



DEPARTMENT OF THE NAVY
COMMANDER NAVY RESERVE FORCE
1915 FORRESTAL DRIVE
NORFOLK VIRGINIA 23551-4615

COMNAVRESFORINST 12720.5A
N00CP
16 Apr 14

COMNAVRESFOR INSTRUCTION 12720.5A

From: Commander, Navy Reserve Force

Subj: REASONABLE ACCOMMODATIONS OF PERSONS WITH DISABILITIES

Ref: (a) Rehabilitation Act of 1973
(b) Americans with Disabilities Act of 1990
(c) Americans with Disabilities Amendments Act of 2008
(d) EO 13164 of 26 Jul 00
(e) DON Civilian Human Resources Manual 1606
(f) DON Guide for Processing Requests for Reasonable Accommodations
(g) DON Civilian Human Resources Manual 1601
(h) Equal Employment Opportunity Commission Management Directive 715 (MD-715)
(i) DON Guidance and Advice Memorandum of 12 Apr 11

1. Purpose. To establish policy and assign responsibility for processing requests for reasonable accommodation within Commander, Navy Reserve Force (COMNAVRESFOR) per references (a) through (i). A reasonable accommodation is a change or adjustment to a job or a workspace that allows a person with a disability to apply for a job or to perform the essential functions of the job. This instruction is a complete revision and should be read in its entirety.

2. Cancellation. COMNAVRESFORINST 12720.5.

3. Policy

a. COMNAVRESFOR supports Department of the Navy (DON) policy and recognizes that equality of opportunity is an essential element of readiness and vital in attracting, developing and retaining a top-quality workforce in order to accomplish the COMNAVRESFOR strategic mission. It is COMNAVRESFOR policy to:

(1) Ensure procedures in references (f) through (i) are followed when an employee or applicant asserts that he or she has a disability or requests an accommodation. Any medical information on employees or applicants obtained in the process must be kept confidential and released on a "need-to-know" basis only.

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(2) Provide the information contained in this instruction to current employees, supervisors, managers, and new employees when they report for duty.

(3) All accommodation decision should be complete within 30 calendar days, except when additional medical documentation is required. Records of accommodation requests and disposition should be forwarded to the Director of Civilian Human Resources (DCHR) Reasonable Accommodation (RA) Manager for retention. All denials of accommodation requests or reassignments outside of the activity will be forwarded to the Command Deputy Equal Employment Opportunity Officer (CDEEOO) for review. Request for reassignment outside of the activity must be accompanied by a certification from the Commanding Officer (CO) that there are no available funded positions within the activity that can be used for assignment.

(4) Ensure managers and supervisors share responsibility with Equal Employment Opportunity (EEO) and Human Resources (HR) personnel for successful policy and program implementation.

4. Responsibilities

a. Commanders, COs and Officers in Charge. The head of each activity/command employing civilians serves as the Equal Employment Opportunity Officer and must demonstrate their commitment by:

(1) Communicating and implementing COMNAVRESFOR policy for the processing of RA requests.

(2) Allocating sufficient resources to process requests for RA.

(3) Ensuring officials responsible for processing requests for RA are trained on program requirements, to include relevant legal principles/precedents.

(4) Ensuring all RA requests are processed within the applicable timeframe.

(5) Certifying, after consultation with the RA POC, HR, and legal counsel, that the job search process at the activity level identified no vacant positions for placement of an employee who could not be accommodated in their position of record.

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(6) Certifying after consultation with EEO, HR, and legal counsel that an individual, who is not a current employee at the activity, cannot be placed in one of the activity's vacant positions identified in the job search conducted by the Office of Civilian Human Resources (OCHR) Operations Center, Norfolk.

(7) Providing an annual report on the requests for accommodation and the current status or resolution of each request to the CDEEOO.

(8) Designating a Deciding Official (DO), in writing, to monitor the process and make a final decision on accommodation requests. The DO must be of sufficient organizational level to commit resource if needed to support an accommodation.

(9) Designating an RA Point Of Contact (POC).

(10) Establishing a RA Team to process requests for accommodation.

b. Managers and Supervisors must:

(1) Immediately contact the activity's RA POC and/or HR Specialist upon receipt of a request for RA.

(2) Participate as a member of the RA Team.

(3) Process all RA requests per the procedures outlined in references (f) through (i).

(4) Maintain an open line of communication with the employee seeking an accommodation and engage in on-going, informal discussion(s) with the employee during the RA process.

(5) Consider the use of Alternative Dispute Resolution techniques at any stage in the RA process to resolve any conflicts at the lowest level.

(6) Implement the policy to provide RA to qualified employees and applicants with disabilities.

c. DCHR must:

(1) Ensure sufficient resources are allocated to execute a RA process that is timely and efficient at the command and subordinate activity level.

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(2) Coordinate with the CDEEOO and the command's legal counsel to review a command/activity's assessment that a current employee cannot be accommodated in his or her position of record and the command/activity's subsequent job search efforts were thorough, complete and in compliance per references (f) through (i).

(3) Coordinate with the CDEEOO and command's legal counsel to review the operations center job search efforts on behalf of a current employee, if no vacancies are identified.

(4) Coordinate with the CDEEOO, command's legal Counsel, and the operations center in providing advice to the CO, supervisors and managers if one or more of the vacancies within the command are identified as possibilities for reassignment for a current employee of the command.

(5) Review the operations center job placement determination, in collaboration with the CDEEOO and command legal counsel, if an employee not currently employed within the command is identified for placement in one or more of the command's current vacancies.

d. The CDEEOO shall:

(1) Serve as the primary advisor to COMNAVRESFOR on the command's process for RA.

(2) Provide guidance, assistance, and command specific training on processing RA requests to subordinate command/activity officials.

(3) Serve as a link between subordinate activities and the OCHR and the DON EEO Program Manager to monitor and enforce compliance per references (a) through (i).

(4) Review all determinations made by subordinate activities/commands to deny requests for RA to ensure compliance per references (a) through (i).

(5) Assist the DCHR and the command's legal counsel in determining if the command or activity's assessment that a current employee cannot be accommodated in his or her position of record and the command/activity's subsequent job search efforts were thorough, complete and in compliance per references (f) through (i).

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(6) Assist the DCHR and the command's legal counsel in reviewing the operations center job search efforts on behalf of a current employee if no vacancies are identified.

(7) Assist the DCHR, command legal counsel, and the operations center in providing advice to the CO, supervisors, and managers if one or more of the vacancies within the command are identified as possibilities for reassignment for a current employee of the command.

(8) Review the operations center job placement determination, in collaboration with the DCHR and the command's legal counsel, if an employee not currently employed within the command is identified for placement in one or more of the command's current vacancies.

(9) Track, monitor, and review all requests for accommodation, job search efforts and final decisions for consistency and reporting purposes.

(10) Evaluate the quality and timeliness of RA procedures on an annual basis.

(11) The CDEEOO will annually assess each activity/command with civilian employees on its RA program to ensure program success, compliance, as well as identify and eliminate barriers that tend to limit or restrict equal opportunity for open competition in the workplace.

e. The COMNAVRESFOR Legal Counsel shall:

(1) Provide legal advice and guidance to the HR/EEO community on RA.

(2) Provide oversight of Federal court litigation on failure to accommodate claims.

(3) Coordinate with the CDEEOO and the DCHR to review a command/activity's assessment that a current employee cannot be accommodated in his/her position of record and the command/activity's subsequent job search efforts were thorough, complete, and in compliance per references (f) and (i).

(4) Coordinate with the CDEEOO, DCHR, and the operations center to provide advice to the CO, supervisors, and managers if one or more vacancies within the command are identified as possibilities for reassignment for a current employee of the command.

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(5) Review the operations center job placement determination, in collaboration with the CDEEOO and Directors of Civilian Personnel Programs, if an employee not currently employed within the command is identified for placement in one or more of the command's current vacancies.

f. The RA POC shall:

(1) Coordinate all RA requests.

(2) Ensure all RA requests are processed per references (f) through (i).

(3) Involve appropriate personnel to serve on the RA Team who will provide recommendations to the supervisor/manager and is responsible for making the decision on a request for RA.

(4) Ensure supervisors engage in on-going informal interactive discussion(s) with the individual seeking the accommodation.

(5) Update the appropriate tracking and monitoring system for RA requests.

(6) Maintain all RA files in a secure manner.

(7) Safeguard the confidentiality of medical information. Access to the information will be granted on a limited, need-to-know basis.

g. The RA Team shall:

(1) Include, at a minimum, the RA POC, HR Specialist, and the employee's first level supervisor. As needed, the RA Team shall consult with technical experts in EEO, safety, medical or legal, etc.

(2) Process all RA requests per references (f) through (i).

(3) Safeguard the confidentiality of medical information.

(4) Notify the CDEEOO of all requests for accommodations.

h. Employees and/or applicants for employment shall:

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(1) Immediately notify their first-level supervisor or RA POC when it is determined that some form of RA is required in order to perform the essential function(s) of their position of record or participate in the interview process.

(2) Actively participate in the interactive discussion portion of the RA process.

(3) Provide medical documentation, if requested, as part of the RA process.

5. Reports. COMNAVRESFOR requires each subordinate activity/command under its cognizance to complete an annual report on requests for accommodations and submit it to the CDEEOO upon request.

6. Forms. Forms and templates for the RA process can be found on the OCHR web site.

<http://www.public.navy.mil/donhr/eeo/ResourceLibrary/Pages/FormsTemplates.aspx>.

- a. Acceptance/Declination of Offer of Reassignment.
- b. Approving Request for Accommodation.
- c. Certification from the CO.
- d. Denial of RA Request with Offer of other Assistance.
- e. Denying Request for Accommodation.
- f. Documentation of Activity Job Search Efforts.
- g. Documentation of Essential Functions of Position.
- h. Guidance for Interactive Discussion with Employee on options available after Non-Accommodation Determination.
- i. Letter to Human Resources Service Center to continue job search efforts.
- j. Offer Letter of Reassignment as an Accommodation.
- k. Permission to Release Medical Information.
- l. RA Information Sheet.

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m. RA Request Form.

n. Sample Letter for Requesting Medical Documentation.

A handwritten signature in black ink, appearing to be 'B. P. Cutchen', written over the text 'Sample Letter for Requesting Medical Documentation.'

B. P. CUTCHEN

Deputy

Distribution:

Electronic copy via COMNAVRESFOR Web site

<http://www.navyreserve.navy.mil>