

f. OCHR Office of Counsel shall:

(1) Provide legal advice and guidance to the Human Resources/Equal Employment Opportunity/Office of General Counsel/Judge Advocate General community on reasonable accommodation.

g. Per reference (f), the Chief of Naval Operations, Commandant of the Marine Corps, Assistant for Administration USN, and Heads of Echelon 2 Commands are designated as Command EEO Officers (CEEEO). As such, they or their designee (the designee must be a senior level official) shall:

(1) Ensure that DON's policy for the processing of reasonable accommodation requests is clearly communicated and implemented within their respective commands.

(2) Ensure that officials responsible for the processing of reasonable accommodation requests are trained on program requirements, to include relevant case law.

(3) Ensure that all reasonable accommodation requests are processed and implemented in a timely manner.

(4) Make the determination of the appropriate placement for a current employee if several vacancies within the command are identified as possibilities for reassignment. This determination will be made with assistance from the Command Deputy EEO Officer (CDEEEO), Director Civilian Personnel Programs (DCPP), command counsel, the servicing Human Resources Office, and Human Resources Service Center.

h. The CDEEEO shall:

(1) Serve as the primary advisor to the CEEEO on command's process for reasonable accommodation.

(2) Provide guidance, assistance, and command specific training on the processing of reasonable accommodation requests to subordinate command/activity officials.

(3) Serve as a link between subordinate activities and OCHR, and the DON EEO Programs Manager to monitor and enforce compliance with this subchapter.

(4) Review all determinations made by subordinate activities/commands to deny a request for reasonable accommodation to ensure compliance with this subchapter and applicable case law.

(5) Assist the Director, Civilian Personnel Programs (DCPP) and the command's legal counsel in determining whether or not the command/activity's assessment that a current employee cannot be accommodated in their position of record and the command/activity's subsequent job search efforts were thorough, complete, and in compliance with this subchapter.

(6) Assist the DCPP and the command's legal counsel in reviewing the HRSC's job search efforts on behalf of a current employee if no vacancies are identified.

(7) Assist the DCPP, command legal counsel and the HRSC in providing advice to the Commanding Officer if one or more of the vacancies within the command are identified as possibilities for reassignment for a current employee of the command or DON.

(8) Review the HRSC's job placement determination, in collaboration with the DCPP and the command's legal counsel, if an employee not currently employed within the command is identified for placement in one or more of the command's current vacancies.

(9) Track, monitor, and review all requests for accommodation, job search efforts, and final decisions for consistency and reporting purposes.

(10) Evaluate the quality and timeliness of activity reasonable accommodation procedures on an annual basis.

i. The DCPP shall:

(1) Ensure that sufficient resources are allocated to execute a reasonable accommodation process that is timely and efficient at the command and subordinate activity levels.

(2) Coordinate with the CDEEOO and the command's legal counsel to review a command/activity's assessment that a current employee cannot be accommodated in their position of record and the command/activity's subsequent job search efforts were thorough, complete, and in compliance with this subchapter.

(3) Coordinate with the CDEEOO and the command's legal counsel to review the HRSC's job search efforts on behalf of a current employee if no vacancies are identified.

(4) Coordinate with the CDEEOO, command legal counsel and the HRSC in providing advice to the Commanding Officer if one or more of the vacancies within the command are identified as possibilities for reassignment for a current employee of the command or DON.

(5) Review the HRSC's job placement determination, in collaboration with the CDEEOO and the command's legal counsel, if an employee not currently employed within the command is identified for placement in one or more of the command's current vacancies.

j. The Command's Legal Counsel shall:

(1) Provide legal advice and guidance to the HR/EEO community on reasonable accommodation.

(2) Provide oversight of Federal court litigation on failure to accommodate claims.

(3) Coordinate with the CDEEOO and the DCPD to review a command/activity's assessment that a current employee cannot be accommodated in their position of record and the command/activity's subsequent job search efforts were thorough, complete, and in compliance with this subchapter.

(4) Coordinate with the CDEEOO and DCPD to review the HRSC's job search efforts on behalf of a current employee if no vacancies are identified.

(5) Coordinate with the CDEEOO, DCPD and the HRSC in providing advice to the Commanding Officer if one or more

vacancies within the command are identified as possibilities for reassignment for a current employee of the command or the DON.

(6) Review the HRSC's job placement determination, in collaboration with the CDEEOO and the DCPD, if an employee not currently employed within the command is identified for placement in one or more of the command's current vacancies.

k. The Activity Commander or Head serves as the EEOO and shall:

(1) Communicating and implementing DON's policy for the processing of reasonable accommodation requests within their activity.

(2) Allocating sufficient resources to staff the reasonable accommodation function in the HR/EEO offices.

(3) Ensuring that officials responsible for processing reasonable accommodation requests are trained on program requirements, to include relevant legal principles/precedent.

(4) Ensuring that all reasonable accommodation requests are processed within the applicable timeframe.

(5) Certifying, after consultation with the Reasonable Accommodation (RA) point of contact (POC), Human Resources Director (HRD) and counsel, that the job search process at the activity level identified no vacant positions for placement of an employee who could not be accommodated in their position of record.

(6) Certifying, after consultation with the DEEOO, HRD and command counsel, that an individual, who is not a current employee at the activity, cannot be placed in one or more of the activity's vacant positions identified in the job search conducted by the HRSC.

l. The servicing DEEOO shall:

(1) Publicizing and implementing DON's policy for the processing of reasonable accommodation requests at the activity.

(2) Designating a RA POC, who has a sufficient level of training and expertise on reasonable accommodation, in the EEO Office or coordinating efforts at smaller commands for RA requests.

(3) Ensuring that all individuals responsible for the processing of reasonable accommodation requests at serviced activities are trained on program requirements, to include relevant legal principles/precedents.

(4) Ensuring that all reasonable accommodation requests are processed in a timely and consistent manner.

(5) Establishing and maintaining a tracking and monitoring system for reasonable accommodation requests.

(6) Providing EEO training to supervisors, to include the procedures for requesting reasonable accommodation.

(7) Assisting the HRD and command counsel in providing advice and guidance to the Commanding Officer when the activity level job search fails to identify any vacant positions for placement of an employee who cannot be accommodated in his/her position of record.

(8) Assisting the HRD and command counsel in providing advice and guidance to the Commanding Officer when an individual, who is not a current employee at the activity, cannot be placed in one or more of the activity's vacant positions identified in the job search conducted by the HRSC.

(9) Submitting reports on reasonable accommodation procedures as required by DON or major command.

(10) Monitoring confidentiality of the process and records and retaining all reasonable accommodation case files for serviced activities.

m. The Reasonable Accommodation (RA) POC shall:

(1) Coordinating all reasonable accommodation requests.

(2) Ensuring that all reasonable accommodation requests are processed in accordance with the provisions of this subchapter.

(3) Involving appropriate personnel or the Advisory Team who provide recommendations to the supervisor/manager responsible for making the decision on a request for reasonable accommodation.

(4) Ensuring that the supervisor engages in on-going, informal interactive discussion(s) with the individual seeking an accommodation.

(5) Updating the appropriate tracking and monitoring system for reasonable accommodation requests.

(6) Maintaining all reasonable accommodation case files in a secure manner.

(7) Safeguarding the confidentiality of medical information. Access to this information will be granted on a strictly limited basis.

n. The HRD shall:

(1) Ensuring that sufficient resources are allocated to execute a reasonable accommodation process that is timely and efficient.

(2) Ensuring that all HR Specialists are trained on the reasonable accommodation process and program requirements.

(3) Ensuring that the EEO Office executes its responsibilities as delineated in this subchapter.

(4) Coordinating the HRSC job search process in accordance with the provisions of this subchapter.

(4) Assisting the DEEOO and activity counsel in providing advice and guidance to the Commanding Officer when the activity level job search fails to identify any vacant positions for placement of an employee who cannot be accommodated in his/her position of record.

(5) Assisting the DEEOO and activity counsel in providing advice and guidance to the Commanding Officer when an individual, who is not a current employee at the activity, cannot be placed in one or more of the activity's vacant positions identified in the job search conducted by the HRSC and for transmitting the case file to the major command and/or HRSC.

o. HR Specialists shall:

(1) Coordinate all reasonable accommodation requests with the appropriate RA POC.

(2) Process all reasonable accommodation requests in accordance with the provisions of this subchapter.

(3) Participate as a member of the Advisory Team when requested and appropriate.

p. Command Counsel at the activity level shall:

(1) Provide legal advice and guidance to the HR/EEO community on reasonable accommodation.

(2) Participate as a member of the Advisory Team, as needed.

(3) Assist the DEEOO and HRD in providing advice and guidance to the Commanding Officer when the activity level job search fails to identify any vacant positions for placement of an employee who cannot be accommodated in his/her position of record.

(4) Assist the DEEOO and HRD in providing advice and guidance to the Commanding Officer when an individual, who is not a current employee at the activity, cannot be placed in one or more of the activity's vacant positions identified in the job search conducted by the HRSC.

(5) Provide assistance to the Assistant U.S. Attorney assigned to represent the agency on Federal court litigation on failure to accommodate claims.

q. The Advisory Team shall:

(1) Include, at a minimum, the RA POC, HR Specialist and the employee's first-level supervisor. As needed, the Advisory Team should consult with technical experts in safety, medical, legal, etc.

(2) Process all reasonable accommodation requests in accordance with the procedures outlined in this subchapter.

(3) Safeguard the confidentiality of medical information.

r. The Human Resources Service Center (HRSC) shall:

(1) Conducting the designated job search once the activity determines the employee cannot be placed within their activity.

(2) Documenting the HRSC job search efforts.

(3) Determining the best-fit for job placement if there are multiple identified vacancies.

s. Managers and supervisors shall:

(1) Immediately contact the activity's RA POC and/or HR Specialist upon receipt of a request for reasonable accommodation.

(2) Participate as a member of the Advisory Team.

(3) Process all reasonable accommodation requests in accordance with the procedures outlined in this subchapter.

(4) Maintain an open line of communication with the employee seeking an accommodation and engage in on-going, informal discussion(s) with the employee during the reasonable accommodation process.

(5) Consider the use of Alternative Dispute Resolution techniques at any stage in the reasonable accommodation process to resolve any conflicts at the lowest level.

(6) Implement the DON policy to provide reasonable accommodation to qualified employees and applicants with disabilities.

t. Employees and/or applicants for employment shall:

(1) Immediately notify their first-level supervisor or RA POC when it is determined that some form of reasonable accommodation is required in order to perform the essential function(s) of their position of record.

(2) Actively participate in the interactive discussion portion of the reasonable accommodation process.

(3) Provide medical documentation, if requested, as part of the reasonable accommodation process.