

A Self-Study Guide

**Reasonable
Accommodation**

**What Does It Mean
and
What Do I Have to Do?**

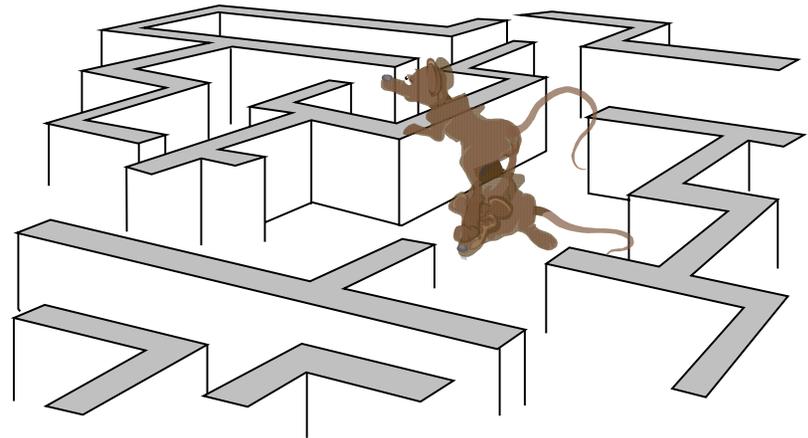
Reasonable Accommodation

On October 20, 2000 the Equal Employment Opportunity Commission issued guidance on how to facilitate the granting of reasonable accommodation to qualified employees & applicants with disabilities.

The Department of the Navy drafted implementing guidance that is awaiting approval. This self study guide is based on the Navy guidance.

Reasonable Accommodation

- Reasonable Accommodation is part of the provisions of the Rehabilitation Act of 1973.
- It is intended to remove barriers that prevent disabled people from applying for positions or performing work.



Reasonable Accommodation



- Request for reasonable accommodation must be decided
 - promptly
 - fairly
 - efficiently
- Disabled individuals **must** be informed how to make such requests

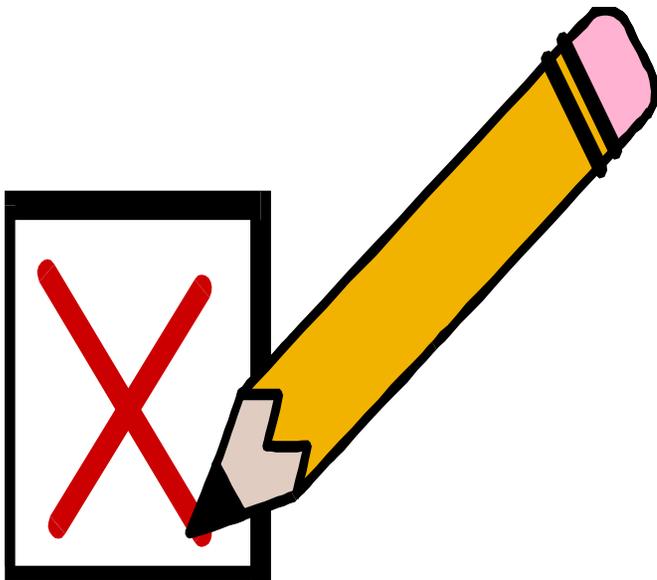
Reasonable Accommodation

Three Categories

- Modification or adjustment to the job application process (application instructions in Braille)
- Modification or adjustment to allow a qualified individual with a disability to perform **essential** function of the job
- Modifications and adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment (ramp in cafeteria)

Reasonable Accommodation

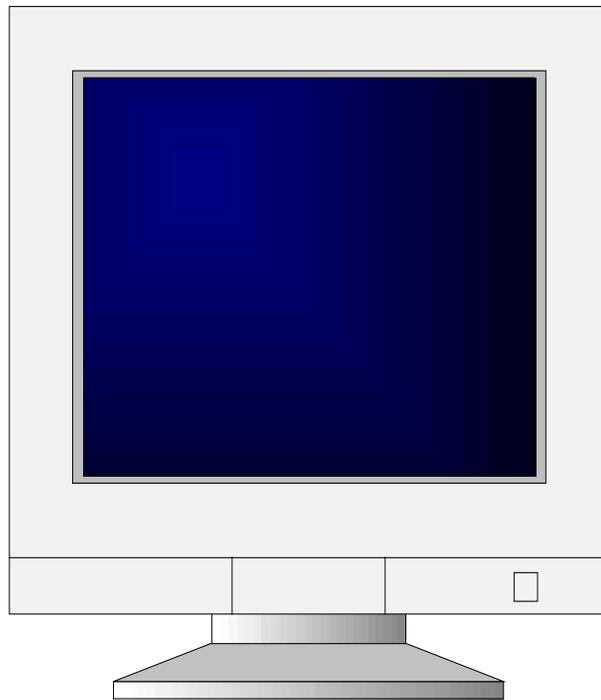
What is an Essential Function?



- Position exists **specifically** to perform the function
- A limited number of other employees are available to perform it, **if** assigned to them OR
- The function is specialized and the person **was hired** based on his/her ability to perform it

Reasonable Accommodation

Example #1



Judi Jones is a systems accountant hired to develop a new cost accounting subsystem. Her expertise is in financial systems design. She requires a larger than normal computer monitor to accommodate her visual impairment.

Reasonable Accommodation

- Remember the purpose of reasonable accommodation is to **EXPAND** opportunities for people with disabilities

NOT

- To create new requirements



Reasonable Accommodation; The Request

- **A statement that an individual needs an adjustment or change at work or in the application process for a reason related to a medical condition**
- **It may be written or oral**
- **May require additional medical documentation unless the disabling condition has been previously documented or is obvious**

Reasonable Accommodation

Example # 2

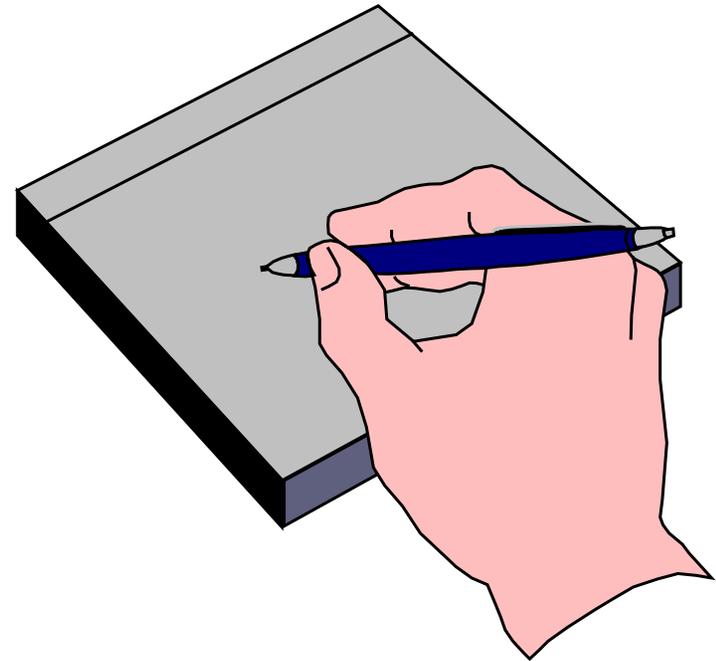
Lamont has a circulation problem that often requires him to use a walker or clutch. Since the men's restroom on his floor will be closed for renovation for six months, he asks to have an office temporarily on a floor with a working men's room.

- Lamont's request may be oral or in writing
- It is tied to a medical condition
- The medical condition is obvious and should require no additional documentation

NOTE: The supervisor may ask Lamont to make the request in writing for recordkeeping purposes

Reasonable Accommodation; The Request

- If the request covers a continuing condition, the initial documentation **may** be all that it needed
- Should generally be provided to the **supervisor**
- May be made by a family member or health care provider for the individual
- Should be made in advance where condition is known -- but **may** be made at any time



Reasonable Accommodation; Processing The Request



- Be flexible -- one size doesn't fit all cases
- Use methods that put fewest burdens on employee or applicant
- **Discuss request** with the individual to see what options are open
- Purchase of equipment requires approval and may take time -- tell this to individual & keep him or her informed of progress

Reasonable Accommodation; Processing The Request



- Provide answers to request as soon as feasible -- usually within 21 days
- Consult an outside agency that specializes in accommodation assistance if you need help
- If the accommodation requires additional funding, check with your Comptroller
- When a permanent accommodation will take time, use a temporary one in the interim

Reasonable Accommodation

Example # 3

Ruth's activity prohibits employees from eating or drinking at their work stations. Ruth has insulin dependent diabetes and asks her supervisor to permit her to eat a candy bar or drink fruit juice at her desk *if necessary to avoid going into insulin shock*

- Request should be granted once medical documentation is provided or immediately if the condition is already documented
- Supervisor should discuss with Ruth that the accommodation is being made *when necessary* and she should attempt to comply with the prohibition when her medical condition permits.

Reasonable Accommodation

Example # 4

John complains of back pains that he receives when he works at his work station for extended periods of time. He also claims that the pressure of deadlines causes him stress which results in his not being able to sleep. When this occurs, he has problems arriving at work on time in the morning.

Careful here!!!

- You **need** medical documentation to determine if the conditions are actual disabilities
- You may allow John to take **brief** breaks to stretch his back
- Until the medical documentation is provided, continue to monitor and address work deadlines and tardiness. You may want to **temporarily** consider some adjustment in John's work schedule

Reasonable Accommodation Extenuating Circumstances

- **Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of a request**
 - **Back-orders on equipment**
 - **Vendor has gone out of business**
- **Keep the employee informed of status & consider temporary or interim measures**



Reasonable Accommodation Medical Information



- Just as supervisor has right to request medical documentation, the employee has right to expect the information will be kept confidential
- Must explain the nature of the disability
- May ask for supplemental information if needed
- Employee may believe that information sought is too sensitive to share with supervisor -- then contact HRO for advice

Reasonable Accommodation Medical Information What Can You Ask For?

- **Nature, severity and duration of impairment**
- **Activity or activities that impairment limits**
- **Extent to which the impairment limits the individual's ability to perform an activity or activities**
- **Why the individual requires reasonable accommodation or particular accommodations requested and some indication that the accommodation will assist the individual**
- **May only request information relating to the particular impairment AND NOT THE ENTIRE MEDICAL RECORD OF THE PERSON**

Reasonable Accommodation

Example # 5

Richard has a severe learning disability. Richard's job requires that he attend numerous meetings and remember the details of what is discussed. Richard asks to be provided with a laptop **or** to have the meetings taped for him. Richard is reluctant to request reasonable accommodation for his disability because he also has tested positive for HIV and does not want this disclosed.

- Richard only needs to provide information relating to his learning disability and his requested accommodation
- The information on HIV should **not** be provided
- If Richard is concerned about unintentional disclosure, he **may** request that a designated 3rd party review the information and decide what to disclose to the supervisor.

NOTE: The agency designates the 3rd party.

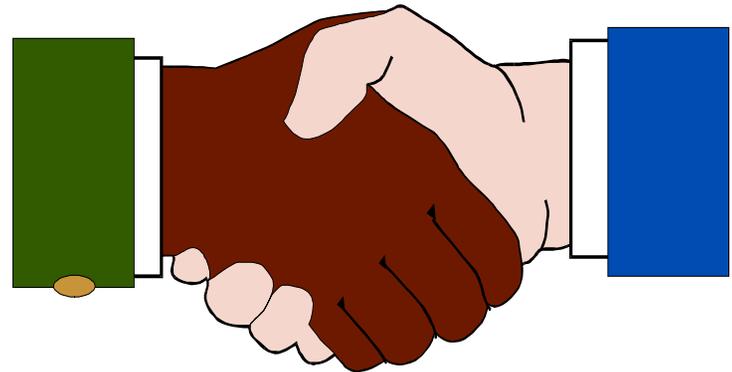
Reasonable Accommodation Disputed or Insufficient Documentation

- Employer has a right to have sufficient documentation of disability to support accommodation
- Employer **may** request his or her own medical expert review what is provided
- If additional information is still needed
 - Agency medical expert **may ask** employee to sign a limited release
 - Submit a list of specific questions to the employee's health care professional
- **If all the above fails**, activity may ask the individual to be examined by employer's **selected** health care provider.

Reasonable Accommodation Request for Reassignment

- Reassignment is a “last resort” accommodation.
- **Must be considered** when an employee cannot perform the **essential** functions of the position
- Reassignment may be made **ONLY** to a vacant position
- The employee **MUST BE QUALIFIED** for the new position

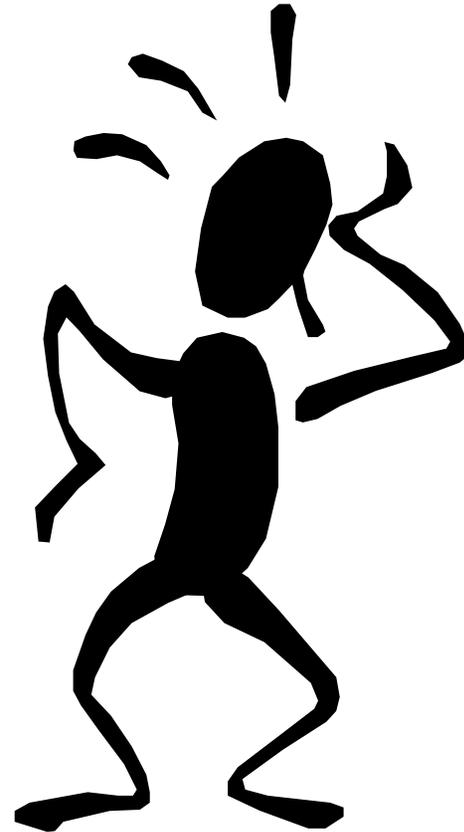
NOTE: How far the employer must search for a vacancy is still open to debate



Reasonable Accommodation Denying a Request

Denials must :

- Be in **writing**, written in plain language
- State the reason for the denial with as much specificity as possible
- State the name of the person who made the decision
- Inform the individual that he or she **may** seek informal dispute resolution or file an EEO complaint.



Remember to keep the employee informed and be open to other options

Reasonable Accommodation

Example #6

Chi is a Medical Technologist who has been under medical treatment for depression. Her mental health provider has returned her to duty part-time as long as she does not have to work with detailed, procedural material or work under pressure. Chi requests to be moved to a vacant Labor Relations position.

- The Medical Technology field **requires** detailed and procedural work.
- Chi probably does not meet the qualifications requirements for a Labor Relations position.
- The Labor Relations position requires one to work under pressure.
- **Denial must be in writing.**

Reasonable Accommodation

Quick Review

- Intended to remove barriers to employment and hiring
- Person must have **disability** and provide appropriate documentation when requested
- Must relate to an essential function of a position
- Request may be made orally or in writing
- Need only be made once if the condition is continuous
- Talk with the employee to identify options. Consult with experts if needed.

Reasonable Accommodation

Quick Review

- Provide accommodation as soon as feasible. If there are delays, keep the employee informed.
- Medical documentation is confidential and should be treated as such.
- Work with the employee if documentation is incomplete or insufficient.
- All denials **must** be done in writing and must include right to alternate dispute resolution and to initiate and EEO complaint.

Reasonable Accommodation

Self Test -- Case #1

- **Rachel is one of three hearing impaired students that you have just hired. Rachel approaches you and asks if it would be possible for you to install telephones with special amplifiers which two of the three students can use because they have some residual hearing.**
- **Rachel also mentions that it would be helpful if arrangements were made for fire alarms that flash, so that they will know when the alarm goes off.**

Reasonable Accommodation

Comments on Self Test -- Case #1

- **Both requests are legitimate and since you know that the students are disabled. No further medical documentation is needed.**
- **You should ask Rachel and the other students for help in identifying which amplifier would work best for them.**
- **Work with your facilities' manager concerning the fire alarm system.**
- **Since fire alarms may take time to install, keep the student informed of progress.**

Reasonable Accommodation

Self Test -- Case #2

Luis is a management analyst in a regional office of the Transportation Command. Luis must travel to the various field offices for inspections and assist visits. Although Luis has no problem flying, he has found that from time to time he becomes dizzy and has severe ringing in his ears for several hours after certain flights. He recovers after several hours of rest. Luis' physician documents that he has a problem in his inner ear that cause this to happen. Luis requests that he be allowed to fly to these visits the day before any meeting is to be held just in case he becomes ill.

Reasonable Accommodation

Comments on Self Test -- Case #2

- **This may not be a recognized disability**
- **But the accommodation is so small that it should be granted**
- **If the dizziness and ringing gets worse, further documentation may be needed.**

Reasonable Accommodation

Self Test -- Case #3

Will is a driver who has recently been diagnosed as having diabetes. His doctor assures you that Will's condition is treatable by proper control of diet and daily treatment with insulin. Will's driving record is excellent.

The state in which your facility is located has recently passed regulations which denies a commercial driver's license to anyone who is insulin-dependent. Will asks for reasonable accommodation for his disability.

Reasonable Accommodation

Comments on Self Test -- Case #3

- You are **not** in a position to grant Will authority to operate a government vehicle within the state. So that part of his request must be denied.
- You could consider Will for another position which does **not** require a Commercial Drivers License as a reasonable accommodation. This should be discussed with Luis however.
- The denial of his request must be made in **writing**.

Reasonable Accommodation

Self Test -- Case #4

Ingrid has been late for work on an average of three days a week for the past two months. You have counseled her about tardiness and she says that she has tried, but she has a medical problem. You mention to her that if the medical problem is disabling that you would be willing to consider a request for reasonable accommodation or excused absence under the Family and Medical Leave Act. She provides you with a one sentence note from her doctor which says she is under stress. When you inform Ingrid that this is not sufficient, she informs you that she has other problems but does not feel comfortable in sharing them with you.

Reasonable Accommodation

Comments on Self Test -- Case #4

- **Continue to document her absence and work closely with your HRO if disciplinary action becomes necessary**
- **Inform Ingrid **in writing** that the documentation she has provided is insufficient and reiterate what information you need.**
- **Inform her that because she feels uncomfortable providing you with the medical documentation, she should provide it to the activity's Deputy Director for EEO**

Reasonable Accommodation

Some Final Comments

- This is an area of personnel management and EEO that is very **dynamic**
- Take all requests for accommodation seriously and act on them quickly
- Contact your personnel and EEO advisor for help

