

RING Circular (IWD)

**Reasonable Accommodation
Instruction**

**Rhode Island
National Guard**

**Headquarters
Rhode Island National Guard
Cranston, RI 02920
16 April 2019 (Revised)**

Reasonable Accommodation Instruction

Rhode Island National Guard Publications

Summary: This circular provides guidance for individuals with disabilities (IWD) to request a reasonable accommodation (RA).

Applicability: This circular applies to Rhode Island National Guard Technicians employed under Title 32 of the United States Code and Federal Civilian Employees employed under Title 5 of United States Code.

Supplementation: Supplementation of this publication is prohibited without prior approval from the Adjutant General (NGRI-TAG), RI National Guard Headquarters, 641 New London Avenue, Cranston, RI 02920.

Suggested Improvements: The proponent agency of this regulation is the Rhode Island National Guard Human Resources Office (NGRI-HRO). Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the Office of the Adjutant General, Attn: NGRI-HRO, RI National Guard Headquarters, 641 New London Avenue, Cranston RI 02920.

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1. **Purpose.** This instruction establishes an interactive reasonable accommodation process IAW 29 CFR Parts 1614 and 1630.

2. **References.**

a. Title 32, United States Code

b. Title 10, United States Code

c. Public Law 114-328, 23 December 2016, "National Defense Authorization ARI for Fiscal Year 2017".

d. Rehabilitation ARI of 1973, as amended (29 U.S.C. § 701 et seq.).

e. Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000).

f. Equal Employment Opportunity Commission, Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation (ORI. 20, 2000).

g. Equal Employment Opportunity Commission, Procedures for Providing Reasonable Accommodation for Individuals with Disabilities (July 19, 2010)

h. The Americans with Disabilities ARI of 1990, as amended (42 U.S.C. §§ 12102, 12114).

i. The Americans with Disabilities ARI Amendments ARI of 2008.

j. 29 C.F.R. Parts 1614 and 1630.

3. **Cancellation.** This publication supersedes RING Reasonable Accommodation Instruction, 03 SEP 2018.

4. **Applicability.** This instruction applies to the processing of reasonable accommodation requests by IWD in federal civilian employment and applicants for employment, who are managed under a designation of authority to an adjutant general under section 709(d) of Reference (a) and section 10508 of Reference (b), as enacted in Reference (c), to include Title 5 civilian employees and NG technicians.

5. **Policy and Guidance.**

a. This instruction implements Affirmative Action for Individuals with Disabilities I Federal Employment, Rehabilitation ARI, 29 C.F.R. § 1614.203 (January 3, 2017) (Rule). The Rule codifies a variety of obligations currently placed on federal agencies by management directives and Executive Orders. It also adds substantive affirmative

action requirements, mandating that federal agencies: (1) adopt employment goals for individuals with disabilities, with sub-goals for individuals with targeted disabilities; (2) provide personal assistance services to certain employees who need them because of a targeted disability; and (3) meet a number of other requirements designed to improve the recruitment, hiring, retention, and advancement of individuals with disabilities in the federal workforce.

b. The Rehabilitation ARI of 1973 and the Americans with Disabilities ARI of 1990 (ADA) require employers to provide RA to qualified employees or applicants with disabilities, unless doing so would cause undue hardship. This instruction helps to implement the requirement of the Rehabilitation ARI, as well as the underlying principles of the ADA, that agencies provide RA to qualified employees and applicants with disabilities.

c. Reasonable accommodations serve two fundamental purposes. First, RAs remove barriers that prevent IWDs from applying for or performing jobs for which they are qualified. Second, RAs allow current employees to continue their employment if they develop a disability. This instruction is to be interpreted and applied in accordance with those two stated purposes, as well as the spirit of the Rehabilitation ARI and the ADA.

6. Roles and Responsibilities

a. Human Resources Office (HRO). The Director for Human Resources is responsible for implementation and administration of this RA instruction. POC for RA process is the Injury Compensation Program Administrator (ICPA).

(1) Oversee the reasonable accommodation program and requests for reasonable accommodations.

(2) Research options for reasonable accommodations and make recommendations.

(3) Provide information on RA procedures and options to RING employees and supervisors.

(4) Participate in ongoing communication with all parties involved in processing requests for reasonable accommodations.

(5) Ensure the confidentiality of medical information collected to support accommodation requests.

(6) Work with necessary offices to obtain equipment and services needed as accommodations.

(7) Coordinate with the Staff Judge Advocate as needed, including before determining the essential functions of a position, requesting medical documentation, and granting or denying a request for reasonable accommodation.

(8) Consult with State Labor Relations Specialist (SLRS) and others on an as needed basis on RA issues.

(9) The HRO Director will make final determinations on reasonable accommodation requests.

b. State Labor Relations Specialist (SLRS). The SLRS is responsible for assisting and advising managers and supervisors in reviewing requests for RA.

c. EEO Office. The EEO Office is responsible for the following:

(1) Provide technical assistance upon request about RA matters related to the Rehabilitation AR Instruction (ARI) and other applicable laws and RA requirements.

(2) Collaborate with RING HRO to ensure employees are trained about the Rehabilitation ARI, other applicable laws and reasonable accommodation requirements, and this policy.

(3) Report information about RING's Reasonable Accommodation Program to the EEOC based on input from HRO.

(4) Monitor RING's compliance with the Rehabilitation ARI and other applicable laws and reasonable accommodation requirements and make recommendations as needed under the circumstances to ensure compliance.

(5) Submit RA data for to the EEOC each year for inclusion in the MD715.

(6) Ensure that copies of this RA Instruction are readily available to all RING technician personnel, and when necessary, through alternative formats to accommodate IWD.

d. Commanders and Directors. Commanders and Directors at all levels are responsible for providing the necessary Resources to support the availability of the RA process, as well as ensuring that all Management and Supervisors subject to their authority receive training on the RA process.

e. Management and Supervisors.

(1) Ensure that employees are aware that the RA process is available to individuals with disabilities.

(2) Receive and review RA requests from employees.

(3) Consult with the SLRS and HRO to determine whether it is appropriate to approve an employee's RA request, whether to offer an alternative RA, or whether circumstances require the RA request to be denied.

(4) Communicate the status and ultimate disposition of employee's RA request to the requesting employee.

(5) Higher level supervisors will receive and consider requests for reconsideration from employees whose RA requests have been previously denied by a subordinate supervisor.

f. Reasonable Accommodation Board

(1) Members to include: HRO Deputy, ICPA, SLRS, SEEM, State Surgeon RIANG, State Surgeon RIARNG

(2) Review RA and communicate the status and ultimate disposition of employee's RA request to the requesting employee.

(3) ICPA maintains notes and is the facilitator of the Board.

7. Reasonable Accommodation Interactive Process.

a. Requesting Reasonable Accommodation.

(1) The RA process is initiated when an IWD indicates the 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 ARI, this instruction, or even use the term "reasonable accommodation." It is sufficient for an IWD to simply ask for assistance with certain work related tasks or materials related to their disability.

(2) An IWD may initiate a request for RA orally or in written form at any time. This interactive process may be initiated by the IWD, a family member, health professional, and other representative who is acting on the individual's behalf (EEOC Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, Sec. II (A), Q.6 (ORI.20, 2000)). The IWD will be asked to complete an RA request form for documentation and processing purposes. The Reasonable Accommodation Request Form, Appendix D, 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 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:

(a) The IWD's supervisor; or manager in chain of command; or

(b) The EEO office; or

(c) In the case of an applicant involved in the application process any agency employee with whom an applicant has contact. 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. Processing Requests for Reasonable Accommodation.

(1) While an employee may request a change due to a medical condition, this request does not necessarily mean that the employer is required to provide the change. 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. 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 employee to complete and submit a Reasonable Accommodation Request Form. Supervisors however, will not delay the interactive process while waiting for the form. The supervisor will then engage in 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. The supervisor will document the conversation in writing and should take detailed notes. Supervisors are encouraged to seek guidance from the State Labor Relations Specialist (SLRS) and Staff Judge Advocate (SJA) at any time during the process. Information obtained from the employee 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 RING 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. Where the employee has not requested a specific accommodation, the supervisor will inform the employee that he or she determine whether there is an RA that could be made, again within thirty (30) calendar days. At the close of the meeting the supervisor should inform the employee of his or her right to obtain information and assistance from the EEO office. The supervisor should collect the Reasonable Accommodation Request Form from the employee before the end of this meeting.

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

(4) The RING 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 RING can require that the employee provide reasonable documentation about the disability and functional limitations. The requested documentation must come from an appropriate professional, depending upon the type of claimed disability, such as doctors (including psychiatrists), psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals. 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.

(e) Supervisors will not request medical documentation where: (1) both the disability and need for RA are obvious; or (2) the employee has already provided the RING 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.

(5) Supporting medical documentation must be provided to the requesting official within ten (10) 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 (29 C.F.R. § 1614.203(d) (3) (i) (N)). Medical information will be kept confidential to the extent required by applicable law but will be shared only with those “other agency officials” in the RING involved in determining whether to grant a request for RA. These officials include:

(a) supervisors and managers who need to know may be told about necessary restrictions and about the necessary accommodation(s);

(b) first aid and safety personnel may be told if the disability might require emergency treatment;

(c) government officials to investigate the agency's compliance with the Rehabilitation Act;

(d) workers' compensation offices or insurance carriers; and

(e) agency EEO officials may be given the information to maintain records. EEOC Policy Guidance, Sec. II (D), Q.20.

(6) Additionally, the RING 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 seven (7) calendar days of its request. Failure to provide necessary documentation where it has been properly requested could result in a denial of RA.

(7) If the employee requesting an RA still fails to provide sufficient information and supporting documentation, the RING may, at its discretion, take the following actions:

(a) Have the individual requesting an RA examined by a physician from the RING. If the individual does not consent to the examination, deny the request IAW § 7c of this instruction or;

(b) have a physician from the RING review all of the documentation that the individual requesting RA submitted to ensure that it is, in fact, insufficient. If the RING physician concurs that the documentation is insufficient, deny the request IAW § 7c.

(8) The IWD does not need to have a particular accommodation in mind before making a request (29 C.F.R. § 1614.203(d) (3) (i) (D)). Once it is determined that the employee requesting an RA has a qualifying disability (and is therefore an IWD), the supervisor will consult with the SLRS to determine whether the requested RA is appropriate under the circumstances. If the supervisor does not have authority to grant a particular RA (such as the authority to allow the employee to disregard a particular work policy), the supervisor and SLRS will consult with the lowest-level supervisor that has such authority. RAs will only be provided to individuals with actual disabilities. Supervisors are not obligated to provide RAs to employees who have been merely "regarded as" having a disability.

(9) In considering whether an RA can be provided, supervisors and the SLRS 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 A contains some examples of possible accommodations. Appendix B contains a list of Resources to help supervisors and SLRSs 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 position. Finally, an RA allows an IWD an equal opportunity to enjoy the benefits and privileges of employment that employees without disabilities enjoy.

(11) The RING 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 has the ultimate discretion to choose between effective accommodations. Appendix A lists some suggested RAs for supervisors and employees to consider. Appendix B contains Resources for supervisors and employees to explore possible RAs.

(12) There are several modifications or adjustments to which supervisors do not have the authority to agree. First, supervisors may not agree to eliminate an essential function, i.e., a fundamental duty of the position. This is because a person with a disability who is unable to perform the essential functions, with or without reasonable accommodation, is not a "qualified" individual with a disability within the meaning of this instruction. A supervisor is also 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 RING will not provide as reasonable accommodations personal use items needed in accomplishing daily activities both on and off the job. Thus, the RING 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 RING 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 will be denied where the requested RA would cause "undue hardship" to the RING. 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 the RING 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. To determine undue hardship all factors must be considered including: expense with consideration to tax breaks and deductions, the overall financial Resources available, the impact of the accommodation and others based on 29 CFR 1630.2(p)(2). The supervisor and SLRS 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 (29 C.F.R. § 1614.203(d) (3) (i) (B)). RING HRO must notify the supervisor, SLRS, and other officials that they are to conduct searches for available vacancies when considering reassignment as a RA (29 C.F.R. §14.203(d) (3) (i) (C)).

c. Approval and/or Denial of Requests for Reasonable Accommodation.

(1) When the supervisor, with input from the SLRS, makes the determination that he/she will approve a requested RA, the RING Human Resources Office (401) 275-4180, and IWD's supervisor will notify the IWD in writing and document the date and circumstances of the notification. The supervisor 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 ARI. (29 C.F.R. § 1614.203(d) (3) (i) (O)). A copy of the supervisor's written notification will go into a separate file for the employee, as discussed below.

(2) When the supervisor, with input from the SLRS, makes the determination that he/she will deny a requested RA, or that he/she will offer an alternative RA, the supervisor will notify the IWD in writing and will document the circumstances of the notification. The written notification to the IWD must contain:

(a) the name of the supervisor who made the decision;

(b) the reasons for the denial;

(c) a notice that if the IWD wants to file an EEO complaint, the IWD must contact the RING EEO office within 45 days of receiving this letter; and

(d) that the IWD can engage in the Informal Resolution Process by appealing the decision to the next supervisor in the employee's chain of command, but that utilizing the Informal Resolution Process does not extend the 45 days that the employee has to contact the EEO office.

(3) If there is any delay in either processing a request for or providing a reasonable accommodation, the RING Human Resources Office must notify the individual in writing of the reason for the delay, including any extenuating circumstance that justify the delay (29 C.F.R. § 1614.203(d)(3)(i)(S)).

(4) 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 (29 C.F.R. § 1614.203(d)(3)(i)(Q)).

d. Appealing denial of requests for reasonable accommodations.

(1) Denials may be appealed to the Adjutant General in conjunction with the State Labor Relations Specialist (SLRS). The Adjutant General has final appellate authority for approval / denial of reasonable accommodations requests.

(2) The Adjutant General may delegate appellate approval / denial authority to the Director of Joint Staff or Chief of Staff, Army or Air.

8. Reasonable Accommodation EEO Complaints

a. Informal Resolution Process.

(1) An IWD can appeal the decision of his/her supervisor to the next supervisor in the IWD's chain of command within seven (7) calendar days of receipt of the original supervisor's decision. The appeal should be in writing and should contain any additional information or documentation that the employee would like the higher

supervisor to consider. There is no requirement that the IWD utilize the Informal Resolution Process before contacting the EEO office or before filing an EEO complaint.

(2) The higher supervisor who receives the appeal will consult with the SLRS and render a decision on the appeal within fourteen (14) calendar days of receiving the appeal from the employee. The appeal should involve simply reviewing the original supervisor's notes and any documentation submitted by the employee. There is no requirement that the higher supervisor meet with the employee unless the higher supervisor believes it is necessary in the interests of fairness. Notice of the supervisor's decision will be IAW Section 7c above, except that the notice will remind the employee that he/she must contact the RING EEO office within 45 days of receipt of the original supervisor's decision if the employee wishes to file an EEO complaint.

b. EEO Process.

(1) Regardless of whether or not the employee has utilized the Informal Resolution Process above, the individual must contact the EEO office within 45 days of receiving the initial denial of the request for RA (not the decision on reconsideration) if he/she desires to file an EEO complaint. The EEO office will guide the employee through the EEO complaint process.

9. Record Keeping

a. Tracking Requirements. The Joint Force Headquarters (JFHQ) EEO office will maintain RA records. As a result, the JFHQ EEO Office is responsible for tracking the following:

(1) The servicing EEO will assign a Tracking Number to the RA request form. Example: RING-RA-FYXX (fiscal year)-XX (number). EEO will notify the individual in writing of his/her tracking number within seven (7) calendar days of the RA request. The individual can track his/her request process through his/her tracking number by calling JFHQ EEO or RING HRO. (29 C.F.R. § 1614.203(d) (3) (i) (R)).

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

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

(4) The types of RAs that have been requested for each of those jobs.

(5) By organization, the number and types of RAs for each job that have been approved and denied.

(6) 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.

- (7) The reasons for denial of RA requests.
- (8) The amount of time taken to process each RA request.
- (9) The source of technical assistance consulted in trying to identify possible RAs.

b. Dispositions of Reasonable Accommodation Request Data, Including Medical Information.

(1) 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 employment. Records concerning requests, approval, and disapproval are maintained by the JFHQ EEO office.

(2) 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.

10. **Summary of Changes.** None

11. **Releasability.** This instruction is approved for public release; distribution is unlimited.

12. **Effective Date.** This instruction is effective on 16 April 2019.

By Order of The Adjutant General, duly authorized, IAW RI Gen.Stat.Title 30, CH 30 22.



Christopher P. Gallahan
Major General
The Adjutant General

DISTRIBUTION:
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APPENDIX A

EXAMPLES OF REASONABLE ACCOMMODATIONS

1. Listed are some examples for supervisors to consider when a RA request is made. This list does not address all situations. Each RA request will be handled on a case-by-case basis and the accommodation will be based upon the need of the IWD.

- a. Job Restructuring involves modifications such as reallocating or redistributing marginal job functions that an employee is unable to perform because of a Reasonable Accommodation, as well as altering when and or how a function, essential or marginal, is performed. Supervisors will not, however, reallocate essential functions as a reasonable accommodation.

- b. Leave, whether accrued paid leave or unpaid leave, is a form of RA when necessitated by an employee's RA. Supervisors are not required to provide paid leave beyond that which is provided to similarly situated employees. When leave is used as an RA, employees 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.

- c. 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 schedule or if reassignment is more appropriate.

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

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

- f. Specific to individuals with visual impairments, supervisors should consider Braille displays, Braille embossers, portable note-takers, print enlargers, scanner/readers, and screen readers.

- g. Specific to individuals with impaired dexterity, supervisors should consider alternative input systems, alternative keyboards, alternative pointing devices, keyboard enhancement programs, and voice recognition systems.

- h. Reassignment to a vacant position may be provided to an employee (not an applicant) who, because of a RA, can no longer perform the essential functions of his/her

current position, with or without an RA, unless the supervisor can show that reassignment would be an undue hardship. The employee 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 must also be able to perform the essential functions of the new position, with or without an RA. The RING is not obligated to assist the employee to become qualified for the new position, unless the RING 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 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 asks for reasonable accommodation, or that the employer knows that it will become available within a reasonable amount of time. The employer does not have to bump another employee from a job in order to create a vacancy; nor does it have to create a new position.

i. 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 B

REASONABLE ACCOMMODATION RESOURCES

1. U.S. Equal Employment Opportunity Commission
Phoenix District Office
3300 N. Central Avenue, Suite 690
Phoenix, Arizona 85012-2504
1-800-669-4000
602-640-5071 (fax)
1-800-669-6820 (TTY)
www.eeoc.gov
2. The EEOC's Publication Center has many free documents on the Title I employment provisions of the ADA and the Rehabilitation ARI. In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship.
3. Job Accommodation Network (JAN)
1-800-232-9675 (Voice/TT)
<http://janweb.icdi.wvu.edu>
 - a. 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.
4. ADA Reasonable and Business Technical Assistance Centers (DBTACs)
1-800-949-4232 (Voice/TT)
 - a. The DBTACs consist of 10 federally funded regional centers that provide information, training, and technical assistance on the ADA. Each center works with local business, Reasonable, governmental, rehabilitation, and other professional networks to provide current ADA information and assistance. The DBTACs can make referrals to local sources of expertise in reasonable accommodations.
5. Registry of Interpreters for the Deaf
1-301-608-0050 (Voice/TT)
<http://www.rid.org>
 - a. The Registry offers information on locating and using interpreters and transliteration services.
6. Computer/Electronic Accommodation Program
1-703-681-8811 (Voice/TT)
<http://www.tricare.osd.mil/cap>

a. 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 advise 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.

APPENDIX C

REASONABLE ACCOMMODATION REQUEST FORM

RING Reasonable Accommodation Request

Name: _____ Phone #: _____

E-mail: _____ Work #: _____

Position: _____ Grade: _____

Date: _____

Supervisor: _____ Work #: _____

E-mail: _____

I. What specific accommodation are you requesting?

II. Please explain how that specific accommodation will assist you.

III. If you are not sure what accommodation is needed, please list any suggestions regarding options we can consider.

IV. If your accommodation request is time-sensitive, initial here: _____ and explain.

V. What, if any, job functions are you having difficulty completing?

VI. What, if any, employment benefit are you having difficulty accessing?

VII. What limitation is interfering with your ability to perform your job or access an employment benefit?

VIII. If you have had any accommodations in the past for this same limitation, initial here: _____ and explain.

IX. Please provide any additional information that might be useful in considering your request:

Printed Name of Individual Making Request

Signature

Date

Name of Person Receiving Request

Position/Work Phone #

Signature

Date

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GLOSSARY

ABBREVIATIONS, ACRONYMS AND TERMS

ADR	Alternate Dispute Resolution
AGP	Administrative Grievance Procedure
AJ	Administrative Judge
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
FAD	Final Agency Decision
HRO	Human Resources Officer
IRD	Investigations and Resolutions Directorate
MACOM	Major Command
MSPB	Merits Systems Protection Board
NG	National Guard
NGB	National Guard Bureau
NGP	Negotiated Grievance Procedure
OFO	Office of Federal Operations
ROI	Report of Investigation
RFR	Request for Reconsideration
SEEM	State Equal Employment Manager
SJA	Staff Judge Advocate
TDY	Temporary Duty

Direct threat— a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

Essential functions— 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.

Extenuating circumstances— 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.

Individual with a Reasonable (IWD)— 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.

Major life activities— 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.

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

Reasonable Accommodation— 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. This instruction's "undue hardship" standard is different from that applied by courts under Title VII of the Civil Rights Act of 1964 for religious accommodation. There are three categories of RA:

a. Modifications or adjustments to a job application process to permit an IWD to be considered for a job.

b. Modifications or adjustments necessary to enable a qualified IWD to perform the essential functions of the job.

c. Modifications or adjustments that enable IWDs to enjoy equal benefits and privileges of employment.