

Desktop Guide for Processing Requests for Reasonable Accommodations

U.S. Marine Corps Manpower and Reserve Affairs

3 JANUARY 2014





PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

Table of Contents

REFERENCES	3
PURPOSE	3
APPLICABILITY AND SCOPE	3
POLICY	3
RESPONSIBILITIES	3
REASONABLE ACCOMMODATION INITIAL REQUEST	8
THE ADVISORY TEAM	10
ASSESSING THE DISABILITY CLAIM	10
DECIDING TO ACCOMMODATE/NOT ACCOMMODATE	12
REASSIGNMENT AS AN ACCOMMODATION	14
CONDUCTING AN ACTIVITY JOB SEARCH	15
THE FINAL ACTION	19
ALTERNATE DISPUTE RESOLUTION (ADR)	19
AVENUES FOR REDRESS	20
RECORDS MAINTENANCE	20
REQUIRED REPORTS	21
ATTACHMENT 1 - CONFIRMATION OF REASONABLE ACCOMMODATION REQUEST FORM	22
ATTACHMENT 2 - ADVISORY TEAM CHECKLIST	24
ATTACHMENT 3 - GUIDANCE FOR THE INTERACTIVE PROCESS BETWEEN THE SUPERVISOR AND EMPLOYEE	26
ATTACHMENT 4 - GUIDANCE FOR REQUESTING MEDICAL DOCUMENTATION	28
ATTACHMENT 5 - SAMPLE LETTER FOR REQUESTING MEDICAL DOCUMENTATION	29
ATTACHMENT 6 - PERMISSION TO RELEASE MEDICAL INFORMATION	32
ATTACHMENT 7 - GUIDANCE FOR DETERMINING THE ESSENTIAL FUNCTIONS OF A POSITION	33
ATTACHMENT 8 – DOCUMENTATION OF ESSENTIAL FUNCTION	35
ATTACHMENT 9 - SAMPLE LETTER APPROVING REQUEST FOR ACCOMMODATION	36
ATTACHMENT 10 - SAMPLE LETTER DENYING REQUEST FOR ACCOMMODATION	37
ATTACHMENT 11 - SAMPLE LETTER DENIAL OF REASONABLE ACCOMMODATION REQUEST, WITH OFFER OF OTHER ASSISTANCE	39
ATTACHMENT 12 - GUIDANCE FOR INTERACTIVE DISCUSSION WITH EMPLOYEE ON OPTIONS AVAILABLE AFTER NON-ACCOMMODATION DETERMINATION	41



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 13 - SAMPLE LETTER OPTION OF REASSIGNMENT AS AN ACCOMMODATION	42
ATTACHMENT 14 - SAMPLE ACCEPTANCE/DECLINATION LETTER FOR OPTION TO BE CONSIDERED FOR REASSIGNMENT	44
ATTACHMENT 15 – SAMPLE DOCUMENTATION OF ACTIVITY JOB SEARCH EFFORTS	46
ATTACHMENT 16 - SAMPLE CERTIFICATION LETTER FROM COMMANDING OFFICER.....	47
ATTACHMENT 17 - SAMPLE LETTER TO OCHR OPERATIONS CENTER TO CONTINUE JOB SEARCH EFFORTS.	48
ATTACHMENT 18- REASONABLE ACCOMMODATION INFORMATION SHEET.....	49
APPENDIX A: DEFINITIONS	52
APPENDIX B: REASONABLE ACCOMMODATION CHART	55
APPENDIX C: REASONABLE ACCOMMODATION RESOURCES.....	56
APPENDIX D: REASONABLE ACCOMMODATION INFORMATION REFERENCES/GUIDES.....	58



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

References

- A. Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791
- B. Americans with Disabilities Act Amendments Act of 2008, Titles I and V
- C. Executive Order 13164 of 26 Jul 00
- D. 29 Code of Federal Regulations § 1630
- E. EEOC Management Directive 715 (MD-715)
- F. DON Civilian Human Resources Manual, Subchapter 1606, Procedures for Processing Request for Reasonable Accommodation

Purpose

The purpose of this document is to establish Marine Corps policy, outline roles and responsibilities and implement the provisions of reference (F).

Applicability and Scope

- These procedures apply to all Marine Corps organizations and covers both civilian and military supervisors of civilian personnel, all appropriated (APF) and non-appropriated (NAF) civilian employees and applicants for employment.

Policy

- Marine Corps policy is to provide reasonable accommodation to employees and applicants with disabilities. The Marine Corps' reasonable accommodation policy is an important aspect of commitment to create employment opportunities for individuals with disabilities in accordance with references (A) to (E).
- Supervisors/Managers are expected to make every effort to provide reasonable accommodation to employees or applicants with disabilities, unless to do so would cause an undue hardship.
- It is Marine Corps policy to reassign a qualified employee with a disability in accordance with reference (F) to a vacant, funded position within the agency if the employee is unable to perform the essential functions of his/her present position with or without accommodation because of a disability and is able to perform the essential functions of the identified position, with or without accommodation. Reassignment is the option of last resort.

Responsibilities

- Commanders of activities comprised of APF and NAF civilian employees serve as EEOOs and shall:



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- Communicate and implement DON and Marine Corps policy for the processing of reasonable accommodation requests.
 - Allocate sufficient resources to staff the reasonable accommodation function within Marine Corps.
 - Ensure that officials responsible for processing reasonable accommodation requests are trained on program requirements, to include relevant legal principles/precedent.
 - Ensure that all reasonable accommodation requests are processed within the applicable timeframe.
 - Certify, after consultation with the Reasonable Accommodation (RA) Point of Contact (POC), Director of Civilian Human Resources (DCHR) and counsel, that the job search process within Marine Corps identified no vacant positions for placement of an employee who could not be accommodated in their position of record.
 - Certify, after consultation with the Command Deputy Equal Employment Opportunity Officer (CDEEEO), DCHR and counsel, that an individual, who is not a current Marine Corps employee, cannot be placed in one or more of Marine Corps vacant positions identified in the job search conducted by the OCHR Operations Center.
- CDEEEO shall:
 - Publicize and implement DON's policy for the processing of reasonable accommodation requests Marine Corps-wide.
 - Serve as the primary advisor to the EEOO on all matters pertaining to processing requests for reasonable accommodations.
 - Provide guidance and assistance on the processing of reasonable accommodation requests to Marine Corps personnel.
 - Ensure that all individuals responsible for the processing of reasonable accommodation requests within USMC are trained on program requirements, to include relevant legal principles/precedents.
 - Ensure that all reasonable accommodation requests are processed in a timely and consistent manner.
 - Serve as a link between Marine Corps and the DON EEO Program Manager to monitor and enforce compliance with reference (F).
 - Review all determinations made to deny a request for reasonable accommodation to ensure compliance with reference (F) and applicable case law.
 - Assist the DCHR and legal counsel in determining whether or not the assessment that a current employee cannot be accommodated in his/her position of record and that the Human Resources Office (HRO) and OCHR Operations Center subsequent job search efforts were thorough, complete, and in compliance with reference (F).
 - Assist the DCHR and legal counsel in reviewing the HRO and OCHR Operations Center job search efforts on behalf of a current employee if no vacancies are identified.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- Assist the DCHR, legal counsel, and OCHR Operations Center in providing advice to the EEO if one or more of the vacancies within Marine Corps are identified as possibilities for reassignment for a current employee of Marine Corps or DON.
 - Review the OCHR Operations Center's job placement determination, in collaboration with the DCHR and legal counsel, if an employee not currently employed within Marine Corps is identified for placement in one or more of Marine Corps' current vacancies.
 - Establish and maintain a tracking and monitoring system for reasonable accommodation requests. Track, monitor, and review all requests for accommodation, job search efforts, and final decisions for consistency and reporting purposes. Submit reports on reasonable accommodation procedures as required by DON.
 - Monitor confidentiality of the process and records and ensure all reasonable accommodation files are retained at local HRO(s).
 - Evaluate the quality and timeliness of USMC reasonable accommodation procedures on an annual basis.
- The DCHR will:
 - Ensure that sufficient resources are allocated to execute a reasonable accommodation process that is timely and efficient.
 - Coordinate with the CDEEO and legal counsel to review Marine Corps-wide assessments that a current employee cannot be accommodated in his/her position of record and HRO and OCHR Operations Center subsequent job search efforts were thorough, complete, and in compliance with reference (F) .
 - Coordinate with the CDEEO and legal counsel to review the HRO and OCHR Operation Center job search efforts on behalf of a current employee if no vacancies are identified.
 - Coordinate with the CDEEO, legal counsel and OCHR Operations Center in providing advice to the EEO if one or more of the vacancies within Marine Corps are identified as possibilities for reassignment for a current employee of Marine Corps or DON.
 - Review the OCHR Operations Center's job placement determination, in collaboration with the CDEEO and legal counsel, if an employee not currently employed within Marine Corps is identified for placement in one or more of the Marine Corps' current vacancies.
 - Legal Counsel shall:
 - Provide legal advice and guidance to the HR/EEO community on reasonable accommodation.
 - Participate as a member of the Advisory Team, as needed.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- Assist the CDEEOO and the DCHR in providing advice and guidance to the EEOO when the activity level job search fails to identify any vacant positions for placement of an employee who cannot be accommodated in his/her position of record.
- Assist the CDEEOO and the DCHR in providing advice and guidance to the EEOO when an individual, who is not a current employee at the activity, cannot be placed in one or more of the activity's vacant positions identified in the job search conducted by the OCHR Operations Center.
- Provide assistance to the Assistant U.S. Attorney assigned to represent the agency on Federal court litigation on failure to accommodate claims.
- The Servicing Deputy EEO Officer (DEEOO) shall:
 - Publicize and implement Marine Corps and DON policy for the processing of reasonable accommodation request at the activity level.
 - Designate a Reasonable Accommodation (RA) POC, who has a sufficient level of training and expertise on reasonable accommodation.
 - Ensure that all individuals responsible for the processing of reasonable accommodation requests at serviced activities are trained on program requirements, to include relevant legal principles/precedents.
 - Ensure that all reasonable accommodation requests are processed in a timely and consistent manner.
 - Utilize the Marine Corps' tracking and monitoring system for reasonable accommodation requests.
 - Provide EEO training to supervisors, to include the procedures for requesting reasonable accommodation.
 - Assist the HRD and command counsel in providing advice and guidance to the Commanding Officer when the activity level job search fails to identify any vacant positions for placement of an employee who cannot be accommodated in his/her position of record.
 - Assist the HRD and command counsel in providing advice and guidance to the Commanding Officer when an individual, how is not a current employee at the activity, cannot be placed in one or more of the activity's vacant positions identified in the job search conducted by the OCHR Operations Center.
 - Submit reports on reasonable accommodation procedures as required by DON and Manpower Headquarters Marine Corps.
 - Monitor confidentiality of the process and records and retain all reasonable accommodation case files for serviced activities.
- The RA POC shall:
 - Coordinate all reasonable accommodation requests.
 - Ensure that all reasonable accommodation requests are processed in accordance with reference (F).



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- Involve appropriate personnel or the Advisory Team who provide recommendations to the supervisor/manager responsible for making the decision on a request for reasonable accommodation.
 - Ensure that the supervisor engages in on-going, informal interactive discussion(s) with the individual seeking an accommodation.
 - Update the appropriate tracking and monitoring system for reasonable accommodation requests.
 - Maintain all reasonable accommodation case files in a secure manner.
 - Safeguard the confidentiality of medical information. Access to this information is limited to a need to know.
- The Advisory Team shall:
 - Include, at a minimum, the RA POC, HR Specialist and the employee's first-level supervisor. As needed, the Advisory Team should consult with technical experts in safety, medical, legal, etc.
 - Process all reasonable accommodation requests in accordance with the procedures outlined in this manual.
 - Safeguard the confidentiality of medical information.
- Human Resources Directors (HRD) shall:
 - Ensure that sufficient resources are allocated to execute a reasonable accommodation process that is timely and efficient.
 - Ensure that all HR Specialists are trained on the reasonable accommodation process and program requirements.
 - Ensure that the EEO Office executes its responsibilities as delineated in this guide.
 - Coordinate the OCHR Operations Center job search process in accordance with the provisions of this guide.
 - Assist the DEEOO and command counsel in providing advice and guidance to the EEOO when the activity level job search fails to identify any vacant positions for placement of an employee who cannot be accommodated in his/her position of record.
 - Assist the DEEOO and command counsel in providing advice and guidance to the EEOO when an individual, who is not a current employee at the activity, cannot be placed in one or more of the activity's vacant positions identified in the job search conducted by the OCHR Operations Center.
- HR Specialists shall:
 - Coordinate all reasonable accommodation requests with the appropriate RA POC.
 - Process all reasonable accommodation requests in accordance with the provisions of this guide.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- Participate as a member of the Advisory Team when requested and appropriate.
- The OCHR Operations Center shall:
 - Conduct the designated job search once the activity determines the employee cannot be placed within their activity.
 - Document the job search efforts.
 - Determine the best-fit for job placement if there are multiple identified vacancies.
- Managers and supervisors shall:
 - Immediately contact their respective HRO or RAPOC and/or HR Specialist upon receipt of a request for reasonable accommodation.
 - Participate as a member of the Advisory Team.
 - Process all reasonable accommodation requests in accordance with the procedures outlined in this guide.
 - Maintain an open line of communication with the employee seeking an accommodation and engage in on-going, informal discussion(s) with the employee during the reasonable accommodation process.
 - Consider the use of ADR techniques at any stage in the reasonable accommodation process to resolve any conflicts at the lowest level.
 - Implement the DON and Marine Corps policy to provide reasonable accommodation to qualified employees and applicants with disabilities.
- Employees and/or applicants for employment shall:
 - Immediately notify their first-level supervisor or RA POC when it is determined that some form of reasonable accommodation is required in order to perform the essential functions(s) of their position of record.
 - Actively participate in the interactive discussion portion of the reasonable accommodation process.
 - Provide medical documentation, if requested, as part of the reasonable accommodation process.

Reasonable Accommodation Initial Request

- Who Can Submit a Request for Reasonable Accommodation
 - An employee or an applicant for employment.
 - A family member, friend, health professional, or other representative may request RA on behalf of an individual with a disability.
 - The request can be made verbally, but the request must be documented, in writing, signed, and dated (**ATTACHMENT 1**).



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- If the initial RA request is made to an individual who is not a member of the Advisory Team, he/she must provide the request to the Advisory Team within two (2) working days, and the Advisory Team should begin processing the RA request immediately.
- Identify the Request for Reasonable Accommodation
 - A request can be made in “plain English”. The Americans with Disabilities Act, Rehabilitation Act, or the phrase “reasonable accommodation” do not have to be referenced in order for a request to be considered a request for RA.
 - An RA request must always relate a request for an adjustment or change at work to a reason related to a medical condition.
 - EXAMPLE 1. “I’m having trouble getting to work at my scheduled starting time because of medical treatments I’m undergoing.”
 - EXAMPLE 2. “I need six weeks off to get treatment for a back problem.”
- Confidentiality of Information Regarding Requests for and Provision of Reasonable Accommodation. Do not disclose that an employee is receiving RA because it usually amounts to a disclosure that the individual has a disability.
- Applicants for Employment
 - Participation in the application process. RA must be provided to a qualified applicant with a disability that will enable the individual to have an equal opportunity to participate in the application process and to be considered for a position.
 - Hiring process. Tell all applicants for employment what the hiring process involves, e.g., interview, timed written test, or job demonstration; ask all applicants whether they will need a RA for this process; and explain the RA procedures.
- Expedite Processing if Necessary
 - Processing requests for accommodation. All requests for RA shall be processed within 30 calendar days of receipt of request.
 - Special circumstances for expedited processing. Special circumstances may influence the timing of the RA process. The expedited processing of a RA request may be appropriate in the following situations:
 - Special circumstances for expedited processing.
 - The RA is needed to enable a person to apply for a job; or
 - The RA is needed for a specific activity that is scheduled to occur shortly.
 - The Advisory Team has 30 calendar days to process a request. If unable to process the request in 30 calendar days, the supervisor must document and communicate in writing to the requester reason for the delay.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

The Advisory Team

- Team Members. The RA Advisory Team will process all requests. The team consists of the RA POC, HR Specialist, and first-level Supervisor. The RA POCs are located at each EEO Office. The RA POC is responsible for processing requests for his/her respective serviced activities. The RA POC is further responsible for facilitating the processing of all RA requests and providing the expertise on the reasonable accommodation process and ensuring each request is processed in a consistent, timely manner. The HR Specialist provides the HR expertise, and the 1st line Supervisor is best able to identify and define the essential functions of a position and is the decision maker. Contact information for the RA Advisory Team is as follows:
 - Employee's first-level supervisor.
 - RA POC.
 - (a) HQMC EEO Office, (571) 256-8301.
 - (b) MCI East EEO Office, (910) 451-5272.
 - (c) MCAS Cherry Point EEO Office, (252) 466-2218.
 - (d) MCI West EEO Office, (760) 725-4301.
 - (e) MCLB Albany EEO Office, (229) 639-5225.
 - (f) MCRD Parris Island EEO Office, (843) 228-2647.
 - (g) MCIPAC EEO Office, (315) 645-5423.
- Coordination of Efforts. [ATTACHMENT 2](#) is a Checklist to assist the RA Advisory Team when processing RA requests. RA Advisory Team members should meet:
 - Immediately upon receipt of request.
 - As frequently as needed in order to process request.

Assessing the Disability Claim

- Hold Interactive Discussions. Hold interactive discussions immediately and throughout the entire process as needed to assist in making the determination whether the employee is a qualified individual with a disability and to determine if medical documentation is necessary ([ATTACHMENT 3](#)).
- Determine if the employee has a disability.
 - Does the employee have a physical or mental impairment that substantially limits one or more of his/her major life activities?
 - Physical Impairment. Any physiological condition or disorder, cosmetic disfigurement, anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- Mental Impairment. Any mental or psychological disorder such as, intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- Major Life Activity. Illustrative, non-exhaustive list of major life activities include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, speaking, standing, lifting, bending, communicating, thinking, learning, breathing, sitting, reaching, interacting with others, reading, concentrating, working. Major life activities also include the operation of major bodily functions, such as functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, respiratory, circulatory and cardiovascular functions.
- 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.
- Determine if the Individual is a Qualified Individual with a Disability. A “qualified individual with a disability” is an individual with a disability who, with or without an accommodation can:
 - Perform the essential functions of the position in question.
 - Meet the requisite skill, experience, education and other job-related requirements of the position in question.
 - Meet the criteria for appointment under one of the special appointing authorities for individuals with disabilities.
- Request Medical Documentation. Medical documentation may be required to assist in determining whether or not a person is a qualified person with a disability. If appropriate and with the employee’s consent, an examination by a medical specialist of the activity’s choosing and expense may also be required ([ATTACHMENTS 4, 5, and 6](#)).
- Determine if Employee Can Perform Essential Functions of the Positions.
 - Can the employee perform the essential functions of the position, with or without an accommodation?
 - The essential functions of a position are those functions that define the job. The job exists to perform those tasks. ([USE ATTACHMENTS 7 AND 8](#)).
 - 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.
 - In some cases, an accommodation may involve restructuring a job or altering the non-essential requirements of a particular position. Job restructuring includes modifications such as:
 - (a) Reallocating or redistributing marginal job functions that an employee is unable to perform because of a disability; and
 - (b) Altering when and/or how a function, essential or marginal, is performed.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

NOTE: Remember that 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, unless doing so would impose an undue hardship on the operation of its programs and/or poses a direct threat to the employee or others.

- Perform an Individualized Assessment of the Disability
 - To determine whether the individual has a disability, an individualized assessment must be made.
 - Decisions cannot be made based upon personal knowledge of, or experience with, a particular condition or generalizations based upon stereotypes or myths.
 - Decisions made about RA, are very fact-specific and individualized. There is one condition which does not necessitate this individualized assessment, AIDS or HIV positive. This condition is considered disabling even if there are no symptoms.
- Perform a Disability Analysis
 - Once all relevant information has been obtained from the employee, the RA Advisory Team must conduct an analysis to determine whether the employee meets the definition of a qualified individual with a disability.
 - The analysis and decision must be documented in writing by the RA POC and filed for the record in the case file.

Deciding to Accommodate/Not Accommodate

- Decisions to Grant an Accommodation.
 - If the Advisory Team 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. (**USE ATTACHMENT 9**).
 - Hold an interactive discussion with the job applicant or employee – they can advise the supervisor what he/she thinks is needed to enable them to perform the job.
 - Consult with other management officials, safety and/or medical personnel, to determine whether the employee's proposed accommodation is feasible and/or whether other accommodations can be made.
- Undue Hardship. The following are factors which must be considered before making a determination that a particular accommodation would constitute an undue hardship.
 - Expense. 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.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- Impact on Operations. The Advisory Team 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 at the activity, and the geographic location separateness.
- Violation of Seniority Provisions of a Collective Bargaining Agreement.
- Failure to Eliminate or Reduce the Direct Threat of Harm. Failure to eliminate or reduce the direct threat of harm. The danger posed by the employee must be connected to the disability itself, medication taken for the disability, or an assistive device used for the disability.
- Reasonable Accommodation Options.
 - Personal Items. The activity is not required to provide personal use items, i.e., glasses, hearing aids, wheelchairs.
 - Select the accommodation that is the most appropriate for both management and the individual. It does not need to 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.
 - A listing of all reasonable alternatives for accommodating the employee in his/her position should be compiled and documented with supporting documentation, if appropriate. Include a copy of this listing in the RA case file.
 - 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 RA.

NOTE: The individual's supervisor is responsible for making the ultimate decision on what accommodation will be adopted.

- Employee is Determined Not to Be an Individual with a Disability. The following are options:
 - The supervisor will provide employee with a letter denying request for RA ([ATTACHMENT 10](#)).
 - The supervisor will provide employee with a letter denying RA with an offer of other assistance ([ATTACHMENT 11](#)). 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. Maintain consistency with similar requests to avoid disparate treatment claims and precedent-setting situations.
 - Discuss disability retirement. If no other options, including reassignment, are available, the employee may be removed for inability to perform the essential functions of his/her current position.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- Forward the written summary of the case detailing the information considered, analysis performed, and the reasons for denying the request for accommodation to the CDEEOO for review and tracking purposes within 14 calendar days.
- The closed case file will be maintained by the office responsible for processing the request.
- If Employee Cannot Be Accommodated In His/Her Current Position.
 - Notify the employee in writing, and the interactive process continues ([ATTACHMENT 12](#)).
 - Reassign employee to a vacant position within the activity or DON. This option is only available for current DON employees ([ATTACHMENT 13](#)).
 - Remove the employee for inability to perform the essential functions of the employee's current position if the employee declines an offer of reassignment ([ATTACHMENT 14](#)).
 - Provide employee with an application for disability retirement..

Reassignment As An Accommodation

- Check Out All Options First. Before considering reassignment as an RA, the activity must first consider those accommodations that would enable an employee to remain in his/her current position.
- Reassignment as a Last Resort. Reassignment is the RA of last resort and is required only after it has been determined that:
 - There are no effective accommodations that will enable the employee to perform the essential functions of his/her current position, or
 - All other accommodations would impose an undue hardship or pose a threat to the employee's or others' safety.
- Eligibility For Reassignment.
 - Current DON employees.
 - Employees who are 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.
 - Employees **do not** have to be the best qualified employee for the vacant position, they only have to be qualified.
 - Employees 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.
 - There is no requirement to create a new position to accommodate an employee.
 - Employees may **not** receive a promotion as a result of the RA process.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- 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.
- Applicants For Employment. Applicants for employment 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 sought with or without accommodation.

Conducting An Activity Job Search

- Activity Job Search Process.
 - Upon notification that the employee has decided he/she wants 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.
- Qualifications Determination.
 - The servicing HRO will identify the series and appropriate grade level(s) of positions that the employee is qualified to perform.
 - If the employee has identified his/her position preferences for placement, he/she will be considered for placement into those specific positions, if qualified, before any other vacant positions are considered.
 - (a) 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.
 - (b) The scope of the job search will be limited to the geographic area(s) identified by the employee.
- 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.
 - 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 ([USE ATTACHMENT 15](#)).
 - The employee will be considered only for those vacancies for which he/she is qualified.
- Placement.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- 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 an accommodation. If an accommodation is required, the Advisory Team and the gaining supervisor will make this determination.
 - If a match is found, the employee is reassigned, **without** competition, into the vacant position.
 - The 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 his/her current position.
 - The reassignment action should be documented and filed in the RA case file.
 - The closed case file will be maintained by the office responsible for the processing of the request.
- No Vacant Positions At The Activity.
 - If no positions were identified in the review of internal vacancies, the first level supervisor and the HRO must document the process utilized at the activity level (**ATTACHMENT 15**).
 - The EEO Officer will certify that there were no current vacant positions (or anticipated vacancies) at the activity for placement of the employee (**ATTACHMENT 16**).
 - The EEO Officer's certification and the case file will be reviewed by the DCHR and the legal counsel to validate that the assessment of the claim and the job search efforts were thorough and complete.
 - To facilitate the review, a written summary of the disability assessment and job search efforts should be provided by the Advisory Team.
 - As part of the continuing interactive discussions with the employee, he/she should be advised that the activity's job placement efforts were not successful and that the job search will proceed to the next stage, within the parameters identified by the employee.
 - HRO and/or OCHR Operation Center will continue to review any new vacancies for potential placement of the employee even after the expanded job search has been initiated.
 - OCHR Operations Center Job Search Process. If the employee has indicated his/her willingness to be reassigned to another activity and after the major claimant has concurred with the activity's disability assessment and job search efforts, the servicing HRO will request the OCHR Operations Center assist in the placement of the employee.
 - Information Provided To The OCHR Operations Center. Only the necessary information in the RA case file that will enable the OCHR Operations Center to continue the job search process will be provided, i.e., description of the employee's limitations, documentation of HRO's job search efforts, a copy of the letter from the EEO Officer certifying that the



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

employee could not be placed ([ATTACHMENT 17](#)).

- Vacant Position At The Activity 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.
- OCHR Operation Center Responsibilities.
 - The OCHR Operations Center will verify the series and grades, for which the employee is qualified, validate the HRO's job search actions, and execute their job search responsibilities under the RA procedures process in accordance with Appendix K of the DON Business Process Guide for USA Staffing.
 - All OCHR Operations Centers will conduct their job search efforts in accordance with Appendix K of the DON Business Process Guide for USA Staffing. Their job search efforts will continue for a period of 60 calendar days from the date notification for reassignment as an accommodation was received, or less, if the employee is placed before the expiration of this time period.
- No Vacant Positions Identified.
 - If no vacancies are identified during the 60 calendar days, the OCHR Operations Center will document the job search efforts and results.
 - Forward the documentation to HRO with a copy to the DCHR within 5 calendar days after the expiration of the 60 day time period.
 - File a copy of this documentation in the RA case file.
 - Notify the employee 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 10](#)).
 - The Advisory Team will forward a written summary of the case addressing all the steps, to include the employee's final employment action, to the CDEEOO for review and tracking purposes.
 - The closed case file will be maintained by the office responsible for the processing of the request.
- Vacant Position Identified.
 - Placement.
 - (a) If a vacant position is identified for which the employee is qualified, the activity HRO, depending on where the request originated, will contact the gaining activity HRO, or in the case of an expanded job search, the OCHR Operations Center will contact the gaining Major Command HRO and relevant DCHR to advise them of the pending referral for reassignment as an accommodation.
 - (b) If several appropriate vacant positions are identified, a decision on the best placement for the employee will be made and properly documented.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- (c) An interactive discussion with the employee to discuss his/her placement options may be useful in determining the best placement for the employee.
 - (d) Once a placement decision has been made, the OCHR Operations Center will prepare a Priority Consideration Certificate and forward it and relevant information provided by the losing OCHR Operations Center or OCHR HQ on the employee's accommodation needs to the DONAA HRD or relevant activity HRO ([ATTACHMENT 18](#)).
 - (e) The OCHR Operations Center 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.
 - (f) Medical documentation will **not** be provided to the gaining activity during the placement determination process.
 - (g) The RA POC at the gaining activity should be used as a resource to advise and educate the gaining supervisor on his/her responsibilities for RA.
 - (h) 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.
 - (i) In accordance with established business processes, the OCHR Operations Center or gaining HRO will make a written job offer to the employee.
 - (j) Documentation of all the actions leading up to and including the employee's placement will be prepared by the OCHR Operations Center and gaining HRO.
 - (k) The complete RA case file will be forwarded to the gaining activity's servicing EEO Office for retention.
 - (l) 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.
- Declination of a Job Placement Offer.
 - If the employee declines the job placement offer, his/her servicing HRO will be notified of the decision.
 - The supervisor will issue the employee a letter denying his/her request for RA based on his/her decision to decline the offer of reassignment ([ATTACHMENT 10](#)).
 - Determination That 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 that they cannot accommodate the employee and there are no other vacancies at the gaining activity, the HRO will document, in writing, the specific reasons for non-placement.
 - The gaining activity's EEO Officer must sign this document and certify that the employee cannot be placed into the vacant position(s).



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- 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.
- A copy of the analysis and the EEO Officer's certification will be provided to the OCHR Operations Center and the employee's HRO.
- 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.
 - The job search should be completed within 30-60 calendar days to avoid unnecessary delay in providing the employee with RA.
 - If the OCHR Operations Center job search efforts are not successful, it will document its actions and return the job search package to the activity HRO.

The Final Action

- If the employee is not placed, despite the agency's best efforts, the supervisor will issue the employee a letter denying his/her request for an accommodation because no vacant positions for which he/she is qualified were identified ([ATTACHMENT 10](#)).
- The office responsible for the processing of the request is responsible for maintaining the complete case file.
- A summary of the actions, disability analysis and decisions will be forwarded to the CDEEOO for review.

Alternate Dispute Resolution (ADR)

- What Is ADR? ADR is any procedure used in lieu of a formal process or litigation to resolve conflicts.
- When Can ADR Be Used? Encourage the use of ADR during any stage in the RA process if a conflict arises, from the initial request to the job search process and beyond.
- In What Type Of Situations Is ADR Appropriate? ADR is appropriate for all kinds of workplace disputes. It is not limited to EEO issues.
- What Method Of ADR Is Used? Mediation is the ADR method of choice for DON.
- How Is The ADR Process Initiated? The employee, supervisor and/or member of the Advisory Team may initiate the ADR process by contacting the activity's ADR Convener.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- What Happens Once The Convener Is Contacted? The ADR Convener will obtain a Mediator and schedule a Mediation date.

Avenues For Redress

- Alternate Dispute Resolution (ADR).
 - ADR may be used when a request for RA has been denied.
 - Employee has 14 calendar days from receipt of denial letter to request ADR.
 - ADR requests will be processed in accordance with OCHR's standard procedures for ADR.
 - If employee elects another avenue for redress, the parties are not precluded from utilizing ADR in that forum.
- Reconsideration Process.
 - Employee has 14 calendar days from receipt of denial letter to request reconsideration.
 - Employee may also request reconsideration within 14 days from conclusion of ADR if the issue was not resolved.
 - The activity decides the appropriate level of management as the deciding official.
 - The deciding official will issue a decision on the request within 21 calendar days. The decision must be in writing, specifying the reason for the decision.
- Discrimination Complaint.
 - Employee may file an EEO complaint within 45 days of the date the request was denied.
 - Denial letter should provide information on how to contact an EEO Counselor.
 - Employee may initiate an EEO complaint and a request for reconsideration at the same time, but each action must be filed within the applicable timeframes.

NOTE: If an employee's request for accommodation is denied, it is management's responsibility to advise employee of all applicable avenues of redress.

Records Maintenance

- What Are The Contents Of The Reasonable Accommodation Case File?
 - All applicable attachments and all other written documentation gathered during the RA process must be included in the RA case file.
 - Any medical information must be kept confidential and separate from the individual's official personnel folder.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- (a) Supervisors and managers who have a “need to know” may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodations.
 - (b) First aid and safety personnel may be told if the disability may require emergency treatment.
 - (c) Worker’s compensation offices or insurance carriers may require some medical information.
 - (d) EEO officials may be given the information to report on the activity’s performance in processing RA requests.
- Who Maintains The RA Case File? The servicing EEO Office is responsible for maintaining the RA case file.
 - How Long Must The Records Be Retained? Records must be retained for the duration of the individual’s employment.
 - When Will The Records Be Disposed Of? Records maintained in this system will be retained and disposed of in accordance with the provisions in the OPN Government-wide Systems of Records, 65 FR 27432.

Required Reports

- The following must be reported to the EEOO, CDEEOO, and DCHR by the RA POC:
 - Denial of Reasonable Accommodation Requests and all applicable documentation must be provided within 14 calendar days.
 - Certification by the Commanding Officer that no current vacant positions were found available during the job search process and all applicable documentation.
 - Denial letter, final employment action, and all applicable documentation if no vacant positions are identified by the OCHR Operations Center during the job search process.
- EEOC Agency Self-Assessment Checklist (Management Directive 715, Part G) must be completed on an annual basis, which asks specific questions regarding the status/success of Model Title VII and Rehabilitation Act Programs.
- Executive Order 13164 tracking requirements require that agencies track the processing of requests for RA and maintain the confidentiality of medical information received.
- All commands should keep any cumulative records used to track its performance with regard to RA for at least 3 years.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

Attachment I

CHAPTER 1 Confirmation of Reasonable Accommodation Request Form			
Name		Date	
	Section 1.05		
		Section 1.04	
Section 1.03 Work Phone		Check One: Employee <input type="checkbox"/> Applicant <input type="checkbox"/>	
Section 1.02 Supervisor's Name		Section 1.01 Supervisor's Phone	
<p><u>Describe the nature of your medical condition and your limitations (including whether the condition and/or limitations are permanent or temporary):</u></p>			
<p><u>Describe any impact of your present limitations on the performance of your duties:</u></p>			



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

Describe any accommodation you believe would assist you in the performance of your duties:

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.

I certify that the statements and information contained in this document and any attachments are true and complete to the best of my knowledge. I hereby give permission to release any information contained in this request to authorized officials with a need to know.

Requestor's Signature

Date

The signature below acknowledges receipt of this request for accommodation and attachments if any.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 2

Name: _____

RA _____

FOR EEO OFFICE USE

ADVISORY TEAM CHECKLIST

Reference: CHRM 1606 Procedures for Processing Requests for Reasonable Accommodation

NOTE: All requests must be processed within 30 calendar days or reason must be documented in Case File.

1. Received a documented or verbal RA request. If verbal, the request must be documented on the "Reasonable Accommodation Request Form" **Attachment 1**. Forwarded request to RA POC on next working day.

Date Received: _____

Date Forwarded to RA POC: _____

2. Upon receipt of RA request RA POC assembles members of Advisory Team and schedules a meeting within 2 business day. Advisory Team consists of 1st line supervisor, HR Specialist, and RA POC.
3. Advisory Team 1st meeting is to review request to determine what additional documentation is needed to make a determination if an employee/applicant has a disability. Supervisor then uses this information to engage employee in an interactive discussion (**Attachment 3**). Supervisor presents employee with letters requesting medical documentation as necessary to make determination (**Attachment 4, 5, and 6**). Letter indicates employee has 15 calendar days to respond to request for medical documentation. **Note: the time line for processing requests for reasonable accommodation is placed in abeyance during the time it takes to request and receive medical documentation.** All copies of documentation given to and received from employee are provided to RA POC for inclusion in Case File.
4. Within 1 working day of receipt of requested documentation, RA POC assembles Advisory Team for 2nd meeting to review medical documentation to determine if in fact employee has a disability (**a physical or mental impairment that substantially limits a major life activity**). **NOTE:** If necessary, consult with medical professionals.
- Yes employee/applicant has a disability. Go to next step.
- No employee/applicant does not have a disability. Stop! Seek legal review. Go to step 6.
5. Supervisor, with the help of the Advisory Team, determines the essential functions of the position in question and whether or not the employee can perform the essential functions with or without an accommodation. (**Attachments 7 and 8**). Upon completion, supervisor assembles Advisory Team and schedules meeting for next business day (3rd meeting).
6. Advisory Team determines if employee/applicant is a "qualified" person with a disability.
- Yes employee/applicant has a disability. Explore possible accommodations, i.e., assistive software/devices, modified furniture, location of desk, job restructuring, telework, etc. Refer to **Attachment 9**.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 3 - GUIDANCE FOR THE INTERACTIVE PROCESS BETWEEN THE SUPERVISOR AND EMPLOYEE

Information obtained during interactive discussions will assist the Advisory Team 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.

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 Advisory Team may determine that some other agency official should engage in the interactive process with the employee.)

1. 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 impairment in some detail, if it is not otherwise obvious (i.e., the individual is blind or deaf or uses a wheelchair etc.)

2. Does the impairment substantially limit a major life activity?

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 his or her performance of that activity as compared to the average person's performance of the activity.

Major life activities include such obvious characteristics as hearing, seeing, walking, speaking, breathing, caring for oneself, major bodily functions, performing manual tasks, and working. Major life activities do not include activities such as swimming, shopping, or enduring physical stress. It is important to note that where individuals claim that they are limited in the major life activity of working, they must show that they are significantly restricted in their ability to perform a broad range of jobs in various classes, as compared to most people in the general population 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 individuals' impairment substantially limits a major life activity, the person should be asked to describe the limitation(s) in some detail. If the individual establishes he/she has 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 under the Rehabilitation Act. If they are unable to establish that they have a disability, there is no obligation under the Rehabilitation Act to provide an accommodation. However, you may have to consider other programs that may require accommodation such as the Federal Employees' Compensation Act or USERRA.

3. Is the person "qualified?"



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

If the individual establishes that he/she has a disability, it must then be determined whether he/she:

(1) satisfies 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 reasonable accommodation or without a reasonable accommodation. 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? Remember that in making a determination as to whether or not the individual is “qualified”, he/she 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.)

4. What accommodation has the employee requested?

Determine from the employee or applicant what he/she thinks is needed to enable them to perform the job. You will need to consult with Human Resources, safety and/or medical personnel, as appropriate, to determine whether the employee’s proposed RA is feasible and whether other RAs 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 RA need not be the best or most expensive or even the one preferred by the individual. The RA must, however, be reasonable and enable the individual to perform the essential functions of his or her position. The employer makes the ultimate decision.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 4 - GUIDANCE FOR REQUESTING MEDICAL DOCUMENTATION

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 reasonable accommodation, or to clarify how the requested accommodation will assist the employee to perform the essential functions of the job.

The Advisory Team must consider medical information that the employee's physician(s) may provide to determine job-related limitations and how they could be overcome.

Other important sources of information that will assist the Advisory Team in determining the employee's abilities and limitations include: past medical records, current medical examinations, and work history. The following information must be provided, in writing, by the employee's first level supervisor to the employee's health professional to assist him/her in providing the required medical documentation:

Description of the nature of the job.

Description of the essential functions the job.

Any other information that is relevant to evaluating the request for accommodation.

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 reasonable accommodation requested, supplemental medical information may be required including if appropriate, examination by a medical specialist of the activity's choosing and expense.

Medical information obtained in connection with the reasonable accommodation 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 Rehabilitation Act for which DON may be liable for damages. Supervisors and managers who have a need to know the information 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.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 5 - SAMPLE LETTER FOR REQUESTING MEDICAL DOCUMENTATION

MEMORANDUM

From: (Supervisor)

To: (Employee)

Subj: REQUEST FOR CURRENT MEDICAL DOCUMENTATION

Ref: (a) Rehabilitation Act of 1973, as amended

(b) Americans with Disabilities Act Amendments Act (ADAAA) of 2008

(c) DON CHRM Subchapter 1606

Encl: (1) Position Description

(2) Permission to Release Medical Documentation

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*, in the *organizational title*. This information will assist me in determining the agency's obligation to provide you reasonable accommodation in accordance with references (A) through (C) and to assist me in making informed decisions regarding your employment status.

2. *Paragraph 2 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 2 weeks." On (date) you submitted a letter from your doctor, Dr. _____ dated _____. In her/his letter, Dr. _____ states that you are suffering from high blood pressure and degenerative joint disease. She/he recommends that "the following action 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, step or ladder climbing and walking or climbing in sand or uneven surfaces should absolutely be avoided. (c) Carrying of heavy equipment should be limited or avoided." Dr. _____ 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 his knees."*

3. "Reasonable Accommodation" 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 usable 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 reasonable accommodation to employees and applicants



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

that meet the criteria of a qualified employee with a disability as outlined in references (A) through (C) unless the agency can show that the accommodation that has been requested would be overly burdensome to the agency. It should be noted that an entitlement to 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" under the ADAAA. The ADAAA 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). Furthermore, 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 accommodation. Employees who do not meet the definition of a "qualified individual with a disability" under the ADA do not have a specific entitlement to accommodation.

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 on the following. I am also providing a copy of this letter to *Dr. _____* so *she/he* will be aware of the information that is needed.

- 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(s) limits your ability to perform an activity or activities;
- 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 *his/her* medical expertise and knowledge of your position from the information provided, an assessment of your ability to successfully perform the essential elements (see below) of your position, with or without accommodation;
- g. If an accommodation is required, the particular accommodation requested, with explanations as to how the accommodation will assist you in performing the essential functions of your position.

7. The Health Insurance Portability and Accountability Act of 1996 (HIPAA), which became effective 14 April 2003, imposes new requirements on medical providers, employers, health plans and plan administrators to ensure that your individual medical and health information is kept



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

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, it is requested you complete enclosure (2) and fax it to me at _____.

8. The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you do not provide any genetic information when responding to this request for medical information. 'Genetic information' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or embryo lawfully held by an individual or family member receiving assistive reproductive services.

9. 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 *job title* in the *department, division branch or section*, the essential functions of your position require you to *insert physical requirements of the position i.e., travel, climbing, lifting etc*. A summary of the essential functions of your position is as follows:

- a. *Insert essential functions*
- b.
- c.

The physical demands of your position are summarized in your position description, enclosure (1). 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*.

10. It is imperative that the Agency receive a response to this request for information to assess and address your entitlement to reasonable accommodation. **Please forward this information to (identify POC) by (date)** at the following address:

COMMANDER
Insert activity's address

11. If you have any questions or concerns, please contact _____, Human Resources Department, at _____.

Supervisor's signature

Copy to:
Dr. _____



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 6 - 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 reasonable accommodation.

Signature: _____ Date: _____



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 7 - GUIDANCE FOR DETERMINING THE ESSENTIAL FUNCTIONS OF A POSITION

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

- The function may be essential because the position exists to perform that function.
- The function may be essential because of the limited number of employees available to whom the performance of the job function can be distributed.
- The function may be highly specialized so that the incumbent in the position is hired for his/her expertise or ability to perform the particular function.

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 and to transport equipment weighing up to 50 pounds each. Evidence of whether a particular function is essential includes, but is not limited to, the following:

- The employer's judgment regarding a determination as to which functions are essential.
- Written job descriptions.
- The amount of time spent performing the function.
- The consequences of not requiring the incumbent to perform the function.
- The terms of a collective bargaining agreement.
- The work experience of past incumbents in the job.
- The current work experience of incumbents in a similar job.
- Actual duties performed by a person holding the job.

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 Base.

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



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

particular job at your facility. Involve the employee by asking questions such as:

1. 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?
2. 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?
3. 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?
4. 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?

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.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 8 – DOCUMENTATION OF ESSENTIAL FUNCTION

Documentation of Essential Functions	
Name of Employee:	Title, series, grade of position:
Activity and Organizational Code:	
To be completed by the supervisor	To be completed by a health care professional
Please identify the essential functions of the position in the space below. Please include any requirements needed to perform (e.g. physical requirements) the essential function.	Please document any restrictions or limitations that may impact the employee's ability to perform the essential function in the right column. Also include any reasonable accommodations that may allow the individual to perform the essential functions.
Essential function #1	
Essential function #2	
Essential function #3	
Essential function #4	
Essential function #5	
Supervisors signature Date	Health care provider signature Date

More rows may be added to document additional essential functions.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 9 - SAMPLE LETTER APPROVING REQUEST FOR ACCOMMODATION

From:

To:

Subj: APPROVAL OF REQUEST FOR ACCOMMODATION

1. On (date), you made an oral or written request for accommodation. You identified your disability as _____, your limitation(s) as _____, and requested the following accommodation(s) _____.

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 date of expected receipt.

- a.
- b.
- c.

OR

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. You are advised that it has been determined that an alternative form of accommodation will allow you to effectively perform the essential functions of your position. Therefore, the following is a list of the equipment that will be provided to you and the date of expected receipt.

- a.
- b.
- c.

3. If you have any questions or concerns regarding this please do not hesitate to contact me at _____.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 10 - SAMPLE LETTER DENYING REQUEST FOR ACCOMMODATION

MEMORANDUM

From:

To:

Subj: DENIAL OF REQUEST FOR ACCOMMODATION

1. On (date) , you submitted a request for reasonable accommodation. You identified your disability as , your limitation(s) as , and requested the following as an accommodation(s) .

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 reasonable accommodation is denied. The basis for this decision is that **(select one of the following)**:

- you do not meet the definition of an individual with a disability.
- you did not provide the requested medical documentation necessary to make an informed determination.
- there is no accommodation we can provide that will enable you to perform the essential functions of your job or any other available position.
- you declined the offer of a reassignment as a form of accommodation.

This decision is based on the following information. **Be specific and provide as much detail as necessary to justify the decision, e.g., why the accommodation would not be effective or why it would result in undue hardship.**

3. You have the right to:

- Invoke the Alternative Dispute Resolution (ADR) process;
- Submit a request for reconsideration; or
- File a grievance under the negotiated procedure; or
- File a discrimination complaint.

To invoke the ADR process, you must submit a written request to **(provide point of contact information)** within 14 calendar days of your receipt of this initial denial.

a. 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 **(provide name and contact 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.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

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 29 CFR 1614. To initiate an EEO complaint, you must contact (provide contact 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 Code of Federal Regulations 1614.301 states that 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 or 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. The sample, generic appeal language provided above should be modified, as appropriate, at the activity level.

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.

4. If you are eligible, you also have the option of applying for disability retirement. For further information regarding this option, please contact _____. 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.

5. If you have any questions on the above, please contact (provide contact information).



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 11 - SAMPLE LETTER DENIAL OF REASONABLE ACCOMMODATION REQUEST, WITH OFFER OF OTHER ASSISTANCE

From:

To:

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

1. On (date), you submitted a request for accommodation. You identified your disability as _____, your limitation(s) as _____, and requested the following accommodation(s) _____.

2. This is to notify you that, after assessing all of the information that you have provided, as well as using the resources available to me, I have made the determination that we are unable to accommodate you in your current position due to the following reasons: **Be specific and provide as much detail as necessary to justify the decision, e.g., why the accommodation would not be effective or why it would result in undue hardship.**

Select one of the following:

- You do not meet the definition of a qualified individual with a disability.
- You did not provide the requested medical documentation to make an informed determination.

3. Although your request for reasonable accommodation 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 any of the above forms of assistance, please contact your Reasonable Accommodation (RA) POC within 14 calendar days of the date of your receipt of this correspondence. If you fail to contact the RA 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; or
- File a grievance under the negotiated grievance procedure.
- File a discrimination complaint.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

To invoke the ADR process, you must submit a written request and it must be received by _____ within 14 calendar days of your receipt of this initial denial. **Provide point of contact information for ADR process.**

a. If the ADR process is used but resolution is not reached, you may request reconsideration of this initial denial. If you choose to request reconsideration, you must submit a written request for reconsideration to **(identify contact information for reconsideration 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.**

b. You may elect to file a negotiated grievance, in accordance with **provide applicable collective bargaining agreement information to include appropriate timeframes(for bargaining unit members).**

c. You also have the right to initiate an Equal Employment Opportunity (EEO) complaint pursuant to 29 C. F. R. 1614. To initiate an EEO complaint, you must contact **(provide EEO Counselor contact information)** within 45 calendar days from your receipt of this notification of the initial denial.

NOTE: 29 Code of Federal Regulations 1614.301 states that 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 or 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. The sample, generic appeal language provided above should be modified, as appropriate, at the activity level.

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 this initial decision.

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

5. 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.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 12 - GUIDANCE FOR INTERACTIVE DISCUSSION WITH EMPLOYEE ON OPTIONS AVAILABLE AFTER NON-ACCOMMODATION DETERMINATION

When the employee is issued the letter notifying him/her that he/she cannot be accommodated in their current position, an interactive dialogue must take place between the employee and supervisor to document the employee's understanding of the following information. The results of the dialogue must be documented in writing and should be signed/acknowledged by the employee. Advise the employee of his/her options for:

- reassignment,
- disability retirement, or
- removal for inability to perform

The employee must be asked the following questions with respect to the option of reassignment:

- If no positions within the activity are found, is he/she willing to accept a reassignment at **another activity within the major command and/or geographic area in the commuting area?**
Yes _____ No _____
- If no positions with the major command in the commuting area are found, is he/she willing to accept a position with **another major command and/or geographic area in the commuting area?**
Yes _____ No _____
- If no positions with other major commands in the commuting area are found, is he/she willing to accept a position within the **major command Navy-wide?**
Yes _____ No _____
- If no positions with the major command Navy-wide are found, is he/she willing to accept a position in **another major command Navy-wide?**
Yes _____ No _____

The employee must be advised that if the option of reassignment is selected:

- relocation costs may be at his/her expense
- an up-to-date resume is critical for this process
- he/she is responsible for submitting an up-to-date resume
- qualifications for vacant positions will be determined based on their current series and grade if an up-to-date resume is not submitted
- may result in a voluntary change-to-lower grade, with pay retention
- he/she understands that he/she will be referred only to those geographical areas for which they have indicated a preference
- he/she may provide his/her job preferences, if any.

(NOTE: The employee should be advised that identification of job preferences does not guarantee their availability for placement purposes.)



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 13 - SAMPLE LETTER OPTION OF REASSIGNMENT AS AN ACCOMMODATION

MEMORANDUM

From:

To:

Subj: OPTION OF A REASSIGNMENT OUTSIDE THE ACTIVITY
(IDENTIFY ACTIVITY) AS AN ACCOMMODATION

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

1. On (date) , you submitted a request for reasonable accommodation. You identified your disability as _____, your limitation(s) as _____, and requested the following as an accommodation(s) _____.

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 *(identify activity)*. This decision is based on the following information.

Be specific and provide as much detail as necessary to justify the decision why the employee cannot be accommodated in their current position.

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.

a. 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.

b. Please respond with your decision to accept or decline the option to be considered for a reassignment by completing enclosure (1) and returning it to me within 7 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 enclosure (1).

c. 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 enclosure (1), your current series, 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.

d. If you decline the option to be considered for a reassignment, you will be issued a decision on your request for reasonable accommodation.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

4. This is to advise you that you may also be eligible to apply for disability retirement. For further information regarding this option, please contact _____. 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.

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



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 14 - SAMPLE ACCEPTANCE/DECLINATION LETTER FOR OPTION TO BE CONSIDERED FOR REASSIGNMENT

From: Employee

To: First level supervisor

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

1. I want to be considered for a reassignment outside of *(identify employee's current activity)* as a reasonable accommodation. My preferences for the job search process are indicated below.

I do not want to be considered for a reassignment outside of *(identify employee's current activity)* as a reasonable accommodation.

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

Only the positions identified below:

NOTE: The employee is required to identify the specific positions that he/she wants to be considered for placement if this box is checked.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

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 parameters I specified in paragraph 2 above or I do not want to be considered for reassignment, I understand that I may be removed for medical inability to perform the duties of my position.

d. If I want to be considered for a reassignment, I must submit an updated resume within 5 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.
My signature below documents that I have identified the parameters of the job search and acknowledges that I was advised of and understand the information contained in this document.

Employee's Signature

Date



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 15 – SAMPLE 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.

<u>Title/Series/Grade</u>	<u>Other Information</u>	<u>Qualified/Not Qualified</u>
---------------------------	--------------------------	--------------------------------

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

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: _____



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 16 - SAMPLE CERTIFICATION LETTER FROM COMMANDING OFFICER

From: Commander of local activity
To: Major command's DCHR

Via: Legal Counsel (Major Commands)

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 for placement was conducted. No positions were identified.

2. The case file, enclosure (1), to include documentation of the internal job search, is forwarded for review and concurrence. If you concur with the actions as described in enclosure (1), you are requested to document your concurrence in the space provided below.

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

Reviewed and concur.

Legal Counsel Date

DCHR Date



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 17 - SAMPLE LETTER TO OCHR OPERATIONS CENTER TO CONTINUE JOB SEARCH EFFORTS

From:

To: OCHR Operations Center

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 OCHR Operations Center's assistance in locating a position commensurate with his/her job qualifications and within the parameters identified by the employee is requested.
2. Information to assist the OCHR Operations Center in its job search efforts is provided as enclosure(s) _____ .
3. If you have any questions on the above, please contact _____.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

ATTACHMENT 18- REASONABLE ACCOMMODATION INFORMATION SHEET

The goal of reasonable accommodation 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 Amendments Act of 2008, 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.

In accordance with the Rehabilitation Act and the Americans with Disabilities Act Amendments Act of 2008, it is DON policy to provide reasonable accommodation 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 reasonable accommodation 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.

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:

- It has been determined that the employee meets the definition of a qualified individual with a disability, however, he/she cannot be accommodated in his/her current position of 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.*
- The employee meets the basic qualifications for the vacancy identified in your organization.
- The employee must be considered for reassignment into a vacant position within the DON.

Your role is to assist the OCHR Operations Center and the activity HRO in determining the essential functions of your vacancy. 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 job function may be considered essential for several reasons, including but not limited to, the following:

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



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- The function may be essential because of the limited number of employees available to whom the performance of the job function can be distributed.
- The function may be highly specialized so that the incumbent in the position is hired for his/her expertise or ability to perform the particular function.

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 and to transport equipment weighing up to 50 pounds each.

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

- The employer's judgment regarding a determination as to which functions are essential.
- Written job descriptions.
- The amount of time spent performing the function.
- The consequences of not requiring the incumbent to perform the function.
- The terms of a collective bargaining agreement.
- The work experience of past incumbents in the job.
- The current work experience of incumbents in a similar job.
- Actual duties performed by a person holding the job.

The essential functions of the job are determined on a case-by-case basis.

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.

If you require assistance in determining the essential functions of your position, you should consult with your activity's reasonable accommodation Advisory Team and/or reasonable accommodation point of contact. 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 4 in Chapter 2 DON CHRM Subchapter 1606 to document the essential functions of his/her vacancy.**

If the identified employee is able to perform the essential functions of your vacancy, with or without an accommodation, he/she 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. There are a number of factors which must be considered before making a determination that a particular accommodation would constitute an undue hardship.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

- 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.
- Impact on Operations. Another undue hardship defense is that providing an accommodation would significantly interfere with the operation of the program. The nature of the accommodation, the number of employee 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.
- Violate the seniority provisions of a collective bargaining agreement.
- 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 reasonable accommodation.

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 Human Resources, and legal counsel.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

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.

Advisory Team - An ad hoc team established to process a request for reasonable. At a minimum, the advisory team includes the employee's first-level supervisor, a 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, 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, ombudsmanship, fact-finding, mini-trials, 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 legislation 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 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 potential harm 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.

Discrimination Complaint (informal) - A forum (see 29CFR 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 the 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.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

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 an impairment, he/she must be able to establish that the disability substantially limits a major life activity. Major life activities include such obvious characteristics as hearing, seeing, walking, speaking, breathing, caring for oneself, major bodily functions, performing manual tasks, and working.

Negotiated Grievance - A process that is negotiated in a collective bargaining agreement, which provides procedures for the settlement of a matter of concern or dissatisfaction relating to the employment of a bargaining unit employee.

Qualified Individual with a Disability (OWD) - 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 - 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 applicants with disabilities.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

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.

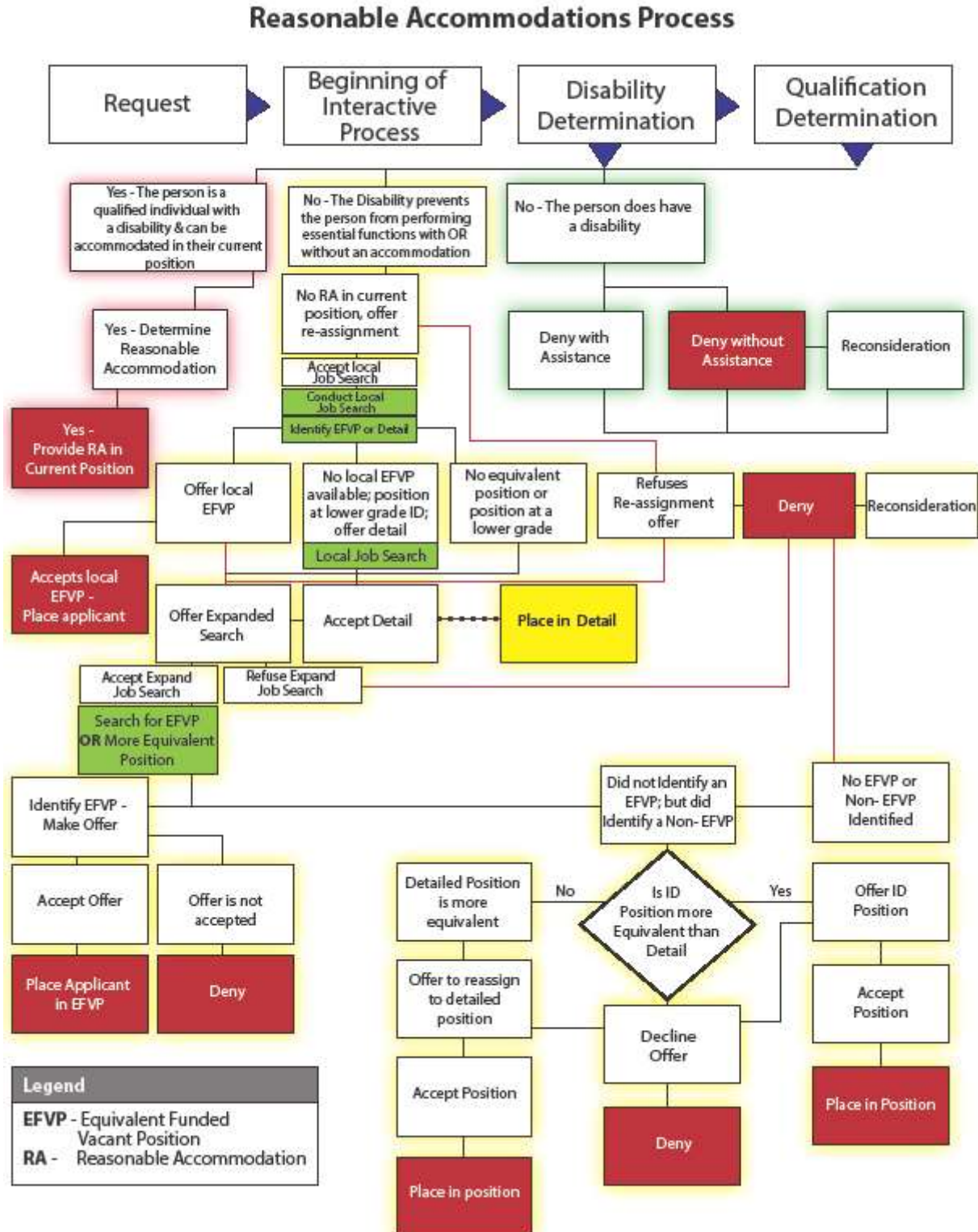
Substantially Limits - An impairment substantially limits a major life activity if that impairment renders the individual either unable to perform a major life activity or significantly restricts his/her performance of that activity as compared to the average person's performance of the activity.

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 reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

Appendix B: Reasonable Accommodation Chart





PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

Appendix C: Reasonable Accommodation Resources

I. 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.

<http://janweb.icdi.wvu.edu/>

(800) 526-7234 (Voice)
(877) 781-9403 (TTY)

II. Computer/Electronic Accommodation Program (CAP)

CAP provides assistive technology and services to people with disabilities, managers, supervisors, and IT 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.

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

1700 N. Moore Street, Suite 1000
Arlington, VA 22209
(703) 614-8416 (Voice)
(571) 384-5629 (Videophone)
(703) 697-5851 (Fax)
cap@mail.mil (Email)

III. ADA Disability and Business Technical Assistance Centers (DBTACs)

Ten 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 reasonable accommodations.

(800) 949-4232

IV. 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.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

<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)

V. 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/>

(703) 524-6686 (Voice)
(703) 524-6639 (TTY)
(703) 524-6630 (Fax)

VI. 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.



PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS

Appendix D: Reasonable Accommodation Information References/Guides

- I. 29 CFR 1630 Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act
<http://www.gpo.gov/fdsys/pkg/CFR-2012-title29-vol4/xml/CFR-2012-title29-vol4-part1630.xml>
 - II. EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship
<http://www.eeoc.gov/policy/docs/accommodation.html>
 - III. EEOC Enforcement Guidance on Disability Related Inquiries
<http://www.eeoc.gov/policy/docs/guidance-inquiries.html>
 - IV. EEOC Enforcement Guidance on Workers Comp and the ADA
<http://www.eeoc.gov/policy/docs/workcomp.html>
 - V. EEOC Enforcement Guidance: Preemployment Disability- Related Questions and Medical Examinations
<http://www.eeoc.gov/policy/docs/preemp.html>
 - VI. EEOC Guidance on the Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964
<http://www.eeoc.gov/policy/docs/fmlaada.html>
 - VII. EEOC Guidance on Applying Performance And Conduct Standards To Employees With Disabilities
<http://www.eeoc.gov/facts/performance-conduct.html>
 - VIII. Department of the Navy, Civilian Human Resources Manual, Subchapter 1606, Procedures for Processing Reasonable Accommodation Requests
http://www.public.navy.mil/donhr/Documents/Civilian%20Human%20Resources%20Manual/1606_Procedures_for_Processing_Requests_for_Reasonable_Accommodation.pdf
- Note: Case laws in chapter 2 is outdated.
- IX. Guide for Processing Reasonable Accommodations Request
<http://www.public.navy.mil/donhr/Pages/ReasonAccom.aspx>
 - X. GAM #86
<http://www.public.navy.mil/donhr/eo/ResourceLibrary/InstructionsAndGuidance/GAM86.pdf>