

Civilian Personnel

Reasonable Accommodation for Individuals with Disabilities

History. This is the first printing of this regulation. This regulation supersedes previous policy issued by the Garrison Commander.

Summary. Executive Order 13164, signed on July 26, 2000, President Clinton, requires federal agencies to establish written procedures for processing requests for reasonable accommodations. These accommodations remove barriers that prevent people with disabilities from applying for or performing jobs for which they are qualified. It expands the pool of qualified workers allowing the agency to be more diverse and benefit from the talents of the disabled.

Applicability. This policy applies to all federal civilian employees (appropriated and non-appropriated fund) and military personnel (regardless of service component) assigned to or working on Fort Hood. This

includes all commands and organizations on Fort Hood serviced by the Fort Hood Equal Employment Opportunity Office (EEOO) or the Civilian Personnel Advisory Center (CPAC). It includes, but is not limited to, III Corps, 1st Cavalry Division, 4th Infantry Division, Garrison, Medical Department Activity, Dental Activity, Operational Test Command, and 13th Sustainment Command (Expeditionary).

Supplementation. Local supplementation of this regulation is prohibited except upon approval of Directorate of Human Resources (DHR).

Suggested Improvements. The proponent of this regulation is the EEOO. Users are invited to send comments and suggested improvements to: EEO Manager, ATTN: IMWE-HOD-EEO, Fort Hood, TX 76544-5016.

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CHAPTER 1

Overview

1-1. Purpose

This regulation establishes procedures for processing, documenting, and reporting requests for reasonable accommodation in the workplace by federal civilian employees and applicants for employment.

1-2. References

Required and related references are listed in Appendix A.

1-3. Abbreviations and terms

The glossary explains abbreviations and terms used in this regulation.

1-4. Objectives

- a. Establish prompt, fair, and efficient procedures to respond to requests for reasonable accommodation by individuals with disabilities, who are federal employees or applicants for federal civilian employment.
- b. Increase awareness of the responsibility to provide for the expansion of opportunities for individuals with disabilities.
- c. Ensure that civilian/military managers and supervisors comply with the provisions of the Rehabilitation Act of 1973, as amended.
- d. Establish a standard procedure to capture data for reporting disability related actions to higher headquarters.

1-5. Policy

Individuals with disabilities, who are federal civilian employees or applicants for employment, are provided reasonable accommodation in a timely manner whenever possible in the workplace.

CHAPTER 2

Responsibilities

2-1. Applicants, Employees, and Managers

- a. Employee or applicant for employment with a disability must inform the employer that a reasonable accommodation is needed to participate in the application process to be considered for employment, to perform the essential job functions, or to receive equal benefits and privileges of employment.
- b. Managers and supervisors (military and civilian) at all levels, but especially first-level supervisors will:
 - (1) Promote the reasonable accommodation process.
 - (2) Provide necessary resources to support the reasonable accommodation process.

(3) Provide all employees with information about their rights and responsibilities related to disability, including their right to request reasonable accommodation because of a medical condition.

(4) Review reasonable accommodation requests received from employees and begin the interactive process to identify and implement a reasonable accommodation in coordination with the EEOO and the CPAC.

(5) Consider and approve reasonable accommodation requests, whenever possible.

2-2. Equal Employment Opportunity Manager

The Equal Employment Opportunity (EEO) Manager will:

- a. As the proponent for the Program for Individuals with Disabilities (PIWD), assist supervisors and coordinate with the CPAC on all reasonable accommodation requests.
- b. Track and report on reasonable accommodation requests in the annual Federal Agency Equal Employment Opportunity Program Status Report.

2-3. Civilian Personnel Advisory Center (CPAC)

The CPAC staff will:

- a. Review and coordinate with the hiring supervisor and the EEOO all reasonable accommodation requests received from applicants for employment.
- b. Where appropriate, provide information and assistance to supervisors regarding reasonable accommodation requests from employees with disabilities.

CHAPTER 3

Steps and Procedures for Requests

3-1. The Reasonable Accommodation Process

a. An employee or job applicant may initiate a request for reasonable accommodation orally or in writing. The individual will be asked to complete a written request for record keeping purposes (see Appendix B). Regardless of how it is initiated, the oral or written request starts the reasonable accommodation process and begins the interactive process required by law. When an individual with a disability requests assistance in completing the written request for reasonable accommodation, the supervisor must provide that assistance. Employees may also seek assistance from the EEOO or CPAC.

b. The reasonable accommodation process is initiated when an individual with a disability, for a reason related to a medical condition, indicates to the supervisor the need for an adjustment or a change at work or a job applicant makes such a request to the CPAC. The medical condition does not have to be apparent to the supervisor or CPAC. The requestor does not have to use any particular words or cite the Rehabilitations Act of 1973 or even use the term "reasonable accommodation."

Examples: It is sufficient for a vision impaired or deaf person or for an employee with mobility impairment to ask for assistance with certain work related tasks or in the use of equipment. The disability does not have to be obvious, such as cancer, or a respiratory, cardiac, neurological, or immune deficiency disorder. It may be related to a specific

medical diagnosis or simply be related to how the employee reacts to a new medication. It is impossible to list or identify every possible situation that can trigger a reasonable accommodation request.

c. A family member, health professional, or other representative may request a reasonable accommodation on behalf of the individual with a disability. The need for a reasonable accommodation should then be confirmed with the person with the disability.

d. First-line supervisors will consider and approve requests for reasonable accommodation, whenever possible. Each reasonable accommodation request will be different and will have to be considered on a case-by-case basis. However, an employee or applicant for employment should be informed as soon as possible about the status of their reasonable accommodation request, especially if an urgent situation exists. Where the requested accommodation is determined to be reasonable by management and will not pose an undue hardship to the Army, the reasonable accommodation should be provided within 30 calendar days. If there are extenuating circumstances that will preclude providing the requested reasonable accommodation within 30 calendar days, the requester will be notified of the reason for the delay and will be provided the anticipated completion date in writing.

e. If a request for a reasonable accommodation is denied, the individual will be informed in writing and advised that a request for reconsideration may be submitted with any additional information within 10 calendar days of receipt of the denial.

f. Supervisors will complete the "Reasonable Accommodation Annual Tracking Information FY ____" form (see Appendix D) and submit it (minus any medical documentation), to the EEOO, who will maintain it for the longer of the employee's tenure with Fort Hood or three years.

3-2. Medical Information

a. If the disability or need for accommodation is not obvious or already known by the command, employees or applicants for employment must provide relevant medical information related to the disability and the requested accommodation.

b. Additional medical information may be requested if the initial medical information:

(1) Does not clearly explain the nature of the disability or the need for reasonable accommodation or fails to indicate the permanent or temporary nature and duration of the disability.

(2) Does not clarify how the reasonable accommodation will assist the employee to perform the essential functions of the job or enjoy the benefits and privileges of the workplace.

c. The employer may have the medical information reviewed by Occupational Health or a medical expert of the command's choice at the employer's expense.

d. In accordance with Rehabilitation Act of 1973, medical information may not be requested where:

(1) Both the disability and the need for reasonable accommodation are obvious or already known.

(2) The individual has already provided the agency with sufficient information to document the existence of the disability and how it functionally limits the individual from performing the essential duties of the position the person holds or for which the person is being considered.

(e) The Rehabilitation Act also requires that all medical information be kept confidential. If necessary, medical information may only be shared on a need to know basis. When medical information is disclosed to appropriate officials, they must be informed regarding the confidentiality requirements under the law.

(f) In order to maintain the confidentiality of the medical information and the reasonable accommodation request data, these records must be filed separately from the employee personnel files maintained in most offices. All documents that identify the employee's medical condition, diagnosis, treatment plan, or prognosis are to be treated as medical records. These include doctor or other care provider notes that relate to the disability, such as sick slips and return to duty notes. Access to these medical records must be limited to the supervisor and only those management officials with a need to know in addressing the employee's reasonable accommodation request. Failure to maintain their confidentiality may be determined to be a violation of the Privacy Act (see Appendix A, Section II) or the Health Insurance Portability and Accountability Act (HIPPA) and result in liability to the employer and disciplinary action against the offending supervisor.

3-3. Types of Reasonable Accommodation

There is no standard "one size fits all" answer to what constitutes a reasonable accommodation. If one is identified, it must be tailored to the individual's needs and must result in the employer's mission still being met. Cost alone may not be used as a reason for not providing a reasonable accommodation. Creativity and flexibility should govern the interactive process of identifying a reasonable accommodation. The outcome should focus on the employee still being able to perform all of the essential tasks of the position for which the employee was hired. If the interactive dialogue reveals that the employee will not be able to perform all of the essential tasks of the employee's permanent position, even with a reasonable accommodation, the supervisor should immediately notify CPAC. The following options must be considered in this process:

a. Modifications or adjustments may be made to the application process, to the job or to the workplace. Refer to the examples described for reasonable accommodation in the glossary. A variety of resources, some cost-free, are available to assist management in making modifications to workplace facilities and equipment. Assistance may be obtained from the EEOO, CPAC, the Carl R. Darnall Army Medical Center (MEDCEN) Occupational Health and Ergonomic Safety offices, and the Department of Defense (DoD) Computer/Electronic Accommodations Program (CAP).

b. Alternative work schedules, such as flextime or tele-work, and use of paid and unpaid leave, each providing specific flexible work arrangements between a supervisor and an employee.

c. Reassignment must be considered if no other accommodation is available to enable the individual to perform the essential functions of the current position and there is no undue hardship to the organization. Reassignment may be made only to a vacant position for which the employee is otherwise qualified. The law does not require the organization to create a new position or move other employees from their jobs in order to create a vacancy. The law also does not require a change of supervisor as a reasonable accommodation. Reassignment cannot be an adverse action and must be

noncompetitive. A search must first focus on equivalent positions; however, lower level vacant positions will be considered if there are no equivalent positions to the employee's current position. If a job search within the organization produces no results, with CPAC assistance, the search can be extended to the rest of Fort Hood.

3-4. Denial of Reasonable Accommodation

a. If an individual's request for reasonable accommodation is denied, the individual must be notified in writing of the reason. The denial will be written in plain language, be as specific as possible, and must identify the office and individual who made the decision. Where appropriate, the notice of denial should be provided in an alternate format, such as large print, Braille, etc.

b. Where the employer identifies a different accommodation, the notice must explain why the employer rejected the individual's request and why the employer's chosen accommodation would be effective. While the law requires the employer to consider the individual's preference, the employer selects and implements the accommodation deemed most appropriate for both the individual and the organization.

c. The notice must also advise that if the individual wishes to request reconsideration of this decision, that such a request along with any additional information must be directed to that same decision maker. If the decision maker does not reverse the denial, the individual must then be informed of the appropriate senior management official, normally the staff principal, director, or commander of the affected activity, to whom a request for review can be made.

d. At all stages of the process, the management officials should be coordinating with the EEOO, CPAC, and Labor Counselor.

3-5. Consequences of a Denial of a Reasonable Accommodation Request

a. An employee or applicant for employment, who is denied reasonable accommodation, may file a discrimination complaint with the EEOO. To be timely, the individual must contact the EEOO within 45 calendar days of the receipt of the denial decision.

b. An employee may file an appeal with the Merit Systems Protection Board (MSPB) or a union grievance if the discrimination allegation is in conjunction with some other personnel action that is otherwise appealable or grievable. To be timely, an MSPB appeal must be filed within 30 calendar days of the effective date of the matter being appealed and a union grievance must be filed within 15 days of the matter being grieved.

3-6. Tracking Requirements

a. The installation EEOO is responsible to the Department of the Army (DA) proponent for the Individuals with Disabilities (IWD) Program. As a result, the EEOO is responsible for tracking the following information.

(1) CPAC. The number and types of reasonable accommodation requests received by CPAC in the application for employment process and whether those requests were granted or denied; the jobs (occupational series, grade level, and organization) for which reasonable accommodations were requested; the types of reasonable accommodations that were requested for each of those jobs; and the number and types

reasonable accommodations for each job, by organization, that were approved, and the number and types that were denied.

(2) Supervisors. The number and types of requests for reasonable accommodation received by supervisors that relate to the benefits or privileges of employment and whether those requests were granted or denied; the reasons for denying any requests for reasonable accommodation; the amount of time taken to process each reasonable accommodation request; and the sources of technical assistance consulted in trying to identify possible reasonable accommodations.

b. Each directorate/special staff office/organization serviced by the Fort Hood EEOO will submit the Reasonable Accommodation Annual Tracking Information data (see Appendix D), detailed above, to the EEOO no later than 31 October each year.

3-7. Disposition of Reasonable Accommodation Request Data, to include Medical Information

a. Documentation related to a particular individual who has requested reasonable accommodation *must* be filed apart from other personnel records, safeguarded regarding confidentiality requirements, and maintained for the duration of that employee's employment.

b. The tracking information data should be maintained for a period of three years. This data will assist management in evaluating its performance regarding the adequate and timely processing of reasonable accommodation requests and to take corrective action, if required.

**Appendix A
References**

Section I. Required Publications

Rehabilitation Act of 1973 (Para 1-4c; Para 3-1b; Para 3-2d)
Amended by the Americans with Disabilities Act (ADA)

Section II. Related Publications

AR 600-7

Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army

AR 690-600

Equal Employment Opportunity Discrimination Complaints

**Equal Employment Opportunity Commission (EEOC) Policy Guidance on
Executive Order 13164**

Establishing Procedures to Facilitate the Provision of Reasonable Accommodation

Executive Order 13164

Establishing Procedures to Facilitate the Provision of Reasonable Accommodation

Privacy Act of 1974

Health Insurance Portability and Accountability Act of 1996

Section III. Prescribed Forms

FHT Form 690-X51 (Appendix B)

Request for Reasonable Accommodation

FHT Form 690-X52 (Appendix C)

Approval/Denial of Reasonable Accommodation Request

FHT Form 690-X53 (Para 3-6(b); Appendix D)

Reasonable Accommodation Annual Tracking Information FY _____

Section IV. Referenced Forms

FH Form 1853

Distribution Scheme

**Appendix B
Request for Reasonable Accommodation**

REQUEST FOR REASONABLE ACCOMMODATION
(FH REG 690-600)

Applicant's or Employee's Name, Phone Number and E-mail Address

Today's Date: _____

Date of Request (if Different from Today's Date): _____

Work Section and Phone Number: _____

1. I request the reasonable accommodation described below because I have the following medical condition: **(Short description of medical condition)**

2. I am unable to complete certain job functions required in my current position for the following reason(s): **(Describe employment situation, job tasks, practices, or workplace barriers that keep you from performing essential job functions or from receiving equal benefits and privileges of employment.)**

3. I am requesting the following accommodation: **(Identify the suggested accommodation, or state if you do not know what accommodation may be appropriate. Identify any recommendations for alternative accommodations, where possible.)**

Signature of Person Requesting Accommodation (or Representative)

Appendix C
Approval/Denial of Reasonable Accommodation Request

**APPROVAL / DENIAL OF REASONABLE ACCOMMODATION
REQUEST**
(FH REG 690-600)

1. Name of individual requesting reasonable accommodation:

2. Type of reasonable accommodation requested: _____

3. Approved accommodation is (describe) effective (date) _____

4. Denied request on (date) _____ because: (May check more than one box.)

- Accommodation Ineffective
- Accommodation Would Cause Undue Hardship
- Medical Documentation Inadequate
- Accommodation Would Require Removal of an Essential Function
- Accommodation Would require Lowering of Performance or Production Standard
- Other (Please explain)

5. Detailed reason for denying the requested reasonable accommodation.
(Must be specific, e.g., why accommodation is ineffective or causes undue hardship.)

6. If the individual proposed one type of reasonable accommodation, which is being denied and rejected an offer of a different type of reasonable accommodation, explain both the reasons for denial of the requested accommodation and why you believe the chosen accommodation would be effective.

7. Request for reconsideration (if applicable) received on (date) _____.
Denied _____ (date)
Approved _____ (date)

8. If the request for accommodation is denied and the individual wishes to file an EEO complaint, pursue MSPB, or Collective Bargaining grievance procedures, he/she must take the following steps:

- a. Equal Employment Opportunity (EEO) Complaint: Pursuant to 29 CFR 1614, contact the EEO Office within 45 calendar days from the date of the notice of denial of reasonable accommodation; or
- b. Collective Bargaining: File a written grievance in accordance with the provisions of the Collective Bargaining Agreement; or
- c. Merit Systems Protection Board (MSPB): Initiate an appeal to the MSPB within 30 calendar days of an appealable adverse action as defined in 5 CFR 1201.3.

Name / Title of Deciding Official

Signature of Deciding Official

Appendix D
Reasonable Accommodation Annual Tracking Information FY _____

**REASONABLE ACCOMMODATION
ANNUAL TRACKING INFORMATION**
FY _____
(FH REG 690-600)

1. _____
Name of Individual requesting reasonable accommodation

Duty section, job title, occupational series, grade level, & phone number

2. Date reasonable accommodation requested: _____

3. Name of person receiving request: _____

4. Date reasonable accommodation request referred to decision-maker
(Director/Special Staff or Designee): _____

Name of Decision Maker: _____

5. Reasonable Accommodation: (Check one)

Approved Date _____

Denied Date _____
(If denied, attach copy of the written denial form.)

6. Date reasonable accommodation provided: _____
(If different from date approved)

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

8. Reasonable accommodation needed for: (Check one)

- Application Process
- Performing Job Functions or Accessing the work Environment
- Accessing a Benefit or Privilege of Employment (e.g., attending a training program or social event).

9. Type(s) of reasonable accommodation requested (e.g., adaptive equipment, lowering of physical requirement, removal of architectural barrier, etc).

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

11. Was medical information required to process this request? If yes, explain why?

12. Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodations (e.g., Disability Program Manager in the EEO Office, CPAC Specialist, Job Accommodation Network).

13. Comments:

Submitted by: _____ Phone: _____

Signature/Title

Note:
Attach a copy of all documents obtained or developed in processing this request (minus medical documentation) and forward to the EEO Office, NLT 31 Oct of each year.

Medical documentation will be maintained, in a separate file, in a central location, by the director or his/her designee.

Appendix E
List of Reasonable Accommodation Resources

Fort Hood Disability Program Manager
Equal Employment Opportunity
Bldg 1001, Room W209
Fort Hood, Texas 76544
Phone: (254) 287-3602

Computer/Electronic Accommodation Program (CAP)
Defense Medical System Support Center
5111 Leesburg Pike, Suite 810 Falls Church, VA 22041-3206
Phone (703) 681-8811 (Voice, TTY)
Fax: (703) 681-9075
Web Site: www.tricare.osd.mil/cap

Job Accommodation Network (JAN)
918 Chestnut Ridge Road
Suite 1, West Virginia University
P. O. Box 6080
Morgantown, WV 26506-6080
1800-526-7234
Web Site: www.janweb.icdi.wvu.edu

Additional websites

Department of Labor: dol.gov/dol/odep/

Uniform Federal Accessibility Standards: access-board.gov/ufas/ufashtm/ufas.htm

Department of the Army Equal Employment Opportunity Agency, Disability Program:
http://eeoa.army.pengaton.mil/web/pro_comp/outreach_spec_prog/piwd/objectives.cfm

Glossary

Section I. Abbreviations

ADA

Americans with Disability Act

AR

Army Regulation

ATTN

Attention

CAP

Computer/Electronic Accommodations Program

CPAC

Civilian Personnel Advisory Center

DA

Department of the Army

DHR

Directorate of Human Resources

DOD

Department of Defense

EEOC

Equal Employment Opportunity Commission

EEOO

Equal Employment Opportunity Office

FH

Fort Hood

HIPPA

Health Insurance Portability and Accountability Act

IAW

In Accordance With

IWD

Individuals with Disabilities

MSPB

Merit Systems Protection Board

PIWD

Program for Individuals with Disabilities

TX

Texas

Section II. Terms

Essential functions

Those job duties which are primary or intrinsic to a given position. They do not include those duties which are marginal or incidental to the position.

Individual with a disability

A person who:

- a. Has a physical or mental impairment that substantially limits one or more major life activities (e.g. walking, seeing, self-care, working).
- b. Has a record of such an impairment.
- c. Is regarded as having such an impairment.

Interactive Process

An ongoing communication between management and the employee requesting a reasonable accommodation. The process includes the decision-making and potential accommodations.

Reasonable Accommodation

An effort on the part of the employer to accommodate an individual's disability by making adjustment to the application process, the job or work environment which will enable that individual to interview for or perform the essential functions of the job, but which does not involve undue hardship to the employer. Reasonable accommodation may include:

- a. Modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job (e.g. providing application forms in alternative formats like large print or Braille).
- b. Modifications or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job (e.g. providing sign language interpreters, special computer keyboards, or voice amplification devices).
- c. Modifications or adjustment that enable employees with disabilities to enjoy the benefits and privileges of employment as are available to a similarly situated employee without a disability (e.g. removing physical barriers in an office).

Qualified individual with a disability

One who, with or without reasonable accommodation, can perform the essential functions of the job in question.

Undue hardship

Refers to any accommodation that would be unduly costly, extensive, substantial or disruptive or that would fundamentally alter the nature or operation of the business. This determination, which must be made on a case-by-case basis, considers factors such as the nature and cost of the accommodation needed, the size and budget of the organization, and the impact of the accommodation on the operations of the Army.