

**PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION BY
EMPLOYEES AND APPLICANTS WITH DISABILITIES**

1. REASON FOR ISSUE: This handbook establishes the Department of Veterans Affairs (VA) procedures on providing reasonable accommodation to qualified employees or applicants for employment with disabilities in VA Directive 5975.1.

2. SUMMARY OF CONTENTS: This handbook introduces new procedures on processing requests for reasonable accommodation from employees and applicants who have disabilities. It provides guidance on:

- a. Documenting, researching, and approving reasonable accommodation requests;
- b. Informally resolving disputes concerning reasonable accommodation requests;
- c. Establishing and maintaining a reasonable accommodation tracking and reporting system.

3. RESPONSIBLE OFFICE: Human Resources Management Programs and Policies Service (051), Office of Human Resources Management.

4. RELATED DIRECTIVE: VA Directive 5975.1, VA Guidance on Processing Requests for Reasonable Accommodation by Employees and Applicants with Disabilities.

5. RESCISSIONS: None.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/
John A. Gauss
Assistant Secretary for
Information and Technology

/s/
Jacob Lozada, Ph.D.
Assistant Secretary for Human
Resources and Administration

Distribution:

**PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION BY
EMPLOYEES AND APPLICANTS WITH DISABILITIES**

CONTENTS

PARAGRAPH	PAGE
1. PURPOSE	5
2. RESPONSIBILITIES	5
3. DEFINITIONS	6
4. REQUESTING REASONABLE ACCOMMODATION	8
5. DETERMINING ACCOMMODATION	9
6. REQUEST FOR MEDICAL INFORMATION	11
7. CONFIDENTIALITY REQUIREMENTS REGARDING MEDICAL INFORMATION OBTAINED IN THE REASONABLE ACCOMMODATION PROCESS	12
8. TIME FRAMES FOR PROCESSING REQUESTS FOR ACCOMMODATIONS	13
9. INFORMAL DISPUTE RESOLUTION	14
10. INFORMATION TRACKING AND REPORTING	16
11. ADDITIONAL GUIDANCE	17

PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION BY EMPLOYEES AND APPLICANTS WITH DISABILITIES

1. PURPOSE. To establish Departmental policy on providing reasonable accommodation to qualified employees or applicants for employment with disabilities. It also designates responsibilities and prescribes procedures for submitting and responding to requests for reasonable accommodation.

2. RESPONSIBILITIES

a. Managers, Supervisors, and Group and Team Leaders. Managers, Supervisors, and Group and Team Leaders will, within their respective organizations:

(1) Be knowledgeable about the policy and procedures for processing requests for reasonable accommodation and share this knowledge with employees to help individuals with disabilities perform the essential functions of their job and enjoy the benefits and privileges of employment;

(2) Coordinate with the Human Resources Management Office and individuals making requests for reasonable accommodation to ensure appropriate accommodations are provided in a timely manner;

(3) Maintain confidentiality of requests for reasonable accommodation; and

(4) When serving as the Designated Management Official or decision maker, ensure that requests for reasonable accommodation and the process for deciding on those requests are properly documented and provided to the Human Resources Management Office.

b. Human Resources Management Officer. The Human Resources Management Officer is responsible for:

(1) Assisting supervisors and management officials, at all levels, with processing requests for reasonable accommodation; interpreting regulations and statutes; recommending sound human resources management practices; reviewing existing policies and procedures and recommending appropriate changes;

(2) Coordinating with the Personnel Health Physician and outside resources to help the Designated Management Official identify viable reasonable accommodation options;

(3) Maintaining the confidentiality of reasonable accommodation requests and related documentation;

(4) Advising employees and applicants for employment and answering their questions about the process for requesting reasonable accommodation rights; and

(5) Establishing and maintaining a mechanism for tracking and reporting requests for reasonable accommodation and the disposition of those requests.

c. **Employees.** Employees are responsible for:

(1) Documenting their request for reasonable accommodation and, when appropriate, providing requested information from their health care professional in a timely manner; and

(2) Working collaboratively with their supervisor or other Designated Management Official and their Human Resources Management Office representative to identify viable reasonable accommodations to help them perform the essential functions of their job.

3. DEFINITIONS

a. **Designated Management Official.** The person who has authority to decide whether the Department will provide a requested accommodation. The Designated Management Official who grants a request for an accommodation shall also be referred to as the "decision maker."

b. **Person with a Disability.** One who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment.

c. **Physical or Mental Impairment.** Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, cardiovascular, reproductive, digestive, respiratory, genitourinary, hemic and lymphatic, skin and endocrine **or** any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

d. **Major Life Activities.** Functions such as caring for one's self, performing manual tasks, walking, seeing, breathing, learning, and working.

e. **Record of Impairment.** A history of or having been classified (or misclassified) as having a mental or physical impairment that substantially limits one or more major life activities.

f. **Regarded as having such an Impairment.** Has a physical or mental impairment that does not substantially limit major life activities but is treated by an employer as constituting such a limitation; has a physical or mental impairment that substantially limits major life activities only as a result of the attitude of an employer toward such impairment (see "Physical or Mental Impairment" definition); or has none of the impairments defined above, but is treated by an employer as having such an impairment.

g. **Qualified Individual with a Disability.** With respect to employment, an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the position in question without endangering the health or safety of the individual or others, and depending upon the type of appointing authority being used: (1) meets the experience or education requirements, which may include passing a written test, of the position in question; and (2) meets the criteria for appointment under one of the special appointing authorities for individuals with disabilities.

h. **Reasonable Accommodation.** An adjustment to job duties or to the work environment that assists a qualified individual with a disability in performing the essential duties of his or her position; or a modification of or adjustment to the job application process that enables a qualified applicant with a disability to be considered for the position sought. Reasonable accommodations may include, but are not limited to:

- (1) Making facilities readily accessible to, and usable by, individuals with disabilities;
- (2) Job restructuring;
- (3) Allowing a part-time or modified work schedule;
- (4) Obtaining or modifying equipment or devices;
- (5) Appropriately adjusting or modifying examinations and training materials;
- (6) Providing readers, interpreters, and other auxiliary aids;

(7) Ensuring that all contracts for the use of external facilities reflect the obligation that such facilities are accessible to qualified individuals with disabilities; and

(8) Reassignment to another position.

i. **Requestor.** An employee or applicant for employment who requests reasonable accommodation.

j. **Undue Hardship.** The significant difficulty or expense incurred, should the Department provide a particular accommodation. The criteria to be considered in determining undue hardship include the following:

(1) Nature and cost of the accommodation;

(2) Overall size of the organizational unit with respect to the number of employees, facilities, and size of the budget;

(3) Type of operation, including composition and structure of the work force; and

(4) The impact of the accommodation on the operation of the organization, including the impact on the ability of other employees to perform their duties and the impact on the organization's ability to conduct business.

k. **Essential Functions.** The essential functions of a job are those job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function can be "essential" if, among other things, the position exists specifically to perform that function, there is a limited number of other employees who could perform the function if it were assigned to them, or the function is specialized and the incumbent is hired based on his/her ability to perform it.

4. REQUESTING REASONABLE ACCOMMODATION

a. A request for reasonable accommodation is an oral or written request made by an individual with a disability. The reasonable accommodation process begins as soon as the request for an accommodation is made.

b. Where possible, interim accommodations will be made until such time as a decision has been made, so long as the accommodation enables the individual to perform the essential functions of their job. When management determines interim accommodations are not possible, they will provide a written explanation to the employee.

c. A requestor does not have to use words such as “reasonable accommodation,” “disability,” or “Rehabilitation Act” in the request. Additionally, a requestor may request reasonable accommodation whenever he or she chooses, even if he or she has not previously disclosed the existence of a disability.

(1) If the individual is an employee, he or she may submit a request for an accommodation to his or her immediate supervisor. The request may be made orally or in writing. However, employees who make oral requests for accommodations will be asked to follow up, in writing, using a Request for Reasonable Accommodation form or any other written format. Employees may obtain the form and guidance on documenting their request from their immediate supervisor or from the Human Resources Officer for his or her organization. The immediate supervisor may also be referred to as the "Designated Management Official" or the "decision maker." He or she is the official responsible for approving a request for an accommodation. The immediate supervisor will designate an alternate person to receive and process requests for accommodations, in the event he or she is not available. Supervisors will forward a copy of each request for accommodation to their organization’s Human Resources Officer.

(2) If the individual requesting an accommodation is an applicant for employment, he or she may submit a request for an accommodation to the Human Resources Officer listed as the point of contact in the job vacancy announcement. The Human Resources Officer will provide the applicant with Equal Employment Opportunity Commission (EEOC) Form 557, Confirmation of Request for Reasonable Accommodation. This form is also available on OHRM Web site at <http://vawww.va.gov/ohrm>. If the Human Resources Officer cannot provide the requested accommodation, he or she will refer the request to another Designated Management Official who is authorized to approve the request.

(3) A family member, health care professional, or other representative may request an accommodation on behalf of a VA employee or an applicant. The request may be submitted to the appropriate Human Resources Officer designated to receive such requests.

(3) A new Confirmation of Request for Reasonable Accommodation form or written request is not required when an individual needs a reasonable accommodation on a repeated basis (e.g., the assistance of sign language interpreters, readers, or large print text). A written request is required only for the initial request for an accommodation that is approved. However, adequate notice must be given in advance each time the accommodation is needed.

5. DETERMINING ACCOMMODATION

a. As the first step, the VA Designated Management Official will explain to the requestor that he or she will make a decision on the request for accommodation. Management officials must make an individualized assessment of an employee's or applicant's impairment and qualification and of possible accommodations prior to deciding whether an accommodation would impose an undue hardship. Ongoing communication and cooperation are important, especially when a specific limitation, problem, or barrier is unclear and/or when the disability or an effective accommodation is not obvious. The Designated Management Official and requestor should engage in an interactive process to ensure the exchange of relevant information.

b. The Designated Management Official shall seek the assistance of other appropriate agency officials when considering requests for accommodation that are outside his or her area of expertise or beyond his or her authority to grant.

(1) **Identify Job Requirements.** Officials from the service where the job exists will determine the actual job requirements and work environment regarding that particular position, its purpose, and essential functions.

(2) **Identify Risk(s).** The Personnel Health Physician will identify the type of disability and the specific abilities and limitations of the individual, noting the specific risk posed by the medical condition. The specific risk posed by the medical condition, the individual's medical and work histories, and other relevant factors such as the duration of the risk, the nature and severity of the potential harm, the likelihood that the harm will actually occur, and imminence of the potential harm should be considered.

(3) **Identify Problem(s).** The Human Resources Management Officer and the Personnel Health Physician, along with officials from the service where the job exists, should compare the job requirements and the medical limitations to identify incompatibilities between the known limitations of the individual and the job requirements and/or work environment.

(4) **Identify and Evaluate Remedial Alternatives.** The Designated Management Official and other appropriate officials will develop a list of potential remedies to resolve the identified problem(s), that is, remedies that would allow the individual to perform the essential duties of the job both adequately and safely. The requestor should be allowed to offer recommendations regarding an accommodation. The requestor's preference in this regard, although it should be given consideration, is not controlling. After evaluating possible alternative solutions, management may select the accommodation that most appropriately meets the needs of the requestor and is within the organization's authority to grant. This identification and evaluation process should be documented in writing.

(5) **Identify the Burden on the Employer (if any).** If an accommodation poses an undue burden, the burden must be identified and explained in terms of costs, lost productivity, impact on other employees, etc. There must be evidence of the burden provided in the assessment rather than just a mere conclusion that an accommodation would be unduly burdensome.

c. There are specific considerations in the process when responding to a request for reassignment.

(1) Reassignment will be considered only if no other accommodations are available to enable the requestor to perform the essential functions of his or her current job or if the only effective accommodation would cause undue hardship.

(2) If the requestor's disability cannot be accommodated in the job he or she currently encumbers, the Designated Management Official will work with the Human Resources Office and the requestor to identify jobs for which the requestor is qualified and in which the requestor, with or without reasonable accommodation, can perform the essential functions.

(3) Reassignment should be to a funded, vacant position, or to a funded position that will be vacant within 30 calendar days of the date the Department commences a search for an appropriate position. Before the Department commences such a search, it may require the requestor to indicate, in writing, whether he or she is willing to relocate or accept reassignment to a job series that is different from the series of his or her current position. VA will conduct a search in accordance with reassignment procedures currently outlined in EEOC regulation 29 CFR 1614.203 (g). In addition, VA may conduct a Department-wide search for an appropriate position. If there are no vacant equivalent positions, lower level positions may be considered for which the employee is qualified.

6. REQUEST FOR MEDICAL INFORMATION

a. In order to determine if an employee or an applicant for employment has a covered disability that requires a reasonable accommodation, the Designated Management Official/decision maker may request that the employee or applicant submit appropriate medical information. When a disability and/or need for reasonable accommodation is not obvious or otherwise already known to the Designated Management Official, he or she may request that the employee or applicant submit appropriate medical information about the disability and his or her functional limitations.

b. If the Designated Management Official determines that medical information is necessary in order to process a request for accommodation, he or she will work closely with a Human Resources Officer to assist in obtaining such information. However, the request for medical information must be made directly to the individual requesting the accommodation.

(1) The Human Resources Officer will obtain information or documentation about the requestor's disability and/or functional limitations from the requestor and/or ask the requestor to obtain such information from an appropriate health care professional such as a doctor, social worker, or rehabilitation counselor. The written request for information should describe the nature of the job, the essential functions the requestor is expected to perform, and any other relevant information.

(2) After medical documentation is received, the Designated Management Official will forward the documentation to a Department medical expert for evaluation and advice regarding the accommodation.

(3) If the information provided by the requestor and the health care professional is insufficient to enable the Designated Management Official to make a determination, additional information may be requested.

(4) The Human Resources Officer and the individual requesting the accommodation may agree that the individual will sign a limited release allowing VA to submit a list of specific questions to the health care professional or to otherwise contact the individual's health care professional to obtain additional information.

c. If, after a reasonable period of time, there is still insufficient information to substantiate that the requestor is a qualified individual with a covered disability and needs a reasonable accommodation, the Designated Management Official may request that the individual be examined by a health care professional at the Department's expense.

d. The requestor's failure to provide sufficient documentation or to cooperate in the Department's efforts to obtain such documentation may result in a denial of the request for an accommodation.

d. When an employee demonstrates that he or she is a qualified individual with a disability, managers/supervisors are obligated to provide reasonable accommodation, unless the accommodation would create an undue burden. A reasonable accommodation must be an effective accommodation.

It must provide an opportunity for a person with a disability to achieve the same level of performance or to enjoy benefits or privileges equal to those of a similarly situated person without a disability. Managers/supervisors are required, before making a change in an employee's working conditions, to request from the employee: (1) a statement that he or she has a disability and needs an accommodation; and (2) a certificate from the employee's health care professional, wherein the nature of the disability (diagnosis, treatment, prognosis, how it affects the duties of the position, how long, necessary accommodation, etc.) is stated in writing. Managers/supervisors are not required to make an accommodation for an individual who is not otherwise qualified for a position.

7. CONFIDENTIALITY REQUIREMENTS REGARDING MEDICAL INFORMATION OBTAINED IN THE REASONABLE ACCOMMODATION PROCESS.

Under the Rehabilitation Act, medical information obtained in connection with the reasonable accommodation process must be kept confidential. Department officials who obtain or receive medical information shall comply with the confidentiality requirements below:

- a. Supervisors and managers with a need to know (including decision makers who requested that the Human Resources Officer obtain medical information) may be apprised of necessary restrictions on the work or duties of the requestor and about the necessary accommodation(s). However, medical information shall be disclosed only if necessary;
- b. VA and EEOC officials who are authorized to investigate and issue final decisions on complaints of discrimination, under Section 501 of the Rehabilitation Act of 1973, may be given certain medical information necessary to carry out their complaint processing responsibilities;
- c. The information, in certain circumstances, may be disclosed to workers' compensation offices or insurance carriers; and
- d. All records will be maintained in accordance with the Privacy Act and the requirements of 29 CFR 1611 and EEOC Order 150.003.

8. TIME FRAMES FOR PROCESSING REQUESTS FOR ACCOMMODATIONS

- a. VA shall process requests for reasonable accommodation and provide accommodations, when appropriate, in as short a time frame as is reasonable. When possible, decisions regarding accommodations should be rendered within 30 calendar days of the date the request was received.

(1) If additional medical documentation is needed, the decision to grant an accommodation shall be made within 30 calendar days of the date all such additional documentation is received or obtained by the Department. Absent extenuating circumstances, the accommodation, if granted, will be provided within 14 workdays after the decision to grant the accommodation is made. Extenuating circumstances include unforeseen or unavoidable situations that prevent prompt provision of an accommodation.

(2) When necessary, the Department shall expedite a request for reasonable accommodation in order to ensure that a requestor who is an applicant has an equal opportunity to apply for a job. The requestor who is an applicant must cooperate with the Department's efforts to expedite the process to review and approve a request for accommodation.

b. As soon as the decision-maker determines that a reasonable accommodation will be provided, that decision should be immediately communicated to the requestor. If the accommodation cannot be provided immediately, the supervisor or the Human Resources Officer must inform the requestor, orally or in writing, of the projected time frame for providing the accommodation.

c. The decision to deny a request for reasonable accommodation shall be communicated to the requestor, in writing. The reasons for denial should be in plain English and set forth with as much specificity as possible. The following are possible reasons for the denial of a request for an accommodation:

(1) Providing the requested accommodation would result in an undue hardship. Before reaching this determination, the Designated Management Official must explore whether other effective accommodations are available that would not impose an undue hardship and, therefore, can be provided. A determination of undue hardship means that VA finds that a specific accommodation would be significantly difficult or expensive to provide, or would fundamentally alter the nature of the operations of the affected VA organization;

(2) Medical documentation is inadequate to establish that the requestor has a disability and/or needs a reasonable accommodation;

(3) The requested accommodation would require the removal of an essential function from the position occupied by the employee or from the position for which the applicant applied;

(4) The requested accommodation would require lowering a performance or production standard; and

(5) The agency has determined that the requestor is unable to perform the essential functions of the position even with an accommodation. In this case, the requestor is not a qualified person with a disability within the meaning of the Rehabilitation Act.

9. INFORMAL DISPUTE RESOLUTION

a. The written notice of denial issued to an individual who requested an accommodation must inform the individual that he or she has the right to file an EEO complaint. If the individual is an employee, he or she may have the right to file a Merit Systems Protection Board (MSPB) appeal or a grievance under a negotiated union agreement.

b. VA encourages requestors to avail themselves of the informal dispute resolution process. This is a voluntary process in which a requestor may seek reconsideration of the agency's denial of a request for reasonable accommodation.

c. Three basic principles govern the relationship between an informal dispute resolution process and other formal complaint processes:

(1) The informal dispute resolution process is in addition to, and neither modifies nor replaces, the EEO complaint process governed by EEOC, Merit Systems Protection Board (MSPB) and negotiated grievance procedures available to federal sector job applicants and employees;

(2) The informal dispute resolution process is voluntary and does not limit an individual's right to file an EEO complaint, MSPB claim, or a grievance. This process is not an administrative remedy that must be exhausted before a complaint may be filed; and

(3) The informal dispute resolution process does not affect the time limits governing the EEO complaint process. An individual's participation in an informal dispute resolution process does not satisfy the requirements for bringing a claim under the EEOC, MSPB, or negotiated grievance procedures.

d. A requestor may seek prompt reconsideration of a denial of a request for reasonable accommodation, as follows:

(1) If a requestor wishes reconsideration, he or she should first ask the Designated Management Official to reconsider the decision. The requestor may present additional information in support of the request for reconsideration. The Designated Management Official shall respond to the request for reconsideration within 10 workdays of his or her receipt of the request.

(2) If the decision is not reversed by the Designated Management Official, the requestor may request reconsideration from the next agency official in the chain of command, who shall render a decision within 10 workdays.

(3) A requestor's participation in the above informal dispute resolution process does not satisfy the requirements for filing a claim under EEO, MSPB, or negotiated grievance procedures. In addition, an individual may contact an agency EEO Counselor and/or ADR Coordinator.

10. INFORMATION TRACKING AND REPORTING

a. Each VA organization shall be responsible for ensuring the maintenance of all records and tracking of information pertaining to requests for reasonable accommodation.

b. The Department must be able to identify at least the following information:

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

(2) The jobs (occupational series, grade level, and agency component) for which reasonable accommodations have been requested;

(3) The types of reasonable accommodations that have been requested for each of the jobs;

(4) The number and types of reasonable accommodations for each job, by agency component, that have been approved, and the number and types that have been denied;

(5) The number and types of requests for reasonable accommodation that relate to the benefits or privileges of employment, and whether those requests have been granted or denied;

(6) The reasons for denial of requests for reasonable accommodation;

(7) The amount of time taken to process each request for reasonable accommodation; and

(8) The sources of technical assistance used to identify possible reasonable accommodations.

c. The period for which records are maintained:

(1) The Department shall maintain records related to a particular individual who has requested a reasonable accommodation for the duration of the individual's employment; and

(2) VA shall keep any cumulative records used to track the Department's performance with regard to processing requests for reasonable accommodation for at least 3 years.

d. Confidentiality of medical records:

(1) VA shall maintain records pertaining to requests for reasonable accommodations separate from all other records, including official personnel files.

(2) VA shall safeguard the confidentiality of medical records.

e. It is understood that EEOC has the right to review all relevant records upon request to evaluate the efficacy of the agency's reasonable accommodation procedures; and

f. The Department's performance in responding to requests for reasonable accommodation shall be evaluated periodically.

11. ADDITIONAL GUIDANCE. See EEOC Policy Guidance on Executive Order 13164, Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, and additional resources on OHRM's Web site at <http://vaww.va.gov/ohrm>.