



UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE
PSC BOX 20005
CAMP LEJEUNE NC 28542-0005

MCIEAST-MCB CAMLEJO 12700.1A
EEO

APR 15 2013

MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE CAMP LEJEUNE ORDER
12700.1A

From: Commanding General
To: Distribution List

Subj: REASONABLE ACCOMMODATION (RA) PROCEDURES

Ref: (a) Rehabilitation Act of 1973
(b) Americans with Disabilities Act (ADA) of 1990
(c) E.O. 13164, 26 July 2010
(d) EEOC Policy Guidance on E.O. 13164, 20 October 2000
(e) EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA, 17 October 2002
(f) Americans with Disabilities Act Amendment Act (ADAAA) of 2008
(g) DON Civilian Human Resource Manual, Subchapter 1606, Guidance Advice Memorandum (GAM) #86, 12 April 2011
(h) USMC RA Processing Guide, 3 January 2014
(i) MCIEAST-MCB CAMLEJO 12771.1
(j) MCIEAST-MCB CAMLEJO 12771.2A

Encl: (1) Initiating the RA Process
(2) Procedures for Assessing a Disability Claim
(3) Reassignment as an Accommodation
(4) Alternative Dispute Resolution (ADR)
(5) Avenues of Redress
(6) RA Records Maintenance
(7) Reporting Requirements
(8) Definitions
(9) RA Process Flow Charts
(10) RA Resources
(11) RA Information, References, and Guides

1. Situation. To provide instructions and guidance on RA procedures as they apply to the Department of the Navy (DON) civilian employees Appropriated Fund and Nonappropriated Fund whether permanent, full-time, part-time, or probationary and applicants for employment in accordance with the references.

2. Cancellation. MCIEAST-MCB CAMLEJO 12700.1.

3. Mission

a. This Order will promulgate procedures for addressing RA requests in accordance with references.

DISTRIBUTION STATEMENT A: Approved for public release; distribution is unlimited.

APR 15 2019

b. Summary of Revision. This Order has been completely revised to update policies and procedures and should be reviewed in its entirety.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commanders Intent. All organizations employing civilian employees shall comply with this Order and its references contained herein.

(2) Concept of Operations. Organizational commanders and department heads will ensure all subordinate managers and supervisors (military and civilian) are thoroughly familiar with the contents of this Order. This Order will be made available via the agency website.

b. Tasks. Refer to the enclosures.

5. Administration and Logistics. The point of contact for this Order is the Deputy Equal Employment Opportunity (EEO) Officer at 910-451-5272.


6. Command and Signal

a. Command

(1) This Order is applicable to Marine Corps Installations East-Marine Corps Base Camp Lejeune (MCIEAST-MCB CAMLEJ) Staff Departments, MCB CAMLEJ subordinate commands, and Marine Corps Air Station (MCAS) New River.

(2) Installation commanders/commanding officers (CO) may adapt guidance contained in this Order. Such guidance and policy must be consistent with the provisions of this Order, but commands may adopt more detailed rules to meet specific needs. Tenant commands supported by the MCIEAST-MCB CAMLEJ may elect to comply with this Order in its entirety or may describe more detailed rules to meet specific needs as required.

b. Signal. This Order is effective the date signed.


S. A. BALDWIN
Deputy Commander

DISTRIBUTION: A/C (plus MCAS NR, H&S Bn, and WTBn)

APR 15 2019

Initiating the RA Process

1. Categories. There are three categories of RAs:

a. Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or

b. Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or

c. Modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as enjoyed by other similarly situated employees without disabilities.

2. Requests for RA

a. A request for accommodation is simply a statement that the individual needs an adjustment, a change at work, or in the application process for a reason related to a medical condition. A request for accommodation does not need to mention the Rehabilitation Act or require individuals to use the phrase "reasonable accommodation."

(1) Requests for RA must always relate to the request for adjustment or change at work to a reason related to a medical condition.

(a) Example 1. "I am having trouble getting to work at my scheduled starting time because of medical treatments I am undergoing."

(b) Example 2. "I need six weeks off to get treatment for a back problem."

(2) Additional examples of what may constitute a request for RA can be found in references (d) and (e).

(3) While an individual with a disability may request a change due to a medical condition, this request does not necessarily mean that the employer is required to provide the change. A request for RA is the first step in an informal, interactive process between the individual and the employer.

APR 15 2019

(4) In some instances, before addressing the merits of the accommodation request, the employer needs to determine if the individual's medical condition meets the definition of "disability," in accordance with references (b) and (f), which is a prerequisite for the individual to be entitled to a RA.

b. RA Requests May Be Made Orally Or In Writing By:

- (1) The employee or applicant; or
- (2) A family member, friend, health professional; or
- (3) Other representative on behalf of the individual.

c. A completed Confirmation of RA Request Form is not required to initiate the process; however, supervisors may choose to write a memorandum or letter documenting the individual's request. Any verbal request must be subsequently documented, in writing, signed and dated. A sample Confirmation of RA Request Form is included as Attachment 1 to this enclosure. RAs will be processed, whether verbal or written, as soon as they are received.

d. Although the agency can, for record-keeping purposes, ask an applicant or employee to fill out the above mentioned request form, an individual's oral request will officially start the RA process. Therefore, the 30-day timeline to respond to RA requests will start from the date any form of request was made.

3. Establishing the RA Advisory Team (RAAT)

a. RAAT. Upon receipt of an RA request, the Deputy EEO Officer (DEEO) will establish a RAAT to assist in the processing of all requests. The RAAT will consist of members of various areas of expertise required to advise supervisors and management officials and assist in the processing of RAs in accordance with the established references and governing personnel policies and procedures. At a minimum, the advisory team should include the employee's first-level supervisor, a human resources (HR) specialist, and the DEEO or the designated RA point of contact (POC). For example, the first-level supervisor is the individual best able to identify and define the essential functions of a position; the HR specialist will provide the HR expertise; and, the RA POC will provide the expertise on the RA process.

b. Additional Members. Depending upon the specific circumstances or complexity of a RA request, membership of the advisory team may be augmented to include representatives from medical, safety, Eastern Area Counsel Office and the G-1 Manpower Office. Other members may be requested to participate on the advisory team, as appropriate.

APR 15 2019

c. Coordination of Efforts. Advisory team members should meet or consult with each other as frequently as needed and share information immediately upon receipt in order to process the request for RA within 30 calendar days.

d. Formal training on RA procedures is strongly recommended. Members of the advisory team should be familiar with and process all RA requests in accordance with the provisions of this Order.

4. Confidentiality of Information Regarding Requests for and Provision of RA

a. Reference (b) specifically prohibits the disclosure of medical information except in certain limited situations. Therefore, an employer may not disclose that an employee is receiving an RA because this usually amounts to a disclosure that the individual has a disability. See reference (e) for additional guidance.

b. Medical information contained or attached to RA requests will be treated as confidential. Contents shall not be disclosed, discussed, or shared with individuals that do not have a need-to-know during the processing of the RA request. See Attachment 2 to this enclosure for appropriate cover sheet.

5. Applicants for Employment

a. RA must be provided to a qualified applicant with a disability that will enable the individual to have an EO to participate in the application process and to be considered for a position.

b. Hiring Process. It is appropriate to tell all applicants for employment what the hiring process involves, such as an interview, timed written test, or a job demonstration. Ask all applicants whether they will need a RA to participate in the job application process and be considered for the position. Explain to the applicants the agency's RA procedures.

c. Accessibility. Text telephones for the hearing impaired (Uniphone 1140 by UltraTec) are available at the Civilian HR Office (CHRO) and the EEO Office at 910-450-9230 and 910-450-9231, respectively.

6. Circumstances for Expedited Processing or Extending the Processing Timeline. All requests for accommodation should be processed within 30 calendar days of receipt. The time necessary to respond to any particular request for accommodation may be expedited if the accommodation(s) 1) required to complete the job application process or 2) necessary to accommodate a specific activity required with a short timeframe. RA processing timeline may also be extended due to unique circumstances or the complexity of the accommodation request.

APR 15 2019

When an extension of this timeline is required, the supervisor must document the reason(s) for the delay and communicate with the employee in writing.

7. RA POCs. Contact the DEEOO or the RA POC immediately upon receipt of the RA request. The DEEOO and the RA POC may be contacted at 910-451-5272/5083/9676/5365 or 910-450-6819 aboard MCB CAMLEJ and MCAS New River or 252-466-2218/3398/3438 aboard MCAS Cherry Point.

APR 15 2019

Attachment 1Confirmation of RA Request Form
(Page 1 of 2)


Submit		FOR OFFICIAL USE ONLY WHEN FILLED		Form Approved: OMB No. 0703-0051	
CONFIRMATION OF REASONABLE ACCOMMODATION REQUEST					
PRIVACY ACT STATEMENT					
<p>Privacy Act Statement: The collection of this information is authorized by 29 USC 791 et seq. This information will be used to process a request for reasonable accommodation. As a routine use, the information may be disclosed to appropriate agency officials processing or otherwise responding to the request for reasonable accommodation and/or decisions related to such request; an appropriate government agency, domestic or foreign, for law enforcement purposes; where pertinent, in a legal proceeding to which the DON is a party or has an interest; to a government agency in order to obtain information relevant to DON decision(s) concerning reasonable accommodation; to a congressional office in order to obtain information relevant to DON decision(s) concerning reasonable accommodation; to an expert, consultant or other person under contract with the DON to fulfill an agency function; to an investigator, administrative judge or complaints examiner appointed for the investigation of a formal EEO complaint under 29 CFR 1614, to the Merit Systems Protection Board or Office of Special Counsel for proceedings or investigations involving personnel practices and other matters within their jurisdiction; to a labor organization as required by the Federal Labor Management Relations Act; to the Office of Personnel Management in making determinations related to disability retirement and benefit entitlement; to officials of the Office of Workers' Compensation Programs; to the Department of Veterans Affairs; to an employee's private treating physician and to medical personnel retained by the DON to provide medical services in connection with an employee's health or physical condition related to employment; and to the Occupational Safety and Health officials when needed to perform their duties. Completion of this form is voluntary. If this information is not provided, processing the request for reasonable accommodation may not be possible.</p>					
LOCATION (Physical Location of Requested Reasonable Accommodation):		DATE (DDMM/YYYY):		Request Type: <input type="checkbox"/> My Own Self <input type="checkbox"/> On Behalf Of	
PART I Requestor's Information (To be completed by Requestor or "On Behalf Of" Requestor)					
1. NAME (Last, First, Middle Initial):		2. ORGANIZATION:			
3. OFFICE SYMBOL/DEPARTMENT:		4. PHONE (DSN and Commercial): DSN: COM:			
5. OFFICIAL E-MAIL ADDRESS:		6. JOB TITLE AND GRADE/RANK:			
7. CITIZENSHIP: <input type="checkbox"/> US <input type="checkbox"/> FN <input type="checkbox"/> LN <input type="checkbox"/> Other		8. DESIGNATION OF PERSON <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN <input type="checkbox"/> CONTRACTOR <input type="checkbox"/> APPLICANT		9. OFFICIAL MAILING ADDRESS:	
10. REASONABLE ACCOMMODATION REQUEST DESCRIPTION AND EXPLANATION (Please provide a detailed description of your request):					
PART II Details for Reasonable Accommodation (To be completed by Requestor or "On Behalf Of" Requestor)					
10a. DESCRIBE ANY IMPACT OF YOUR PRESENT LIMITATIONS ON THE PERFORMANCE OF YOUR DUTIES:					
10b. DESCRIBE ANY ACCOMMODATION YOU BELIEVE WOULD ASSIST YOU IN THE PERFORMANCE OF YOUR DUTIES:					
SECNAV 12305/1 (Rev 5-14) Page 1 of 2 FOR OFFICIAL USE ONLY WHEN FILLED					

Confirmation of RA Request Form
(Page 2 of 2)

6

Attachment 2

Privacy Act Cover Sheet



Privacy Act Data Cover Sheet

To be used on
all documents
containing personal
information

**DOCUMENTS ENCLOSED ARE SUBJECT
TO THE PRIVACY ACT OF 1974**

Contents shall not be disclosed, discussed, or shared with individuals unless they have a direct need-to-know in the performance of their official duties. Deliver this/these document(s) directly to the intended recipient. **DO NOT** drop off with a third-party.

The enclosed document(s) may contain personal or privileged information and should be treated as "For Official Use Only." Unauthorized disclosure of this information may result in **CIVIL** and **CRIMINAL** penalties. If you are not the intended recipient or believe that you have received this document(s) in error, do not copy, disseminate or otherwise use the information and contact the owner/creator or your Privacy Act officer regarding the document(s).

Privacy Act Data Cover Sheet

DD FORM 2923, SEP 2018

APR 15 2019

Procedures for Assessing a Disability Claim

1. Assessment of the Disability Claim

a. Goal of RA. The goal of RA is to enable qualified individuals with disabilities (IWDs) to perform the essential functions of their position and to enjoy equal employment opportunities. Many IWDs are able to perform their jobs without accommodation. However, there may be barriers in the workplace that prevent others from performing tasks that they could otherwise do with accommodation. Reference (a) requires Federal agencies to accommodate applicants and employees who are qualified individuals with disabilities unless to do so would impose an undue hardship on the operation of its programs and/or poses a direct threat to the employee or others.

b. Qualified Individual with a Disability. A qualified individual with a disability is an individual with a disability who, with or without RA, can perform the essential functions of the position in question and meets the related requisite skill, experience, education, and other job-related requirements of the position in question or meets the criteria for non-competitive appointments for individuals with intellectual, severe physical or psychiatric disabilities. An employee or applicant for employment must demonstrate that they are a qualified individual with a disability in order to trigger the agency's obligation to provide RA.

(1) With respect to whether the employee is a qualified IWD, the analysis is not limited to the position actually held by the employee, but includes positions that the employee could hold as a result of job restructuring or reassignment.

(2) Only after determining that reassignment to a vacant position is not possible or results in an undue hardship would reference (a) permit the activity to conclude that an employee is not a qualified IWD.

2. Determination Whether an Employee Has a Disability

a. Definition of Disability. A person has a disability as defined by reference (a) if they have a physical or mental impairment that substantially limits a major life activity.

b. Physical Impairment. A physical impairment is any physiological condition, disorder, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, cardiovascular, reproductive, digestive, urinary, hemic, lymphatic, skin, and endocrine.

APR 15 2019

c. Mental Impairment. A mental impairment is any mental or psychological disorder such as, mental retardation or organic brain syndrome, and can also encompass emotional or mental illness and specific learning disabilities.

d. Exceptions. If an employee is currently using illegal drugs to include illegal usage of legal drugs, such as prescription medications, the employee does not meet the definition of an employee with a disability.

e. Major Life Activity. Once an individual establishes a physical or mental impairment, they must be able to show that the disability substantially limits (see paragraph 2f for definition) one or more major life activities. Major life activities include such obvious characteristics such as hearing, seeing, walking, speaking, breathing, caring for oneself, performing manual tasks, and working.

(1) Generally, a major life activity is something of fundamental significance within the meaning of reference (a) and not simply an activity important to a particular individual.

(2) Major life activities do not include activities such as swimming, shopping, or enduring physical stress.

(3) Individuals who claim they are limited in the major life activity of working must show that they are significantly restricted in their ability to perform either a class of jobs, or a broad range of jobs in various classes, as compared to the average person of comparable training skills, and abilities. For example, in *Murphy v. United Parcel Services (UPS), Inc.*, the U.S. Supreme Court determined that UPS's mechanic jobs, which required the ability to drive commercial vehicles, were a single job and not representative of the class of mechanics jobs. According to the Supreme Court, UPS only viewed Murphy as unable to perform its unique job requiring a mechanic to drive a commercial vehicle, and not as unable to work in the automotive mechanics, none of which require an individual to drive commercial vehicles.

f. Substantially Limits. An impairment substantially limits a major life activity if that impairment renders the individual either unable to perform a major life activity or significantly restricts their performance of that activity as compared to the average person's performance of the activity.

(1) Not all medical conditions are substantially limiting. A person with broken bones or a sprained ankle does not have a permanent or long-term impairment because the condition will heal within a reasonable time.

APR 15 2019

(2) In addition, if an individual employs measures to mitigate their impairment, e.g., medication, eyeglasses, prosthetic devices, etc., the effect of these measures should be considered in determining whether the impairment is substantially limiting for the individual.

g. Individualized Assessment of a Disability

(1) To determine whether the individual has a disability, an individualized assessment must be made; assumptions based upon the condition itself should not be made. Decisions cannot be made based upon personal knowledge of or experience with a particular condition or generalizations based upon stereotypes or myths.

(2) Decisions about RA are very fact-specific and individualized.

h. Medical Documentation

(1) In some situations, both the need and the appropriate type of accommodation are obvious, e.g., an individual who is blind, in a wheelchair, etc.

(2) In those instances where the need and the appropriate type of accommodation is not obvious or is otherwise unknown, it is necessary to engage in an interactive process with the employee. See paragraph 4 below for more guidance.

(3) In the event the interactive process does not produce the necessary information, a request for medical documentation may be required. The request for medical documentation should be in writing and issued to the employee as soon as it has been determined that this step is required. If a request for medical documentation is issued to the employee, a signed, dated copy of the letter must be included in the RA case file. More specific guidance for requesting medical documentation is found in Attachment 1 to this enclosure. Attachment 2 of this enclosure may be used as a sample letter for requesting medical documentation.

(4) The written request for medical documentation should include a copy of a waiver for the employee to sign giving permission for any official with a need to know to review the medical documentation for RA purposes. Attachment 3 to this enclosure includes a sample consent to release medical information form. A copy of the consent to release must be included in the RA case file.

(5) Medical documentation must be provided by an appropriate medical professional. The medical documentation must explain the nature of the disability and the need for RA, or to clarify how the requested accommodation will assist the employee to perform the essential functions of the job.

(6) The timeframes for processing a request for RA will toll from the time the written request for medical documentation is issued to the employee up to the point when the requested medical documentation is received by the supervisor.

(7) If the information submitted is not sufficient to substantiate that the individual has a disability and/or needs the RA requested, supplemental medical information may be required including, if appropriate and with the employee's consent, an examination by a medical specialist of the activity's choosing and expense.

(8) Under certain circumstances, medical documentation provided by the employee should be reviewed with the assistance of a medical specialist.

(9) If the employee does not provide the requested medical documentation and there is insufficient information to process the request for accommodation, the request may be denied. See paragraph 6 below for more detailed guidance.

3. Essential Functions of a Position. The essential functions of a position are those functions that define the job. In other words, the job exists to perform those tasks.

a. The essential functions of a job are not the marginal or infrequently performed tasks that could be eliminated without altering the fundamental nature of the job.

b. The employee must be able to perform the essential functions of a position, with or without accommodation, in order to be considered to be qualified for the job. See paragraph 1b above for a definition of a qualified individual with a disability as it applies to reference (a).

c. The law does not require the DON to change or alter the essential function of a job. For example, an essential function of a security officer at a particular location is the ability to read identification cards. It would be unreasonable for an applicant with a visual impairment to request an accommodation that would require DON to hire a reader to assist them so that the cards can be read. The law does not require an employer to reallocate the essential functions of the job to another individual. In this example, reading is an essential function. If reading were only a minor or unimportant aspect of the job, some form of accommodation may be in order.

d. In some cases, however, an accommodation may involve restructuring a job or altering the non-essential requirements of a particular position. Job restructuring includes modifications such as:

APR 15 2019

(1) Reallocating or redistributing marginal job functions that an employee is unable to perform because of a disability;

(2) Altering when and/or how a function, whether essential or marginal, is performed.

e. Determining The Essential Functions of a Position. If the supervisor does not already have the essential functions of a position documented, as soon as they are notified of a request for accommodation, an assessment of the essential function of the employee's position should be immediately initiated. Attachment 4 to this enclosure is provided to facilitate identification of essential functions. Attachment 5 provides a template that can be utilized to document this step of the assessment process.

4. Interactive Discussions

a. Purpose of Interactive Discussions. These discussions will assist the RAAT in making the determination whether the employee is a qualified individual with a disability. Interactive discussions may also be useful in determining if additional medical documentation is necessary, obtaining information about the essential functions of the position, how they can be performed, the appropriate accommodation for identified disabilities or limitations, and the parameters of a job search, as applicable.

b. Timing of Discussions. The supervisor and employee should immediately commence the interactive dialogue upon receipt of the request for accommodation to clarify the employee's needs and to identify the appropriate RA. Attachment 6 to this enclosure provides guidance on the type of information the supervisor should seek from the employee during the interactive discussion.

c. Frequency of Discussions. A continuing dialogue throughout the RA process is highly encouraged. These discussions will provide critical information necessary for making the decision to accommodate or not. These discussions should also be used as an opportunity to keep the employee advised of the status of their request for accommodation.

5. Disability Analysis

a. Analysis by the RAAT. After all the relevant information has been obtained from the employee, the RAAT must conduct an analysis to determine whether the employee meets the definition of a qualified individual with a disability as defined in references (a), (b), and (f). This analysis should include all the steps outlined above. The analysis and resultant decision must be documented in writing by the RA POC and filed for the record in the case file.

APR 15 2019

b. Other Information to be considered by the RAAT. Additional sources of information that may assist the RAAT in its analysis may include past medical records, current medical examinations, and the employee's work history.

c. Timing of Analysis. Every effort should be taken to complete this portion of the RA process as soon as possible to avoid unnecessary delays in providing accommodation to qualified individuals. Where there is a delay in processing a request for RA, the supervisor must notify the individual of the reason for the delay. Extenuating circumstances that may result in a delay in providing an accommodation may include situations in which equipment must be back-ordered or the vendor typically used by the agency has unexpectedly gone out of business. To the extent possible, the individual will be kept informed of the date when the RA process is expected to be complete. If there is a delay, the supervisor must determine whether there are temporary measures that could be taken to assist the individual with a disability. For example, temporary job restructuring or the use of equipment that might permit the individual to perform some of the functions of their job may be appropriate.

d. Required Documentation. A copy of the disability analysis and copies of all the documentation considered in the analysis will be retained in the RA case file.

6. Decision of RA

a. Employee is Determined Not to be an IWD. There is no requirement to provide the RA if the disability analysis establishes that the employee did not establish that: has a disability; an impairment that substantially limits a major life activity; or, has requested an accommodation that is related to a disability. The employee must be notified of this decision, in writing. A sample letter is provided as Attachment 7 of this enclosure. A copy of this determination will be included as part of the RA case file.

(1) There may be occasions when a determination has been made that no accommodation is required. Even with this determination, an activity may still provide some form of assistance to the employee based on the desire to be a good employer, not out of legal necessity. Caution should be taken in these circumstances to maintain consistency with similar requests to avoid disparate treatment claims and precedent-setting situations. The activity must document the reasons for providing a form of assistance to the employee, in writing, in language that clearly states what is being provided and why it is being provided. A sample letter is provided as Attachment 8 to this enclosure.

APR 15 2019

(2) The employee's option for retirement should be discussed with them at this point. If no other options, including reassignment, are available, the employee may be removed for inability to perform the essential functions of their current position.

(3) A written summary of the case detailing the information considered, analysis performed, and the reasons for denying the request for accommodation will be forwarded to the major claimant's command DEEOO for review and tracking purposes. The written summary, to include all documentation considered in the activity's determination and a copy of the decision letter must be submitted to the command DEEOO within 14 calendar days after the issuance of the decision to deny the request for accommodation.

(4) The closed case file will be maintained by the activity's EEO office. To safeguard the confidentiality of medical and/or other sensitive information contained in the case file, access will be granted on a strictly limited basis.

b. Decision to Grant an Accommodation. If the RAAT determines that providing an accommodation is the appropriate course of action, all reasonable alternatives to accommodate the individual in their current position will be explored, e.g., assistive software/devices, modified furniture, location of desk, job restructuring, telework, etc.

(1) The RAAT should consult with all appropriate resources to identify potential accommodations. These resources include:

(a) The job applicant or employee who can advise the supervisor what may be needed to enable them to perform the job.

(b) Consultation with other management officials, safety and/or medical personnel, as appropriate, to determine, whether the employee's proposed accommodation is feasible and/or whether other accommodations can be made.

(c) State agencies and nonprofit organizations that are dedicated to assisting individuals with disabilities in the workplace, e.g., State Department of Rehabilitation. Information on some of these resources is listed in enclosure (10).

(2) The RAAT is responsible for determining whether an accommodation is necessary and what the appropriate effective accommodation would be. The employee may have some suggestions or may be aware of resources to contact, however, it is the RAAT's responsibility, not the employee's responsibility, to explore various RA options. Examples of such accommodations are assistive devices,

APR 15 2019

workplace modifications, and work schedule changes, etc. If there are multiple accommodations which would be equally effective in permitting the employee to perform the job, the RAAT will identify and select the accommodation that is most effective to be implemented.

(3) Once potential accommodations are identified, it is the RAAT's responsibility to determine whether the accommodation option(s) is/are reasonable. Considerations include whether the potential accommodation would:

(a) Eliminate or alter the essential functions of the job. There is no requirement to reduce the expectations of an employee's quantitative or qualitative performance standards as an accommodation.

(b) Impose an undue hardship on the DON. There are a number of factors which must be considered before making a determination that a particular accommodation would constitute an undue hardship.

1. Expense. The overall economic resources available to an agency are an important factor for consideration. However, there is no formula to use in making the determination whether or not an accommodation is too costly for implementation. Generally, an economic defense is not successful as a reason for undue hardship, especially for an agency as large as the DON.

2. Impact on Operations. Another undue hardship defense is that providing an accommodation would significantly interfere with the operation of the Agency. The RAAT should consider the nature of the accommodation, the number of employees at the activity, the impact on the operations, the potential for accommodation at another activity, the composition/structure/function of the workforce, and the geographic location of the activity. There may be occasions when it is simply not feasible to provide an accommodation due to the impact on the activity's operations.

3. Violate the seniority provisions of a collective bargaining agreement, when applicable.

4. Fail to eliminate or reduce the direct threat of harm. Direct threat is a significant risk of substantial harm to the health or safety of the employee or others that cannot be reduced or eliminated by RA. The RAAT must believe that the danger posed by the employee is connected to the disability itself, medication taken for the disability, or an assistive device used for the disability. If the risk is for reasons not associated with the disability, then it is not a direct threat issue. In making the determination whether or not there is a significant risk of substantial harm, the RAAT must consider several factors: duration of risk; nature and severity of the potential harm; likelihood of the harm; and imminence of harm.

APR 15 2019

The determination on whether there is a danger must be based on an objective assessment of the employee, not generalizations or stereotypes. In order to conduct a further inquiry when there is a belief, there must be a legitimate reason for the belief.

(4) The activity is not required to provide personal use items. These items include those which may be needed on the job, but are also needed by the employee to perform other daily activities outside the workplace, e.g., glasses, hearing aids, and wheelchairs.

(5) The employee's preferences, the effectiveness of each accommodation and its costs should be considered by the RAAT. The accommodation selected should be the one most appropriate for both management and the individual. The chosen accommodation need not be the best or most expensive, or even the one preferred by the employee. As long as the accommodation is reasonable and enables the employee to perform the essential functions of their position, it is acceptable. The individual's supervisor is responsible for making the ultimate decision as to what accommodation, if any, will be adopted.

(6) A listing of all reasonable alternatives for accommodating the employee in their position should be compiled and documented with supporting documentation, if appropriate. A copy of this listing must be included in the RA case file.

(7) If the RAAT determines that an employee can be accommodated in their current position, that decision and the adopted accommodation is documented in the case file and implemented. The determination to accommodate an employee should be completed within 30 calendar days from the date the individual's supervisor receives the request for accommodation. This timeframe may be extended due to extenuating circumstances. The employee will be notified, in writing, of the decision to approve the request for accommodation. The decision letter will include the date the accommodation will be provided or the implementation schedule, whichever is applicable. A sample approval letter is provided as Attachment 9. The closed case file will be maintained in the activity's EEO Office. To safeguard the confidentiality of medical and/or other sensitive information contained in the case file, access will be granted on a strictly limited basis.

c. Determination that the Employee Cannot be Accommodated in the Current Position. If it is determined as a result of the analysis of the available accommodation options that the employee cannot be accommodated in their current position, the employee will be notified of this decision, in writing, and the interactive process continues.

APR 15 2019

d. At this point in the process, the following options are available to both the activity and/or the employee:

(1) Reassignment to a vacant position within the activity and/or DON. This option is only available for current DON employees. Once it has been determined that there is no feasible, effective accommodation that would enable the employee to retain their current position, then DON must consider reassignment of the employee to a vacant position. See enclosure (3) for more detailed guidance on this option.

(2) Removal for inability to perform the essential functions of the employee's current position if the employee declines an offer of reassignment. See Attachment 7 for a sample denial letter.

(3) Attachment 10a provides a sample template for notifying the employee they cannot be accommodated in their current position and gives the option of a reassignment. Attachment 10b is a sample form for the employee to document their decision to accept/decline the offer of reassignment. The results of this interactive discussion must be documented in writing and signed and acknowledged by the employee. To simplify this step in the process, Attachment 10a and 10b are provided for appropriate documentation.

APR 15 2019

Attachment 1

Guidance For Requesting Medical Documentation

1. When a disability and/or need for accommodation is not obvious or otherwise already known, reasonable documentation may be required to support the existence of a disability and the need for the accommodation requested. This documentation must come from an appropriate medical professional to explain the nature of the disability and the need for RA, or to clarify how the requested accommodation will assist the employee to perform the essential functions of the job. The RAAT must consider medical information that the employee's physician(s) may provide to determine job-related limitations and how they could be overcome.
2. Other important sources of information that will assist the RAAT in determining the employee's abilities and limitations include: past medical records, current medical examinations, and work history.
3. The following information must be provided, in writing, by the employee's first level supervisor to the employee's health professional to assist them in providing the required medical documentation:
 - a. Description of the nature of the job;
 - b. Description of the essential functions of the job; and
 - c. Any other information that is relevant to evaluating the request for accommodation.
4. If the information provided by the employee's health professional is not sufficient to substantiate that the individual has a disability and/or needs the RA requested, supplemental medical information may be required including, if appropriate, an examination by a medical specialist of the activity's choosing and expense.
5. Medical information obtained in connection with the RA process must be kept confidential. Mishandling of information relating to an individual's disability or medical condition may constitute a violation of the Privacy Act and/or the references for which DON may be liable for damages. Supervisors and managers who have a need to know to perform their responsibilities may be told about the necessary medical restrictions or the need for accommodations, but medical information should be disclosed only when necessary.

APR 15 2019

Attachment 2

Sample Letter For Requesting Medical Documentation

MEMORANDUM

From: (Supervisor)
To: (Employee)

Subj: REQUEST FOR CURRENT MEDICAL DOCUMENTATION

Ref: (a) Rehabilitation Act of 1973
(b) Americans with Disabilities Act (ADA) of 1990
(c) DON CHRM Subchapter 1606

Encl: (1) Position Description (PD)
(2) Permission to Release Medical Documentation or DD Form 2870
(3) Essential Functions of Position
(4) PD #_____

1. The purpose of this letter is to request information regarding your current medical condition and its impact on your ability to perform the duties of your position as a (Job Title, Pay Plan-Series-Grade, Organizational Title). This information will assist me in determining the agency's obligation to provide you reasonable accommodation (RA) in accordance with references (a) through (c) and to assist me in making informed decisions regarding your employment status.

2. (This paragraph should contain a narrative summary of events leading to the request for additional medical documentation. For example: On (date), you provided me a copy of a return to work certificate which placed the following temporary restrictions on your work: "no heavy lifting of more than 30 lbs., no climbing up ladders or general ship board work for two weeks." On (date) you submitted a letter from your doctor, Dr. (Name) dated (date). In their letter, Dr. (Name) states that you are suffering from high blood pressure and degenerative joint disease. She recommends the following action(s) be taken to minimize further exacerbation of these conditions: "(a) prolonged standing or walking should be avoided; (b) undue stress to knee, such as but not limited to, working aboard boats or ships, steps or ladder climbing and walking or climbing in sand or uneven surfaces should be limited or avoided; (c) carrying of heavy equipment should be limited or avoided." Dr. (Name) further recommended that you not be assigned to projects that would result in any of the above-related conditions, as this would contribute to further exacerbation and deterioration of your condition).

APR 15 2019

3. RA refers to changes in the work environment or in the way that things are customarily done that would enable an individual with a disability to perform the essential functions of their position and remain productively employed. Accommodations may include, but are not limited to: making facilities readily accessible or useable by individuals with a disability, job restructuring, modification of work schedules, acquisition or modification of equipment or other similar actions.

4. Federal agencies are required to provide RA to employees and applicants that meet the criteria of a qualified, disabled employee as outlined in the references unless the agency can show that the accommodation requires more than a documented medical condition or diagnosed disability.

5. Entitlement to accommodation is dependent on an employee meeting the criteria of a qualified individual with a disability in accordance with the references. Reference (b) defines a qualified individual with a disability as a person having a physical or mental impairment that substantially limits one or more major life activities (i.e., activities an average person would be able to perform, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working). Further, the accommodation that is requested must be of a nature that would enable an applicant or employee to perform the essential functions of the position and remain productively employed. To meet the criteria of a qualified individual with a disability, the employee must be able to perform the essential duties of the position either with or without RA. Employees who do not meet the definition of a qualified individual with a disability do not have a specific entitlement to RA.

6. In order for me to make an informed decision regarding your employment status, I am requesting that you provide your physician's medical opinion with regard to matters listed below. By way of this letter, your physician will be made aware that further information is needed to make a determination of RA and additional employment decisions. Such information provided by the physician should specifically include:

a. The nature, severity, and duration of your medical condition and physical impairment;

b. Explanation of the impact of your medical condition on your activities both on and off the job;

c. The extent to which your impairment limits your ability to perform an activity or activities;

APR 15 2019

d. Explanation whether the impairment is or can be controlled by medication or other medical intervention;

e. Estimate of expected date of full or partial recovery;

f. On the basis of their medical expertise and knowledge of your position from the information provided, an assessment of your ability to successfully perform the essential functions of your position with or without accommodation;

g. If an accommodation is required, the particular accommodation requested must provide an explanation as to how the accommodation will assist you in performing the essential functions of your position.

7. The following information regarding the essential functions and physical requirements of your position as (Title, Pay Plan-Series-Grade) is provided to assist your physician in responding to these questions. The (Organizational Title) is responsible for (insert mission of employee's department, division, branch or section). As a (Title in the department, division branch or section), the essential functions of your position require (Name) to (insert physical requirements of the position i.e., travel, climbing, lifting, etc). A summary of the essential functions of your position follows or can be found in enclosure (3).

8. The physical demands of your position are summarized in your position description, enclosure (4). In the position description, it indicates that the work requires (insert actual physical tasks required of the position, i.e., considerable and strenuous physical exertion, requires long periods of standing, recurring bending, crouching, stooping, or recurring lifting of moderately heavy items (50 pounds), transport to and from ships by helicopter, etc).

9. The Health Insurance portability and Accountability Act of 1996 imposes new requirements on medical providers, employers, health plans and plan administrators to ensure that individual medical and health information is kept confidential. In adhering to this regulation, your health provider will not release medical documentation without your permission. In order for this office to obtain the required medical documentation from you, it is requested you complete enclosure (2) and return it to me at (specific location).

10. It is imperative that this office receive a response to this request for information to assess and address your entitlement to RA. Please forward this information to (identify point of contact (POC) by (date) at the (specific location).

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APR 15 2019

11. If you have any questions or concerns, please contact the Deputy Equal Employment Opportunity Officer or RA POC listed above.

(Supervisor's Signature)

Copy to:
Dr. (Name)

APR 15 2019

Attachment 3a

Permission To Release Medical Information

By my signature on this document, I give permission to (name of personal physician) to release medical information to the following authorized agency officials, (identify the specific officials who will have access to the medical information), in order to respond to my request for RA.

Signature: _____ Date: _____

APR 15 2019

Attachment 3b

AUTHORIZATION FOR DISCLOSURE OF MEDICAL OR DENTAL INFORMATION		
<p align="center">PRIVACY ACT STATEMENT</p> <p>In accordance with the Privacy Act of 1974 (Public Law 93-579), the notice informs you of the purpose of the form and how it will be used. Please read it carefully.</p> <p>AUTHORITY: Public Law 104-191; E.O. 9397 (SSAN); DoD 6025 18-R.</p> <p>PRINCIPAL PURPOSE(S): This form is to provide the Military Treatment Facility/Dental Treatment Facility/TRICARE Health Plan with a means to request the use and/or disclosure of an individual's protected health information.</p> <p>ROUTINE USE(S): To any third party or the individual upon authorization for the disclosure from the individual for: personal use; insurance; continued medical care; school; legal; retirement/separation; or other reasons.</p> <p>DISCLOSURE: Voluntary. Failure to sign the authorization form will result in the non-release of the protected health information.</p> <p>This form will not be used for the authorization to disclose alcohol or drug abuse patient information from medical records or for authorization to disclose information from records of an alcohol or drug abuse treatment program. In addition, any use as an authorization to use or disclose psychotherapy notes may not be combined with another authorization except one to use or disclose psychotherapy notes.</p>		
SECTION I - PATIENT DATA		
1. NAME (Last, First, Middle Initial)	2. DATE OF BIRTH (YYYYMMDD)	3. SOCIAL SECURITY NUMBER
	N/A	N/A
4. PERIOD OF TREATMENT: FROM - TO (YYYYMMDD)	5. TYPE OF TREATMENT (X one)	
From to Current	<input type="checkbox"/> OUTPATIENT <input type="checkbox"/> INPATIENT <input checked="" type="checkbox"/> BOTH	
SECTION II - DISCLOSURE		
6. I AUTHORIZE _____ TO RELEASE MY PATIENT INFORMATION TO:		
(Name of Facility/TRICARE Health Plan)		
a. NAME OF PHYSICIAN, FACILITY, OR TRICARE HEALTH PLAN	b. ADDRESS (Street, City, State and ZIP Code)	
Deputy EEO Officer/RA Coordinator	MCIEAST/MCB Camp Lejeune, Equal Employment Opportunity	
MCIEAST/MCB Camp Lejeune	Office, PSC Box 20005, Camp Lejeune, NC 28542-0005	
c. TELEPHONE (Include Area Code)	d. FAX (Include Area Code)	
910-451-5272	910-451-9740	
7. REASON FOR REQUEST/USE OF MEDICAL INFORMATION (X as applicable)		
<input type="checkbox"/> PERSONAL USE <input type="checkbox"/> CONTINUED MEDICAL CARE <input type="checkbox"/> SCHOOL <input checked="" type="checkbox"/> OTHER (Specify) Reasonable Accommodation <input type="checkbox"/> INSURANCE <input type="checkbox"/> RETIREMENT/SEPARATION <input type="checkbox"/> LEGAL		
8. INFORMATION TO BE RELEASED		
In adherence to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which became effective 14 April 2003, this form authorizes management and the designated EEO/RA official to receive current medical documentation from the individual identified in Block#6. Once documentation is received, it will be used to process the RA request and establish required RA file at the EEO Office.		
9. AUTHORIZATION START DATE (YYYYMMDD)	10. AUTHORIZATION EXPIRATION	
	DATE (YYYYMMDD) <input checked="" type="checkbox"/> ACTION COMPLETED	
SECTION III - RELEASE AUTHORIZATION		
<p>I understand that:</p> <p>a. I have the right to revoke this authorization at any time. My revocation must be in writing and provided to the facility where my medical records are kept or to the TMA Privacy Officer if this is an authorization for information possessed by the TRICARE Health Plan rather than an MTF or DTF. I am aware that if I later revoke this authorization, the person(s) I herein name will have used and/or disclosed my protected information on the basis of this authorization.</p> <p>b. If I authorize my protected health information to be disclosed to someone who is not required to comply with federal privacy protection regulations, then such information may be re-disclosed and would no longer be protected.</p> <p>c. I have a right to inspect and receive a copy of my own protected health information to be used or disclosed, in accordance with the requirements of the federal privacy protection regulations found in the Privacy Act and 45 CFR §164.524.</p> <p>d. The Military Health System (which includes the TRICARE Health Plan) may not condition treatment in MTFs/DTFs, payment by the TRICARE Health Plan, enrollment in the TRICARE Health Plan or eligibility for TRICARE Health Plan benefits on failure to obtain this authorization.</p> <p>I request and authorize the named provider/treatment facility/TRICARE Health Plan to release the information described above to the named individual/organization indicated.</p>		
11. SIGNATURE OF PATIENT/PARENT/LEGAL REPRESENTATIVE	12. RELATIONSHIP TO PATIENT (If applicable)	13. DATE (YYYYMMDD)
	SELF	
SECTION IV - FOR STAFF USE ONLY (To be completed only upon receipt of written revocation)		
14. X IF APPLICABLE:	15. REVOCATION COMPLETED BY	16. DATE (YYYYMMDD)
<input type="checkbox"/> AUTHORIZATION REVOKED		
17. IMPRINT OF PATIENT IDENTIFICATION PLATE WHEN AVAILABLE		
SPONSOR NAME: SPONSOR RANK: FMP/SPONSOR SSN: BRANCH OF SERVICE: PHONE NUMBER:		

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APR 15 2019

Attachment 4

Guidance For Determining The Essential Functions of a Position

1. The essential functions of a job are those functions that define the job. In other words, the job exists to perform those tasks. The essential functions of a job are not the marginal or infrequently performed tasks that could be eliminated without altering the fundamental nature of the job.

a. A job function may be considered essential for several reasons, including but not limited to, the following:

(1) The function may be essential because the position exists to perform that function.

(2) The function may be essential because of the limited number of employees available to whom the performance of the job function can be distributed.

(3) The function may be highly specialized so that the incumbent in the position is hired for their expertise or ability to perform the particular function.

b. Some examples of essential functions:

(1) An electronics technician whose primary duty is servicing radar. An essential function would be the requirement to climb radar equipment.

(2) A photographer whose primary duty is to photograph test events. Essential functions might include the requirement to travel, to climb ladders aboard ship, or to transport equipment weighing up to 50 pounds each.

c. Evidence of whether a particular function is essential includes, but is not limited to, the following:

(1) The employer's judgment regarding a determination as to which functions are essential.

(2) Written job descriptions.

(3) The amount of time spent performing the function.

(4) The consequences of not requiring the incumbent to perform the function.

(5) The terms of a collective bargaining agreement.

APR 15 2019

(6) The work experience of past incumbents in a similar job.

(7) The current work experience of incumbents in a similar job.

(8) Actual duties performed by a person holding the job.

2. The essential functions of the job are determined on a case-by-case basis. Do not presume that any two jobs are necessarily alike. For example, the actual responsibilities of an electrician may vary depending on the tour, operation, size, age and configuration of the facility. Similarly, the actual functions for a shipyard electrician may vary significantly from that of an electrician at a Naval air station or Marine Corps base.

3. Job descriptions and job announcements can assist you in determining the essential functions of the job. However, these may only generically describe the requirements of the job. It may be necessary to interact with others to ascertain beyond written descriptions the actual essential functions of the particular job at your facility.

4. Involve the employee by asking questions such as:

a. At the present time, the essential functions are performed in this manner. Can you tell us how you could achieve the same results using a different method?

b. This equipment is used on a regular basis in this manner. Can you describe how you would use it in a different manner to complete required tasks?

c. Historically, this job has been done using this sequence and method. Do you feel you could accomplish the same results in this or in another way within your limitations?

d. This is the normal arrangement of the work area. Do you have any suggestions regarding changes or modifications that may be necessary to enable you to perform the job?

5. Sometimes an accommodation involves a job restructuring or altering the nonessential requirements of a particular job. The law, however, does not require change or alteration of the essential functions of a job.

APR 15 2019

Attachment 6

Guidance for the Interactive Process Between the Supervisor and Employee

1. Information obtained during interactive discussions will assist the RAAT in making the determination whether the employee is a qualified individual with a disability. Interactive discussions may also be useful in determining if additional medical documentation is necessary, obtaining information about the essential functions of the position and how they can be performed, the appropriate accommodation if the employee is found to be a qualified individual with a disability, the parameters of a job search (if applicable), etc.

2. The interactive discussion(s) between the supervisor and the employee should be used to obtain the following information in order to assess the disability claim: (NOTE: The interactive process is usually between the supervisor and the employee. However, under certain circumstances, the RAAT may determine that some other agency official should engage in the interactive process with the employee).

a. Does the person claim that they have a present physical or mental impairment? If so, what is the impairment? The employee should be asked to describe the limitation(s) in detail. An impairment substantially limits a major life activity if that impairment renders the individual either unable to perform a major life activity or significantly restricts their performance of that activity as compared to the average person's performance of the activity. Not all medical conditions are substantially limiting. A person with broken bones or a sprained ankle does not have a permanent or long-term impairment because the condition will heal within a reasonable time.

b. The employee should be asked if they employ any measures that may mitigate their impairment. If an individual employs measures to mitigate their impairment (e.g. medication, eyeglasses), the effect of those measures should be considered in determining whether an impairment is substantially limiting as to that individual. Furthermore, some permanent impairments may not substantially limit a major life activity. Major life activities include such obvious characteristics as hearing, seeing, walking, speaking, breathing, caring for oneself, performing manual tasks, and working. Generally, a major life activity is something of fundamental significance within the meaning the references and not simply an activity important to a particular individual. Major life activities do not include activities such as swimming, shopping, or enduring physical stress. It is important to note that where individuals claim they are limited in the major life activity of working, they must show they are significantly restricted in their ability to perform either a class of jobs, or a broad range of jobs in various classes, as compared to the

APR 15 2019

average person of comparable training, skills, and abilities. Generally this requirement could not be met simply by asserting inability to work in any particular job for a particular employer. If the individual's impairment substantially limits a major life activity, the person should be asked to describe the limitation(s) in some detail. If the individual establishes there is a present physical or mental impairment that substantially limits a major life activity, they establish that they have a disability as that term is defined within reference (a). If they are unable to establish that they have a disability, there is no obligation to provide an accommodation. However, you may have to consider other programs that may require accommodation such as the Federal Employees' Compensation Act or Uniformed Services Employment and Reemployment Rights Act.

3. Is the person qualified? If the individual establishes that they have a disability, it must then be determined whether they (1) satisfy the requisite skill, experience, education and other job-related requirements of the job, and (2) can perform the essential functions of the job, with a RA or without a RA. Remember that in making a determination as to whether or not the individual is qualified, they must meet these two criteria as they relate to either their present job or the job they are seeking (either as an applicant or through the accommodation of last resort; reassignment). Involve the employee by asking questions such as:

a. At the present time, the essential functions are performed in this manner. Can you tell us how you can achieve the same results using a different method?

b. This equipment is used on a regular basis in this manner. Can you describe how you would use it in a different manner to complete required tasks?

c. Historically, this job has been done using this sequence and method. Do you feel you could accomplish the same results in this or in another way within your limitations?

d. This is the normal arrangement of the work area. Do you have any suggestions regarding changes or modifications that may be necessary to enable you to perform the job?

4. What accommodation has the employee requested? Determine from the employee or applicant what they think is needed to enable them to perform the job. You will need to consult with HR, safety and/or medical personnel, as appropriate, to determine whether the employee's proposed accommodation is feasible and whether other accommodations can be made. Consider the individual's preferences and the effectiveness of each accommodation and its cost. Select the most appropriate for both management and the individual. The chosen accommodation need not be the best or most expensive or even the one

APR 15 2019

preferred by the individual. The accommodations must however be reasonable and enable the individual to perform the essential functions of their position. The employer makes the ultimate decision as to what accommodations, if any, will be adopted.

APR 15 2019

Attachment 7

Sample Letter Denying Request For Accommodation

MEMORANDUM

From:

To:

Subj: DENIAL OF REQUEST FOR ACCOMMODATION

Ref: (a) 29 CFR 1614
(b) 5 U.S.C. 7121(d)

1. On (date), you submitted a request for reasonable accommodation (RA). You identified your disability and limitations as (state disability and limitation(s)). Furthermore, you requested the following as accommodation(s): (describe in detail the request).

2. This is to notify you that after assessing all of the information you have provided, as well as using the resources available to me, your request for RA is denied. The basis for this decision is that (select one of the following: (1) You do not meet the definition of an individual with a disability; (2) You did not provide the requested medical documentation necessary to make an informed determination; (3) There is no accommodation we can provide that will enable you to perform the essential functions of your job or any other available position; (4) You declined the offer of a reassignment as a form of accommodation). This decision is based on the additional, following information. (Be specific and provide as much detail as necessary to justify the decision).

3. You have the right to: Invoke the Alternative Dispute Resolution (ADR) process; submit a request for reconsideration; file a grievance under the negotiated procedure; or file a discrimination complaint.

a. To invoke the ADR process, you must submit a written request to (point of contact (POC) information) within 14 calendar days of your receipt of this initial denial. If the ADR process is used but resolution is not reached, you may request reconsideration of this initial denial. If you elect to request reconsideration, you must submit a written request for reconsideration to (POC information for deciding official) within 14 calendar days of your receipt of this initial decision or if the issues are not resolved in the ADR processes, within 14 calendar days of the conclusion of the ADR process. You are not required to participate in the ADR process in order to request reconsideration. NOTE: ADR may also be appropriately considered as an option in the negotiated grievance and/or discrimination complaint procedures.

APR 15 2019

Subj: DENIAL OF REQUEST FOR ACCOMMODATION

b. For bargaining unit members, you have the right to file a negotiated grievance, in accordance with (reference appropriate provisions of the collective bargaining agreement).

c. You also have the right to initiate a discrimination complaint pursuant to reference (a). To initiate an Equal Employment Opportunity (EEO) complaint, you must contact (POC information for EEO Counselor) within 45 calendar days from your receipt of this notification of the initial denial. You may submit a request for reconsideration as set forth above and initiate an EEO complaint so long as the individual identified above receives your request for reconsideration within 14 calendar days of your receipt of the initial decision. (NOTE: 29 CFR 1614.301 states that when a person is employed by an agency subject to reference (b) and is covered by a collective bargaining agreement that permits allegations of discrimination to be raised in a negotiated grievance, a person wishing to file a complaint or a grievance on a matter of alleged employment discrimination must elect to raise the matter under either reference (a) or the negotiated grievance procedure, but not both. The sample, generic appeal language provided above should be modified, as appropriate, at the activity level).

4. Unless noted as an exception above, you must file a request for ADR, reconsideration, negotiated grievance or a discrimination complaint within the applicable timeframes for it to be considered a timely filing.

5. If you are eligible, you also have the option of applying for disability retirement. For further information regarding this option, please contact (POC information).

6. You are further advised that if you are unable to perform the essential functions of your position, appropriate administrative action up to and including your removal may be taken.

7. If you have any questions on the above, please contact (POC information).

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APR 15 2019

Attachment 8

Sample Letter Denial of RA Request, With Offer of Other/Alternate Assistance

From:

To:

Ref: (a) 29 CFR 1614
(b) 5 U.S.C. 7121(d)

Subj: DENIAL OF REASONABLE ACCOMMODATION REQUEST WITH OFFER TO
PROVIDE AN ALTERNATIVE FORM OF ASSISTANCE

1. On (date), you submitted a request for reasonable accommodation (RA). You identified your disability and limitations as (state disability and limitation(s)). Furthermore, you requested the following as accommodation(s): (describe in detail the request).

2. This is to notify you that after assessing all of the information you have provided, as well as using the resources available to me, your request for RA is denied. This decision is based on the additional, following information. (Be specific and provide as much detail as necessary to justify the decision).

3. Although your request for RA has been denied, the command, in its desire to be a good employer, not out of legal or regulatory necessity, is offering to provide the following assistance to you. The intent of this offer of assistance is to alleviate some of the difficulty you are experiencing in accomplishing the essential functions of your position. (Describe in detail the assistance the command is willing to provide).

4. If you are interested in this assistance, please contact your RA POC within 14 calendar days of the date of your receipt of this correspondence. If you fail to contact the RA point of contact (POC) within this timeframe, it will be assumed you are not interested in the assistance offered and your case will be closed.

5. Please be advised that because you (insert reason from paragraph 2), and the determination has been made that there is no obligation to accommodate you in your current position, you have the right to: Invoke the Alternative Dispute Resolution (ADR) process; submit a request for reconsideration; file a grievance under the negotiated procedure; or file a discrimination complaint.

a. To invoke the ADR process, you must submit a written request to (POC information) within 14 calendar days of your receipt of this initial denial. If the ADR process is used but resolution is not reached, you may request reconsideration of this initial denial. If

APR 15 2019

Subj: DENIAL OF REASONABLE ACCOMMODATION REQUEST WITH OFFER TO
PROVIDE AN ALTERNATIVE FORM OF ASSISTANCE

you elect to request reconsideration, you must submit a written request for reconsideration to (POC information for deciding official) within 14 calendar days of your receipt of this initial decision or if the issues are not resolved in the ADR processes, within 14 calendar days of the conclusion of the ADR process. You are not required to participate in the ADR process in order to request reconsideration. NOTE: ADR may also be appropriately considered as an option in the negotiated grievance and/or discrimination complaint procedures.

b. For bargaining unit members, you have the right to file a negotiated grievance, in accordance with (reference appropriate provisions of the collective bargaining agreement).

c. You also have the right to initiate a discrimination complaint pursuant to reference (a). To initiate an Equal Employment Opportunity (EEO) complaint, you must contact (POC information for EEO Counselor) within 45 calendar days from your receipt of this notification of the initial denial. You may submit a request for reconsideration as set forth above and initiate an EEO complaint so long as the individual identified above receives your request for reconsideration within 14 calendar days of your receipt of the initial decision. (NOTE: 29 CFR 1614.301 states that when a person is employed by an agency subject to reference (b) and is covered by a collective bargaining agreement that permits allegations of discrimination to be raised in a negotiated grievance, a person wishing to file a complaint or a grievance on a matter of alleged employment discrimination must elect to raise the matter under either reference (a) or the negotiated grievance procedure, but not both. The sample, generic appeal language provided above should be modified, as appropriate, at the activity level).

6. Unless noted as an exception above, you must file a request for ADR, reconsideration, negotiated grievance or a discrimination complaint within the applicable timeframes for it to be considered a timely filing.

7. If you are eligible, you also have the option of applying for disability retirement. For further information regarding this option, please contact (POC information).

8. You are further advised that if you are unable to perform the essential functions of your position, even with the offer of assistance described in paragraph 3 above, appropriate administrative action up to and including your removal may be taken.

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APR 15 2019

Subj: DENIAL OF REASONABLE ACCOMMODATION REQUEST WITH OFFER TO
PROVIDE AN ALTERNATIVE FORM OF ASSISTANCE

9. If you have any questions on the above, please contact (POC
information).

Signature Block

APR 15 2019

Attachment 9

Sample Letter Approving Request For Accommodation

From:

To:

Subj: APPROVAL OF REQUEST FOR ACCOMMODATION

1. On (date), you submitted a request for reasonable accommodation. You identified your disability and limitations as (state disability and limitation(s)). Furthermore, you requested the following as accommodation(s): (describe in detail the request).

2. This is to notify you that, after assessing all of the information you provided, as well as using the resources available to me, your request for accommodation has been approved. The following is a list of the equipment that will be provided to you and the anticipated availability date:

a.

b.

c.

3. If you have any questions or concerns regarding this, please do not hesitate to contact me at (POC information).

Signature Block

APR 15 2019

Attachment 10a

Sample Letter Option of Reassignment as an Accommodation

MEMORANDUM

From:

To:

Subj: OPTION OF A REASSIGNMENT OUTSIDE THE (NAME OF THE ORGANIZATION/ACTIVITY) AS AN ACCOMMODATION

Encl: (1) Acceptance/Declination of Option of Reassignment

1. On (date), you submitted a request for reasonable accomodaation (RA). You identified your disability and limitations as (state disability and limitation(s)). Furthermore, you requested the following as accommodation(s): (describe in detail the request).

2. This is to notify you that, after assessing all of the information you have provided, using the resources available to me, and conducting a job search at the activity level, it has been determined that you cannot be accommodated in your current position or any other funded, vacant position at the (name of organization). This decision is based on the additional, following information. (Be specific and provide as much detail as necessary to justify the decision).

3. Although it has been determined that you cannot be accommodated in your current position, you are eligible to be considered for reassignment into a vacant position within the Department of the Navy. If you desire to be considered for a reassignment into a vacant position within the agency, you must be able to perform the essential functions of any potential vacancy and meet the requisite skill, experience, education, and other job-related requirements of the vacancy, with or without an accommodation.

4. Please respond with your decision to accept or decline the option to be considered for a reassignment by completing the enclosure and returning it to me within seven calendar days of receipt of this notice. If you accept this option, you may indicate your position preferences, if any, and the parameters of the job search on the enclosure.

5. If you accept the option to be considered for a reassignment, you must submit an updated resume so that a determination of the positions for which you qualify can be accomplished. If you do not provide a resume at the same time you submit the enclosure, your current series,

APR 15 2019

Subj: OPTION OF A REASSIGNMENT OUTSIDE THE (NAME OF THE
ORGANIZATION/ACTIVITY) AS AN ACCOMMODATION

grade and position description will be used to make this determination. You are encouraged to submit an updated resume because your position description may not describe your duties to the extent needed for an accurate qualification determination.

6. If you decline the option to be considered for a reassignment, you will be issued a decision on your request for RA.

7. You may also be eligible to apply for disability retirement. For further information regarding this option, please contact (POC information). You are further advised that if you decline the option to be considered for a reassignment, and you are unable to perform the essential functions of your position, appropriate administrative action up to and including your removal may be taken.

8. If you have any questions on the above, please contact (POC information).

Signature Block

APR 15 2019

Attachment 10b

**Sample Acceptance/Declination Letter For Option To Be Considered For
Reassignment**

From:

To:

Subj: ACCEPTANCE/DECLINATION OF OPTION TO BE CONSIDERED FOR A
REASSIGNMENT

1. ____ I desire to be considered for a reassignment outside of
(name current organization/activity) as a reasonable accommodation.
My preferences for the job search process are indicated.

2. ____ My preferences for the parameters of the job search of
vacant positions are provided below (please provide a response to all
questions):

a. If there are no appropriate, available positions at my current
activity, I want to be considered for placement into appropriate,
vacant positions at other activities with the (identify major command
and/or geographic area) within the commuting area.

Yes ____ No ____

b. If there are no available positions within the (identify major
command and/or geographic area) in the commuting area, I want to be
considered for placement in a position at any command in the commuting
area.

Yes ____ No ____

c. If there are no available positions at any command in the
commuting area, I want to be considered for placement at any activity
within the (identify major command and/or geographic area) Navy-wide.

Yes ____ No ____

d. If there are no available positions at any of the activities
within the (identify major command and/or geographic area), I want to
be considered for placement in any position, at any command, Navy-
wide.

Yes ____ No ____

e. I would like to be considered for the following positions:

____ Any position for which I am qualified.

APR 15 2019

Subj: ACCEPTANCE/DECLINATION OF OPTION TO BE CONSIDERED FOR A
REASSIGNMENT

____ Only the positions identified below: (NOTE: The employee is required to identify the specific positions that they want to be considered for placement if this is initialed).

3. I further understand/acknowledge that:

a. If the job search results in my placement outside of my current commuting area, I may be required to relocate at my own expense.

b. If I am placed at a lower grade level than my current position, I will be changed to the lower grade with saved pay.

c. If a position is not identified for placement within the parameter I specified in paragraph 2 above or I do not want to be considered for reassignment, I understand that I may be removed for inability to perform the duties of my position.

d. If I want to be considered for reassignment, I must submit an updated resume within seven calendar days of the date on this document. If I do not submit an updated resume by this date, job placement efforts will be based on my current series, grade and position description.

e. I may be eligible to apply for disability retirement.

4. My signature below documents that I have identified my preferences for the parameters of the job search, and I acknowledge that I was advised of and understand the information contained in this document.

Employee's Signature

Date

APR 15 2019

Reassignment as Accommodation

1. Determining when reassignment is an appropriate accommodation

a. Consider other Forms of Accommodation. Before considering reassignment as a reasonable accommodation, the activity must first consider those accommodations that would enable an employee to remain in their current position.

b. Reassignment as an Accommodation. Reassignment is the reasonable accommodation of last resort and is required only after it has been determined that (1) there are no effective accommodations that will enable the employee to perform the essential functions of their current position, or (2) all other RA would impose an undue hardship or pose a direct threat to the safety of the employee or the safety of others. See Attachment 2.

2. Eligibility for Reassignment

a. Current DON Employees. Employees who are qualified individuals with disability and who cannot be accommodated in their current position must be considered for reassignment into a vacant position.

(1) The employee must be able to perform the essential functions of any potential vacancy and meet the requisite skills, experience, education, and other job-related requirements of the vacancy, with or without an accommodation.

(2) The employee does not have to be the best qualified employee for the vacant position, they only have to be qualified.

(3) The employee may be offered a position at a lower grade level if there is no vacant position that is equivalent to the same grade and/or pay as their current position.

(4) There is no requirement to create a new position to accommodate an employee.

(5) Employees may not receive a promotion as a result of the RA process.

b. Probationary Employees. A probationary employee with a disability is eligible for reassignment to a vacant position as long as the employee has adequately performed the essential functions of their current position, with or without RA, before the need for a reassignment arose.

APR 15 2019

(1) The longer the period of time in which an employee has adequately performed the essential functions, with or without RA, the more likely it is that reassignment to a vacant position is appropriate if the employee becomes unable to continue performing the essential functions of the current position due to a disability.

(2) If, however, the probationary employee, with a disability, has never adequately performed the essential functions of the position, with or without RA, then they are not entitled to reassignment because they have never qualified for the original position.

(3) The same parameters for reassignment, as described in paragraphs 2a(1) to 2a(5) above, apply to probationary employees.

c. Applicants for Employment. Applicants are not eligible to be considered for a reassignment to a vacant position. An applicant for a position must be qualified for, and be able to perform the essential functions of the position being sought with or without accommodation.

3. Activity Job Search Process

a. Reassignment Option Notification. Upon notification that the employee has decided they want to be considered for reassignment, the activity will immediately commence a job search within the activity. If the employee cannot be reassigned to a funded, vacant position, within the activity the job search process will continue within the parameters specified by the employee (as documented on Attachment 10b, enclosure (2)).

b. Qualifications Determination. The activity's servicing CHRO will identify the series and appropriate grade levels(s) of positions that the employee is qualified to perform utilizing the Office of Personnel Management Operating Manual for Qualification Standards for General Schedule Positions, the Federal Wage System Qualification Handbook or when applicable, Department of Defense developed qualification standards for the position. For purposes of this chapter, the term "qualified" means the employee meets the qualifications in the Manual and the handbook referenced above.

(1) If the employee has identified their position preferences for placement, they will be considered for placement into those specific positions, if qualified, before any other vacant positions are considered.

(2) The employee's resume will serve as the basis for the qualifications determination. If the employee does not submit a resume, qualifications will be determined based on their current series, grade level, and position description.

APR 15 2019

(3) The scope of the job search will be limited to the geographic area(s) identified by the employee. See Attachment 10b of enclosure (2).

c. Identification of Vacant Positions. The employee's first level supervisor and the servicing HRO will identify current vacant positions to include those that will become vacant within the next 60 calendar days.

(1) A listing of all current vacant positions to include those that will become vacant within the next 60 calendar days will be maintained and documented by the HRO. A sample form to document the activity's job search efforts is provided as Attachment 1 to this enclosure.

(2) When the job search is completed, this form will be filed in the RA case file.

(3) The employee will be considered only for those funded vacancies for which they are qualified.

d. Placement. The employee will be placed in the vacancy that is the most similar to their current position. The employee must be able to perform the essential functions of the identified position, with or without accommodation.

(1) If an accommodation is required, the Advisory Team and the gaining supervisor will make this determination utilizing the applicable sections in enclosure (2).

(2) If a match is found, the employee is reassigned without competition into the vacant position regardless of pending recruitment actions.

(3) The local job search/placement process should be completed within 30 calendar days from the date of the decision that the employee could not be accommodated in their current position.

(4) The reassignment action should be documented and filed in the RA case file. Attachment 1 may be used for this purpose.

(5) The closed RA case file will be maintained in the activity's servicing EEO office.

e. No Vacant Positions at the Activity Level. If no positions were identified in the review of internal vacancies, the first level supervisor, the HRO and DEEO/RA POC must document the job search process utilized at the activity level. Attachment 1 may be used for this purpose.

APR 15 2019

(1) The CO of the activity will certify that there were no current vacant positions (or anticipated vacancies) at the activity for placement of the employee. A sample letter for the required certification is provided as Attachment 2 of this enclosure. The CO's certification and the case file will be reviewed by the Eastern Area Counsel Office and the Director, CHRO at the major claimant command to validate that the assessment of the claim and the activity's job search efforts were thorough and complete.

(2) A copy of the signed certification letter will be filed in the case file.

(3) To facilitate the review described in paragraph 1 above, a written summary of the disability assessment and job search efforts should be provided by the RAAT.

(4) As part of the continuing interactive discussions with the employee, they should be advised that the activity's job placement efforts were not successful and that a 60-day expanded job search will proceed within the parameters identified by the employee in Attachment 10b of enclosure (2).

(5) The activity will continue to review any new vacancies for potential placement of the employee even after Office of Civilian Human Resources (OCHR) involvement has been initiated for the 60-day expanded job search.

4. OCHR Job Search Process

a. Reassignment to another Activity within DON. If the employee has indicated their willingness to be reassigned to another activity and after the major claimant has concurred with the activity's disability assessment and job search efforts, CHRO will request the servicing OCHR to assist in the placement of the employee.

b. Information Provided to OCHR. Only the necessary information in the RA case file that will be provided to OCHR to continue the job search process, i.e., description of the employee's limitations, documentation of the activity's job search efforts, a copy of the letter from the activity's commander certifying that the employee could not be placed (see Attachment 2). A sample letter forwarding the relevant information to the OCHR is provided as Attachment (3).

c. Vacant Position at the Activity Level becomes Available. If at any time during the job search process, a vacant position, for which the employee is qualified, becomes available at the activity level the employee will be placed into the vacancy and the OCHR will be notified of the placement action.

APR 15 2019

d. OCHR Responsibilities. The OCHR will verify the series and grades, for which the employee is qualified, validate the activity HRO's job search actions, review the information forwarded by the activity and execute their job search responsibilities under the RA procedures process. OCHR job search efforts will continue for a period of 60 calendar days from the date notification for reassignment as a RA was received, or less, if the employee is placed before the expiration of this time period.

e. No Vacant Positions Identified. If no vacancies are identified during the 60 calendar days, the OCHR will document their job search efforts and results. This documentation will be forwarded to CHRO within five calendar days after the expiration of the 60 day time period. A copy of this documentation will be filed in the RA case file.

(1) Appropriate administrative action should be taken by CHRO if OCHR's job search results in no identification of vacancies for placement of the employee. See enclosure (2).

(2) The employee will be notified of the negative results of the job search and their options at this point in the process, i.e., removal for medical inability or possible eligibility for disability retirement. Attachment 7, provided in enclosure (2), may be used as a sample for the required employee notification.

(3) The DEEOO/RA POC will forward a written summary of the case addressing all the steps, to include the employee's final employment action, to the CDEEOO Headquarters, U.S. Marine Corps for review and tracking purposes.

(4) The closed case file will be maintained in the activity's servicing EEO office.

5. Placement

a. Vacant Position is Identified. If a vacant position is identified for which the employee is qualified, the OCHR will contact CHRO to advise them of the pending referral for assignment as a RA.

(1) If several appropriate vacant positions are identified, a decision on the best placement for the employee will be made.

(2) For vacancies within a single major command, the OCHR, with advice from CHRO, will make the decision on the best placement for the employee. The OCHR determination will take into consideration: the employee's qualifications for a particular vacancy, the grade level of the vacancy; and, the employee's identified parameters for the job search.

APR 15 2019

(3) For vacancies that cross command lines, the OCHR will make the decision on the best placement for the employee following the established job search order:

(a) Activities in the employee's major command within the commuting area;

(b) Activities in all major commands within the commuting area;

(c) Activities in the employee's major command Navy-wide;

(d) Activities in all major commands Navy-wide.

(4) An interactive discussion with the employee to discuss their placement options may be useful in determining the best placement for the employee.

(5) Placement decisions made by either OCHR or CHRO will document all identified vacancies and the basis for the decision to place the employee in a specific vacancy. A copy of this documentation will be placed in the RA case file.

(6) Once a placement decision has been made, the OCHR will prepare a Priority Consideration Certificate and forward it with relevant information provided by CHRO on the employee's accommodation needs to the gaining activity's HRO. The form included in Attachment 5 may be used as a template for identifying the employee's accommodation needs.

(7) Once a placement decision has been made, the OCHR will prepare a Priority Consideration Certificate and forward it with relevant information provided by CHRO on the employee's accommodation needs to the gaining activity's HRO. The form included in Attachment 5 may be used as a template for identifying the employee's accommodation needs.

(8) OCHR will provide sufficient information on the accommodation needs of the employee in order for the gaining activity to make a determination whether the employee is able to perform the essential functions of the identified vacancy, with or without an accommodation.

(9) Medical documentation will not be provided to the gaining activity during the placement determination process.

(10) The RA POC at the gaining activity should be used as a resource to advise and educate the gaining supervisor on their responsibilities under the RA process. To further assist the gaining supervisor in understanding the RA process, Attachment 4 provides an

APR 15 2019

explanation of DON's policy to provide RA to qualified employees and applicants with disabilities and outlines the threshold for determining undue hardship.

(11) Once it has been determined that the employee is able to perform the essential functions of the vacant position and if the gaining activity cannot articulate an undue hardship, the employee will be placed into the identified position.

(12) In accordance with established business processes, the OCHR or gaining HRO will make a written job offer to the employee.

(13) Documentation of all the actions leading up to and including the employee's placement will be prepared by the OCHR and gaining HRO. A copy of this documentation will be placed in the RA case file.

(14) The complete RA case file will be forwarded to the gaining activity's servicing EEO Office for retention.

(15) Relocation costs will typically be borne by the employee. However, if the activity routinely pays for relocation expenses for other, similar reassignment actions, the activity may be obligated to assume these costs.

6. Declination of a Job Placement Offer. If the employee declines the job placement offer, CHRO will be notified of the decision. The employee will be issued a letter denying their request for RA based on their decision to decline the reassignment offer. Attachment 7, provided in enclosure (2), may be used as a sample for the required employee notification.

7. Employee Cannot be Accommodated in a Vacancy. If the gaining activity determines that the employee cannot perform the essential functions of the position and/or cannot accommodate the employee because there are no vacancies at the gaining activity, the servicing HRO will document, in writing, the specific reasons for non-placement.

a. The gaining activity's CO must certify that the employee cannot be placed into the vacant position(s).

b. If the basis for non-placement is undue hardship, the gaining activity's DCHR and legal counsel will review the analysis that led to this determination.

c. A copy of such analysis and the CO's certification will be forwarded to OCHR and CHRO-E. Copies of such correspondence will be included in the RA case file.

APR 15 2019

8. Continuing Placement Efforts. Placement efforts will continue for 60 calendar days until the employee is either placed, the list of vacancies is depleted, or the employee is separated.

a. Placement efforts should be completed within local 30-day or the extended 60-day job search to avoid unnecessary delays in providing the employee RA.

b. The OCHR will document, in writing, all its efforts to place the employee. Copies of such correspondence will be included in the RA case file.

c. If the OCHR job search efforts are not successful, the OCHR will document its actions and return the job search package to CHRO.

9. Final Action if Placement Efforts are not Successful. If the employee is not placed, despite the agency's best efforts, the employee will be issued a letter denying their request for RA because no vacant positions for which they are qualified were identified. Attachment 7, provided in enclosure (2), may be used as a sample for the required employee notification.

a. The activity's servicing EEO Office is responsible for maintaining the complete case file.

b. A summary of the actions, disability analysis and decisions will be forwarded to the major command's CDEEO for review.

APR 15 2019

Attachment 1

Documentation of Activity Job Search Efforts

Date Search Initiated: _____

Name of Employee: _____

Current Position: _____

In the space provided below, list all vacant positions, to include those that may become vacant in the next 60 calendar days, by title, series, grade level and as much other identifying information as possible.

Annotate next to each vacancy whether or not the employee is qualified for placement into the position. If the employee is not eligible for placement, provide a brief explanation for this determination.

Title/Series/GradeOther InformationQualified/
Not Qualified

Employee placed into: Identify title, series, grade and any other relevant information.

Effective date of placement: _____

Employee could not be placed. Date job search terminated: _____

APR 15 2019

Attachment 2

Sample Certification Letter From Commanding Officer

From: Commander of local activity
To: Major Command's DCHR
Via: Eastern Area Counsel Office

Subj: CERTIFICATION OF LACK OF INTERNAL VACANCIES FOR REASONABLE
ACCOMMODATION PLACEMENT

Ref: (a) DON CHRM Subchapter 1606

Encl: (1) Reasonable Accommodation Case File

1. Enclosure (1) documents the activity's determination that (name of employee) could not be accommodated in their current position as a (identify current position by title, series, grade). Per reference (a), a job search at the activity level was conducted. No positions were identified for placement.

2. The case file, enclosure (1), to include documentation of the internal job search, is forwarded for review and concurrence. Please provide you concurrence with the action described in Enclosure (1) in the space provided below.

3. If you have any questions, please contact _____.

Reviewed and concur

Reviewed and concur

Legal Counsel Date

DCHR Date

APR 15 2019

Attachment 3

Sample Letter to OCHR to Continue Job Search Efforts

From:

To: Servicing OCHR

Subj: REQUEST FOR JOB PLACEMENT ASSISTANCE FOR REASONABLE
ACCOMMODATION CASE

Encl: (1) Documentation of activity's job search efforts.
(2) CO's certification that employee could not be placed at
the activity level.

1. The activity's efforts to place identify employee as part of the reasonable accommodation process were not successful. The Office of Civilian Human Resources (CHRO) assistance in locating a position commensurate with their job qualifications and within the parameters identified by the employee is requested.

2. Information to assist the OCHR in its job search efforts is provided as enclosure(s) _____.

3. If you have any questions on the above, please contact _____.

APR 15 2019

Attachment 4**RA Process Information Sheet**

1. The goal of RA is to enable qualified individuals with disabilities to perform the essential functions of their position and to enjoy equal employment opportunities. Many disabled individuals are able to perform their jobs without accommodation. However, there may be barriers in the workplace that prevent others from performing tasks that they could otherwise do with accommodation. The Rehabilitation Act of 1973, which was modified by the Americans with Disabilities Act of 1990, requires Federal agencies to accommodate applicants and employees who are qualified individuals with disabilities, unless to do so would impose an undue hardship on the operation of its programs or pose a direct threat to the safety of the employee or others.

2. In accordance with the Rehabilitation Act and the Americans with Disabilities Act, it is DON policy to provide RA to qualified employees and applicants with disabilities, unless to do so would cause an undue hardship or pose a direct threat to the safety of the employee or others. DON's policy to provide RA includes the reassignment of a qualified employee with a disability to a vacant position within the agency if the employee is able to perform the essential functions of the identified position, with or without accommodation.

3. Your Role as a Selecting Official. A vacancy in your organization has been identified as a possible placement option for an employee who needs an accommodation. Several preliminary actions have been completed:

a. It has been determined that the employee meets the definition of a qualified individual with a disability, however, they cannot be accommodated in their current position or record. *A qualified individual with a disability is defined as an individual who, with or without reasonable accommodation, can perform the essential functions of the position in question and meets the experience or education requirements of the position in question.*

b. The employee meets the basic qualifications for the vacancy identified in your organization.

c. The employee must be considered for reassignment into a vacant position within the DON.

APR 15 2019

Attachment 4

RA Process Information Sheet

1. The goal of RA is to enable qualified individuals with disabilities to perform the essential functions of their position and to enjoy equal employment opportunities. Many disabled individuals are able to perform their jobs without accommodation. However, there may be barriers in the workplace that prevent others from performing tasks that they could otherwise do with accommodation. The Rehabilitation Act of 1973, which was modified by the Americans with Disabilities Act of 1990, requires Federal agencies to accommodate applicants and employees who are qualified individuals with disabilities, unless to do so would impose an undue hardship on the operation of its programs or pose a direct threat to the safety of the employee or others.

2. In accordance with the Rehabilitation Act and the Americans with Disabilities Act, it is DON policy to provide RA to qualified employees and applicants with disabilities, unless to do so would cause an undue hardship or pose a direct threat to the safety of the employee or others. DON's policy to provide RA includes the reassignment of a qualified employee with a disability to a vacant position within the agency if the employee is able to perform the essential functions of the identified position, with or without accommodation.

3. Your Role as a Selecting Official. A vacancy in your organization has been identified as a possible placement option for an employee who needs an accommodation. Several preliminary actions have been completed:

a. It has been determined that the employee meets the definition of a qualified individual with a disability, however, they cannot be accommodated in their current position or record. *A qualified individual with a disability is defined as an individual who, with or without reasonable accommodation, can perform the essential functions of the position in question and meets the experience or education requirements of the position in question.*

b. The employee meets the basic qualifications for the vacancy identified in your organization.

c. The employee must be considered for reassignment into a vacant position within the DON.

APR 15 2019

5. Your role is to assist OCHR and the activity's HRO in determining the essential functions of your vacancy.

6. The essential functions of a job are those functions that define the job. In other words, the job exists to perform those tasks. The essential functions of a job are not the marginal or infrequently performed tasks that could be eliminated without altering the fundamental nature of the job.

7. A job function may be considered essential for several reasons, including but not limited to, the following:

a. The function may be essential because the position exists to perform that function.

b. The function may be essential because of the limited number of employees available to whom the performance of the job function can be distributed.

c. The function may be highly specialized so that the incumbent in the position is hired for their expertise or ability to perform the particular function.

8. Some examples of essential functions:

a. An electronics technician whose primary duty is servicing radar. An essential function would be the requirement to climb radar equipment.

b. A photographer whose primary duty is to photograph test events. Essential functions might include the requirement to travel, to climb ladders aboard ship and to transport equipment weighing up to 50 pounds each.

9. Evidence of whether a particular function is essential, includes but not limited to, the following:

a. The employer's judgement regarding a determination as to which functions are essential.

b. Written job descriptions. The amount of time spent performing the function.

c. The consequences of not requiring the incumbent to perform the function.

d. The terms of a collective bargaining agreement.

e. The work experience of past incumbents in the job.

APR 15 2019

- f. The current work experience of incumbents in a similar job.
 - g. Actual duties performed by a person holding the job.
10. The essential functions of the job are determined on a case-by-case basis.
11. Sometimes an accommodation involves a job restructuring or altering the nonessential requirements of a particular job. The law, however, does not require change or alteration of the essential functions of a job.
12. If you require assistance in determining the essential functions of your position, you should consult with your activity's RAAT and/or RA POC. A description of the employee's medical restrictions is provided as an attachment to assist you in determining if the employee is able to perform the essential functions of your vacancy. Once the essential functions of the vacancy have been determined, you should document them in writing. The prospective supervisor may use Attachment 5 to enclosure (2) to document the essential functions of their vacancy.
13. If the identified employee is able to perform the essential functions of your vacancy, with or without an accommodation, they will be reassigned into the position, unless the accommodation would cause an undue hardship for the agency or pose a direct threat to the safety of the employee or others.
14. There are a number of factors which must be considered before making a determination that a particular accommodation would constitute an undue hardship.
- a. Expense. The overall economic resources available to an agency are an important factor for consideration. There is no formula to use in making the determination whether or not an accommodation is too costly for implementation. Generally, an economic defense is not successful as a reason for undue hardship, especially for an agency as large as the DON.
 - b. Impact on Operations. Another undue hardship defense is that providing with the accommodation impacts the operation of the agency. The nature of the accommodation, the number of employees at the activity, the impact on the operations, the potential for accommodation at another activity, the composition/structure/function of the workforce at the activity, and the geographic location separateness of the activity are factors to be considered. There may be occasions when it simply is not feasible to provide an accommodation due to the impact on the activity's operations.

APR 15 2019

c. Violate the seniority provisions of a collective bargaining agreement, when applicable.

d. Fail to eliminate or reduce the direct threat of harm. Direct threat is a significant risk of substantial harm to the health or safety of the employee or others that cannot be reduced or eliminated by RA.

15. The threshold for undue hardship is very high. Therefore, exceptions to this threshold are very rare. All undue hardship claims will be reviewed by the activity's major command's Director, Civilian Personnel Program, and legal counsel.

APR 15 2019

Attachment 5

Medical Restrictions and Description of Reasonable Accommodation Request
Description of nature, severity, and duration of the individual's impairment.
Description of the activity(ies) that the impairment limits.
Description of the extent to which the impairment limits the individual's ability to perform the activity(ies).
Description why the individual requires reasonable accommodation or the particular reasonable accommodation request, as well as how the reasonable accommodation will assist the individual to perform the essential functions of the job, or enjoy a benefit of the workplace.

APR 15 2019

Alternative Dispute Resolution (ADR)

1. Use of ADR in RA Determinations

a. Definition. ADR includes any procedure, which is used in lieu of a formal process or litigation to resolve conflicts and issues in controversy, including, but limited to peer review, collaborating, conciliation, facilitation, mediation, ombudsman-ship, fact finding, mini-trials, neutral evaluation, and arbitration or any combination thereof.

b. DON ADR Policy. Mediation is the ADR method of choice for DON. ADR techniques, i.e., mediation, shall be used as an alternative to litigation or formal administrative procedures to the maximum extent practicable.

(1) ADR is encouraged at the earliest stage for appropriate workplace cases and disputes. ADR is not limited to EEO issues. ADR is appropriate for all kinds of workplace disputes, including but not limited to administrative and negotiated grievance procedures, unfair labor practices, matters covered under the Merit Systems Protection Board and the Office of Special Counsel. Every conflict and issue in controversy is a potential candidate for ADR.

(2) The use of ADR in RA cases is appropriate at any stage of the process to include:

- (a) Interactive discussions;
- (b) Determination of essential functions of a position;
- (c) Job search process(es);
- (d) Requests for Reconsideration;
- (e) Administration Grievance;
- (f) Negotiated Grievance; or,
- (g) EEO discrimination complaint(s).

(3) Activities are encouraged to consider the use of ADR during the RA process to resolve any conflicts and issues in controversy at the lowest possible level.

APR 15 2019

2. ADR Procedures

a. ADR Instructions. The use of ADR in RA cases will be in accordance with DON Civilian Human Resource Manual subchapter 773, Alternative Dispute Resolution, and SECNAVIST 5800.13A, Alternative Dispute Resolution.

b. Initiating the ADR Process. The employee, supervisor and/or a member of the Advisory Team may initiate the ADR process, when requested, by contacting the activity's ADR Convener at CHRO. ADR Conveners will process the ADR event using established standard operating procedures.

APR 15 2019

Avenues of Redress

1. ADR

a. When a Request for Accomodation is Denied. An employee, whose request for RA has been denied by the activity, will be offered the opportunity to use ADR as an avenue of redress.

b. The denial letter must inform the employee that they have 14 calendar days from receipt of the decision to request ADR.

c. ADR requests will be processed in accordance with the activity's standard procedures for ADR.

d. If the employee elects another avenue for redress, the parties are not precluded from utilizing ADR in the forum.

e. The employee's election to utilize ADR will not count as a timely filing for any other avenue of redress that the employee subsequently elects to file, i.e., negotiated grievance procedure and/or discrimination complaint. However, if the ADR process does not result in successful resolution of the RA dispute, and the employee desires to further pursue this dispute by filing a request for reconsideration, they must file the request within 14 calendar days after the conclusion of the ADR process in order for the request for reconsideration to be considered timely.

2. Request for Reconsideration. An employee, whose request for RA has been denied by the activity, will be offered the opportunity to request reconsideration of the decision.

a. The denial letter must inform the employee that they have 14 calendar days from the receipt of the decision, or if the issue is not resolved in the ADR process, within 14 calendar days of the conclusion of the ADR process, to submit a request for reconsideration to the deciding official.

b. The activity is responsible for determining the appropriate level of management for designation as the deciding official in RA cases.

c. The deciding official will issue a decision on the request for reconsideration within 21 calendar days of receipt of the request.

d. The deciding official's decision will be issued in writing and specify the reason(s) for their decision.

APR 15 2019

e. The employee's election to utilize the reconsideration process will not count as a timely filing for any other avenue of redress that the employee subsequently elects to file, i.e., negotiated grievance and/or discrimination complaint process.

3. Civilian Marine Administrative Grievance System. Appropriated Fund (AF) non-bargaining unit personnel may present grievances in accordance with reference (i). This Order is available at <https://www.mcieast.marines.mil/Staff-Offices/Adjutant/Orders/12000/>

4. Non-Appropriated Fund (NAF) Administrative Grievance Procedures. This system covers employees (managers, supervisors, and others excluded from the bargaining unit) in accordance reference (j). This Order is available at <https://www.mcieast.marines.mil/Staff-Offices/Adjutant/Orders/12000/>

5. Negotiated Grievance. A bargaining unit employee, whose request for RA has been denied by the activity, will be advised of their right to file a negotiated grievance on this matter if is not excluded under the collective bargaining agreement. Applicable Negotiated Grievance Procedure can be found in Article 11 of the Consolidated Master Labor Agreement.

6. Discrimination Complaints. An individual whose request for RA has been denied by the activity, will be advised of their right to file an informal discrimination complaint in accordance with the provisions of 29 CFR 1614.

a. The denial letter will advise the individual of the requirement to initiate contact with an EEO Counselor within 45 days of the date the request was denied.

b. The denial letter will also include information on how to contact an EEO Counselor or EEO Official within the MCIEAST-MCB CAMLEJ EEO Office (Building #233, F-Street) at any of the following numbers 910-451-5272/5083/9676/5365/ or 910-450-6819.

c. Employees may submit a request for reconsideration and initiate an informal discrimination complaint at the same time. However, each action must be filed within the applicable timeframes of these forums.

d. Per the provisions of 29 C.F.R. 1614.301, when a person is employed by an agency subject to 5 U.S.C. 7121(d) and is covered by a collective bargaining agreement that permits allegations of discrimination to be raised in a negotiated grievance, a person wishing to file a complaint of a grievance on a matter of alleged employment discrimination must elect to raise the matter under either 1614 or the negotiated grievance procedure, **but not both**. An election to precede under 29 C.F.R. 1614.301 is indicated by the filing of a

APR 15 2019

written complaint; use of the pre-complaint procedures does not constitute an election for the purposes of 1614.301. Thus, if the employee files a grievance under the collective bargaining agreement before they file a formal complaint of discrimination, that constitutes an election of the grievance forum and the formal discrimination complaint is required to be dismissed pursuant to 29 C.F.R. 1614.107(a)(4).

APR 15 2019

RA Records Maintenance

1. RA File. The RA case file will include the following documents, as applicable:

- a. RA Request Form (Attachment 1 to enclosure (1)).
- b. Privacy Act Cover Sheet (DD Form 2923) as required to identify documents subject to the Privacy Act of 1974 (See Attachment 2 to enclosure (1)).
- c. Letter requesting medical documentation, when applicable (See Attachment 2 to enclosure (2)).
- d. Signed, permission to release medical information or DD Form 2870 (See attachment 3a and 3b to enclosure (2)).
- e. Medical documentation from the employee's health care professional (filed in reversed chronological order with the most recent being the first document available for review).
- f. Documentation of the essential functions of the employee's current position of record (See Attachment 5 to enclosure (2)).
- g. Documentation on interactive discussions held with the employee, to include advising the employee of the reassignment option (See Attachment 6 to enclosure (2) for Guidance).
- h. Documentation summarizing the RAAT disability analysis, to include information considered on a case-by-case basis.
- i. Listing of all reasonable alternatives considered for accommodating the employee, to include any supporting documentation (See Attachment 6 to enclosure (2), Appendix C and D for Guidance).
- j. Letter denying, offering an alternative form of assistance, approving, or offering a reassignment as RA, as applicable (See Attachments 7, 8, 9, 10a and 10b to enclosure (2)).
- k. Employee's signed acceptance/declination of reassignment offer (See Attachment 10b to enclosure (2)).
- l. CHRO determination of qualifications using the OPM Operating Manual for General Schedule Positions or the Federal Wage System Qualification Handbook, as applicable.
- m. Copy of the employee's updated resume.
- n. Documentation of activity job search efforts (See Attachment 1 to enclosure (3)).

Enclosure (6)

APR 15 2019

- o. CO certification that no vacant positions were available at the activity, to include activity's job placement efforts (See Attachment 2 to enclosure (3)).
- p. Letter to OCHR to continue job search efforts (See Attachment 3 to enclosure (3)).
- q. Documentations of OCHR job search efforts (As required on a case-by-case basis).
- r. OCHR letter to major claimant DCHR and CHRO documenting that their job search efforts were not successful, as required.
- s. Copy of Priority Consideration Certificate, as required.
- t. Copy of RA Information Sheet provided to the gaining activity's supervisor (See Attachment 4 to enclosure (3)).
- u. Documentation of essential functions identified by gaining activity's supervisor (See Attachment 4 to enclosure (3) for Guidance, and Attachment 5 to enclosure (2) for Template).
- v. Written job offer, as required.
- w. Documentation of employee's placement as a result of a reassignment action, as required on a case-by-case basis.
- x. If job offer declined, employee's written declination, as required.
- y. Gaining activity's determination employee could not be placed in vacancy, to include reasons for non-placement, as required.
- z. CO certification of non-placement as a result of undue hardship, as required (See Attachment 2 to enclosure (3)).
- aa. OCHR letter to major claimant DCHR and CHRO documenting that their job search efforts were not successful, as required.
- ab. Decision letter (approval or denial of request for accommodation), as required (See Attachments 7, 8 and 9 to enclosure (2)).
- ac. Letter to major claimant CDEEOO, to include summary of actions, disability analysis and decisions if employee is not placed, as required.
- ad. Copy of final employment action, e.g., reassignment, removal letter, copies of SF-50s, disability retirement decision, as required.

APR 15 2019

ae. Requests for reconsideration, when applicable.

af. Documentation on subsequent avenues of redress, when applicable.

2. Confidentiality of Medical Information. The Rehabilitation Act of 1973 requires that all medical information be kept confidential.

a. All medical information obtained in connection with a request for RA must be kept separate from the individual's official personnel folder.

b. Individuals with access to medical information necessary to make a decision may not disclose this information to others without a need to know. Exceptions to this provision are described in paragraph 3 below.

c. Medical information will be kept in a secure file with access granted on a strictly limited basis.

d. Medical documentation from the employee's health care professional (filed in reversed chronological order with the most recent being the first document available for review).

e. Documentation of the essential functions of the employee's current position of record (See Attachment 5 to enclosure (2)).

3. Exceptions. Supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodations. Additional exceptions include:

a. First aid and safety personnel may be told if the disability may require emergency treatment. This exception would include sharing information about the type of assistance an individual may need in the event of an evacuation with medical professionals, emergency coordinators, floor captains, colleagues who have volunteered to act as "buddies," building security officers who need to confirm that everyone has evacuated, and other non-medical personnel who are responsible for ensuring safe evacuation. These individuals are entitled to the information necessary to fulfill their responsibilities under the activity emergency evacuation plan.

b. Government officials may be given information necessary to investigate the activity's compliance with the Rehabilitation Act.

c. In certain circumstances, information may be disclosed to workers' compensation offices or insurance carriers.

APR 15 2019

d. EEO officials and RA POCs may be given the information to maintain records, evaluate, and report on the activity's performance in processing RA requests.

e. If medical information is disclosed to any of the individuals described above, the activity must inform these individuals that such information must be kept confidential and is subject to the provisions of the Privacy Act of 1974.

4. Records Maintenance

a. Responsibility for Maintenance. The servicing EEO Office of the activity where the individual is employed is responsible for maintaining the RA case file.

b. Retention of Records. Activities will retain records related to an employee who requested a RA for the duration of that individual's employment.

c. Records Disposal. Records maintained in this system of records will be retained and disposed of in accordance with the provisions of the OPM Government wide Systems of Records, 65 FR 27432. The National Archives and Records Administration (NARA) updated the General Record Schedules governing retention of records that include RA. The cross-walk of the revised GRS is available at <https://www.archives.gov/records-mgmt/grs.html>. Excerpt of the revised GRS is below for reference.

Transmittal No. 28
July 2017

General Records Schedule 2.3

GENERAL RECORDS SCHEDULE 2.3: Employee Relations Records

5. This schedule covers records documenting activities related to managing relationships between the agency, its employees, and its unions and bargaining units. The records are those maintained by agency offices that deal with employee relations functions, regardless of office placement in organizational structure. Copies held by supervisors/management in program offices are not covered by this schedule (as such copies may be part of supervisory files covered under GRS 2.2, Employee Management Records). Activities include: negotiating and administering labor contracts and collective bargaining agreements, managing grievances and other conflicts such as by providing alternative dispute resolution processes, EEO activities, managing programs promoting work-life balance such as telework, providing employee RA and providing displaced employee programs. The scope of this schedule does not extend to programs that are considered employee benefits such as providing health care and retirement pensions.

APR 15 2019

EEO Reporting Requirements

1. Reports to Major Command by Agency's EEO Officials

a. Denial of RA Requests. If a request for RA is denied at the activity level, the following information will be provided to the CDEEO for review and tracking purposes:

(1) Written summary of RA case detailing the information considered, analysis performed, and the reasons for denying the request for documentation.

(2) Copies of documentation considered in the activity's determination.

(3) Copy of the denial letter.

(4) The information outlined above will be provided to the major command within 14 calendar days after the issuance of the decision to deny the request for accommodation.

(5) The RA POC is responsible for collecting and transmitting the information listed above.

b. No Vacant Positions Identified at The Activity Level During Job Search Process. If no vacant positions are identified at the activity level during the job search process, the DEEO or RA POC will forward the following information to the major command for a higher level review:

(1) Certification by the CO that there are no current vacant positions at the activity level for placement of the employee.

(2) Written summary of the disability assessment and activity's job search efforts. The RA POC is responsible for preparing the written summary.

c. No Vacant Positions Identified by The OCHR During Job Search Process. If no vacant positions are identified by OCHR during the job search process, the following information will be provided to the major command for review and tracking purposes:

(1) Written summary of RA case detailing the information considered and analysis performed.

(2) Copies of documentation considered in the activity's analysis.

APR 15 2019

- (3) Written summaries of activity and OCHR job search efforts.
- (4) Copy of the denial letter.
- (5) Copy of final employment action, i.e., disability retirement, removal letter.

2. EEOC Agency Self-Assessment Checklist (Management Directive [MD] 715, Part G)

a. Establishing a Model EEO program in compliance with EEO MD-715: The EEO MD-715 identifies the six essential elements of Model Title VII and Rehabilitation Act programs as:

- (1) Demonstrated commitment from agency leadership;
- (2) Integration of EEO into the agency's strategic mission;
- (3) Management and program accountability;
- (4) Proactive prevention of unlawful discrimination;
- (5) Efficiency; and
- (6) Responsiveness and legal compliance.

b. Annual Self-Assessment Checklist (MD-715, Part G). Annually each activity is required to conduct a self-assessment to determine whether its EEO Program is properly established and compliant with the EEO MD-715 standards utilizing the checklist included as part of the MD 715, Part G. The relevant portions of the self-assessment checklist, as it pertains to the Rehabilitation Act, are highlighted below:

(1) Demonstrated commitment from agency leadership (essential element A).

(a) Does the command disseminate the following policies and procedures to all employees: RA procedures? [see 29 C.F.R. §1614.203(d)(3)].

(b) Does the command prominently post the following information throughout the workplace and on its public website: RA procedures? [see 29 C.F.R. §1614.203(d)(3)(i)].

(c) Does the command inform its employees about the following topics: RA program? [see 29 CFR §1614.203(d)(7)(ii)(C)].

APR 15 2019

(d) Have managers and supervisors been trained on their responsibilities under the procedures for RA?

(2) Integration of EEO into the agency's strategic mission (essential element B).

(a) Pursuant to 29 CFR §1614.102(a)(1), has the command allocated sufficient funding and qualified staffing to successfully implement the EEO program, for the following areas: to provide all supervisors and employees with training on the EEO program, including but not limited to retaliation, harassment, religious accommodations, disability accommodations, the EEO complaint process, and ADR? [see MD-715, II(B) and III(C)]. If not, please identify the type(s) of training with insufficient funding in the comments column.

(b) Pursuant to 29 CFR §1614.102(a)(1), has the command allocated sufficient funding and qualified staffing to successfully implement the EEO program, for the following areas: to publish and distribute EEO materials (e.g., harassment policies, EEO posters, RA procedures)? [see MD-715, II(B)].

(c) Pursuant to 29 CFR §1614.102(a)(1), has the command allocated sufficient funding and qualified staffing to successfully implement the EEO program, for the following areas: to effectively manage its RA program? [see 29 CFR §1614.203(d)(4)(ii)].

(3) Management and Program Accountability (Essential Element C)

(a) Does the command ensure that job applicants can request and receive RA during the application and placement processes? [see 29 CFR §1614.203(d)(1)(ii)(B)].

(b) Does the command process all accommodation requests within the timeframe set forth in its RA procedures? [see MD-715, II(C)]. If no, please provide the percentage of timely-processed requests in the comments column.

(4) Proactive Prevention of Unlawful Discrimination (Essential Element D)

(a) Does the command regularly use the following sources of information for trigger identification: workforce data; complaint/grievance data; exit surveys; employee climate surveys; focus groups; affinity groups; union; program evaluations; special emphasis programs; RA program; anti-harassment program; and/or external special interest groups? [see MD-715 Instructions, Sec. I].

APR 15 2019

(b) Does the command regularly review the following sources of information to find barriers: complaint/grievance data, exit surveys, employee climate surveys, focus groups, affinity groups, union, program evaluations, anti-harassment program, special emphasis programs, RA program; anti-harassment program; and/or external special interest groups? [see MD-715 Instructions, Sec. I]. If yes, please identify the data sources in the comments column.

3. Executive Order 13164: Establishing Procedures to Facilitate the Provision of RA

a. Executive Order Tracking Requirements. The Executive Order states, an agency's RA procedures must ensure that agencies' systems of recordkeeping track the processing of requests for RA and maintain the confidentiality of medical information received in accordance with applicable law and regulations (Section 1(b)(9) of Executive Order 13164).

b. All activities must be able to identify, at a minimum, the following information on RA requests:

(1) The number and types of RA that have been requested in the application process and whether those requests have been granted or denied;

(2) The jobs (occupational series, grade level and activity) for which RA have been requested;

(3) The types of RA that have been requested for each of those jobs;

(4) The numbers and types of RA that relate to the benefits or privileges of employment, and whether those requests have been granted or denied;

(5) The amount of time taken to process each request for RA; and

(6) The sources of technical assistance that have been consulted in trying to identify possible RA.

c. Maintenance of Tracking Information. Activities should keep any cumulative records used to track its performance with regard to RA for at least three years. Tracking performance over a three year period is critical to enable an activity to assess whether it has adequately processed and provided RA. Activities can use this tracking information to evaluate whether and where they need to improve their handling of RA requests.

APR 15 2019

d. Recommended Use of Tracking Information

(1) Evaluate its performance in responding to requests for different types of RA.

(2) Assess how long the activity takes to respond to requests for different types of RA.

(3) Determine whether there are particular types of RA that the activity has been unable to provide.

(4) Determine the reasons for denial of RA requests, if no requests have been granted.

(5) Determine if there are any repeated delays in the processing of RA requests. If so, investigate the reasons for the problem and take the necessary steps to correct the situation.

e. Navy Electronic Accommodations Tracker (NEAT). The NEAT is a web-based system hosted by MicroPact's Entellitrak, which has been modified to meet the specifications of the DON. NEAT will enable the agency and DON commands to track RA requests, the resources allocated toward granted accommodations, and the timeliness of processing these requests. The utilization of NEAT affirms the agency's commitment to being a model employer of individuals with disabilities by meeting its obligation to provide RA to qualified applicants and employees with disabilities under reference (a), facilitating improved tracking of requests that is required under Executive Order 13164, and maintaining detailed records of RAs to comply with the amended 29 C.F.R. §1614.203.

f. Authorized users will access NEAT using the following link:
<https://neat.donhr.navy.mil/etk-navy-ra/>.

APR 15 2019

APPENDIX A

Definitions

Administrative Grievance - A grievance is any employment matter of concern or dissatisfaction relating to the employment of a non-bargaining employee which is subject to the control of management. This forum covers bargaining unit employees only when a matter covered under this system cannot be grieved under a negotiated grievance procedure.

Reasonable Accommodation Advisory Team (RAAT) - An ad hoc team established to process a request for reasonable accommodation. At a minimum, the advisory team includes the employee's first-level supervisor, a Human Resources Specialist, and the EEO Office reasonable accommodation point of contact. Depending upon the specific circumstances and/or complexity of a reasonable accommodation request, membership of the advisory team may be augmented to include representatives from the medical, safety, G-1 manpower, and legal offices. Other members, as appropriate, may be requested to participate on the Advisory Team.

Alternative Dispute Resolution (ADR) - Includes any procedure, which is used in lieu of a formal process or litigation to resolve conflicts and issues in controversy, including, but not limited to, peer review, partnering, conciliation, facilitation, mediation, ombudsman-ship, fact-finding, mini-trial, neutral evaluation, and arbitration or any combination thereof. Mediation is the ADR method of choice for DON.

Americans with Disabilities Act of 1990 (as amended) - The first comprehensive civil rights law for individuals with disabilities.

Direct Threat - A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination or reduced by reasonable accommodation. The determination that an individual poses a direct threat shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. The individualized assessment shall be based on the most current medical knowledge and/or the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include: (1) duration of risk; (2) nature/severity of potential harm; (3) likelihood that potential harm would occur; and, (4) imminence of the potential harm.

Disability - A person has a disability, for purposes of the Rehabilitation act, if he/she has a physical or mental impairment that substantially limits a major life activity.

APR 15 2019

Discrimination Complaint (informal) - A forum (see 29 §C.F.R. 1614) where aggrieved persons who believe they have been discriminated against on the basis of race, color, religion, sex, national origin, age or handicap must initiate contact with a Counselor within 45 calendar days of the date of the matter alleged to be discriminatory or, in the case of a personnel action, within 45 calendar days of the effective date of action.

Equal Employment Opportunity Commission (EEOC) - The agency that enforces federal laws that prohibit job discrimination and provides oversight and coordination of all federal equal employment opportunity regulations, practices and policies.

Essential Functions - The essential functions of a position are those functions that define the job. In other words, the job exists to perform those tasks. The essential functions of a job are not the marginal or infrequently performed tasks that could be eliminated without altering the fundamental nature of the job.

Interactive Discussion(s) - A discussion(s) between the decision maker and the individual requesting the accommodation where the specific limitation, problem or barrier is unclear; where an effective accommodation is not obvious; where the parties are choosing between different possible reasonable accommodations; or to obtain any relevant information as it pertains to a request for accommodation.

Job Restructuring - Includes modifications such as: reallocating or redistributing marginal job functions that an employee is unable to perform because of a disability; and altering when and/or how a function, essential or marginal, is performed. An employer never has to reallocate essential functions as a reasonable accommodation.

Job Search - A reassignment to a vacant position is the accommodation of "last resort" when an employee who, because of a disability, can no longer perform the essential functions of his/her current position, with or without accommodation.

Major Life Activity(ies) - Once an individual establishes that he/she has a disability, he/she must be able to establish that the disability substantially limits (one or more of his/her major life activities). Major life activities include such obvious characteristics as hearing, seeing, walking, speaking, breathing, caring for oneself, performing manual tasks, and working. Generally, a major life activity is something of fundamental significance within the meaning of the Rehabilitation Act and not simply an activity important to a particular individual.

Negotiated Grievance - A process that is negotiated in a collective bargaining agreement, which provides procedures for the settlement of

APR 15 2019

a matter of concern or dissatisfaction relating to the employment of a bargaining unit employee.

Qualified Individual With a Disability (QWD) - An individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

Reasonable Accommodation (RA) - In general, an accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities.

Reasonable Accommodation Point of Contact - The individual or office designated to oversee the activity's reasonable accommodation process. The individual or office has developed expertise in the requirements of the Rehabilitation Act, potential accommodations, and available resources, and is a resource for individuals with disabilities and activity decision makers.

Rehabilitation Act of 1973 (as amended) - A law that requires agencies to provide reasonable accommodation to qualified employees and applicant with disabilities.

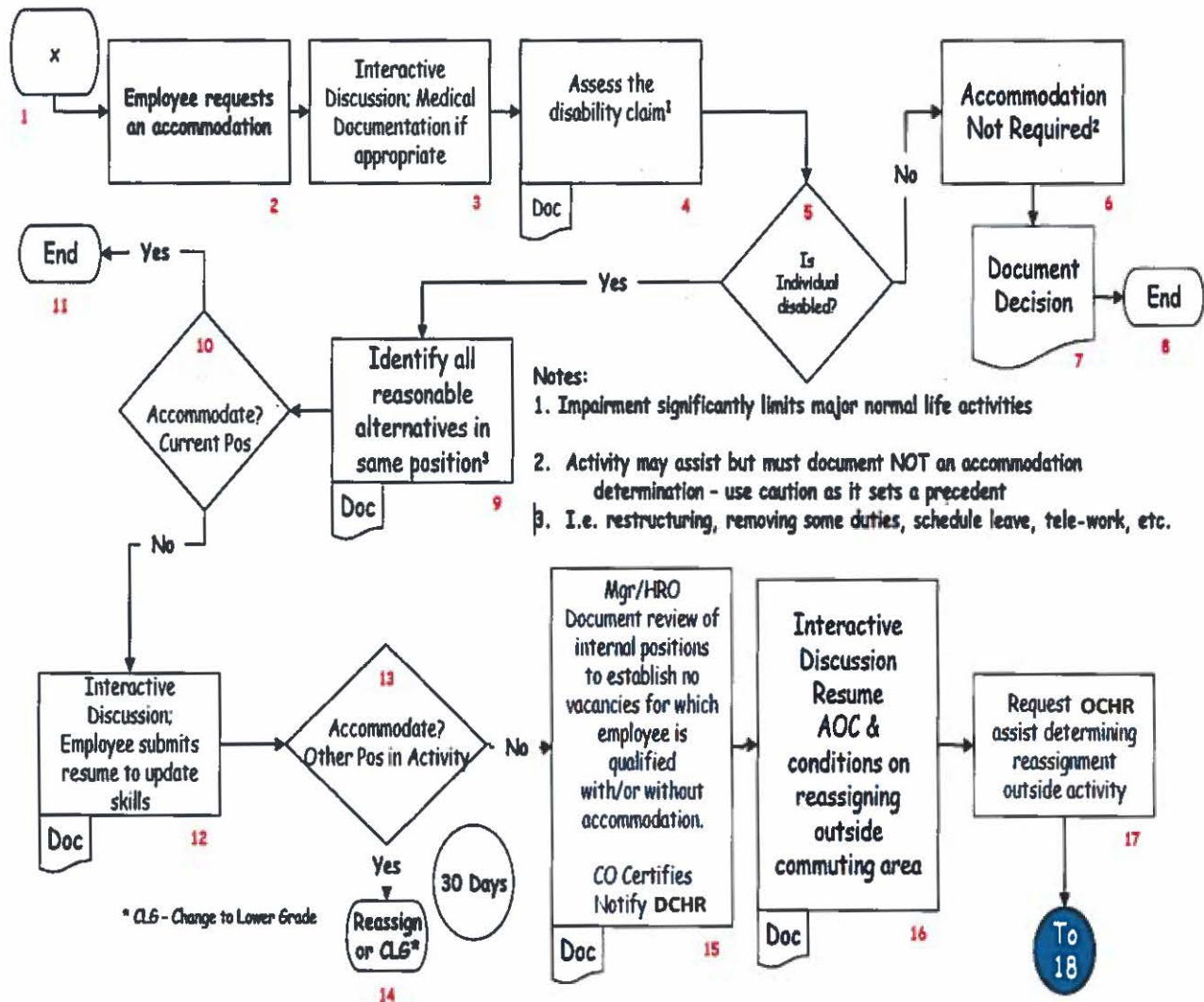
Request for Reconsideration - An internal, informal dispute resolution process through which an individual can request reconsideration of an activity's denial of a request for reasonable accommodation, regardless of whether the person has initiated the discrimination complaint process.

Substantially Limits - An impairment substantially limits a major life activity if that impairment renders the individual either **unable** to perform a major life activity **or significantly restricts** his/her performance of that activity as compared to the average person's performance of the activity.

Undue Hardship - The only statutory limitation on an employer's obligation to provide reasonable accommodation is that no such change or modification is required if it would cause "undue hardship" to the employer. "Undue hardship" means significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty of providing a specific accommodation. "Undue hardship" refers not only to financial difficulty, but to substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business.

APPENDIX B APR 15 2019

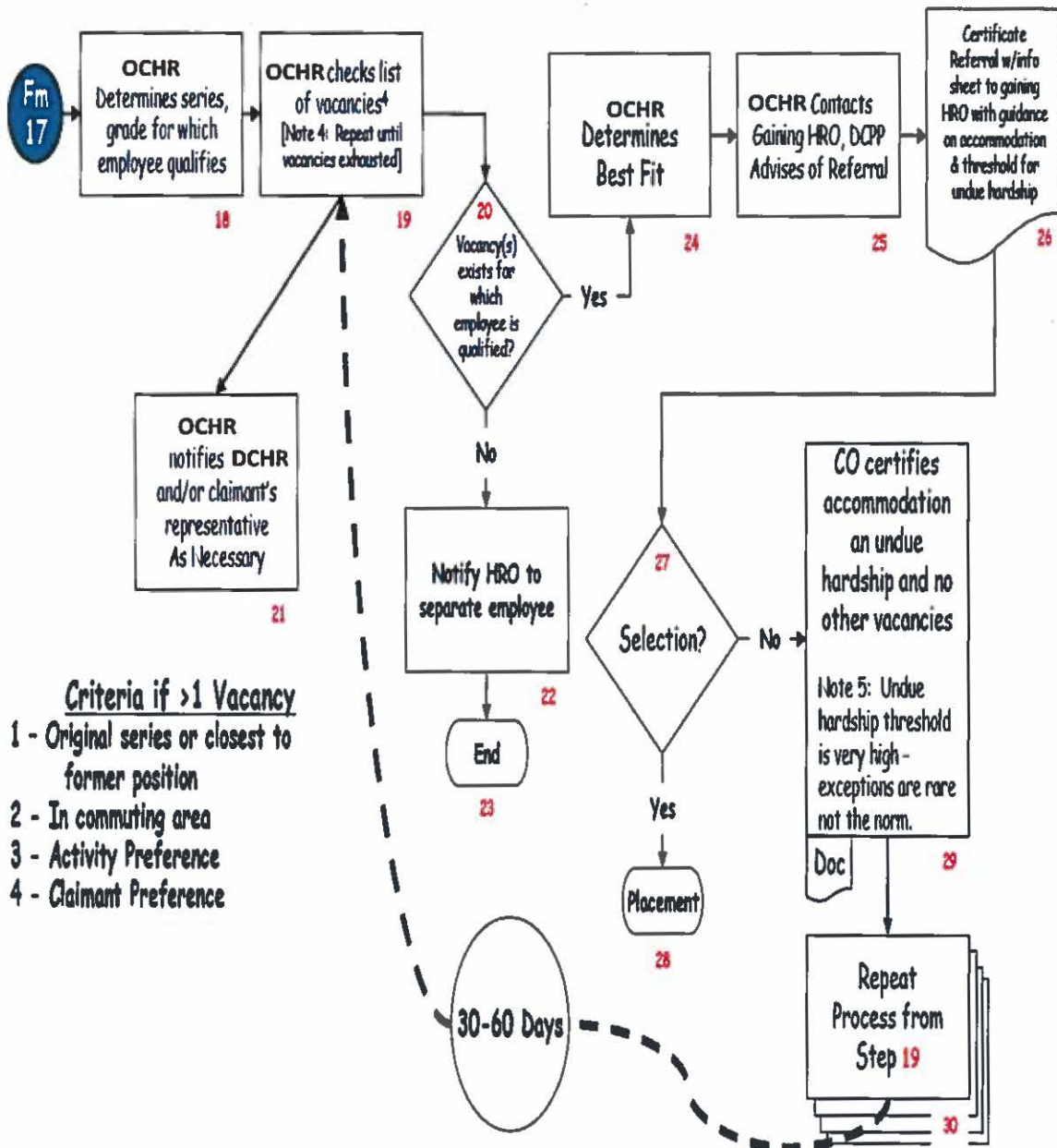
Reasonable Accommodation Process Flowcharts



APPENDIX B APR 15 2019

Reasonable Accommodation Process Flowcharts

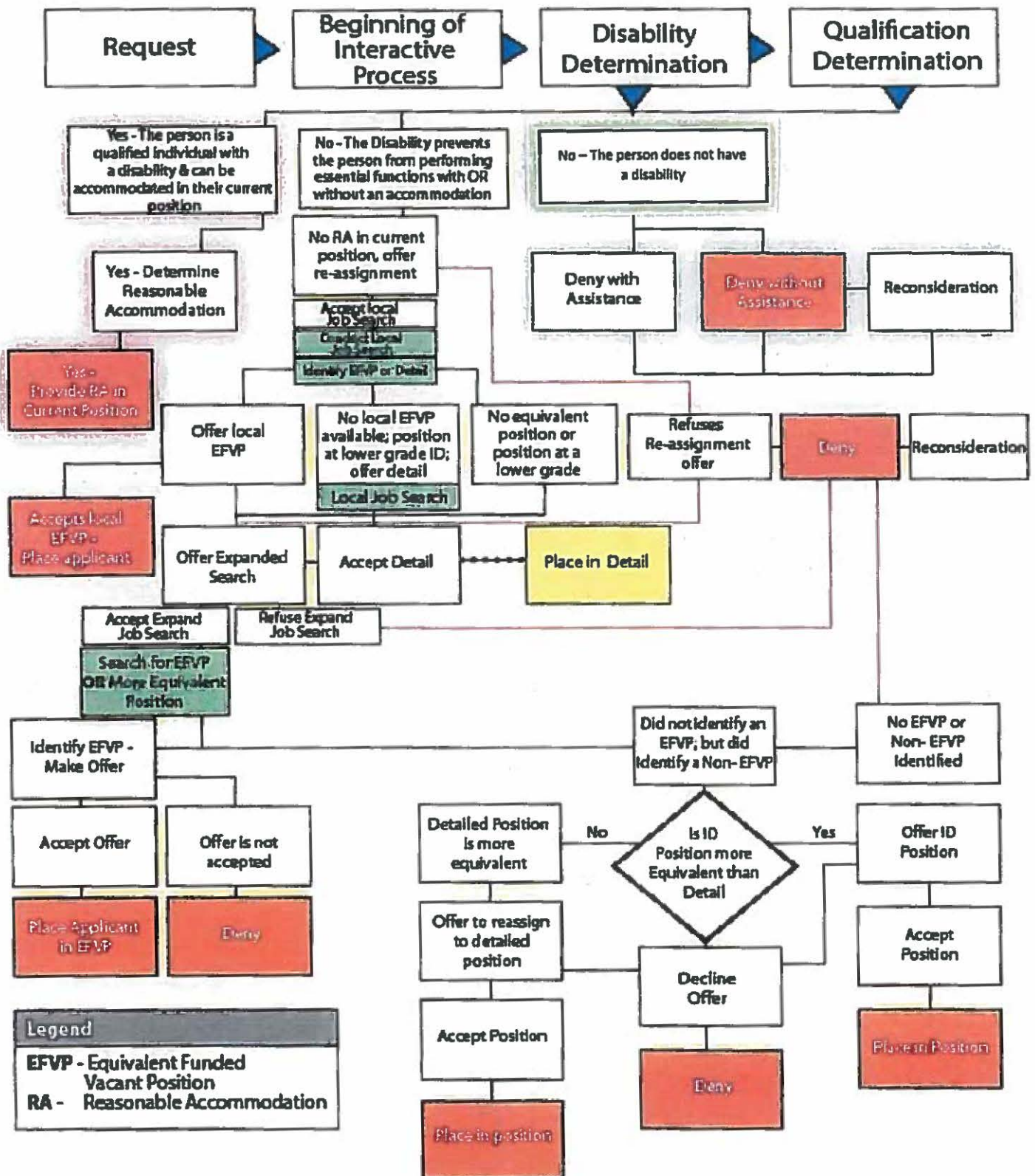
Expanded Job Search Via OCHR



APPENDIX B APR 15 2019

Reasonable Accommodation Process Flowcharts

Reasonable Accommodations Process



APR 15 2019

APPENDIX C

Reasonable Accommodation Resources

1. Job Accommodation Network (JAN)

JAN is a free consulting service of the Office of Disability Employment Policy, U.S. Department of Labor, designed to increase the employability of people with disabilities by: (1) providing individualized worksite accommodations solutions, (2) providing technical assistance regarding the ADA and other disability related legislation.

<https://askjan.org/>

(800) 526-7234 (Voice)

(877) 781-9403 (TTY)

Information by Role Employers

<https://askjan.org/info-by-role.cfm#for-employers>

Individuals

<https://askjan.org/info-by-role.cfm#for-individuals>

For Others

<https://askjan.org/info-by-role.cfm#for-individuals>

American With Disabilities Act Library

<https://askjan.org/ADA-Library.cfm>

Accommodation Resources

By Disability, by Limitation, by Work-Related Function or by Topic

<https://askjan.org/a-to-z.cfm>

Searchable Online Accommodation Resource (SOAR)

<https://askjan.org/soar.cfm>

Publications & Articles

<https://askjan.org/publications/index.cfm>

2. Computer/Electronic Accommodations Program (CAP)

CAP provides assistive technology and services to people with disabilities, managers, supervisors, and Information Technology professionals. CAP increases access to information and works to remove barriers to employment opportunities by eliminating the costs of assistive technology and accommodation solutions. CAP buys it, pays for it, and gets it to the users.

APR 15 2019

<http://www.cap.mil/>

If you have general questions about CAP and how we can help you, please contact us at:

4800 Mark Center Drive, Suite 05E22
Alexandria, VA 22350
(833) 227-3272 or (703) 614-8416 (Voice)
(571) 384-5629 (Videophone)
(703) 697-5851 (Fax)
cap@mail.mil (Email)
8:00 a.m. to 5 p.m. Eastern Standard Time

Accommodation Solutions

CAP offers several ways to learn about the assistive technology available to improve an individual's capabilities. These technologies, which can be used to maintain, increase, or improve an individual's job performance, are available to accommodate people with all types of disabilities. This includes both apparent physical disabilities, as well as hidden cognitive disabilities. To find the solutions that work best for the individual, search the CAP site for solutions, or browse by disability category. Within each disability category, there are product categories that contain an array of assistive technology products.

Because there are so many potential solutions for individuals with limitations, CAP cannot list all possible accommodations. The products listed by CAP present a variety of unique features to accommodate an array of limitations, such as:

Blind/Low Vision Solutions: Vision conditions may include nearsightedness or farsightedness, glaucoma, cataracts, macular degeneration, retinopathy or the absence of any sight at all resulting in total blindness. Limitations could include blurriness, blind spots, floaters, tunnel vision or any other visual disturbances.

Cognitive: Cognitive conditions may include dyslexia, Attention Deficit Hyperactivity Disorder (ADHD), Multiple Sclerosis, stroke, Alzheimer's Disease, and traumatic brain injury (TBI). Limitations could include memory loss, decreased organization, decreased concentration, word finding difficulty, or orientation difficulty.

Communication: Communication conditions may include stuttering, voice disorders, and articulation disorders. Limitations could include difficulty projecting voice sounds loud enough to be heard by others or the inability to speak at all.

APR 15 2019

Deaf/Hard of Hearing: Hearing conditions may include otosclerosis, tinnitus, and deafness. Limitations can include the inability to hear certain volumes, tones or frequencies, ringing in the ears, or the inability to hear anything at all.

Dexterity: Dexterity conditions may include Quadriplegia, Paraplegia, Multiple Sclerosis, Cerebral Palsy, Carpal Tunnel Syndrome, Tendonitis, Arthritis, Sciatica, Amputations or Degenerative Disc Disease. Limitations affecting mobility could include decreased range of motion in the arms, fingers, wrists, back or neck, and decreased muscle control, spasms, paralysis, tingling or numbness.

Out of Scope Accommodations: CAP purchases assistive technology to promote equal access to information and allow individuals with disabilities to complete essential job functions. CAP is unable to provide all items that could be part of a RA request. Items outside of CAP's scope include:

- Mobility scooters
- Furniture
- Chairs
- Sit-to-stand equipment for Non-DoD customers
- Foot rests
- Anti-fatigue/comfort mats
- Wrist rests
- Mouse pads
- Glare screen protection
- Medical supplies
- Non-computer equipment related items
- Electric staplers
- Accommodations for federal contractors

Furthermore, CAP will not pay monthly services charges on any assistive technology, whether provided by CAP or a partner agency. Additionally, CAP is unable to provide assistive technology for AT Centers, demonstration purposes or Section 508 testing.

This list is subject to change at CAP's discretion.

3. Americans with Disabilities Act (ADA) National Network

The ADA National Network provides information, guidance and training on how to implement the ADA in order to support the mission of the ADA to "assure equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities." Funded by the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR), the network consists of 10 Regional ADA Centers located throughout the United States and an ADA Knowledge Translation Center (ADAKTC).

APR 15 2019

Each Regional ADA Center focuses on its region's unique needs. This regional focus is critical to ensuring that ADA National Network services meet the needs of a diversity of populations and stakeholders throughout the country. MCIEAST-MCB CAMLEJ is within Region 4 Southeast ADE Center (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee).

<http://www.adasoutheast.org/>

Burton Blatt Institute
Syracuse University
1419 Mayson Street NE
Atlanta, GA 30324

404-541-9001 (V)*
404-541-9002

Toll-Free: 1-800-949-4232

ADAsoutheast@law.syr.edu (link sends e-mail)

<http://www.adasoutheast.org> (link is external)

4. ADA Disability and Business Technical Assistance Centers (DBTACs). 10 Federally funded regional centers provide information, training, and technical assistance on the ADA. Each center works with local business, disability, governmental, rehabilitation, and other professional networks to provide current ADA information and assistance. The DBTACs can make referrals to local sources of expertise in RAs.

(800) 949-4232 (Voice/TT)

5. Registry of Interpreters for the Deaf (RID). RID is a national membership organization of professionals who provide sign language interpreting/transliterating services for Deaf and Hard of Hearing persons.

<http://www.rid.org/>

Registry of Interpreters for the Deaf, Inc.
333 Commerce Street
Alexandria, VA 22314

(703) 838-0030 (Voice)
(703) 838-0459 (TTY)
(703) 838-0454 (Fax)

APR 15 2019

6. Rehabilitation Engineering and Assistive Technology Society of North America (RESNA). RESNA is an interdisciplinary association of people with a common interest in technology and disability. Their purpose is to improve the potential of people with disabilities to achieve their goals through the use of technology. To serve that purpose, RESNA promotes research, development, education, advocacy and provision of technology; and by supporting the people engaged in these activities.

<http://www.resna.org/>

RESNA
1560 Wilson Bvd
Suite 850
Arlington, VA 22209
Voice: (703) 524-6686
Fax: (703) 524-6630

To contact RESNA in person, you can email or call the appropriate department, listed below. General inquiries will be responded to within one to two business days.

7. Local State Department of Rehabilitation. The different, local State Department of Rehabilitation may also be a useful resource. As the services may differ from state to state, users are encouraged to contact their local State Department of Rehabilitation for specific information about their services.

<https://www.ncdhhs.gov/divisions/dvrs>

Onslow County
39b Office Park Dr, Jacksonville, NC 28546
Voice: (910) 455-1445

APR 15 2019

APPENDIX D

RA Information, References, and Guides

1. EEOC Website provides information on:

a. Disability Discrimination.

<https://www.eeoc.gov/laws/types/disability.cfm>

b. Laws and Regulations.

https://www.eeoc.gov/laws/types/disability_guidance.cfm

(1) 29 C.F.R. Part 1630 - Regulations to Implement the Equal Employment provisions of the Americans with Disabilities Act.

(2) ADA Technical Assistance Manual: Addendum, October 2002

(3) Enforcement Guidance: Application of the ADA to Contingent Workers Placed by Temporary Agencies and other Staffing Firms, December 2000

(4) Questions and Answers: Enforcement guidance: Application of the ADA to Contingent Workers Placed by Temporary Agencies and Other Staffing Firms

(5) EEOC Policy Guidance on Executive order 13614: Establishing Procedures to Facilitate the Provisions of Reasonable Accommodation, October 2000

(6) Questions and Answers: Policy guidance on Executive Order 13164: Establishing Procedures to facilitate the Provision of Reasonable Accommodation.

(7) Enforcement guidance on Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act, July 2000

(8) Questions and Answers: Enforcement guidance on Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act

(9) EEOC Policy Guidance on Executive Order 13145: To prohibit Discrimination in Federal Employment Based on Genetic Information, July 2000

(10) Questions and Answers: EEOC Policy Guidance on Executive order 13145 Prohibiting Discrimination in Federal employment based on Genetic Information.

APR 15 2019

(11) Instructions for Field Offices Analyzing ADA Charges after Supreme Court Decisions Addressing "disability" and "qualified," December 1999

(12) EEOC Enforcement Guidance on the Americans with Disabilities Act and Psychiatric Disabilities, March 1997

(13) EEOC Enforcement Guidance on the Effect of Representations Made in Applications for Benefits on the Determination of Whether a Person is a "Qualified Individual with a Disability" Under the Americans with Disabilities Act of 1990, February 1997

(14) Enforcement guidance: Workers' Compensation and the ADA, September 1996

(15) ADA Enforcement Guidance: Pre-employment Disability-Related Questions and Medical Examinations, October 1995

(16) Compliance Manual Section 902: Definitions of the Term Disability, March 1995

(17) Executive Summary: Compliance Manual Section 902: Definition of the Term Disability

2. Other References

- a. RAs for Attorneys with Disabilities
- b. The Family and Medical Leave Act, the ADA, and Title VII of the Civil Rights Act of 1964
- c. Your Responsibilities as an Employer
- d. Your Employment Rights as an Individual with a Disability
- e. Job Applicants and the ADA
- f. Work at Home/Telework as a RA
- g. Obtaining and Using Employee Medical Information as Part of Emergency Evacuation Procedures
- h. DON Civilian Human Resource Manual, Subchapter 1606, Guidance Advice Memorandum (GAM) #86, 12 Apr 2011
- i. USMC RA Guide, 3 January 2014

APR 15 2019

3. Questions and Answer Series

- a. Questions and Answers about Deafness and Hearing impairments in the Workplace and the Americans with Disabilities Act
- b. Blindness and Vision Impairments in the Workplace and the ADA
- c. The Americans with Disabilities Act's Association Provision
- d. Diabetes in the Workplace and ADA
- e. Epilepsy in the Workplace and the ADA
- f. Persons with Intellectual Disabilities in the Workplace and ADA
- g. Cancer in the Workplace and the ADA

4. Mediation and the ADA

- a. Questions and Answers for Medication Providers: Medication and the Americans with Disabilities Act
- b. Questions and Answers for Parties to Medication: Medication and the Americans with Disabilities Act