

Vermont National Guard Joint Forces Headquarters

Joint Policy Memorandum

J2021-09

&

Standard Operating Procedure

Reasonable Accommodations and Personal
Assistance Services



**OFFICE OF THE ADJUTANT GENERAL
789 Vermont National Guard Road
Colchester, Vermont 05446-3099**

NGVT-HRO (100)

1 April 2021

MEMORANDUM FOR All Vermont National Guard (VTNG) Managers, Supervisors, and Technicians

SUBJECT: Joint Policy J2021-09 and Standard Operating Procedure for Processing Requests for Reasonable Accommodations (RA) and Personal Assistance Services (PAS).

1. This SOP defines and establishes the RA/PAS procedure for current Federal Technicians (Title 32) and Civilian (Title 5) and applicants for employment in the Vermont National Guard (VTNG).
2. The SOP is in compliance with the *Affirmative Action for Individuals with Disabilities Federal Employment, Rehabilitation Act*, 29 C.F.R. § 1614.203, which codifies a variety of obligations currently placed on federal agencies by Management Directives and Executive Orders.
3. Any questions you may have concerning the Reasonable Accommodations and Personal Assistance Services Policy, pertinent laws, regulations or processes may be referred to the Judge Advocate General, the Human Resources Office, or the State Equal Employment Manager.

GREGORY C. KNIGHT
Major General
The Adjutant General

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1. General Information

1.1. Purpose

This SOP establishes the Vermont National Guard's (VTNG) Reasonable Accommodation and Personal Assistance Services (RA/PAS) procedure for current Dual Status and Title 5 technicians, and applicants for employment. The RA/PAS SOP is focused on, but not limited to, establishing a procedure that will support the prompt, fair, and efficient processing of requests for RA/PAS. It ensures that civilian and military technician managers and supervisors comply with the mandates of the Rehabilitation Act of 1973, as amended.

1.2. References

- a) Rehabilitation Act of 1973, as amended.
- b) ADA Amendments Act of 2008.
- c) U.S. Equal Employment Opportunity Commission (EEOC) Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the Americans With Disabilities Act.
- d) EEOC Policy Guidance on Executive Order 13164.

1.3. Applicability

This policy applies to all employees of the VTNG.

1.4 Effective date

This policy is effective when signed. All previous versions are obsolete

2. Responsibilities

2.1. The Adjutant General (TAG)

The Adjutant General is responsible for establishing an effective RA/PAS program that meets the statutory and regulatory requirements of the Equal Employment Opportunity Commission's Enforcement Guidance under the Americans with Disabilities Act.

2.2. The Director for Human Resources

The Director for Human Resources is responsible for the implementation and administration of this RA/PAS SOP, as well as designating a Disability Program Manager.

2.3. The Disability Program Manager

The Disability Program Manager is responsible for assisting and advising managers and supervisors in reviewing requests for RA/PAS.

2.4. The State Equal Employment Manager

The State Equal Employment Manager is responsible for the following:

- a) Conducting supervisor and manager RA/PAS training programs, as well as making such training a part of newly-appointed supervisor and manager orientation.
- b) Disseminating information on available RA/PAS resources.
- c) As the proponent for the Program for Individuals with Disabilities (IWD), coordinating RA/PAS requests as needed.
- d) Tracking and reporting on RA/PAS requests in the annual Individuals with Disabilities Affirmative Action Program Plan.
- e) Submitting RA/PAS data for VTNG employees to Equal Employment Opportunity Commission (EEOC) each year on the MD715.
- f) Ensuring that copies of this RA/PAS SOP and its applicable procedures are readily available to all VTNG technician personnel and applicants for employment. This should be accomplished by maintaining accessible internet links to the SOP as well as copies in the EEO Office. This RA/PAS SOP must be accessible to individuals with disabilities, when necessary, through alternative formats.

2.5. Commanders and Directors.

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

2.6. Management and Supervisors.

Management and Supervisors are responsible for the following:

- a) Assuring that employees are aware that the RA/PAS process is available to individuals with disabilities.
- b) Receiving and reviewing RA/PAS requests from employees.
- c) Consulting with the EEO Office, the Judge Advocate General, and Labor Relations Specialist to determine whether it is appropriate to approve an employee's RA/PAS request, whether to offer an alternative RA/PAS, or whether circumstances require the RA/PAS request to be denied.
- d) Communicating the status and ultimate disposition of employee RA/PAS requests to the requesting employee.
- e) In the case of higher-level supervisors, receiving and considering requests for reconsideration from employees whose RA/PAS requests have been previously denied by a subordinate supervisor.

3. Definitions

3.1. Direct threat.

A direct threat is a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation. Whether an individual with a disability poses a direct threat to health and safety should be based on an evaluation of the individual's present ability to safely perform the job and a consideration of the following four factors: (i) the duration of the risk; (ii) the nature and severity of the potential harm; (iii) the likelihood that the potential harm will occur; and (iv) the imminence of the potential harm.

3.2. Essential job functions.

Essential job functions are 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 and the incumbent is hired based on their ability to perform it.

3.3. Extenuating circumstances.

Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for an RA/PAS, such as back order of necessary equipment or failure of employee's health care professional to timely provide necessary documentation.

3.4. Individual with a disability (IWD).

Any person who has a physical or mental impairment that substantially limits a major life activity, has a record of such impairment, or is regarded as having such an impairment.

3.5. Interactive process.

To determine the appropriate RA/PAS, it may be necessary for the VTNG to initiate an informal dialogue with the individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential RA/PAS that could overcome those limitations.

3.6. Major life activities.

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.

3.7. Personal Assistance Services.

Personal Assistance Services (PAS) are services that help individuals who, because of a targeted disability require assistance to perform basic activities of daily living, like eating and using the restroom, during work hours and job-related travel. An example of a PAS is a sign language interpreter.

3.8. Qualified individual.

With respect to an individual with a disability, a qualified individual means that the person satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such positions.

3.9. Reasonable accommodation.

A reasonable accommodation is 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 SOP'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 reasonable accommodations:

- 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.

3.10. Targeted Disability.

A targeted disability is a subset of conditions that could be considered disabilities under the Rehabilitation Act. The federal government has recognized that qualified individuals with certain disabilities face significant barriers to employment, that are above and beyond the barriers faced by people with a broader range of disabilities. For a list of targeted disabilities, go to https://www.opm.gov/Forms/pdf_fill/sf256.pdf.

3.11. Undue Hardship.

An undue hardship is an action requiring significant difficulty or expense incurred by the VTNG. In determining whether an accommodation would impose an undue hardship, factors to be considered include:

- a) The nature and net cost of the accommodation needed.

- b) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number or persons employed at such facility, and the effect on expenses and resources.
- c) The overall financial resources of the VTNG, the overall size of the organization with respect to the number of its employees, and the number, type, and location of its facilities.
- d) The type of operations, including the composition, structure, and functions of the workforce, as well as the geographic separation, and the administrative or fiscal relationship of the facility involved.
- e) The impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.
- f) The resources available to the VTNG as a whole, excluding those designated by statute for a specific purpose that does not include reasonable accommodation. See Appendix 8.3.

4. General Policy Guidance for Individuals With Disabilities

4.1. Requirements under the law.

The Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA) require employers to provide RA/PAS to qualified employees and applicants with disabilities, unless doing so would cause undue hardship. This SOP helps to implement the requirement of the Rehabilitation Act, and the underlying principles of the ADA that provide RA/PAS to qualified employees and applicants with disabilities.

4.2. Removal of barriers.

The fundamental purpose of RA/PAS is to remove barriers that prevent IWDs from applying for and performing jobs for which they are qualified. This SOP is to be interpreted and applied in accordance with that purpose, and the spirit of the Rehabilitation Act and the ADA.

5. The RA/PAS Process

5.1. Requesting Reasonable Accommodation or Personal Assistance Services.

- a) The RA/PAS process is initiated when an IWD indicates a need for an adjustment or change at work, or in the application process, for a reason related to a physical or mental impairment that substantially limits a major life activity. The IWD does not have to use any particular words to indicate that the request is for a reasonable accommodation. More specifically, the use of the term "reasonable accommodation" does not need to appear within the request.

- b) An IWD may initiate a request for a RA/PAS orally or in writing at any time. The request may be made by the IWD, a family member, a health professional, or other representative who is acting on the individual's behalf. The IWD may be asked to complete a reasonable accommodation request form to document and process the request. The Reasonable Accommodation-Personal Assistance Service Request Form (RA/PAS Form) is attached to this SOP at Appendix 8.5. The IWD's request for an accommodation, whether it is verbal or written, starts the process. The process should not be delayed because the RA/PAS Form is not complete. See 6.4.1 for an explanation of the policy timelines.
- c) Requests for a RA/PAS should be addressed to the IWD's direct supervisor so that the request can be properly tracked and acted upon. However, the request can also be made to any of the following: (1) the individual's supervisor; (2) a supervisor or manager in the individual's immediate chain of command; (3) the VTNG's Person's with Disability Special Emphasis Program Manager; or (4) in the case of an applicant involved in the application process, the VTNG employee with whom the applicant dealt with during the application process. Requests made to individuals or offices other than those listed cannot be properly tracked and will not be processed.
- d) Where an IWD has requested a type of RA/PAS that they are likely to need on a repeated basis (e.g. 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/PAS is needed. In such cases, the IWD may obtain the RA/PAS by notice to their supervisor once the RA/PAS is approved the first time.

5.2. Requesting Personal Assistance Services (PAS).

- a) The process for requesting a PAS, the methodology for acting upon the request, and the VTNG's right to deny a request based on an undue hardship, is the same as for the reasonable accommodation process.
- b) The VTNG will provide PAS if the IWD making the request:
 - 1. is an employee or applicant of the VTNG
 - 2. has a targeted disability;
 - 3. requires the services because of their targeted disability; and
 - 4. needs PAS to perform the essential functions of the job, without posing a direct threat to safety and without creating an undue hardship to the VTNG.
- c) PAS must be provided by a PAS provider. The VTNG may require PAS providers to perform services to more than one individual, and PAS providers may perform tasks unrelated to PAS, but only to the extent that doing so does not result in failure to provide PAS in a timely manner.

- d) If the VTNG is utilizing a PAS provider who will be assigned to a single individual, but that individual prefers a particular provider (e.g. because the provider has worked with the individual in the past), the VTNG will give primary consideration to the employee's choice.
- e) The VTNG is prohibited from taking adverse actions against job applicants and employees based on their need, or perceived need, for PAS.

5.3. Processing Requests for Reasonable Accommodations and Personal Assistance Services.

- a) A request for RA/PAS 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.
- b) Upon receipt of a request for RA/PAS, supervisors should request the employee to complete a Reasonable Accommodation-Personal Assistance Services Request Form. Supervisors should not delay the interactive process while waiting for the form. The supervisor will engage in the interactive process by discussing the following with the requesting employee:
 - 1) The underlying disability or medical issue;
 - 2) The limitations caused by the disability or medical issue and how they affect the employee's job functions;
 - 3) The employee's suggestions regarding potential reasonable accommodations.
- c) The supervisor will periodically communicate with the employee during the interactive process. The supervisor should document all conversations in writing and take detailed notes. Supervisors are encouraged to seek guidance from the Disability Program Manager and/or Judge Advocate General at any time during the process. Information obtained from the employee regarding any medical issue and related facts, including medical records, will be kept confidential to the extent required by applicable law, but will be shared with those VTNG individuals involved in determining whether to grant a request for RA/PAS. In situations where the employee's disability and need for an RA/PAS are reasonably obvious, the supervisor should assure the employee that they 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 they will determine whether there is an RA/PAS that could be made within thirty (30) calendar days. At the close of the meeting the supervisor should inform the employee of their right to obtain information and assistance from the EEO office. The supervisor should collect the Reasonable Accommodation-Personal Assistance Services Request Form from the employee before the end of this meeting.

- d) Decisions on RAs will be expedited where (1) the RA/PAS is needed to enable an applicant to apply for a job; or (2) the RA/PAS is needed for a specific VTNG activity that is scheduled to occur shortly.
- e) The VTNG is entitled to know that an employee has a covered disability that requires an RA/PAS. Thus, when a disability and/or need for an RA/PAS are not obvious, the VTNG 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:
 - 1) The nature, severity, and duration of the employee's impairment;
 - 2) The activity or activities that the impairment limits;
 - 3) The extent to which the impairment limits the employee's ability to perform the activity or activities; and/or
 - 4) Why the employee requires an RA/PAS, and how the RA/PAS will assist the individual to apply for a job, perform the essential functions of the job, or enjoy a benefit of the workplace.
- f) Supervisors will not request medical documentation where: (1) both the disability and need for RA/PAS are obvious; or (2) the employee has already provided the VTNG with sufficient information to document the existence of the disability and their 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/PAS. Thus, supervisors will not ask for information that is unrelated to determining the existence of a disability and/or need for an RA/PAS.
- g) Supporting medical documentation must be provided to the requesting official within ten 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/PAS. See 29 C.F.R. § 1614.203(d)(3)(i)(N). Medical information will be kept confidential to the extent required by applicable law and will be shared only with other VTNG officials involved in determining whether to grant a request for RA/PAS. These officials include: 1) supervisors and managers who need to know about any necessary restrictions and accommodations; 2) first aid and safety personnel, if the disability might require emergency treatment; 3) government officials to investigate the agency's compliance with the Rehabilitation Act; 4) workers' compensation officials or insurance carriers; and 5) VTNG EEO officials. See EEOC Policy Guidance, Sec. II(D), Q.20.
- h) The VTNG may request supplemental documentation when the information submitted is insufficient to document the disability and/or functional

limitations, and/or the need for the RA/PAS. 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 calendar days of its request. Failure to provide the necessary supplemental documentation where it has been properly requested could result in a denial of RA/PAS.

- i) If the employee requesting an RA/PAS still fails to provide sufficient information and supporting documentation, the VTNG may, at its discretion and expense, take the following actions:
 - 1) have the individual requesting an RA/PAS examined by a physician. If the individual does not consent to the examination, deny the request for RA/PAS.
 - 2) have a physician review all of the documentation that the individual requesting RA/PAS has submitted to ensure that it is, in fact, insufficient. If the physician concurs that the documentation is insufficient, deny the request for RA/PAS.
- j) The IWD does not need to have a particular accommodation in mind before making a request. See 29 C.F.R. § 1614.203(d)(3)(i)(D). Once it is determined that the employee requesting an RA/PAS has a qualifying disability (and is therefore an IWD), the supervisor will consult with the Disability Program Manager to determine whether the requested RA/PAS is appropriate under the circumstances. If the supervisor does not have authority to grant a particular RA/PAS (like reallocating a particular job function), the supervisor and Disability Program Manager will consult with the lowest-level supervisor that has such authority. RA/PASs will only be provided to individuals with actual disabilities. Supervisors are not obligated to provide an RA/PAS to an employee who is "regarded as" having a disability.
- k) In considering whether an RA/PAS can be provided, supervisors and the Disability Program Manager should identify the essential job functions (as defined above in 3.2) of the IWD's position, the IWD's functional limitations to completing the essential job functions, and whether there are any reasonable alternatives to meeting the essential job functions. Appendix 8.2 contains a list of possible accommodations. Appendix 8.3 contains a list of resources to help supervisors and the Disability Program Manager in considering possible RAs.
- l) A modification or adjustment is "reasonable" if it is feasible or plausible under the circumstances. An accommodation must be effective in meeting the needs of the IWD. This means that an RA/PAS must enable an IWD to perform the essential functions of their position. An RA/PAS must afford an IWD an equal opportunity to the benefits and privileges enjoyed by employees without disabilities.

- m) The VTNG has the authority to choose among possible RA/PASs as long as the chosen RA/PAS is effective. Thus, as part of the interactive process, supervisors may offer IWDs alternative suggestions for RA/PAS and discuss their effectiveness in removing the workplace barrier that is impeding the IWD. If there are two possible RA/PASs, 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 consideration, but the supervisor has the ultimate discretion to choose between effective accommodations. Appendix 8.2 lists some suggested RAs for supervisors and employees to consider. Appendix 8.3 contains resources for supervisors and employees to explore possible RAs.
- n) There are several modifications or adjustments to which supervisors do not have the authority to agree. 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 SOP. 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.
- o) The VTNG will not provide as reasonable accommodations in the workplace personal use items needed in accomplishing daily activities. Thus, the VTNG 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 VTNG 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.
- p) RA/PAS requests will be denied where the requested RA/PAS would cause "undue hardship" to the VTNG. 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 VTNG in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but to RA/PAS that are unduly extensive, substantial, disruptive, or those that would fundamentally alter the nature of VTNG's operation. The supervisor and Disability Program Manager must assess on a case-by-case basis whether a particular accommodation would cause undue hardship.

- q) 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. The VTNG will consider providing reassignment to a vacant position as a reasonable accommodation when it determines that no other reasonable accommodation will permit the employee with a disability to perform the essential functions of their current position. See 29 C.F.R. § 1614.203(d)(3)(i)(B). VTNG HRO will notify the supervisor, Disability Program Manager, and any appropriate staffing that they are to conduct searches for available vacancies when considering reassignment as a reasonable accommodation. The affected employee will be consulted, as necessary, to determine whether there are limits on the search the employee would like the VTNG to conduct; whether the employee is qualified for a particular job; or whether the employee would need a RA/PAS to perform the essential functions of a new position. See 29 C.F.R. § 1614.203(d)(3)(i)(C).

5.4. Approval and/or Denial of Requests for RA/PAS.

- a) The VTNG has ten business days, absent extenuating circumstances, to either provide the requested accommodation or deny the request. The timeline for approving or denying an accommodation starts as soon as the request is made, either verbally or writing. The VTNG will not be expected to adhere to its usual timelines if an individual's health professional fails to provide needed documentation in a timely manner.
- b) The IWD will be notified in writing when the supervisor and/or the Disability Program Manager makes the determination to approve the request. See Appendix 8.5 IWD RA/PAS HRO Response Form. The supervisor will implement the approved RA/PAS at the earliest possible moment. Failure to provide the accommodation in a prompt manner may result in a violation of the Rehabilitation Act. 29 C.F.R. § 1614.203(d)(3)(i)(O).
- c) When the supervisor and/or the Disability Program Manager, makes a determination to deny or provide an alternative RA/PAS, the supervisor will notify the IWD using Appendix 8.5. The written notification to the IWD must contain: 1) the name of the person who made the decision; 2) the basis for the denial; 3) notice that the IWD must contact the VTNG EEO within 45 days if the IWD wants to file a complaint with the EEOC; and 4) notice 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.
- d) If there is a delay in processing a request RA/PAS, the VTNG HRO will notify the individual in writing of the reason for the delay, including any extenuating circumstance that justify the delay. See 29 C.F.R. § 1614.203(d)(3)(i)(S). If there is a delay in providing the RA/PAS, the VTNG will provide an interim accommodation that allows the individual to perform

some or all the essential functions of his or her job, if it is possible to do so without creating an undue hardship on the VTNG. See 29 C.F.R. § 1614.203(d)(3)(i)(Q).

6. Informal Resolution and the EEO Complaint Process

6.1. Informal Resolution Process.

- a) An IWD can appeal the denial of an accommodation request to the next supervisor in the IWD's chain of command within seven calendar days of receipt of the decision. The appeal must 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.
- b) The higher supervisor who receives the appeal will consult with the Disability Program Manager and render a decision on the appeal within fourteen calendar days of receiving the appeal from the employee. The appeal should involve simply reviewing the 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 should remind the employee that they must contact the VTNG EEO office within 45 days of receipt of the original supervisor's decision if the employee wishes to file an EEO complaint.

6.2. The EEO Complaint Process.

- a) Regardless of whether or not the employee has utilized the informal resolution process above, the individual must contact the VTNG EEO office within 45 days of receiving the initial denial of the request for RA/PAS (not the decision on reconsideration) if they desire to file an EEO complaint. The EEO office will guide the employee through the EEO complaint process.

7. Recordkeeping Requirements

7.1. Tracking Requirements.

- a) The VTNG EEO and/or the Disability Program Manager will assign a tracking number to the RA/PAS request form. The VTNG EEO and/or the Disability Program Manager will provide the tracking number to the IWD in writing within five business days. The individual can track their request by calling VTNG EEO or VTNG HRO. 29 C.F.R. § 1614.203(d)(3)(i)(R). The information tracked will include: 1) the deciding official's name and contact information; 2) the number and types of RA/PAS requested in the application for employment process and whether those requests were

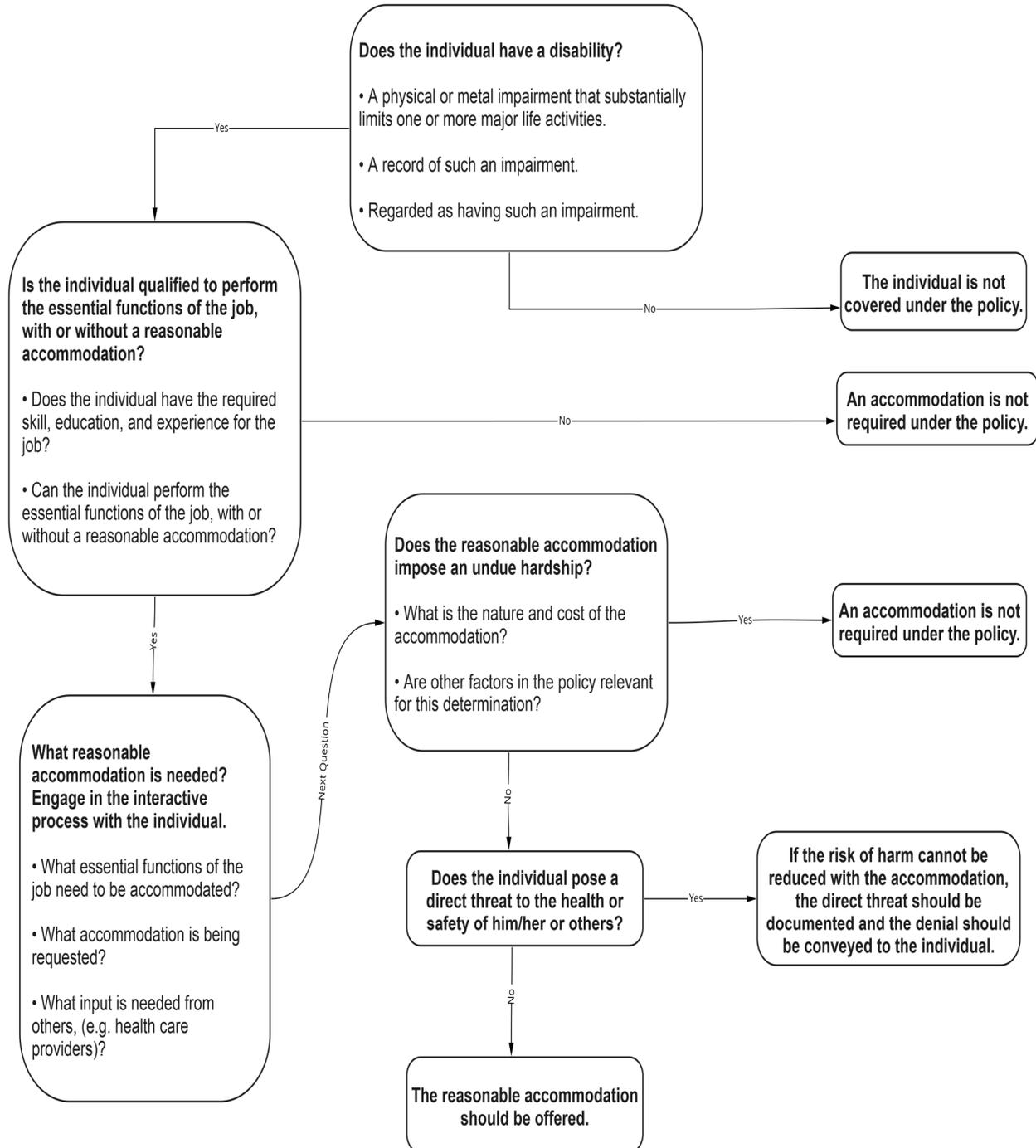
granted or denied; 3) the jobs (occupational series, grade level, and organization) for which RA/PASs have been requested; 4) the types of RA/PASs that have been requested for each of those jobs; 5) the number and types of RA/PASs for each job that have been approved and denied; 6) the number and types of requests for RA/PASs that relate to benefits or privileges of employment, and whether those requests have been granted or denied; 7) the reasons for denial of RA/PAS requests; 8) the amount of time taken to process each RA/PAS request; 9) the source of technical assistance consulted in trying to identify possible RA/PASs.

7.2. Dispositions of RA/PAS Request Data, Including Medical Information.

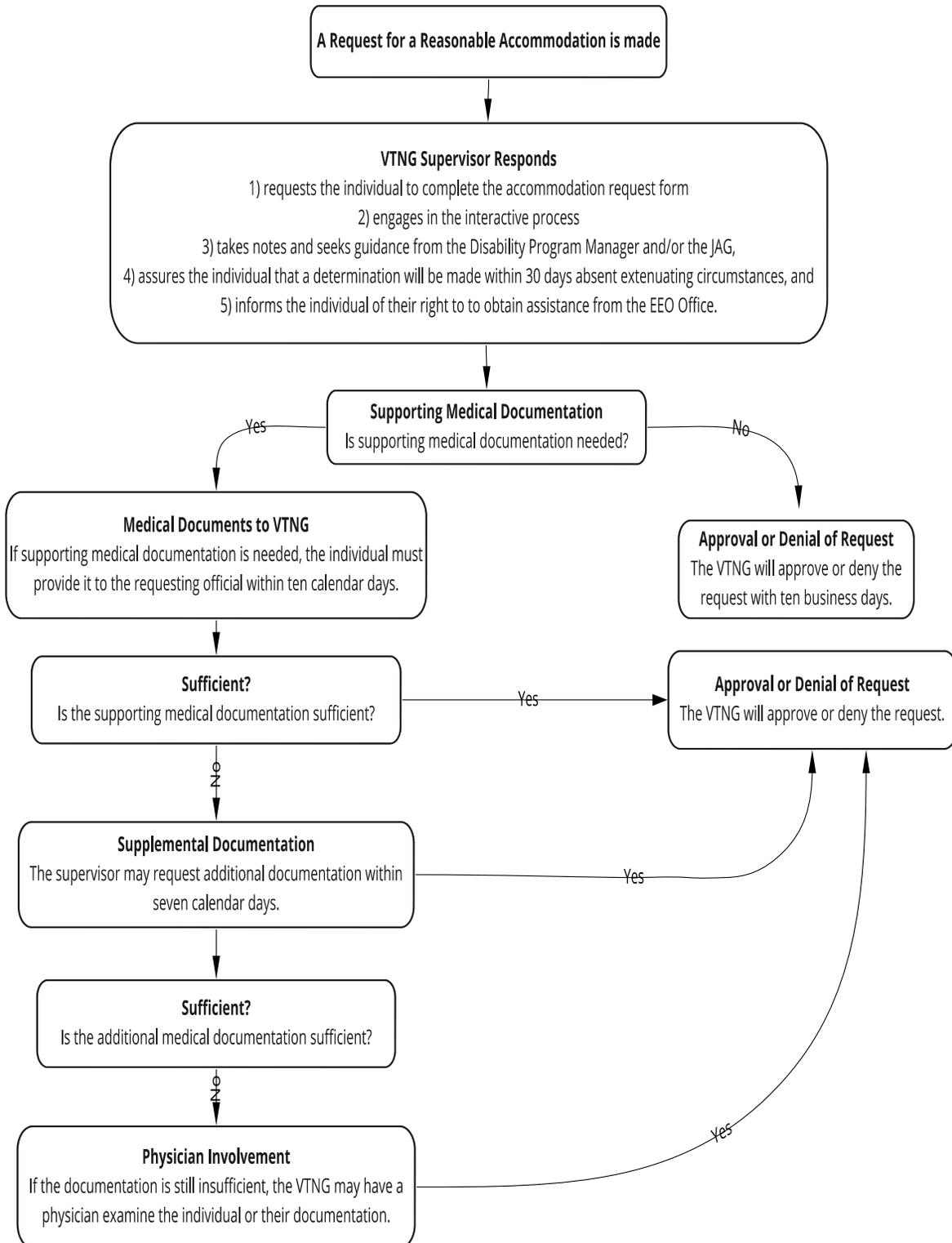
- a) Documentation related to a particular individual who has requested RA/PAS is to be filed apart from other personnel records, safeguarded regarding confidential requirements, and maintained for the duration of that employee's employment. Records concerning requests, approval, and disapproval are maintained by the Joint Force Headquarters EEO office.
- b) The tracking information data should be maintained for a period of five years. This data will assist the VTNG in evaluating its performance regarding the adequate, timely processing of RA/PAS requests and their corrective action, if required.

8. Appendices

8.1. The Reasonable Accommodation Process



8.2. The Process for Making a Request for an Accommodation



8.3. Examples of Reasonable Accommodations

- a) Job Restructuring involves modifications such as reallocating or redistributing marginal job functions that an employee is unable to perform because of a disability, 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 disability. 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 disability-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 must be provided to an employee (not an applicant) who, because of a disability, can no longer perform the essential functions of the 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 they have 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 VTNG is not obligated to assist the employee to become qualified for the new position, unless the VTNG 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 their 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

8.4. Selected Reasonable Accommodation Resources

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

The EEOC's Publication Center has many free documents on the Title I employment provisions of the ADA and the Rehabilitation Act. In addition, the EEOC has published a great deal of basic information about reasonable accommodation and undue hardship.

Job Accommodation Network (JAN)
1-800-232-9675 (Voice/TT)
<http://janweb.icdi.wvu.edu>

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.

ADA Disability and Business Technical Assistance Centers (DBTACs)
1-800-949-4232 (Voice/TT)

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, disability, 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.

Registry of Interpreters for the Deaf
1-301-608-0050 (Voice/TT)
<http://www.rid.org>

The Registry offers information on locating and using interpreters and transliteration services.

Computer/Electronic Accommodation Program
1-703-681-8811 (Voice/TT)
<http://www.tricare.osd.mil/cap>

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 can provide ideas on ways to provide reasonable accommodations. 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.

8.5. Reasonable Accommodation / Personal Assistance Services Request Form

Name: _____ Cell #: _____

E-mail: _____ Work #: _____

Position: _____ Grade: _____

Date: _____

Supervisor: _____ Work #: _____

E-mail: _____

What accommodation(s) are you requesting?

Does the accommodation require Personal Assistance Services?

Please explain how the accommodation will assist you.

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

Printed Name of Individual Making Request / Signature of Individual Making Request / Date

Name of Person Receiving Request

Position/Work Phone #

8.6. HRO Response Form to RA/PAS Request

Internal VTNG Assignment Number: _____

Individual with Disability Information:

Name: _____ Cell #: _____

E-mail: _____ Work #: _____

Position: _____ Grade: _____

Date: _____

Supervisor: _____ Work #: _____

E-mail: _____

Accommodation recommendation to HRO: Approve _____ Modify _____ Deny _____

Personal Assistance Services: Approve _____ Deny _____ N/A

Medical information requested:

Medical information received:

VTNG medical examination:

Date and type of accommodation provided:

Supervisor
Signature _____ Date _____

IWD Requesting Informal Resolution Process:

Put date and next level Supervisor name and contact number.

Regardless of whether or not the IWDs utilizes the Informal Resolution Process above, the individual must contact the VTNG EEO office within 45 days of receiving the initial denial of the request for RA-PAS (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.