

# Reasonable Accommodations for Supervisors

## Virtual Conference for Supervisors

Recorded March 8, 2017

Good morning. Welcome to the classroom for Reasonable Accommodations. We'll be starting in about 10 minutes. If you are going to the IDP session, the link is at the bottom of the slide. The session is being recorded. Again, we'll begin in seven minutes.

Good morning everyone. Welcome into the classroom for Reasonable Accommodations, which starts at 10 AM. If you're looking for the IDP session, that information is on the link at the bottom. Please say hello in the chat pod when it shows up on the screen that will be starting in about five minutes.

Good morning you guys. Welcome to the classroom for [Indiscernible]. If you are looking for the IDP session, that is in the others room and the link is at the bottom of this page. Will be starting in about three minutes. This is being recorded.

Good morning everyone. Welcome to the classroom for Reasonable Accommodations. If you are here for the IDP session which is in the other classroom, that information is in the text box at the bottom of the screen. I am Jo Robinson, your class monitor. Lisa Matarazzo and Cleveland Williams will be joining us.

We'll remind you that we will be recording the session and also to please sign in on the chat pod that shows up on the first screen in the presentation. We'll get started in a moment. I am going to ask that you all mute your phones if you have not already done so, except of course when we need you to talk.

Cleveland, are you ready to go?

This is Cleveland.

Hi, Cleveland. Do you see your slides up [Indiscernible]?

Take it away.

We are ready to begin?

Good morning, thank you for joining the Reasonable Accommodations presentation. I am with the EEO, the Equal Opportunity Program. I will be your first presenter and I will provide

information about reasonable accommodation, and then I will hand it off to [Indiscernible word], who will talk more about your [Indiscernible] that's your role as a supervisor.

Let's get started. Because some of the things we're going to talk about are the laws, the Department's reasonable accommodation procedures, types of accommodations, medical documentation, describe NPS's interactive process, general information about the NPS's RA portal and we'll end with Dave Davies talking about the portal.

Some background information: can anyone tell me what is ADA? [Noise interfering with captioning] What is ADA? The ADA amendment act of 2008. I see one response so far.

It is the Americans with Disabilities Act.

Great. Under the act of 2008, the Americans with Disabilities Act amendment, they cover two main areas, major life activities and major bodily functions. Major life activities include, but are not limited to performing manual tasks; things like standing, eating, sleeping, eating, reading, learning, concentrating or communicating. Those are major life activities. Other major areas under the flagship of the Disability Amendments Act of 2008 is major bodily functions which include, but are not limited to functions of the immune system, normal [Indiscernible word], digestive, [Indiscernible], neurological, respiratory, circulatory and reproduction function.

A question for Reasonable Accommodations: Where is it applicable to? Where does it apply? Within the National Park Service, where would reasonable accommodations be [Indiscernible]?

Janet says in the workspace. At work, with duties, assignments. Everywhere, by Chris.

Thank you so much for your feedback. All areas of employment, including but not limited to recruitment, training, promotion, reassignment, developmental assignments. Everyone is correct.

What is a reasonable accommodation? In your own words, what is a reasonable accommodation?

Providing the tools and assistance so that all can thrive. Stacy says providing accessible workspace. [Indiscernible] says one that does not create an undue burden. Janet says desk height, chair. Lisa says maybe a larger computer screen.

All great answers. Here we go. Any change or adjustment to a job or work environment that permits qualified employee or applicant for employment with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy the benefits and privileges of employment equal to those enjoyed by employees without disabilities.

This slide covers what a reasonable accommodation is.

To be regarded as disabled, an individual must have what?

Janet says a covered condition. There is more typing. Susan Powell says it has to be documented. Chris also says documented. Janet says a need for accommodation and Monica says a documented condition.

Great answers, and thank you for your participation. There we go. A physical or mental impairment that substantially limits one or more major life activities which we talked about earlier; a record of such a physical or mental impairment; a history of being regarded as having such an impairment, whether or not a [Indiscernible] impairment. Also be mindful that being regarded as having an impairment is predicated on the attitude or treatment by the employer. Let's move to the next one: is the employee qualified?

To be regarded as qualified an individual must have the requisite skill, experience, education and other job-related requirements of the position and be able to perform the essential functions of the position with or without reasonable accommodation.

You will hear that quite a bit. Be able to perform an essential function of the position with or without reasonable accommodation. Let's cover some terminology that is commonly used as it relates to assistive technology in the reasonable accommodation.

The first one is assistive technology devices. What are some types of assistive technologies?

What are some types of assistive technology devices used for Reasonable Accommodations?

Braille reader, screen readers, phone, magnifier, larger monitor.

Great answers. Let's keep it moving. But go to the next one, electronic and information technology. What are some examples of electronic and information technology?

A PDF reader. Listening device. Special phone set. Closed captioning.

That is great. Any equipment or interconnected system used in creation, conversion or duplication of data or information. Information technology includes computer equipment, software, firmware and similar products that meet the services, including the port services and related services. Essential functions, when we're talking about essential functions, these are duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. Function [Indiscernible] is essential if, among other things, the position exists but specifically to perform that function. There are a limited number of players who can perform that function as it was assigned to them. [Indiscernible] function specialized if the incumbent is hired based on his or her ability to perform it. Determination of

essential functions of the position must be done on a case-by-case basis, so that it reflects the job is actually performed and not simply the components of a chimeric position description.

Job duties make it essential functions.

The next one determines extenuating circumstances.

Cleveland, Eric asked if you can give an example of an essential function.

Dave would better be suited to answer that. I think he was trying to log on, but I don't know if he started yet.

I am with you on audio but not on the video.

Dave, Erik has asked for an example of an essential function.

And essential life function?

We're covering essential functions and as stated in the individual cannot to the job without being able to perform them.

Depending on the job, Mike, that he the ability to use the computer? If the position is a database person, with the essential function be the ability to use a laptop or desktop computer?

That would be an essential function. If you're in a position or have some sort of difficulty requirement, law enforcement officer or firefighter or maintenance worker, he would have to pass a physical to show that you were healthy and able to meet the requirements for the job in terms of walking, lifting, lifting materials over 20 pounds and those sort of things.

Does that answer your question, Eric?

Yes.

The acronym RAC, reasonable accommodation coordinator, covers reassignment, which is a form of Reasonable Accommodations that absent undue hardship is provided by employees who can no longer perform the functions of the job with or without reasonable accommodation. Reassignment to what they can efficient as [Indiscernible] employees were qualified for the position. If the employee is qualified for the position, he will be reassigned to the job and will not have to compete for it. I would like to add and you will see it later on, reassignment is accommodation of last resort.

Targeted disability: the disabilities [Indiscernible] wanting particular attention in federal affirmative action planning. They include the following: deafness, partial paralysis, complete

paralysis, mental retardation, mental impairment, distortion of the limb and or spine. It is recognized that some disabilities that are not on the targeted list are nonetheless [Indiscernible word] and sometimes more so. The list is also defined by the Department of Labor and collaboration with the EEOC. When they talk about particular attention of federal affirmative action planning, that means they look at employees in the federal government with these types of disorders [Indiscernible] there was significantly under-recommended, therefore these rose to the level as targeted disability, so that we can increase the representation within the federal government for people have these types of disabilities.

That is undue hardship. The last thing about undue hardship is, it is not based upon your historical site. The EEOC Department of Labor when they talk about undue hardship, they are not talking about the National Park Service in and of itself, not your particular budget. If the specific accommodation involves significant difficulty exists, this determination must be made on a case-by-case basis and it considers factors such as the nature for the accommodation, the size of the budget of the organization and the impact on accommodation on the operation of the agency.

A vacant position is considered [Indiscernible] when they are posting a notice of the announcement the deposition.

We cover terminology that is often used in Reasonable Accommodations. That will move into who can make a request. The information I am about to share with you now is taken from the Department of Interior reasonable accommodation procedures. Who can make a request?

Who would you think can make a request for reasonable accommodation? Please provide a response.

The answers coming in: anyone, anyone, anyone? [Indiscernible] including the applicants. The applicant and employees; supervisor or the employee; anyone with a documented disability.

All great answers. Occasionally, circumstances allow with someone other than the individual with a disability request reasonable accommodation for that person. This is perfectly acceptable; however, managers and supervisors must ask the individual with a disability if they want an accommodation, with the exception of when that individual is incapacitated. The employee must work accommodation for the process to begin. Those are all correct answers.

[Indiscernible] move on to initiating the request process.

Once again, this information is taken from the Department of Interior Personnel Bulletin 14 [Indiscernible]. If it is not the first line supervisor, avoid necessary levels of review, use the interactive process, supervisor knows the mission [Indiscernible word]. Employee knows [Indiscernible word]. They must work together to meet both the needs. They also have to preserve the timeline. When a particular accommodation can't be provided in the short-term, failing to respond properly to the request is a violation of the Rehabilitation Act. If the

accommodation is a recurrent one, such as the need of an interpreter, a new written request is not needed every time.

The definition of the process, once the request has been made, this is what the supervisor should do. Medical documentation is needed and required, the supervisor or manager must provide a decision letter to request or within 10 business days of receipt of medical documentation.

Any medical estimation request must perform the requirements of the Rehabilitation Act. Under the act, medical estimation may not be requested where both the disability and the need for reasonable accommodation are obvious. The individual has already provided sufficient information to document the existence of the disability and his or her functional limitations. All medical documentation must be kept confidential among the parties working to fulfill the accommodation. Medical documentation cannot be kept in the employee's personnel file. They must be housed separately. Remember this is privacy act information, so this should be under lock and key.

Now let's talk about reviewing the medical application.

Cleveland, I have a question from Matt. For recurring accommodations like interpreters, does the impaired employee need to request a reminder from their supervisor, or is the agency required to anticipate that need, like for training events or formal meetings?

We just covered that a few slides before. If the accommodation is a recurrent one, such as the need for an interpreter, the person with the disability just needs to tell the supervisor and the supervisor should make that part of every [Indiscernible] process.

So it falls on the supervisor once the request is made known.

David, is that correct?

Yes. The obligation is on the agency and not on the employee to go back and remind them of the need for the going to training or something like that. Once the employee establishes the disability and they meet reasonable accommodation and there was an agreement, maybe there is an ongoing dialogue little bit when they go into training or something like that, but the initiator will be on the agencies.

Thank you.

I've got a question before we move on. Don't recall it being covered, but how far up does this request go to get approved?

You mean, like, is it at the park level?

Yes. The park supervisor gets the request from the employee and then I'm assuming it goes to HR, but I don't know if that's been said.

We will discuss that more in detail when we talk about the portal, but if you want to address it now because the question was asked, you can go ahead and address that. I won't take up your time, but I will speed up some of my slides.

Through the tracking mechanism we're going through [Indiscernible] for tracking and recording things before you make the decision, it is often with a supervisor and it sort of depends upon what the accommodation is. Is the accommodation pretty [Indiscernible] not going to cost a lot of money, not going to be a significant change and that sort of thing, you can probably make those decisions yourself. If it involves something else beyond that, it goes to the delegation of authority to make decisions, and it's a common sense approach of what are things that I need to talk to my supervisor about, what are things that the superintendent needs to know about a lot of things that we need to make a little bit widely known within management so that we make sure that we can change to meet our accommodation responsibilities. It is sort of on a case-by-case basis. Think you need to use your best judgment and that sort of stuff.

Thank you.

One last note on our medical documentation is all local request of medical documentation shall be reviewed by the Chief of Occupational Health Services, who will then advise the decision-maker regarding the reasonable accommodation request and whether the applicant has a covered disability without disclosing the details of any medical conditions. Documentation about the disability or functional limitations must come from the approved professional, i.e. a doctor, social worker or rehabilitation counselor or occupational health specialist. However, only the information that is relevant to making a decision about the specific reasonable accommodation may be requested. You cannot ask for a person's complete medical record.

Just wanted to share that because that's important information as it relates to medical documentation. Remember, keep documentation confidential and only ask for the information that is needed in specific to the reasonable accommodation.

Types of accommodations: restructuring, jobs may be modified if a person with a disability cannot perform the essential functions of the job; adjusting work schedules; flexible leave; modifying worksites. Can someone give me an example of modifying worksites?

Adjustable desks, [Indiscernible], ramps, chair, standing desk, ramps seems to be the most popular answer so far. Couple more are typing. Lighting, a wider door. Couple more answers are coming. A larger monitor. Debbie said they had an employee undergoing chemo. They isolated them in an empty office to help with being around a lot of staff. [Indiscernible] that supports heavier weight. Engineering out accessibility issues in duties. They might need

Monica to explain that a little more. I don't get it. [Indiscernible] workspace. Janet said a chair in the ladies room for nursing mothers to pump.

A lot of good examples. Let's move on to more types of accommodations. Specialized equipment and assistive devices. There are many devices that make it possible for people with disabilities to accomplish certain tasks they might not otherwise be able to do so. It may also increase productivity and efficiency of the work. Those devices can include TDD switcher telecommunication devices for the desk, electronic visual aids, magnifiers, telephone amplifiers, talking calculator or speakerphone. The equipment cannot be of a personal nature such as eyeglasses or wheelchairs, but must be directly related to the performance of the job.

Readers: a variety of options are available and should be determined on a case-by-case basis.

Sign language interpreters: what about personal care assistants? What type of accommodation would require a personal care assistant?

An extra chair or space? Are you asking what type of equipment or what type of disability would require personal care?

Let me give you the answer for clarity's sake. [Indiscernible word] may require personal care assistance on a full-time, part-time or intermittent basis. These individuals may require assistance for specific tasks such as running from one building to another, travel on official business, obtaining research and writing materials, using restroom facilities. These are some examples of personal care assistance of these types of accommodations.

I was struggling a bit about the computer accommodation program which is known as Capps [Indiscernible] supports accessibility efforts, including those associated with Section 508. They provide a wide variety of technology for people with hearing, visual, dexterity, cognitive and communication disabilities. That is another resource that we can partner with and the accommodations and services are provided at no cost.

This is one of the most controversial, misunderstood and time consuming of all accommodations. Reassignment is accommodation of last resort that must be considered if there are no effective accommodations that will enable the employee to perform the essential functions of the job. [Indiscernible] accommodations imposed a hardship.

The reassignment process: the law does not require positions to be created. The employee must be qualified. It cannot be a promotion.

There are no guarantees.

The job may be applicable, but may or may not be, just work with your local representative.



Depends on what the contract says about providing any reasonable accommodations. If it says nothing, it is the responsibility of the contractor to provide Reasonable Accommodations. APS is responsible at all times for access to the building into the workstation.

Reasonable accommodation denials: the process is shown on the next slide. They must be in writing, include clearly stated reasons for the denial, include etc., etc.

Let's see how much we have retained in this short amount of time.

Example A: an employee tells his or her supervisor, "I'm having trouble getting to work at my schedule starting time because of medical treatments I am undergoing." Is this a request for accommodation? Yes, no, maybe?

If you say yes, what are some of the possible accommodations and issues that may occur for implementing this type of reasonable accommodation request?

For the sake of time, because I don't want to take any of the time, I am going to answer. The manager must respond to some of the issues that may arise with adjusting schedules, and we need to coordinate with the union.

Example B: an employee tells his supervisor "I need six weeks off to take treatment for a back problem." Is this a request for accommodation? Yes. Some of the possible accommodation issues that may come up with implementing this type of request is leave. Are they asking for advanced sick leave, sick leave, contributions? The employee may not even know what the available help is. As managers it is our responsibility to know.

Example C: an employee who uses a wheelchair informs the employer that his or her wheelchair cannot fit under the desk in his office. Yes, managers must respond.

Example D: an employee tells her supervisor that she would like a new chair because the present one is uncomfortable. This is a request for a change at work. He does not think his need for a new chair [Indiscernible] a medical condition. Management should ask the employee to specify what they mean. They may be asking a request of accommodation of some kind. If it is uncomfortable to [Indiscernible] on the job, this may be indicative of a medical rule out above neurological problem. Presenting workers compensation could involve [Indiscernible] isn't always a good thing. If the employee has a cervical disc problem that is permanent, this would be in order.

Example E: an employee's spouse phones the employee's supervisor on Monday morning to inform him that the employee had a medical emergency due to multiple sclerosis and needed to be hospitalized, and thus requires time off. Is this reasonable accommodation?

What is unknown here is how much time off will be needed. This cannot be determined at this time. The need to work through to see how to utilize available needs -- is there enough sick

leave? Are they talking about leave without pay or leave with donations? The supervisor must be in direct contact with the employee to deal with these things, because they cannot make these decisions without input from the employee, if at all possible. If not, you'll have to work with the spouse.

Example F: an employee has been out of work for six months with a workers compensation injury. The employee's doctor sends the employer a letter stating that the employee is released to return to work with certain restrictions. Yes. This is a request for Reasonable Accommodations. The letter constitutes a request for Reasonable Accommodations. The agency can confirm that the employee that the doctors note was [Indiscernible] with the employees consent. If so, the manager needs to engage with the employee to figure out what accommodations need to be made to allow the employee to fulfill the essential functions of the job.

At this time I will transition.

Cleveland, before you leave, in the previous example, Debbie asked if someone the spouse calls to say the employee is in the hospital, [Indiscernible - speaker muffled]?

Once again, I will have to defer to Dave Davies.

Yes, the spouse is calling and acting on behalf of the employee and basically is a representative of the employee.

Thank you. One more question before you get into your presentation. Eric says he's confused about the distinction between the service obligation to provide assistance up to and including having a personal care assistant versus employee's ability to perform the essential functions of the job.

But say they were [Indiscernible] and could perform essential functions of the job, but something happens and there was a reasonable accommodation, they could perform the essential functions something that says [Indiscernible] Reasonable Accommodations, how do you make that determination I guess. Eric, if I did not get that exactly right, let me know. I will have to defer that to Dave. I don't work in those actual examples.

It comes to the heart of the matter when we come to what is reasonable or what is not. It's in what is in the eye of the beholder. So, you can demonstrate that something is excessively costly or in excess of burden on the agency. In terms of the specific one, having a personal care assistant versus where the employee can [Indiscernible] the essential functions, you're going to have to look at what the essential functions specifically are in relation to the duties of the position.

If you are a law enforcement officer and you cannot perform essential functions, personal assistant is probably isn't going to be Reasonable Accommodations. If it is a different essential function, there may be a different equation.

I know these things are kind of tricky and all on a case-by-case situation. My main advice would be the supervisor gets into one of the situation where they are not sure what to do or even if you are sure what to do, I think it is worthwhile to talk to whoever does reasonable accommodation in your park or in your region, and that is usually going to be an employee relations or a specialist. Also, talk to other supervisors and talk with the new management group to get opinions and experiences. A lot of times what you are dealing with, somebody else has dealt with before.

Thank you Dave.

This concludes my portion.

Thank you Cleveland.

I'll give you a preview. What we're going to be looking at is a SharePoint site that was developed this year so that we can more accurately report what we are doing in reasonable accommodations for the [Indiscernible], in part to track the requests that we receive so that we ensure that the agency, and I am using that broadly, Park Service meet its obligations in the time frames that [Indiscernible] either department. I am couching it that way, because it seems as though it is your responsibility as a supervisor, and it is your responsibility initially and primarily, but it is a shared responsibility of the Park Service, not just your responsibility.

So, now we're seeing the WASO Reasonable Accommodation Portal. The idea behind this is when a supervisor or anyone receives a reasonable accommodation request, they go to this page and they submit the request. The opening page goes through what our procedures are and at the bottom it goes through examples of what a reasonable accommodation request is and what common types of accommodations that we see. You click on this link and it spins around for a little while, but it will take you to a page where it will have you enter data. You input the name of the person making the request, where you are located by region and by park. There are drop downs that make it pretty simple to submit that information. It will ask you to write a couple of sentences and what the reasonable accommodation request is. It will go through the response process, where you granted the request, how you granted the request, if you did not grant the request. It goes through an interactive [Indiscernible]. It oftentimes it works better than this.

It could be our Internet connection. I am not sure why.

It looks even better than the way I described it.

It goes through -- when you answer this information it will also create emails to people who are involved within your park or region. When you submit the data on a reasonable accommodation within the park or the region, they will get an email saying there is a new request. [Indiscernible] prompts for that person to reach out and contact you to help you deal with the request and prepare the response. It gives you automatically a resource to go to.

It will also go through time frames that we have to respond to requests. I think we have 10 days to respond to requests. Once you enter this and there is going to set a time frame up from there. If you provide a response or an interim response [Indiscernible] to acknowledge that the request has been received.

You enter the date of the request, you list the request ID. Put in whatever your region is and there is a drop-down next to it terms of the park or office. The next field will be the series and grade. This one, candidate type would be whether it is an applicant or employee. Think we're going to add slot there for VIPs.

Contact information. It goes through what the accommodation is that has been requested and the reason for the request. It contains is privacy information for you to acknowledge with a checkmark.

It is not taking me to the next field.

It's like a lot of online stuff, if you do not fill it out correctly, it will not allow you to move on to the next page.

So, I have filled out all the information and submitted the request. It will take me to the next page.

Anyway, the next screen will go into the information I talked about before in terms of getting a response to the employee.

Are there any questions about this part of the presentation?

[Indiscernible - speaker muffled]

We put out an announcement and will probably go live in April.

As broadly as we can with resources in your communities or to your supervisors.

So, once an individual submits the form, how quickly will there be a response? After a week, should we be contacting someone to follow up?

You should be getting -- it will create an email response as soon as you submit the data and it will go out to all the people who are involved in the reasonable accommodation process. How

quickly you get a response from that person would depend upon that person's workload and things like that, but I would expect you would hear from them soon. Less than a week. More like that day.

That's great.

The time frames responding to this Reasonable Accommodations pretty tight, so you should receive a response right away and it should be that the coordinator will solidify that there is a request and will get a response, and email and you will be contacted by the coordinator.

But it would not wait around for the coordinator. I would start addressing the request as soon as you get it.

Any more questions for Dave? Somebody is typing.

While we're waiting for that question to come in, want to thank Dave and Cleveland for the presentations this morning and spending time this morning to include the [Indiscernible] of reasonable accommodation. It is 11 AM -- Eric says thank you, this portion of the presentation answers my earlier question. [laughter] Awesome. Thank you all for joining us and for submitting responses to the presentation. We will sign off for now and see you at another time.