

# Reasonable Accommodations

## Virtual Conference for Supervisors

Recorded March 10, 2017

I would turn the presentation over to Cleveland and Katrina.

Good morning everybody. This is Cleveland and I will be giving you some information as it relates to reasonable accommodations.

[Indiscernible- multiple speakers]. We lost you there for a few seconds.

Can you hear me now?

Yes.

Alright. On with the EEO program, and I will be providing you some information as it relates to reasonable accommodations. I will also be splitting this presentation with [Indiscernible] and he will give you information relating to the policies and procedures of the National Park Service procedures and an introduction to the reasonable accommodation portal. Some of the things we will be covering are the laws, DOI Department of Reasonable Accommodation procedures, types of accommodations, medical documentation, interactive process and, once again, the portal. If you have any questions, please feel free to ask.

Some background information, the Americans with Disabilities Act covers employment Title I, the Rehabilitation Act applies to federal civil service [Indiscernible]. Executive Order 13163 [Indiscernible]. Executive Order 13164 mandates that the agencies create written procedures for providing reasonable accommodations for qualified employees and applicants who are employed on this. Another resource that we have and follow is the Department of [Indiscernible] is issued reasonable accommodation for [Indiscernible] entitled civil rights directive 2014 [Indiscernible] 02 personnel bulletin 14, bulletin 1401 dated February 20, 2014 as it relates to reasonable accommodations procedures within the Department of [Indiscernible]. Does anybody know what the acronym ADA stands for? ADA—does anybody know what that stands for?

It looks like we have somebody typing in the chat box. Let's see what we have to say, that's obligated tough one to me. Dan says American disability Act as amended.

Great answer. Exactly right thank you so very much. The American Disability Act Amendment Act of 2008 and under the ADA major life activities are expanded to include major bodily functions. Specifically, the ADA provides that major life activity including but are not limited

to caring for oneself, performing manual tasks, seeing, hearing, eating, walking, [Indiscernible] speaking, breathing, learning, communicating and working. Those are considered under the ADAAA major life activities. Major bodily functions include, but are not limited to, functions of the immune system, normal cell group, digestive, bowel, bladder, neurological, brain, respiratory, and [Indiscernible] function.

So, the first question was pretty tough, so I'm going to give you one that I think everybody should ace. Where is reasonable accommodations applicable? Where does it apply within the National Park Service? Where do you think reasonable accommodation would apply in our workforce what area? Where is it applicable?

Looks like we have somebody typing in the chat box. Let's give them a minute.

Okay, thank you. Do we have another one? Okay [Indiscernible] requires for reasonable accommodation so you can enjoy the benefits and privileges of employment, equal to those enjoyed by similarly situated employees without disability. Benefits and privileges of employment include, but are not limited to, employee responses, training, services, assistant program, credit union, gymnasiums and transportation. If they employ with a disability neither reasonable accommodation in order to gain access to and have equal opportunity to participate in, these benefits and privileges, then the employer must provide the accommodation unless they can show undue hardship. We will talk about undue hardship in a few slides from now. What is a reasonable accommodation? What is a reasonable accommodation? What do you think qualifies as a reasonable accommodation?

Alex said could be anything that is reasonable [Indiscernible] is asking a question could be almost anything that is reasonable?

I would give you an answer in one second. Do we have another response?

I don't see anybody else typing.

So, here we go. Any change or adjustment to a job or work environment that permits a 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 benefits and privileges of employment equal to these those enjoyed by employees without disabilities.

We just discussed what is a reasonable accommodation. Now were going to move on. Is the employee or applicant disabled? To answer that question, to be regarded as a disabled an individual must have a physical or mental impairment that substantively limits one or more major life activities, a record of such impairment or a history of being regarded as having such an impairment whether or not they have the inpatient. Is an employee qualified? This is a debate. Is an employee qualified as an individual [Indiscernible] disability? The main thing I want you to focus on in this slide is that last bullet. Able to perform the essential functions of the position with or without the reasonable accommodations.

Let's go over some terminology that is used as it relates to reasonable accommodations. Assistive technology devices – can you give me some examples of assistive technology advices?

Somebody said sit stand station.

Awesome. That additional chat, Alex said he had a laptop for note taking when he was in high school and Kristen says monitors that are in large print.

Thank you so much. Let's move on to electronic and information technology. That is a statutory term in Section 508 that would be [Indiscernible] act of 1973 and that includes information technology and any equipment [Indiscernible] that is used in creation from version and duplication of information. Information technology includes computers and [Indiscernible] equipment [Indiscernible].

What are central functions? What does that mean to you, a central function? In your own words what does central functions mean to you? Talk to me.

We have a couple of people chatting in the Chat Pod we will give them a minute. Jeffrey says able to meet the fully successful standards in their EPAP.

Thank you, Jeffrey. Central 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 among other things the position exists specifically to perform that function. What would be an example based upon the definition of a job that would have a central function?

Becky says a dispatcher.

What about a firefighter? There are many. You really have to look at each particular job in those duties to make a determination of what is essential. Extenuating circumstances are factors that cannot reasonably anticipated or avoided in relation to the request for reasonable accommodations. [Indiscernible] is the acronym used for reasonable accommodation coordinator.

Cleveland, just a question from Sarah. Those duties within their EPAP?

Essential functions -- [Low Volume]

To me, it would be a combination of primarily what is in the EPAP, because that is particularly by your performance is being evaluated off of in that rating cycle. It also would be a sense of function that is in that position description. I would not say either or, I would say yes to the EPAP, but also say in addition to [Indiscernible] listed in the position description. Even though

we don't perform all the duties, we need to make sure we cover that. Does that answer that question?

Reassignment is a form of reasonable accommodation that [Indiscernible] is provided to employees, not applicants. [Indiscernible] to no longer perform functions of their job with or without reasonable accommodations. [Indiscernible] of last resort. We will talk about that. You hear this term often: targeted disability, and you get different definitions, but the definition I'm about to give you is a definition based on the EEOC and the Department of Labor. They collaborate together to identify when we consider targeted disabilities. [Indiscernible] disability that have been defined as [Indiscernible]. They include the following: deafness, blindness, paralysis, compulsive disorders, mental retardation, mental illness and distortion of the liver and/or spine. It's recognized that some disabilities that are not on the targeted list are none the less severe and sometimes more so than those on the targeted list. Making the list, the EEOC and the Department of Labor looked at the representation within the federal government in all the categories as it relates the individuals to have these types of disabilities and identified these being the most underrepresented. That is how these [Indiscernible] as targeted disabilities, so we can increase and target these types of disabilities to increase our representation in the federal government.

Undue hardship – we hear that term a lot. I would ask that you be mindful when you think of undue hardship [Indiscernible] your particular workgroup. Your part and your reason. When the EEOC and the Department of Labor talks about undue hardship, they are talking about agency-wide. You may say I don't have the money in my budget, but when we're talking about undue hardship were talking about the budget of the entire National Park Service. Accommodation that involve difficulty [Indiscernible], this determination which must be made on a case-by-case basis and considers factors such as the nature and [Indiscernible] needed, the size of the budget of the organization and the impact of accommodation on an operation [Indiscernible]. I would encourage you to really work with your regional or local reasonable accommodation coordinator or labor relations.

Reach out and get advice and you can make a [Indiscernible] decision. Who can make a request for reasonable accommodation?

Everybody is typing their answers into the Chat Pod. We would like to remind those to have their phones on mute. We're hearing some background noise right now. Cleveland, we have Sarah she says the employee and so does Ginny. Those are the two responses we have so far.

That is fine. Thank you. Occasionally circumstances arrive with someone other than the individual per disability request for that person. This is perfectly acceptable; however, managers and supervisors must ask the individual with a disability if they want the accommodation. With the exception of when that individual has been incapacitated. Do not act without coordinating with that employee whenever appropriate. The employee must want that accommodation before the process begins. All those answers were correct but I would strongly encourage you to coordinate with the employee first before providing reasonable

accommodation. Initiating the request, once again, these are from the Department of [Indiscernible], reasonable accommodation procedures. The focus is on the interactive process, because the supervisor knows the mission and the job functions best. The employee knows their disability best, so they must work together to meet both of their needs. This also helps to preserve timeliness. If the accommodation is a recurring one, such as a need for sign language interpreters, a new RAM request is not needed every time. Just tell the person where you need an interpreter where and when. The actual process. Once again, reach out to your local point of contact to get more information regarding best. As I stated earlier, [Indiscernible] will follow me and give you additional information. Medical documentation, any medical information request must conform to the requirements to the Rehabilitation Act. All documentation must be kept confidential among the party working to fulfill the accommodation. [Indiscernible] cannot be kept in employees' personal files and must be housed separately. Remember this is privacy act information. It should be under lock and key.

More information on the review of medical documentation. Get the occupational health services involved will then [Indiscernible] the decision regarding the request and whether the employee or applicant has a covered disability without disclosing the details of medical conditions. Let me say that again, without disclosing the details of any medical condition. Documentation about the disability, approach limitations must come from the appropriate professional. For example a doctor, rehabilitation counselor or [Indiscernible]. Only the information that is relevant to making this decision about the specific reasonable accommodations may be requested. You can't ask for a person's complete medical file. [Indiscernible- multiple speakers]. What are some types of accommodations?

While they are answering that, can you explain the acronym CAP?

I have that on one of my slides coming up. That's Department of Defense Computer Assistance Electronic Program. They provide services to Department of Defense and 38 other agencies. Assistive technology accommodation of services to persons with disability at the Department of Defense and over 30 other federal agencies. [Indiscernible] you don't have to remember it; we have two more slides and it will be up there for you.

Some examples of accommodation: therapy dog coming to work with the employee and alternate work schedule. Any other ideas everybody out there? More people are typing. Alternate work location. Telework agreement. All great answers.

As it relates to restructuring jobs, a job may be modified for a person with disability can perform those essential functions of a position. It's first necessary to identify those tasks that may be difficult for individual to accomplish because of a disability. [Indiscernible] should then be analyzed by identifying those with specifically making it difficult for a person with disability to accomplish effectively. [Indiscernible] [Indiscernible- multiple speakers]. Eliminating nonessential elements, delegating assignments, exchanging assignments with another employee, redesigning procedures or reassignment to another position. Adjusting work schedule for example people need rest periods or the disabilities are affected by eating or

sleeping schedules may benefit from flexible or adjusted work schedules. Other beneficiaries may include people with mobility impairment who find it difficult to use public transportation during peak hours. Effective use of flexible work schedules can lead to productive and meaningful employment for these individuals and excellent results for the organization. That is leave [Indiscernible] sick leave, annual leave or leave without pay. Managers and supervisors should be aware of agency policies on excused [Indiscernible] leave. Modifying worksite changes may be needed in the worksite area where the employee has disabilities. This may include accessibility to and around the work area, restrooms and other facilities used by the employees. Adjustments may be as simple as moving materials to a lower drawer of a cabinet.

Some other types of accommodations are specialized equipment. There are many devices that make it possible for people with disabilities to accomplish certain tasks that they might not otherwise be able to do. They may also increase productivity and efficiency of their work output. Devices can include DVD, telecommunication devices, electronic visual aid, magnifiers, telephone amplifiers, calculators, or speakerphone. Equipment cannot be of a personal nature such as eyeglasses or wheelchairs, and must be directly related to the performance of the job. Readers who are blind may require a service of the reading performance [Indiscernible]. A variety of options are available and should be determined on a case-by-case basis. Sign language interpreters, people who are hearing impaired have very [Indiscernible] needs of communicating. For example, American Sign Language is beneficial for coworkers and the supervisor to learn basic sign language so communication with the employee can be direct and one-to-one. However, they may not be adequately sufficient to interpret staff meetings, presentations, telephone calls and other situations. Personal care assistants, some people with severe disabilities may require personal care assistance on a full-time, part-time or into minute basis. These individuals may require assistance with specific tasks such as getting from one building to another or travel on official business and obtaining research. We just covered various types of accommodations.

The acronym that was in the previous slide was CAP, and here is the slide that explains what CAP is. Thank you for bringing that up to my attention so I will correct that if I make sure I spell it out with my next presentation. Once again, CAP is a DOD program that provides services to persons with disabilities, and, in addition to DOD, they have agreement with 38 other federal agencies at no cost. They provide a wide variety of assistance technology for people with hearing, visual, cognitive and communications disabilities.

We spoke about reassignment. Remember, reassignment is a combination of last resort that must be considered. This is one of the most controversial and misunderstood [Indiscernible] of all of the accommodations. If all other [Indiscernible]. That's why we call it accommodation of last resort. More about the reassignment process. I'm just going to give you the information. This area, once again, you will be finding yourself involved with this type of accommodation and I encourage you to work with your local experts. The employee must be qualified and there is no requirement for the agency to train the employee for new positions other than training [Indiscernible] to that position. The law does not require positions to be created. They cannot [Indiscernible] promotion. The main caveat about reassignment: there are no

guarantees. Once again, work with your local matter experts to see if this is a [Indiscernible]. The general counsel for the national relation [Indiscernible] are stated that [Indiscernible] does not affect terms and conditions of employment. For instance [Indiscernible] providing [Indiscernible]. An employee does not have to negotiate with the new union. The union, however, must be part of the process in determining a reasonable accommodation for the accommodation [Indiscernible] materials are significant and working conditions.

Contract employees. Consideration for contract employees regarding reasonable accommodations. What are some things we have to look at? What does the contracts say about who is responsible? If it says nothing, then the responsibility of the contract is to provide reasonable accommodations. NPS is responsible for all times for access to the building and to the workplace. Let's go into reasonable accommodations. Once again, work with your subject matter experts. Some of the things must include [Indiscernible] once again work with your subject matter experts regarding reasonable reassignment or [Indiscernible]. Let's move into some examples and see how much you already know or you remember from what we just discussed.

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

With multiple attendees typing at the chat pod. Folks are saying maybe. Yes, with a doctor's note. Yes, it's an opening for discussion. You can change your schedule. Yes, with documentation.

Thank you for those answers. The answer is yes. What are some of the possible accommodations and issues that can come up with implementing this employs reasonable accommodation request? You need to coordinate with the union, but the answer is yes.

Let's move to the next example. I only have five examples. Then I will transition [Indiscernible]. Mr. [Indiscernible] employee tells the supervisor "I need six weeks off to get treatment for a back problem." Is this a request for accommodation?

Someone says it's a request. I would agree. What are some of the possible accommodations and issues that can come up with implementing this employee's reasonable accommodation request?

We have a couple people typing. Someone to cover their work. May need to shift work load to another team member.

Okay. Some other things are if the person has enough leave, and, if so, if they're just asking to use it or asking for advanced sick leave or sickness with leave donation. This is why it's so important interact with the employee making the request. To mention some examples of the

used on the phone, they may not even know what their options are the management does that's why the interactive process is important. Thank you for your responses. Moving along.

A new employee who uses a wheelchair informs their employer that his or her wheelchair cannot go under the desk in his or her office. I'm going to save you guys time [Indiscernible]

They all responded yes.

Awesome group. Moving to the next one.

An employee tells his or her supervisor that they would like a new chair because the present one is uncomfortable. Is this a request or accommodation?

We have people typing. Maybe. Becky and Jenny said yes. Then we have others typing. Most are agreement that yes, this is a request and others are saying maybe. Jeffrey says need more info.

Thank you. Although this is a request for a change at work, this statement is insufficient to the employment [Indiscernible] notice that the employment is requesting reasonable accommodation. The employee does not link their need for the new chair with a medical condition. Management should ask after employee to specify what they mean and they may be trying to request accommodation of some kind. What if by uncomfortable that employee means the right arm goes to sleep all the time. This would be indicative that the employee needs to seek medical attention to rule out a neurological problem. It would also be indicative that management needs to request an ergonomic evaluation on this employee and their workstation.

If the employee turns out to have a cervical [Indiscernible] problem, then [Indiscernible]. The answer is need more information. Thank you for your responses.

Second to the last example. An employee's spouse phones the employee supervisor on Monday morning to inform them that the employee had a medical emergency due to multiple sclerosis, needed to be hospitalized and requires time off. Is this a request for reasonable accommodation?

Folks are saying yes. They are correct. Remember, we talked about how other people can make a reasonable accommodation request for the employee. This is one of those times. A family member is certainly able to make this request. What is unknown here is how much time off will be needed. This cannot be determined at this time. You may need to work through the spouse to see how to utilize available leave. Can the supervisor establish direct contact with the employee to deal with these things because they should not making these decisions without input from the employee if at all possible? If not, you'll have to work the spouse.



Our last example, and the employee has been out of work for six months with a workers compensation injury. One of the employee's doctors sends the employee a letter stating the employees released to return to work but with certain work restrictions. Is this a request for reasonable accommodation?

Most folks are saying yes. Most folks would be correct. The agency should first confirm at the employee that the doctor's note was sent with the employee's [Indiscernible]. If so, the management will need to engage with the employee. Figuring out what accommodation needs to be made to allow the employee to fulfill the essential functions of the job. This concludes my portion of the presentation to ensure that Dave has all his time. I will remain on the phone. If you can hold your questions until after Dave presents because he may address or may not. I want to sure I gave him time to cover his [Indiscernible].

I am with you. I'm always with you Cleveland. [laughter].

Dave you will need to share on the drop-down menu.

Right. Okay.

What we are going to demonstrate will be a recording system and a tracking system that we have almost completed developing for reasonable accommodation requests. It's primarily for supervisors and also for anybody who is involved on the management side of doing reasonable accommodations requests, subject matter experts or whoever to enter information about requesting or receiving. It will serve two purposes: one would be to track things to make sure we meet timeframe in terms of responses, and that we are responding, and it goes back and forth in terms of interacting dialogue with someone who request a reasonable accommodation. The second thing would be to compile data so [Indiscernible] on our success in terms of reasonable accommodation. How we are doing in the agency as responding to reasonable accommodation request. The SharePoint site would be rolled out probably in April. It's almost completed.

I'm sorry, this is Katrina. Do you want to share that site with folks? You should be able to see something that says share my screen. If you want to bring that up you can do that.

I think it's connecting.

Okay, that is fine. It's pretty standard for AdobeConnect. The ad in is something your system can use to view PowerPoint features, especially with animations and things like that.

Anyway, I'll continue describing it. A lot of interesting things on my end but I don't know if I can describe them.

It looks like it's starting to come up so we will give it another few seconds. Are you located in [Indiscernible] or Main Interior?

On I Street.

We see your window screen. Okay there we go. That looked like an email there for a second.

It's showing the wrong screen I can't get the thing to come up. When you share your screen you should have an option to share desktop or application. If you select application it should give you an option. There is your desktop; you can actually pull it up that way I believe. We see you're signing into a Google account. Now we see your website. Great job.

The suspense I'm sure was building [laughter]. This is a SharePoint site if your supervisor you can enter data from here, and if you're working with somebody as a supervisor on a reasonable accommodation request they can enter data. I suppose an employee can enter data, too. It's primarily for supervisors to enter data as they receive a request.

The opening screen is sort of an introductory thing and describes reasonable accommodation requests and the second part of the screen provides reasonable accommodations that Cleveland has been talking about. You want to enter data quick on the reasonable accommodation request. It will go to a series of field so you can fill in. It has the date and you will find an ID number. You put in your region and then it will create a drop-down menu for all the parks within the region. Enter the person's series and grade.

The applicant part is mainly for staffing specialist. Enter the candidate's name, contact number, email, supervisor's name, supervisor phone number, email and we create all this stuff for a couple of purposes. One is that it has tracking and contact information, but also to create communication devices. At the end of entering all the data, this system will send a message and email to the applicant and to the employee and two points of contact based upon your region and your Park for your office and to somebody who can help you, who can consult with you on the reasonable accommodation request. Generally, that will be somebody in the human resource office in your servicing HR office or the regional office. It will send out an email that says to the applicant or employee that the request has been received and we will send out a message to the coordinator and to the supervisor that talks about things you have to meet in terms of responding to the request.

I will just put a typical request and accommodation. It goes to the privacy statement so everybody involved understands what the privacy and confidentiality aspects of the program are. It reminds you and put you on notice also so you have a confidentiality requirement within this program.

We have a question from the chat. Will the system send out reminder notices to make sure the agency meets required deadlines? Yes, it give a 10 day requirement in terms of responding to the request or 20 day requirement. If you get closer to that, it will send you a reminder. If I filled everything out here correctly [Indiscernible] I hit the button. I guess it did not require the phone number.

I was just going to ask you if those were all required fields.

Some of them are not as required as other requirements. If you don't put in what the employee's name is or email or the reason for the request or what the request is, it will get back to you and tell you to fill that stuff out.

Thank you.

It's a relatively simple to use SharePoint site, and I think we understand that we are adding one more thing into the supervisor portfolio. It's the best way to come up with track requesting that comment you might not recognize as a reasonable accommodation request, and hopefully this is a pretty simple way to take things in that you deal with as a part of everyday life. Some of the ones were ones people were using in the example file. Stuff about employees who need six weeks off for medical conditions to get treatment. I think most of the time, we just work that out and we approve the request and follow through on those things that we do, and doing what we do to help that person out in terms of whatever their medical condition is. We still follow the [Indiscernible] process without thinking about it or thinking it's a reasonable accommodation request. As you go through this class and as you learn about the reasonable accommodation process, hopefully you will be able to use this site to enter the data and we can track everything that is part of [Indiscernible].

This has been very helpful. Specifically, I'm interested in that SharePoint site. We have a few more minutes left in the session. Are there any questions out there in the chat box. Mac, do you have any questions out there for either Cleveland or Dave? If you can take those into the chat that would be great.

Dave, do you have any idea how long it would be before the site is live?

I don't have an IT specialist on my staff, but we have somebody from Alaska who developed the site and it's going to be back with me the first two weeks in April. I would be optimistic that we were going to have it live by the end of April. [Indiscernible] start putting out notices that it exists and to use it.

Great.

I don't see any other questions do you?

I don't see anybody typing, so this will conclude this particular session. We want to thank Cleveland and Dave for their time and effort. It's about 12:30 PM Eastern time and the next class will begin at 1:30 Eastern time, and we will be covering hiring authorities. Thank you, Dave and Cleveland for your time. Thank you all of you we will see you back here in about an hour.

Yes at lunchtime. [laughter].

Thank you. Take care.