

G-12: Administrative Procedures

Americans with Disabilities Act



REFERENCES

[Board Policy G-12](#)

DEFINITIONS

Direct threat: A significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

Disability: A physical or mental impairment that substantially limits one or more major life activities of the individual; a record of such an impairment; or being regarded as having such an impairment. The term disability does not include:

- A. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
- B. Compulsive gambling, kleptomania, or pyromania; or
- C. Psychoactive substance use disorders resulting from current illegal use of drugs.

Essential functions of the job: Term refers to those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified.

Major life activities:** Term includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Physical or Mental Impairment: Term includes:

- A. 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.
- B. Any mental or psychological disorders, such as intellectual disability (formerly termed "mental retardation"), organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- C. Any contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

The term does not include homosexuality or bisexuality.

Qualified individual: An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

Reasonable accommodation:** Term includes any changes to the work environment and may include: making existing facilities readily accessible to and usable by individuals with disabilities; and job restructuring, part-time or modified work schedules, telecommuting, reassignment to a vacant position, acquisition or modification 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.

Record of Such Impairment: The phrase means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

Service animal: A dog that has been individually trained to do work or perform tasks for the benefit of a person with a disability; the task(s) performed by the dog must be directly related to the person's disability. "Do work or perform tasks" means that the dog must be trained to take a specific action when needed to assist the person with a disability. Examples of work or tasks include but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime-deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

Substantially limiting:** In accordance with the Americans with Disabilities Act Amendments Act final regulations, the determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder, and schizophrenia. An impairment, such as cancer that is in remission but that may possibly return in a substantially limiting form is also considered a disability. The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures.

Undue hardship: An action requiring significant difficulty or expense by the employer. In determining whether an accommodation would impose an undue hardship on the district, factors to be considered include:

- A. The nature and cost of the accommodation.
- B. The overall financial resources of the district or school involved in the provision of the reasonable accommodation, the number of persons employed at that site, the effect of expenses and resources, or the impact of such accommodation on the operation of the site.
- C. The overall financial resources of the district; the overall size of the district with respect to the number of employees; the number, type and location of the facilities.
- D. The type of operations of the district, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular site involved in making the accommodation to the employee.

**The examples provided in the above definitions are not meant to be all-inclusive and should not be construed as such. They are not the only conditions that are considered disabilities, impairments, or reasonable accommodations covered by the Americans with Disabilities Act/Americans with Disabilities Act Amendments Act.

PROCEDURES FOR IMPLEMENTATION

District employment actions including hiring, evaluation, promotion, training, and other conditions or privileges of employment will be based on the ability to perform the essential duties, functions, and responsibilities assigned to a particular position.

The district is an equal-opportunity employer.

The district's human resource services department (HRS) is responsible for implementing these procedures, including processing and resolving requests for reasonable accommodations.

I. Request for Reasonable Accommodation

- A. A request for reasonable accommodation is a statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment, for a reason related to a medical condition.
- B. Individuals with a disability may request a reasonable accommodation whenever they choose, even if they have not previously disclosed the existence of a disability. Any district employee or applicant may consult with HRS staff for further information or assistance in connection with requesting or processing a request for reasonable accommodation.

II. General Process for Hiring/Workplace Accommodation

- A. All requests for reasonable hiring or workplace accommodations should be presented to HRS at 440 East 100 South, or by phone at 801.578.8340. If the request is submitted to a site administrator or supervisor, it must be forwarded to HRS.
- B. A request may be made orally or in writing, and does not have to use any special words, such as "reasonable accommodation," "disability," or "Americans with Disabilities Act/ADA."
- C. HRS will process requests for accommodations in a reasonable manner.
 1. HRS personnel will respond to employee-generated ADA communications during each step of the process within ten (10) business days, unless there is a business necessity that interferes with that time frame.
- D. Upon notification of a request for an accommodation, the following will occur:
 1. HRS will send a packet of information that contains a request form, job description, doctor certification, a Health Insurance Portability and Accountability Act (HIPAA) waiver, and any other documents needed.
 2. HRS will then review the information provided and may request additional information if needed to make a decision.
 3. The request will be evaluated to determine if a reasonable accommodation can be made for the individual.
- E. The interactive process begins at the time the request for accommodation is made.
 1. The individual requesting an accommodation is required to fully participate in an interactive process to supply all relevant information pertaining to the request. Failure to participate will end the interactive process and may result in denial of the requested accommodation.
 2. All medical information pertaining to accommodation requests under the ADA will be kept confidential, stored in a file separate from the personnel file, and will be disclosed only as allowed by law.
- F. The district will engage in the interactive process to find a reasonable accommodation(s) for qualified individuals with a disability:
 1. when they are an applicant and need an accommodation in order to complete the application process, interview for the position, or be considered for a job;
 2. when they are an employee and need an accommodation in order to perform the essential functions of their job or to gain access to the workplace; or

3. when they are an employee and need an accommodation to enjoy equal benefits and privileges of employment.
- G. A reasonable accommodation will not be provided when doing so causes:
 1. an undue hardship to the district; or
 2. a direct threat to the health or safety of the requester or others in the workplace, and the threat cannot be eliminated by reasonable accommodation.
 - a. Current employees who pose a direct threat to the health and safety of themselves or other individuals in the workplace will be placed on appropriate leave until the district can make a lawful and reasonable decision in regard to continued employment.
- H. HRS will send written notification of the final decision, including the requester's right to appeal.
 1. If the requester is dissatisfied with HRS's decision, the decision may be appealed to the executive director of HRS, or his or her designee.
 2. If, after a review and decision by the executive director of HRS, the requester is still dissatisfied, s/he may request a hearing before an independent hearing officer.

III. Exclusions

An individual who is currently engaging in the illegal use of drugs is not an "individual with a disability" and is excluded from coverage under these procedures and the accompanying board policy. Therefore, an employee who illegally uses drugs is not protected by the ADA if the district takes action based on the illegal drug use.

IV. Requests under Section 504 and the ADA for Access and Accommodations by Parents/Community Members with Disabilities

- A. Parents, family members, or community members who require an accommodation to attend an event (i.e., parent-teacher conference, school performance, graduation, etc.) should contact the site administrator (e.g., school principal) to request an accommodation.
 1. The site administrator will verify:
 - a. that the individual has a disability preventing access in the current situation; and
 - b. that the person has a legitimate need for access.
 2. After verification of the two items listed above, the site administrator will make every effort to accommodate the reasonable requests of individuals with a disability.
 - a. If the solution requires assistive technology devices or an interpreter, the site administrator shall work with the appropriate district staff (e.g., information technology department, translation department, etc.) to arrange for the provision of such services.

V. Specific Procedures for Requesting to be Accompanied by a Service Animal

- A. The district acknowledges its obligation to permit individuals with disabilities to be accompanied by a "service animal" in its buildings, classrooms, and at district and school functions in accordance with the ADA and state law.
- B. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.
- C. The service animal must be:
 1. required because the individual has a disability; and
 2. individually trained to do work or perform tasks for the benefit of the individual with a disability.
- D. No wild animals (trained or untrained) will be permitted in the district as a "service animal." Except as specifically allowed under Section M below, a "service animal" may only be a dog.
- E. An emotional support, therapy, and/or comfort animal is not considered a service animal. Service animals in training are not considered service animals under the ADA; under the ADA, the dog must already be trained before it can be taken into public places.
- F. Due to the district's need to accommodate a variety of disabilities and conditions (which may include the competing needs of children and/or staff with dog allergies or fears), all requests for an individual with a disability to be accompanied by a service animal must be addressed in writing to Salt Lake City School District, 440 East 100 South, Salt Lake City, UT at least 10 business days prior to date on which the individual is seeking to be accompanied by the service animal.
- G. All non-student requests for an individual to be accompanied by a service animal shall be directed to HRS. Requests for students to be accompanied by a service animal must comply with all the requirements and shall be directed to the district's special education department. Such requests will be handled through the appropriate process outlined in Board Policy S-12: Equal Educational Opportunities for Students with Disabilities.
 1. All requests must include the following: (1) the individual's name, school/district location, and a description of the location or event at which the service animal is requested to be used; (2) an affirmation that the animal is required because of a disability; (3) a description of the work or tasks that the service

- animal has been trained to provide for the person with the disability; and (4) proof of required vaccinations (generally, Distemper, Hepatitis, Leptospirosis, Parainfluenza, Parvovirus, Coronavirus, Bordetella, and Rabies).
2. The appropriate department will send its decision via U.S. mail to the requester and will provide a copy to the school.
 3. Until approval is received, no animal will be permitted in the building, on the school campus, or at a school function.
- H. The service animal's owner assumes all liability for any harm or injury caused by the service animal to other students, staff, visitors, and/or property.
- I. To avoid confusion about whether an animal is a permitted service animal, a person accompanied by a service animal is requested and strongly encouraged to exhibit one of the following:
1. the animal's laminated identification card;
 2. the animal's service vest; or
 3. another form of identification sufficient to put others on notice that the animal is a service animal.
- J. All service animals must be housebroken and have a harness, leash, or other tether. The exception to this would be if either (a) the handler is unable to use a harness, leash, or other tether because of the disability, or (b) the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks. In such cases, the service animal must be otherwise effectively under the handler's control such as through the use of voice commands or hand signals.
- K. The district or the individual school is not responsible for providing a staff member to walk the service animal or to provide any care or assistance to the animal.
1. Individuals with service animals are expected to care for and supervise their animals.
- L. An administrator may ask an individual with a disability to remove a service animal from the building, classroom, or from a district or school function if any one of the following circumstances occurs:
1. the animal is out of control and the animal's handler does not take effective action to control the animal; or
 2. the animal's presence fundamentally alters the nature of the service, program, or activity.
- M. Special Provisions—Miniature Horses. Requests to permit a miniature horse to accompany an individual with a disability will be handled on a case-by-case basis, considering:
1. the type, size, and weight of the miniature horse and whether the facility can accommodate these features;
 2. whether the student or adult with the disability has sufficient control of the miniature horse;
 3. whether the miniature horse is housebroken; and
 4. whether the miniature horse's presence in the district building, classroom, or at a district or school function compromises legitimate safety requirements that are necessary for safe operations.
- N. In the event a service animal is removed, excluded, or otherwise prohibited, the individual with a disability shall be given the opportunity to participate in the service, program, or activity at issue without the accompaniment of the service animal.

VI. Training

All employees will receive biennial training on the Americans with Disabilities Act as part of the district's on-line training program. New employees must complete the on-line training module within 30 days of their hire.