

**PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION FROM
EMPLOYEES AND APPLICANTS WITH DISABILITIES**

1. REASON FOR ISSUE: This Directive updates the Department of Veterans Affairs (VA) procedures on providing reasonable accommodations to qualified employees or applicants with disabilities, in compliance with applicable laws and regulations.

2. SUMMARY OF CONTENTS/MAJOR CHANGES: This Directive includes multiple revisions based on the expanded legal requirements of the Americans with Disabilities Act Amendments Act (ADAAA) of 2008 and guidance from the U.S. Equal Employment Opportunity Commission. The changes will be incorporated into the electronic version of VA Directive 5975.1 that is maintained on the Office of Human Resources and Administration's Web site. The revisions include, but are not limited to:

a. Adding and changing several reasonable accommodation-related definitions, such as these terms: "a qualified individual with a disability," "mitigating measures," "major life activities," and "regarded as disabled."

b. Updating procedures related to processing and tracking reasonable accommodation requests.

3. RESPONSIBLE OFFICE: Office of Diversity and Inclusion (06), Office of Human Resources and Administration.

4. RELATED HANDBOOK: VA Handbook 5975.1, Processing Requests for Reasonable Accommodation by Employees and Applicants with Disabilities.

5. RESCISSIONS: VA Handbook 5975.1, Processing Requests for Reasonable Accommodation by Employees and Applicants with Disabilities, May 30, 2002.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

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PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION FROM EMPLOYEES AND APPLICANTS WITH DISABILITIES

1. PURPOSE. To revise the Department of Veterans Affairs (Department or VA) policy on providing reasonable accommodation to qualified employees or applicants with disabilities. The policy designates responsibilities and prescribes procedures for submitting and responding to requests for reasonable accommodations, in compliance with applicable laws and regulations.

2. POLICY

a. VA shall provide reasonable accommodations to qualified individuals with disabilities to allow them to fully participate in the application process, perform essential job functions, and enjoy equal benefits and privileges of employment, in accordance with all applicable laws, regulations, and policies, unless to do so would cause undue hardship to the Department.

b. The responsibility for funding the costs of requests for reasonable accommodations resides with the Department. However, in many cases, the accommodation will be provided by the Department of Defense's Computer Accommodation Program (CAP) at no cost. For other accommodations, the facility, Administration or Staff Office where the requester is employed or in the case of recruitment, the organization where the applicant seeks to be employed should provide the funding. Reimbursement of funding for most accommodations not covered by CAP may be obtained at the Department level, through the VA centralized Reasonable Accommodation fund.

c. The policy applies to accommodation requests from all VA employees and applicants with disabilities. Reasonable accommodation requests will be processed in accordance with the procedures contained in VA Handbook 5975.1.

3. RESPONSIBILITIES

a. **Secretary of Veterans Affairs.** The Secretary or Deputy Secretary will ensure that an effective process for responding to all requests for reasonable accommodations is established.

b. **Assistant Secretary for Human Resources and Administration.** The Assistant Secretary for Human Resources and Administration (ASHRA), through the Deputy Assistant Secretary (DAS) for Diversity and Inclusion, will:

(1) Develop Department-wide reasonable accommodation policy and provide guidance to managers, supervisors, employees, and applicants for employment.

(2) Develop or purchase a Department-wide Reasonable Accommodation Tracking System to monitor the process for responding to requests for accommodation at the Department, Administration, Regional and Facility Levels.

(3) One year from publication of this Directive, the Assistant Secretary will analyze and evaluate the effectiveness of the process for responding to requests for accommodations and will provide recommendations for improvement.

(4) Maintain a current roster of Local Reasonable Accommodation Coordinators (LRAC) and alternates, and ensure public access to that list.

c. Assistant Secretary for Information and Technology. The Assistant Secretary for Information and Technology will:

(1) Work with the ASHRA and Administration, through the DAS for Diversity and Inclusion, to ensure that Information Technology (IT) related reasonable accommodations are expedited.

(2) Ensure that all requests for installation of software or IT equipment required to complete a reasonable accommodation request are installed and tested in a timely manner.

(3) Work to ensure that all VA-wide information technology system and software upgrades are in compliance with Section 508 and accessible to employees with disabilities when they are released.

(4) Work with the ASHRA, through the DAS for Diversity and Inclusion to ensure cooperation and collaboration between the National Reasonable Accommodation Coordinator (NRAC) and the Coordinator of the Section 508 Accessibility and Training Center.

e. General Counsel or Regional Counsels will:

(1) Serve as a legal expert on reasonable accommodation matters; and

(2) Serve as a consultant with regard to prospective denial of reasonable accommodation requests.

f. The Counselor to the Inspector General will:

(1) Serve as a legal expert on reasonable accommodation matters within the Office of the Inspector General (OIG); and

(2) Serve as a consultant with regard to prospective denial of reasonable accommodation requests for the OIG

g. Under Secretaries, Assistant Secretaries, Deputy Assistant Secretaries, Facility Directors, and Other Key Officials, within their respective organizations will:

(1) Appoint an LRAC and alternate, and provide the name and contact information to the Office of Diversity and Inclusion (ODI) for those individuals within 30 calendar days of the effective date of this Directive.

(2) Provide sufficient resources to ensure effective implementation and management of a process for responding to requests for reasonable accommodations.

(3) Ensure training for all managers, supervisors, team leaders, and designated LRACs and alternates regarding their roles in processing requests for reasonable accommodations, including how to submit requests for assistive technology to the Department of Defense (DoD) Computer/Electronic Accommodations Program (CAP).

(4) Periodically evaluate the effectiveness of the process for responding to requests for reasonable accommodations.

(5) Ensure records of requests for reasonable accommodations are maintained in accordance with procedures outlined in VA Handbook 5975.1.

4. DEFINITIONS

a. Designated Management Official (DMO). The DMO is the person who has authority to decide whether the organization will provide a requested accommodation. The DMO who grants or denies a request for an accommodation shall also be referred to as the "decision-maker." The employee's first, second, or third line supervisor or other designated official may serve in this capacity. For applicants, the DMO is usually the Human Resources Director.

b. Essential Functions. The essential functions of a job are the occupational duties that are fundamental to the position to the extent that the individual cannot do the job without being able to perform them. A function can be "essential" if, among other things, the position exists specifically to perform that function, a limited number of other employees can perform the function if given the assignment, or the function is specialized and the incumbent is hired based on his or her ability to perform it.

c. Major Life Activities. Activities such as caring for one's self, performing activities of daily living, performing manual tasks, walking, seeing, hearing, breathing, learning, concentrating, and working. Also included are the operations of major bodily functions, including, but not limited to, functions of the

immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

d. Mitigating Measures. Medications and assistive devices that an individual uses to eliminate or reduce the effects of a functional impairment caused by a disability. The only mitigating measures that may be considered in determining disability are ordinary eyeglasses or contacts intended to fully correct the vision of an employee or applicant for employment. Other mitigating measures may not be considered in the determination of an individual's disability status.

e. Physical or Mental Impairment. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, cardiovascular, digestive, respiratory, genitourinary, hemic, lymphatic, skin, and endocrine. Any mental or psychological disorder such as post-traumatic stress disorder, traumatic brain injury, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. Impairments include conditions that are episodic in nature or in remission, such as cancer or epilepsy.

f. Qualified Individual with a Disability. A "qualified individual with a disability" is an individual with functional limitation who, with or without reasonable accommodation, can perform the essential functions of the position without being a direct threat to the health or safety of the individual or others. A "qualified individual with a disability" must satisfy the requisite skill, experience, education, and other job-related requirements of employment for the position the individual holds or desires. Requiring the ability to perform "essential" functions assures that an individual will not be considered unqualified simply because of inability to perform marginal or incidental job functions. If the individual is qualified to perform essential job functions except for limitations caused by a disability, the employer must consider whether the individual could perform these functions with a reasonable accommodation. As to duration of the disability or functional limitation, a disability whose effects last, or are expected to last, less than six months will be presumed to be temporary in nature and not covered by the Rehabilitation Act, unless a requestor provides medical documentation to the contrary.

g. Reasonable Accommodation. A "reasonable accommodation" is a change in the work environment or in work processes that enables qualified individuals with disabilities to enjoy equal employment opportunities. Types of reasonable accommodations include, but are not limited to: modification or adjustment to a job application process to permit an individual with a disability to be considered for a job; modification or adjustment necessary to enable a qualified individual with a disability to perform the essential functions of the job; and, modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment.

Some examples are:

- (1) Making facilities readily accessible to, and usable by, individuals with disabilities;
- (2) Job restructuring of marginal job functions;
- (3) Allowing a modified work schedule;
- (4) Obtaining or modifying equipment or devices;
- (5) Appropriately adjusting or modifying examinations and training materials to make them accessible (but not changing their content);
- (6) Providing readers, interpreters, and other auxiliary aids and assistive technologies;
- (7) Ensuring that all contracts for the use of external facilities reflect the obligation that such facilities are accessible to qualified individuals with disabilities; and
- (8) Reassignment to another position, as a last-resort accommodation.

h. Record of Impairment. A history of having been classified (or misclassified) as having a mental or physical impairment that substantially limits one or more major life activities. VA is required to accommodate qualified individuals with a record of impairment.

i. Regarded as Disabled. An individual is “regarded as disabled” if the individual has been subjected to an action prohibited by law for an actual or perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity. VA is under no obligation to accommodate an individual who meets the definition of “regarded as disabled” solely on the basis that he or she is perceived to have a disability.

5. REFERENCES

- a. Americans with Disabilities Act of 1990, as amended.
- b. The American with Disabilities Amendments Act of 2008.
- c. Collective bargaining agreements, as appropriate.
- d. Equal Employment Opportunity Commission (EEOC) Directives Transmittal 915.003 on Executive Order 13164: Establishing Procedures to Facilitate the

Provision of Reasonable Accommodation

http://www.eeoc.gov/policy/docs/accommodation_procedures.html

e. EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act

<http://www.eeoc.gov/policy/docs/accommodation.html>

f. Executive Order 13164, Requiring Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation.

g. Human Resources Information Letter 05-07-04, Employment of Persons with Disabilities.

h. The Memorandum for Under Secretaries, Assistant Secretaries, Other Key Officials and Facility Directors on the Americans with Disabilities Amendments Act of 2008, February, 23, 2009.

i. Privacy Act of 1974 (Public Law 93-597).

j. The Rehabilitation Act of 1973, Sections 501–508 as amended.

k. Title 29 Code of Federal Regulations (CFR), Sections 1611, 1614, and 1630.

l. Title 29 United States Code (U.S.C.), Sections 791, 792, and 793.

m. VA Directive 5978: Alternative Dispute Resolution