



DEPARTMENT OF THE NAVY PROGRAM MANUAL FOR REASONABLE ACCOMMODATION

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Foreword

The Department of the Navy (DON) Program Manual for Reasonable Accommodation is a separately issued manual that supplements and implements the policy established in SECNAV Instruction 12713.14, Equal Employment Opportunity, and defines the required processes to be followed that will ensure consistent execution of the reasonable accommodation program. This Program Manual cancels and replaces the DON Civilian Human Resources Manual (CHRM) Subchapter 1606 (September 2007), the CHRM's accompanying Guide for Processing Reasonable Accommodation Requests (September 2007), and the DON Reassignment as a Reasonable Accommodation Process Guide (January 2020).

The DON Program Manual for Reasonable Accommodation (RA) provides the step-by-step Procedures for Processing Requests for Reasonable Accommodation, with sample processing documents contained in the Attachments to the DON Program Manual for RA. The Program Manual is intended to be utilized as a guide, as every RA request must be individually reviewed and analyzed, and decisions to approve or deny an accommodation must be made in response to the interactive process and based on the unique circumstances of the individual requesting RA.

It is the DON's policy to provide RA to qualified employees and applicants with disabilities in accordance with the following references:

- (a) Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §791
- (b) Americans with Disabilities Act of 1990, 42 U.S.C. §12111 et seq.
- (c) Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §12101 et seq.
- (d) E.O. 13164
- (e) 29 CFR Part 1630
- (f) 29 CFR §1614.203
- (g) EEOC Management Directive 715 (MD-715)
- (h) SECNAVINST 12713.14

To ensure proper RA processing in accordance with the aforementioned references and this Program Manual, all DON RA Coordinators, Deputy Directors, EEO, and Directors, EEO must take training as prescribed by the DON Office of Equal Employment Opportunity (OEEO). Initial training must be completed within 90 calendar days of the issuance of this Program Manual, and within 90 days of an RA Coordinator appointment. Any subsequent training requirements may be added at DON OEEO's discretion.



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Policy and Responsibilities for the Department of the Navy (DON) Reasonable Accommodation (RA) Program

Policy

Reasonable accommodations (RA) are required by law and are an essential element of readiness vital for attracting, developing, and obtaining a top-quality workforce to accomplish the Department of the Navy's (DON) mission. An effective RA policy is an important aspect of the DON's commitment to create employment opportunities for individuals with disabilities. As such, it is the DON's policy to provide RA to qualified employees and applicants with disabilities, unless to do so would cause an undue hardship. All DON military and civilian supervisors must make every effort to provide RA to qualified employees and applicants with disabilities, and are charged with facilitating the RA process.

It is the DON's policy to accommodate qualified employees with a disability within their current position, provided that the employees are able to perform the essential functions of the position with or without an accommodation. As a last resort, qualified employees with a disability that are unable to perform the essential functions of their position of record because of their disability must be considered for reassignment to a vacant, funded position within the DON for which the individual is qualified.

Applicability

This policy applies to all DON civilian employees and applicants for employment, and military managers and supervisors of civilian employees to the extent permitted by law and regulations.

Responsibilities

1. In accordance with references (a) through (h) as listed in the Foreword, the Secretary of the Navy (SECNAV) is responsible for ensuring that a system for the timely processing of requests for RA is established for the DON.

2. The Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN (M&RA)) is the DON Equal Employment Opportunity (EEO) Director as designated by the SECNAV in reference (h) as listed in the Foreword. The ASN (M&RA) is responsible for establishing and maintaining an effective DON-wide EEO Program, to include the processing of requests for RA that is consistent with legal and regulatory requirements. In the capacity as the DON EEO Director, the ASN (M&RA) provides overall policy and program direction to the Director, Office of EEO (OEEO), and evaluates the sufficiency of the DON's RA Program.

3. Per reference (h), the Deputy Assistant Secretary of the Navy for Civilian Personnel (DASN (CP)) must ensure that the principles of EEO, to include the provision of RA, are integrated into all Human Resources (HR) policies, and that the HR community is trained in their responsibilities regarding the RA process in accordance with this Program Manual.

4. The Director, Office of EEO (OEEEO) shall:

a. Serve as the primary advisor and the authoritative source on all EEO matters related to program execution, to include the provision of RA at the department level.

b. Develop and implement the DON policies and procedures for RA.

c. Report the DON-wide number of RA requests, as well as the percentage of timely processed requests, annually for the DON's Management Directive 715 Report.

d. Collect and report data on RA request details to the Equal Employment Opportunity Commission (EEOC) upon request.

5. The DON Disability Program Manager (DPM), located within the OEEEO, shall:

a. Update the DON Program Manual for RA and relevant guidance as necessary to maintain compliance with federal laws and regulations.

b. Oversee and enforce implementation and compliance with the DON Program Manual for RA.

c. Provide advice and guidance to DON officials who are responsible for processing RA requests.

d. Track and monitor the number and types of RA requests, and processing times of RA requests utilizing the Navy Electronic Accommodations Tracker (NEAT).

e. Identify and address with relevant stakeholders any discriminatory barriers to processing requests for RA and for implementing effective RA solutions.

f. Establish, oversee, and monitor DON RA training requirements to ensure the workforce understands their roles and responsibilities in the RA process.

6. The Heads of Major Commands, per reference (h), are designated as Command EEO Officers for their Area of Responsibility (AOR). Unit Commanders or Heads of each Naval Unit/Marine Corps Command employing civilians are designated as EEO Officers of their unit. As such, they shall:

a. Ensure that the DON Program Manual for RA is clearly communicated and implemented within their respective AOR.

b. Ensure that officials responsible for the processing of RA requests are trained on program requirements, to include legal updates, as necessary.

c. Evaluate the timeliness of RA processing on a continual basis.

d. Ensure that their respective unit(s) have current contact information for processing RA requests readily available in the workplace and in accessible forms through bulletin board postings, Web sites, handouts, etc.

e. Allocate sufficient resources to staff the RA function in the EEO offices, and ensure that other relevant parties to the process, such as HR, Command Information Office (CIO), Facilities, Safety, Security, Office of General Counsel (OGC), Financial Management (FM), Acquisition, etc., are sufficiently resourced to execute their RA program responsibilities.

f. Allocate sufficient monetary resources to procure and implement approved cost-based RA.

g. Ensure that all electronic and information technologies, facilities, and physical infrastructure under their AOR are compliant with Sections 501 and 508 of the Rehabilitation Act of 1973, and the standards issued under the Architectural Barriers Act of 1968.

7. The Directors, EEO (DEEO) of the Major Command shall:

a. Serve as the primary advisor to the senior officials of the Major Command on the process for RA.

b. Provide Command-specific program direction to subordinate units.

c. Provide guidance, assistance, and training on the processing of RA requests as determined by the DON DPM and the Major Command.

d. Serve as a link between subordinate units and DON OEEO to monitor and enforce compliance with this Program Manual.

e. Ensure that all determinations that current employees cannot be accommodated in their position of record are in compliance with this Program Manual, and are reviewed for legal sufficiency prior to issuance.

f. Track, monitor, and review requests for RA, job search efforts, and final decisions for consistency and reporting purposes.

g. Evaluate the quality and timeliness of RA processing on a continual basis.

h. Report the effectiveness of the Major Command's RA process, to include the number of RA requests and the percentage of timely processed requests, to OEEO upon request.

i. Identify and address with relevant stakeholders, to include the DON DPM, any discriminatory barriers to processing requests for RA and for implementing effective RA solutions within the Major Command.

j. Ensure that the servicing EEO offices within the Major Command have current contact information for processing RA requests readily available in the workplace and in accessible formats through bulletin board postings, Web sites, handouts, etc.

k. Comply with DON OEEO training requirements established for all DEEOs.

8. The Directors, Civilian Human Resources (DCHR) shall:

a. Ensure HR operational policies support timely engagement in compliance with the DON Program Manual for RA.

b. Ensure that all HR Specialists are trained on their responsibilities pertaining to the RA process in accordance with this Program Manual.

c. Ensure that sufficient resources (e.g. qualified personnel, a private space, etc.) and training are allocated to the Major Commands and subordinate commands' HR practitioners in order to document preliminary qualifications, conduct reassignment counseling, execute the search for vacant positions, and facilitate job offers, if applicable.

9. The Directors, Office of Civilian Human Resources (OCHR) Operations Centers shall:

a. Designate appropriate personnel and resources to ensure that the DON-wide job search is conducted and documented in accordance with this Program Manual, and that the hiring actions are processed related to the employee's placement as a part of reassignment as an RA.

10. The servicing Deputy Directors, EEO (DDEEO) shall:

a. Publicize and implement DON's policy for the processing of RA requests at the unit level organization(s) for which they provide services.

b. Ensure EEO Specialist(s) are designated as RA Coordinator(s).

c. Ensure that all individuals responsible for processing RA requests are trained on program requirements, to include relevant legal principles and precedents.

d. Ensure that RA requests are processed in a timely and consistent manner in accordance with this Program Manual.

e. Monitor the RA request information entered and stored into NEAT to ensure proper processing, and that RA request information is up-to-date.

f. Provide EEO training to hiring managers and supervisors on the provision of RA and their role in the RA process.

g. Provide advice and guidance to the EEO Officer on the RA process, as well as the status and assessment of the unit's program.

h. Submit reports or statistics on RA requests as required by DON OEEO or the DEEO of the Major Command.

i. Monitor and ensure confidentiality of the RA process, and record and retain all RA case files for serviced units.

j. Identify and address with relevant stakeholders, to include the DEEO of the Major Command, any discriminatory barriers to processing requests for RA and for implementing effective RA solutions within the subordinate unit(s).

k. Ensure that a firewall is established in the EEO Office, in which any subsequent EEO complaints filed on the DON's failure to accommodate is processed by an EEO Counselor that did not process the RA request.

l. Coordinate with responsible parties to make current contact information for processing RA requests readily available in the workplace and in accessible formats through bulletin board postings, Web sites, handouts, etc.

m. Comply with DON OEEO training requirements established for all DDEEOs.

11. The Human Resources Directors (HRD) shall:

a. Ensure HR operational policies support timely engagement in compliance with the DON Program Manual for RA.

b. Ensure that all HR Specialists within the Human Resources Office (HRO) are trained on their responsibilities pertaining to the RA process in accordance with this Program Manual.

c. Ensure that sufficient resources (e.g. qualified personnel, a private space, etc.) and training are allocated to the HRO's HR practitioners in order to document preliminary qualifications, conduct reassignment counseling, execute the search for vacant positions, and facilitate job offers, if applicable.

d. Review the servicing HRO's internal job search efforts, and the DON-wide job search if applicable, to ensure that the search was thorough, complete, and in compliance with this Program Manual.

12. The Reasonable Accommodation (RA) Coordinators within the servicing EEO offices shall:

a. Ensure that all RA requests received are processed in accordance with the provisions of this Program Manual.

b. Provide advice and guidance to hiring managers, supervisors, and other applicable stakeholders (i.e. HR, CIO, Facilities, Safety, Security, OGC, etc.) regarding the DON RA

process, federal requirements on the provision of RA, and applicable case law that assist in the determination of the request and the feasibility of the accommodation.

c. Involve appropriate personnel (i.e. HR, CIO, Facilities, Safety Security, OGC, etc.), if necessary, to ensure that the supervisor or hiring manager has enough information to make an informed decision on a request for RA on behalf of the DON.

d. Encourage supervisors and hiring managers to engage in ongoing, informal interactive discussions with the individual seeking an accommodation, and facilitate those discussions, when necessary.

e. Draft letters and correspondence (e.g. Request for Medical Documentation, Approval of Reasonable Accommodation Request, Denial of Reasonable Accommodation Request, etc.) to facilitate the RA process using relevant information pertaining to the request.

f. Update and maintain NEAT for RA requests on a continual basis.

g. Maintain all RA case files in a secure manner.

h. Safeguard the confidentiality of RA information, to include medical documentation.

i. Comply with DON OEEO training requirements established for all RA Coordinators.

j. Provide information regarding the processing of RA requests before third parties, as necessary.

13. HR Specialists within the servicing HRO shall:

a. Provide all RA requests to the appropriate RA Coordinator, if in receipt of RA requests from individuals requesting RA and/or their representatives.

b. Serve as an advisor on RA policies and practices, as necessary.

c. Counsel employees who request reassignment as an RA on the reassignment process.

d. Conduct preliminary qualifications to determine what types of positions the employee can perform.

e. Execute and document the search for vacant positions in accordance with the procedures outlined in this Program Manual.

f. Facilitate the hiring actions related to the employee's placement as part of reassignment as an RA.

g. Represent the DON regarding the processing of RA requests before third parties, as necessary.

14. The DON Employment Information Center (EIC), within the OCHR San Diego Operations Center, shall:

a. Serve as the central point of contact for receiving RA requests from applicants for employment, and refer all such requests to the appropriate RA Coordinator.

b. Maintain the Active Reasonable Accommodation List (ARAL) to facilitate the DON-wide job search, in accordance with the procedures and timeframes outlined in this Program Manual.

15. Members of the Office of General Counsel (OGC) shall:

a. Provide legal advice and guidance to the EEO and HR community, as well as to supervisors and hiring managers on RA, as needed.

b. Review the justification for undue hardship, direct threat, inability to accommodate in the employee's position of record, and denial of RA requests for legal sufficiency.

16. Hiring managers and supervisors shall:

a. Respond to RA requests in accordance with the procedures and timeframes outlined in this Program Manual, to include promptly responding to communications regarding the request, and issuing RA decisions to the employee or applicant for employment.

b. Maintain an open line of communication with the employee seeking an accommodation and engage in ongoing, informal discussions with the employee during the RA process.

c. Consider the use of Alternative Dispute Resolution (ADR) techniques at any stage in the RA process to resolve any conflicts at the lowest level.

d. Maintain confidentiality of medical information obtained in connection with the RA process.

17. Officials responsible for DON's electronic and information technology, and officials responsible for DON's facilities and physical infrastructure shall:

a. Ensure their command is compliant with Section 501 of the Rehabilitation Act of 1973, which may go beyond the standards issued under Section 508 of the Rehabilitation Act of 1973, and the standards issued under the Architectural Barriers Act of 1968.

b. When notified of an accessibility issue, participate in the interactive process to provide options for courses of action and ensure resolution, and/or provide information to document and articulate undue hardship if necessary.

18. Officials responsible for safety, medical, security, financial management, acquisition, etc. shall:

a. Participate in the interactive process when notified of an RA request or accessibility issue to provide courses of action and ensure resolution.

b. Provide information required to complete an undue hardship analysis or direct threat analysis, as needed.

19. Individuals requesting RA shall:

a. Immediately notify the hiring manager, their first-level supervisor, the RA Coordinator, or servicing HR Specialist when they believe that some form of RA is required in order to participate in the application process, to perform the essential function(s) of the position held (for current employees) or desired (for applicants of employment), or enjoy a benefit or privilege of employment.

b. Actively participate in good faith and be responsive throughout the entire RA process.

c. Provide medical documentation and other pertinent information, as required, as part of the RA process.

Procedures for Processing Requests for Reasonable Accommodation

STEP 1 – THE REASONABLE ACCOMMODATION REQUEST

1-1 Definition of a Reasonable Accommodation

A reasonable Accommodation (RA) is any modification or adjustment to a job application process, the work environment, or to the manner or circumstances under which work is customarily performed that enables a qualified individual with a disability to perform the essential functions of a position, or to enjoy equal benefits and privileges of employment as are enjoyed by similarly situated individuals without a disability. This definition of RA, along with other relevant key terms pertaining to the RA process, are listed in *Definitions and Key Terms for the Reasonable Accommodation Program* (Attachment 1).

1-2 Recognizing a Request for Reasonable Accommodation

When an individual or their representative informs the employer that they need an adjustment or change at work for a reason related to a medical condition, then this is considered a request for RA. To request RA, an individual may use “plain English” and need not mention the Americans with Disabilities Act, the Rehabilitation Act, or use the phrase “reasonable accommodation.” A request for RA is the first step in an informal, interactive process between the individual and the Department of the Navy (DON), and is when the RA process begins as show on the *Reasonable Accommodation (RA) Process Map* (Attachment 2).

1-3 Submitting a Request for Reasonable Accommodation

An employee or an applicant for employment may submit a request for RA orally or in writing at any time. In addition, a family member, friend, health professional, or other representative may request an RA on behalf of an individual with a disability when that individual cannot make the request themselves. When an employee is represented by a labor union or an attorney, consult with the servicing labor relations specialists and an attorney in the Office of General Counsel (OGC) to determine the representative’s role in the RA process.

There are distinctions between current employees and applicants as to how RA requests can be submitted:

- Current employees. Current employees, or those making a request on the employee’s behalf, may request an RA through their first-level supervisor. Employees can also place a request with the RA Coordinator, Equal Employment Opportunity (EEO) personnel, Human Resources (HR) personnel, or anyone else in the employee’s chain of command. Anyone who initiates an RA request orally must subsequently document the request in writing. The standardized *SECNAV 12306/1 Form, Confirmation of Reasonable Accommodation Request* (Attachment 3) should be used for this purpose. If the employee requesting RA does not complete the *SECNAV 12306/1 Form, Confirmation of Reasonable Accommodation Request*, the supervisor or RA Coordinator must document the request.

- Applicants. Applicants, or those making a request on the applicant's behalf, may request an RA through servicing HR practitioners or hiring managers. All requests for RA made at the pre-employment phase must be forwarded to the RA Coordinator for processing and tracking purposes. The RA Coordinator will ensure the request is documented through the completion of the *SECNAV 12306/1 Form, Confirmation of Reasonable Accommodation Request* (Attachment 3).

1-4 Processing and Documenting Reasonable Accommodation Requests

It is imperative that all requests for RA are forwarded to the servicing RA Coordinator, located within the servicing EEO office, within two business days of the initial request.

All accommodation requests must be documented in writing, preferably using the *SECNAV 12306/1 Form, Confirmation of Reasonable Accommodation Request* (Attachment 3).

All documents obtained in connection with the processing of the RA request must be retained in the RA file, and must be made available to relevant parties in an accessible format upon request to the extent practicable. The Navy Electronic Accommodations Tracker (NEAT) is the DON's web-based system that enables the agency to track the processing of RA requests and to maintain RA records in accordance with 29 C.F.R. § 1614.203(d)(8). NEAT enables the DON to review these records in order to determine whether it is complying with the nondiscrimination and affirmative action requirements imposed under Section 501 of the Rehabilitation Act of 1973, as amended, and to make such records available to the Equal Employment Opportunity Commission (EEOC) upon request. NEAT users are required to enter and upload various types of information as it relates to the specific RA request, to include, but not limited to, the following:

- Requestor details;
- The specific reasonable accommodation requested;
- The job (occupational series, grade level, and agency component) sought by the requesting applicant or held by the requesting employee;
- Whether the accommodation was needed to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of employment;
- Dates corresponding to various events occurring throughout the RA process;
- Whether the request was granted (which may include an accommodation different from the one requested) or denied;
- The identity of the deciding official and the contact information for involved parties;
- The cost for approved requests;
- If denied, the basis for such denial;
- The number of days taken to process the request; and
- All documents generated in connection with the RA request processing.

Access to NEAT is granted only to EEO practitioners who process RA requests and provide program oversight. Applicants and employees may ask the RA Coordinator for updates as a way to track the processing of their request for RA.

1-5 Confidentiality of the Reasonable Accommodation File

Under the Rehabilitation Act of 1973, as amended, medical documentation and information obtained in connection with a request for RA must be kept confidential. An employer may not disclose that an employee is receiving an RA, as it would constitute a disclosure that the individual has a disability. Mishandling of information relating to an individual's disability or medical condition may constitute a violation of the Privacy Act and/or the Rehabilitation Act for which the DON may be liable for damages. If medical information is disclosed to any party with a need-to-know, the RA Coordinator must inform these individuals that this information must be kept confidential, and advise regarding the legal confidentiality requirements.

All information that is obtained in connection with RA requests must be kept in secure files (both physical and electronic, if applicable) within the servicing EEO office and separate from the individual's personnel file, with access granted on a strictly limited basis. There are limited circumstances under which the DON may disclose confidential medical information, which include informing:

- Supervisors and managers of necessary restrictions on the employee's work or necessary accommodations;
- First aid and safety personnel if a disability might require emergency treatment; and
- Government investigators reviewing compliance with the Rehabilitation Act and other applicable civil rights statutes.

1-6 Recurring Reasonable Accommodations

For accommodations that are needed on a repeated basis and it is known by the DON that the accommodation will be required on a repeated basis (e.g. sign language interpreter for a regularly recurring staff meeting), the employee requesting RA does not need to submit a request and the RA Coordinator does not have to process a new request for each instance the accommodation is needed. The employee must inform the DON of the repeated nature of the request and provide the DON with sufficient information to ensure the accommodation can be provided for each instance the accommodation is required.

1-7 Withdrawal of Reasonable Accommodation Requests

At any point in the RA process, an employee or applicant may voluntarily withdraw their accommodation request, resulting in the closure of their request. The *Confirmation of Withdrawal of Reasonable Accommodation Request Letter* (Attachment 4) can be used to document the withdrawal.

STEP 2 – THE INTERACTIVE PROCESS

2-1 Definition of the Interactive Process

The interactive process is a dialogue between the individual requesting RA, the supervisor (or the hiring manager in the case of applicants), and the RA Coordinator, that determines the individual's eligibility for an RA identifies an effective accommodation, and informs the individual of the status of their request for RA.

2-2 Initiating the Interactive Process

The interactive process begins upon receipt of the initial RA request. The individual requesting RA does not need to fill out the *SECNAV 12306/1 Form, Confirmation of Reasonable Accommodation Request*, or have a particular accommodation in mind, in order to trigger the DON's obligation to engage in the interactive process.

2-3 Interactive Process Topics

The following is a non-exhaustive list of topics that may be discussed, as needed, to effectively process the RA request:

- An overview of the RA process;
- Whether the individual meets the definition of a qualified individual with a disability (QIWD);
- The medical condition, nature of the disability, and work-related functional limitations;
- The essential functions of the position held or desired;
- The need for medical documentation;
- Potential accommodations that may be provided, to include any interim accommodations available;
- Clarify the need for RA;
- Alternative suggestions for RA;
- The effectiveness in removing workplace barriers;
- The employee's qualifications and interest in the job search context; and
- Periodic updates by both the employer and employee.

2-4 Additional Participants in the Interactive Process

Depending on the specific circumstances and/or the complexity of the RA request, other parties may be consulted at the discretion of the RA Coordinator, to include representatives from the HR Office (HRO), Command Information Office (CIO), Facilities, Safety Office, OGC, etc.

2-5 Using the Interactive Process to Determine Essential Functions

In instances where the RA request is to enable the individual to perform the essential functions of the position held or desired, the interactive process can also assist in determining those functions. The *Documentation of Essential Functions* (Attachment 5) is a sample template that can be utilized to document this step of the assessment process.

2-6 Using the Interactive Process to Identify Interim Accommodations

The supervisor must consider any possible means of accommodation the individual on an interim basis while the request is being processed. The interim accommodation would allow the individual to perform some or all of the essential functions of their job, if it is possible to do so without imposing an undue hardship. If an interim accommodation is possible, this decision must be documented through the *Notification of Interim Accommodation Letter* (Attachment 6), and communicated to the individual requesting the RA.

2-7 Using the Interactive Process to Request Medical Documentation

The DON is entitled to reasonable medical documentation when (1) the disability and/or the need for accommodation is not obvious, or (2) the employee has not previously provided sufficient

medical documentation to substantiate that they have a disability and/or the need for the RA. With the assistance of the RA Coordinator, the supervisor may request medical documentation about the individual's disability, functional limitations, the need for RA, and how any potential accommodation(s) might assist the individual to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of the workplace. The *Request for Medical Documentation Letter* (Attachment 7) is a sample letter that may be used, along with the sample *Authorization for Release of Medical Information* (Attachment 8), and sample *Questions for Healthcare Professional* (Attachment 9). If necessary, the DON has the right to have medical information reviewed by a medical expert of the DON's choosing and at the expense of the DON.

In the event that the individual has not responded to the Request for Medical Documentation within the 15 calendar days prescribed in the letter, the RA Coordinator or supervisor should follow up, in writing, on the original request for documentation to provide the individual with the opportunity to obtain and submit the necessary information. In the event that the individual indicates that they require additional time to obtain and submit the requested documentation due to extenuating circumstances, the supervisor, in consultation with the RA Coordinator, may approve the request barring undue hardship. If the individual requesting RA does not provide the requested documentation within a reasonable timeframe, the DON may deny the RA request.

2-8 Using the Interactive Process to Request Supplemental Medical Information

The DON has a right to request relevant supplemental medical information if the medical information submitted by the individual requesting RA is insufficient (i.e. does not substantiate that they have a disability, does not identify how the disability limits the individual's ability to perform the essential functions of the position, and/or does not establish that the individual's disability necessitates the RA requested). The request for supplemental medical information must be done in writing, where the *Request for Medical Documentation Letter* (Attachment 7) and the sample *Questions for Healthcare Professional* (Attachment 9) can be modified for this purpose.

2-9 Interactive Process Requirements

A continuing dialogue through the RA process is required. These discussions will provide critical information necessary for making the decision to accommodate or not to accommodate the individual, and should also be used as an opportunity to keep the individual advised of the status of their request for RA.

As an extension of the interactive process, the individual requesting RA may ask the RA Coordinator for updates as a way to track the processing of their RA request.

It is best practice to document the content of these discussions for the RA file.

STEP 3 – THE QUALIFIED INDIVIDUAL WITH A DISABILITY (QIWD) ANALYSIS

3-1 Definition of a Qualified Individual with a Disability

A QIWD is an individual with a disability who can perform the essential functions of the position with or without a reasonable accommodation, and who meets the requisite skill, experience, education, and other job-related requirements of the position the individual holds or could hold as a result of job restructuring or reassignment. An employee or an applicant for employment must demonstrate that they are a QIWD to trigger the DON's obligation to provide a reasonable accommodation. The key terms found in the QIWD determination are outlined in *Definitions and Key Terms for the Reasonable Accommodation Program* (Attachment 1).

3-2 Conducting the Qualified Individual with a Disability Analysis

After all the relevant information has been obtained, the RA Coordinator and the supervisor must conduct an analysis to determine whether the employee meets the definition of a QIWD. The individual is a QIWD if the answer to all of the following questions is "Yes":

- Does the individual have a physical or mental impairment, or have a record of a disability?
- Does the impairment substantially limit a major life activity?
- Does the individual meet the requisite skills, experience, education, and other job-related requirements of their current position or of the position desired?
- Can the individual perform the essential functions of the position with or without RA?

3-3 Conducting the Qualified Individual with a Disability Analysis for Reassignment

In instances where an individual is unable to perform the essential functions of their position due to their medical limitations, the QIWD analysis may extend to determining whether the individual is a QIWD for another position. The employee must be able to satisfy the requisite skills, experience, education, and other job-related requirements of the vacant funded position, and can perform the essential functions of the new position, with or without RA.

3-4 Qualified Individual with a Disability Analysis Requirements

Every effort should be taken to complete the QIWD analysis as soon as possible to avoid unnecessary delays. The disability analysis must be documented and retained in the RA case file.

STEP 4 – DECISION TO ACCOMMODATE OR NOT ACCOMMODATE

4-1 Decision to Grant an Accommodation

If the supervisor and the RA Coordinator determine that the individual is a QIWD and that providing an accommodation is the appropriate course of action, the supervisor will issue a letter approving the accommodation request. The supervisor must ensure that the approved accommodation is implemented within 45 calendar days of the date of the initial request. If medical documentation was requested, the timeframes from processing the RA request will be held in abeyance from the time the written request for medical documentation is issued to the

individual, until the RA Coordinator receives the requested medical documentation. The *Approval of Reasonable Accommodation Request Letter* (Attachment 10) can be used to document the approval.

4-2 Prompt Reasonable Accommodation Request Processing

All requests should be processed as quickly as possible especially where a particular RA can be granted in less than 45 calendar days. When an RA can be provided in less than the 45 calendar day timeframe, failure to provide an accommodation in a prompt manner may result in a violation of the Rehabilitation Act of 1973, as amended.

In addition, expedited processing may be necessary due to a time-based need for RA. If this occurs, the RA Coordinator must work to process the request within the timeframe necessary to provide the accommodation, which may be less than 45 calendar days.

4-3 Delays in Reasonable Accommodation Request Processing or Implementation

Where there is a delay in either processing a request for or providing an RA, the supervisor, in partnership with the RA Coordinator, must notify the individual of the reason for the delay in writing, including any extenuating circumstances that justify the delay.

4-4 Effective Alternative Reasonable Accommodation

If the accommodation granted is different from the accommodation originally requested by the employee, but is an effective accommodation, the *Approval of Reasonable Accommodation Request Letter* (Attachment 10) also serves to document that the request for an accommodation has been approved and that an alternative effective accommodation will be provided.

4-5 Cost of Accommodations

All resources available to the DON as a whole must be considered when evaluating whether to provide a cost-based accommodation. Generally speaking, RA requests should not be denied for reasons of cost or anticipated cost of an RA, as the resources available to the DON would enable effective accommodations to be provided absent undue hardship.

If there is a cost associated with the approved RA, each command or organization will determine how funding will be provided.

4-6 Individual is Not an Individual with a Disability

There is no requirement to provide RA if the employee or applicant for employment did not establish that they are an individual with a disability under the Rehabilitation Act of 1973, as amended. The individual must be notified of this decision in writing at the time of the request for accommodation is denied, which must be within 45 calendar days of the date of the initial request. If the supervisor requested medical documentation, the timeframes for processing a request for RA will be held in abeyance from the time the written request for medical documentation is issued to the individual, until the RA Coordinator receives the requested medical documentation. The organization's OGC must review the RA denials for legal sufficiency prior to issuance of the notification to the applicant or employee. The *Denial of*

Reasonable Accommodation Request Letter (Attachment 11) can be used to document the RA denial, and must be provided to the individual in an accessible format, upon request.

4-7 Decision that Employee Cannot be Accommodated in Position of Record

In some instances, a final determination regarding accommodation at this stage may not be possible because (1) the ability to perform the essential functions of only the employee's position of record has been examined in the disability analysis, or (2) all other RA would pose an undue hardship or pose a direct threat to the employee's or others' safety. The undue hardship analysis or the direct threat analysis must be documented and reviewed by the organization's OGC for legal sufficiency. The *Undue Hardship Analysis Worksheet* (Attachment 12) and the *Direct Threat Analysis Worksheet* (Attachment 13) can be used for this purpose. In these cases, the DON must consider providing reassignment to a vacant funded position as a form of RA.

If it is determined that the employee cannot be accommodated in their position of record, the Director, EEO (DEEO) or designee, will review the sufficiency of this determination. The review will critically assess the determination (e.g. inability to perform the essential functions, poses an undue hardship or direct threat, etc.) and the documentation produced during the processing of the request. This review must also include a legal sufficiency review by a member of OGC. The RA file must contain the *Documentation of Accommodation Options Considered* (Attachment 14), which documents all alternative accommodations considered in the employee's position of record. If the RA request was not sufficiently processed, the DEEO will send the request back to the servicing RA Coordinator for further processing. The *Sufficiency Review of Reasonable Accommodation Case File* (Attachment 15) provides a sample memorandum for this purpose. The DEEO must complete and document the sufficiency review prior to the initiation of the reassignment process.

Once the sufficiency review is documented, the supervisor will issue the *Offer to be Considered for Reassignment Due to Inability to Accommodate in Position of Record Letter* (Attachment 16) and the *Reassignment Elections* document (Attachment 17). These letters, which must be issued within 45 calendar days of the date of the initial request, advise the employee of the following: the decision that the employee cannot be presently accommodated in their position of record; an overview of the provisions of reassignment as an RA; the option of applying for disability retirement or traditional retirement; and provides an opportunity to identify the parameters of the search for vacant positions if reassignment is elected (e.g. internal search only, DON-wide search within certain locations, occupational preferences, etc.). The employee has seven calendar days from receipt of the letter to provide their reassignment elections and an updated résumé. If the employee declines to be considered for reassignment, the RA request will be denied, and the RA process ends as a result of the employee declination. See *Denial of Reasonable Accommodation Request Letter* (Attachment 10) for a sample denial letter.

STEP 5 – REASSIGNMENT

5-1 Reassignment Requirements

This step of the process is only applicable for current DON employees. Reassignment is the RA of last resort. Before considering reassignment as an RA, the organization must first consider

whether or not there are other accommodations that would enable an employee to remain in their position of record, which would be documented through the *Documentation of Accommodation Options Considered* (Attachment 14). Reassignment should only be considered when the RA file contains documentation that all other accommodation options have been considered and are not effective, or result in undue hardship.

5-2 Reassignment Process

Additional guidance on the reassignment process is provided in Attachments 18-23 of the DON Program Manual for RA.

STEP 6 – POST-ACCOMMODATION DECISION REQUIREMENTS

6-1 Continuation of the Interactive Process

The DON's obligation to provide effective RA is an ongoing process, which may require the continuation of the interactive dialogue after the RA request is approved. This includes the supervisor notifying the employee or applicant of any delays in implementing the approved accommodation, or engaging with the employee no later than 90 calendar days after the accommodation was implemented to ensure that it is effective.

6-2 Reevaluating Approved Accommodations

In instances when an RA that was granted is not effective, or where the employee's limitations or the position's essential functions have changed, the employee and their supervisor should reevaluate the accommodation to determine whether other accommodations would be effective. This may constitute either a revision of the previous RA request, or an entirely new RA request, respectively. See *Reassessment of Approved Reasonable Accommodation Request Letter* (Attachment 24) for a sample letter that documents the outcome of the reevaluation.

The *Resources and Technical Guidance on Reasonable Accommodation and Related Topics* (Attachment 25) lists beneficial resources and EEOC guidance that provide additional information for addressing these situations, as well as the entirety of the processing for reasonable accommodation requests.

STEP 7 – AVENUES OF REDRESS

The following avenues of redress are provided to individuals when their RA request is denied:

7-1 Alternative Dispute Resolution (ADR)

Employees and supervisors are encouraged to consider the use of ADR at any stage of the RA process to resolve conflicts and issues in controversy at the lowest possible level. An employee, whose request for RA has been denied, may request ADR as an avenue of redress at any time, or in accordance with their collective bargaining agreement.

7-2 Relation to Statutory and Collective Bargaining Claims

These procedures do not limit or supplant statutory and collective bargaining protections for individuals with disabilities and the remedies they provide for the denial of requests for RA. Requirements governing the initiation of statutory and collective bargaining claims remain unchanged, including the timeframes for filing such claims. A bargaining unit employee, whose request for RA has been denied, will be advised of their right to file a grievance if this matter is not excluded under the collective bargaining agreement.

7-3 Equal Employment Opportunity (EEO) Complaints

An individual, whose request for RA has been denied, will be advised of their right to pursue the EEO complaint process in accordance with the provisions of 29 Code of Federal Regulations (CFR) Part 1614. The letter will advise the individual of the requirement to initiate contact with an EEO Counselor within 45 calendar days of the date the request was denied, and that utilization of other agency procedures (such as the negotiated grievance procedure or administrative grievance procedure) does not toll the time limit for contacting an EEO Counselor.

7-4 Administrative Grievance Procedures

Employees who are covered under the SECNAVINST 12771.2, Department of the Navy Administrative Grievance System, may file an administrative grievance.