



Reasonable Accommodation

April 7, 2010

**Fort Bragg Garrison Command
Federal Agency Annual Equal Employment
Opportunity Program Status Report
“Management Directive - 715 Report”**

Robert S. McRae, Director, EEO

Our Mission: Educate, evaluate, and advise customers in order to ensure fair and equitable treatment and prevent unlawful employment practices; while enhancing partnerships with the greater Fort Bragg community.





Reasonable Accommodation

April 7, 2010

Authority

- US Army Procedures for Providing Reasonable Accommodation for Individuals with Disabilities, 17 March 2009
- Executive Order (EO) 13164, Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, 26 July 2000
- Americans with Disabilities Act Amendments Act of 2008





Reasonable Accommodation

April 7, 2010

Authority

- Americans with Disabilities Act of 1990
- Rehabilitation Act of 1973, as amended
- Title 29 U.S.C. of Federal Regulations, § 791 et seq.





Reasonable Accommodation

April 7, 2010

Authority

- Title 42, U.S.C. of Federal Regulations, § 12101, et seq.
- Title 29, U.S.C. of Federal Regulations, part 1630
- AR 600-7, Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army, 15 December 1983





Reasonable Accommodation

April 7, 2010

Purpose

Policy guidance for submission and processing Requests for Reasonable Accommodation for Individuals with Disabilities. It outlines the roles and responsibilities of supervisors and their civilian employees and prospective supervisors and applicants who make such requests.





Reasonable Accommodation

April 7, 2010

Applicability

The policy applies to all Army appropriated or non-appropriated fund activities, their employees and applicants for employment.





Reasonable Accommodation

April 7, 2010

Army Policy

Army's policy is to fully comply with the reasonable accommodation requirements of the Rehabilitation Act of 1973, as amended. Federal agencies must provide reasonable accommodation to qualified employees or applicants with disabilities, unless to do so would cause undue hardship.





Reasonable Accommodation

April 7, 2010

Individual with a Disability



An individual who has (1) a mental or physical impairment that substantially limits one or more major life activities (2) a record of such impairment; or (3) is regarded as having such impairment. Individuals who are solely regarded as having a disability are not entitled to reasonable accommodation.





Reasonable Accommodation

April 7, 2010



Major Life Activities

Functions: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. This also includes the operation of major bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. This is not an all inclusive is but is representative of the types of activities that are considered major life activities.





Reasonable Accommodation

April 7, 2010

Essential Functions



Essential Functions are defined as the fundamental job duties of the employment position the individual with a disability holds or desires. A “function” is “essential” if, among other things, the reason the position exists is to perform that function.





Reasonable Accommodation

April 7, 2010

Undue Hardship

A specific accommodation that would cause significant difficulty or expense. This determination is made on a case-by-case basis, considers factors such as the nature and cost of the accommodation needed and the impact of the accommodation on the operations of the Army.



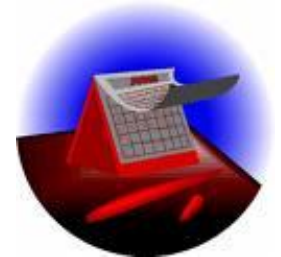


Reasonable Accommodation

April 7, 2010

Initiating the Reasonable Accommodation Process

The process begins when the individual makes an oral or written request for a reasonable accommodation. The request does not require the individual to mention the Rehabilitation Act or use the phrase “reasonable accommodation” or “disability.” The request is usually provided to the immediate supervisor.





Reasonable Accommodation

April 7, 2010

Appendix B – Confirmation of Reasonable Accommodation Request for Accommodation

Individuals must submit written confirmation of the request for reasonable accommodation using Appendix B available through the appropriate supervisor or the Disability Program Manager. A Decision Maker must begin processing an oral request immediately upon receipt of such a request and should not wait for written confirmation. Provide the Disability Program Manager a copy of Appendix B.

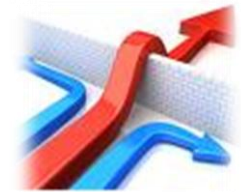




Reasonable Accommodation

April 7, 2010

Decision Maker (DM)



The DM is an agency official in employee's chain of command, usually the employee's immediate supervisor. In the case of an applicant, the DM will usually be the selecting official, an agency official in the selecting official's chain of command, or a Human Resources staff member assigned to process the vacancy. The DM has the authority to approve the request.





Reasonable Accommodation

April 7, 2010

Steps for the Decision Maker (DM)

- Start an interactive and flexible communication with requester
- DM will forward copy of Appendix B to Disability Program Manager
- DM will grant, modify, or propose denial of the request
- If DM does not immediately grant the accommodation, consult Disability Program Manager
- Legal reviews must be conducted for all proposed denials





Reasonable Accommodation

April 7, 2010

Confidentiality

- Information that someone has a disability or is receiving an accommodation
- Information – for use by DM and officials with a “need to know” in order to provide accommodation
- Examples: Supervisors, managers, building managers, government officials investigating Army compliance





Reasonable Accommodation

April 7, 2010



Time Limits

- DM grants accommodation immediately OR
- DM has 30 business days to grant, modify, or propose denial of the accommodation (absent extenuating circumstances)
- Clock stops while DM waiting for information from requester or health provider
- Clock re-starts when information is received
- DM must consider provisional accommodation when there is a delay





Reasonable Accommodation

April 7, 2010

Medical Information

- Request when disability and/or need for accommodation not obvious
- Request when information is needed related to functional impairment and/or limitations at issue
- DM must seek assistance from the Disability Program Manager PRIOR to obtaining medical documentation
- Disability Program Manager works jointly with Labor Attorney to assist in obtaining appropriate medical documentation





Reasonable Accommodation

April 7, 2010

Medical Information

Medical information will ONLY be requested to the extent reasonable necessary to establish that requester is an individual with a disability and/or needs the requested accommodation





Reasonable Accommodation

April 7, 2010

Supplemental Medical Information

- Request supplemental medical documents when information already provided is insufficient to (1) document the disability and (2) the need for reasonable accommodation.
- Prior to any such type action, confer with Disability Program Manager. Labor Attorney will provide a legal review
- When Labor Attorney determines information is insufficient, CPAC will assist DM in preparing correspondence to request supplemental documentation





Reasonable Accommodation

April 7, 2010

Supplemental Medical Information

- Clearly explain the nature or functional impairment due to disability and need for accommodation
- Clarify how requested accommodation will assist employee to perform the essential functions of the job or enjoy the benefits and privileges of the workplace
- If supplemental request does not result in sufficient information, activity may require the employee to be examined by a health care professional of activity's choice at activity's expense





Reasonable Accommodation

April 7, 2010

Reassignments

- Reassignment is the accommodation of last resort, available only to employees, not applicants
- To be considered if no accommodations are available to enable the individual to perform the essential functions of the current job, or if the only effective accommodation would cause undue hardship
- Reassignment may only be made to a vacant position, not to create new positions or displace employees from their jobs





Reasonable Accommodation

April 7, 2010

Reassignments (con't)

- DM should consider employee's preferences such as:
- Reassignment outside the facility, outside the commuting area, if so, what locations
- Different type position(s) for which employee is qualified, if so, what type, reassignment to a different sub-component of department and if so, to which one(s)
- If employee is willing and no position is available at current grade/pay band, reassignment to a lower grade/pay band and if so, to what grade/pay band





Reasonable Accommodation

April 7, 2010

Granting Accommodation

- DM determines accommodation will be provided
- DM fills out Appendix F, Reasonable Accommodation Information Report and provide copy to Disability Program Manager
- DM will maintain record for a period of three years





Reasonable Accommodation

April 7, 2010

Denial of Requested Accommodation

- DM must consult with Disability Program Manager PRIOR to denying accommodation
- Legal reviews must be conducted on all proposed denials of reasonable accommodation
- DM will notify employee in writing of denied accommodation
- DM will use Appendix E (page 21) and provide copy to Disability Program Manager





Reasonable Accommodation

April 7, 2010

Denial of Requested Accommodation

Denial is based on the Army's inability to provide requested accommodation





Reasonable Accommodation

April 7, 2010

Funding

- Each activity determines how funding will be provided to support request for accommodation not covered through CAP (Computer/Electronic Accommodations Program)
- Budget constraints is not a sufficient excuse for failure to provide reasonable accommodation
- If agency fails to make a “good faith” effort to provide reasonable accommodation, it may be liable for compensatory damages





Reasonable Accommodation

April 7, 2010

Alternate Dispute Resolution (ADR)

- Preferred method of informal dispute resolution
- If request is denied, employee has option to initiate ADR
- If request denied, employee may file an EEO complaint
- DM will keep record of written communication for a period of three (3) years





Reasonable Accommodation

April 7, 2010

SCENARIOS





Reasonable Accommodation

April 7, 2010

ROSA COLON

DISABILITY PROGRAM MANAGER

(910) 396-4184

rosa.colon1@us.army.mil





Reasonable Accommodation

April 7, 2010

QUESTIONS

