

DEFENSE CONTRACT MANAGEMENT AGENCY

Reasonable Accommodations Procedures Supplemental Guidance



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INTRODUCTION

The DCMA Reasonable Accommodations Procedures identified below are a supplement to the existing DCMA guidance.

Purpose –

(1) To assist in expediting the processing of reasonable accommodation requests;

(2) to provide clear definition and instruction to DCMA supervisors and employees on the agency's official procedures for receiving, reviewing, and processing requests for reasonable accommodations; (3) to explain the Federal Occupational Health's (FOH) involvement and purpose in the process of handling requests for accommodations; (4) to communicate changes in procedural requirements from the existing guidance; and (5) to clarify the role and responsibilities of the DCMA Disability Program Manager (DPM), and the Ancillary Process Owners (APO) (Information Technology (IT), Safety and Occupational Health, Labor & Employee Relations (LER), and Facilities). This supplemental guidance is in no way meant to replace the existing DCMA Reasonable Accommodations Guidance in accordance with Executive Order 13164, which requires federal agencies to establish effective procedures for processing requests for reasonable accommodations. This supplemental guidance is posted on the DCMA EEO website: <http://home.dcmsa.mil/cntr-dcmac-o/index.htm>.

All portions of this supplemental guidance have been coordinated, reviewed, and approved by the DCMA Council Local. DCMA Supervisors are encouraged to use this supplemental guidance as an tool to provide more timely and efficient processing of requests, however it is not intended to be a substitute for the expertise provided by your servicing DPMs (see Appendix C), EEO Advisor, GC Advisor, or LER advisor. You are encouraged to contact your servicing personnel in any one of these areas if you encounter a problem or need clarification regarding any aspect of this guidance.

PLEASE NOTE THAT THE FOLLOWING PROCEDURES ONLY APPLY TO REQUESTS FOR REASONABLE ACCOMODATIONS RELATING TO EMPLOYEES WITH DISABILITIES. THIS DOES NOT APPLY TO REQUESTS FOR OWCP AND DOES NOT APPLY TO FITNESS FOR DUTIES (FFD) CASES. YOU SHOULD CONTACT THE DCMA LABOR AND EMPLOYEE RELATIONS OFFICE, DCMAC-DL FOR OWCP AND FFD CLAIMS.

What is a Reasonable Accommodation?

A Reasonable Accommodation is a change in the work environment or in the way things are customarily done that would enable a person with a disability to enjoy equal employment opportunities. Many individuals with disabilities can apply for and perform jobs without requiring an accommodation. However, where workplace barriers exist, such as physical obstacles or rules about how a job is to be performed, reasonable accommodations serve two fundamental purposes:

- (1) Reasonable accommodations remove barriers that prevent people with disabilities from applying for, or performing, jobs for which they are qualified;
- (2) Reasonable accommodations enable agencies to expand the pool of qualified workers, thus allowing agencies to benefit from the many people who might otherwise be arbitrarily barred from employment. The Rehabilitation Act of 1973 requires federal agencies to provide reasonable accommodations to qualified employees or applicants with disabilities, unless to do so would cause undue hardship (see page 31).

There are three categories of reasonable accommodations:

1. Modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job (such as providing application forms in alternative formats like large print or Braille);
2. Modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job (such as providing sign language interpreters); and
3. Modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment (such as removing physical barriers in an office cafeteria).

What is a qualified individual with a disability?

The Americans with Disabilities Act (ADA) defines an individual with a disability as a person or individual who:

- has a physical or mental impairment that substantially limits one or more of his/her major life activities;
- has a record of such an impairment; or
- is regarded as having such an impairment

A **qualified** person with a disability is an individual with a disability who meets the skill, experience, education, and other job-related requirements of a position held or desired, and who, with or without a reasonable accommodation, can perform the essential functions of a job.

An impairment is only a disability under the ADA if it substantially limits one or more major life activities. Major life activities may include, but are not limited to, hearing, seeing, walking, learning, working, and caring for oneself.

To be considered disabled, an individual must be unable to perform or be significantly limited in his/her ability to perform an activity compared to the average person in the general population.

Three factors to consider in determining whether a person's impairment substantially limits a major life activity are:

- its nature and severity;
- how long it will last or is expected to last; and
- its permanent or long term impact, or expected impact.

Initiating the Reasonable Accommodations Process

The reasonable accommodations request -

A request for accommodation is a statement that an individual needs an adjustment or a change at work or in the application process for a reason related to a disability. An employee or applicant is not required to mention the words, "reasonable accommodation," "ADA," "disability," or "Rehabilitation Act" in order for the request to be considered.

Example A - Michelle tells her supervisor, "I'm having trouble reporting to work at my scheduled start time because of the anti-depressants I take." This is a request for a reasonable accommodation. The agency must start to consider the request regardless of whether Michelle is ultimately entitled to an accommodation or not.

Example B - An applicant who is vision impaired asks for assistance with the agency's application materials. This is a request for a reasonable accommodation and triggers the agency's obligation to engage in its reasonable accommodation process.

The reasonable accommodations process is initiated at the point that a verbal and/or written request is received by a DCMA employee's first line supervisor. The process may also begin when an applicant for employment with DCMA contacts, either verbally or in writing, the agency POC listed on the Job Opportunity Announcement.

Any DCMA employee or applicant for employment with DCMA who is a qualified individual with a disability may submit a request for a reasonable accommodation.

An employee wishing to request a reasonable accommodation must submit a verbal or written request to his/her first line supervisor. Employees submitting a verbal request may subsequently be asked to provide a written request for internal record keeping purposes only. The verbal request will initiate the accommodations process even though a written request may follow. Written requests must be submitted on the DCMA Reasonable Accommodations Request Form (Appendix E).

Requests for reasonable accommodations submitted to any agency official other than the employees' first line supervisor will be immediately forwarded back to the supervisor for appropriate action.

Where an employee/applicant requires assistance to complete a written request, s/he must submit an oral or written request for assistance to their designated agency POC (i.e., employees must submit a request for assistance to their first line supervisor. Applicants who require assistance must contact the designated agency POC identified on the Job Opportunity Announcement). The servicing DPM will be available to provide such assistance when requested.

Where an employee has requested a type of reasonable accommodation that s/he is likely to need on a repetitive basis (i.e., Sign Language Interpreters or readers) an employee is not required to provide a verbal/written request each time the accommodation is needed.

A family member, friend, health professional, or other representative may request a reasonable accommodation on behalf of an individual with a disability. Where possible, the supervisor should then confirm with the person with the disability that s/he in fact wants a reasonable accommodation.

Responding to the Reasonable Accommodations Requests

An employee's first line supervisor will serve as the final decision maker on most requests for accommodations. There may be instances where the decision must be made at a higher command level but that will be determined on a case-by-case basis.

Upon receipt of an oral request for a reasonable accommodation, the supervisor must not wait until an individual has submitted a written request to take action. Action must be taken immediately.

When a supervisor receives an oral request for a reasonable accommodation, s/he should provide the employee with a copy of the Confirmation of Request for Reasonable Accommodation Form (see Appendix E), which will allow the employee to provide a written statement which clearly articulates his/her requirements. The requirement serves to clarify the needs and requests of the

employee. Upon receipt of the confirmation form, the employee must complete and return the form to the supervisor for appropriate action not later than 5 business days of receipt.

The supervisor must, within 5 business days, notify his/her chain of command (when necessary) of the request for reasonable accommodations. This will be necessary when a decision regarding a reasonable accommodation is likely to require approval at a command level exceeding the authority of the 1st line supervisor. The supervisor must also notify the servicing DPM within 5 business days of receipt of the oral or written request. The DPM serves as the Primary Process Owner (PPO) on all reasonable accommodations requests.

Please see Appendix C for the DPM assigned to your specific DCMA organization. The reasonable accommodations process also includes Ancillary Process Owners (APO).

- DCMA FOH Coordinator – Medical Review Process
POC – Labor and Employee Relations, DCMAC-DL, (804) 734-2320
- DCMA-ITSCO – 508 Requests
POC – DCMA ITCSO-A, (804) 734-0249
- Facilities Service Center – Building Structure Changes
POC – Director, Facilities Service Center, DCMAC-G, (804) 734-1444
- Safety and Occupational Health – Ergonomic Requests
POC – Chief, Safety and Occupational Health Division, DCMAC-DH
(804) 416 – 3346

The DPM will review the request to determine if consultation with a APO is required and notify the APO of the request and requirement for their action within 15 business days.

The DPM will consult with the applicable APO representative regarding requests for the purchase of adaptive equipment for computers and other electronic devices to include Computer Electronics and Accommodations Program (CAP) provided equipment; requests for accessible parking, building structural changes, (e.g., erecting walls, ramps, reconfiguring floor plans), and specialized furniture; requests for ergonomic chairs, works stations or accommodations.

It is critical to treat an individual's medical documentation with the strictest confidentiality. Only DCMA personnel with a need-to-know will have access to such documentation. The APOs will generally not have a need to know any information

regarding the medical condition of the individual seeking the accommodation (certain circumstances may be excluded). The APO will, however require information as it relates to the functional limitations and how those limitations affect access to technology and/or mobility needs. The DPM, GC representative, DCMA FOH Coordinator and the FOH Physician will have a need to review medical documentation and provide a recommendation to the individual's supervisor as to the most appropriate and effective accommodation.

The EEO Manager, DPM, GC representative, and supervisor must review the request and collaborate to arrive at a consensus as to whether the request can be granted without causing an undue hardship (see page 33) to the agency or whether medical documentation may be required to make a decision. Each agency official named above who has been provided a copy of the request for the purpose of advising and consulting with the supervisor will provide requested feedback no later than 5 business days from receipt. The information will be carefully safeguarded and held to all confidentiality requirements.

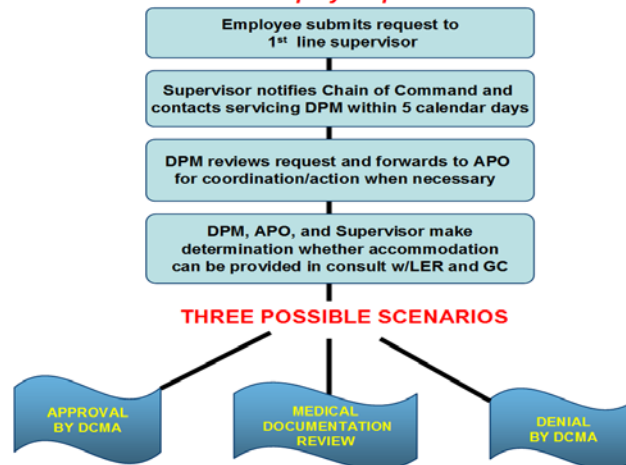
If the supervisor determines, based on the consultation feedback, that a decision can be made, s/he will provide a written decision on the request to the employee within 15 business days of receipt of the feedback from the agency officials.

If the supervisor determines, based on the consultation feedback, that a decision cannot be made at that time, and that medical documentation is required to determine the employee's functional limitations and how they impact on his/her ability to perform the essential functions of his/her position, the supervisor will submit a letter to the employee requesting medical documentation which will be required in order to make a decision.

The following graphic provides a visual step-by-step diagram of each process:

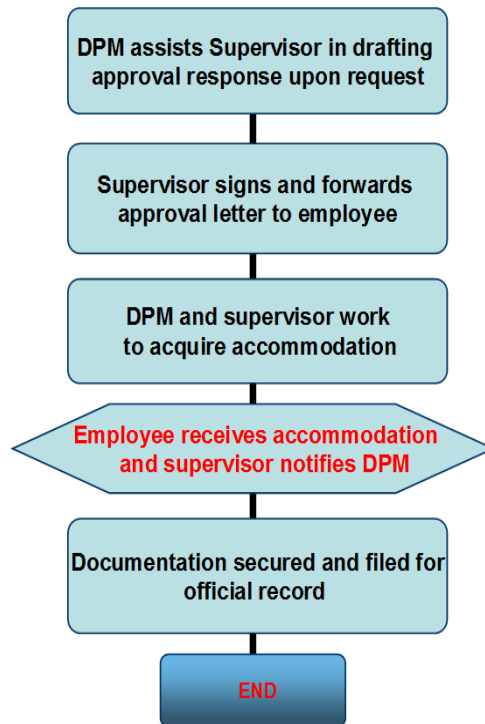
Reasonable Accommodations Review Process

Step by Step



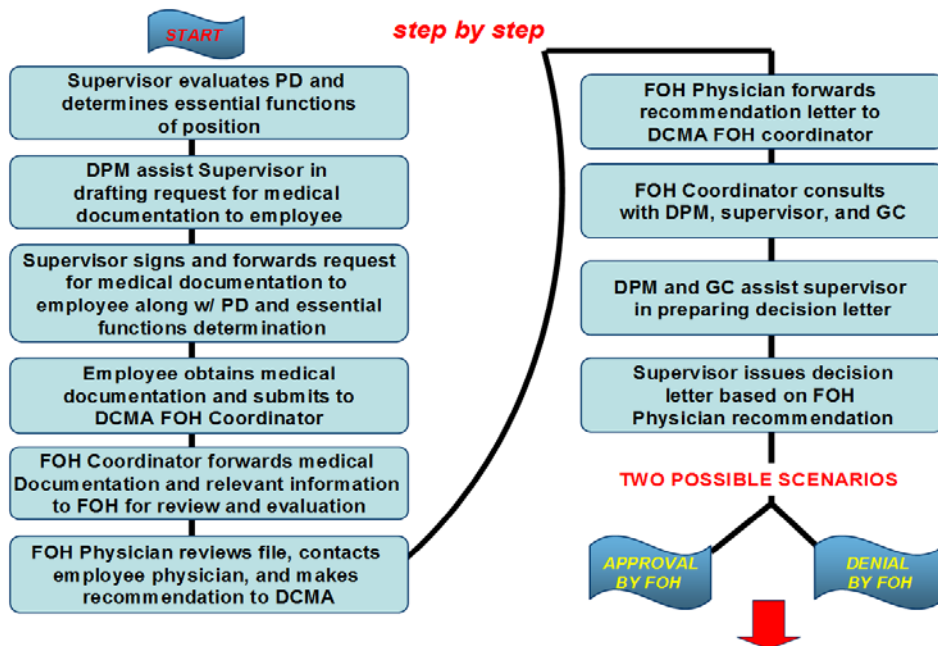
Approval*

Step by Step



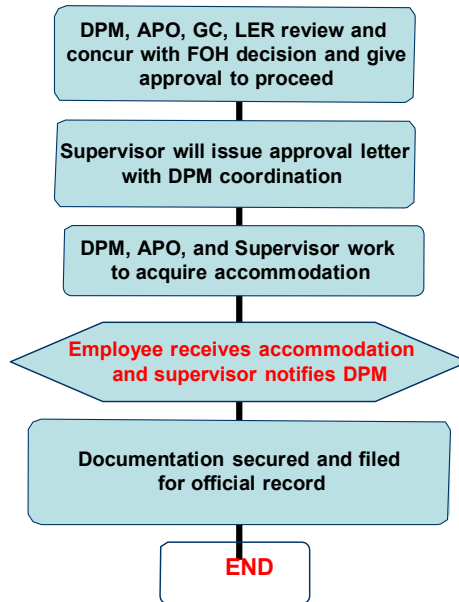
*Approval process where no medical documentation is required

Medical Documentation Review Process



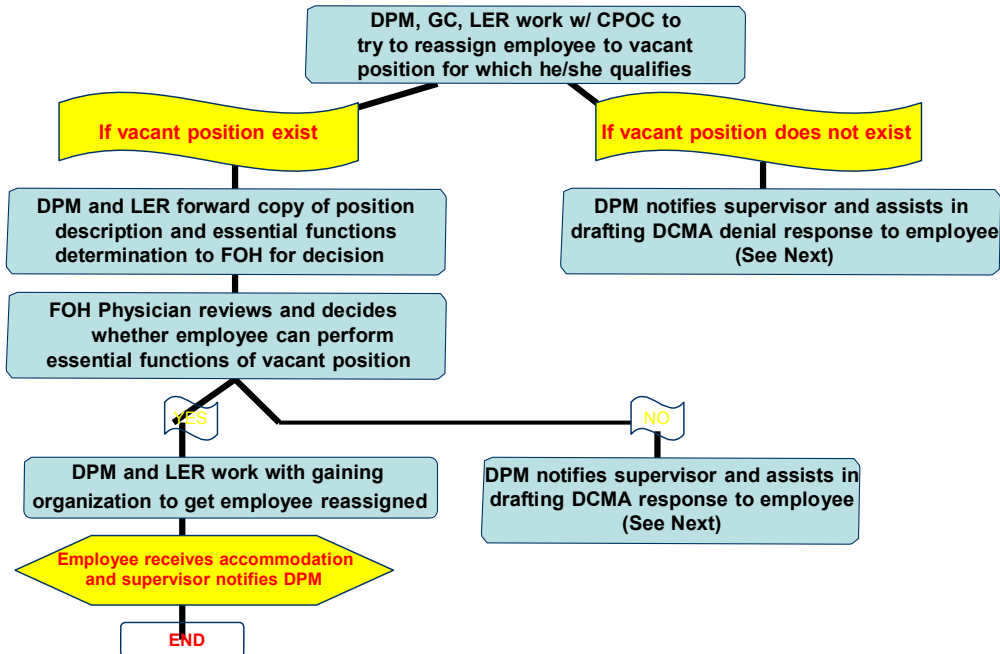
Medical Documentation Review

Approval by FOH and DCMA Concur



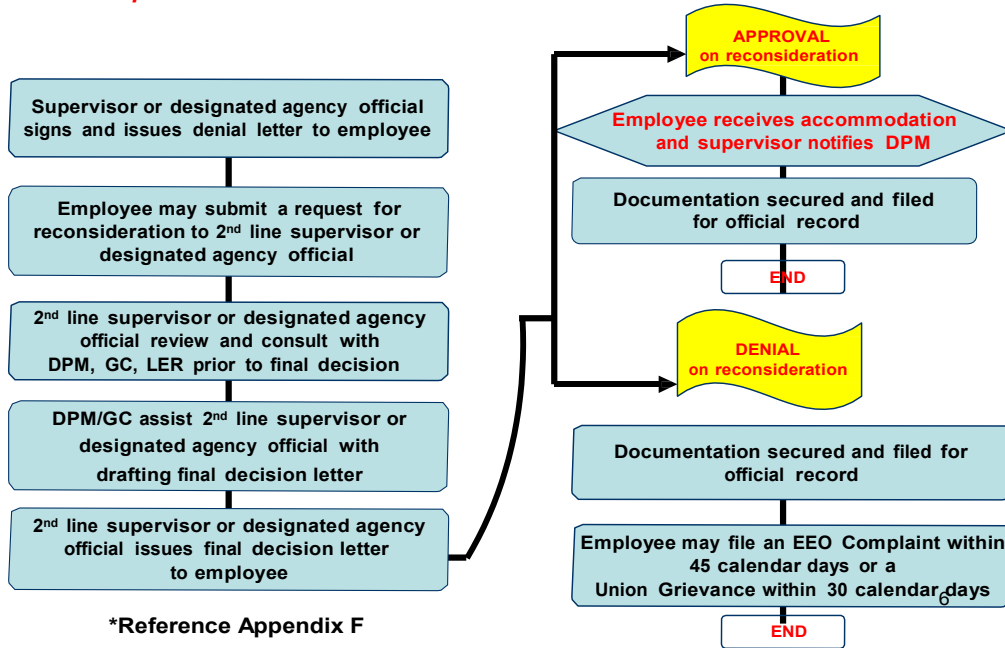
Medical Documentation Review Process

Denial by FOH and DCMA Concur



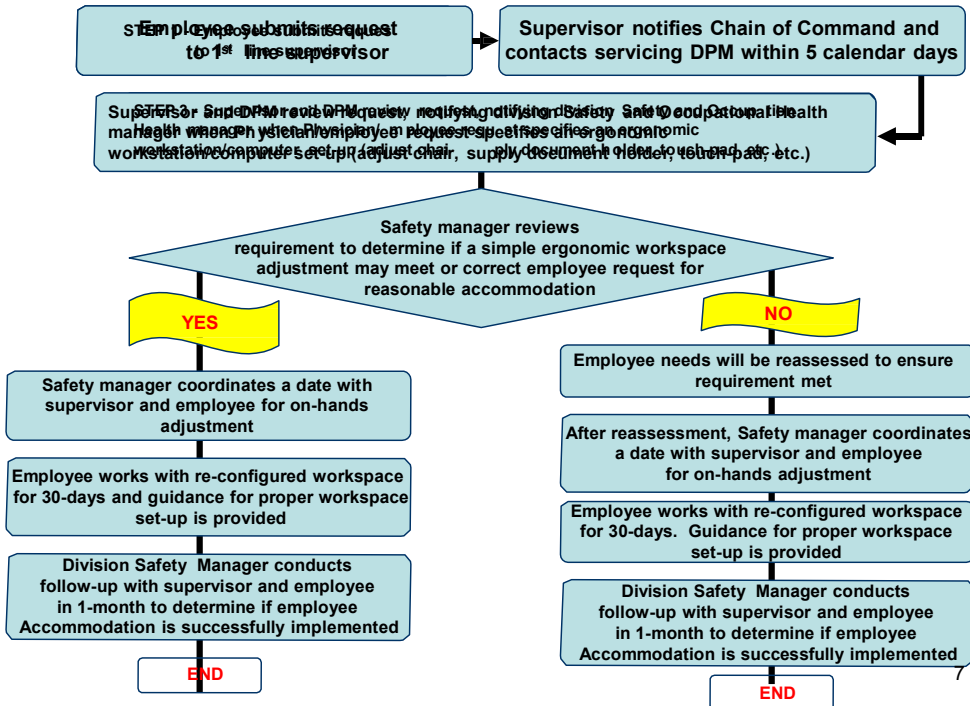
Request for Reconsideration*

After completion of medical review and FOH recommends denial of accommodation



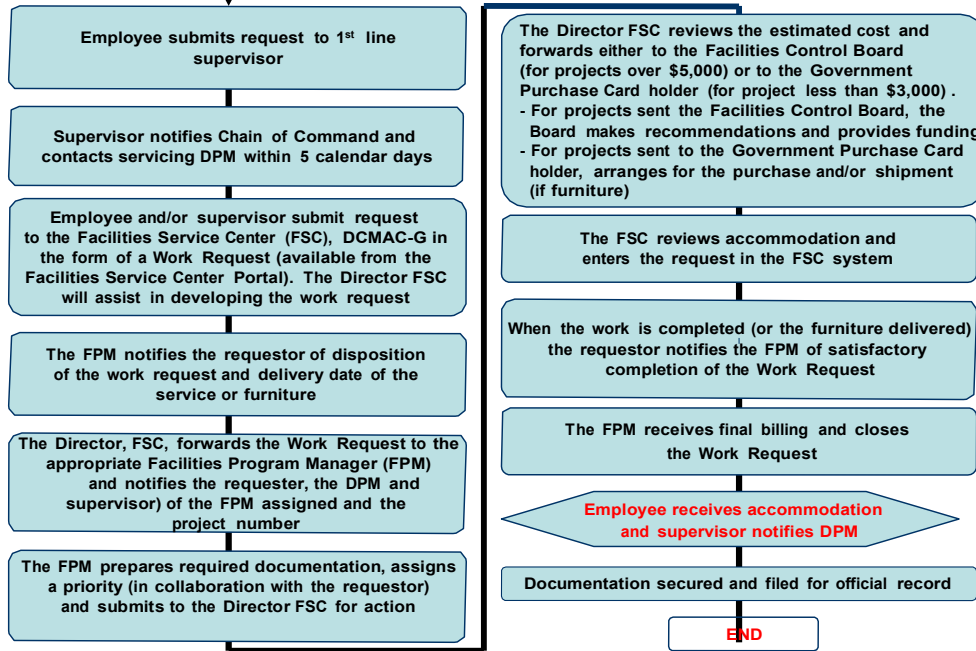
The diagram below shows the process for handling requests for Ergonomic reasonable accommodations

Reasonable Accommodation Process - Ergonomic Requests



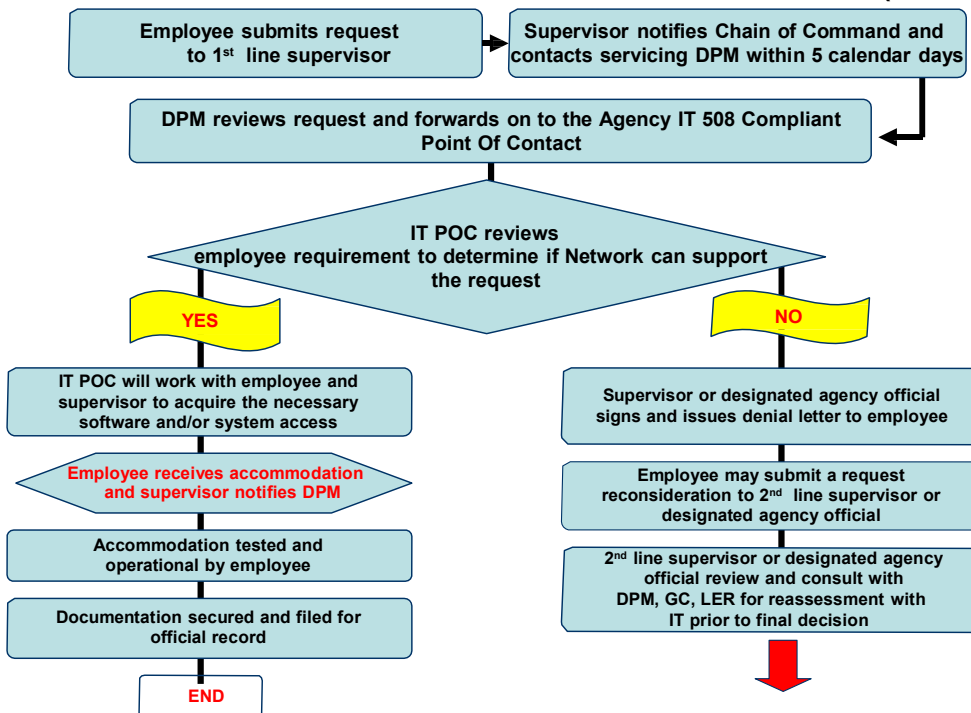
The diagram below shows the process for handling requests for reasonable accommodations involving building facilities and equipment

Reasonable Accommodation Process - Facilities

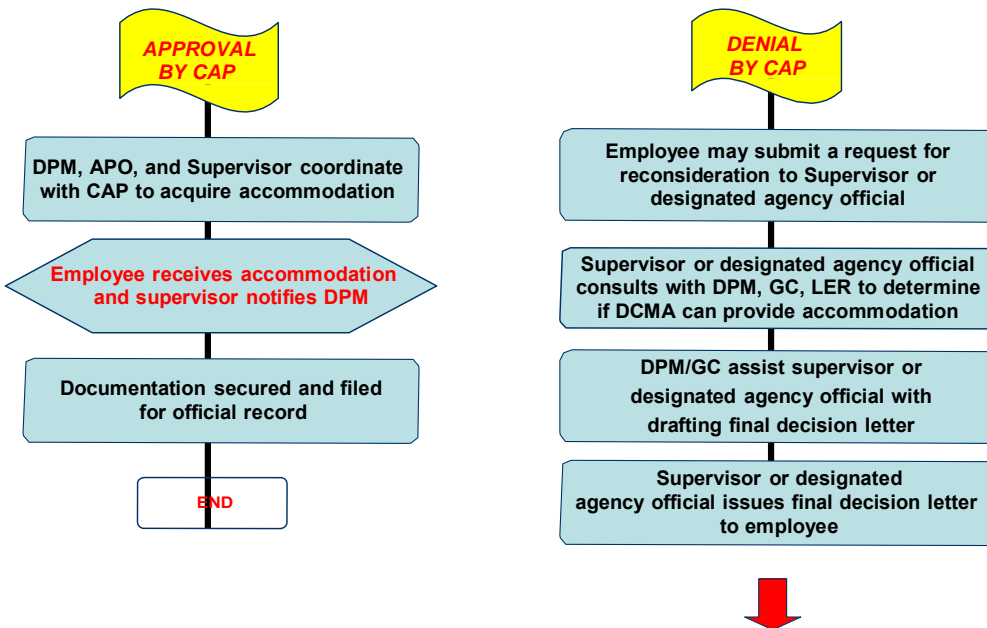


The diagram below shows the process for handling requests for reasonable accommodations Request for IT accessible software (508)

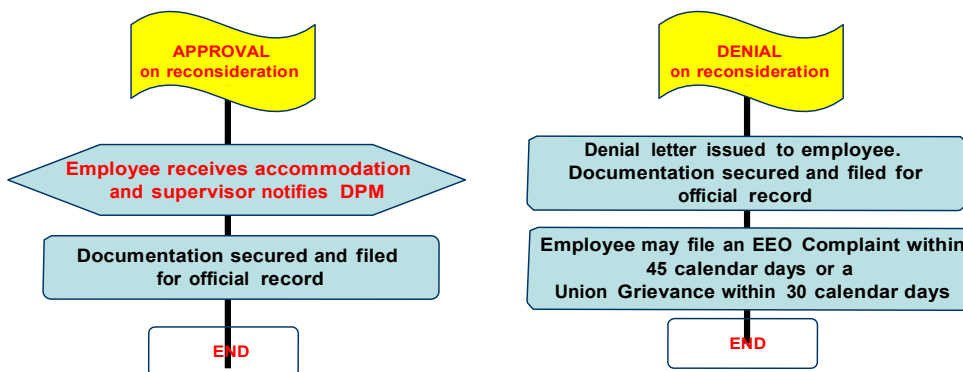
Reasonable Accommodation Process - IT (508)



CAP Request Process - Continued

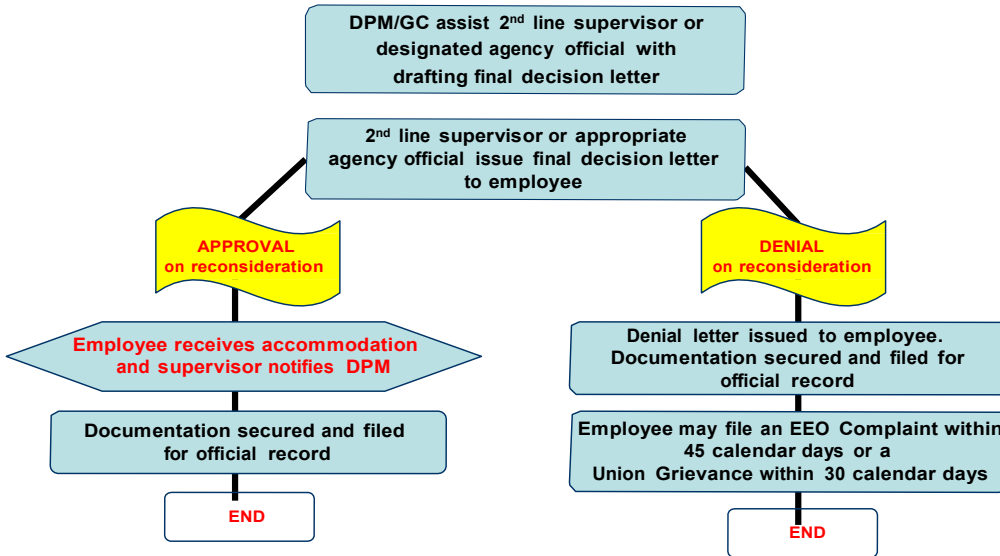


CAP Request Process - Continued



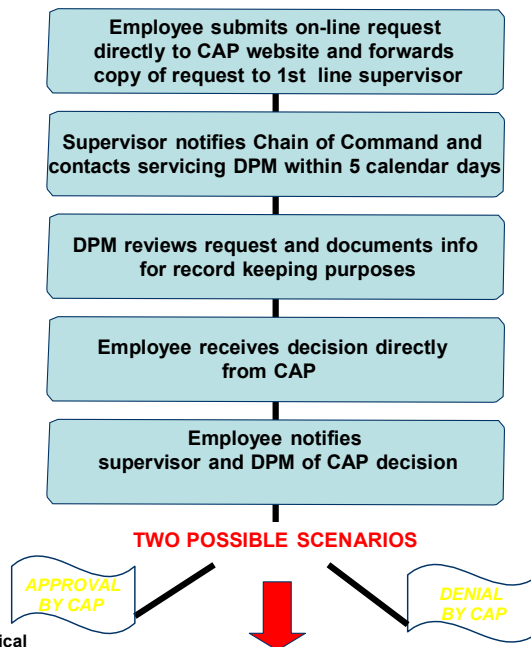
Reasonable Accommodation Process - IT (508)

CONTINUED



The following diagram shows the process employees should/supervisors should follow when requesting adaptive technology through the DoD CAP Program

CAP Request Process



*CAP determines whether medical documentation is required

Applicants for Employment

An applicant for employment with DCMA wishing to request a reasonable accommodation for the application/interview process must submit an oral/verbal or written request to the agency POC listed on the DCMA Job Opportunity Announcement. Applicants who submit a verbal request may subsequently be asked to provide a written request for internal record keeping purposes only. The oral/verbal request will initiate the accommodations process even though a written request may follow. Written requests must be submitted on the DCMA Reasonable Accommodations Request Form.

Reassignments

The ADA specifically lists "reassignment to a vacant position" as a form of reasonable accommodation. This type of reasonable accommodation must be provided to an employee who, because of a disability, can no longer perform the essential functions of his/her current position, with or without reasonable accommodation, unless the employer can show that it would be an undue hardship.

An employee must be "qualified" for the new position. An employee is "qualified" for a position if s/he: (1) satisfies the requisite skill, experience, education, and other job-related requirements of the position, and (2) can perform the essential functions of the new position, with or without reasonable accommodation. The employee does not need to be the best qualified individual for the position in order to obtain it as a reassignment.

There is no obligation for the employer to assist the individual to become qualified. Thus, the employer does not have to provide training so that the employee acquires necessary skills to qualify for a job. The employer, however, would have to provide an employee with a disability who is being reassigned with any training that is normally provided to anyone hired for or transferred to the position.

Example A: An employer is considering reassigning an employee with a disability to a position which requires the ability to speak Spanish in order to perform an essential function. The employee never learned Spanish and wants the employer to send him to a course to learn Spanish. The employer is not required to provide this training as part of the obligation to make a reassignment. Therefore, the employee is not qualified for this position.

Example B: An employer is considering reassigning an employee with a disability to a position in which she will contract for goods and services. The employee is qualified for the position. The employer has its own specialized rules regarding contracting that necessitate training all individuals hired for these positions. In this situation, the employer must provide the employee with this specialized training.

Before considering reassignment as a reasonable accommodation, employers should first consider those accommodations that would enable an employee to remain in his/her current position. Reassignment is the reasonable accommodation of last resort and is required only after it has been determined that: (1) there are no effective accommodations that will enable the employee to perform the essential functions of his/her current position, or (2) all other reasonable accommodations would impose an undue hardship. However, if both the employer and the employee voluntarily agree that transfer is preferable to remaining in the current position with some form of reasonable accommodation, then the employer may transfer the employee.

"Vacant" means that the position is available when the employee asks for reasonable accommodation, or that the employer knows that it will become available within a reasonable amount of time. A "reasonable amount of time" should be determined on a case-by-case basis considering relevant facts, such as whether the employer, based on experience, can anticipate that an appropriate position will become vacant within a short period of time. A position is considered vacant even if an DCMA has posted a notice or announcement seeking applications for that position. Where DCMA has determined that a vacant position exists for which the individual with a disability qualifies, the selecting official is required to hold a selection decision in abeyance pending the review of a reassignment accommodation. DCMA is not, however, required to bump an employee from a job in order to create a vacancy; nor does it have to create a new position.

Example C: An employer is seeking a reassignment for an employee with a disability. There are no vacant positions today; however, the employer has just learned that another employee resigned and that that position will become vacant in four weeks. The impending vacancy is equivalent to the position currently held by the employee with a disability. If the employee is qualified for that position, the employer must offer the position to him.

Example D: An employer is seeking a reassignment for an employee with a disability. There are no vacant positions today; however, the employer has just learned that an employee in an equivalent position plans to retire in six months. Although the employer knows that the employee with a disability is qualified for this position, the employer does not have to offer this position to her because six months is beyond a "reasonable amount of time." (If, six months from now, the employer decides to advertise the position, the employer must allow the individual to apply for that position and give the application the consideration it deserves.)

The employer must reassign the individual to a vacant position that is equivalent in terms of pay, status, or other relevant factors (e.g., benefits, geographical location) if the employee is qualified for the position. If there is no

vacant equivalent position, the employer must reassign the employee to a vacant lower level position for which the individual is qualified. Assuming there is more than one vacancy for which the employee is qualified, the employer must place the individual in the position that matches closest to the employee's current position in terms of pay, status, etc. If it is unclear which position matches closest, the

employer should consult with the employee about his/her preference before determining the position to which the employee will be reassigned. Reassignment does not include giving an employee a promotion. Thus, an employee must compete for any vacant position that would constitute a promotion.

QUESTION -

1. Is an employer's obligation to offer reassignment to a vacant position limited to those vacancies within an employee's office, branch, agency, department, facility, personnel system (if the employer has more than a single personnel system), or geographical area?

ANSWER -No. This is true even if the employer has a policy prohibiting transfers from one office, branch, agency, department, facility, personnel system, or geographical area to another. The ADA contains no language limiting the obligation to reassign only to positions within an office, branch, agency, etc. Rather, the extent to which an employer must search for a vacant position will be an issue of undue hardship. If an employee is being reassigned to a different geographical area, the employee must pay for any relocation expenses unless the employer routinely pays such expenses when granting voluntary transfers to other employees.

QUESTION -

2. Does reassignment mean that the employee is permitted to compete for a vacant position?

ANSWER -No. Reassignment means that the employee gets the vacant position if s/he is qualified for it. Otherwise, reassignment would be of little value and would not be implemented as Congress intended.

The DPM will coordinate efforts with HR and the Army CPOC to determine the employee's qualifications and vacant positions. Every effort will be made to locate vacant positions in the employee's local commuting area; however the employee may be offered a vacant position for which s/he qualifies in any DCMA CONUS location.

Special considerations in responding to requests for reasonable accommodations

Each request for an accommodation is unique and should always be handled on a case-by-case basis. Supervisors are required to openly communicate with the employee who requests an accommodation to ensure that all effective accommodations have been considered. Communication with the employee will be particularly critical where the specific limitation, problem or barrier is unclear; where an effective accommodation is not obvious; or where the parties are choosing between different possible reasonable accommodations.

DCMA has authorized first line supervisors to approve most requests for reasonable accommodations in order to ensure a more expeditious process by eliminating unnecessary levels of review.

Supervisors are also required to exercise sound judgment in the decision making process and never adopt a "one size fits all" approach to processing requests for reasonable accommodations. Supervisors should process requests in a manner that imposes the least burden on individuals with disabilities and permits the most expeditious consideration and delivery of the reasonable accommodation.

Some examples of requests that should be evaluated and approved by a first line supervisor without delay and consultation provided they do not cause the agency an undue hardship are:

Example 1 - David has a disability that causes extreme fatigue at the end of each day. David is an accountant, and is expected to attend budget planning meetings with his supervisor and another colleague every Wednesday afternoon. David asks his supervisor whether the meetings can be changed to the morning so that he can attend them when he does not feel tired.

Example 2 - Michelle tells her supervisor that she is having a tough time reporting to work at her scheduled time (7:30am) because of the anti-depressants she takes and requests that she change her tour of duty to arrive at work at 9:30am.

Example 3 - Charles has a disability that requires that he has exposure to natural sunlight as much as possible. Charles requests to have his work station moved to the empty cubicle next to the window two cubicles away.

Example 4 - Samantha has ovarian cancer and must take chemotherapy treatments every Monday for 10 weeks. She has asked her supervisor if she could change her tour of duty to a 10 hour day, 4 days per week so that she may rest on the Tuesdays that follow her treatments because she is extremely weak the day after treatment.

Supervisors shall consult with the DCMA Council Local regarding requests involving bargaining unit employees that will require change in the employees work environment.

Temporary Conditions

An employee with a temporary condition who requests an accommodation may, on a case-by-case basis, be granted a requested or equally effective alternative accommodation.

Temporary, non-chronic impairments that do not last for a long time and that have little or no long term impact usually are not covered disabilities as defined by the ADA (i.e., broken limbs, sprains, concussion, appendicitis, common colds, or influenza).

A physical condition that is not the result of a physiological disorder, such as pregnancy, or a predisposition to a certain disease would not be an impairment. Similarly, personality traits such as poor judgment, quick temper or irresponsible behavior are not themselves impairments.

The extent, duration, and impact of the temporary condition are all factors considered in determining whether a temporary condition/impairment is covered by the ADA. Simply because an employee has been determined to have a temporary condition v. an ADA covered condition/impairment does not mean that supervisors should not act in good faith and attempt to accommodate a reasonable request as long as the requested accommodation does not impose an undue hardship on the organization.

The statute, EEOC regulations, or this DCMA guidance do not list all diseases or conditions that make up physical or mental impairments, because it would be impossible to provide a comprehensive list given the variety of possible impairments. Therefore, supervisors and employees are encouraged to contact their respective servicing DPMs for guidance in this area.

Medical Documentation

When an employee requests a reasonable accommodation, s/he may be required to provide reasonable medical documentation when a disability is not obvious. Examples of obvious disabilities are persons who are blind, deaf, missing limbs, or wheelchair user. Examples of disabilities that are not so obvious are depression, anxiety, and back injuries.

Reasonable medical documentation means that DCMA may require only the documentation that is needed to establish that an employee has an ADA disability and that the disability necessitates a reasonable accommodation.

Medical documentation must come from an appropriate health care or rehabilitation professional. In some instances, an appropriate health care professional will be a doctor, but can also include psychologist, nurses, physical therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals.

Whether the health care professional is appropriate is determined by DCMA officials to include, but not limited to, the DPM, GC Advisor, and/or LER official depending on the nature of the disability and the limitations it imposes. In some instances as noted above, the disability and its limitations will be so obvious that no medical documentation is required. However, the DPM, GC Advisor, and/or LER are the only personnel authorized to make that determination.

Often times the requested medical documentation will contain highly personal and confidential facts about an employee's life especially when dealing with mental disabilities. Other times, the information will be of a highly technical nature that will not be understood by a layperson. In such cases, the decision maker(s) will require the assistance of a medical advisor.

Employees will be notified by formal letter from the deciding official when medical documentation will be required to make a decision on a request for reasonable accommodation.

Employees will have 15 calendar days from the date of receipt of the letter to provide appropriate medical documentation. Extensions will be considered upon request.

Since the employee bears the burden of demonstrating that s/he is a qualified individual with a disability, the employee should be receptive to cooperating with DCMA. The consequences of a failure to cooperate may mean either the delay of the needed accommodation or the outright denial of the accommodation.

Demonstrating an entitlement to reasonable accommodation requires more than a note from a health care professional.

An acceptable diagnosis of a medical condition should include the following information:

a. The history of the medical condition, including references to findings from previous examinations, treatment, and responses to treatment.

b. Clinical findings from the most recent medical evaluation, including any of the following, which have been obtained: findings of physical examination; results of laboratory tests; x-rays; EKGs, and other special evaluations or diagnostic procedures; and in the case of a psychiatric disease, the findings of a mental status examination and the result of psychological studies.

c. Assessment of the current clinical status and plans for future treatment.

d. Diagnosis.

e. An estimate of the expected date of full or partial recovery.

f. An explanation of the impact of the medical condition on overall health and activities, including the basis for any conclusion that duty restrictions or accommodations are or are not warranted, and where they are warranted, an explanation of their therapeutic or risk avoiding value and the nature of any similar restrictions or accommodations recommended for non-work related activities.

g. An explanation of the medical basis for any conclusion that indicates the likelihood that the individual is or is not expected to suffer sudden or subtle incapacitation by carrying out, with or without, accommodation, the tasks or duties of a specific position.

h. Narrative explanation of the medical basis for any conclusion that the medical condition has or has not become static or well stabilized, and the likelihood that the individual may experience sudden or subtle incapacitation as a result of the medical condition. In this context, static or well-stabilized medical condition means a medical condition which is likely to change as a consequence of the natural progression of the condition, specifically as a result of the normal aging process, or in response to the work environment or the work itself. Subtle incapacitation means gradual, initially imperceptible impairment of physical or mental function whether reversible or not, which is likely to result in performance or conduct deficiencies. Sudden incapacitation means abrupt onset of loss of control of physical or mental function.

It is not always necessary for an employee to provide medical evidence that addresses each of the criteria above, but DCMA is entitled to “reasonable documentation” in support of an accommodation request.

DCMA may conduct its own medical examination but the examination will be limited to determining the existence of an ADA disability and the functional limitations that require a reasonable accommodation. In such cases, DCMA will pay all costs associated with the examination and grant administrative leave for all DCMA requested examinations.

Administrative leave will not be granted to employees for the purpose of attending doctor’s visits to obtain required medical documentation as a result of a request initiated by an employee.

Employees are required to mail medical documentation directly to the DCMA Federal Occupational Health (FOH) Coordinator, DCMAC-DL, 3901 A Avenue, Bldg 10500, Fort Lee, Virginia 23801 by the date specified in the letter from the supervisor/deciding official. If an employee is unable to provide the requested

medical documentation in the timeframe requested by the supervisor, s/he may request an extension to the supervisor in writing not later than 3 business days from date of receipt.

Upon receipt of the medical documentation by the DCMA FOH Coordinator, the employee's medical documentation will be forwarded in a sealed envelope to a licensed medical physician at FOH who will review and assess the documentation to determine if the diagnosis and evaluations are in accordance with generally accepted medical diagnostic criteria and the conclusions and recommendations are in accordance with generally accepted medical principles. Upon completion of the review and assessment, the FOH physician will provide the supervisor/deciding official not later than 21 calendar days of receipt an assessment of the employee's medical condition and recommendation stating whether s/he believes the employee is a individual with a disability, how the disability impacts the employees ability to perform the essential functions of the job, and the most appropriate and effective accommodation.

The FOH Physician will forward the recommendation to the DCMA FOH Coordinator, who will in turn consult with the supervisor, DPM, GC Advisor, and APO (if necessary) to obtain concurrence of the FOH recommendation and decision on the most expedient and appropriate course of action to provide the accommodation. There are times when the FOH Physician's recommendation is a determination that the agency cannot accommodate the employee based on the facts of the case. In that instance, the DCMA FOH Coordinator along with the DPM, GC Advisor, and the U.S. Army CPOC would make every attempt to reassign the employee to a vacant DMCA position for which s/he is qualified (see more on reassignment on page 13).

All medical information provided will be treated in a strictly confidential manner. It will be reviewed only by individuals qualified to assist in interpreting the information for the purpose of making an administrative decision regarding an employee's duties and accommodations.

Supervisors are required to evaluate the employee's position description and determine which duties are considered to be essential functions of the position. Supervisors will include in the written request for medical documentation, a statement describing the essential duties of the employee's job, a medical release of information form that the employee will complete and sign authorizing the FOH physician to obtain the necessary medical documentation as it relates only to the disability for which you the employee is seeking accommodation.

Undue Hardship

An agency does not need to provide a reasonable accommodation to a qualified individual with a disability, if to do so would cause an undue hardship on the agency's operations. The determination of whether an accommodation would

cause an undue hardship is the final step in the complex analysis of whether a disabled employee or applicant is, in the end, entitled to a reasonable accommodation. The determination cannot be made by the supervisor in isolation, but rather the supervisor must seek the guidance of the DPM and their servicing attorney advisor and collectively determine whether a specific accommodation would cause an undue hardship.

The ADA defines undue hardship as “an action requiring significant difficulty or expense,” when considered in light of the following factors:

- The nature and cost of the accommodation needed;
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation;
- The number of persons employed at such facility;
- The effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;
- The overall financial resources of the covered entity;
- The overall size of the business of a covered entity with respect to the number of its employees;
- The number, type, and location of its facilities;
- The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; and
- The geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

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. DCMA will assess, on a case-by-case basis, whether a particular reasonable accommodation would cause an undue hardship. An agency may not simply state an accommodation would cause undue hardship but rather, must show what the undue hardship would be and why is it excessive or unacceptable.

If DCMA determines that one particular reasonable accommodation will cause undue hardship, but a second type of reasonable accommodation will be effective and will not cause an undue hardship, then DCMA must provide the second accommodation.

Working at Home as a Reasonable Accommodation

In its 1999 *Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (revised 10/17/02)*, the Equal Employment Opportunity Commission said that allowing an individual with a disability to work at home may be a form of reasonable accommodation. The ADA requires employers with 15 or more employees to provide reasonable accommodation for qualified applicants and employees with disabilities.

Does the ADA require employers to have telework programs?

No. The ADA does not require an employer to offer a telework program to all employees. However, if an employer does offer telework, it must allow employees with disabilities an equal opportunity to participate in such a program. In addition, the ADA's reasonable accommodation obligation, which includes modifying workplace policies, might require an employer to waive certain eligibility requirements or otherwise modify its telework program for someone with a disability who needs to work at home. For example, an employer may generally require that employees work at least one year before they are eligible to participate in a telework program. If a new employee needs to work at home because of a disability, and the job can be performed at home, then an employer may have to waive its one-year rule for this individual.

May permitting an employee to work at home be a reasonable accommodation, even if the employer has no telework program?

Yes. Changing the location where work is performed may fall under the ADA's reasonable accommodation requirement of modifying workplace policies even if the employer does not allow other employees to telework. However, an employer is not obligated to adopt an employee's preferred or requested accommodation, and may instead offer alternate accommodations as long as they would be effective.

How should an employer determine whether an employee may need to work at home as a reasonable accommodation?

This determination should be made through a flexible "interactive process" between the employer and the individual. The process begins with a request. An individual must first inform the employer that s/he has a medical condition that requires some change in the way a job is performed. The individual does not need to use special words, such as "ADA" or "reasonable accommodation" to make this request, however, s/he must let the employer know that a medical condition interferes with his/her ability to perform the job.

Secondly, the employer and the individual need to discuss the employee's request so that the employer understands why the disability might necessitate the employee working at home. The employee must explain what limitations from the disability make it difficult to perform the job in the workplace, and how the job could still be performed from the employee's home. The employer may request information about the individual's medical condition (including reasonable documentation) if it is unclear whether the condition is a "disability" as defined by the ADA. The employer and employee may wish to discuss other types of accommodations that would allow the person to remain full-time in the workplace. However, in some situations, working at home may be the only effective option for an employee with a disability.

How should an employer determine whether a particular job can be performed at home?

An employer and employee first need to identify and review all the essential job functions. The essential functions or duties are those tasks that are fundamental to performing a specific job. An employer does not have to remove any essential job duties to permit an employee to work at home. However, the employer may need to reassign some minor job duties or marginal functions (i.e., those that are not essential to the successful performance of a job) if the duties cannot be performed outside the workplace and they are the only obstacle to permitting an employee to work at home. If a marginal function needs to be reassigned, an employer may substitute another minor task that the employee with a disability could perform at home in order to keep employee workloads evenly distributed.

After determining what functions are essential, the employer and the individual with a disability should determine whether some or all of the functions can be performed at home. For some jobs, the essential duties can only be performed in the workplace. For example, food servers, cashiers, and truck drivers cannot perform their essential duties from home, but, in many other jobs some or all of the duties can be performed at home.

Several factors should be considered in determining the feasibility of working at home, including the employer's ability to supervise the employee adequately, and whether any duties require use of certain equipment or tools that cannot be replicated at home. Other critical considerations include whether there is a need for face-to-face interaction and coordination of work with other employees; whether in-person interaction with outside colleagues, clients, or customers is necessary; and whether the position in question requires the employee to have immediate access to documents or other information located only in the workplace. An employer should not, however, deny a request to work at home as a reasonable accommodation solely because a job involves some contact and coordination with other employees. Frequently, meetings can be conducted effectively by telephone and information can be exchanged quickly through e-mail.

If the employer determines that some job duties must be performed in the workplace, then the employer and employee need to decide whether working part-time at home and part-time in the workplace will meet both of their needs. For example, an employee may need to meet face-to-face with clients as part of a job, but other tasks may involve reviewing documents and writing reports. Clearly, the meetings must be done in the workplace, but the employee may be able to review documents and write reports from home.

How frequently may an employee with a disability work at home as a reasonable accommodation?

An employee may work at home only to the extent that his/her disability necessitates it. For some people, that may mean one day a week, two half-days, or every day for a particular period of time (e.g., for three months while an employee recovers from treatment or surgery related to a disability). In other instances, the nature of a disability may make it difficult to predict precisely when it will be necessary for an employee to work at home. For example, sometimes the effects of a disability become particularly severe on a periodic but irregular basis. When these flare-ups occur, they sometimes prevent an individual from reporting to the workplace. In these instances, an employee might need to work at home on an "as needed" basis, if this can be done without undue hardship.

As part of the interactive process, the employer should discuss with the individual whether the disability necessitates working at home full-time or part-time. (A few individuals may only be able to perform their jobs successfully by working at home full-time.) If the disability necessitates working at home part-time, then the employer and employee should develop a schedule that meets both of their needs. Both the employer and the employee should be flexible in working out a schedule so that work is completed in a timely manner, since an employer does not have to lower production standards for individuals with disabilities who are working at home. The employer and employee also need to discuss how the employee will be supervised.

May an employer make accommodations that enable an employee to work full-time in the workplace rather than granting a request to work at home?

Yes, the employer may select any effective accommodation, even if it is not the one preferred by the employee. Reasonable accommodations include adjustments or changes to the workplace, such as: providing devices or modifying equipment, making workplaces accessible (e.g., installing a ramp), restructuring jobs, modifying work schedules and policies, and providing qualified readers or sign language interpreters. An employer can provide any of these types of reasonable accommodations, or a combination of them, to permit an employee to remain in the workplace. For example, an employee with a disability who needs to use paratransit asks to work at home because the paratransit schedule does not permit the

employee to arrive before 10:00 a.m., two hours after the normal starting time. An employer may allow the employee to begin his or her eight-hour shift at 10:00 a.m., rather than granting the request to work at home, if this would agree with the paratransit schedule.

Not all persons with disabilities need - or want - to work at home. And not all jobs can be performed at home. But, allowing an employee to work at home may be a reasonable accommodation where the person's disability prevents successfully performing the job on-site and the job, or parts of the job, can be performed at home without causing significant difficulty or expense.

Requests for access to Electronic and Information Technology (Section 508)

In 1998, Congress amended the Rehabilitation Act to require Federal agencies to make their electronic and information technology accessible to people with disabilities. Section 508 was enacted to eliminate barriers in information technology, to make available new opportunities for people with disabilities, and to encourage the development of technologies that will help achieve these goals. The law applies to all Federal agencies when they develop, procure, maintain, or use electronic and information technology. Under Section 508 (29 U.S.C. ' 794d), agencies must provide disabled employees and members of the public access to information that is comparable to the access available to others.

The Section 508 standards provide criteria specific to various types of technologies, including:

- software applications and operating systems
- web-based information or applications (e.g., home.dcma.mil, e-tools, etc.)
- telecommunication products
- video and multimedia products
- self-contained, closed products (e.g., information kiosks, fax machines, etc.)
- desktop and portable computers

Employees wishing to request an accommodation/adaptive equipment that will provide access to electronic information must follow the same procedures as required for requesting all other types of accommodations. Questions/Comments regarding DCMA Section 508 policies can be directed to the DCMA 508 Compliance Officer, DCMA-ITSCO-A.

Requests for Ergonomic equipment

Employees interested in submitting a request for ergonomic equipment will follow the same procedures as any other requests for reasonable accommodation which is set forth above (see page 11).

Family and Medical Leave Act (FMLA)

An employee who is disabled may have overlapping rights under the ADA and the FMLA when a medical condition requires the employee to take leave or seek a schedule modification. The FMLA allows employees to use up to 12 weeks of leave per 12-month time period to care for a natural adopted child, or a child placed with the employee for foster care; to care for a spouse, child or parent with a serious health condition; or "[b]ecause to a serious health condition that makes the employee unable to perform the functions of the employee's position." A disabled employee may be entitled to leave under both statutes. In such cases, the impact on the agency of the first 12 weeks of leave take pursuant to the FMLA can be considered in determining whether granting additional time as a reasonable accommodation would be an undue hardship.

The differences between the use of leave under the ADA and the FMLA:

Under the ADA, the employee who needs leave related to his/her disability is entitled to such leave if there is no other effective accommodation, and the leave will not cause undue hardship. An employer must allow the individual to use any accrued paid leave first, however, if the leave is insufficient to cover the entire period, then the employer should grant unpaid leave. An employer must continue an employee's health insurance benefits during his/her leave period only if it does so for other employees in a similar leave status. As for the employee's position, the ADA requires that the employer hold the position open while the employee is on leave unless it can show that doing so would cause an undue hardship. When the employee is ready to return to work, the employer must allow the individual to return to the same position (assuming that there was no undue hardship in holding the position open) if the employee is still qualified (i.e., the employee can perform the essential functions of the position with or without reasonable accommodation).

Under the FMLA, an eligible employee is entitled to a maximum of 12 weeks of leave per 12 month period. The FMLA guarantees the right of the employee to return to the same position or to an equivalent one. An employer must allow the individual to use any accrued paid leave first, but if that is insufficient to cover the entire period, then the employer should grant unpaid leave. The FMLA requires an employer to continue the employee's health insurance coverage during the leave period, provided the employee pays his/her share of the premiums.

Example A: An employee with an ADA disability needs 13 weeks of leave for treatment related to the disability. The employee is eligible under the FMLA for 12 weeks of leave (the maximum available), so this period of leave constitutes both FMLA leave and a reasonable accommodation. Under the FMLA, the employer could deny the employee the thirteenth week of leave. But, because the employee is also covered under the ADA, the employer cannot deny the request for the thirteenth week of leave unless it can show undue hardship. The employer may consider the impact on its operations caused by the initial 12-week absence, along with other undue hardship factors.

Example B: An employee with an ADA disability has taken 10 weeks of FMLA leave and is preparing to return to work. The employer wants to put the employee in an equivalent position rather than her original one. Although this is permissible under the FMLA the ADA requires that the employer return the employee to her original position. Unless the employer can show that this would cause an undue hardship, or that the employee is no longer qualified for her original position (with or without reasonable accommodation), the employer must reinstate the employee to her original position.

Example C: An employee with an ADA disability has taken 12 weeks of FMLA leave. He notified his employer that he is ready to return to work, but he no longer is able to perform the essential functions of his position or an equivalent

position. Under the FMLA, the employer could terminate his employment, but under the ADA the employer must consider whether the employee could perform the essential functions with reasonable accommodation (e.g., additional leave, part-time schedule, job restructuring, or use of specialized equipment). If not, the ADA requires the employer to reassign the employee if there is a vacant position available for which he is qualified, with or without reasonable accommodation, and there is no undue hardship.

Computer Electronics and Accommodations Program (CAP)

All DCMA employees must follow the DCMA procedures set forth in these Guidelines for requesting accommodations through the DoD CAP Program (see page 13 for CAP process).

Established by the Federal government, the Computer/Electronic Accommodations Program (CAP) is a centrally funded program that provides assistive technology and reasonable accommodations to people with disabilities. CAP's mission is to ensure that people with disabilities have equal access to information and employment opportunities in DoD and throughout the Federal government.

The Assistive Technology Act of 1998 defines Assistive or Adaptive Technology as: products, devices, or equipment, whether acquired commercially, modified or customized, that are used to maintain, increase or improve the functional capabilities of individuals with disabilities. CAP provides assistive technology to employees of federal agencies at no cost to the agency. Assistive technology ensures that people with disabilities have equal access to information/electronic and telecommunication work environments. Although CAP provides objective information about assistive technology products and rehabilitation equipment for people with all types of disabilities, including both apparent physical disabilities as well as hidden cognitive disabilities; blindness/low vision; cognitive; communication; deafness/hard of hearing; and dexterity. Information available through CAP includes all assistive technologies whether acquired commercially, modified, or customized.

The types of adaptive/assistive technology CAP provides are:

- Screen Readers
- Scanners
- Memory Aids
- Braille Displays
- Magnification Software
- Voice Recognition Software
- Augmentation Communications Devices
- Assistive Listening Devices
- Video Communication Devices
- Teletypewriters

Per EEOC guidance, CAP may require medical information in connection with the request for reasonable accommodations. Medical documentation includes the nature, severity, and duration of the disability and describes the extent to which the disability limits performance. Medical documentation is always requested to support repetitive stress injuries. Certain requests do require forms that are available on the website to be filled out.

When requesting an accommodation through CAP, employees must use the online CAP Accommodation Request Form by submitting the form directly to CAP through their website for processing.

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

CAP also accepts faxed request forms via fax number at 703-681-9075. Supporting documentation should also be submitted via the same fax number. When submitting a paper copy of the CAP request form, the employee's supervisor's/manager's signature is required. When submitting the request via the website, no signature is required, only the supervisors/manager's name, contact phone number, and primary email are needed.

APPENDICES

Appendix A – Definitions

Appendix B – PWD Program Managers (Primary Process Owners)

Appendix C – Ancillary Process Owners

Appendix D – DCMA Reasonable Accommodations Request Forms

Appendix E – Denial of Reasonable Accommodation Request Form

Appendix F – Reasonable Accommodation Information Reporting Form

Appendix G – FOH Request for Medical Documentation Forms

Appendix H – Sample Medical Documentation Request letter

Appendix I – Frequently Asked Questions (FAQs)

Appendix J – Reasonable Accommodations Resource List and related Links

APPENDIX A

Definitions

Reasonable Accommodation: Any change in the work environment or in the way things are customarily done that would enable a qualified individual with a disability to enjoy equal employment opportunities. Reasonable accommodation may include, but is not limited to (1) Making existing facilities used by employees readily accessible to and usable by persons with disabilities; (2) job restructuring, modifying work schedules, reassignment to a vacant position; (3) acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

Person with a Disability: An individual with a disability is a person who (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) Has a record of such impairment; or (3) is regarded as having such impairment.

Qualified Individual with a Disability: An individual with a disability is qualified if (1) s/he satisfies the requisite skill, experience, education, and other job-related requirements of the position; and (2) s/he can perform the essential functions of the position, with or without reasonable accommodation.

Essential Functions: Those job duties that are so fundamental to the position that the individual holds or desires that s/he cannot do the job without performing them. A function can be "essential" if, among other things: the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or the function is specialized and the individual is hired based on his/her ability to perform it. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.

Reassignment: Reassignment is a form of reasonable accommodation that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignments are made only to vacant positions and to employees who are qualified for the new position. If the employee is qualified for the position, s/he will be reassigned to the job and will not have to compete for it.

Undue Hardship: If a specific type of reasonable accommodation causes significant difficulty or expense, then DCMA does not have to provide that particular accommodation. Determination of undue hardship is always made on a case-by-case basis, considering factors that include the nature and cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operations of the Agency.

APPENDIX B

DCMA PEOPLE WITH DISABILITIES PROGRAM MANAGER

(DPM)

Gregory Clark
DCMA People with Disabilities Program Manager
Equal Employment Opportunity Office (DCMA-DCO)
(804) 734-2477 DSN 687-2477
3901 A Ave, Bldg. 10500
Fort Lee, Virginia 23801
gregory.clark@dcma.mil

APPENDIX C

Ancillary Process Owners

Labor & Employee Relations:

Medical Documentation/FOH Coordination

Mr. Barry Wade

DCMA- HCL DCMA FOH Coordinator

3901 A Avenue, Bldg. 10500 Fort Lee, Virginia 23801

(804) 734-2320, barry.wade@dcma.mil

DCMA-ITSCO:

Section 508 Compliance Requests

Mr. Gary Moorman

ITCSO-AP

3901 A Avenue Bldg. 10500 Fort Lee, Virginia 23801

(804) 734-0334

Facilities Services Center:

Building Structure Changes

Mr. Thomas Karst

DCMA-DSFL Facilities Services Center

3901 A Avenue, Bldg. 10500

Fort Lee, Virginia 23801

(804) 734-1444

APPENDIX D

DEFENSE CONTRACT MANAGEMENT AGENCY

REQUEST FOR REASONABLE ACCOMMODATION

This form is to be completed by employees when requesting an accommodation or modification to a prior accommodation. In cases where medical information is required to document the existence of the disability, your health care provider will be required to complete a Physicians Statement which will be used to assist the DCMA in providing the requested accommodation.

1. NAME OF EMPLOYEE

2. TELEPHONE NUMBER

3. DATE OF REQUEST

4. ORGANIZATION

5. NAME OF SUPERVISOR / TITLE /
TELEPHONE NUMBER

6. SIGNATURE:

7. ACCOMMODATION REQUESTED *(Be as specific as possible, e.g., adaptive equipment, reader, interpreter)*

8. REASON FOR REQUEST.

8a. If accommodation is time sensitive, please explain:

9. CERTIFICATION AND CONSENT BY EMPLOYEE

I hereby certify that all statements made above are true to the best of my knowledge and I hereby give my permission/or the release of information about my service, disability and medical conditions(s) (i.e., disease and injury) to authorized agency officials.

10. EMPLOYEE SIGNATURE

APPREDIX E

Denial of Reasonable Accommodation Request Form

DEFENSE CONTRACT MANAGEMENT AGENCY

DENIAL OF REASONABLE ACCOMMODATION REQUEST

(Must complete numbers 1-4; complete number 5, if applies)

1. **Name of Individual requesting reasonable accommodation:**

2. **Type(s) of reasonable accommodation requested:**

3. **Request for reasonable accommodation denied because: (may check more than one box)**
 - **Accommodation Ineffective**
 - **Accommodation Would Cause Undue Hardship**
 - **Medical Documentation Inadequate**
 - **Accommodation Would Require Removal of an Essential Function**
 - **Accommodation Would Require Lowering of Performance or Production Standard**
 - **Other (Please identify) _____**

4. **Detailed Reason(s) for the denial of reasonable accommodation (Must be specific, e.g., why accommodation is ineffective or causes undue hardship):**

5. **If the individual proposed one type of reasonable accommodation which is being denied, but rejected an offer of a different type of reasonable accommodation, explain both the reasons for denial of the requested accommodation and why you believe the chosen accommodation would be effective.**

6. If an individual wishes to request reconsideration of this decision, s/he may take the following steps:

- o First ask the decision maker, which will in most cases be the first line supervisor, to reconsider his/her denial. Additional information may be presented to support this request.
- o If the decision maker not reverse the denial:
 - f* and the decision maker is the individual's first line supervisor, the individual can ask his/her second line supervisor to reconsider the request.
 - f* and the decision maker was the Disability Program Manager, the individual can ask the official designated by the Director of the Office of Equal Opportunity to do so.

7. If an individual wishes to file an EEO complaint, or pursue a union grievance procedures, s/he must take the following steps:

- o For an EEO complaint pursuant to 29 C.F.R. § 1614, contact an EEO counselor in the Office of Equal Opportunity *within 45 days from the date of this notice of denial of reasonable accommodation*; or
- o For a collective bargaining claim, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement.

Name and Title of Deciding Official

Signature of Deciding Official

Date reasonable accommodation initially denied _____

Date request for reconsideration _____

Date of decision on reconsideration _____

APPRENIX G

FOH Request for Medical Documentation Forms



FOH

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a component of the US Public Health Service



AUTHORIZATION FOR DISCLOSURE OF INFORMATION

(Pursuant To The Privacy Act of 1974, 5 U.S.C. 552a, 29 CFR 1910.1020, and 42 CFR Part 2)

(The release of information about a patient who is treated or referred for treatment for alcohol or drug abuse, or the medical results of such abuse, is governed by the Confidentiality of Alcohol and Drug Abuse Patient Record Regulations, 42 CFR Part 2).

TO: **Treating Medical Care Provider**

_____ (name)

_____ (phone)

_____ (address)

_____ (fax)

You are hereby authorized to furnish information **from** the record of the individual named below which is in the record system of your facility, and release it **to**:

A Federal Occupational Health Physician

1. Name of employee or subject individual (print or type)

2. Agency

3. Purpose or need for the disclosure (please check)

- COMPENSATION CLAIM(S)
- OTHER HEALTH CARE PROVIDER
- ATTORNEY
- SICK LEAVE, FAMILY MEDICAL LEAVE, OR REASONABLE ACCOMMODATION

4. Specify extent and nature of information to be disclosed for each purpose or need indicated, and SPECIFY inclusive dates: from _____ to _____

The Federal Occupational Health physician is requesting medical information supporting the employee's request for sick leave, Family Medical Leave, accommodation under the Rehabilitation Act, or other personnel benefits. Information discussed is to be confidential. However, relevant information may be shared with supervisors/managers concerned with the above, personnel who may provide first aid and emergency treatment, and government officials investigating compliance with the ADA.

This authorization is subject to revocation at any time except to the extent that DFOH or the other program specified which is to make the disclosure has already taken action in reliance on it. If this authorization has not been revoked otherwise, or has not expired in accordance with the terms of the duration statement provided above, it will expire upon the termination of the interagency agreement that authorized the services provided by Federal Occupational Health for the subject individual's federal employer.

Any person who knowingly and willfully requests or obtains any record concerning an individual from a Federal agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$ 5,000 (5 U.S.C 552a(i)(3)); in the case of alcohol and drug abuse patient records, a falsified authorization for disclosure is prohibited under 42 CFR 2.31 and is punishable by a fine of not more than \$500 for a first offense or a fine of not more than \$5,000 for a subsequent offense, in accordance with 42 CFR 2.4.

5. Print Name of Client/Subject Individual:

6. If other than subject, indicate relationship or authority: _____

7. Date of signature: _____ 8. Date of Birth _____

9. Kaiser-Permanente Number (if applicable) : _____

10. Signature of Client/Subject Individual:

11. Signature of Parent or Guardian, if minor (a minor client/subject individual MUST sign if records to be released cover alcohol or substance abuse-related services):



FOH

Federal Occupational Health
a component of the US Public Health Service



PRIVACY ACT NOTICE TO PATIENTS

The following information is provided in order to comply with the requirements of the Privacy Act of 1974, and is consistent with the provisions of 5 CFR Parts 293 and 297.

The health services you receive through this Division of Federal Occupational Health (DFOH) program result in the gathering and recording of information that is personal and may be confidential. Under the authority of interagency agreements with your employing agency, DFOH serves as a custodian of your records for the duration of those agreements. Upon termination of agreements with DFOH, the original documents or copies of your records will be transferred to your Employee Medical Folder (EMF) in your employing agency's Employee Medical File System (EMFS). These records are stored as a distinct and separate part of your Official Personnel Folder. Your records are collected and maintained for a variety of purposes, including:

(a) to ensure that records required to be retained on a long-term basis to meet the mandates of law, Executive order, or regulations (e.g., the Department of Labor's Occupational Safety and Health Administration (OSHA) and OWCP regulations), are so maintained; (b) to provide data necessary for proper medical evaluations and diagnoses, to ensure that proper treatment is administered, and to maintain continuity of medical care; (c) to provide an accurate medical history of the total health care and medical treatment received by the individual as well as job and/or hazard exposure documentation and health monitoring in relation to health status and claims of the individual; (d) to enable the planning for further care of the patient; (e) to provide a record of communications among members of the health care team who contribute to the patient's care; (f) to provide a legal document describing the health care administered and any exposure incident; (g) to provide a method for evaluating quality of health care rendered and job-health-protection including engineering protection provided, protective equipment worn, workplace monitoring, and medical exam monitoring required by OSHA or by good practice; (h) to ensure that all relevant, necessary, accurate, and timely data are available to support any medically-related employment decisions affecting the subject of the records (e.g., in connection with fitness-for-duty and disability retirement decisions); (i) to document claims filed with and the decisions reached by the OWCP and the individual's possible reemployment rights under statutes governing that program; (j) to document employee's reporting of on-the-job injuries or unhealthy or unsafe working conditions, including the reporting of such conditions to the OSHA and actions taken by that agency or by the employing agency; (k) to ensure proper and accurate operation of the agency's employee drug testing program under Executive Order 12564.

Under an interagency agreement with your employer (authorized by 5 USC 7901, and section 403 of the Government Management Reform Act, Public Law 103-356), DFOH serves as a custodian of your occupational health records while that agreement is in effect. Unless it is with your written consent, the information in your EMF may be disclosed only for specified "routine uses" or the other grounds for disclosure provided for by the Privacy Act. The routine uses allowed for information in your EMF are listed on the back of this sheet.

Your receipt of health services from DFOH, and your submission of confidential information to your EMF through the DFOH program, are not mandated by DFOH. If you do not wish to participate in these services, or to provide the requested information, you are not required to do so. However, if the health services requested pertain to job-related clearances, and you decline to participate, you should consult with your supervisor. The absence of documented medical clearances in your file may impact your employer's authority to permit you to perform certain functions of your position.



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ROUTINE USES ALLOWED FOR EMPLOYEE MEDICAL FILE SYSTEM RECORDS

- a. To disclose information to the Department of Labor, Department of Veterans Affairs, Social Security Administration, Federal Retirement Thrift Investment Board, or a national, State, or local social security type agency, when necessary to adjudicate a claim (filed by or on behalf of the individual) under a retirement, insurance, or health benefit program.
- b. To disclose information to a Federal, State, or local agency to the extent necessary to comply with laws governing reporting of communicable disease.
- c. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency when the Government is a party to the judicial or administrative proceeding.
- d. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, other administrative body before which the agency is authorized to appear, when:
 1. The agency, or any component thereof; or
 2. Any employee of the agency in his or her official capacity; or
 3. Any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or
 4. The United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the agency is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.
- e. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.
- f. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order when the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.
- g. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.
- h. To disclose information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
- i. To disclose information to the Merit System Protection Board or the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, the Equal Employment Opportunity Commission, arbitrators, and hearing examiners to the extent necessary to carry out their authorized duties.
- j. To disclose information to survey team members from the Joint Commission on Accreditation of Hospitals (JCAH) when requested in connection with an accreditation review, but only to the extent that the information is relevant and necessary to meet the JCAH standards.
- k. To disclose information to the National Archives and Records Administration in records management inspections and its role as Archivist.

ATTACHMENT B

- l. To disclose information to health insurance carriers contracting with the Office to provide a health benefits plan under the Federal Employees Health Benefits Program information necessary to verify eligibility for payment of a claim for health benefits.
- m. By the agency maintaining or responsible for generating the records to locate individuals for health research or survey response and in the production of summary descriptive statistics and analytical studies (e.g., epidemiological studies) in support of the function for which the records are collected and maintained. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study might be structured in such a way as to make the data individually identifiable by inference.
- n. To disclose information to the Office of Federal Employees Group Life Insurance or Federal Retirement Thrift Investment Board that is relevant and necessary to adjudicate claims.
- o. To disclose information, when an individual to whom a record pertains is mentally incompetent or under other legal disability, to any person who is responsible for the care of the individual, to the extent necessary.
- p. To disclose to the agency-appointed representative of an employee, all notices, determinations, decisions, or other written communications issued to the employee, in connection with an examination ordered by the agency under--
 - (1) Medical evaluation (formerly Fitness for Duty) examinations procedures; or
 - (2) Agency-filed disability retirement procedures.
- q. To disclose to a requesting agency, organization, or individual the home address and other information concerning those individuals who it is reasonably believed might have contracted an illness or been exposed to or suffered from a health hazard while employed in the Federal workforce.
- r. To disclose information to a Federal agency, in response to its request or at the initiation of the agency maintaining the records, in connection with the retention of an employee, the issuance of a security clearance, the conducting of a suitability or security investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency; or the lawful, statutory, administrative, or investigative purpose of the agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.
- s. To disclose to any Federal, State, or local government agency, in response to its request or at the initiation of the agency maintaining the records, information relevant and necessary to the lawful, statutory, administrative, or investigatory purpose of that agency as it relates to the conduct of job related epidemiological research or the insurance of compliance with Federal, State, or local government laws on health and safety in the work environment.
- t. To disclose to officials of labor organizations recognized under 5 U.S.C. chapter 71, analyses using exposure or medical records and employee exposure records, in accordance with the records access rules of the Department of Labor's OSHA, and subject to the limitations at 29 CFR 1910.20(e)(2)(iii)(B).
- u. To disclose the results of a drug test of a Federal employee pursuant to an order of a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.
- v. To disclose information to contractors, grantees, or volunteers performing or working on a contract, service, grant, cooperative agreement or job for the Federal Government.



CHECKLIST

For Reasonable Accommodation Evaluations

DCMA has authorized a Reasonable Accommodation Evaluation for the following Employee:

Name: _____

Last 4 of SSN: _____ DOB: _____

INSTRUCTIONS: Please gather the documents listed below and use this page as a coversheet. Once complete, the packet should be labeled "Medical Confidential" and sent to:

**DCMA Transition Office
Attn: DCMA -HCL – Barry Wade
3901 A Ave, Bldg 10500
Fort Lee, VA 23801**

Barry Wade
Reasonable Accommodations (FOH) / Labor and Employee Relations
(804) 734-2320 Barry.Wade@dcma.mil

Please check off the items below as they are included in the packet.

- Full Position Description, annotated (if needed) to reflect idiosyncrasies of the individual’s job.
- Completed SF-78 Parts A & B, detailing the physical requirements of the job and including items 1-6 (items 5 & 6 must be completed by the employee).
- Notation acknowledging that a copy of the Privacy Act (*attached*) has been given to the employee.
- Copy of completed FOH-6: Authorization for Disclosure of Medical Information (*attached*) signed and dated by the employee. The employee should deliver the original of this form to his/her physician and ask that the requested records be sent directly to FOH. The physician’s name, address, and phone number should be included on this release form.
- A letter from the employee’s supervisor or the Local DCMA HR representative describing the problem and listing specific questions/concerns that FOH is to address.
- Copies of written communications between DCMA and the employee related to the requested accommodation.
- The contact information (below) for an individual at the employee’s worksite who can answer questions about the job and whether suggested accommodations would be feasible at the worksite.

Name: _____ Phone: _____

Job: _____ email: _____

Packet mailed back to FOH on _____ by _____
Date Printed Name

APPENDIX H

Sample Medical Documentation Request letter

DCMA__

Date

MEMORANDUM FOR Ms. (Employee Name)

SUBJECT: Request for Medical Documentation for a Reasonable Accommodation Request

This letter is in response to your written request dated _____ to have DCMA provide you a reasonable accommodation for your disability.

In order to make a decision on your request, additional specific medical documentation which would explain in detail how your medical condition would impact your ability to perform your duties is required.

In order to consider your request for a reasonable accommodation, an assessment of your medical condition is required by a licensed clinical medical physician. An acceptable diagnosis of your condition must include the following information:

- i. The history of the medical condition, including references to findings from previous examinations, treatment, and responses to treatment;
- j. Clinical findings from the most recent medical evaluation, including any of the following, which have been obtained: findings of physical examination; results of laboratory tests; x-rays; EKGs, and other special evaluations or diagnostic procedures;
- k. Diagnosis, including the current clinical status.
- l. Prognosis, including plan for future treatment and an estimate of the expected date of full or partial recovery.
- m. An explanation of the impact of the medical condition on overall health and activities, including the basis for any conclusion that restrictions or accommodations are or are not warranted, and where they warranted, an explanation of their therapeutic or risk avoiding value.
- n. An explanation of the medical basis for any conclusion that indicates the likelihood that the individual is or is not expected to suffer sudden or subtle incapacitation by carrying out, with or without, accommodation, the tasks or duties of a specific position.
- o. Narrative explanation of the medical basis for any conclusion that the medical condition has or has not become static or well stabilized and the likelihood that the individual may experience sudden or subtle incapacitation as a result of the medical condition. In this context, static or well-stabilized medical condition means medical condition which is likely to

change as a consequence of the natural progression of the condition, specifically as a result of the normal aging process, or in response to the work environment or the work itself. Subtle incapacitation means gradual, initially imperceptible impairment of physical or mental function whether reversible or not which is likely to result in performance or conduct deficiencies. Sudden incapacitation means abrupt onset of loss of control of physical or mental function.

I am aware that it is not necessary for you to provide medical evidence that addresses each of the above criteria; however DCMA is entitled to “reasonable documentation” in support of an accommodation request.

Reasonable documentation means that DCMA, as your employer, may require only the documentation that is needed to establish that you have an ADA disability and that the disability necessitates a reasonable accommodation.

You are required to submit the requested medical documentation to the DCMA Federal Occupational Health Coordinator (FOH), Mr. Barry Wade, DCMA-HCL, 3901 A. Ave, Fort Lee, VA 23801 no later than _____, 20___. If you are unable to provide me the required medical documentation by _____ from your doctor, you must request an extension from me in writing.

Your documentation will be forwarded to a licensed medical physician at FOH who will review and assess the documentation to determine that the diagnosis and evaluations are in accordance with generally accepted medical diagnostic criteria and the conclusions and recommendations are in accordance with generally accepted medical principles. Upon completion of the review and assessment, the FOH physician will provide me with a recommendation and I will then make a decision on your request based on that recommendation.

The information you provide will be treated in a confidential manner. It will be reviewed only by individuals qualified to assist in interpreting the information for the purpose of making an administrative decision about your duties and accommodations.

I am enclosing for your doctor’s use, a statement describing the essential duties of your job. I have also enclosed a medical release of information form that you can opt to complete and sign authorizing the FOH physician to obtain the necessary medical documentation as it relates only to the disability for which you are seeking accommodation. Should your physician have any questions about the requirements of your position, he/she may contact me at _____.

Encl

NAME Title
Organization

cc: DCMA-HCL
(Barry Wade)

Appendix I

Frequently Asked Questions (FAQs)

What is reasonable accommodation?

Reasonable accommodation is a change in the work environment, duties, or in the application process that would enable a person with a disability to enjoy equal employment opportunities. There are three general categories of reasonable accommodations: (1) changes to a job application process to permit people with disabilities to be considered for jobs; (2) changes to enable people with disabilities to perform the essential functions of a job; and (3) changes to give people with disabilities equal access to the benefits and privileges of employment.

What are the legal requirements that govern an agency's obligation to provide reasonable accommodation?

Agencies must provide reasonable accommodation to qualified employees or applicants with disabilities unless the accommodation would create an undue hardship on the operation of the agency. A person with a disability is qualified for a job if s/he can perform the essential functions of that job with or without the reasonable accommodation.

Why is reasonable accommodation important?

While many people with disabilities can apply for and perform jobs without the need for reasonable accommodation, workplace barriers may keep others from entering the work force and still others from performing jobs which they could do with some form of accommodation. These barriers may be physical obstacles (such as inaccessible facilities or equipment), or they may be procedures or rules (such as rules concerning when work is performed, when breaks are taken, or how job tasks are to be done). Reasonable accommodation removes workplace barriers for people with disabilities. It also allows agencies to expand their pool of qualified workers.

Why are reasonable accommodation procedures important?

If a person with a disability needs a reasonable accommodation in order to do, or to apply for, his or her job, it is essential that federal agencies handle the request in a prompt, fair, and efficient manner. Establishing procedures in advance will assure that individuals with disabilities understand how to approach the system and know what to expect. Procedures will also help agency managers understand what is expected of them.

What is a qualified individual with a disability?

If you have a disability and are qualified to do a job, the Rehabilitation Act of 1973 protects you from job discrimination on the basis of your disability. Under the Rehabilitation Act, you have a disability if you have a physical or mental impairment that substantially limits a major life activity. The Rehab Act also protects you if you have a history of such a disability, or if an employer believes that you have such a disability, even if you don't.

To be protected under the Rehabilitation Act, you must have, have a record of, or be regarded as having a substantial, as opposed to a minor, impairment. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, walking, breathing, performing manual tasks, caring for oneself, learning or working.

If you have a disability, you must also be qualified to perform the essential functions or duties of a job, with or without reasonable accommodation, in order to be protected from job discrimination by the Rehabilitation Act. This means two things. First, you must satisfy the employer's requirements for the job, such as education, employment experience, skills or licenses. Second, you must be able to perform the essential functions of the job with or without reasonable accommodation. Essential functions are the fundamental job duties that you must be able to perform on your own or with the help of a reasonable accommodation. An employer cannot refuse to hire you because your disability prevents you from performing duties that are not essential to the job.

How can a person with a disability start the reasonable accommodation process?

A person with a disability may start the process by making an oral or written request for a reasonable accommodation. Employees are encouraged to follow DCMA's guidance and make the request with the first line supervisor, however DCMA is required to consider an individual's request if it is made to any of the following: his/her supervisor; a supervisor or manager in his/her immediate chain of command; the EEO office; any other office designated by the agency; or, in connection with the application process, any agency employee with whom the applicant has contact. An employee is not required to use any particular word(s) in their requests. DCMA must not wait to begin processing a request until a written form is submitted.

Which DCMA employees should be involved in considering an individual's request for reasonable accommodation?

First-line supervisors, and others in the employee's chain of command; designated EEO, GC, and LER personnel will all play a role in the interactive process of handling requests for reasonable accommodation. Ancillary Process Owners (IT, Facilities, and Safety) may also be involved in assisting the supervisor in making an informed and timely decision on reasonable accommodation requests.

What is the time period for processing requests?

Because the amount of time it takes to respond to a request for reasonable accommodation will often depend on the nature of the accommodation, the EEOC Guidance does not set specific time lines. Time limits should, however, be as short as reasonably possible. Where an accommodation is needed immediately -- where, for example, an applicant needs a modification to the application process in order to apply for a job -- DCMA will provide for expedited processing of the request.

What if the agency can't complete processing of a request in a "reasonable" timeframe?

Sometimes there may be factors that the agency could not have anticipated or avoided that will delay the consideration or provision of a reasonable accommodation. In such circumstances, the supervisor must notify the individual of the reason for the delay and consider whether there are temporary measures that could be taken to assist the person with a disability until a decision on the requested accommodation can be made.

What if I am asked to provide medical documentation in connection with a request for reasonable accommodation?

DCMA is entitled to know that an individual has a covered disability that requires a reasonable accommodation. Therefore, the agency may ask for information about the disability, the activities it limits, and the need for accommodation -- but only if the disability and/or need for accommodation is not obvious, or if information already submitted by the individual is insufficient for the agency to make these determinations.

What agency official in DCMA should I provide my medical documentation to?

Employees are required to mail medical documentation directly to the DCMA Federal Occupational Health (FOH) Coordinator, Director, Labor and Employee Relations or designee DCMAC-DL, 6350 Walker Lane, Suite 300, Alexandria, Virginia 22310-3241 by the date specified in the notification from the supervisor/deciding official. If an employee is unable to provide the requested medical documentation in the timeframe requested by the supervisor, he/she may request an extension to the supervisor in writing not later than 3 business days from date of receipt. Note: The supervisor/deciding official will not receive any medical documentation.

Must the agency keep medical information confidential?

Yes. The information may be disclosed to those involved in determining whether to grant the reasonable accommodation. Beyond those agency decision makers, however, there are strict limitations on those to whom the information may be provided.

What if a request for reasonable accommodation is denied?

If a request for reasonable accommodation is denied, DCMA must inform the individual in writing of the denial and the specific reasons for it. The agency should also notify the

individual that s/he has a right to file an EEO complaint and to engage in any informal dispute resolution procedures the agency makes available for this purpose.

What if the individual wants to challenge a denial of reasonable accommodation?

DCMA Supervisor, Managers, and employees are encouraged to use voluntary, informal dispute resolution processes to resolve disagreements resulting from the reasonable accommodation process. These informal processes must be in addition to -- and may not modify or replace -- the EEO complaint process. Employees may contact their servicing EEO Office for additional information on informal dispute resolution processes.

Can the individual file an EEO complaint under the Rehabilitation Act?

Where an individual believes that a denial of a reasonable accommodation, or an aspect of the reasonable accommodation process, has resulted in a violation of the Rehabilitation Act, s/he may file an EEO complaint through the process set forth in EEOC regulations at 29 C.F.R. Part 1614. The individual must initiate the EEO complaint process within 45 days of the date of the challenged action, whether or not s/he is engaged in an informal dispute resolution process at the same time.

Can I request a reassignment as a reasonable accommodation?

Yes, although reassignments are a last resort accommodation. If it is determined that an employee can no longer perform the essential functions of his/her job with or without and accommodation then the agency is required to consider reassigning the employee to another position. Some important points to know about reassignments can be found on page 22 of the supplemental guidance.

Does the Rehabilitation Act require employers to have telework programs?

No. The law does not require an employer to offer a telework program to all employees. However, if an employer does offer telework, it must allow employees with disabilities an equal opportunity to participate in such a program.

In addition, the ADA's reasonable accommodation obligation, which includes modifying workplace policies, might require an employer to waive certain eligibility requirements or otherwise modify its telework program for someone with a disability who needs to work at home. For example, an employer may generally require that employees work at least one year before they are eligible to participate in a telework program. If a new employee needs to work at home because of a disability, and the job can be performed at home, then an employer may have to waive its one-year rule for this individual.

Appendix J

Reasonable Accommodations Resource List and related Links

Equal Employment Opportunity Commission: <http://eeoc.gov>

Office of Personnel Management: <http://opm.gov>

DoD Computer/Electronic Accommodations Program (CAP):
<http://www.tricare.osd.mil/cap>

Job Accommodation Network (JAN): <http://janweb.icdi.wvu.edu> or (800) 232-9675 (Voice/TT). A service of the President's Committee on Employment of People with Disabilities. JAN can provide information, free-of-charge, about many types of reasonable accommodations.

ADA Disability and Business Technical Assistance Centers (DBTACs)
1-800-949-4232 (Voice/TT). The DBTACs consist of 10 federally-funded regional centers that 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, and places special emphasis on meeting the needs of small businesses. The DBTACs can make referrals to local sources of expertise in reasonable accommodations.

Registry of Interpreters for the Deaf: (301) 608-0050 (Voice/TT). The Registry offers information on locating and using interpreters and translation services.

RESNA Technical Assistance Project: <http://www.resna.org> or (703) 524-6686 (Voice) (703) 524-6639 (TT). RESNA, the Rehabilitation Engineering and Assistive Technology Society of North America, can refer individuals to projects in all 50 states and the six territories offering technical assistance on technology-related services for individuals with disabilities. Services may include:

- Information and referral centers to help determine what devices may assist a person with a disability (including access to large data bases containing information on thousands of commercially available assistive technology products).
- Centers where individuals can try out devices and equipment.
- Assistance in obtaining funding for and repairing devices, and equipment exchange and recycling programs.