

ALARACT 096/2016

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SUBJ/ALARACT 096/2016 - PROCESSING RELIGIOUS ACCOMMODATION REQUESTS REQUIRING A WAIVER TO ARMY UNIFORM OR GROOMING POLICIES

THIS ALARACT MESSAGE HAS BEEN TRANSMITTED BY JSP ON BEHALF OF HQDA//DEPUTY CHIEF OF STAFF (DCS) G-1//

1. REFERENCES.

1.A. TITLE 42, UNITED STATES CODE, SECTION 2000BB-1-4 (RELIGIOUS FREEDOM RESTORATION ACT).

1.B. TITLE 10, UNITED STATES CODE, SECTION 774 (RELIGIOUS APPAREL: WEARING WHILE IN UNIFORM).

1.C. DEPARTMENT OF DEFENSE (DOD) INSTRUCTION 1300.17 (ACCOMMODATION OF RELIGIOUS PRACTICES WITHIN THE MILITARY SERVICES), FEBRUARY 10, 2009, INCORPORATING CHANGE 1, EFFECTIVE JANUARY 22, 2014.

1.D. ARMY DIRECTIVE 2016-34 (PROCESSING RELIGIOUS ACCOMMODATION REQUESTS REQUIRING A WAIVER TO ARMY UNIFORM OR GROOMING POLICIES), 6 OCTOBER 2016.

1.E. ARMY REGULATION (AR) 600-20 (ARMY COMMAND POLICY), 6 NOVEMBER 2014.

1.F. AR 670-1 (WEAR AND APPEARANCE OF ARMY UNIFORMS AND INSIGNIA), 10 APRIL 2015.

1.G. RELIGIOUS FREEDOM RESTORATION ACT OF 1993, PUB. L. NO. 103-141, 107 STAT. 1488.

1.H. DEPARTMENT OF DEFENSE (DOD) INSTRUCTION 1300.17 (ACCOMMODATION OF RELIGIOUS PRACTICES WITHIN THE MILITARY SERVICES), FEBRUARY 10, 2009, INCORPORATING CHANGE 1, EFFECTIVE JANUARY 22, 2014

1.I. ARMY REGULATION (AR) 600-20 (ARMY COMMAND POLICY), 6 NOVEMBER 2014

1.J. AR 670-1 (WEAR AND APPEARANCE OF ARMY UNIFORMS AND INSIGNIA), 10 APRIL 2015

2. PURPOSE. ARMY DIRECTIVE (AD) 2016-34 REVISES PROCEDURES FOR PROCESSING AND TRACKING REQUESTS FOR RELIGIOUS ACCOMMODATIONS THAT REQUIRE A WAIVER OF AR 670-1 FOR THE WEAR AND APPEARANCE OF THE UNIFORM OR PERSONAL GROOMING. ALL OTHER REQUESTS FOR RELIGIOUS ACCOMMODATION, INCLUDING MEDICAL CARE, WORSHIP PRACTICES, DIETARY REQUIREMENTS, AND UNIFORM AND GROOMING PRACTICES NOT REQUIRING A WAIVER OF AR 670-1 AND ANY OTHER REQUESTS WILL CONTINUE TO BE PROCESSED IN ACCORDANCE WITH AR 600-20, PARAGRAPH 5-6.

3. GUIDING PRINCIPLES.

3.A. COMMANDERS ARE EXPECTED TO ACT PROMPTLY ON ALL REQUESTS FOR RELIGIOUS ACCOMMODATION. COMMANDERS ARE RESPONSIBLE FOR THE OVERALL READINESS OF THEIR COMMANDS. COMMANDERS ARE ALSO RESPONSIBLE FOR THE COLLECTIVE MORALE AND WELFARE AND GOOD ORDER AND DISCIPLINE OF THEIR UNITS, COMMAND CLIMATE, AND FOR ENSURING THAT ALL MEMBERS OF THEIR COMMANDS ARE TREATED WITH DIGNITY AND RESPECT.

3.B. THE ARMY PLACES A HIGH VALUE ON THE RIGHTS OF ITS SOLDIERS TO OBSERVE THE TENETS OF THEIR RESPECTIVE RELIGIONS OR TO OBSERVE NO RELIGION AT ALL. THE ARMY WILL APPROVE REQUESTS FOR ACCOMMODATION OF RELIGIOUS PRACTICES, UNLESS ACCOMMODATION WILL ADVERSELY AFFECT MILITARY NECESSITY, INCLUDING UNIT READINESS, INDIVIDUAL READINESS, UNIT COHESION, GOOD ORDER, DISCIPLINE, HEALTH, AND/OR SAFETY FOR SOLDIERS AND UNITS.

4. IN ACCORDANCE WITH FEDERAL LAW AND DOD POLICY IN REFERENCES A, B, C, D, E AND F:

4.A. THE ARMY WILL ALLOW INDIVIDUALS INTENDING TO ENTER SERVICE TO SUBMIT A PRE-ACCESSION REQUEST FOR RELIGIOUS ACCOMMODATION WAIVER TO AR 670-1 AND RECEIVE A DECISION BEFORE ENTRY.

4.A.1. FOR THE PURPOSES OF ARMY DIRECTIVE 2016-34, "PRE-ACCESSION REQUEST" IS DEFINED AS A REQUEST BEFORE ANY OF THE FOLLOWING OCCUR: CONTRACTING FOR ENLISTMENT, CONTRACTING IN A SENIOR RESERVE OFFICERS' TRAINING CORPS PROGRAM, ACCEPTING APPOINTMENT TO THE UNITED STATES MILITARY ACADEMY, OR ACCEPTING APPOINTMENT THROUGH DIRECT COMMISSION.

4.A.2. WITHIN 60 DAYS OF THE RELEASE OF ARMY DIRECTIVE 2016-34, ACCESSION AGENCIES AND COMMANDS WILL PUBLISH AND IMPLEMENT PROCEDURES FOR PRE-ACCESSION REQUESTS BY WHICH OTHERWISE QUALIFIED APPLICANTS MAY SUBMIT A REQUEST FOR A RELIGIOUS ACCOMMODATION WAIVER AND RECEIVE A DECISION ON THE REQUEST BEFORE CONTRACTING OR ACCEPTING APPOINTMENT. APPLICANTS MUST COMPLETE ALL PROCESSING AND BE OTHERWISE ELIGIBLE FOR CONTRACTING OR APPOINTMENT, INCLUDING MEETING ALL TESTING AND MEDICAL REQUIREMENTS, BEFORE THEY SUBMIT A REQUEST FOR A RELIGIOUS ACCOMMODATION.

4.B. THE ARMY IS COMMITTED TO ENSURING THAT ALL SOLDIERS HAVE THE OPPORTUNITY TO SERVE IN OCCUPATIONAL SPECIALTIES THEY ARE QUALIFIED FOR. A RELIGIOUS ACCOMMODATION WILL NOT AFFECT A SOLDIER'S ASSIGNMENT OF MILITARY OCCUPATIONAL SPECIALTY (MOS), DUTY LOCATION, OR ATTENDANCE AT A MILITARY SCHOOL, UNLESS AN EVIDENCE-BASED DETERMINATION IS MADE THAT THE ACCOMMODATION IS INCOMPATIBLE WITH THE SAFE AND EFFECTIVE EXECUTION OF ALL REQUIRED DUTIES. THE ARMY IS CURRENTLY STUDYING THE POTENTIAL IMPACTS OF COMMONLY REQUESTED RELIGIOUS ACCOMMODATIONS ON THE EFFECTIVENESS OF PERSONAL PROTECTIVE EQUIPMENT AND MOS-SPECIFIC TASKS. BASED ON PRELIMINARY TESTING RESULTS, NO LATER THAN 1 DECEMBER 2016, THE DEPUTY CHIEF OF STAFF (DCS), G-1 WILL PUBLISH A LIST OF ANTICIPATED FAITH PRACTICES FOR WHICH AN ACCOMMODATION MAY BE FEASIBLE AND THE CORRESPONDING OCCUPATIONAL SPECIALTIES FOR WHICH NO FURTHER TESTING IS REQUIRED TO IDENTIFY RESTRICTIONS.

4.C. REQUESTS FOR RELIGIOUS ACCOMMODATION THAT REQUIRE A WAIVER OF AR 670-1 FOR WEAR AND APPEARANCE OF THE UNIFORM OR PERSONAL GROOMING MAY ONLY BE APPROVED OR

DISAPPROVED BY THE SECRETARY OF THE ARMY (SECARMY) OR DESIGNEES. THE DCS, G-1 MUST RECEIVE COMPLETE REQUEST PACKETS, INCLUDING ALL DOCUMENTATION REQUIRED IN PARAGRAPH 5C OF ARMY DIRECTIVE 2016-34, WITHIN 30 CALENDAR DAYS OF INITIAL SUBMISSION FOR PRE-ACCESSION REQUESTS AND ACTIVE ARMY REQUESTS AND WITHIN 60 CALENDAR DAYS OF INITIAL SUBMISSION FOR ARMY NATIONAL GUARD AND ARMY RESERVE REQUESTS. ONLY THE DCS, G-1 OR DESIGNEE MAY GRANT A REQUEST FOR AN EXTENSION OF THESE TIMELINES.

5. PROCEDURES:

5.A. ALL REQUESTS MUST BE IN WRITING AND MUST EXPLAIN THE TYPE OF ACCOMMODATION REQUESTED AND THE RELIGIOUS BASIS FOR THE REQUEST. OTHER DOCUMENTATION, SUCH AS PHOTOGRAPHS OF THE REQUESTED ACCOMMODATION OR LETTERS FROM A RELIGIOUS LEADER, IS OPTIONAL BUT MAY ASSIST COMMANDERS EVALUATING THE REQUEST.

5.B. COMMANDERS RECEIVING AN INITIAL ACCOMMODATION REQUEST REQUIRING A WAIVER OF AR 670-1 WILL IMMEDIATELY NOTIFY THE OFFICE OF THE DCS, G-1, COMMAND POLICY DIVISION AT USARMY.PENTAGON.HQDA-DCS-G-1.MBX.COMMAND-POLICY@MAIL.MIL. NOTIFICATION WILL INCLUDE THE REQUESTOR'S NAME, RANK (IF APPLICABLE), UNIT, MOS (OR PROSPECTIVE MOS IF KNOWN), AND A COPY OF THE REQUEST DOCUMENTS.

5.C. A COMPLETE RELIGIOUS ACCOMMODATION WAIVER PACKET WILL CONSIST OF THE INDIVIDUAL'S WRITTEN REQUEST AND ANY ENCLOSURES, CHAPLAIN INTERVIEW MEMORANDUM, LEGAL REVIEW, AND RECOMMENDATIONS FROM THE CHAIN OF COMMAND.

5.C.1. THE COMMANDER WILL ARRANGE AN IN-PERSON OR TELEPHONIC INTERVIEW BETWEEN THE REQUESTOR AND THE ASSIGNED UNIT CHAPLAIN OR OTHER CHAPLAIN DETERMINED BY THE SENIOR CHAPLAIN PRESENT. THE CHAPLAIN MUST PROVIDE A MEMORANDUM STATING THAT THIS INTERVIEW OCCURRED AND ADDRESSING THE RELIGIOUS BASIS AND SINCERITY OF THE SOLDIER'S REQUEST. THE CHAPLAIN IS NOT REQUIRED TO RECOMMEND APPROVAL OR DISAPPROVAL, BUT MAY DO SO. MEMORANDUMS FROM OTHER CHAPLAINS OR RELIGIOUS LEADERS MAY ACCOMPANY THE REQUEST AS OPTIONAL ATTACHMENTS, BUT DO NOT MEET THE REQUIREMENT FOR INTERVIEW BY THE ASSIGNED UNIT CHAPLAIN OR ONE DETERMINED BY THE SENIOR CHAPLAIN PRESENT.

5.C.2. A LEGAL ADVISOR WILL REVIEW THE REQUEST PACKET FOR LEGAL SUFFICIENCY AND MAY MAKE A RECOMMENDATION FOR DISPOSITION OF THE REQUEST. THE REVIEW WILL ALSO STATE WHETHER THE REQUEST AND ENCLOSURES ARE COMPLETE WITHIN THE PROVISIONS OF THIS DIRECTIVE. A LEGAL REVIEW IS REQUIRED ONLY AT THE GENERAL COURT-MARTIAL CONVENING AUTHORITY (GCMCA) LEVEL.

5.C.3. SPECIFIC CHAIN OF COMMAND ROUTING FOR PRE-ACCESSION REQUESTS WILL BE SET BY EACH ACCESSION AGENCY AND COMMAND.

5.C.4. REQUESTS FROM SOLDIERS OR ENROLLED CADETS WILL BE SUBMITTED TO THE REQUESTOR'S IMMEDIATE COMMANDER. EACH COMMANDER, THROUGH THE GCMCA, WILL MAKE RECOMMENDATIONS AS TO WHETHER THE REQUEST FOR A RELIGIOUS ACCOMMODATION WAIVER SHOULD BE APPROVED OR DENIED, BUT THEY WILL NOT APPROVE OR DENY THE REQUEST. THE GCMCA WILL FORWARD THE REQUEST WITH RECOMMENDATIONS DIRECTLY TO THE DCS, G-1 AND PROVIDE CONCURRENT NOTIFICATION THROUGH COMMAND CHANNELS. SENIOR COMMANDERS MAY PROVIDE

CONCURRING COMMENTS OR OBJECTIONS TO THE DCS, G-1, IF DESIRED, BUT ADDITIONAL PROCESSING TIME WILL NOT BE PROVIDED. THE REQUESTOR MUST CONTINUE TO COMPLY WITH AR 670-1 UNTIL THE WAIVER REQUEST IS APPROVED.

5.C.5. REQUESTS FROM SOLDIERS OR ENROLLED CADETS WILL BE SUBMITTED TO THE REQUESTOR'S IMMEDIATE COMMANDER. EACH COMMANDER THROUGH THE GENERAL COURT-MARTIAL CONVENING AUTHORITY (GCMCA) WILL MAKE RECOMMENDATIONS AS TO WHETHER THE RELIGIOUS ACCOMMODATION WAIVER REQUEST SHOULD BE APPROVED OR DENIED, BUT THEY WILL NOT APPROVE OR DENY THE REQUEST. THE GCMCA WILL FORWARD THE REQUEST WITH RECOMMENDATIONS DIRECTLY TO THE DCS, G-1, AND PROVIDE CONCURRENT NOTIFICATION THROUGH COMMAND CHANNELS. SENIOR COMMANDERS MAY PROVIDE CONCURRING COMMENTS OR OBJECTIONS TO THE DCS, G-1, IF DESIRED, BUT ADDITIONAL PROCESSING TIME WILL NOT BE PROVIDED. THE REQUESTOR MUST CONTINUE TO COMPLY WITH AR 670-1 UNTIL THE RELIGIOUS ACCOMMODATION REQUEST IS APPROVED.

6. TRACKING AND DURATION OF ACCOMMODATIONS:

6.A. UPON A DECISION BY THE SECARMY OR DESIGNEE, A COPY OF THE WAIVER REQUEST AND DECISION DOCUMENTS WILL BE ADDED TO THE ADMINISTRATIVE FOLDER OF THE REQUESTOR'S ARMY MILITARY HUMAN RESOURCE RECORD (AMHRR). FOR INDIVIDUALS WITHOUT AN ESTABLISHED AMHRR, THE OFFICE OF THE DCS, G-1 WILL MAINTAIN COPIES AND THE UNIT PERSONNEL FILE UNTIL UPLOAD TO THE AMHRR IS POSSIBLE.

6.B. THE DCS, G-1 WILL DEVELOP PROCEDURES TO TRACK APPROVED RELIGIOUS ACCOMMODATION WAIVERS TO ENSURE THAT INDIVIDUALS AND COMMANDERS ARE NOTIFIED OF ANY CHANGES IN EQUIPMENT OR POLICIES WHICH MAY AFFECT ACCOMMODATIONS.

6.C. SUBJECT TO THE RESERVATIONS CONTAINED IN THE WAIVER DECISION DOCUMENT, ALL APPROVED RELIGIOUS ACCOMMODATION WAIVERS WILL CONTINUE THROUGHOUT THE INDIVIDUAL'S CAREER. ONLY THE SECARMY OR DESIGNEE MAY TEMPORARILY OR PERMANENTLY WITHDRAW OR LIMIT AN APPROVED ACCOMMODATION BASED ON MILITARY NECESSITY. IF THE SOLDIER'S GCMCA BELIEVES A MODIFICATION MAY BE NECESSARY, THE GCMCA MUST EXPEDITIOUSLY FORWARD THE RECOMMENDATION TO THE DCS, G-1, COMMAND POLICY DIVISION AT USARMY.PENTAGON.HQDA-DCS-G-1.MBX.COMMAND-POLICY@MAIL.MIL. THE GCMCA'S RECOMMENDATION SHOULD CLEARLY IDENTIFY THE BASIS AND PROVIDE ANY RECOMMENDED START AND END DATES FOR THE PROPOSED MODIFICATION.

6.D. SUBMISSION OF A NEW REQUEST FOR ACCOMMODATION IS NOT REQUIRED UNLESS: (1) THE SOLDIER HAS A BREAK IN SERVICE LONGER THAN 365 DAYS OCCURS; OR (2) THE SOLDIER REQUESTS MODIFICATION OF A PREVIOUSLY APPROVED WAIVER.

7. SOLDIERS WHO HAD A REQUEST FOR RELIGIOUS ACCOMMODATION WAIVER DISAPPROVED BEFORE THE EFFECTIVE DATE OF THIS MESSAGE MAY SUBMIT A NEW REQUEST. OTHERWISE, THE PROVISIONS OF AR 600-20, PARAGRAPH 5-6I(12), WHICH LIMITS RECONSIDERATION OF DISAPPROVALS, REMAIN IN EFFECT.

8. THE OFFICE OF THE CHIEF OF CHAPLAINS WILL DEVELOP TRAINING THAT INCORPORATES THE CHANGES TO POLICY AND PROCESSES REQUIRED BY ARMY DIRECTIVE 2016-34. THE CHAPLAIN CORPS

WILL PROVIDE THE TRAINING TO LEADERS AT EVERY LEVEL THAT PROCESS REQUESTS FOR RELIGIOUS ACCOMMODATION, AND UNITS THAT LEAD SOLDIERS WHO RECEIVE APPROVED RELIGIOUS ACCOMMODATION REQUESTS

9. THE DCS, G-1, IN COORDINATION WITH ASSISTANT SECRETARY OF THE ARMY (MANPOWER AND RESERVE AFFAIRS), WILL ENSURE THE PROVISIONS OF ARMY DIRECTIVE 2016-34 ARE INCORPORATED INTO THE NEXT REVISION OF AR 600-20.

10. POINTS OF CONTACT. FOR QUESTIONS REGARDING RELIGIOUS ACCOMMODATION REQUESTS REQUIRING A WAIVER TO ARMY UNIFORM OR GROOMING POLICY, COMMANDERS OR THEIR DESIGNATED REPRESENTATIVES SHOULD CONTACT THE DCS, G-1, COMMAND POLICY DIVISION, AT USARMY.PENTAGON.HQDA-DCS-G-1.MBX.COMMAND-POLICY@MAIL.MIL.

11. EXPIRATION DATE OF THIS MESSAGE IS 31 JULY 2017.