

## **Davis School District Policy and Procedures**

**Subject: 11IR-102 Provision of Reasonable Workplace Accommodation to Qualified Individuals with Disabilities**

**Index: Individual Rights and Responsibilities**

**Revised: November 21, 2017**

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### **1. PURPOSE AND PHILOSOPHY**

Title I of the Americans with Disabilities Act generally prohibits discrimination with respect to the terms and conditions of employment against a qualified individual with a disability, solely by reason of such individual's disability. In compliance with this Act, the Davis School District (District) has established the following procedure to be followed by site administrators and supervisors in responding to requests for reasonable accommodation from qualified applicants or employees with disabilities.

### **2. MONITORING RESPONSIBILITY**

The District Americans with Disabilities Act Coordinator (hereafter "ADA Coordinator"), as identified in District Policy 11IR-100 Nondiscrimination and Complaint Procedure, will monitor and coordinate the application of this procedure.

### **3. PROCEDURES**

#### **3.1. Request for Accommodation**

3.1.1. Using the "Section 504/Americans with Disabilities Act Request for Accommodation" form, the individual requesting accommodation must file a written request for reasonable accommodation with the District ADA Coordinator and may include documentation of the condition alleged to be a disability.

3.1.2. At no time prior to contacting the District ADA Coordinator should the site administrator/direct supervisor agree to a specific accommodation or make a financial commitment to the individual.

#### **3.2. Determination of Eligible Disability**

3.2.1. Upon receiving the request for accommodation, the ADA Coordinator shall promptly send the individual a letter acknowledging receipt of the request, and an explanation of the procedure regarding requests for accommodation.

3.2.2. If adequate documentation is not provided, or if additional documentation is required the ADA Coordinator may request that the individual complete and return a "Release of Medical Information" form.

3.2.3. The acknowledgement of receipt shall also inform the individual it is the policy of the District to prohibit all coercion, intimidation, and retaliation against an individual for exercising his or her rights under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act and that the individual has the right to be free from such harassment.

3.2.4. Within ten (10) working days of the receipt of all pertinent medical documentation, the ADA Coordinator shall do one of the following:

[a] determine the requesting individual has an eligible disability and proceed

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to work with the individual in identifying a reasonable accommodation as outlined in Section 3.3;

- [b] determine the requesting individual does not have an eligible disability and is therefore not entitled to a reasonable accommodation, document such finding in writing, and send a copy of the determination, together with supporting evidence, and rights to appeal to the requesting individual; or
- [c] notify the requesting individual that further review of the information is necessary and promptly convene the Disability Rights Committee ("DRC") to review the request for accommodation as outlined in Section 4.

### 3.3. Determination of Reasonable Accommodation

If the ADA Coordinator or the DRC determines the requesting individual is a qualified individual with a disability and is therefore entitled to a reasonable accommodation, the ADA Coordinator or the DRC will convene an informal, interactive meeting with the requesting individual to discuss possible reasonable accommodations. This meeting may include other District officials and association representatives as appropriate and allowed by law. During this meeting, as well as at all other phases of this procedure, the focus shall be on what the requesting individual feels is a reasonable accommodation.

- 3.3.1. Many accommodations can be accomplished on site with no need for structural changes and for minimal cost. In conjunction with the site administrator, the ADA Coordinator shall make all reasonable efforts to meet the request for accommodation at the site level.
- 3.3.2. If the requested accommodation involves expenditures that must be approved by the District's established budget approval process, the DRC will forward its written decision to the superintendency for consideration at its next scheduled meeting, before issuing any final determination to the requesting individual.
- 3.3.3. After the informal accommodation conference is conducted, the ADA Coordinator shall document in writing the outcome of the conference and any accommodation agreement that is reached by the parties.
  - [a] Copies of the accommodation agreement shall be made available to all school personnel who have responsibility for implementing the accommodation plan.
  - [b] Information regarding the medical condition or history of an individual requesting accommodation shall be kept in locked, confidential files separate from Human Resource Department personnel files and may be disclosed only to the following people:
    - (i) supervisors, managers, and school personnel who need to know the necessary restrictions on the work or duties of the individual and necessary accommodations;
    - (ii) first aid and safety personnel, when appropriate, if the disability might require emergency treatment; and
    - (iii) government officials investigating the District's compliance with the Americans with Disabilities Act or Section 504 of the Rehabilitation Act.

- 3.3.4. Requests for accommodation that are deemed by the ADA Coordinator or the DRC to present an undue hardship for the District in that they involve "significant difficulty or expense" shall be documented in writing by the ADA Coordinator. Such documentation, a copy of which shall be provided to the requesting individual, shall include all factors considered by the ADA Coordinator and the DRC in denying the requested accommodation as an undue hardship.
- 3.3.5. No denial of a request for reasonable accommodation shall be made, and no requesting individual shall be informed of such denial, until the ADA Coordinator has discussed the proposed denial with a representative from the Utah State Office of Risk Management and, where appropriate, the school district attorney. All conversations and meetings between the ADA Coordinator and either Risk Management or the school district attorney shall be documented in writing by the ADA Coordinator.
- 3.3.6. The ADA Coordinator shall inform the Superintendent of Schools in writing of each denial of requested accommodations and the reasons for the denial.

#### **4. DISABILITY RIGHTS COMMITTEE**

If the ADA Coordinator determines that there is a legitimate question as to either the individual's disability status or the reasonableness of the requested accommodation, the ADA Coordinator shall convene the Disability Rights Committee (DRC) to review the request for accommodation.

- 4.1. This committee shall be composed of:
  - 4.1.1. the ADA Coordinator;
  - 4.1.2. a representative from Plant Operations/Facilities, as appropriate;
  - 4.1.3. a representative from Human Resources, as appropriate;
  - 4.1.4. a health care professional, as needed
  - 4.1.5. risk manager; and
  - 4.1.6. legal specialist.
- 4.2. In addition to receiving input from the requesting individual, the Committee may, depending on the nature of the requested accommodation, receive input from the following:
  - 4.2.1. a School Director;
  - 4.2.2. the site administrator;
  - 4.2.3. a representative from the District's Augmentative Team;
  - 4.2.4. a representative from Information Technology;
  - 4.2.5. an individual with a related disability (where possible);
  - 4.2.6. the Business Administrator
  - 4.2.7. a professional association/labor union.
- 4.3. All meetings and discussions of the committee shall be strictly confidential. The ADA Coordinator shall instruct all Committee participants that any discussion of the matter before the Committee outside of Committee proceedings will not be tolerated.
- 4.4. Within five (5) working days after the DRC meets, the DRC will issue a written decision regarding the individual's request, which will be forwarded to the requesting individual by

the ADA Coordinator in compliance with the provisions of this policy.

4.5. The DRC's decisions shall be binding based on a simple majority vote.

## **5. APPEAL PROCESS**

Individuals who are dissatisfied with the decision of the ADA Coordinator and/or DRC may request reconsideration of the decision by the Superintendent, in writing, within ten (10) working days of receipt of the decision.

### **5.1. Appeal Meeting**

Within ten (10) business days after receipt of the appeal, the Superintendent or his/her designee will meet with the Complainant to discuss the complaint and possible resolutions.

### **5.2. Final Response**

Within fifteen (15) calendar days after the meeting, the Superintendent or his/her designee will respond in writing, and, where appropriate, in a format accessible to the Complainant, with a final resolution of the complaint. This final response shall serve as the final administrative action in the matter.

### **5.3. Extension of Time**

Any time limits established by this policy and these procedures may be extended for good cause by mutual consent of the parties involved.

## **6. OTHER AVENUES OF REDRESS**

The appeal process of this policy does not preclude a Complainant from seeking alternative forms of redress. At any time, an individual has the right to file a complaint with state and federal agencies in charge of enforcing the Americans with Disabilities Act. These agencies may be reached at the following addresses and phone numbers:

Utah Antidiscrimination and Labor Divisions (UALD)  
160 East 300 South, 3<sup>rd</sup> Floor  
PO Box 146630  
Salt Lake City, Utah 84111  
Phone: (800) 222-1238 or (801) 530-6801  
TDD: (801) 530-7685  
discrimination@utah.gov

U.S. Equal Employment Opportunity Commission (EEOC)  
3300 N Central Avenue, Suite 690  
Phoenix, Arizona 85012-9688  
Phone: (800) 669-4000  
TTY: (800) 669-6820  
[Online filing](#)

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**DEFINITIONS**

**"Disability"** means, with respect to an individual. A physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such an impairment; or being regarded as having such an impairment. The definition of disability in this policy shall be construed in favor of broad coverage of individuals, to the maximum extent permitted by the terms of 42 U.S.C. § 12131 et seq., Americans with Disabilities Act.

**"Essential functions"** means those job duties that are so fundamental to the position that the individual cannot do the job without being able to perform them. A function can be "essential" if, among other things, the position exists specifically to perform that function, there are a limited number of other employees who could perform the function if it were assigned to them, or the function is specialized and the incumbent is hired based on his/her ability to perform it.

**"Physical or mental impairment"** means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine; or any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

**"Major Life Activities"** are those basic activities, including major bodily functions that most people in the general population can perform with little or no difficulty. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

**"Substantially limits"** means an individual is unable to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict the individual from performing a major life activity in order to be considered a disability. The determination of whether an impairment substantially limits a major life activity should be made without regard to the ameliorative effects of mitigating measures.

**"Qualified individual with a disability"** means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

**"Reasonable accommodation"** means a change in the work environment or in the way things are customarily done that would enable an individual with a disability to enjoy equal employment opportunities. There are three categories of reasonable accommodations: 1) modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or 2) modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or 3) modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities. Reasonable accommodation may include but is not limited to: making existing facilities readily accessible to, and usable by individuals with disabilities; job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

**"Undue hardship"** means, with respect to the provision of an accommodation, significant difficulty or expense incurred by the Davis School District.

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**REFERENCES**

Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 et seq., Americans with Disabilities Act, CFR 28 § 35.140 - Employment discrimination prohibited  
Americans with Disabilities Act, CFR 29 § 1630.1 et seq. - Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act

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**FORMS AND OTHER LINKS**

[Americans with Disabilities Act Request for Accommodation Form](#)

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**DOCUMENT HISTORY:**

**Adopted: August 1, 1995**

**Revised: August 15, 2000** – Small change in grievance procedure.

**Revised: August 23, 2010** - Updates in definitions to comply with federal law.

**Revised: March 6, 2012** – Revised complaint procedure to make all complaint procedures standardized throughout District policy. Reformatted policy without substantive changes.

**Revised: November 21, 2017** - Five-year review. Non substantive changes.