

Personnel – Certified/Non-Certified

Nondiscrimination on the Basis of Disabilities

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990, the Board of Education (Board) does not discriminate against qualified individuals with disabilities in the District's services, programs or activities.

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990, the Board does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the Equal Employment Opportunity Commission under Title I of the Americans with Disabilities Act.

Definitions

Person with a Disability: An individual who (1) has a mental or physical impairment which substantially limits one or more major life activities such as, but not limited to, caring for one's self; performing manual tasks walking, seeing, hearing, eating, sleeping, standing, sitting, reaching, lifting, bending, reading, concentrating, thinking, communicating, interacting with others, speaking, breathing, learning or working; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

Mental or Physical Impairments: Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. They also cover any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or physical illness, and specific learning disabilities.

Major Life Activities: Major life activities include, but are not limited to, (1) caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communication, interacting with others, and working; *(whether an activity is a "major life activity" is not determined by reference to whether it is of "central importance to daily life.")* and (ii) the operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

Substantially Limits: This term shall be construed broadly in favor of expansive coverage to the maximum extent permitted by the ADA. It is not meant to be a demanding standard. Consistent with the Amendments to the ADA (ADAAA), "rules of construction" are to be used when determining if an individual is substantially limited in performing a major life activity.

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Definitions (continued)

Has a Record of Such an Impairment: In general, this term means if an individual has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities. This shall be construed broadly and not demand extensive analysis. An individual with a record of a substantially limiting impairment may be entitled, absent undue hardship to the district, to a reasonable accommodation if needed and related to the past disability.

Determination of Disability Requiring Accommodation

“Rules of construction” are to be used when determining if an individual is substantially limited in performing a major life activity. These rules include the following:

1. The impairment substantially limits the ability of an individual to perform a major life activity, as compared to most people in the general population. It need not prevent or severely or significantly limit a major life activity. Not every impairment will constitute a disability.
2. The term “substantially limits” should be construed broadly in favor of expansive coverage to the maximum extent permitted by the terms of the ADA.
3. The determination of whether an impairment substantially limits a major life activity requires an individual assessment, but should not demand/require extensive analysis.
4. Although determination of whether an impairment substantially limits a major life activity as compared to most people will not usually require scientific, medical or statistical evidence, such evidence may be used if appropriate.
5. An individual need not be substantially limited or have a record of a substantial limitation, in one major life activity to be covered under the first or second prong of the definition of “disability.”
6. An impairment that is episodic or in remission meets the definition of “disability” if it would substantially limit a major life activity when active. (Impairments that may be episodic include epilepsy, hypertension, asthma, diabetes, major depression disorder, bipolar disorder, and schizophrenia. Cancer that is in remission but that may possibly return in a substantially limiting form is also considered a disability.)

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Determination of Disability Requiring Accommodation (continued)

7. Mitigating measures, including but not limited to, medications, medical equipment and devices, prosthetic limbs, low vision devices, hearing aids, mobility devices, oxygen therapy equipment, use of assistive technology, reasonable accommodations, learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, and physical therapy, shall not be used in the determination of whether an impairment substantially limits a major life activity. (Eyeglasses and contact lenses shall, however, be considered.) The determination of disability must focus on whether the individual would be substantially limited in performing a major life activity without the mitigating standard.
8. An impairment that substantially limits one major life activity need not substantially limit other major life activities to be considered a substantially limiting impairment.
9. Impairments that last fewer than six months do not apply to the definition of “disability.” The effects of an impairment lasting or expected to last fewer than six months can be substantially limiting.

Medical Examinations

The school Board may make pre-employment inquiries into the ability of an applicant to perform job-related functions. Medical examinations may be required after an offer of employment has been extended to an applicant and before commencement of employment duties. Any information obtained from such medical examinations will be collected and maintained on separate forms and in separate medical files and will be treated with confidentiality.

An employee, who is not qualified to perform their duties or whose medical condition or disability poses a direct threat to the health or safety of individuals in the workplace, once properly established by medical evidence and after proper due process procedures, may be relieved of their duties or reassigned.

The Board of Education may lawfully refuse to assign a person having a communicable disease, which is transmittable through the handling of food, to such duty or position as specified in the Federal Register Food and Drug Administration Regulations of May, 1991.

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Privacy

The confidentiality of medical records of applicants or employees shall be strictly observed in accordance with the state and federal laws. Medical records shall be maintained separately from an applicant or employee personnel file. Such information may be released in limited circumstances:

- A. Upon signed release by the individual;
- B. To inform supervisor or administrator about any restriction or accommodation to accomplish work or duties of the employee;
- C. Emergency medical treatment;
- D. In compliance with state or federal law.

Connecticut General Statutes Section 19a-581 through 585, “Aids Testing and Medical Information,” provides that no person shall request HIV-related testing or disclose HIV-related information without written or oral informed consent of such individual.

Alternative Accommodations

The Supreme Court has recognized that individuals with contagious diseases will be considered as having a disability. Disabled employees who can no longer perform essential job functions are encouraged to advise their administrators of the nature of their disability, indicating which functions cannot be performed and suggest accommodations that would enable them to perform those functions. Accommodations will be considered if such accommodation does impose an undue hardship on the operation of the school system.

An employee is not qualified to perform his/her duties, whose medical condition or disability poses a direct threat to health or safety of individuals in the workplace, if it has been properly established by medical evidence and the employee has been afforded proper procedural due process safeguards.

Grievance Procedure

- A. In the event an employee believes that there has been discrimination on the basis of his/her disability, he or she shall mail or deliver to the ADA Coordinator/Superintendent of Schools a written statement setting out the alleged violations in specific terms, describing the incident or activity involved, the individuals involved and the dates, times, and locations involved.

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Grievance Procedure (continued)

- B. If the individual who files the written statement so requests, the ADA Coordinator/Superintendent of Schools shall provide that person with an opportunity to discuss the matter personally.
- C. The ADA Coordinator/Superintendent shall investigate the complaint and render a decision in writing within thirty (30) days.
- D. If the complainant is not satisfied with the decision of the ADA Coordinator/Superintendent of Schools, the complainant may appeal to the Board of Education within ten (10) days of receipt of the decision of the Superintendent.
- E. Such an appeal shall be filed in writing with the Superintendent of Schools in his capacity as the executive agent of the Board of Education.
- F. The Board of Education shall cause the complaint to be investigated and, if it deems necessary, conduct a hearing to gather additional information.
- G. The Board of Education shall render a decision on any such appeal, in writing, within twenty (20) days of its being filed, or if a hearing should be held, within twenty (20) days of the conclusion of such hearing.
- H. An appeal may be filed with the Office for Civil Rights, U.S. Department of Education, 8th Floor, 5 Post Office Square, Boston, MA (617-289-0111) OCR.Boston@ed.gov

(cf. 0521 – Nondiscrimination)

(cf. 4112.4/4212.4 - Health Examinations)

Legal Reference: Connecticut General Statutes
19-581 through 585 AIDS testing and medical information.
10-209 Records not to be public.
46a-60 Discriminatory employment practices prohibited.
Section 504 and the Federal Vocational Rehabilitation Act of 1973, 20
U.S.C. 706 (7)(b).
American Disability Act of 1989, as amended by the ADA Amendments Act
of 2008.
29 CFR, Part 1630, Regulations to Implement the Equal Employment
Provisions of the Americans with Disabilities Act, as amended, published in
the Federal Register, Vo. 76, No. 58, 3/25/11.
Chalk v. The United States District Court of Central California, 840F.2d701
(9th Cir. 1988).

Regulation approved: December 21, 2015 REGIONAL SCHOOL DISTRICT NO. 14
Bethlehem and Woodbury, Connecticut

Specific Impairments Considered to be Disabilities

As indicated in the implementing regulations to the ADA, the following impairments should be easily concluded to be disabilities:

Autism
Bipolar Disorder
Blindness
Cancer
Cerebral Palsy
Diabetes
Epilepsy
HIV Infection
Intellectual Disability
Major Depression Disorder
Multiple Sclerosis
Mobility impairment requiring use of a wheelchair
Muscular Dystrophy
Obsessive-Compulsive Disorder
Partially or completely missing limbs
Post-traumatic Stress Disorder
Schizophrenia

**SECTION 504/ADA
EMPLOYEE REQUEST FOR ACCOMMODATION**

1. Name of Employee: _____ Title/Position: _____

2. Eligibility Determination

Individuals considered eligible for protection from discrimination under Section 504/ADA are those who have a physical or mental impairment which substantially limits a major life activity; has a record of such impairment; or is regarded as having such an impairment.

A. Please describe your mental or physical disability:

B. Please describe the major life activity substantially limited by your disability:

C. Please describe how your disability affects your ability to perform essential job functions:

D. Please describe the specific accommodation(s) being requested:

E. Have you attached medical documentation to support your request? Yes No

F. If "no", please provide the name and contact information for your treating physician:

Name:

Address:

Telephone#:

3. **Authorization to Communicate with Medical Provider**

I hereby authorize my employer, the _____ District to obtain, and for the medical provider listed above, to release confidential protected health information to the Director of Pupil Personnel Services for the limited purpose of determining any work related restrictions and/or accommodations which may be necessary in order to fulfill the essential function of my employment responsibilities. Any information received by my employer pursuant to this authorization shall be subject to all applicable state and federal confidentiality laws governing further use and disclosure of such information.

Employee Signature

Date

**ONCE COMPLETED, THIS FORM, ALONG WITH SUPPORTING DOCUMENTATION
SHOULD BE FORWARDED TO THE DIRECTOR OF PUPIL PERSONNEL SERVICES.**