



DEPARTMENT OF MILITARY AND VETERANS AFFAIRS  
OFFICE OF THE ADJUTANT GENERAL  
**COMMONWEALTH OF PENNSYLVANIA**  
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HRO (18-04)

10 May 2018

MEMORANDUM FOR All Pennsylvania National Guard Managers, Supervisors, and Employees

SUBJECT: Reasonable Accommodation (RA) Policy and Procedures for the Pennsylvania National Guard

1. REFERENCES:

- a. Rehabilitation Act of 1973, as amended.
- b. Americans with Disabilities Act (ADA) of 1990; ADA Amendments Act of 2008 (ADAAA).
- c. U.S. Equal Employment Opportunity Commission (EEOC) Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act.
- d. Executive Order 13164, 26 July 2000: Requesting Federal Agencies to Establishing Procedures to Facilitate the Provisions of Reasonable Accommodation.
- e. CNGBN 9600, *State National Guard Civilian Equal Employment Opportunity Complaint Processing And Reporting Guidance*, 10 May 2018.
- f. CNGBI 9400.01, *Nondiscrimination in Federally Assisted Programs*, 29 November 2017.

2. BACKGROUND:

A reasonable accommodation is any change to a job, the work environment or customary procedures that allows an individual with disabilities (IWD) to enjoy equal employment opportunities. These may include modifications/adjustments in three areas: The job application process by permitting an IWD to be considered for a job (e.g. providing the application in larger print or in Braille); opportunity for a qualified IWD to perform the essential functions of the job (e.g. providing sign language interpreters, voice

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amplification devices, etc.); and Opportunity for an IWD to enjoy equal employment benefits and privileges (e.g. removing physical barriers from the office, providing accessible parking, etc. A Reasonable Accommodation request can be requested at any time during the application or hiring process, or while on the job. Requests are considered on a case-by-case basis.

3. **PURPOSE:** This instruction establishes the Reasonable Accommodation (RA) Policy for the Pennsylvania National Guard (PANG), hereafter referred to as "the Agency". It describes the rights and responsibilities of managers, supervisors, and employees IAW references (except as prescribed by statute or policy consistent with statute) as they relate to requesting, approving, and/or providing reasonable accommodations.

4. **APPLICABILITY:** This RA Policy applies to Title 5 NG Employees and Title 32 Dual Status Technicians as well as applicants for employment who are managed under the designation of authority to The Adjutant General (TAG). National Guard membership is required for dual status technician employment: This is an excepted service position that requires membership in a compatible military assignment in the National Guard. Dual status technicians are required to wear the military uniform. Acceptance of an excepted service position constitutes concurrence with these requirements as a condition of employment.

Further questions you may have concerning RA, pertinent laws or regulations may be referred to Mr. Scott D. Niles, Deputy HRO, 717-861-8733, [scott.d.niles.civ@mail.mil](mailto:scott.d.niles.civ@mail.mil) or Dr. Millicent Carvalho-Grevious, State Equal Employment Manager at (717) 861-8520, e-mail: [millicent.j.carvalho-grevious.civ@mail.mil](mailto:millicent.j.carvalho-grevious.civ@mail.mil)

**FOR THE ADJUTANT GENERAL:**

  
HARRY B. CARAVAGGIO  
COL, PAARNG  
Human Resources Officer

Enclosures:

PENNSYLVANIA NATIONAL GUARD  
REASONABLE ACCOMONDATION POLICY

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## REASONABLE ACCOMMODATION POLICY

1. POLICY: This Reasonable Accommodation (RA) Policy for the Pennsylvania National Guard (PANG) is focused on, but not limited to, establishing a procedure that will support the prompt, fair, and efficient processing of requests for RA; and ensuring that civilian and military technician managers and supervisors comply with the mandates of the Rehabilitation Act of 1973, as amended.

### a. Responsibilities.

#### (1) The Human Resources Officer (HRO):

- (a) Oversee the implementation and administration of this RA Policy;
- (b) Assist and advise managers and supervisors in reviewing requests for RA and scheduling training for supervisors and managers;
- (c) Make RA training a part of newly-appointed supervisor and manager orientation;
- (d) Consult with supervisors/hiring officials to recommend the parameters of approval or denial of reasonable accommodation requests or when requests must be submitted to TAG for approval or denial. .

#### (2) The State Equal Employment Manager (SEEM):

- (a) Conduct new supervisor and manager RA training on an annual basis
- (b) Ensure copies of this RA Policy and its applicable procedures are readily available to PANG Managers, Supervisors, and Employees. This will be accomplished by maintaining copies in the State Equal Employment Manager's (SEEM's) Office as well as in designated locations such as the PANG intranet (PKO/GKO). This RA policy must be accessible to individuals with disabilities, when necessary, through alternative format;
- (c) Process RA applications and assist employees with RA requests;
- (d) Develop and disseminate information on available RA resources;
- (e) Serve as the proponent for the Program for Individuals with Disabilities (IWD), coordinate RA requests as needed;

(f) Track RA requests and submit applicable RA reports to the National Guard Bureau EEO Office annually for inclusion in the MD-715 Report.

(3) Commanders and Directors:

(a) At all levels, provide the necessary resources to support the availability of the RA process;

(b) Ensure all management and supervisors subject to their authority receive annual training on the RA process.

(4) Management and Supervisors:

(a) Ensure employees are aware the RA process is available to Individuals with Disabilities.

(5) Higher-Level Managers and Supervisors:

a) Review RA requests referred by subordinate supervisors and managers and consult with HRO to determine whether to approve RA requests or offer an alternative RA. HRO is authorized to recommend the parameters of approval or denial of reasonable accommodation requests or when requests must be submitted to TAG for approval or denial.

(6) First-Line Supervisors:

(a) Receive and review RA requests from employees;

(b) Communicate the status and ultimate disposition of employee RA requests to the requesting employee.

## 2. DEFINITIONS:

a. Direct Threat. This is a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

b. Essential Functions. These are job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function is "essential" if, among other things, the position exists specifically to perform that function, there are a limited number of employees who could perform the function if it were assigned to them, or the function is specialized, so the incumbent is hired based on his/her ability to perform it.

c. Extenuating Circumstances. Described as factors that could not reasonably have been anticipated or avoided in advance of the request for RA, such as back order of necessary equipment or failure of employee's health care professional to timely provide necessary documentation.

d. Individual with a Disability (IWD). An IWD is any person, who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such impairment or is regarded as having such an impairment.

e. Interactive Process. An interactive process allows requests to be made by the individual with a disability as well as by a family member, health professional, and other representative who is legally acting on the individual's behalf.<sup>1</sup>

f. Major Life Activities. These include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working, as well as the operation of a major bodily function including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Furthermore, episodic impairments or medical conditions that are in remission are nonetheless disabilities if they would substantially limit a major life activity when active.

g. Qualified Individual. This describes an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

h. Reasonable Accommodation. This describes 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 RA that apply:

(1) Modifications or adjustments to a job application process to permit an IWD to be considered for a job;

(2) Modifications or adjustments necessary to enable a qualified IWD to perform the essential functions of the job;

(3) Modifications or adjustments that enable IWDs to enjoy equal benefits and privileges of employment.

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<sup>1</sup> (EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, Sec. II (A), Q.6 (Oct.20, 2000).

i. Undue Hardship. Undue hardship generally involves significant difficulty or expense. It refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business. The supervisory chain of command and HRO must assess on a case-by-case basis whether a particular accommodation would cause undue hardship. The analysis focuses on the resources and circumstances of PANG in relation to the cost or difficulty of providing a specific accommodation. HRO is authorized to recommend the parameters of approval or denial of reasonable accommodation requests or when requests must be submitted to TAG for approval or denial. TAG is the final Agency authority.

j. Personal Assistants. Personal assistance services to employees are reasonable accommodations when: (1) employee requires such services because of a targeted disability, (2) provision would enable the employee to perform the essential functions of his/her position, and (3) provision of services would not impose due hardship on the agency. Personal Assistant services have to be provided by a qualified personal assistance service provider. The Agency is prohibited from taking adverse actions for an employee/applicant asking for a personal assistant.

### 3. GENERAL GUIDANCE ON REASONABLE ACCOMODATIONS:

a. The law requires agencies to develop policies and procedures to facilitate the hiring, placement, and advancement in employment of IWD and to provide RA to qualified employees or applicants with disabilities unless doing so would cause undue hardship. This RA Policy helps to implement the requirements of the Rehabilitation Act and the ADA that agencies provide RA to qualified employees and applicants with disabilities.

#### b. Reasonable Accommodations Serve Two Fundamental Purposes:

(1) RAs remove barriers that prevent IWDs from applying for and performing jobs for which they are qualified;

(2) RAs remove barriers that prevent IWDs access to the workplace and enables equal access to job benefits. This RA Policy is to be interpreted and applied in accordance with those two stated purposes, as well as the spirit of the Rehabilitation Act and the ADA.

### 4. REASONABLE ACCOMMODATION INTERACTIVE PROCESS:

#### a. Requesting Reasonable Accommodation.

(1) The RA process is initiated when an IWD indicates a need for an adjustment (or change at work) or in the application process for a reason related to a medical



condition. The requestor does not have to use any particular words, cite the Rehabilitation Act, this RA Policy, or even use the term "reasonable accommodation." For example, it is sufficient for a vision impaired person to ask for specific work related materials to be provided in large print. This is a request for reasonable accommodation.

(2) An IWD may initiate a request for RA orally or in written form at any time. This interactive process allows requests to be made by the individual with a disability as well as by a family member, health professional, and other representative who is legally acting on the individual's behalf.<sup>2</sup>The IWD will be asked to complete an RA request form for documentation and processing purposes. The Reasonable Accommodation Request Form, which is attached to this policy as (Appendix A), has been developed for this purpose. Despite the requirement that the requesting individual complete and submit a request form, the individual's initial request, whether verbal or written, starts the RA process.

(3) Requests for RA should ordinarily be addressed to the individual's direct (first-line) supervisor so that the request can be properly tracked and acted upon. At the individual's discretion, however, the RA request can be made to any of the following: the individual's supervisor; a manager or supervisor in the individual's immediate chain of command; SEEM's office or in the case of an applicant involved in the application process, any Agency employee in the applicant's chain of command. Requests for RA made to individuals or offices other than those listed cannot be properly tracked and will not be processed.

(4) Where an IWD has requested a type of reasonable accommodation that he/she is likely to need on a repeated basis, for example, the assistance of sign language interpreters or readers, the IWD will not be required to submit a written request for recordkeeping purposes each time the RA is needed. In such cases, the IWD may obtain the RA by notice to his/her supervisor once the RA is approved the first time.

b. Personal Assistants.

Personal assistance services to employees are reasonable accommodations when: (1) employee requires such services because of a targeted disability; (2) provision would enable the employee to perform the essential functions of his/her position; and (3) provision of services would not impose due hardship on the agency. Personal Assistant services have to be provided by a qualified personal assistance service provider. The Agency is prohibited from taking adverse actions for an employee/applicant asking for a personal assistant.

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<sup>2</sup> (EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, Sec. II (A), Q.6 (Oct.20, 2000).

## 5. PROCESSING REQUESTS FOR REASONABLE ACCOMMODATIONS:

### a. Process.

(1) While an employee may request a RA due to a medical condition, this request does not necessarily mean that the Agency is required to provide the RA. A request for RA is the first step in an informal, interactive process between the employee and the supervisor. The process is always begun by the employee or by a family member, health professional, or other representative who is legally acting on the employee's behalf. Supervisors should not unilaterally ask employees if they have a disability or if they need an accommodation.

(2) Upon receipt of a request for RA, supervisors will direct the requesting individual to complete and submit a Reasonable Accommodation Request Form. As stated previously, however, supervisors will not delay the interactive process while waiting for the form. The supervisor will engage the interactive process by discussing the following with the requesting employee:

(a) The underlying disability or medical issue;

(b) The specific functional limitations resulting from the disability or medical issue and how they relate to or affect the employee's job functions;

(c) Any suggestions the employee may have for a reasonable accommodation.

(3) The supervisor will document the conversation in writing and take detailed notes. Supervisors are encouraged to seek guidance from HRO or the SEEM at any time during the process. Information obtained regarding the medical issue and related facts, documents, etc. will be kept confidential to the extent required by applicable law but will be shared with those individuals in the Agency involved in determining whether to grant a request for RA. In situations where the employee's disability and need for an RA are reasonably obvious, the supervisor should assure the employee that he or she will determine whether the requested accommodation is available within thirty (30) calendar days, absent extenuating circumstances. At the close of the meeting, the supervisor will inform the employee of his or her RA rights and opportunity to obtain information and assistance from HRO and SEEM. The supervisor should collect the Reasonable Accommodation Request Form from the employee before the end of this meeting and submit it to the SEEM's Office for processing.

(4) Decisions on RAs will be expedited where: the RA is needed to enable an applicant to apply for a job or the RA is needed for a specific Agency activity that is scheduled to occur shortly.

(5) The Agency is entitled to know that an employee has a covered disability that requires an RA. Thus, when a disability and/or need for an RA are not obvious, the Agency may require, if there is a safety threat or difficulty performing essential functions of the job, that the employee provide reasonable documentation about the suspected disability and functional limitations. Where the employee has not requested a specific accommodation, the supervisor will inform the employee that he or she may determine whether there is an RA that could be made, again within thirty (30) calendar days. Any documentation requested must come from an appropriate professional, depending upon the type of claimed disability, such as a doctor (including psychiatrist), psychologist, nurse, physical therapist, occupational therapist, speech therapist, vocational rehabilitation specialist, or licensed mental health professional. The documentation must contain the following information:

(a) The nature, severity, and duration of the employee's impairment;

(b) The activity or activities that the impairment limits;

(c) The extent to which the impairment limits the employee's ability to perform the activity or activities; and/or

(d) Why the employee requires an RA or the particular RA requested, as well as how the RA will assist the individual to apply for a job, perform the essential functions of the job, or enjoy a benefit of the workplace. Supervisors will not request medical documentation where both the disability and need for RA are obvious or the employee has already provided the Agency with sufficient information to document the existence of the disability and his/her functional limitations. Supervisors will require only the documentation that is needed to establish that the employee has a disability, and that the disability necessitates an RA. Thus, supervisors will not ask for information that is unrelated to determining the existence of a disability and need for an RA.

(6) Supporting medical documentation must be provided to the requesting official within thirty (30) calendar days after the individual is informed that it is required, absent extenuating circumstances. Failure to provide necessary documentation where it has been properly requested could result in a denial of RA.<sup>3</sup> Medical information will be kept confidential to the extent required by applicable law but will be shared only with those "other agency officials" involved in determining whether to grant a request for RA. These officials include: supervisors and Managers who need to know may be told about necessary restrictions and about the necessary accommodation(s); first aid and safety personnel may be told if the disability might require emergency treatment; government

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<sup>3</sup> 29 C.F.R. § 1614.203 (d)(3)(I-N).

officials to investigate the agency's compliance with the Rehabilitation Act; workers' compensation offices or insurance carriers; and EEO officials may be given the information to maintain records (U.S. EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provisions of Reasonable Accommodation.)<sup>4</sup>

(7) Additionally, the Agency may request supplemental documentation when the information already submitted is insufficient to document the disability and/or functional limitations it causes, as well as need for the RA. In such cases, supervisors or requesting officials should describe for the employee in writing why the submitted documentation is insufficient and identify the information that is needed. This supplemental medical documentation must be received by the requesting official within ten (10) working days of its request. Failure to provide necessary documentation where it has been properly requested could result in a denial of RA.

(8) An IWD does not need to have a particular accommodation in mind before making a request.<sup>5</sup> Once it is determined that the employee requesting an RA has a qualifying disability (and is therefore an IWD), the supervisor/hiring official will consult with the HRO to determine whether the requested RA is appropriate under the circumstances. HRO is authorized to recommend/deny RA requests or submit requests to TAG for approval or denial. TAG is the final Agency authority. RAs will only be provided to individuals with actual disabilities. Supervisors/hiring officials are not obligated to provide RAs to employees/applicants who have been merely "regarded as" having a disability.

(9) In considering whether an RA can be provided, supervisors and the HRO should identify the essential job functions (as defined above) of the IWD's position, the IWD's functional limitations to completing the essential job functions, and whether there are any reasonable alternative approaches to meeting essential job functions. Appendix B lists some examples of reasonable accommodations. Appendix C contains a list of selected resources to help supervisors and HROs in considering possible RAs.

(10) A modification or adjustment is "reasonable" if it is feasible or plausible under the circumstances. An accommodation must also be effective in meeting the needs of the IWD. This means that an RA enables an IWD to perform the essential functions of his/her job. Finally, an RA allows an IWD an equal opportunity to enjoy the benefits and privileges of employment that employees without disabilities enjoy.

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<sup>4</sup> U.S. EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provisions of Reasonable Accommodation, [https://www.eeoc.gov/policy/docs/accommodation\\_procedures.html](https://www.eeoc.gov/policy/docs/accommodation_procedures.html).

<sup>5</sup> 29 C.F.R. § 1614.203(d)(3)(D).

(11) The Agency has the authority to choose among possible RAs as long as the chosen RA is effective. Thus, as part of the interactive process, supervisors may offer IWDs alternative suggestions for RA and discuss their effectiveness in removing the workplace barrier that is impeding the IWD. If there are two possible RAs, and one costs more or is more burdensome than the other, supervisors may choose the less expensive or burdensome accommodation as long as it is effective. Similarly, when there are two or more effective accommodations, supervisors may choose the one that is easier to provide. In either situation, the supervisor is not required to show that it is an undue hardship to provide the more expensive or more difficult accommodation. The preference of the IWD should be given primary consideration, but the supervisor/hiring official in consultation with HRO has the discretion to choose between effective accommodations.

(12) There are several modifications or adjustments to which supervisors do not have the authority to agree:

- (1) A supervisor may not agree to eliminate an essential function, i.e., a fundamental duty of the position.
- (2) Supervisor are prohibited from agreeing to lower production standards as an accommodation, whether qualitative or quantitative, that are applied uniformly to other employees with and without disabilities.

(13) The Agency will not provide as reasonable accommodations personal use items needed in accomplishing daily activities both on and off the job. Thus, the Agency will not provide an employee with a prosthetic limb, a wheelchair, eyeglasses, hearing aids, or similar devices if they are also needed off the job. Furthermore, the Agency will not provide personal use amenities, such as a hot pot or refrigerator, if those items are not provided to employees without disabilities. However, items that might otherwise be considered personal may be considered as reasonable accommodations in appropriate cases where they are specifically designed or required to meet job-related rather than personal needs.

(14) RA requests may be denied where the requested RA would cause "undue hardship" to the Agency. Undue hardship, which generally involves significant difficulty or expense, is to be determined on a case-by-case basis. The analysis focuses on the resources and circumstances of PANG in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business. The supervisor and HRO must assess on a case-by-case basis whether a particular accommodation would cause undue hardship.

(15) The reassignment to a vacant position for which an employee is qualified, and not just permission to compete for such position, is a reasonable accommodation and the Agency must consider providing reassignment to a vacant position as a reasonable accommodation when it determines that no other reasonable accommodation will permit an employee with a disability to perform the essential functions of his or her current position.<sup>6</sup> PANG HRO must notify supervisors and other Agency officials when they are to conduct searches for available vacancies when considering reassignment as a RA.<sup>7</sup>

## 6. APPROVAL AND/OR DENIAL OF REASONABLE ACCOMMODATION REQUESTS:

### a. Approval of Requests for RA.

(1) IAW with this RA Policy, HRO will consult with the appropriate subject matter expert(s) and make a recommendation to the supervisor/hiring official. HRO is authorized to recommend the parameters of approval or denial of reasonable accommodation requests or when requests must be submitted to TAG for approval or denial. TAG is the final Agency authority. When the Agency determines that a RA request will be approved, the IWD's supervisor/hiring official will notify the IWD in writing and document the date and circumstances of the notification. The supervisor/hiring official will implement the approved RA at the earliest possible moment, failure to provide the accommodation in a prompt manner may result in a violation of the Rehabilitation ACT.<sup>8</sup> A copy of the supervisor's/hiring official's written notification will go into a separate file for the employee/applicant, as discussed below.

### b. Denial of Requests for RA.

(1) IAW with this RA Policy, the IAW's supervisor/hiring official will consult with HRO who will consult with the appropriate subject matter expert(s) and make a recommendation to the supervisor/hiring official. HRO is authorized to recommend the parameters of approval or denial of reasonable accommodation requests or when requests must be submitted to TAG for approval or denial. TAG is the final Agency authority. When the supervisor/hiring official concludes that a RA request will be denied or offers an alternative RA, the IWD's supervisor/hiring official will notify the IWD in writing and document the date and circumstances of the notification. The written

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<sup>6</sup> 29 C.F.R. § 1614.203(d)(3)(B).

<sup>7</sup> 29 C.F.R. § 1614.203(d)(3).

<sup>8</sup> 29 C.F.R. § 1614.203(d)(3)(O).

notification to the IWD must contain: the reasons for the denial; a notice that the IWD can appeal the decision, in writing, within 10 work days to the next level supervisor in the employee's/applicant's chain of command; and notice that the IWD has the right to file an EEO complaint with a PANG EEO Counselor, SEEM's Office, or directly with the Philadelphia EEOC Office<sup>9</sup> (see Appendix B).

c. Delay in Approving Requests for RA.

(1) When there is any delay in either processing a request for or providing a reasonable accommodation, the IWD supervisor/hiring official must notify the individual in writing of the reason for the delay, including any extenuating circumstance that justify the delay.<sup>10</sup> If the Agency cannot provide the accommodation immediately, the Agency must provide an interim accommodation that allows the individual to perform some, or all essential functions of his or her job, if it is possible to do so without imposing undue hardship on the Agency.<sup>11</sup>

7. ALTERNATIVE DISPUTE RESOLUTION:

a. Alternate Dispute Resolution (ADR). ADR is voluntary for the employee/applicant. PANG will use ADR and other collaborative dispute resolution processes early on in the process to the maximum extent practical and appropriate to resolve disputes. ADR includes mediation, facilitation and conciliation services. Qualified ADR professionals may be chosen by the Agency or requested from DoD's Investigations and Resolutions Division.

8. INFORMAL APPEAL PROCESS:

a. Overview. An IWD can appeal a RA request denial or accommodation with which they do not concur (i.e., IWD requested a specific type of chair for the workspace, but RA offered by the Agency was undesirable to the IWD) within ten (10) work days of receipt of the Agency's decision to their higher-level supervisor. The employee's/applicant's appeal must be in writing and should contain any additional information or documentation that the employee/applicant would like the higher-level supervisor to consider. The higher-level supervisor who receives the employee's/applicant's appeal will consult with HRO IAW with this RA Policy. HRO is

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<sup>9</sup> Philadelphia EEOC Office, 801 Market Street, Suite 1300, Philadelphia, PA.

<sup>10</sup>29 C.F.R. § 1614.203(d)(3)(S).

<sup>11</sup> 29 C.F.R. §1614.203(d)(3)(Q).

authorized to recommend the parameters of approval or denial of reasonable accommodation requests or when requests must be submitted to TAG for approval or denial. The appeal should involve reviewing the original supervisor's notes and any documentation submitted by the employee/applicant. The Higher-level supervisor will render a decision on the appeal within fourteen (14) calendar days of receiving the appeal from the employee/applicant unless there are extenuating circumstances. The Agency must notify the IWD of their right utilize the Agency's informal appeal process or PANG EEO Counselor, SEEM's Office, or EEOC to file an EEO complaint<sup>12</sup> (see Appendix B).

b. Approval of Appeal Request.

If the Agency determines that an appealed RA request will be approved, the IWD's supervisor/hiring official will notify the IWD in writing and document the date and circumstances of the notification.

c. Denial of Appeal Request.

Notice of the Agency's decision will be IAW with this RA Policy, except that the notice will remind the employee/applicant that he/she must contact a PANG EEO Counselor or SEEM's Office, or the Philadelphia EEOC Office within forty-five (45) days of receipt of the appeal decision or from the most recent incident of discrimination, if the employee/applicant wishes to file an EEO complaint.

9. EEO DISCRIMINATION COMPLAINT PROCESS:

a. The Federal Agency EEO Complaint Process. For the EEO Complaint Process, PANG is under DoD, which is a Federal agency. This requires the employee/applicant or "aggrieved" to participate in EEO informal resolution processes, e.g., EEO Counseling or if it is offered, another form of alternative dispute resolution, prior to filing an EEO Formal Complaint. Regardless of whether or not the employee/applicant has utilized the Agency's informal appeal process described in Section 8 of this RA Policy, the employee must contact a PANG EEO Counselor, SEEM's Office, or the Philadelphia EEOC Office within forty-five (45) days of receipt of the appeal decision or most recent incident of discrimination, if the employee wishes to file an EEO Complaint.

10. RECORDKEEPING REQUIREMENTS:

a. Tracking Requirements. The proponent for reasonable accommodation is the PANG SEEM Office.

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<sup>12</sup> Philadelphia EEOC Office, 801 Market Street, Suite 1300, Philadelphia, PA.



(1) Although the original RA request does not have to be in writing, the SEEM will assign a tracking number to each RA request. For example: PANG-RA-FYXX (fiscal year)-XX (number). The SEEM will notify (in writing) the employee/applicant of his/her tracking number within seven (7) calendar days of receipt of the RA request. The employee/applicant can track his/her request process through his/her tracking number by calling the SEEM's Office.<sup>13</sup> The SEEM is responsible for tracking the following information:

(a) The number and types of RA requested in the application for employment process and whether those requests were granted or denied;

(b) The jobs (occupational series, grade level, and organization) for which RAs have been requested;

(c) The types of RAs that have been requested for each of those jobs;

(d) By organization (unit/department), the number and types of RAs for each job that have been approved and denied;

(e) The number and types of requests for RAs that relate to benefits or privileges of employment, and whether those requests have been granted or denied;

(f) The reasons for denial of RA requests;

(g) The amount of time taken to process each RA request;

(h) The source of technical assistance consulted in trying to identify possible RAs;

(i) Dispositions of Reasonable Accommodation Request Data, Including Medical Information;

(j) Documentation related to a particular individual who has requested RA is to be filed apart from other personnel records, safeguarded regarding confidential requirements, and maintained for the duration of that employee's/applicant's employment. Records concerning requests, approval, and disapproval are maintained by the Joint Force Headquarters EEO office;

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<sup>13</sup> C.F.R. § 1614.203(d)(3)(R).

(k) The tracking information data should be maintained for a period of 5 years. This data will assist an organization in evaluating its performance regarding the adequate, timely processing of RA requests and their corrective action, if required;

APPENDIX A: REASONABLE ACCOMMODATION REQUEST FORM

Name: \_\_\_\_\_ Cell #: \_\_\_\_\_

E-mail: \_\_\_\_\_ Work #: \_\_\_\_\_

Position: \_\_\_\_\_ Grade: \_\_\_\_\_

Date: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Work #: \_\_\_\_\_

E-mail: \_\_\_\_\_

I. Are you requesting a specific accommodation?

II. Please identify the specific limitation(s) which requires accomodation.

III. Specify, how this accomodation will assist you to perform the essential functions of your position.

IV. Is the RA request time sensitive? If so, initial here: \_\_\_\_\_ and explain.

\_\_\_\_\_  
Printed Name of Individual Making Request

\_\_\_\_\_  
Signature of Individual Making Request

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Name and Contact Information for First-Level Supervisor/Hiring Official

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Name and Contact Information for Manager or Higher-Level Supervisor

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Today's Date

---

Name of Person Receiving Request

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Position/Work Phone #

## APPENDIX B: EXAMPLES OF REASONABLE ACCOMMODATIONS

1. Job Restructuring. Involves modifications such as reallocating or redistributing marginal job functions that an employee/applicant is unable to perform because of a disability, as well as altering when and or how a function, essential or marginal, is performed. Supervisors/hiring officials will not, however, reallocate essential functions as a reasonable accommodation.

2. Leave. Whether accrued paid leave or unpaid leave, is a form of RA when necessitated by an employee's/applicant's disability. Supervisors are not required to provide paid leave beyond that which is provided to similarly situated employees/applicants. When leave is used as an RA, employees/applicants will use accrued paid leave before beginning any allotted unpaid leave. Supervisors should remember that there may be FMLA implications when considering leave as an RA.

3. Essential Function. For certain positions, the time during which an essential function is performed may be critical and a modification may disrupt operations and lead to undue hardship. This could affect whether a supervisor can grant a request to modify an employee's/employees (applicant/applicants) schedule or if reassignment is more appropriate.

4. Modified Workplace Policies. These constitute an RA when necessitated by an employee's/applicant's disability-related limitations, absent undue hardship. Modification under these circumstances only applies to the IWD and not to other employees/applicants in the supervisor's section or working unit.

5. Assistive Devices. Specific to individuals who are deaf or hard of hearing, supervisors/hiring officials should consider amplification devices, closed caption decoders and captioning for training tapes, signaling devices, teletypewriters (TTYs), sign language interpreters, and TTY modems.

6. Assistive Devices. Specific to individuals with visual impairments, supervisors/hiring officials should consider Braille displays, Braille embossers, portable note-takers, print enlargers, scanner/readers, and screen readers. Specific to individuals with impaired dexterity, supervisors /hiring officials should consider alternative input systems, alternative keyboards, alternative pointing devices, keyboard enhancement programs, and voice recognition systems.

7. Personal Assistants. Personal assistance services to employees are reasonable accommodations when: (1) employee requires such services because of a targeted disability; (2) provision would enable the employee to perform the essential functions of his/her position; and (3) provision of services would not impose due hardship on the agency. Personal Assistant services have to be provided by a qualified personal

assistance service provider. The Agency is prohibited from taking adverse actions for an employee/applicant asking for a personal assistant.

8. Reassignment. Reassignment to a vacant position must be provided to an employee/applicant (not an applicant) who, because of a disability, can no longer perform the essential functions of his/her current position, with or without an RA, unless the supervisor/hiring official can show that reassignment would be an undue hardship. The employee/applicant must be qualified for the position, which means that he/she has the requisite skill, experience, education, and other job-related requirements of the position (not necessarily best qualified). The employee/applicant must also be able to perform the essential functions of the new position, with or without an RA. The Agency is not obligated to assist the employee/applicant to become qualified for the new position, unless the Agency would normally provide such training to an individual transitioning into the position. Reassignment is the RA of last resort and is only required if: (1) there are no effective accommodations that will enable the employee/applicant to perform the essential functions of his/her current position and (2) all other RAs would impose an undue hardship. "Vacant" means that the position is available when the employee/applicant asks for reasonable accommodation, or that the Agency knows that it will become available within a reasonable amount of time. The Agency does not have to bump another employee/applicant from a job in order to create a vacancy; nor does it have to create a new position.

Of the above-cited examples of RA, only Reassignment is mandatory and only under the circumstances stated. The other examples should be considered on a case-by-case basis and may not always be appropriate.

## APPENDIX C: SELECTED REASONABLE ACCOMMODATION RESOURCES

### U.S. Equal Employment Opportunity Commission

Philadelphia District Office

801 Market Street, Suite 1300

Philadelphia, PA 19107-3127

Phone: 1800-669-4000 / 215-440-2601 / or email [PDOContact@eeoc.gov](mailto:PDOContact@eeoc.gov)

FAX: 215-440-2606

TTY: 1-8---669-6820

ASL Video Phone: 844-234-5122

The EEOC's Publication Center has many free documents on the Title I employment provisions of the ADA and the Rehabilitation Act. In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship.

### Job Accommodation Network (JAN)

(800)526-7234(Voice)

(877)781-9403 (TTY)

<http://janweb.icdi.wvu.edu>

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.

### Mid-Atlantic ADA Center

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

[www.adainfo.org](http://www.adainfo.org)

The center is part of a national network that provides information, training, and technical assistance on the ADA Act. Each center works with local business, disability, governmental, rehabilitation, and other professional networks to provide current ADA information and assistance. The center can make referrals to local sources of expertise in reasonable accommodations.

### Registry of Interpreters for the Deaf, Inc.

333 Commerce Street

Alexandria, VA 22314

703-838-0030 (Voice)

571-257-3957 (VP)

703-838-0454 (Fax)

<http://www.rid.org>

The Registry offers information on locating and using interpreters and transliteration services.

Computer/Electronic Accommodation Program

4800 Mark Center Drive, Suite 05E22

Alexandria, VA 22350

(833) 227-3272 or (703) 614-8416 (Voice)

(571) 384-5629 (Videophone)

(703) 697-5851 (Fax)

cap@mail.mil

The Computer/Electronic-Accommodation Program (CAP) was established by DOD to help provide RA to individuals with disabilities. The purpose of the CAP is to ensure that all disabled DOD employees get equipment which best meets their needs at no charge to the employer. The Defense Medical Information Management Office is the executive agent for the CAP. The CPA is available to advice on ways to provide RA. The CAP serves the DOD community by:

- Buying accommodations to make computer and telecommunications systems accessible to individuals with disabilities, as required by law.
- Providing funds for sign-language interpreters, readers, and personal assistants for employees attending long-term training (two days or more).
- Providing expertise in solving accessibility problems through the use of software, hardware, and other assistive technology.
- Providing training and educational support.