



Equal Employment Opportunity

Proactive solutions to workplace issues!



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USPACFLT EEO **Hawaii**

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(808) 471-0241

ADR Intake line:

(808) 471-0241

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EEO Services

- Alternative Dispute Resolution (ADR)
- Customized training/workshops
- Advice and guidance with establishing and maintaining a Model EEO program
- Support development, execution and reporting of affirmative employment objectives
- EEO discrimination complaint processing
- Reasonable Accommodation (RA) request processing

For more info about EEO programs go to:

<https://www.cpf.navy.mil/employees/equal-employment-opportunity/>

Equal Employment Opportunity (EEO) Discrimination Complaints

Legally Protected EEO Bases:

If you are a federal employee or job applicant, the law protects you from discrimination because of your:

- Race
- Color
- Religion
- Sex
- National origin
- Age* (40 or older)
- Disability (mental or physical)
- Genetic information (genetic tests, family medical history)

Federal Anti-Discrimination Laws:

- Title VII of the Civil Rights Act of 1964
- Pregnancy Discrimination Act
- Equal Pay Act of 1963
- Age Discrimination in Employment Act
- Rehabilitation Act of 1973
- Genetic Information Nondiscrimination Act of 2008

Retaliation is also prohibited. The law also protects you from retaliation if you oppose employment discrimination, file a complaint of discrimination, or participate in the EEO complaint process (even if the complaint is not yours).

If you are a federal employee or job applicant and you believe that a federal agency has discriminated against you, you have the right to file a complaint.

How to File a Complaint:

The first step is to contact an EEO Counselor at the agency where you work or where you applied for a job.

To reach an EEO Counselor contact:

USPACFLT EEO Office Hawaii
(808) 471-0241

You must contact an EEO Counselor within 45 calendar days from the date the discrimination occurred or from the date you became aware of the discriminatory action.

***Age-based complaints:** A person alleging age-based discrimination may contact an EEO Counselor to initiate the administrative complaint process OR s/he may bypass that process and file a civil action directly in U.S. District Court after providing the EEOC with a written notice of intent to sue under the ADEA.

PACFLT EEO Program Info: <https://www.cpf.navy.mil/employees/equal-employment-opportunity/>

Department of the Navy EEO Program Info: <https://www.secnnav.navy.mil/mra/eo/Pages/default.aspx>

Workplace Dispute?

Consider

Alternative Dispute Resolution

The Department of the Navy (DON)'s Alternative Dispute Resolution (ADR) Program provides Navy and Marine Corps employees and management alternatives to formal administrative procedures and litigation.

What is ADR?

ADR is a process used for individuals or groups in conflict. It involves a third-party neutral who will guide participants towards open communication and resolution.

What types of workplace disputes can be addressed through ADR?

- EEO complaints
- Grievances
- Non-EEO workplace conflict

Forms of ADR. Two forms of ADR are generally used in PACFLT:

- **Mediation** is a process in which a neutral person facilitates discussions between two or more individuals to help them arrive at a resolution of the dispute.
- **Group facilitation** is a process that incorporates aspects of mediation, such as using a neutral third party to help groups in conflict work through differences. This form of ADR is often used in situations in which personnel are not working as a team.

Potential outcomes of ADR:

- Streamline processes;
- Increase likelihood of accelerated resolution;
- Improve working relationships;
- Mend uncomfortable working environments; and
- Save time and money for all parties.

To learn more or request ADR, call
(808) 471-0241



Understanding Reasonable Accommodation



A reasonable accommodation (RA) is any change in the work environment, or the way things are customarily done that enables an individual with a disability to apply for a job, perform the essential functions of a job, or enjoy equal access to the benefits and privileges of employment.

The RA Process At-A-Glance

- 1** Requestor, or someone on requestor's behalf, makes RA request known.
- 2** Request is documented, and interactive process begins. Supporting medical documentation may be required.*

*Timeframes are tolled while awaiting medical documentation

- 3** Management Official meets with RA POC to review the request.
- 4** Management Official decides to approve or deny request, issues written decision, and implements accommodation within 45 calendar days.**

**Additional interactions / steps may cause completion times to exceed 45 calendar days.



APPROVED

Provide requestor written decision of approved accommodation or provide option for reassignment.***

***Reassignment is not available for applicants.

or

DENIED

Provide requestor written decision of denial, to include the reason for denial and appeal rights.

How to Request RA?

Employees can submit their RA request to management or the RA POC. Applicants can submit to the Human Resources (HR) Office or the Hiring Manager.

<u>Management</u>	Ensure employees are aware of the RA process.	Requests do not require any key words or the term "reasonable accommodation." Acknowledge the request and notify the RA POC immediately.	Respond to RA requests within specified timeframes.	Participate in the interactive process to determine the need for accommodation.	Only ask for relevant medical documentation and keep information confidential.
<u>Requestor</u>	Ask for RA as soon as you have a need.	Make RA needs known to management or RA POC. You will be asked to complete a form to confirm your request.	Provide requested information within specified timeframes.	Participate in the interactive process to describe the request on how it relates to your employment.	Provide relevant requested medical documentation in specific times.

What Happens After RA is Initiated?

The interactive process includes discussions between management and the requestor to help determine RA needs and management's obligation and ability to meet those needs.

The requestor may be asked about the nature of the condition, any limitations, and accommodation options.

These discussions help determine whether additional medical documentation is necessary; establish information about the essential functions of the position and how they can be performed; and determine the appropriate accommodation.

What is Considered Reasonable?

An RA is one that seems reasonable and would not impose an undue hardship on the Department of Navy (DON).

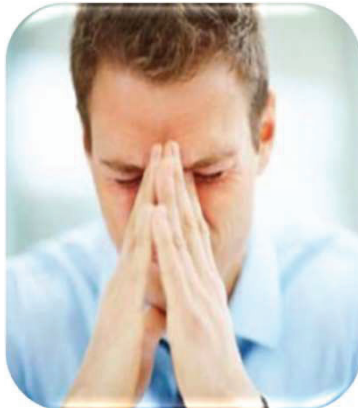


What is Considered a Disability Within the RA Process?

A disability is a physical or mental impairment (physical, mental, or psychological condition) that substantially limits one or more of a major life activity.

The RA process is also available for temporary medical conditions.

Is Medical Documentation Required?



It may be required in order to explain the nature of the condition (if not obvious), need for RA, and how the accommodation will assist in applying for a job, performing essential functions of a job, or enjoying benefits and privileges of employment. Management may need to request additional or clarifying medical information.*

***All medical documentation will be kept confidential. The information is available only to those with a "need to know."**

Examples of Reasonable Accommodations

- Modifications to interviews or application processes
- Job restructuring (Also applies to applicants):
 - Modifying when or how an essential function is performed
 - Reassigning marginal job functions
- Acquiring or modifying equipment, devices, or software
- Modifications to policies
- Sign language interpreters
- Parking
- Telework
- Modification to work schedule
- Changes to presentation of tests and training materials
- Reassignment (Accommodation of last resort)

Workplace Accessibility



If you wish to report an accessibility issue related to electronic and information technology, or related to the physical accessibility of facilities, please contact doneeo.fct@navy.mil and provide your contact information, the organization with which you are employed, and a description of the specific accessibility concern. You may also file a Section 508 complaint regarding IT and electronic information through the DOD at this website:

<http://dodcio.defense.gov/DoDSection508/Section-508-Form>.



USPACFLT RA Office

Email: CPF-RA@us.navy.mil; **Phone Line:** (808) 471-5099

USPACFLT SharePoint Site for Customers:

<https://intelshare.intelink.gov/sites/USPACFLT/EEO/SitePages/Programs.aspx?AreaID=disability>

USPACFLT Public Portal: <https://www.cpf.navy.mil/About-Us/Organization/Total-Fleet-Force-Manpower-Personnel/Equal-Employment-Opportunity-Program/Find-Your-EEO-Office/>

Department of Navy (DON) IT Facilities Accessibility Policy:

<https://www.secnav.navy.mil/mra/eo/Pages/Accessibility-of-IT-and-Facilities.aspx>

DON RA Information:

<https://www.secnav.navy.mil/mra/eo/Pages/Discrimination-Policy-and-Reasonable-Accommodation.aspx>

ABA building accessibility complaints can be filed through the United States Access Board: <https://www.access-board.gov/enforcement/>

EEOC – What You Should Know About Workplace Religious Accommodation:

<https://www.eeoc.gov/laws/guidance/what-you-should-know-workplace-religious-accommodation>



Understanding Personal Assistance Services



Federal agencies are required to provide personal assistance services (PAS), in addition to reasonable accommodation (RA), to employees who have severe/targeted disabilities, so they can perform Activities of Daily Living (ADLs), in the workplace or to attend work related activities.* ADLs are tasks such as putting on clothes, eating, using the restroom, driving, etc. Employees can make a request either verbally or in writing to Management or to the RA point of contact (POC).

*As required by 29 Code of Federal Regulations (C.F.R.) § 1614.203(d)(5), a regulation implementing Section 501 of the Rehabilitation Act of 1973, as amended.

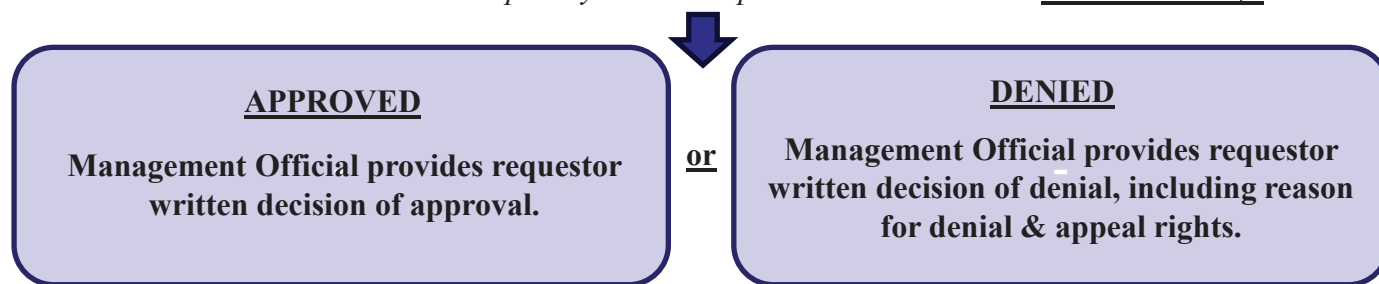
The PAS Process At-A-Glance

- 1 Requestor, or someone on requestor's behalf, makes PAS request known to management.
- 2 Request is documented, and interactive process begins. Supporting medical documentation may be required.*

**Timeframes are tolled while awaiting medical documentation.*

- 3 Management Official meets with RA POC to review request.
- 4 Management Official decides to approve or deny request, and issues written decision within 30 calendar days.**

***Additional interactions/steps may cause completion times to exceed 30 calendar days.*



How to Request and Respond to a Request for PAS

Employees can submit their PAS request to management or an RA POC.

<u>Management</u>	Ensure employees are aware of the availability of PAS.	Requests do not require any key words or the term "PAS." Acknowledge the request and notify the RA POC immediately.	Respond to the PAS request within specified timeframes.	Participate in the interactive process to determine the specific need for PAS.	Only ask for relevant medical documentation and keep information confidential.
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<u>Employee</u>	Ask for PAS as soon as you have a need.	Make PAS needs known to management or RA POC. You will be asked to complete a form to confirm your request.	Provide requested information within specified timeframes.	Participate in the interactive process to determine the specific need for PAS.	Provide requested medical documentation in specified times.
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What Happens After a PAS Request is Initiated?

The interactive process includes discussions between management and the employee to help determine the specific PAS needs and management's obligation and ability to meet those needs. The employee may be asked about the nature of their condition, any limitations, and possible accommodation options.

What is Considered a Targeted Disability?

Office of Personnel Management's Standard Form 256 (SF256), "Self-Identification of Disability," identifies the following as targeted disabilities:

- Developmental Disability, for example, Autism Spectrum Disorder;
- Traumatic Brain Injury;
- Deaf or serious difficulty hearing, benefitting from, for example, American Sign Language, CART, hearing aids, a cochlear implant and/or other supports;
- Blind or serious difficulty seeing even when wearing glasses;
- Missing extremities (arm, leg, hand and/or foot);
- Significant mobility impairment, benefitting from the utilization of a wheelchair, scooter, walker, leg brace(s) and/or other supports;
- Partial or complete paralysis;
- Epilepsy or other seizure disorders;
- Intellectual disability;
- Significant Psychiatric Disorder, for example, bipolar disorder, schizophrenia, PTSD, or major depression;
- Dwarfism;
- Significant disfigurement, for example, disfigurements caused by burns, wounds, accidents, or congenital disorders.



Is Medical Documentation Required?

Medical documentation may be required to explain the nature of the condition (if not obvious), the specific needs for PAS, and how PAS will assist the employee to perform ADLs in the workplace or to attend work related activities. **Management may need to request additional or clarifying medical information.***

*All medical documentation will be kept confidential. The information is available only to those with a “need to know.”

What Qualifies an Individual for PAS?

1. The individual is a DON employee;
2. The employee has a targeted disability;
3. The employee requires PAS because of their targeted disability;
4. The employee will be able to perform the essential functions of their position, without posing a direct threat to safety, once PAS and any required RA have been provided;
5. Providing PAS would not pose an undue hardship on the Agency.

PAS Examples

PAS can be provided by a Federal Employee assigned to perform PAS duties or by a Contractor. Travel support can be performed by a family member. The Agency may cover the PAS provider's travel costs for a family member.

Examples of PAS duties include:

- Toileting support ranging from the following:
 - Supporting an individual from their wheelchair, cane, or walker to a toilet seat and back;
 - Support and cleaning with the use of a bed pan;
 - Support and cleaning with the use of a diaper.
- Support during official travel:
 - Toileting, dressing / changing, eating, bathing, getting in and out of bed, during flights and at airports, driving, carrying luggage, maneuvering wheelchair, during training / conferences.
- Support during telework, if the individual is entitled to telework under the organization’s telework policy or as an RA.
- Retrieving materials out of reach.

Department of the Navy (DON) Notice – No FEAR Act

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," which is now known as the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Pub. L. 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Pub. L. 107-74, Title I, General Provisions, Section 101(1).

The Act also requires that DON inform current employees, former employees and applicants for employment, of the rights and protections available under Federal antidiscrimination, whistleblower protection and retaliation laws.

Anti-Discrimination Laws

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b) (1), 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791 and 42 U.S.C. 2000e-16.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with your agency. See, e.g., 29 CFR 1614.

If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 days of the alleged discriminatory action.

If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through your agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive order to be kept secret in the

Department of the Navy (DON) Notice – No FEAR Act

interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036-4505 or online through the OSC website: osc.gov.

Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protections laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

For further information regarding the No FEAR Act regulations, refer to 5 CFR 724, as well as the Human Resources Office servicing your location. Additional information regarding Federal anti-discrimination, whistleblower protection and retaliation laws can be found on the EEOC website: www.eeoc.gov and the OSC website: osc.gov.

Reports

Notification and Federal Employee Anti-Discrimination and Retaliation (NO FEAR ACT of 2002) required agency reports are posted here:

<https://www.secnave.navy.mil/donhr/Site/Pages/No-Fear-Act.aspx>