



Director of Administration and Management

ADMINISTRATIVE INSTRUCTION

NUMBER 114
October 24, 2013

HRD, WHS

SUBJECT: Reasonable Accommodation for Individuals with Disabilities

References: See Enclosure 1

1. PURPOSE. In accordance with the authority in DoD Directive 5110.4 (Reference (a)), this Administrative Instruction (AI):

a. Implements Executive Order 13164 (Reference (b)), pursuant to section 791 of Title 29, United States Code (U.S.C.) (also known as and referred to in this issuance as “Section 501 of The Rehabilitation Act of 1973, as amended”) (Reference (c)), and consistent with the standards applied pursuant to chapter 126 of Title 42, U.S.C. (also known and referred to in this issuance as “The Americans with Disabilities Act (ADA) of 1990, as amended”) (Reference (d)), as such references relate to employment, within WHS-serviced Components.

b. Prescribes procedures and assigns responsibilities for processing reasonable accommodation requests submitted by employees of WHS-serviced Components and their authorized representatives or applicants for employment.

2. APPLICABILITY. This AI applies to:

a. OSD, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Defense Agencies, and the DoD Field Activities that are serviced by Washington Headquarters Services (WHS) (referred to collectively in this AI as the “WHS-serviced Components”).

b. Applicants seeking civilian employment with the WHS-serviced Components.

3. POLICY. It is DoD policy according to DoD Directive 1020.02 (Reference (e)) to provide reasonable accommodation to DoD employees and applicants for employment with known physical or mental disabilities to ensure that they enjoy full access to equal employment opportunity, unless such accommodation would cause an undue hardship to the Department, consistent with Reference (b).

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. See Enclosure 3.

6. INFORMATION COLLECTION REQUIREMENTS. The Confirmation of Request for Reasonable Accommodations form referred to in paragraph 1b(1) of Enclosure 3 of this AI has been assigned Office of Management and Budget control number 0704-0498 in accordance with the procedures in DoD 8910.1-M (Reference (f)).

7. RELEASABILITY. **Unlimited**. This AI is approved for public release and is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

8. EFFECTIVE DATE. This AI:
 - a. Is effective October 24, 2013.

 - b. Must be reissued, cancelled, or certified current within 5 years of its publication to be considered current in accordance with DoD Instruction 5025.01 (Reference (g)).

 - c. Will expire effective October 24, 2023 and be removed from the DoD Issuances Website if it hasn't been reissued or cancelled in accordance with Reference (g).


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ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5110.04, "Washington Headquarters Services (WHS)," March 27, 2013
- (b) Executive Order 13164, "Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation," July 26, 2000
- (c) Section 791 of Title 29, United States Code (also known as "Section 501 of The Rehabilitation Act of 1973," as amended)
- (d) Title 42, United States Code
- (e) DoD Directive 1020.02, "Diversity Management and Equal Opportunity (EO) in the Department of Defense," February 5, 2009
- (f) DoD 8910.1-M, "Department of Defense Procedures for Management of Information Requirements," June 30, 1998
- (g) DoD Instruction 5025.01, "DoD Directives Program," September 26, 2012, as amended
- (h) Deputy Secretary of Defense Memorandum, "Access for People with Disabilities," October 31, 2008
- (i) DoD 8400.01-M, "Procedures for Ensuring the Accessibility of Electronic and Information Technology (E&IT) Procured by DoD Organizations," June 3, 2011
- (j) Administrative Instruction 106, "Collaborative Resolution Program (CRP)," October 31, 2005
- (k) Title 29, Code of Federal Regulations
- (l) DoD Instruction 6025.18, "Privacy of Individually Identifiable Health Information in DoD Health Care Programs," December 2, 2009
- (m) Public Law 110-325, "Americans with Disabilities Amendments Act of 2008," January 1, 2009
- (n) DoD 8580.02-R, "DoD Health Information Security Regulation," July 12, 2007
- (o) Title 5, United States Code

ENCLOSURE 2

RESPONSIBILITIES

1. DIRECTOR, WHS. Under the authority, direction, and control of the Director of Administration and Management, the Director, WHS, oversees implementation of this AI.

2. DIRECTOR, ACQUISITION. Under the authority, direction, and control of the Director, WHS, the Director, Acquisition:
 - a. Ensures that all contracts for the use of facilities, such as leased buildings and hotels for training programs or conferences, reflect the obligation that such facilities be accessible to all participants including those with disabilities in accordance with sections 4151 through 4157 of Reference (d) (also known as “The Architectural Barriers Act of 1968, as amended”), and Deputy Secretary of Defense Memorandum (Reference (h)).

 - b. Provides contracting support mechanisms for the provision of reasonable accommodation, such as sign language interpretive services, readers, and computer-assisted real time captioning.

 - c. Serves as a resource for ensuring that all electronic and information technology is accessible to people with disabilities in accordance with section 794d of Reference (c) (also known as “Section 508 of the Rehabilitation Act, as amended”) and DoD 8400.01-M (Reference (i)).

 - d. Follows procedures described in Enclosure 3 of this AI.

3. DIRECTOR, HUMAN RESOURCES DIRECTORATE (HRD). Under the authority, direction, and control of the Director, WHS, the Director, HRD:
 - a. Oversees the reasonable accommodation program to ensure that reasonable accommodations are provided to all qualified individuals with a disability as required by References (b), (c), and (d).

 - b. Promotes the use of reasonable accommodation throughout the WHS-serviced Components.

4. ASSISTANT DIRECTOR (AD), LABOR AND MANAGEMENT EMPLOYEE RELATIONS (LMER). Under the authority, direction, and control of the Director, HRD, the AD, LMER:
 - a. Designates the Reasonable Accommodation Program Manager (RAPM), who will have the lead responsibility to carry out this AI.

b. Follows procedures described in Enclosure 3 of this AI.

5. RAPM. Under the authority, direction, and control of the AD, LMER, the RAPM:

a. Facilitates the operation of the reasonable accommodation program by reviewing requests for accommodation for employees and applicants for completeness, initiating the interactive process with the requesting employee and deciding official, and evaluating the necessary actions required to promptly, effectively, and reasonably accommodate qualified employees with disabilities.

b. Coordinates and consults as needed with appropriate WHS organizations and directorates including, but not limited to, the Equal Employment Opportunity and Diversity (EEO) Office, Enterprise Management Directorate (EMD), Facilities Services Directorate (FSD), and the Office of the General Counsel, WHS and PFPA (WHS/PFPA OGC) to implement this AI.

c. Coordinates and consults with the AD, Personnel Services Division (PSD) in its role in providing reasonable accommodation for applicants with a disability.

d. Advises deciding officials regarding their roles and responsibilities with regard to the reasonable accommodation process and assists them in promptly responding to requests for accommodation.

e. Assists deciding officials in assessing reasonable accommodation requests to determine whether an employee or applicant meets the definition of a qualified individual with a disability, consulting with WHS/PFPA OGC as necessary.

f. Provides an annual notice about this AI to all covered employees, supervisors, and management officials in WHS-serviced Components so that they may understand the procedures supporting requests for accommodation.

g. Compiles and maintains data to evaluate WHS-serviced Components' performance in responding to requests for reasonable accommodation. Consults with the EEO Office when reporting requests for reasonable accommodation(s) and dispositions to ensure compliance with EEOC regulations and federal law.

h. Maintains secure storage for all medical information provided in the reasonable accommodation process in accordance with federal regulations and ensures access to such medical information is strictly limited to those individuals with a legitimate need to know in accordance with Reference (b).

i. Follows procedures described in Enclosure 3 of this AI.

6. AD, PSD. Under the authority, direction, and control of the Director, HRD, the AD, PSD:

- a. Processes accommodation requests from applicants for employment, and evaluates the necessary actions required to accommodate applicants with disabilities.
- b. Coordinates and consults with appropriate organizations including, but not limited to, the RAPM, HRD, the EEOD Office, and WHS/PFPA OGC.
- c. Coordinates with the deciding after consultation with the RAPM and WHS/PFPA OGC as needed; implements reasonable accommodation of applicants.
- d. Coordinates and consults with the RAPM as needed to ensure consistency in providing reasonable accommodation.
- e. Informs the RAPM of the deciding official's final determination and a description of all measures taken to implement a reasonable accommodation.
- f. Follows procedures described in Enclosure 3 of this AI.

7. DIRECTOR, EEOD OFFICE. Under the authority, direction, and control of the Deputy Director, WHS, the Director, EEOD Office:

- a. Recognizes requests for reasonable accommodation and refers employee requests to the first line supervisor or RAPM.
- b. Serves as a resource for alternative dispute resolution of a denial of a request for reasonable accommodation in accordance with procedures provided in AI 106 (Reference (j)).
- c. Serves as a resource on matters regarding rights noted in References (b) through (e), parts 1614, 1630, 1640, and 1641 of Title 29, Code of Federal Regulations (Reference (k)), and DoD Instruction 6025.18 (Reference (l)).
- d. Provides support to the RAPM regarding data collection and reporting requirements.
- e. Follows procedures described in Enclosure 3 of this AI.

8. GENERAL COUNSEL, WHS AND PFPA. Under the authority, direction, and control of the General Counsel of the Department of Defense, the General Counsel, WHS and PFPA:

- a. Provides legal advice and guidance to HRD on reasonable accommodation issues and decisions.
- b. Serves as a resource on matters regarding rights noted in References (b), (c), (d), (e), and (k); Public Law 110-325 (also known as "The Americans with Disabilities Amendments Act of

2008”) (Reference (m)); DoD 8580.02-R (Reference (n)); section 552 and 552a of Title 5, U.S.C. (Reference (o)); and any other material having legal implications for the agency.

c. Coordinates with the RAPM, HRD, and the deciding official as needed to ensure efforts to accommodate an individual are thorough, complete, and in compliance with applicable laws and regulations.

9. WHS-SERVICED COMPONENT HEADS. WHS-serviced Components heads:

a. Ensure that the reasonable accommodation program is administered in accordance with this AI and any applicable collective bargaining agreements.

b. Appoint the deciding official. On occasion, it may be necessary to appoint an alternate deciding official. The responsibility to appoint an alternate deciding official in lieu of the immediate supervisor may be delegated by the WHS-serviced Component head to another management official.

c. Follow procedures described in Enclosure 3 of this AI.

10. IMMEDIATE SUPERVISORS. The immediate supervisors within the WHS-serviced Components:

a. Inform employees that the AI is available on the DoD Issuances Website.

b. Serve as the deciding official on reasonable accommodation requests unless the WHS-serviced Component head or designee has designated a different individual to accomplish this responsibility.

c. Recognize requests for reasonable accommodation made by applicants to positions for which he or she is the selecting official and refers the requests to PSD.

d. Respond to requests for information associated with reasonable accommodation requests as soon as possible, but absent extraordinary circumstances, not later than 15 calendar days from the date of receipt of the request for information.

e. Restrict discussion of reasonable accommodation matters and related information to the deciding official, WHS EEO Office staff, the RAPM, or other approved officials with a legitimate need to know. Treat all documents containing medical and personally identifiable information (PII) as confidential. Protect such documents from unauthorized disclosure by securing all medical documentation in a separate folder and location. Promptly forward all documents provided by the employee as part of a reasonable accommodation request to the RAPM.

f. Recognize and refers all other requests for reasonable accommodation from employees outside of his or her area of responsibility to the immediate supervisor for further action.

- g. Follow procedures described in Enclosure 3 of this AI.

11. DECIDING OFFICIAL. The deciding official:

- a. Consults with the RAPM and WHS/PFPA OGC as needed, to determine whether the person requesting a reasonable accommodation meets the definition of a qualified individual with a disability.

- b. Ensures that reasonable accommodation requests are handled correctly and expeditiously. In accordance with Reference (m), what constitutes a disability should be construed broadly, and the determination of whether an individual has a disability generally should not require extensive analysis.

- c. Engages in the interactive process with the employee or applicant and collaborates as appropriate with the RAPM; WHS/PFPA OGC; EM; WHS EEOD Office; FSD, and the AD, PSD.

- d. Determines whether or not to grant a reasonable accommodation request.

- e. Restricts discussion of reasonable accommodation matters and related information to the WHS EEOD Office, the RAPM, WHS/PFPA OGC, or other approved officials on a need-to-know basis. Forwards all documents provided by the employee or applicant as part of a reasonable accommodation request to the RAPM. Maintains medical information or documentation of an employee's impairment or disability in a separate file from normal personnel records and properly secured when not in use by the authorized parties.

- f. Grants reasonable accommodation to an employee or applicant if there is joint agreement between the deciding official and employee or applicant regarding the need and type of reasonable accommodation, and the accommodation to be provided does not present an undue hardship to the agency. Deciding officials should take action as soon as practicable if the reasonable accommodation can be easily provided.

- g. Considers expedited processing in the event of a time-sensitive reasonable accommodation request and when there may be a delay in processing a request or implementing a reasonable accommodation. Considers implementation of temporary accommodation measures during delays in processing a reasonable accommodation request or in implementing the requested reasonable accommodation.

- h. Reports decisions to grant reasonable accommodation to the RAPM through memorandum for the record (MFR) documenting the request, the date of the request, the reasonable accommodation provided, and the date the reasonable accommodation was provided. The MFR will be provided to the RAPM within 7 calendar days of the decision to grant reasonable accommodation.

i. Engages in dialogue with the individual requesting the reasonable accommodation where the person's specific disability or limitation is unclear, where an effective reasonable accommodation is not obvious, or where there are multiple reasonable accommodation options under consideration.

j. Follows procedures described in Enclosure 3 of this AI.

12. EMPLOYEES AND APPLICANTS FOR EMPLOYMENT. Employees and applicants for employment:

a. Request reasonable accommodation from an appropriate management representative or designee (first line supervisor; another supervisor or manager in the employee's chain-of-command; the RAPM; or AD, PSD).

b. Respond to requests for medical documentation within 15 calendar days after receipt. An additional 15 calendar days may be granted in the event of extenuating circumstances.

c. Cooperate in the interactive process throughout the reasonable accommodation process. Failure on the part of the requester to cooperate in the interactive process can result in a denial of the reasonable accommodation request.

d. Follow procedures described in Enclosure 3 of this AI.

ENCLOSURE 3

PROCEDURES

1. REQUESTING A REASONABLE ACCOMMODATION

a. Recognizing a Request for Reasonable Accommodation

(1) The reasonable accommodation process begins when employees or applicants with a disability request an adjustment or modification to the work environment or application process that will enable the employee or applicant to perform the essential functions of their position, to complete the application process, or to enjoy equal access to benefits and privileges of employment (e.g., agency sponsored events, training).

(2) A request for reasonable accommodation may be made orally or in writing by an employee or applicant, or the employee or applicant's family member, health care professional or authorized representative. The individual making the request need only indicate the need for assistance based on a medical condition. The use of special words is not required (e.g., "reasonable accommodation," "disability," or "rehabilitation").

(3) If an individual makes a request to someone other than the RAPM or AD, PSD, the official receiving the request must promptly review the request and, if consultation is necessary, within 7 calendar days, refer the request to the RAPM or AD, PSD, absent extenuating circumstances.

(4) When a request is made by someone other than an employee or applicant, the RAPM or AD, PSD, will confirm the request with the requesting employee or applicant. In the event that a third party acts as a representative for the affected individual, the third party must have written designation authorizing him or her to work on the requesting party's behalf.

b. Requests From Current Employees

(1) Requests may be submitted in writing or orally to an employee's supervisor; another supervisor or manager in the employee's chain of command; the Director, WHS EEOD Office; or the AD, LMER. When such requests require review or consultation, the receiving individual will ensure that such requests are forwarded to the RAPM within 7 calendar days of receipt. Employees may also submit the "Confirmation of Request for Reasonable Accommodation" form to the RAPM.

(2) Employees must provide the following information when requesting a reasonable accommodation:

(a) Basic identification and contact information, including the requester's name, employing organization, office location, telephone number, and e-mail address.

- (b) The employees' supervisor's name, telephone number, and e-mail address.
- (c) A description of the reasonable accommodation being requested.
- (d) A brief description of the reason for the request and/or the employee's functional limitation(s).

(3) If an employee's need for reasonable accommodation is not obvious or otherwise known, the employee may be asked to provide supporting medical documentation. Medical documentation in support of a reasonable accommodation request must come from an appropriate healthcare professional and it must include sufficient information regarding the employee's medical condition(s) and the resulting functional limitation(s). At a minimum, the documentation should include:

- (a) Identification of the specific nature, severity, and duration of the impairment.
- (b) Identification of major life function(s) (e.g., learning, interacting with others, thinking, concentrating, sleeping, walking) that are affected by the impairment or any treatment, to include medication.
- (c) An explanation addressing how the illness, condition, or treatment (including, but not limited to, medication) impairs the identified major life function(s).
- (d) A description of which function(s) or entitlements of the position are made difficult as a result of the identified impairment or treatment, including medication. The description should identify and explain the link between the condition (including the effects of any treatment) and the aspects of the job that are impacted by the condition.
- (e) Identification and explanation of how the requested reasonable accommodation will assist in the performance of the essential functions of the position or to enjoy equal access to benefits and privileges of employment (e.g., agency sponsored events, training).

(4) Generally, an individual who has already been determined eligible for reasonable accommodation will not normally be required to submit a separate written request for each subsequent occasion in which they will need the same or similar reasonable accommodation. However, the individual must give advance notice for each subsequent occasion the reasonable accommodation is needed, unless it is needed on a recurring basis. If the reasonable accommodation is needed on a recurring basis, the supervisor should ensure that the appropriate arrangements are made without requiring a request in advance of each occasion.

(5) Communication throughout the process is important. Failure on the part of the employee, or someone authorized to act on the employee's behalf, to cooperate in the interactive process or provide documentation sufficient enough to document whether he or she has a disability or can be accommodated effectively can result in a denial of reasonable accommodation.

c. Requests from Applicants for Employment

(1) Applicants may direct their request for reasonable accommodation to the AD, PSD, or designee, or to the person contacting the applicant for an interview.

(2) Requests for a reasonable accommodation should include the following information: The applicant's name, name of the hiring organization, a description of the reasonable accommodation being requested, and a brief description of the reason for the request.

2. PROCESSING A REQUEST FOR REASONABLE ACCOMMODATION

a. Engaging in the Interactive Process

(1) The processing of the request for reasonable accommodation begins when the request is received. If the request is made orally, the person making the request should confirm the request in writing within 7 calendar days from the date it was initially communicated.

(2) The requester; RAPM or AD, PSD; and deciding official will take a collaborative approach in communicating with one another throughout the process. Failure on the part of the requester to cooperate in the interactive process can result in a denial of the reasonable accommodation request. Failure on the part of management to participate in the interactive process may potentially result in agency liability in accordance with References (b), (c), and (d).

(3) The deciding official (in consultation with the immediate supervisor, when the deciding official is higher in the chain-of-command) will provide information to the RAPM or AD, PSD, about the specific nature of the job in question (including but not limited to identification of the essential functions of the job) and any other information that is relevant to evaluating the request for reasonable accommodation. Generally, providing a standard position description will not be sufficient for these purposes. Responses to requests for information will be provided as soon as possible but, absent extenuating circumstances, in no case later than 15 calendar days after receipt.

(4) Nothing in this AI will preclude a deciding official from discussing with the employee or applicant his or her need for reasonable accommodation and providing the necessary reasonable accommodation when there is an obvious need for reasonable accommodation. Supervisors should seek assistance from the RAPM, WHS EEO Office, or WHS/PFPA OGC when appropriate.

b. Requesting and Safeguarding Medical Information

(1) If the nature and extent of the employee's functional limitation(s) is not obvious, the RAPM may ask the employee to provide medical documentation in support of a request for reasonable accommodation.

(2) The RAPM may request additional medical information if the medical documentation provided by the employee or on behalf of the employee does not clearly explain:

- (a) The nature of the disability;
- (b) The need for reasonable accommodation; or

(c) How the requested reasonable accommodation will assist the employee to perform the essential functions of the job, to enjoy the benefits and privileges of the workplace, or to assist an applicant with the application process.

(3) If the RAPM needs additional medical information in order to process a request for reasonable accommodation, the RAPM must provide the employee or applicant with:

- (a) An explanation of why the submitted medical documentation is insufficient.
- (b) A description of the medical information needed.

(4) When the RAPM determines that additional medical documentation is needed, the RAPM can allow the individual an opportunity to provide the information from their personal healthcare professional (at the individual's expense). In the alternative, and at the RAPM's discretion, the RAPM may ask the individual to sign a limited release and then either submit a list of specific questions to the individual's health care professional or have an agency physician contact the individual's healthcare professional. If this does not result in sufficient information, the agency may require the individual to submit to an independent medical examination by a healthcare professional of the WHS-serviced Component's choice and at the Component's expense.

(5) Individuals should respond to requests for medical documentation within 15 calendar days after receipt. An additional 15 calendar days may be granted for extenuating circumstances.

(6) In accordance with References (k) and (l), all medical information obtained in connection with the reasonable accommodation process must be kept confidential and appropriately protected from unlawful disclosure. Any employees who obtain or receive such information are strictly bound by these confidentiality requirements. Restrictions apply to information, not just documents. The only circumstances under which medical information may be disclosed are:

(a) Supervisors, managers, and deciding officials who need to know may be told about an employee's functional limitations and what reasonable accommodation(s) has been approved.

(b) First aid and safety personnel may be given pertinent information if the impaired individual requires emergency treatment.

(c) Government officials may be given information necessary to investigate the WHS-serviced Components' compliance with References (b), (c), (d), (e), (l), and (o).

(d) The information may be disclosed to workers' compensation offices to facilitate the processing of a claim.

(e) WHS-serviced Components' EEO officials may be given the information to maintain records and evaluate and report on the Component's performance in processing reasonable accommodation requests or in processing claims of discrimination based on disability.

(7) Medical information or documentation of an employee's impairment or disability must be kept in a separate file from normal personnel records and be properly secured when not in use by the authorized parties. All information about employees' disabilities or impairments and reasonable accommodation(s) must be kept confidential and must not be shared with others unless on a need-to-know basis or where that person is directly involved in the decision-making or is providing consultation.

(8) Medical information or documentation of an applicant's disabilities or impairments and reasonable accommodation(s) must be kept confidential and must not be shared with others unless on a need-to-know basis or where that person is directly involved in the decision-making or is providing consultation.

c. Timeframes for Processing Reasonable Accommodation Requests

(1) Absent extenuating circumstances, requests for reasonable accommodation will be processed and a decision on the request will be provided within 30 calendar days of receiving all requested information. If there is a delay in issuing a written determination, the individual requesting reasonable accommodation must be issued written notification of the reasons for the delay.

(2) If a request for a reasonable accommodation can be processed without supporting medical information, and there are no other extenuating circumstances, determinations will be made within 30 calendar days from the date the request is received. Unnecessary delays may potentially result in WHS-serviced Component liability in accordance with References (b), (c), and (d).

(3) When extenuating circumstances are present, such as failure to provide requested medical information or the information specified, or where independent medical review is necessary, the time for processing a request for reasonable accommodation and providing reasonable accommodation will be extended as reasonably necessary. If the delay exceeds 45 days from the date of the employee's initial request, he or she will be notified, in writing, of the reasons for the delay.

(4) If the reasonable accommodation cannot be provided immediately, the deciding official should inform the requester in writing of the projected time frame for providing the reasonable accommodation.

(5) Temporary measures must be explored when there may be a delay in processing a request or implementing a reasonable accommodation. If a temporary accommodation is provided, the employee must be informed the accommodation is being provided only on a temporary, interim basis.

(6) In special circumstances expedited processing of a reasonable accommodation request may be required. Examples include when the reasonable accommodation is needed to enable an individual to apply for a job, to participate in a specific activity that is scheduled to occur on a specified date, or in cases involving safety issues.

(7) The deadlines listed in this enclosure are internal management direction and goals. They do not create any right of action for employees.

3. IMPLEMENTING REASONABLE ACCOMMODATION

a. Reasonable Accommodation Alternatives. A deciding official is not required to provide the precise reasonable accommodation requested so long as the alternative accommodation is effective and does not create an undue hardship to the WHS-serviced Component. A deciding official may consult with resources identified in the appendix to this enclosure to identify measures that may or may not be reasonable accommodations within the meaning of the law. He or she should coordinate such efforts with the RAPM before implementation.

b. Reassignment. Reassignment to a vacant position is a potential reasonable accommodation. In general, reassignment should be considered only when reasonable accommodation within the individual's current position is not possible or would pose an undue hardship. Reassignment is not available to applicants.

(1) Reassignment will be considered if:

(a) The employee, because of a disability, can no longer perform the essential functions of the position he or she holds, with or without reasonable accommodation.

(b) There is no available reasonable accommodation that would enable the employee to perform the essential functions of the position or if the only effective accommodation would cause undue hardship.

(2) Reassignment must be made to a vacant position for which the employee is qualified. The vacant position must, if possible, be equivalent to the employee's current position in terms of pay, grade, benefits, geographical location, etc.

(a) An employee is qualified if he or she satisfies the requisite skill, experience, education, and other job-related requirements of the vacant position and can perform the essential functions of the position being considered, with or without reasonable accommodation.

(b) 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.

1. Generally the deciding official will not reassign an employee with a disability to a vacant position if doing so would violate rules of an established seniority system.

2. The WHS-serviced Component is not required to create a new position or move another employee from his or her job in order to create a vacancy.

3. An employee may be offered reassignment to a lower graded position if there are no reasonable accommodations that would enable the employee to remain in the current position and there are no vacant equivalent positions for which the individual is qualified with or without reasonable accommodation.

4. For purposes of reasonable accommodation the employee will not be promoted.

5. Searches for vacant positions will be handled by the AD, PSD, in coordination with the RAPM. The search will include positions that are anticipated to be vacant within 60 calendar days of the initial request for reasonable accommodation. This search does not obligate the WHS-serviced Component to wait 60 calendar days to take appropriate action, only to consider vacancies that have been forecasted within 60 calendar days.

(c) An employee cannot be reassigned into a higher graded position as a reasonable accommodation.

(d) If an employee is reassigned to a different geographical area, the employee must pay for any relocation expenses unless the WHS-serviced Component routinely pays such expenses when granting voluntary transfers to other employees.

4. INFORMING EMPLOYEES OF REASONABLE ACCOMMODATION DETERMINATIONS

a. Decision to Grant a Reasonable Accommodation Request

(1) When it is determined that a reasonable accommodation will be provided, the decision will be communicated in writing to the requesting individual and his or her authorized representative if one has been identified.

(2) If the deciding official has identified and granted a reasonable accommodation that was not agreed upon during the interactive process, the notice should explain the reason(s) for the denial of the requested reasonable accommodation and the reason(s) that he or she believes the chosen reasonable accommodation is effective.

(3) The RAPM will follow up with the employee or applicant to ensure the effectiveness of the reasonable accommodation and the reason(s) that he or she believes the chosen reasonable accommodation is or will be effective.

b. Decision to Deny a Reasonable Accommodation Request

(1) When the deciding official determines that a request for reasonable accommodation will be denied, this will be communicated in writing to the requesting individual and his or her authorized representative if one has been identified. The explanation for the denial will be written in plain language and clearly state the specific reason(s) for the denial. All explanations of denials will be coordinated with the RAPM.

(2) Reasons for the denial of a request for reasonable accommodation may include, but are not limited to:

(a) The requested accommodation would not be effective and an effective alternate reasonable accommodation was not identified.

(b) The requested accommodation would result in undue hardship and an effective alternate reasonable accommodation was not identified.

(c) The submitted medical documentation does not establish that the individual has a disability or needs a reasonable accommodation.

(d) The requested accommodation would require the removal of an essential function and an effective alternate reasonable accommodation was not identified.

(e) The requested accommodation would require the lowering of a performance or production standard and an effective alternate reasonable accommodation was not identified.

(3) The written notice of denial will inform the individual of:

(a) His or her right to file an EEO complaint.

(b) The procedures available for informal dispute resolution.

5. INFORMATION TRACKING AND REPORTING

a. The RAPM will gather and report:

(1) The number and types of reasonable accommodations that have been requested, and whether those requests have been granted or denied.

(2) The jobs (occupational series, grade level, and WHS-serviced Component) for which reasonable accommodations have been requested.

(3) The reasons for denial of requests for reasonable accommodation.

(4) The amount of time taken to process each request for accommodation.

(5) The sources of technical assistance that have been consulted in trying to identify possible reasonable accommodations.

b. The RAPM will maintain any cumulative records used to track WHS-serviced Components performance in processing and providing reasonable accommodations for a period of 3 years.

c. Information related to specific individuals who have requested a reasonable accommodation should be maintained for the duration of that individual's employment.

APPENDIX TO ENCLOSURE 3

REASONABLE ACCOMMODATION RESOURCES

Access Board. The Access Board or Architectural and Transportation Barriers Compliance Board provide technical assistance for The ADA of 1990, as amended, and accessibility guidelines of the Rehabilitation Act of 1973, as amended

1-800-872-2253 (Voice)
1-800-993-2822 (text telephone (TTY))
1-202-272-5448 (Electronic bulletin board)
<http://www.access-board.gov>

ADA Disability and Business Technical Assistance Centers (DBTACs). The DBTACs consist of 10 federally funded regional centers that provide information, training, and technical assistance on References (c) and (d). Each center works with local business, disability, governmental, rehabilitation, and other professional networks to provide current ADA and Rehabilitation Act of 1973 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.

1-800-949-4232 (Voice/TTY)

Computer/Electronic Accommodations Program (CAP). The DoD CAP centrally funds and supplies equipment to DoD employees with disabilities. They provide the assistive technology used to modify the computer and telecommunication environment. Onsite work station reviews can be conducted by CAP personnel to determine what possible assistive devices may be helpful. WHS-serviced employees are encouraged to take advantage of the CAP.

(703) 614-8416 (Voice)
(571) 384-5629 (Videophone)
(703) 697-5851 (Fax)
cap@mail.mil (E-mail)
<http://www.cap.mil>

Equal Employment Opportunity Commission (EEOC). The EEOC's Publication Center has many free documents on the Title I employment provisions of the ADA and the Rehabilitation Act of 1973, including both the statutes (References (c) and (d)) and the regulations (section 1630 of Reference (k)). In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship.

1-800-669-3362 (Voice)
1-800-800-3302 (TTY)
<http://www.eeoc.gov>

Job Accommodation Network (JAN). 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.

1-800-232-9675 (Voice/TTY)
<http://askjan.org>

Registry of Interpreters for the Deaf. The Registry offers information on locating and using interpreters and transliteration services.

(301) 608-0050 (Voice/TTY)
<http://www.rid.org/>

Rehabilitation Engineering and Assistive Technology Society of North America (RESNA) Technical Assistance Project. RESNA can refer individuals to projects in all 50 States and the six territories offering technical assistance on technology-related services for individuals with disabilities.

(703) 524-6686 (Voice)
(703) 524-6639 (TTY)
<http://www.resna.org/>

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

AD	assistant director
ADA	Americans with Disabilities Act
AI	administrative instruction
CAP	DoD Computer/Electronic Accommodation Program
DBTAC	Disability and Business Technical Assistance Center
EEOC	Equal Employment Opportunity Commission
EEOD	Equal Employment Opportunity and Diversity Office
EM	enterprise management
EMD	Enterprise Management Directorate
FSD	Facilities Services Directorate
HRD	Human Resources Directorate
JAN	Job Accommodations Network
LMER	Labor and Management Employee Relations
MFR	memorandum for the record
OGC	Office of the General Counsel
PDUSD(P&R)	Principal Deputy Under Secretary of Defense for Personnel and Readiness
PII	personally identifiable information
PSD	Personnel Services Division
RAPM	reasonable accommodation program manager

RESNA	Rehabilitation Engineering and Assistive Technology Society of North America
TTY	text telephone
U.S.C.	United States Code
WHS	Washington Headquarters Services

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purposes of this AI, and are intended to be consistent with the definitions articulated in part 1630 of Reference (k).

appropriate healthcare professional. Professionals who may provide documentation about the disability and functional limitations of an individual with a disability include, but are not limited to, doctors (including psychiatrists), psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals. The appropriate professional in any particular situation will depend on the disability and the type of functional limitation it imposes.

authorized representative. A person designated by the requestor to act on the requestor's behalf.

deciding official. An individual with the authority to determine whether an employee's or applicant's request for a reasonable accommodation will be provided. Generally, an employee's first line supervisor or manager will be the deciding official for reasonable accommodation requests, except when a higher level official in the individual's chain of command has been designated to be the deciding official. Either the selecting official or the AD, PSD, will serve as the deciding official for reasonable accommodation requests by applicants for employment except when another management official has been designated to serve in this role by the WHS Component head.

disability. A physical or mental impairment that substantially limits one or more major life activities; or a record of such an impairment; or been regarded as having such an impairment. The Agency is not required to provide reasonable accommodation to an employee who meets the definition of "disabled" solely because they are "regarded as" having a disability.

essential functions. The fundamental job duties of the position the individual holds or desires. A job function can be "essential" if, among other things, the reason the position exists is to perform that function, there are a limited number of other employees who can perform the function, or the function is specialized and the individual is hired based on his or her expertise or ability to perform it. Positions descriptions provide general requirements of the job and while its components may be informative, it does not determine in full whether a particular function is

“essential”. 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.

extenuating circumstances. Factors that could not reasonably have been anticipated or avoided in advance of the request for reasonable accommodation. Limited situations in which unforeseen or unavoidable events prevent the prompt request, process, and delivery of a reasonable accommodation.

individual with a disability. A person who has a physical or mental impairment that substantially limits one or more of that person’s major life activities, has a record of such an impairment, or is regarded as having such an impairment.

major life activities. Activities that include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. Major life activities further include the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs, and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

mental impairment. Any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

physical impairment. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, including, but not limited to, neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine.

qualified. An individual who, satisfies the requisite skills, experience, education, and other job-related requirements of the employment position held or desired, and is capable of performing the essential functions of such position, with or without reasonable accommodation.

reasonable accommodation. Reasonable accommodation will be provided to an otherwise qualified individual who has a mental or physical impairment that substantially limits one or more major life activities, or has a record of such an impairment. There are three categories of reasonable accommodation:

Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires.

Modifications or adjustments to the work environment or to the manner or circumstances under which the position held or desired is customarily performed that enable a qualified individual with a disability to perform the essential functions of that position.

Modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by similarly situated employees without disabilities.

reassignment. A form of reasonable accommodation that the agency may consider as an accommodation of last resort for employees (not applicants). In the absence of undue hardship, reassignment to a vacant position that is equivalent in terms of pay, grade, or other factors such as location, if the employee is qualified, may be provided to an employee who, because of a disability, can no longer perform the essential functions of the position of record, with or without reasonable accommodation.

record of an impairment. A form of disability under which an individual has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

undue hardship. Significant difficulty or expense in, or resulting from, the provision of an accommodation. Undue hardship refers to any accommodation that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the agency's operations. In determining whether a specific accommodation would pose an undue hardship, the agency will conduct an individualized assessment of current circumstances including, but not limited to, such factors as the nature and cost of the accommodation; the agency's financial resources, the agency's size, and the impact the of the accommodation on the agency's operations.