

LOUISIANA NATIONAL GUARD
REASONABLE ACCOMMODATION PROCEDURES

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UNCLASSIFIED

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1. **Introduction.** The Agency establishes procedures for processing reasonable accommodation requests under Section 501 of the Rehabilitation Act of 1973.1 IAW the American with Disabilities Act, Executive Order 13164. The purpose of such procedures is to provide employees as well as supervisors and managers with an easy-to-understand, step-by-step explanation of the reasonable accommodation process.

2. **Initiating the Accommodation Process.** Accommodation requests must follow the following guidelines:

- a. Requests for accommodations can be made by either an applicant or an employee.
- b. Accommodation requests can be either oral or in writing.
- c. Requesters are not required to use any particular words like "reasonable accommodation" or "disability."
- d. Requesters must complete the attached "Confirmation of Request for Reasonable Accommodation" form which will be used for record-keeping purposes only. [See Attachment A \(Confirmation of Request for Reasonable Accommodation\).](#)
- e. Oral accommodation requests will be processed immediately. Requesters will not be required to wait until a written request or confirmation form is received.
- f. Requesters will not be required to submit a written request or confirmation form each time the accommodation is needed if the accommodation is needed on a repeated basis (e.g., a sign language interpreter).
- g. Accommodation requests can be made at any time to any of the following individuals:
 - (1) HRO
 - (2) Deputy HRO
 - (3) Immediate supervisor
 - (4) Supervisor in immediate chain of command
 - (5) EEO Office
 - (6) Any agency employee in connection with the application process

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h. Reasonable accommodation requests can be made by either the individual with a disability or a family member, health professional, or other representative acting on the individual's behalf.

i. Agency officials must begin processing the accommodation request as soon as it is received and may not wait for receipt of the Confirmation of Request for Reasonable Accommodation form.

3. Processing Accommodation Requests

a. The Agency member who receives the accommodation request must determine who will be responsible for handling it. If it is another agency member, s/he should forward it to the appropriate official within three (3) days of receipt. A copy of the referral will be provided to the HRO.

b. First-line supervisors are authorized to process and approve accommodation requests whenever possible.

c. Decision makers must communicate with the requester where the specific limitation or barrier is unclear, an effective accommodation is not apparent, or where different possible reasonable accommodations exist.

d. The J6 is the POC for ordering assistive technology.

e. The Construction and Facilities Management Officer (CFMO) is the POC for removing any type of architectural barriers.

f. Once a request is received by the decision maker, s/he will: (1) acknowledge the request; (2) explain to the applicant or employee that s/he will be making the decision on the request; and (3) describe what will happen in the processing of the request.

g. The HRO must be consulted regarding whether or not the proposed accommodation would in fact pose an undue hardship. All denials of accommodation requests must be in writing and must provide a specific explanation of the grounds for denial. [See Attachment B \(Denial of Reasonable Accommodation Request Form\).](#)

h. Any EEO Office staff member who is involved in a request for reasonable accommodation should recuse him/herself from investigating or decision making on any subsequent EEO counseling or complaint challenging the agency's handling of the accommodation request.

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i. Before denying an accommodation request, the agency will enter in a partnership with the Department of Defense Computer/Electronic Accommodations Program (CAP), which offers assistive technology, devices, and services.

4. Time Limits

a. Requests for reasonable accommodations must be granted or denied within 30 days following receipt by the HRO, absent extenuating circumstances (e.g., decision makers on leave, holidays, weekends, activations, waiting for medical information, needed equipment, renovations, etc.).

b. Granted reasonable accommodations must be processed and provided as promptly as possible and expedited when necessary, for example, to enable an individual to apply for a job or to participate in a specific agency activity that is scheduled to occur shortly.

c. Individuals requesting reasonable accommodations will be notified of the reason for any delay in responding to a request for or providing a reasonable accommodation. Furthermore, the requester will be kept informed of the date on which the agency expects to complete the process.

d. The agency will investigate and implement temporary measures to assist the individual with a disability during any period of processing delay.

5. Medical Information

a. Medical documentation will only be required when needed to evaluate the accommodation request.

b. The agency may request, and an individual requesting an accommodation is required to provide, appropriate medical information related to the functional impairment and the requested accommodation where the disability and/or need for accommodation is not obvious or already known.

c. The agency has a right to request relevant supplemental medical information if the information submitted does not clearly explain: (1) the nature of the disability; (2) the need for the reasonable accommodation; (3) how the requested accommodation will assist the employee to perform the essential functions of the job; or (4) assist an applicant with the application process.

d. The agency reserves the right to have medical information reviewed by its own medical expert at the agency's expense.

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e. Decision-making officials will notify the requester who has provided insufficient documentation what specific information is still needed.

f. Medical information or documentation may be requested where necessary to determine if the requester is an individual with a disability and needs the accommodation requested, such as:

(1) the past, present, and expected future nature, severity, and duration of the impairment (e.g., functional limitations, symptoms, side effects of any treatments, etc.);

(2) the activities the impairment limits;

(3) the extent of the limitations;

(4) the reason the individual requires reasonable accommodation; and/or

(5) how the reasonable accommodation will assist the individual to apply for a job or perform the essential functions of the job.

g. If the information submitted in response to the agency's initial request for medical documentation does not clearly explain the nature of the disability or the need for reasonable accommodation, the agency may request reasonable supplemental documentation. The HRO should explain to the requesting individual why the documentation is insufficient and what information is needed. The HRO can allow the individual an opportunity to provide the information, or may alternatively 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 the agency's own physician contact the individual's health care provider. If this does not result in sufficient information, the agency may require the requester to go to a health care provider of the agency's choice at the agency's expense.

6. Confidentiality of Medical Information

a. All medical information will be kept confidential, meaning maintained in files separate from the individual's personnel file.

b. Medical information may be disclosed only to those individuals responsible for processing or approving request for accommodations. See below examples:

(1) An individual requests assistive technology for his computer as a reasonable accommodation. The J6 is consulted regarding the appropriate computer equipment.

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Although the J6 may need to know the requester's functional limitations to determine technical needs, they do not need to know the requester's underlying medical condition.

(2) An individual requests and receives a special lumbar-support chair as a reasonable accommodation. The other employees in the office ask their supervisor why their coworker is receiving "special treatment." The supervisor would violate the Rehabilitation Act if s/he revealed that the coworker received the chair as a reasonable accommodation.

c. The confidentiality rules apply to all applicants and employees, whether or not they are individuals with disabilities. All medical information, regardless of how they obtained it or to whom it applies, must be kept confidential.

7. Reassignment

a. Reassignment will be required as a reasonable accommodation if the agency determines that no reasonable accommodation will permit the employee with a disability to perform the essential functions of his or her current position.

b. HRO will conduct the search for a reassignment, and consult with the affected employee as necessary to determine:

(1) whether there are limits on the search the employee would like the agency to conduct;

(2) whether the employee is qualified for a particular job; and/or

(3) whether the employee would need a reasonable accommodation to perform the essential functions of a new position.

c. Reassignment is the accommodation of last resort and may not be considered unless the employee cannot be accommodated in his or her current position or the employee voluntarily agrees.

d. An individual with a disability should not be required to accept a reassignment if there is an accommodation that would allow the individual to remain in his or her current job and does not pose an undue hardship.

e. Reassignment must be considered as an accommodation prior to terminating an individual with a disability who cannot be accommodated in his or her current position.

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8. Denials of Reasonable Accommodations

a. Denials of requests for reasonable accommodation must be in writing and specifically explain the reasons a request was denied (e.g., why the medical documentation is inadequate, why the requested accommodation would not be effective, or why the accommodation would pose an undue hardship).

b. Denials of requests for reasonable accommodation must include information about the individual's right to file an EEO complaint and to invoke other statutory processes, as appropriate, as well as the availability of the informal dispute resolution process.

c. Denials of reasonable accommodation requests must specifically describe the reasons for denial.

d. The HRO will use the attached "Denial of Reasonable Accommodation Request" form when denying a request. In addition to selecting the reasons for the denial in question, the HRO will provide a detailed description of why the accommodation would be ineffective or cause undue hardship. See Attachment B (Denial of Reasonable Accommodation Request Form).

9. Information Tracking

a. The agency will have a system of record keeping to track the processing of requests for reasonable accommodation.

b. While the agency is not required to maintain a particular record keeping system, documents, or databases, all agencies must be able to identify at least the following information:

(1) the number of reasonable accommodations, by type, that have been requested for the application process and whether those requests have been granted or denied;

(2) the jobs (occupational series, grade level, and agency component) for which reasonable accommodations have been requested;

(3) the types of reasonable accommodations that have been requested for each of those jobs;

(4) the number of reasonable accommodations, by type, for each job that have been approved, and the number of accommodations, by type, that have been denied;

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(5) the number of requests for reasonable accommodations, by type, that relate to the benefits or privileges of employment, and whether those requests have been granted or denied;

(6) the reasons for denial of requests for reasonable accommodation;

(7) the amount of time taken to process each request for reasonable accommodation; and

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

c. After a reasonable accommodation request is granted or denied, the HRO will complete a Reasonable Accommodation Reporting form, which tracks all the required information. [See Attachment C \(Reasonable Accommodation Reporting Form\).](#)

d. Reasonable accommodation requests and any records related to a particular individual who has requested accommodation will be maintained for the duration of the employee's tenure. This helps ensure that an individual is not asked to provide medical information that has previously been submitted.

e. Information or any records used to track the employer's performance with regard to reasonable accommodation will be retained for at least three (3) years.

f. The EEO Office will analyze the information collected to measure the performance of a reasonable accommodation program and determine areas that require further training or revisions to the procedures.

10. Informal Dispute Resolution

a. The Informal Dispute Resolution (IDR) process will be made available and accessible to individuals with disabilities to obtain prompt reconsideration of denials. The agency will provide reasonable accommodations, if requested, for the IDR process itself.

b. The process should provide for reconsideration by the JAG and a second level of reconsideration by an Agency official who was not involved in the original decision. Providing independent review will enhance trust in the process.

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11. Final Steps: Adoption, Dissemination, and Training

a. The agency will make copies of its reasonable accommodation procedures readily available to all employees and must also educate employees about its procedures.

b. The agency must take whatever steps are necessary to disseminate their reasonable accommodation procedures in a variety of ways to ensure access by all applicants and employees.

c. Training regarding reasonable accommodation requests will be provided to all agency staff that have any role in the process.

12. Conclusion

a. Written procedures are an excellent tool for managing the reasonable accommodation process and ensuring compliance with the Rehabilitation Act. The development and maintenance of a reasonable accommodation policy is an ongoing process in which the Agency will learn through practical experience what revisions may be necessary.

b. EEOC is available to assist with drafting and implementation of reasonable accommodation policies. Submission of procedures as well as requests for technical assistance should be directed to:

Director, Federal Sector Programs
Office of Federal Operations
Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, D.C. 20507
Telephone: (202) 663-4599

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Attachment A: Confirmation of Request for Reasonable Accommodation

**CONFIRMATION OF REQUEST FOR REASONABLE
ACCOMMODATION**

Applicant or Employee Name: _____

Telephone Number: _____

Employee Only:

Occupational Series _____

Grade _____

Applicant or Employee E-mail address: _____

Date of Request: _____

1. Accommodation Requested (be as specific as possible)

2. Reason for Request

3. If accommodation is time sensitive, please explain:

This request form shall be given to your immediate supervisor or Disability Program Manager. This form is necessary for recordkeeping purposes only and will not delay the processing of your initial request.

Today's Date: _____

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Attachment B: Denial of Reasonable Accommodation Form

DENIAL OF REASONABLE ACCOMMODATION

Applicant or Employee Name: _____

Telephone Number: _____

Employee Only:

Occupational Series _____

Grade _____

Applicant or Employee E-mail address: _____

Date of Request: _____

1. Accommodation Requested (be as specific as possible)

2. Reason for Denial of Request

- Accommodation ineffective
- Accommodation would cause undue hardship
- Medical documentation inadequate
- Accommodation would require removal of an essential job function
- Accommodation would require lowering of performance or production standard
- Other (please identify)

3. Detailed reason(s) for the denial of reasonable accommodation (Must be specific, e.g., why accommodation is ineffective or causes undue hardship):

4. If the individual proposed one type of reasonable accommodation which was denied, but rejected an offer of an alternative type of accommodation, explain both the reasons

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for denial of the requested accommodation and why the offered accommodation would be effective.

NOTICE TO INDIVIDUAL REQUESTING ACCOMMODATION:

5. If you wish to request reconsideration of this decision, you may take the following steps:

- First, ask the Decision Maker to reconsider his/her denial. Additional information may be presented to support your request.
- Utilize existing procedures for informal dispute resolution that can include review by a second line supervisor or review by another neutral party.

Reconsideration, review, and use of alternative resources do not affect the time limits for initiating statutory and collective bargaining claims. An individual's participation in informal dispute resolution processes will neither satisfy nor delay time restrictions of the formal, processes indicated below.

6. If you wish to file an EEO complaint, or pursue MSPB and union grievance procedures, you must take the following steps:

- For an EEO complaint pursuant to 29 C.F.R. §§ 1614, contact an EEO counselor in the appropriate Equal Employment Opportunity office within 45 days from the date of denial of reasonable accommodation; or
- For a collective bargaining claim, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement; or

Name of Decision Maker

Signature of Decision Maker

Date reasonable accommodation denied: _____

I acknowledge that I have read the above information with regard to my request for accommodation.

Signature of Requester

Date

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Attachment C: Reasonable Accommodation Reporting Form

REASONABLE ACCOMMODATION REPORTING FORM

(To be maintained separate and apart from personnel files and for the duration of the individual's employment. A copy must be provided by the Decision Maker to the appropriate Accommodation Coordinator.)

Applicant or employee name: _____

Office of employee: _____

1. Reasonable accommodation: (check one)
 Approved (If approved, attach copy of Confirmation of Request for Reasonable Accommodation Form)
 Denied (If denied, attach copy of Denial of Reasonable Accommodation Form)

2. Date reasonable accommodation requested: _____

3. Name of individual who received request: _____

4. Name of Decision Maker (if different from person identified directly above):

5. Date reasonable accommodation approved or denied: _____

6. Date reasonable accommodation provided (if different from above): _____

7. Interim measures provided, if any:

8. If time frames outlined in the Reasonable Accommodation Procedures were not met, please explain why.

9. Job held by individual requesting reasonable accommodation (including title, occupational series, grade level, and office): _____

10. Reasonable accommodation needed for: (check one)
 Performing Job Functions or Accessing the Work Environment
 Accessing a Benefit or Privilege of Employment (eg., attending a training program or social event)

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11. Type(s) of reasonable accommodation requested (check one):

- Personnel action
- Adaptive equipment (including it and communications equipment)
- Specially designed furniture
- Removal of an architectural barrier(s) (including reconfigured work spaces)
- Accessible parking
- Materials in alternative formats (e.g., braille, large print)
- Job restructuring
- Retraining
- Adjusting schedules
- Flexible leave policies
- Alternate work schedule
- Alternate work site
- Reassignment to another job
- Reader, sign language interpreter, or other staff assistant;
- Other (explain) _____

12. Type(s) of reasonable accommodation provided (if different from what was requested):

13. Was medical or other appropriate supporting information required to process this request? If yes, explain why.

14. Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodations (e.g., Job Accommodation Network, disability organization, Personnel, Disability Program Manager):

15. Comments:

Submitted by: _____ Phone: _____

Title: _____

Attach copies of all documents obtained or developed in processing this request.

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Attachment D: Definitions

Disability: A person can show that he or she has a disability in one of three ways:

- if he or she has a physical or mental condition that substantially limits a major life activity (such as walking, talking, seeing, hearing, or learning, or operation of a major bodily function).
- if he or she has a history of a disability (such as cancer that is in remission).
- if he or she is subject to an adverse employment action and is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if he or she does not have such an impairment).

To be eligible for a reasonable accommodation, an individual must either have a physical or mental impairment that substantially limits a major life activity, or must have a record (a history) of a physical or mental impairment that substantially limited a major life activity. An individual who is only regarded as having a disability is not entitled to reasonable accommodation. Determination of disability will comply with the requirements of the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) which requires a broad interpretation of the term and generally does not require an extensive analysis.

Interactive Process: The interactive process refers to an information-gathering approach used by an employer with the employee to evaluate a request for accommodation. It is intended to be a flexible approach that centers on the communication between an employer and the individual requesting reasonable accommodation, but may (and often does) involve obtaining relevant information from a supervisor and an individual's health care provider. This process begins upon receipt of an oral or written request for reasonable accommodation. The person who will decide whether to grant or deny a reasonable accommodation engages in a discussion with the requestor and other relevant individuals (e.g., a supervisor, a requestor's health care provider) to collect whatever information is necessary to make an informed decision about whether the requestor is covered as an individual with a disability and, if so, what reasonable accommodation(s) will effectively eliminate the barrier identified by the requestor and permit an equal opportunity to apply for a job, to perform a job or to gain access to the workplace, or to enjoy access to the benefits and privileges of employment.

Qualified: An individual with a disability is qualified for the position that such individual holds or desires if the individual (1) satisfies the requisite skill, experience, education, and other job-related requirements of the position, and (2) can perform the essential functions of the position, with or without reasonable accommodation.

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Reasonable accommodation: A reasonable accommodation is any change in the workplace or in the way things are customarily done that provides an equal employment opportunity to an individual with a disability. The Agency provides reasonable accommodation:

- when an individual with a disability needs an accommodation to have an equal employment opportunity in the application process;
- when an employee with a disability needs an accommodation to perform the essential functions of the job held or desired or to gain access to the workplace; and
- when an employee with a disability needs an accommodation to enjoy equal access to benefits and privileges of employment (e.g., details, trainings, office-sponsored events).

Undue hardship: Undue hardship means that an employer would incur significant difficulty or expense in providing a certain reasonable accommodation. The Rehabilitation Act does not require an Agency to provide a reasonable accommodation that causes an undue hardship. Determination of undue hardship is always made on a case-by-case basis, considering such factors as the nature and net costs of the accommodation, the overall financial resources of the Agency, and the impact of the accommodation on the operation of the Agency, including the impact on the Agency's ability to conduct business. Most undue hardship assessments involve non-financial considerations, such as the timely performance of job duties and the ability to effectively serve the public. The Agency must consider their resources as a whole, not simply the budget of a specific office, when determining whether an accommodation imposes significant cost; however, the Agency does not have to include any funding Congress designates for a specific purpose that does not include provision of reasonable accommodation. The Agency also must consider money available through a centralized fund it has created to pay for many forms of reasonable accommodation, as well as the ability to access the Department of Defense's Computer/Electronic Accommodations Program (CAP) to pay for certain equipment.