

November 19, 2001

REASONABLE ACCOMMODATION IN FEDERAL EMPLOYMENT

1. PURPOSE: This Veterans Health Administration (VHA) Directive issues policy promoting a model workplace.

2. BACKGROUND

a. Equal opportunity laws and the Department of Veterans Affairs (VA) regulations prohibit discrimination based upon disability in all aspects of employment. This policy enhances procedures to process allegations of discrimination on the basis of disability. Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation, became effective on July 26, 2000.

b. This policy promotes a model workplace which provides:

(1) Reasonable accommodation for applicants with disabilities for Federal employment.

(2) Jobs for Federal employees with disabilities who can perform the essential functions of a position, with the opportunity to be placed in such a position.

(3) For Federal employees with disabilities, the right to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

(4) Specific responsibilities for management officials.

(5) The means to establish the basic requirements and procedures ensuring compliance with all Federal mandates prohibiting handicap discrimination in employment.

3. POLICY: It is VHA policy to establish effective written procedures to facilitate the provision of reasonable accommodation, and to prohibit discrimination based on handicap.

4. ACTION: VHA Central Office and field facilities are required to establish a Reasonable Accommodation Committee (RAC), and effective written procedures for processing requests for reasonable accommodation by employees and applicants with disabilities for employment.

a. The RAC may be composed of such individuals as the Human Resources Selective Placement Coordinator, the Equal Employment Opportunity (EEO) Manager, Employee Assistance Program Manager, a member of the behavioral sciences, a practicing line supervisor, a chaplain and the Employee Health Physician.

b. The written procedures must ensure the expeditious processing of requests to include the following:

THIS VHA DIRECTIVE EXPIRES NOVEMBER 30, 2006

VHA DIRECTIVE 2001-070
November 19, 2001

(1) An explanation of how an employee or job applicant may initiate a request for reasonable accommodation either orally or in writing. *NOTE: If the facility requires an applicant or employee to complete a reasonable accommodation request form for record keeping purposes, the form must be provided as an attachment to the station's written procedures, and should be available in alternate formats.*

(2) An explanation of how the facility processes a request for reasonable accommodation and from whom the individual will receive a final decision.

(3) A designation of a time period during which the reasonable accommodation request will be granted or denied, in the absence of extenuating circumstances. *NOTE: Time limits should be as short as reasonably possible, 20 days or less.*

(4) An explanation indicating the responsibility of the employee or applicant to provide appropriate medical information related to the functional impairment at issue, and the requested accommodation where the disability and/or need for accommodation is not obvious.

(5) An explanation indicating the facility's right to request relevant supplemental medical information, if the information submitted does not clearly explain the nature of the disability, or the need for the reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job, or to enjoy the benefits and privileges of the workplace.

(6) An explanation indicating the facility's right to have medical information reviewed by a medical expert of the agency's choosing at the agency's expense.

(7) A provision that reassignment and/or part-time employment will be considered as a reasonable accommodation, if the agency determines that no other reasonable accommodation will permit the employee with a disability to perform the essential functions of the current position.

(8) A provision that reasonable accommodation denials be in writing, and specifying the reasons for denial.

(9) Provisions ensuring the station's systems of record keeping tracks the processing of requests for reasonable accommodation and maintaining the confidentiality of medical information received, in accordance with applicable law and regulations.

c. Encourage the use of alternate dispute resolution (ADR), which allows individuals with disabilities to obtain prompt reconsideration of denials of reasonable accommodation. VHA Central Office and field stations must inform individuals with disabilities that they have the right to file complaints in the Equal Employment Opportunity Discrimination Complaint process with the Office of Resolution Management (ORM) and other statutory processes, if their requests for reasonable accommodation are denied.

d. VHA Central Office and field stations must honor obligations to notify collective

bargaining representatives, and to “bargain” over such procedures to the extent required by law.

5. REFERENCES

a. Executive Order 13164, Requiring Agencies To Establish Procedures To Facilitate the Provision of Reasonable Accommodation.

b. Equal Employment Opportunity Commission (EEOC) Directives Transmittal 915.003 on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation at http://www.eeoc.gov/docs/accommodation_procedures.html.

c. EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act at <http://www.eeoc.gov/docs/accommodation.html>.

d. The Rehabilitation Act of 1973, Section 501.

e. Americans with Disabilities Act of 1991.

f. Title 29 United States Code (U.S.C.) Section 791.

g. Title 29 Code of Federal Regulations (CFR) 1614.

h. EEOC Notice 912.005.

6. FOLLOW-UP RESPONSIBILITY: The Director, Management Support Office, EEO and Affirmative Employment Team (10A2E), is responsible for the contents of this Directive.

7. RESCISSIONS: None. This VHA Directive expires November 30, 2006.

S/ Tom Sanders for
Thomas L. Garthwaite, M.D.
Under Secretary for Health

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