



DEPARTMENT OF THE ARMY

OFFICE OF ARMY CEMETERIES
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SAAC-ZA (600A)

13 July 2022

MEMORANDUM FOR All Office of Army Cemeteries and Army National Military Cemeteries Personnel

SUBJECT: Policy On Reasonable Accommodation for Persons with Disabilities

1. References.

- a. HQDA, Memorandum, SAMR-ZA, 17 March 2009, Subject: US Army Procedures for Providing Reasonable Accommodation for Individuals with Disabilities.
- b. Executive Order (EO) 13164, "Establishing Procedures to Facilitate the Provision of Reasonable Accommodation," 26 July 2000
- c. Section 504 of the Rehabilitation Act of 1973, as amended 29 U.S.C. § 794 (L. 93-112, 87 Stat. 355, enacted September 26, 1973)
- d. The Americans with Disabilities Act (ADA) of 1990, July 26, 1990
- e. AR 600-7, Unlawful Discrimination on the Basis of Disability In Programs and Activities Receiving Federal Financial Assistance from or Conducted by the Department of the Army, 10 March 2020.

2. PURPOSE: This policy provides guidance for submitting and processing requests for Reasonable Accommodations for Individuals with Disabilities and applies to civilian employees and applicants for employment. This policy also outlines the roles and responsibilities of supervisors, their civilian employees and applicants who make reasonable accommodation request. The objectives of this document are to:

- a. Establish procedures to support the prompt, fair, and efficient processing of requests for reasonable accommodation.
- b. Ensure employees and applicants for employment have full access to equal employment opportunities regardless of mental or physical disability.
- c. Ensure representatives, i.e., Family Members, Healthcare Professionals are provided with a venue to request reasonable accommodations on behalf of employees and applicants for employment.

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d. Ensure supervisors of civilian employees comply with the provisions of the Americans with Disabilities Act Amendments Act (Public Law 110-325) (ADAAA), effective 1 January 2009, amending the ADA of 1990 and the Rehabilitation Act, and expanding the definition of the term "disability."

e. Ensures leaders at all levels promote and provide the necessary resources for the reasonable accommodation process.

3. APPLICABILITY: These procedures apply to all employees and applicants for employment within the purview of OAC/ANMC. These procedures do not apply to Uniformed Members of the military, visitors at OAC/ANMC, and Uniformed Members of the Military working part-time for Non-Appropriated Fund Activities.

4. KEY TERMS AND DEFINITIONS:

a. Essential Function: Job duties that are so fundamental to the position that without them the individual would be unable to perform the job. A function is "essential" if, among other things, the reason the position exists is to perform that function; there are a limited number of other employees available whom the performance of that job function could be distributed; or, the function is highly specialized so that the incumbent is hired based on his/her expertise or ability to perform it. Determination of the essential functions of a position must be made on a case-by-case basis.

b. Reasonable Accommodation: A change in the work environment or in the way things are customarily done that enables an employee or applicant with a disability to enjoy equal employment opportunities.

c. Disability Program Manager (DPM): Review requests for reasonable accommodations and provides recommendations to supervisors responsible for taking action on reasonable accommodations request.

d. Persons with Disability (PWD)/Persons with Targeted Disability: Individual who has a mental or physical disability that substantially limits one or more major life activity or bodily function, has a record of such impairment, or is regarded as having such impairment. Individuals who are solely regarded as having a disability are not entitled to reasonable accommodation. Persons with a targeted disability is a subset of PWD. Targeted disabilities are defined as disabilities that the government has, for several decades, emphasized in hiring because they pose the greatest barriers to employment, such as blindness, deafness, paralysis, convulsive disorders, and mental illnesses, among others.

e. Qualified Person with a Disability: Individual with a disability that is otherwise qualified or capable of performing the essential functions of a job with or without a reasonable accommodation.

f. Physical or Mental Impairment:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic skin, and endocrine

(2) Any mental or psychological disorder such as mental retardation, organic brain syndrome, traumatic brain injury, emotional or mental illness, and specific learning disabilities.

g. Major Life Activities: Functions such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity 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 exhaustive list, but is representative of the types of activities that may be considered major life activities/bodily functions.

h. Equal Employment Opportunity (EEO) Officer: The individual designated by the activity commander to administer the activity's EEO program. This includes managing the Special Emphasis Programs which includes the Individuals with Disabilities Program.

i. Interactive Process: The ongoing communication between the requestor (employee/applicant for employment) and supervisor(s) (or Human Resources personnel for applicants) regarding a request for reasonable accommodation.

j. Disability Program Manager (DPM). A DPM is familiar with the principles of personnel management and serves as a resource for supervisors and managers with respect to potential and actual requests for reasonable accommodations. The DPM facilitates the reasonable accommodation process by assisting the parties involved in gathering, assembling and tracking necessary medical documentation in support of reasonable accommodation request. The DPM facilitates the reasonable accommodation process and shall not serve as an advocate for management or employees.

k. Undue Hardship: The determination of undue hardship should always be made on a case-by-case basis and should take into account the nature and cost of the reasonable accommodation needed and the impact of the accommodation request on the operations and mission of the agency. If a specific type of reasonable

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accommodation causes significant difficulty or expense, on the operation and mission of the agency, the agency is under no obligation to provide the requested accommodation.

l. Extenuating Circumstances: Situations that are very limited and includes circumstances such as waiting for information/documentation from an individual's healthcare provider or factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation. Extenuating circumstances may include; but is not limited to occasions in which equipment must be back-ordered or, where reassignment is being explored as an accommodation option.

m. Alternative Dispute Resolution (ADR): A variety of techniques and methods used to resolve disputed issues; including but not limited to facilitation, mediation, fact-finding or any combination thereof.

n. Decision-Maker: The decision-maker is the agency official within the employee's chain of command, usually the employee's immediate supervisor. In the case of an applicant for employment, the decision maker will generally be the selecting official or an agency official in the selecting official's chain of command or a Human Resources staff member assigned to process the vacancy announcement giving rise to the particular accommodation request.

o. Computer-Electronic Accommodations Program (CAP -www.tricare.mil/cap). The Computer/Electronic Accommodations Program, a centrally funded reasonable accommodation program that provides assistive technology to people with disabilities, federal managers, supervisors, and Information Technology professionals. CAP increases access to information and works to remove barriers to employment opportunities by eliminating the costs associated with providing assistive technology solutions for reasonable accommodation request.

p. Agency Attorney/Labor Counselor. The agency attorney/labor counselor provides legal advice and assistance to military and civilian managers and supervisors regarding civilian personnel, labor relations, and EEO-related issues. Agency attorney /labor counselors are available to provide advice to decision makers and to DPMs at the earliest possible stage to ensure management's actions not only comply with applicable laws, directives, regulations and guidance but that they are legally defensible and otherwise appropriate.

5. REASONABLE ACCOMMODATION INTERACTIVE PROCESS:

a. Request for reasonable accommodations may be filed by an employee or applicant for employment for an adjustment in job duties or a change in the work environment, in the application process, or for a benefit or privilege of employment for a reason related to a medical condition. The request will be processed on a case-by-case

basis and the outcome of each case, may vary depending on the facts and circumstances surrounding the accommodation request.

b. A Family member, healthcare professional, or other representative may request a reasonable accommodation on behalf of an individual seeking a reasonable accommodation. The initial request may be either verbal or written. The request does not have to be in a prescribed format or use any special words, such as "reasonable accommodation," "disability," or "Rehabilitation Act."

c. The reasonable accommodation process begins as soon as the request for accommodation is made. If a verbal request is made processing should begin immediately, even if written confirmation has not been provided by the person desiring the reasonable accommodation.

d. The requestor must complete a "Request for Reasonable Accommodation" (see form 51-1 request for reasonable accommodation) to document an earlier verbal request or to initiate a written request to his/her supervisor.

e. A reasonable accommodation request should be submitted to the first-line supervisor or alternatively to an EEO Official by the requestor. The requestor should include proper medical documentation to facilitate timely and efficient processing of the reasonable accommodation request. When a request for reasonable accommodation is submitted to the first-line supervisor, the supervisor will forward a copy of the request to EEO for review and issuance of a tracking number. EEO will assign the reasonable accommodation request a control number and return the reasonable accommodation request to the immediate supervisor within one business day (24 hours) of receipt for processing.

f. Reasonable accommodation request must be considered on a case-by-case basis as the facts and circumstances may vary. A requester who needs a specific type of reasonable accommodation on a repeated or regular basis (i.e., sign language interpreter) or for episodic conditions (i.e., asthma, cancer in remission) is only required to make the first request. However, appropriate notice must be given to the first line supervisor, each time an accommodation is needed.

g. In cases where the disability is obvious and the need for accommodation and type of accommodation required is clearly obvious, extensive discussions are not necessary. However, relevant issues should be discussed, with the goal of establishing and clarifying the roles and responsibilities of each individual involved in the accommodation request.

6. RESPONSIBILITIES:

a. Requester:

(1) May request a reasonable accommodation based on a disability, either orally or in writing to his/her supervisor. The reasonable accommodation process begins when the requester informs his/her manager or supervisor in his/her immediate chain of command, the organization's servicing EEO Office, the Human Resources Office, or the DPM.

(2) When the disability and/or need for accommodation is not obvious, the employee or applicant for employment may be asked to provide appropriate medical information regarding the functional impairment and/or limitations regarding the requested accommodation.

(3) Applicants for employment should process request for reasonable accommodations through the Human Resources Specialist responsible for the recruitment action that generated the accommodation request.

(4) The requester must submit a written Confirmation Request for Reasonable Accommodation by submitting the request to his/her immediate supervisor or the DPM. The DPM will assign the Reasonable Accommodation Request a tracking number and return it to the requester's supervisor or in the case of an Applicant for employment, to the Human Resource Specialist responsible for processing the vacancy announcement.

b. First-line supervisor(s) should:

(1) Actively participate in the interactive process with the requester and contact Civilian Personnel office and the EEO Office DPM to ensure documentation and timelines are handled properly.

(2) The time necessary to process a request for accommodation will generally depend on the nature of the accommodation requested and whether additional medical or supporting documentation is essential in processing the requested accommodation. Absent extenuating circumstances, the decision maker should take reasonable effort to grant, modified, or denied a request for accommodation within 30 business days from the date the accommodation was requested.

(3) Maintain meticulous records in order to document delays in processing a requested accommodation; and should the need arise be in a position to provide the requester with written explanations for any significant delays in processing the accommodation request. Moreover, supervisors involved in processing accommodation request should only request documentation consider relevant to processing the requested accommodation.

(4) Supervisors should collect information directly from the individual requesting the reasonable accommodation; especially in instances in which the information may affect the individual's rights, privileges, and employment benefits. Moreover, information pertaining to accommodation requests should only be disclosed to supervisors or managers who have an official need for the information as a consequence of their involvement in processing the requested accommodation.

(5) Appropriate administrative, technical, and physical safeguards must be followed to insure the security and confidentiality of request for reasonable accommodation records. Failure to properly safeguard sensitive information about an individual could result in substantial harm, embarrassment, inconvenience or unfairness to individuals and may subject the organization to additional risk.

(6) Maintain individual files regarding accommodation request separate from official personnel files. Medical information must be kept confidential and should be maintained for the duration of the employee's tenure with the command. This will ensure that employees are not required to provide medical documentation previously submitted in conjunction with reasonable accommodation request.

c. DPM should:

(1) Refer any requests received by the EEO Office to the appropriate supervisor or decision maker. Confirm receipt of all accommodation requests.

(2) Educate and provide information to management on the process for handling reasonable accommodation requests.

(3) Encourage first-line supervisors to communicate and engage in the interactive process with individuals requesting reasonable accommodations.

(4) Monitor and track requests for reasonable accommodations.

(5) Document and record all requests for reasonable accommodation for proper recordkeeping in addition to insuring data collected during the interactive accommodation process is maintain for a minimum of three years

(6) EEO Officials will monitor and communicate recommendations based on panel discussions, but do not have the authority to make decisions on requests for reasonable accommodation. The DPM does not advocate on behalf of the requestor or management.

(7) Provide employees with information regarding the reasonable accommodation process.

(8) Take proactive measures in searching out and considering possible accommodations.

(9) Assist in processing request for adaptive devices, sign language interpreter, and removal of architectural barriers, accessible parking, and alternative methods (i.e., Braille, larger print).

7. MEDICAL DOCUMENTATION:

a. The requestor must submit supporting documentation with any request for reasonable accommodation, unless the medical condition or affects are obvious to all parties involved. The medical information should describe the nature of the job, essential functions the employee is expected to perform, and any other relevant information. The medical documentation must specify:

(1) Past, present, and expected continuing nature, severity and duration of the impairment (i.e., functional limitations, symptoms, side effects or any treatments, etc.).

(2) Activities the impairment limits.

(3) Extent of the limitations.

(4) Reason(s) the requestor requires reasonable accommodation, and how it will assist the requestor in performing the essential functions of the job, applying for employment or enjoying a benefit in the work environment.

b. The agency has the option of requesting additional supporting documentation if the information submitted does not clearly explain the nature or severity of the disability and the nexus between the accommodation requested and the medical condition affected. The request for additional medical documentation should be made in writing and require only information that is crucial to determining the need or lack thereof, for the accommodation requested.

c. Medical documentation gathered in response to a reasonable accommodation request must be maintained, secured, and protected from unauthorized disclosure. Moreover, special care should be taken by supervisors, leaders and individuals acting on request for reasonable accommodations to avoid comingling medical documentation with official personnel files.

d. Medical documentation may not be required and or needed for obvious medical conditions. However, supporting medical documentation may be needed in situations where the effects of the medical condition on a major life activity, performance or

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essential functions of a job or work environment are not obvious or readily determinable.

Supervisors should make a written request for additional medical information, through the individual requiring the reasonable accommodation by utilizing EEO Form 51-2 (Medical Information Sheet).

e. Authorization for Disclosure of Medical or Dental Information (Department of Defense Form 2870) will be used to request medical records maintained at military Medical Treatment Facilities. The use and/or disclosure of an individuals' protected health information is necessary in order for the DPM to process the reasonable accommodation request. The employee or applicant should check "OTHER," Block 7 of DD Form 2870 and write "reasonable accommodation request" in the space provided. In most cases, entire medical records may not be requested or furnished because they are likely to contain information unrelated to whether an employee or applicant can perform the essential job functions.

8. Personal Assistance Services (PAS).

a. For many persons with targeted disabilities (PWTD), Personal Assistance Services help make employment possible. People with significant disabilities use PAS in the workplace on a day-to-day basis, to do those things that allow them to be at work, but without PAS, they could not. Examples of workplace PAS vary, but may involve activities such as retrieving materials out of reach, putting on or removing outerwear, assistance with eating, assistance using the restroom, job related travel, services during telework, etc. PAS is not required to be provided for commuting to and from work or for medical services, such as providing shots or prescribing medication.

b. OAC/ANC must provide personal assistance services during work and job related travel for eligible employees. To be eligible, the individual must have a targeted disability and the assistance must be tied to their type of disability. Once the PAS has been provided, the employee must be able to safely perform the essential functions of the job without posing a direct threat to safety. Finally, OAC/ANC will provide the PAS as long as it does not pose an undue hardship on the organization

(1) We have flexibility in locating PAS for our employees. ANMC/ANC can choose to work with a PAS provider, assign a current employee to perform these tasks as their primary job, or hire a full-time employee or contractor to provide the services.

(2) Employees will request PAS using the current Disability Reasonable Accommodation request procedure outlined herein. Two types of Personal Assistance are identified and annotated below:

(a) PAS are job-related services, which enable PWTD to apply for the job, perform job functions, or enjoy benefits and privileges of the job (e.g., notetaking, typing, or filing).

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(b) PAS enable PWTD to participate/be in the workplace, (e.g., assistance with eating, or putting on and taking off outerwear).

9. Actions On Request for Reasonable Accommodation.

a. The requestor must be notified in writing of the decision on his/her request for reasonable accommodation by his/her chain of command. The response memo must outline the basis for the initial request and the provisions for granting the request, if approved. DPMs will coordinate, as needed with the servicing agency attorney/labor counselor prior to providing a decision maker with any recommendations in connection with a request for accommodation. Legal reviews must be conducted for all proposed reasonable accommodation denials.

b. If the reasonable accommodation is granted, the agency must make the necessary provisions to provide the reasonable accommodation requested. There may be some limitations or restrictions based on the agency's mission and requirements and the requestor will be properly advised of any adjustments or revisions.

c. A reassignment is the accommodation of last resort. A reassignment may be considered if no other accommodations are available to enable the employee to perform his/her current job, or if the only effective accommodation would cause undue hardship. However, the employee must be "qualified" for any new position and the following should be considered:

(1) If positions are available, the supervisor will work with CPAC to identify all vacant positions within the agency for which the employee may be qualified, with or without the accommodation; and

(2) The agency will first consider positions which are equivalent to the employee's current job in terms of pay, status, and other relevant factors. If there are no such vacant equivalent positions, the agency will consider vacant lower level positions for which the requestor is qualified.

(3) If there is a vacant position outside of the employee's commuting area, and if the employee is willing to relocate, the agency is not obligated to pay for the employee's relocation.

d. If management denies a request for reasonable accommodation, the requestor may file for reconsideration and provide additional supporting medical documentation; or pursue an EEO complaint, a Merit Systems Protection Board (MSPB) appeal or utilize the negotiated grievance procedures:

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(1) For an EEO complaint pursuant to 29 C.F.R § 1614, contact an EEO Official within 45 calendar days from receipt of the notice of denial of the reasonable accommodation request;

(2) For an MSPS appeal, initiate an appeal to the MSPB within 30 calendar days of an appealable adverse action as defined in 5 CFR § 1201.3; and

(3) For the negotiated grievance procedure, file a grievance in accordance with the provisions of the local, applicable collective bargaining agreement.

e. When a reasonable accommodation cannot be granted due to inadequate medical documentation to substantiate the request, management may consider granting an "agency allowance" depending on the unique circumstances of the request. An agency allowance is temporary in duration and may be altered or revoked based on the mission requirements of the agency.

f. The point of contact for questions or concerns is the ANMC EEO Office at usarmy.pentagon.hqda-anc-osa.mbx.eeo@army.mil

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