



MISSILE DEFENSE AGENCY

**PROVIDING REASONABLE ACCOMMODATION
FOR INDIVIDUALS WITH DISABILITIES**

MDA INSTRUCTION 1020.01-INS

December 7, 2021

Office of Primary Responsibility: Equal Opportunity and Diversity Management (EO)

TABLE OF CONTENTS

PURPOSE.....3
APPLICABILITY.....3
POLICY3
RESPONSIBILITIES4
 Executive Director (DX).....4
 Director, Office of Equal Opportunity and Diversity Management (EO)4
 Director, Human Resources (DOH).....5
 Disability Program Manager (DPM)5
 General Counsel (GC).....6
 First-Level Supervisor6
 Second-Level Supervisor7
 Office of the Chief Information Officer (IC).....7
 Mission Support Facilities (MSF).....7
 Employee/Applicant7
PROCEDURES.....7
 Requesting Reasonable Accommodation7
 Request for Computer and/or Electric Equipment.....8
 Written Request for Record-Keeping Purposes9
 Processing the Request9
 The Interactive Process10
 Reassignment10
 Timeframes for Processing Requests.....11
 Medical Information11
 Confidentiality Requirements13
 Approval of Reasonable Accommodation Request13
 Denial of Reasonable Accommodation Request.....14
 Reconsideration Process14
 Equal Employment Opportunity (EEO) Complaints15
 Information Tracking/Records Maintenance15
EFFECTIVE DATE.....16

ENCLOSURE, GLOSSARY17
 ACRONYMS17
 DEFINITIONS.....17



DEPARTMENT OF DEFENSE
MISSILE DEFENSE AGENCY
5700 18TH STREET
FORT BELVOIR, VIRGINIA 22060-5573

EO

1020.01-INS

SUBJECT: Providing Reasonable Accommodation for Individuals with Disabilities

- References:
- (a) Section 501, Rehabilitation Act of 1973
 - (b) Part 1614 of Title 29, Code of Federal Regulations § 1614.203(d)(3)
 - (c) Executive Order 13164, "Requiring Federal Agencies to Establish Procedures to Facilitate the Provisions of Reasonable Accommodation," July 26, 2000
 - (d) Section 1201.3 of Title 5, Code of Federal Regulations

1. PURPOSE. This Missile Defense Agency (MDA) instruction implements the requirements set forth under Section 501 of the Rehabilitation Act of 1973 [Reference (a)], 29 C.F.R. § 1614.203(d)(3) [Reference (b)], and Executive Order 13164 [Reference (c)] by establishing requirements for processing requests for reasonable accommodation. These procedures will assist MDA in fulfilling its obligations for ensuring that MDA employees and applicants with disabilities who request reasonable accommodation receive a proper and timely response.

2. APPLICABILITY. These procedures apply to all MDA executives, managers, supervisors, Federal civilian employees, and applicants for employment with MDA at any of its duty locations.

3. POLICY. It is MDA policy to fully comply with the reasonable accommodation requirements of References (a), (b), and (c). Under the law, Federal agencies must provide reasonable accommodation to qualified employees or applicants with disabilities, unless to do so would cause undue hardship.

a. MDA is committed to providing reasonable accommodation to its employees and applicants for employment in order to assure that individuals with disabilities have full access to equal employment opportunity.

b. MDA will make available to job applicants and employees a copy of its procedures in written and accessible formats, to include but not limited to braille, large print, etc.

c. MDA will process both oral and written requests for reasonable accommodation, and when appropriate, provide reasonable accommodation in a prompt and efficient manner in accordance with the timeframes set forth in this instruction.

4. RESPONSIBILITIES.

a. The Executive Director (DX) will:

- (1) Ensure implementation of the reasonable accommodation procedures.
- (2) Promote the use of reasonable accommodation throughout MDA.
- (3) Provide sufficient resources (personnel and funds) necessary for effective and efficient accomplishment of the reasonable accommodation process.

b. The Director, Office of Equal Opportunity and Diversity Management (EO) will:

- (1) Provide oversight for the implementation and operation of the reasonable accommodation program.
- (2) Exercise overall responsibility for and administering reasonable accommodation procedures.
- (3) Designate a Disability Program Manager (DPM) to process reasonable accommodation requests.
- (4) Establish a firewall between the EO Director and DPM, permitting the DPM to operate with autonomy when processing, advising management, or otherwise acting upon reasonable accommodation requests.
- (5) Implement a firewall ensuring that any EO staff member who advises or otherwise acts upon a reasonable accommodation request will be recused from any Equal Employment Opportunity (EEO) complaint arising from the accommodation request.
- (6) Not assign the EO Complaints Manager any role in the processing of accommodation requests, thereby enabling the EO Complaints Manager to perform complaint processing responsibilities.
- (7) In conjunction with the DPM, provide training to supervisors, managers, and employees regarding reasonable accommodation and the interactive process.
- (8) Provide EEO guidance to the Executive Director; Director, Human Resources (DOH); DPM; supervisors and managers; and employees and applicants regarding reasonable accommodation. To avoid a conflict of interest in the event a complaint is filed regarding a reasonable accommodation request, the EO Director will not advise supervisors and/or managers on individual accommodation requests.
- (9) Submit reports to the Equal Employment Opportunity Commission (EEOC) and other Federal agencies, as required, regarding MDA's reasonable accommodation activity.

(10) Maintain and provide reasonable accommodation reports and metrics for MDA.

c. The Director, Human Resources (DOH) will:

(1) Search for vacant positions and make the qualification determination when reassignment action is deemed an appropriate and necessary reasonable accommodation. In the event there are multiple vacant positions for which the employee is qualified, DOH will coordinate with appropriate functional managers to determine where to place the employee.

(2) Provide Human Resources advice regarding reasonable accommodation as appropriate.

d. The Disability Program Manager (DPM) will:

(1) Process all requests for reasonable accommodation within the required timelines and notify the requestor of specific contact information regarding the individual from whom they will receive a final decision.

(2) Develop expertise in the requirements of the Rehabilitation Act of 1973 [Reference (a)], potential accommodations, and available resources.

(3) Coordinate with appropriate MDA officials as necessary on reasonable accommodation issues and the interactive process.

(4) As part of the reasonable accommodation interactive process, obtain and evaluate documentation supporting an accommodation request (such as medical documentation demonstrating that the requestor is an individual with a disability), whenever the disability or need for accommodation is not obvious.

(5) Coordinate with MDA's designated health care provider for the review of medical documentation for an employee's reasonable accommodation.

(6) Consult with individuals with disabilities and supervisors to identify additional resources that individuals with disabilities and MDA decision makers can consult to identify and evaluate possible accommodations. The following resources are available on EEOC's website: *EEOC Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans With Disabilities Act* (July 27, 2000), and *EEOC Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans With Disabilities Act* (revised October 17, 2002). 29 C.F.R. § 1614.203(d)(3)(i)(W). Examples of additional resources include, but are not limited to: EEOC guidance and technical assistance documents, Computer/Electronic Accommodation Program (CAP), Joint Accommodation Network, and state Department of Rehabilitation Services.

(7) In conjunction with EO, provide training to supervisors, managers, and employees regarding reasonable accommodation and the interactive process.

(8) In coordination with DOH Talent Acquisition Chief, search for vacant positions when reassignment action is deemed an appropriate and necessary reasonable accommodation.

(9) Maintain medical information in confidential files.

(10) Ensure MDA Form 54, "Confirmation of Request for Reasonable Accommodation," is completed and maintained with the reasonable accommodation record.

(11) Ensure MDA Form 53, "Resolution of Reasonable Accommodation Request," is completed and maintained with the reasonable accommodation record.

(12) After a reasonable accommodation request is granted or denied, complete MDA Form 52, "Reasonable Accommodation Information Reporting Form," maintain it with the reasonable accommodation record, and provide a copy to EO.

(13) Ensure MDA Form 56, "Missile Defense Agency Reasonable Accommodation Request Worksheet," is completed and maintained with the reasonable accommodation record.

(14) Compile and provide data for DOH and EO on employees' and job applicants' requests for reasonable accommodation.

(15) Use the reasonable accommodation data to provide an ongoing assessment of the MDA reasonable accommodation program.

(16) Maintain and provide reasonable accommodation reports and metrics for MDA.

e. The General Counsel (GC) will provide all legal advice to MDA officials regarding reasonable accommodation matters.

f. The First-Level Supervisor will:

(1) Serve as the MDA decision authority on requests for reasonable accommodation, except for personnel actions outside the scope of the supervisor's control, such as in the case of a job applicant. Supervisors will consult with the DPM, DOH, and GC when acting upon requests for a reasonable accommodation. If the supervisor grants the request, they are also responsible to follow through and make any necessary arrangements to ensure that the accommodation is provided within the applicable time limits. The following are examples of how to recognize requests for reasonable accommodation:

(a) Example 1: An employee tells their supervisor, "I'm having migraine episodes because of lighting and noise, due to medical treatments I'm undergoing." This should be treated as a request for reasonable accommodation.

(b) Example 2: An employee tells their supervisor, "I need 10 weeks off to get treatment for a back problem." This should be treated as a request for reasonable accommodation.

(2) Participate with other parties in the interactive process to determine what, if any, reasonable accommodation should be provided. Communicate early in the interactive process and periodically throughout the process, with individuals who have requested an accommodation.

(3) Identify essential job functions.

(4) Be responsible to follow through and make any necessary arrangements to ensure that the accommodation is provided within the applicable time limits.

g. The Second-Level Supervisor will:

(1) Serve as the final MDA decision maker on employee requests for reconsideration.

(2) In consultation with the DPM, DOH, and GC, respond to appeals for reconsideration within 10 business days.

h. The Office of the Chief Information Officer (IC) will participate in the interactive process, as necessary, to coordinate on accommodation requests for computer and/or electronic equipment.

i. The Mission Support Facilities (MSF) will participate in the interactive process, as necessary, to coordinate on accommodation requests for office furniture and building/facility adjustments.

j. The Employee/Applicant will:

(1) Initiate the request for an adjustment or change concerning some aspect of the application process, the job, or a benefit of employment.

(2) Provide documentation within 30 calendar days supporting the accommodation request whenever the disability or need for accommodation is not obvious.

(3) Participate in the interactive process to determine what, if any, reasonable accommodation should be provided.

(4) Communicate with the DPM at reasonableaccommodation@mda.mil or 256-450-4303 for tracking information on their request.

5. PROCEDURES.

a. Requesting Reasonable Accommodation.

(1) The reasonable accommodation process begins when an employee, applicant, or their representative requests an adjustment or change concerning some aspect of the application

process, the job, or a benefit of employment for a reason related to a medical condition. A health care professional, family member, or other representative may make a request on an employee's or applicant's behalf. The requester need not have a particular accommodation in mind before making a request. While the DPM may obtain further information when evaluating the request, nothing more is required for the individual's statement to legally constitute an accommodation request.

(2) The reasonable accommodation request may be made orally or in writing to any of the MDA officials listed below. NOTE: Applicants for employment should contact the Human Resources Specialist responsible for the recruitment or selection process. However, any official receiving the request, other than the DPM, must forward the request to the DPM within 2 business days.

- (a) DPM.
- (b) An employee's first-level supervisor.
- (c) An employee's second-level supervisor.
- (d) DOH.
- (e) EO.

(3) A request does not have to use any special words, such as reasonable accommodation, disability, or Rehabilitation Act of 1973 [Reference (a)]. A request is any communication in which an individual asks or states that they need MDA to provide or to change something because of a medical condition. A supervisor, manager, or the DPM should ask an individual whether they are requesting a reasonable accommodation if the nature of the initial communication is unclear.

(4) An individual may request an accommodation at any time. For example, the request does not have to be made as soon as a disability affects work performance or by some other specified time. The requester should communicate early in the interactive process and periodically throughout the process, with MDA's representatives above. Supervisors and managers must process any accommodation request, regardless of when it is received.

b. Request for Computer and/or Electronic Equipment.

(1) Requests for computer and/or electronic equipment (such as modified computer screens or peripherals; specialized software, e.g., voice-activated, screen readers) must be approved by the supervisor and DPM will coordinate and submit an IT service request before submission to the DoD CAP. Subsequent to the approval/coordination process, the employee, supervisor, or DPM may submit the request with copies provided to the EO. The CAP request form is available on the CAP website at www.cap.mil.

(2) The DoD CAP centrally funds and supplies such equipment to DoD employees with disabilities. Employees or offices should use the DoD CAP to ensure the most appropriate equipment is obtained and the processing of a request is expedited. MDA employees are strongly encouraged to take advantage of the CAP program. In most cases, it provides the best accommodations and it saves MDA money.

(3) If CAP is unable to provide or fund a reasonable accommodation, the supervisor in consultation with the DPM and the IC representative will determine if MDA can provide the accommodation. The DPM will submit the request to IC.

c. Written Request for Record-Keeping Purposes.

(1) When an individual or third party makes an oral request for reasonable accommodation, the request has to be documented using MDA Form 54. MDA will make available to job applicants and employees a copy of this instruction in written and accessible formats, when necessary. An accessible format is a format that meets an individual's particular needs, including braille, large print, etc. The DPM is available to assist the requestor in completing the form, or the DPM will complete the form if the requestor does not.

(2) The DPM will begin processing the oral request as soon as it is made, whether or not the written confirmation has been provided.

(3) An employee needing a reasonable accommodation on a recurring basis, such as the assistance of a sign language interpreter, must only submit the MDA Form 54 once. However, the employee requesting accommodation must give appropriate advance notice each subsequent time the accommodation is needed.

d. Processing the Request.

(1) The DPM is responsible for processing requests for reasonable accommodation.

(2) While the DPM has responsibility for processing requests for reasonable accommodation, they will work closely with the requestor's supervisor, who is designated the deciding official for employee requests. The DPM will consult MDA representatives as appropriate, including DOH, EO, MSF, IC, and GC, in determining the resolution of the reasonable accommodation request. The DPM will consult with an employee's supervisor to gather relevant information so the supervisor can respond to a request and assess whether a particular accommodation is effective.

e. The Interactive Process.

(1) After a request for accommodation has been made, the next step is for the parties to begin the interactive process to determine what, if any, accommodation MDA should provide. This means the individual requesting the accommodation, the supervisor, the DPM, and other interested parties must communicate with each other about the request, the precise nature of the impairment generating the request, how a disability is prompting a need for an accommodation,

initiating the interactive process, and alternate accommodations that may be effective in meeting an individual's needs.

(2) The DPM will contact the applicant or employee within 10 business days after the request is made (even if the request is initially made to someone else) to begin discussing the accommodation request. The DPM may need to obtain information to determine if an individual's impairment is a disability under the Rehabilitation Act of 1973 [Reference (a)] or to determine what would be an effective accommodation.

f. Reassignment.

(1) There are specific considerations in the interactive process when an employee may need a reassignment.

(2) Generally, reassignments are a last resort and will only be considered if no other accommodations are available to enable the individual to perform the essential functions of their current job, or if the only effective accommodation would cause undue hardship.

(3) In considering whether there are positions available for reassignment, the DPM will work with both DOH and the employee to identify:

(a) Vacant positions within MDA for which the employee may be qualified, with or without reasonable accommodation.

(b) Positions which DOH has reason to believe will become vacant within 60 days from the date the search is initiated and for which the employee may be qualified.

(4) Reassignment may be made only to a vacant position. There is no requirement to create a new position or to move current employees from their positions to create a vacancy.

(5) DOH Talent Acquisition Chief will conduct the initial search for vacant positions in the employee's local commuting area. If after the initial search, there are no vacant positions in the local commuting area, reassignment may be made to a vacant position outside the employee's commuting area, if the employee is willing to relocate. MDA will not pay for the employee's relocation costs.

(6) DOH Talent Acquisition Chief will determine whether the employee is qualified and can perform the essential functions of the position prior to the reassignment.

(7) When a determination is made that reassignment is a necessary accommodation and the employee is qualified for the position, the DPM will work with the gaining and losing supervisors to reassign the employee to the position as a reasonable accommodation. The employee will not be required to compete for the position.

g. Timeframes for Processing Requests.

(1) The timeframe for processing a request is 30 business days from the receipt of all appropriate documentation, unless there are extenuating circumstances. The 30-day period includes the 10-day timeframe in which the DPM must contact the requestor after a request for reasonable accommodation is made [see paragraph 5.e.(2)]. The CAP and MSF assessment, procurement, and installation of equipment could possibly take more than 30 business days.

(2) If the DPM or a health care provider acting on behalf of MDA requests medical information or documentation from a requestor's doctor or other health professional, the allowable timeframe counter will stop on the day that the request is made to the individual to obtain medical information or sends a request for information, and will resume on the day that acceptable medical information is received by the DPM or a health care provider acting on behalf of MDA making the request.

(3) In special time-sensitive circumstances, expedited processing may be required, thus reducing the 30-day timeframe. Examples include when the reasonable accommodation is needed to enable an individual to apply for a job or to participate in a specific MDA activity scheduled to occur in the near future. When a particular accommodation can be provided in less than the maximum amount of time permitted, MDA must do so. Failure to provide the accommodation in a prompt manner may result in a violation of the Rehabilitation Act of 1973 [Reference (a)].

(4) There may be circumstances that cannot reasonably be anticipated or avoided in advance of the request for accommodation, or that are beyond MDA's ability to control. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary. Extensions will be limited to circumstances where they are necessary and only for as long as required to deal with the extenuating circumstances.

(a) When extenuating circumstances delay providing reasonable accommodation, MDA must consider temporary accommodation when possible. When all known facts and circumstances indicate the individual is entitled to an accommodation but the accommodation cannot be provided immediately, MDA may provide the individual with an alternate accommodation.

(b) If there is a delay in either processing a request for or delivering a reasonable accommodation, the DPM must notify, in writing, the employee requesting the reasonable accommodation of the specific reasons for the delay, and to the extent possible, keep the employee informed of the date on which MDA expects to complete the process.

h. Medical Information.

(1) The DPM is entitled to know that an employee or applicant who requests reasonable accommodation has a disability covered by the Rehabilitation Act of 1973 [Reference (a)]. Ordinarily, the DPM or a health care provider designated by MDA will determine whether

medical information is needed, and if so, may request such information from the employee or applicant and/or the appropriate health professional using MDA Form 56.

(2) The DPM may request information about the disability, the activities it limits, and the need for accommodation. MDA may not request medical information where:

- (a) Both the disability, need, and type of accommodation are obvious; or
- (b) The individual has already provided MDA with sufficient documentation.

(3) MDA may require an individual who requests a reasonable accommodation to provide medical information that is sufficient to explain:

- (a) The nature of the individual's disability;
- (b) The need for reasonable accommodation; and
- (c) How the requested accommodation, if any, will assist the individual to apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of the workplace.

(4) It is the employee's responsibility to provide all medical information requested within 30 calendar days. The failure to provide appropriate documentation or to cooperate with MDA efforts to obtain such documentation may result in a denial of the reasonable accommodation.

(5) If the initial information provided by the health professional or volunteered by the requestor is insufficient to enable the DPM to determine whether the individual has a disability and/or the accommodation is needed, the DPM or a health care provider designated by MDA will explain what additional information is needed. If necessary, the individual should then ask their health care provider or other appropriate professional to provide the requested information. The DPM may also give the individual a list of questions to give to the health care provider or other appropriate medical professional to answer relevant supplemental medical information.

(6) If the individual does not provide sufficient medical information after the first or subsequent attempt, the DPM may ask the individual requesting accommodation to sign a limited release permitting the DPM or health care provider designated by the DPM to contact the employee's health care provider directly for additional information. The DPM may have the medical information reviewed by a doctor of MDA's choosing, at MDA's expense. If this does not result in sufficient information, MDA may then require the requestor to go to a health care provider of MDA's choice at MDA's expense. Any such medical examination must be limited to determining the existence of a disability and/or the functional limitations that require a reasonable accommodation. Refusal or failure to undergo examination by health care professionals selected by MDA or to provide consent authorizing release of necessary medical information to decision makers, the DPM, or health care professional selected by MDA may result in denial of the requested accommodation.

(7) When necessary to enable the health professional to provide information regarding the individual's ability to perform a job, MDA supervisors should provide information that describes the nature of the job, the essential functions the individual is expected to perform, and any other information that is relevant to evaluating the request.

i. Confidentiality Requirements.

(1) Under the Rehabilitation Act of 1973 [Reference (a)], medical information obtained in connection with the reasonable accommodation process must be kept confidential. This means all medical information MDA obtains in connection with a request for reasonable accommodation must be kept in separate files. This includes accommodation requests, approvals, and information about functional limitations. It also means that any MDA employee who obtains or receives such information is strictly bound by these confidentiality requirements.

(2) The DPM may share certain information with an employee's supervisor or other MDA officials as necessary to make appropriate determinations on a reasonable accommodation request. Under these circumstances, the DPM will inform all recipients about these confidentiality requirements. Confidential medical information may only be disclosed to:

- (a) Supervisors and managers who need to know about necessary restrictions on the work or duties of the employee and about the necessary accommodation(s);
- (b) First aid and safety personnel if the disability might require emergency treatment;
- (c) Government officials to investigate MDA's compliance with the Rehabilitation Act;
- (d) Workers' compensation offices or insurance carriers; and
- (e) MDA EEO officials may be given the information to maintain records.

(3) Supervisors are not permitted to inform co-workers that an individual has requested or received a reasonable accommodation. Supervisors will consult with the DPM and GC prior to answering any specific questions from the individual's co-workers.

j. Approval of Reasonable Accommodation Request.

(1) When a request for reasonable accommodation is approved, the supervisor, if they are the deciding official, and the DPM will give the MDA Form 53 to the requestor, and discuss implementation of the accommodation. The form must be filled out even if MDA is granting the request without determining whether the requestor has a disability and regardless of what type of change or modification is approved. Additionally, when requesting MSF facilities and support services, the DPM will submit an MDA Form 80, "Facility Request."

(2) A decision to provide an effective accommodation other than the one specifically requested will be considered a decision to grant an accommodation. The form will explain both

the reasons for the denial of the individual's specific requested accommodation and why MDA believes that the chosen accommodation will be effective.

(3) If the request is approved but the accommodation cannot be provided immediately due to extenuating circumstances, the DPM will inform the individual in writing of the projected timeframe for providing the accommodation. The supervisor may authorize the approval of an appropriate temporary accommodation on a case-by-case basis after consulting with the DPM.

k. Denial of Reasonable Accommodation Request.

(1) If MDA denies a request for reasonable accommodation, the second-level Supervisor will give written notification at the time of denial to the job applicant or employee, and in an accessible format when requested. MDA Form 53 is used to inform the requestor and discuss the reason(s) for the denial. Requests for accommodation are not normally denied for reasons of cost; supervisors must consider all resources available to MDA as a whole, excluding those designated by statute for a specific purpose that does not include reasonable accommodation.

(2) When completing MDA Form 53, the explanation for denial will clearly state the specific reason(s) for the denial. This means that MDA cannot simply state that a requested accommodation is denied because of undue hardship or because it would be ineffective. Rather, the form will state, and the supervisor and DPM will explain, specifically why the accommodation would result in undue hardship or why it would be ineffective. Additionally:

(a) The written notice will notify the job applicant or employee of any available internal appeal or informal dispute resolution processes (Refer to paragraph 5.l., "Reconsideration Process," below).

(b) The notice will also include information about the individual's right to file an EEO complaint pursuant to 29 C.F.R. §1614.106 [Reference (b)], and to invoke other statutory processes, as appropriate (Refer to paragraph 5.m., "EEO Complaints," below).

(3) If the individual is offered an effective accommodation other than the one requested, and the alternative accommodation is not accepted, the individual's rejection of the alternative accommodation will be recorded on MDA Form 53. MDA may provide the individual with an interim accommodation allowing the individual to perform some or all of the essential functions of the job absent undue hardship.

l. Reconsideration Process. A job applicant or employee dissatisfied with the resolution of a reasonable accommodation request may file a written appeal as part of MDA's internal dispute resolution processes. An applicant can pursue an informal dispute resolution process through the EO office. An employee can appeal in writing to their second-level supervisor within 10 business days of receiving the decision. The second-level supervisor will issue a response to the appeal within 10 business days. The second-level supervisor serves as the final MDA decision-maker on requests for reconsideration of denials.

m. EEO Complaints. If the individual wants to file an EEO complaint pursuant to Part 1614 of Title 29, Code of Federal Regulations [Reference (b)], they must contact EO within 45 calendar days from the date they receive written or verbal notification (whichever occurs first) of the initial denial of the request for accommodation.

n. Information Tracking/Records Maintenance.

(1) After a reasonable accommodation request is granted or denied, the DPM should complete an MDA Form 52, which tracks all the required information and request status. Applicants and employees can track the processing of their request in concert with the DPM.

(2) The DPM must be able to identify, at a minimum, the following information:

(a) The number and types of reasonable accommodation that have been requested in the application process, whether those requests were granted or denied, and the identity of the deciding official.

(b) The jobs (occupational series, grade/broadband level, and MDA functional organization) for which reasonable accommodation have been requested.

(c) The types of reasonable accommodation that have been requested for each of these jobs.

(d) The number and types of reasonable accommodation for each job, by functional organization, that have been approved, and the number and types that have been denied.

(e) The number and types of requests for reasonable accommodation needed to apply for a job, perform the essential functions of a job, or enjoy the benefits or privileges of employment, and whether those requests have been granted or denied.

(f) The reasons for denial of requests for reasonable accommodation.

(g) The amount of time taken to process each request for reasonable accommodation.

(h) The sources of technical assistance that have been consulted in trying to identify possible reasonable accommodation.

(3) The DPM will maintain tracking information for as long as is necessary to serve the purposes of its reasonable accommodation program. In general, records may be divided into two categories to determine retention requirements:

(a) The DPM should maintain records relating to a particular individual who has requested a reasonable accommodation for the duration of that individual's employment. In cases where an employee files a formal complaint of discrimination as a result of a denial, the DPM will maintain the records until the final disposition of the complaint is determined. These records would include any documentation of the individual's disability or need for reasonable

accommodation, as well as information about the disposition of the individual's accommodation request.

(b) Cumulative records used to track MDA's performance with regard to reasonable accommodation should be maintained for a minimum of 3 years. Tracking actions over a 3-year period is critical to enable MDA to assess whether it has adequately processed and provided reasonable accommodation. It can also be used to evaluate whether and where there is a need to improve handling of reasonable accommodation requests.

(4) Records containing medical information about a particular individual with a disability are fully subject to the confidentiality restrictions outlined in the Rehabilitation Act of 1973 [Reference (a)] and Executive Order 13164 [Reference (c)]. Such records shall be maintained in a locked container. The DPM will retain records to determine whether it is complying with the nondiscrimination and affirmative action requirements imposed under Section 501 of Reference (a). Records will be made available to the EEOC upon request. The DPM, in consultation with GC, will determine to whom and under what circumstances the medical information will be disclosed.

(5) Tracking records that contain aggregate information that does not and cannot be used to identify any particular individual with a disability are not subject to the confidentiality restrictions of the Rehabilitation Act of 1973 [Reference (a)].

6. EFFECTIVE DATE. This instruction is effective immediately.

DESIMONE.LAUR
A.M.1229135976

Digitally signed by
DESIMONE.LAURA.M.12291359
76
Date: 2021.12.07 17:06:54 -05'00'

LAURA M. DESIMONE
Executive Director

Enclosure
Glossary

ENCLOSURE

GLOSSARY

PART I. ACRONYMS

CAP	Computer/Electronic Accommodation Program
DoD	Department of Defense
DOH	Director, Human Resources
DPM	Disability Program Manager
DX	Executive Director
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
EO	Director of Equal Opportunity and Diversity Management
GC	General Counsel
IC	Office of the Chief Information Officer
MDA	Missile Defense Agency
MSF	Mission Support Facilities

PART II. DEFINITIONS

disability. For purposes of determining eligibility for a reasonable accommodation, a person with a disability is one who has a physical or mental impairment that materially or substantially limits one or more major life activities. The term “disability” means: a physical or mental impairment that constitutes or results in substantial impairment to employment; a physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; and/or being regarded as having such an impairment. The term “disabled person” does not include any person who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current drug or alcohol abuse, would constitute a direct threat to property or the safety of others.

essential functions. The essential functions of a job are those duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function can be “essential” if, among other things, the position exists specifically to perform that function, there are a limited number of other employees who could perform the function if it were assigned to them, or the function is specialized and the incumbent is hired based on their ability to perform it.

extenuating circumstances. These are factors that could not reasonably have been anticipated or avoided in advance of the request for the accommodation. They can include situations in which equipment must be back-ordered or the vendor typically used by MDA has unexpectedly gone

out of business. MDA will not be expected to adhere to its usual timeframes if an individual's health professional fails to provide needed documentation in a timely manner. Where there is a delay in either processing a request for or delivering a reasonable accommodation, MDA must notify the individual of the reason for the delay, and to the extent possible, keep the individual informed of the date on which MDA expects to complete the process. MDA must also investigate whether there are temporary measures that could be taken to assist the individual while waiting to complete the process.

firewall. Represents a delineation of duties and established procedures to mitigate a conflict of interest between two parties or functional roles.

interactive process. The interactive process is the dialogue between the MDA manager, supervisor, DPM, DOH, GC, and/or EO, and employee with the objective of finding a means by which the disabled employee can perform the essential functions of a job in the MDA workplace. The EEOC, in a description uniformly adopted by the courts, defines the interactive process as "an informal, interactive process [to] identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations."

major life activities. Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

physical or mental impairment. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; and any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

qualified individual with a disability. A qualified individual with a disability is a person who satisfies the requisite skill, experience, education, and other job-related requirements of the position such individual holds or desires and can perform the essential functions of the position, with or without reasonable accommodation.

reasonable accommodation. Reasonable accommodation is a modification or adjustment to a position, the work environment, or the application process that enables a qualified individual with a disability to attain the same level of performance of the essential duties of the job or to enjoy equal benefits and privileges of employment as are available to a similarly situated employee without a disability. Workplace barriers may keep people with disabilities from entering the workforce and/or from performing jobs which they could do with some form of accommodation. To determine the appropriate reasonable accommodation it may be necessary for the DPM to initiate an informal, interactive process with the individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could remove workplace barriers.

reassignment. A reassignment is a form of reasonable accommodation that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer

perform the essential functions of the job, with or without reasonable accommodation. Reassignments are made only to vacant positions and for employees who are qualified for the new position, when no other reasonable accommodation exists.

undue hardship. Undue hardship generally refers to a specific accommodation that would require MDA to incur significant difficulty or expense. Determinations are made on a case-by-case basis, considering the nature and cost of the accommodation needed and the impact of the accommodation on MDA operations.