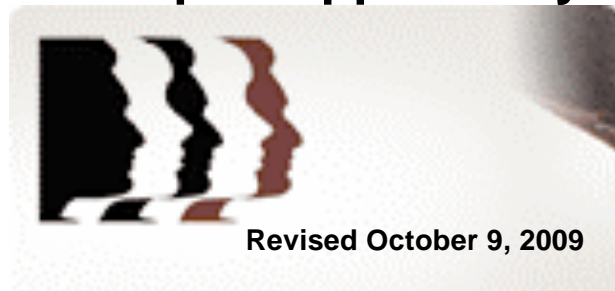


Diversity Management and Equal Opportunity



Procedures to Facilitate the Provision of Reasonable Accommodation

Reasonable accommodation removes workplace barriers for individuals with disabilities.

Reasonable accommodation is available to qualified employees regardless of whether they work part-time, full-time, or are considered “probationary.”

This process enables an applicant to have an equal opportunity to participate in the application process and to be considered for a job.

Contents

What is Reasonable Accommodation?	2
Definition of “Disability”	3
Impairment.	3
Major Life Activities.	4
Substantially Limits.	4
Record of A Substantially Limiting Impairment.	4
Regarded as Having a Substantially Limiting Impairment.	4
Illegal Use of Drugs.	5
Initiating Request for Reasonable Accommodation.	5
Authority to Approve the Request for Accommodation.	5
Time Period for Granting or Denying a Request for Accommodation.	5
Responsibility of the Employee or Applicant.	6
Process for Requesting a Reasonable Accommodation.	6
Resources.	6
Documentation.	7
The Reasonable Accommodation.	7
Equal Benefits and Privileges of Employment.	8
Types of Reasonable Accommodations Related to Job Performance.	8
Job Restructuring.	8
Leave.	8
Modified or Part-Time Schedule.	8
Modified Workplace Policies.	9
Reassignment.	9
Other Reasonable Accommodation Issues.	10
Undue Hardship Issues.	11
Contagious Diseases	11
Factors for Determining Undue Hardship.	11
Procedures for Requesting Reasonable Accommodations - Instructions	12
Part I - Reasonable Accommodation Request Form.	14
Part II - Deciding Official Document	17
Part III - Medical Documentation	18
Part IV - Reporting Form	21
References	23
Contact Information	23

Disability is not the experience of a minority of Americans. Rather, it is an experience that will touch most Americans at some point during their lives. Today, there are more than 54 million Americans with disabilities, a full 20 percent of the U.S. population. About half of these individuals have a severe disability, affecting their ability to see, hear, walk, or perform other basic functions of life.

*A Blueprint for New Beginnings
A Responsible Budget for America's
Priorities
February 28, 2001*

What is Reasonable Accommodation?

The Rehabilitation Act of 1973, in conjunction with the Americans with Disabilities Act (ADA), requires federal agencies to provide reasonable accommodation to qualified Individuals or applicants with disabilities, unless to do so would cause undue hardship. In general, an accommodation is a change in the work environment or in the way things are customarily done that would enable an individual with a disability to enjoy equal employment opportunities. There are three categories of reasonable accommodations:

- **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);**
- **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**
- **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).**

FOR OFFICIAL USE ONLY

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

2

Definition of “Qualified Individual with a Disability”

The definition of the term above reflects the ADA’s broad remedial purpose to prohibit discrimination against individuals with disabilities who want to work and are qualified to work. Accordingly, the definition:

- requires an individualized assessment of a particular individual’s capabilities;
- focuses on the essential functions of a particular position;
- looks at particular positions, not work in general; and
- considers whether a person can work with reasonable accommodation.

The ADA definition of “qualified individual with a disability” **differs** from the definitions used in the Social Security Act, state workers’ compensation laws, disability insurance plans, and other disability benefits programs designed for different purposes.

The ADA inquiry into whether a person is a “qualified individual with a disability” looks at whether an individual can perform the essential functions of a particular position, not whether s/he is able to work in general. The ADA never presumes that some impairments are so severe as to prevent an individual from working. The ADA presumes that individuals with disabilities can work!

A “qualified individual with a disability” is “an individual with a disability who satisfies the requisite skill, experience, education other job-related requirements of the employment position such individual holds or desires and who, with or without reasonable accommodation, can perform the essential functions of such position.” Because of the fundamental differences in the definitions used in the ADA and the terms used in disability benefits programs, an individual can meet the eligibility requirements for receipt of disability benefits and still be a “qualified individual with a disability” for ADA purposes. Thus, a person’s representations that s/he is “totally disabled” or “unable to work” for

purposes of disability benefits are never an absolute bar to an ADA claim.

The Rehabilitation Act of 1973 defines a disabled person as one whom:

- has a physical or mental impairment that substantially limits one or more of the person’s major life activities (caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working),
- has a record of such an impairment, or
- is regarded as having such an impairment.

The 1992 amendments to the Rehabilitation Act provided two more categories of “protected” individuals:

- Any employee who is discriminated against because of their association with a disabled person; and
- Any employee whose fringe benefits are not administered fairly. An example of this is if an employee’s husband is denied coverage for an experimental treatment for prostate cancer, yet experimental treatment for breast cancer is covered.

Definition of “Disability”

Impairment

An impairment is a physiological disorder affecting one or more of a number of body systems or a mental or psychological disorder.

The following conditions are not impairments:

- environmental, cultural, and economic disadvantages
- homosexuality and bisexuality
- pregnancy
- physical characteristics
- common personality traits
- normal deviations in height, weight, or strength

FOR OFFICIAL USE ONLY

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

3

Major Life Activities

Examples of major life activities listed in the Title I regulations include caring for oneself, performing manual tasks, walking, hearing, speaking, breathing, learning, and working.

Other examples of major life activities include sitting, standing, lifting, and mental and emotional processes such as thinking, concentrating, and interacting with others.

Substantially Limits

An impairment is substantially limiting if it prohibits or significantly restricts an individual's ability to perform a major life activity as compared to the ability of the average person in the general population to perform the same activity.

- The determination of whether an impairment substantially limits a major life activity depends on the nature and severity of the impairment, the duration or expected duration of the impairment, and the permanent or long-term impact of the impairment.
- An impairment substantially limits an individual's ability to work if it prevents or significantly restricts the individual from performing a class of jobs or a broad range of jobs in various classes.
- Although very short-term, temporary restrictions generally are not substantially limiting. An impairment does not have to be permanent to rise to the level of a disability. Temporary impairments that take significantly longer than normal to heal, long-term impairments, or potentially long-term impairments of indefinite duration may be disabilities if they are severe.
- Chronic or episodic disorders that are substantially limiting when active or have a high likelihood of recurrence in substantially limiting forms may be disabilities.
- An individual who has two or more impairments that are not substantially limiting by themselves but that together substantially limit one or more major life activities has a disability.

Record of A Substantially Limiting Impairment

An individual has a record of a substantially limiting impairment if she or he (1) has a history of a substantially limiting impairment or (2) has been misclassified as having a substantially limiting impairment.

Regarded as Having a Substantially Limiting Impairment

An individual is regarded as having a substantially limiting impairment if he or she

- has an impairment that does not substantially limit major life activities but is treated by a covered entity as constituting such limitation,
- has an impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment, or
- has no impairment but is treated by a covered entity as having a substantially limiting impairment.

An Employer regards an individual as having an impairment that substantially limits the major life activity of working if it treats the individual as having an impairment that disqualifies or significantly restricts the individual from working in a class of jobs or a broad range of jobs in various classes.

FOR OFFICIAL USE ONLY

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

4

Illegal Use of Drugs

The statute and regulations exclude from the definition of "disability" an individual currently engaging in the illegal use of drugs when the covered entity acts on the basis of the use. This exclusion, however, does not apply to an individual who has a record of illegal use of drugs but no longer uses drugs illegally or who is erroneously regarded as engaging in such use.

An individual does not automatically satisfy the definition of "disability" simply because she or he has a record of the illegal use of drugs or is erroneously regarded as engaging in such use. The record or perception must pertain to a record or perception that the individual is or was addicted to drugs. A record or perception of occasional, casual use of drugs does not constitute a disability.

Drug addicts and alcoholics are disabled persons protected by Section 504 of the Rehabilitation Act of 1973. However, the Civil Rights Act of 1991 amended the Act to exclude illegal drug users from the protection of the Rehabilitation Act. In addition, due to the October 1992 amendment to the Rehabilitation Act, which incorporated Section 1 of the ADA, agencies are no longer required to offer a firm chance or last chance agreement. This amendment requires that legal addicts and alcoholics be treated the same as a non-disabled employee.

Initiating a Request for Reasonable Accommodation

A Department of Defense Education Activity (DoDEA) employee, applicant, or his/her representative (hereinafter referred to as Individual) must inform his/her supervisor or personnelist (hereinafter referred to as Employer) that s/he needs an adjustment or change at work for a reason related to a medical condition. This is only the first step in the process. The Individual must complete a reasonable accommodation request form for recordkeeping purposes. The form is provided at Appendix A.

Authority to Approve the Request for Accommodation

A requesting Individual's supervisor, or the Personnel Director in the case of an applicant, will make all final decisions concerning the approval for an accommodation.

Time Period for Granting or Denying a Request for Accommodation

Absent extenuating circumstances, a Request for Accommodation should be processed and approved within 30 days of an initial request. This time period does not include the time it would take to receive special equipment, but does include the date of ordering the equipment.

An Employer must respond expeditiously to a request as lack of action amounts to a denial.

FOR OFFICIAL USE ONLY

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

5

Responsibility of the Employee or Applicant

The Individual must inform the Employer that an accommodation is needed. An Individual with a disability may request a reasonable accommodation at any time during the application process or during the period of employment. An Individual with a disability should request a reasonable accommodation when s/he knows that there is a workplace barrier that is preventing him/her, due to a disability, from effectively competing for a position, performing a job, or gaining equal access to a benefit of employment. The Individual has the responsibility of requesting accommodation before performance suffers or conduct problems occur.

In the event an individual is unable to personally request a reasonable accommodation, a family member, friend, health professional, or other representative designated by the disabled individual may request a reasonable accommodation on his or her behalf. The Individual with a disability must inform the Employer that an accommodation is needed.

Process for Requesting a Reasonable Accommodation

Although this Agency requires a request for reasonable accommodation to be in writing, the Employer cannot ignore an initial request. However, an Employer may request reasonable documentation that the Individual has an ADA disability and needs a reasonable accommodation. The Employer and the requesting employee or applicant must engage in an informal and interactive process to clarify what the Individual specifically needs and identify the appropriate reasonable accommodation.

Resources

Where the Individual or the Employer is not familiar with possible accommodations, there are extensive public and private resources to help:

U.S. Equal Employment Opportunity Commission
1-800-669-3362 (Voice)
1-800-800-3302 (TT)

U.S. Department of Labor
(To obtain information on the Family and Medical Leave Act)
To request written materials:
1-800-959-3652 (Voice)
1-800-326-2577 (TT)
To ask questions: (202) 219-8412 (Voice)

Job Accommodation Network (JAN)
1-800-232-9675 (Voice/TT)
<http://www.jan.wvu.edu/>

ADA Disability and Business Technical Assistance Centers (DBTACs)
1-800-949-4232 (Voice/TT)
<http://www.adata.org/>

Registry of Interpreters for the Deaf
(301) 608-0050 (Voice/TT)
<http://www.rid.org/>

RESNA Technical Assistance Project
(703) 524-6686 (Voice)
(703) 524-6639 (TT)
<http://www.resna.org/>

“When governments, businesses and individuals work together, to build a welcoming society, Americans of every ability will benefit.”

*President George W. Bush
June 19, 2001*

Documentation

- An Employer may ask an Individual for documentation when the Individual requests reasonable accommodation when the disability and/or the need for accommodation are not obvious. The Employer is entitled to know that the Individual has a covered disability for which s/he needs a reasonable accommodation.
- If an Individual has more than one disability, an Employer can request information pertaining only to the disability that requires a reasonable accommodation.
- The ADA does not prevent an Employer from requiring an Individual to go to an appropriate health professional of the Employer's choice (at the Employer's expense) if the Individual provides insufficient information from his/her treating physician to substantiate that s/he has an ADA disability and needs a reasonable accommodation. The Employer must explain why the documentation is insufficient and allow the Individual an opportunity to provide the missing information in a timely manner.
- Documentation is insufficient if it does not specify the existence of an ADA disability and explain the need for reasonable accommodation.
- An Employer **cannot ask for documentation** when: (1) both the disability and the need for reasonable accommodation are obvious, or (2) the Individual has already provided the Employer with sufficient information to substantiate that s/he has an ADA disability and needs the reasonable accommodation requested.

The Reasonable Accommodation

- An Employer may choose among reasonable accommodations as long as the chosen accommodation is effective.
- The Employer may offer alternative suggestions for reasonable accommodations and discuss their effectiveness in removing the workplace barrier that is impeding the individual with a disability.
- When there are two or more effective accommodations, the Employer may choose the one that is easier to provide or less expensive.
- The preference of the individual with a disability should be given primary consideration; however, the Employer providing the accommodation has the ultimate discretion to choose.
- An Employer may not require a qualified Individual with a disability to accept an accommodation; however, if an Individual needs a reasonable accommodation to perform an essential function or to eliminate a direct threat, and refuses to accept an effective accommodation, s/he may not be qualified to remain in the job.
- During the hiring process and before a conditional offer, an Employer generally may not ask an applicant whether s/he needs a reasonable accommodation for the job, except when the applicant has self-identified that a disability exists.
- After a conditional offer of employment is extended, an Employer may inquire whether applicants will need reasonable accommodations related to anything connected with the job as long as all entering employees in the same job category are asked this question.

FOR OFFICIAL USE ONLY

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

7

Equal Benefits and Privileges of Employment

- Employers must ensure that Individuals with disabilities have access to information, training, services (e.g., employee assistance programs (EAP's), credit unions, cafeterias, lounges, gymnasiums, auditoriums, transportation), and parties or other social functions (e.g., to celebrate retirements and birthdays, and company outings) that is provided to other similarly-situated employees without disabilities, regardless of whether they need it to perform their jobs.
- Examples of reasonable accommodations in this area may include sign language interpreters; written materials produced in alternative format such as Braille, large print, or on audiocassette. This is required whether the training occurs on the Employer's premises or elsewhere.

Types of Reasonable Accommodations Related to Job Performance

Job Restructuring

- Reallocating or redistributing marginal job functions that an Individual is unable to perform because of a disability; and altering when and/or how a function, essential or marginal, is performed.

Leave

- Permitting the use of accrued paid leave, or unpaid leave, is a form of reasonable accommodation when necessitated by an Individual's disability. **An Employer does not have to provide paid leave beyond that which is provided to similarly situated employees.** Allow an Individual with a disability to exhaust accrued paid leave first and then provide unpaid leave.
- An Individual with a disability who is granted leave as a reasonable accommodation is entitled to return to her/her same position unless the Employer demonstrates that

holding open the position would impose an undue hardship.

- If an Employer cannot hold a position open during the entire leave period without incurring undue hardship, the Employer must consider whether it has a vacant, equivalent position for which the Individual can be reassigned to continue his/her leave for a specific periods of time and then, at the conclusion of the leave, can be returned to this new position.
- Continued leave is not required as a reasonable accommodation if a vacant position at a lower level is also unavailable.
- An Employer cannot penalize an Individual for work missed during leave taken as a reasonable accommodation.
- In lieu of leave, an Employer may provide a reasonable accommodation that requires an Individual to remain on the job (e.g., reallocation of marginal functions or temporary transfer) as long as it does not interfere with the Individual's ability to address his/her medical needs. The Employer is obligated to restore the Individual's full duties or to return the Individual to his/her original position once s/he no longer needs the reasonable accommodation.
- If it is an undue hardship under the ADA to hold open an Individual's position during a period of leave, or an Individual is no longer qualified to return to his/her original position, then the Employer must reassign the Individual (absent undue hardship) to a vacant position for which s/he is qualified.

Modified or Part-Time Schedule

- A modified schedule may involve adjusting arrival or departure times, providing periodic breaks, altering when certain functions are performed, allowing an Individual to use accrued paid leave, or providing additional unpaid leave. An Employer must provide a modified or part-time schedule when required as a reasonable accommodation, absent undue hardship, even if it does not provide such schedules for other employees.

FOR OFFICIAL USE ONLY

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

8

- If there is undue hardship, the Employer must reassign, **as a last resort**, the Individual if there is a vacant position for which s/he is qualified and which would allow the Employer to grant the modified or part-time schedule (absent undue hardship).

Modified Workplace Policies

- Reasonable accommodation only requires that the Employer modify the policy for an Individual who requires such action because of a disability; therefore, the Employer may continue to apply the policy to all other employees.
- It is a reasonable accommodation to modify a workplace policy when necessitated by an individual's disability-related limitations, absent undue hardship.

Reassignment

- The ADA specifically lists "reassignment to a vacant position" as a form of reasonable accommodation.
- This type of accommodation must be provided to an Individual who, because of a disability, can no longer perform the essential functions of her/her current position, with or without reasonable accommodation, unless the Employer can show that it would be an undue hardship.
- The Individual **must be "qualified"** for the new position.
- The Individual **does not need to be the best qualified** for the position in order to obtain it as a reassignment.
- The Employer does not have to provide training so that the Individual acquires necessary skills to take a job.
- Employers should first consider those accommodations that would enable an Individual to remain in his/her current position. **Reassignment is the reasonable accommodation of last resort.**
- "Vacant" means that the position is available when the Individual asks for reasonable accommodation, or that the Employer knows that it will become available within a reasonable time. A position is considered vacant even if an Employer has posted a

- notice or announcement seeking applications for that position.
- The Employer does not have to bump an employee from a job in order to create a vacancy; **nor does it have to create a new position.**
- If there is no vacant equivalent position, the Employer must reassign the Individual to a vacant lower level position for which the Individual is qualified. The Employer must place the Individual in the position that comes closest to the Individual's current position in terms of pay, status, etc.
- Reassignment does not include giving an Individual a promotion. Thus, an Individual must compete for any vacant position that would constitute a promotion.
- Employers cannot deny a reassignment to an Individual solely because s/he is designated as "probationary."
- An Employer who does not normally transfer employees would still have to reassign an Individual with a disability, unless it could show that the reassignment caused an undue hardship.
- The extent to which an Employer must search for a vacant position will be an issue of undue hardship. If an Individual is being reassigned to a different geographical area, the Individual must pay for any relocation expenses unless the Employer routinely pays such expenses when granting voluntary transfers to other employees.
- Notify an Individual with a disability about vacant positions. The Employer is obligated to inform an Individual about vacant positions for which s/he may be eligible as a reassignment. However, an Individual should assist the Employer in identifying appropriate vacancies to the extent that the Individual has access to information about them.
- When an Employer has completed its search, identified whether there are any vacancies (including any positions that will become vacant in a reasonable amount of time), notified the Individual of the results, and either offered an appropriate vacancy to the Individual or informed him/her that no appropriate vacancies are available, the Employer will have fulfilled its obligation.

FOR OFFICIAL USE ONLY

9

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

- Reassignment means that the Individual with a disability gets the vacant position if s/he is qualified for it.
- An Employer is not obligated to maintain his/her salary from the higher level position if the Individual is reassigned to a lower level position, unless the Employer transfers Individuals without disabilities to lower level positions and maintains their original salaries.

Other Reasonable Accommodation Issues

- **Multiple Accommodations** - The duty to provide reasonable accommodation is an ongoing one. If an individual requests multiple reasonable accommodations, s/he is entitled only to those accommodations that are necessitated by a disability and that will provide an equal employment opportunity.
- **Changing a Person's Supervisor** – An Employer does not have to provide an Individual with a new supervisor as a reasonable accommodation, although it is not prohibited. However, an Individual with a disability is protected from disability-based discrimination by a supervisor, including disability-based harassment.
- **Work at Home** – An Employer can provide work at home as a reasonable accommodation, but only if this accommodation would be effective and would not cause an undue hardship.
- **Conduct Issues** - An Employer NEVER has to excuse a violation of a uniformly applied conduct rule that is job-related and consistent with business necessity. An Employer NEVER has to tolerate or excuse violence, threats of violence, stealing, or destruction of property. An Employer may discipline an Individual with a disability for engaging in such misconduct if it would impose the same discipline on an Individual without a disability.
- An Employer must make reasonable accommodations to enable an otherwise qualified Individual with a disability to meet such a conduct standard in the future, barring undue hardship, except where the

punishment for the violation is termination. Since reasonable accommodation is always prospective, an Employer is not required to excuse past misconduct, even if it is the result of the individual's disability.

- **Discipline** - The Employer may discipline the Individual because s/he violated a conduct standard addressing tardiness that is job-related for the position in question and consistent with business necessity. The Employer, however, must consider reasonable accommodation, barring undue hardship, to enable this Individual to meet this standard in the future.
- Medication monitoring is not a reasonable accommodation.
- The ADA requires an Employer to provide reasonable accommodation to remove workplace barriers; regardless of what effect medication, other medical treatment, or assistive devices may have on an Individual's ability to perform the job.
- If an Individual with a disability cannot perform the essential functions of the position or poses a direct threat in the absence of medication, treatment, or an assistive device, then s/he is unqualified.
- The side effects of medication that an Individual must take because of the disability are limitations resulting from the disability. Reasonable accommodation extends to all limitations resulting from a disability.
- An Employer should initiate the reasonable accommodation interactive process without being asked, if the Employer:
 - (1) knows that the Individual has self-identified that a disability exists;
 - (2) knows, or has reason to know, that the Individual is experiencing workplace problems because of the disability; and
 - (3) knows, or has reason to know, that the disability prevents the Individual from requesting a reasonable accommodation.
- If the Individual with a disability states that s/he does not need a reasonable accommodation, then the Employer will have fulfilled its obligation.
- An Employer may ask whether a reasonable accommodation is needed when an Individual with a disability has not asked for one (e.g., for when going TDY).

FOR OFFICIAL USE ONLY

10

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

- An Employer may NOT tell other employees that an Individual is receiving a reasonable accommodation when employees ask questions about a coworker with a disability. The ADA specifically prohibits the disclosure of medical information except in certain limited situations, which do not include disclosure to coworkers.
- When asked by other coworkers, an Employer should emphasize DoDEA's policy of assisting any Individual who encounters difficulties in the workplace. In addition, it is DoDEA's policy that workplace issues encountered by Individuals are personal and the Individual's privacy is respected.
- As long as there is no coercion by an Employer, an Individual with a disability may voluntarily choose to disclose to coworkers his/her disability.
- The nature and cost of the accommodation needed.
- The overall financial resources of the facility making the reasonable accommodation, the number of persons employed at the facility, the effect on expenses and resources of the facility.
- The overall financial resources, size, number of employees, and type and location of facilities of the Employer (if the facility involved in the reasonable accommodation is part of a larger entity).
- The type of operation of the Employer, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation to the Employer.
- The impact of the accommodation on the operation of the facility.

Undue Hardship Issues

An Employer does not have to provide a reasonable accommodation that would cause an "undue hardship" to the Employer.

Undue Hardship must be based on an individualized assessment of current circumstances that show that a specific reasonable accommodation would cause significant difficulty or expense.

Contagious Diseases

If a person has a contagious disease, this can be determined to be an undue hardship. The persons with contagious diseases will need to establish:

- the nature of the risk of contagion
- the duration of the risk
- the severity of the risk
- the probabilities the disease will be transmitted and will cause varying degrees of harm.

Factors for Determining Undue Hardship:

Undue hardship is based on the **net cost** to the Employer. Determine whether funding is available from an outside source, such as a state rehabilitation agency, to pay for all or part of the accommodation.

An Employer cannot claim undue hardship based on employees' (or customers') fears or prejudices toward the Individual's disability. Nor can undue hardship be based on the fact that provision of a reasonable accommodation might have a negative impact on the morale of other employees.

- An Employer is not required to modify the work hours of an Individual with a disability if doing so would prevent other employees from performing their jobs.
- If an Employer is able to show that the lack of a fixed return date causes an undue hardship, then it can deny the leave. *[Undue hardship will derive from the disruption to the operations of the entity that occurs because the Employer can neither plan for the Individual's return nor permanently fill the position. An Employer cannot claim undue hardship solely because an Individual can provide only an approximate date of return.]* The Employer has the right to require, as part of the

FOR OFFICIAL USE ONLY

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

11

interactive process, that the Individual provide periodic updates on his/her condition and possible date of return.

- A cost-benefit analysis does not determine whether a reasonable accommodation will cause undue hardship. The hardship is
- An Employer cannot claim that a reasonable accommodation imposes an undue hardship simply because it violates a collective bargaining agreement (CBA). *[First, the Employer should consider if the reasonable accommodation would violate the CBA. If it does, the ADA requires an Employer and a union, as a collective bargaining representative, to negotiate in good faith a variance to the CBA so that the Employer may provide a reasonable accommodation.]*

based on the Employer's resources, not on the Individual's salary, position, or status (e.g., full-time versus part-time, salary versus hourly wage, permanent versus temporary).

- An Employer cannot claim undue hardship solely because it would be required to make changes to property owned by someone else. *[The Employer must make good faith efforts either to obtain the owner's permission or to negotiate an exception to the terms of the contract. If the owner refuses, the Employer must still provide another reasonable accommodation, if one exists, that would not cause undue hardship.]*

“The highest result of education is tolerance.”

--Helen Keller

FOR OFFICIAL USE ONLY

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

12

Department of Defense Education Activity
Pamphlet 09-EEO-01

PROCEDURES FOR REQUESTING REASONABLE ACCOMMODATION

PART I - Reasonable Accommodation Request Form:

To be completed by applicant for employment or employee. For many accommodation requests, an employee will need to know the essential functions of his or her job. The employee should discuss what these are with his or her supervisor.

PART II - Deciding Official Documentation:

To be completed by Supervisor/Deciding Official.

PART III - Medical Documentation:

If a determination has been made that medical documentation is needed to proceed with the reasonable accommodation process, this portion is to be completed by the Health Care Practitioner. Provide copies of Parts 1 and 2 to the physician, if appropriate.

PART IV - Reporting Form:

The appropriate supervisor/Personnel Director will complete Part IV, Agency Certification of Accommodation Efforts. If any accommodation is made, a copy of Part IV should be mailed to the DoDEA Diversity Management and Equal Opportunity, ATTN: Disabilities Program Manager, 4040 North Fairfax Drive, Arlington, VA 22203-1634, or sent by facsimile to (703) 588-3706. *Please do not provide medical documentation with the reporting form to the Disabilities Program Manager.*

FOR OFFICIAL USE ONLY

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

13

PART I - REASONABLE ACCOMMODATION REQUEST FORM

(To be maintained separate, apart, and secured from personnel files)

1. Name of Applicant (last/first/middle):

2. Position Title:

3. Grade/Series/Step:

4. Office/Department:

5. Work Phone Number:

6. DoDEA School District:

7. Immediate Supervisor's Name:

8. Immediate Supervisor's Phone Number:

9. Reasonable accommodation needed for: (check one)

_____ Applicant Process

_____ Performing Job Functions or Accessing the Work Environment

_____ Accessing a Benefit or Privilege of Employment (e.g., attending a training program or social event)

FOR OFFICIAL USE ONLY

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

14

10. Date of reasonable accommodation request:

11. Accommodations requested: (Be as specific as possible, e.g., adaptive equipment, reader, interpreter)

12. If a reasonable accommodation is needed to perform your job, describe how the accommodation will assist you in performing the job:

FOR OFFICIAL USE ONLY

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

15

**Department of Defense Education Activity
Pamphlet 09-EEO-01**

CERTIFICATION AND CONSENT BY EMPLOYEE

I hereby certify that all statements made above are true to the best of my knowledge and belief. I hereby give my permission for the release to authorized agency officials of information about my service and medical condition(s) (i.e., disease or injury) to the extent that this information relates to my request for reasonable accommodation. .

Signature

Date

Print Name

Office Telephone Number

PART II – DECIDING OFFICIAL DOCUMENTATION

(To be maintained separate, apart, and secured from personnel files)

Date reasonable accommodation requested:

1. Type of reasonable accommodation requested:

2. Interim measures (including temporary accommodations, e.g., light duty) provided, if any:

3. If timeframes outlined in the DoDEA's Reasonable Accommodation Procedures were not met, or delays incurred, please explain why:

4. Type of reasonable accommodation provided:

5. If different from what was requested, please explain:

6. If medical information was required to process this request, please explain why:

7. Sources of technical assistance, if any, consulted in trying to accommodate the employee's request (i.e. Job Accommodation Network, Human Resources, Diversity Management & Equal Opportunity, Disabilities Program Manager, or other):

8. Reasonable Accommodations:

_____ Approved

_____ Denied Date reasonable accommodations denied: _____

9. Reason for denial, if applicable:

- _____ 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)

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

11. If an individual wishes to request reconsideration of this decision, the employee may:

- Request reconsideration in writing and provide additional information to support this request.
- If the decision-maker does not reverse the denial, the individual may pursue the reconsideration through their chain of command.

I certify that all the statements made on this Supervisor's Statement are true to the best of my knowledge and belief.

Signature

(Typed Name)

Date

Telephone Number

PART III MEDICAL DOCUMENTATION

SECTION A – Identifying Information and Consent (to be completed by employee).

1. Applicant's Name (Last, First, Middle):

2. Enter exact Name and Address (including Zip Code) of your employing agency. (Address to which physician sends statement).

APPLICANT'S CONSENT TO RELEASE MEDICAL INFORMATION

I authorize the release to my employing activity medical information or records connected with my medical condition to the extent that this information or records relates to my request for reasonable accommodation.

Signature

Date

SECTION B – Medical Documentation (To be completed by Physician or Medical Professional)

PATIENT'S NAME: _____

ADDRESS: _____

Accommodation Requested (from answer to Question 11 of Part I):

Description of how the proposed accommodation would assist the employee/applicant (from answer to Question 12 of Part I):

INSTRUCTIONS

DoDEA has been requested to consider reasonable accommodations for the individual named above. The accommodation(s) listed above has been requested by your patient for a medical condition. We would like to know if the condition necessitates the requested accommodation(s) or any other accommodation. Please provide the medical documentation on your letterhead stationary.

MEDICAL DOCUMENTATION

1. Please provide the medical diagnosis or clinical findings as it relates to this reasonable accommodation request:

2. Describe the nature, severity, and duration of the impairment, the activity or activities that the impairment limits, and the extent to which the impairment limits her ability to perform the activity or activities:

3. Assessment of the current clinical status and an estimate of expected date of full or partial recovery:

4. Other requested information (Use additional blank pages, if necessary):

PART IV – REPORTING FORM

Name of individual requesting reasonable accommodation:

Office of requesting individual:

1. Reasonable accommodation:

_____ Approved

_____ Denied (If denied, attach PART II Supervisor's statement of the Reasonable Accommodation Procedures.)

2. Date reasonable accommodation requested: _____

Who received request: _____

3. Date reasonable accommodation request referred to decision maker (*i.e.*, supervisor, office Director, Disability Program Manager, personnel management specialist): _____

Name of decision maker: _____

4. Date reasonable accommodation approved or denied: _____

5. Date reasonable accommodation provided (if different from date approved): _____

6. If time frames outlined in the Reasonable Accommodation Procedures were not met, please explain why:

7. Job held or desired by individual requesting reasonable accommodation (including occupational series, grade level, and office):

8. Reasonable accommodation needed for:

_____ Application process

_____ Performing job functions or accessing the work environment

_____ Accessing a benefit or privilege of employment (*e.g.*, attending a training program or social event)

FOR OFFICIAL USE ONLY

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)

21

9. Type(s) of reasonable accommodation requested (e.g., adaptive equipment, staff assistant, and removal of architectural barrier):

10. Type(s) of reasonable accommodation provided (if different from what was requested):

11. Was medical information required to process this request? If yes, explain why.

12. Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodations (e.g., Job Accommodation Network, disability organization, Disabilities Program Manager, Computer/Electronic Accommodations Program):

13. Comments:

Submitted by: _____ Phone: _____

Attach copies of all documents obtained or developed in processing this request.

Send copy to DoDEA Diversity Management and Equal Opportunity Office, ATTN: Disabilities Program Manager, 4040 North Fairfax Drive, Arlington, VA 22203-1634.

REFERENCES

Executive Order 13164 of July 26, 2000,
Requiring Federal Agencies to Establish
Procedures to Facilitate the Provision of
Reasonable Accommodation
http://www.eeoc.gov/policy/docs/accommodation_procedures.html

Executive Order 13163 of July 26, 2000,
Increasing the Opportunity for Individual with
Disabilities to Be Employed in the Federal
Government
<http://www.eeoc.gov/abouteeoc/meetings/6-28-06/hadden.html>

EEOC Directive 915.003,
October 20, 2000, EEOC Policy Guidance on
Executive Order 13164: Establishing
Procedures to Facilitate the Provision of
Reasonable Accommodation
<http://www.eeoc.gov/policy/docs/race-color.pdf>

EEOC Guidance - Reasonable Accommodation
and Undue Hardship under the Americans with
Disabilities Act
<http://www.eeoc.gov/policy/docs/accommodation.html>

The Rehabilitation Act of 1973, Sections 501
and 505
<http://www.eeoc.gov/policy/rehab.html>

CONTACT INFORMATION

Europe Area Office William Suddeth, DoDDS-E DMEO Program Manager

Office of the Director, DoDDS-Europe
ATTN: DMEO Office
Unit 29649, Box 7600
APO AE 09096
DSN 314-334-2490
Civilian: 06134-604-490
Civilian (Outside Germany)
011-49-6134-604-490
Fax DSN: 314-334-2959
Civilian Fax: 06134-604-959
Civilian Fax (Outside Germany): 011-49-6134-
604-959
<http://www.eu.dodea.edu/dmeo/>

Pacific Area Office Steve Vojtecky, DoDDS-P DMEO Program Manager

Pacific Director's Office
DoDDS-Pacific/DDESS-Guam
Unit 35007
APO AP 96376
DSN: (315) 644-5661
Civilian from the States 011-81-611-744-5661
Civilian fax from the States 011-81-989-57-4510
<http://www.pac.dodea.edu/aboutus/adminservices/EEO/index.htm>

Peachtree, GA Service Center Albert Ware, DDESS DMEO Program Manager

DDESS Area Service Center
700 Westpark Drive
Peachtree, City, GA 30269
Phone: 678.364.6655
Fax: 678.364-6626
<http://www.am.dodea.edu/ddessasc/aboutddess/dmeo.html>

Headquarters, Arlington, VA Alina Doreste-Johnson, Chief of Diversity Management & Equal Opportunity

- **Deborah W. Cannon**
 - Deputy Chief, DMEO
- **Theodore Agnew**
 - Diversity Manager
- **Charles Montanez**
 - Disabilities Program Manager
 - Phone 703-588-3237
- **Allison Kennedy**
 - Complaints Manager

Department of Defense Education Activity,
Equal Employment Opportunity Office
4040 North Fairfax Drive
Arlington, VA 22203
http://dodea.edu/offices/eeo/programs_disability.cfm?cld=dep

FOR OFFICIAL USE ONLY

23

(Public Law 93-579, "Privacy Act of 1974", 5 U.S.C. 552a December 31, 1974, Privacy Sensitive: Any misuse or unauthorized disclosure may result in both civil and criminal penalties.)