REASONABLE ACCOMMODATION OF DISABILITIES

The San Bernardino County Superintendent of Schools (SBCSS) is committed to the fair and equal employment of people with disabilities. While many individuals with disabilities can work without accommodation, other qualified applicants and employees face barriers to employment without the accommodation process. It is the policy of SBCSS to reasonably accommodate qualified individuals with disabilities, unless doing so would impose an undue hardship. This applies to applicants, employees and employees seeking promotion.

The San Bernardino County Superintendent of Schools delegates the Coordinator (refer to Policy 4030) of efforts by SBCSS to comply with the Americans with Disabilities Act (ADA) and the California Fair and Employment and Housing Act (FEHA) to investigate any and all related complaints.

Definitions

Disability, with respect to an individual, is defined as any of the following:

1. A physical or mental impairment that limits one or more of the major life activities (irrespective of whether there are mitigating measures such as medications, assistive devices, prosthetics or reasonable accommodations, unless the mitigating measure itself limits a major life activity);
2. A record of such an impairment; or
3. Being regarded as having such an impairment.

Essential functions are the fundamental job duties of the position the individual with a disability holds or desires. The term does not include the marginal functions of the position.

Reasonable accommodation means:

1. For a qualified job applicant with a disability, modifications or adjustments to the job application process that enable him/her to be considered for the position he/she desires

2. For a qualified employee with a disability, modifications or adjustments to the work environment, or to the manner or circumstances under which the position the employee holds or desires is customarily performed, that enable him/her to perform the essential functions of that position or to enjoy equal benefits and privileges of employment as are enjoyed by similarly situated employees without disabilities who are employed by SBCSS.

Qualified individual with a disability means a job applicant or employee with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position he/she holds or desires and who, with or without reasonable accommodation, can perform the essential functions of such position without posing a significant

risk of substantial harm to himself/herself or others, which cannot be eliminated or reduced by reasonable accommodation.

Undue hardship is a determination based on an individualized assessment of current circumstances that shows that a specific reasonable accommodation would cause significant difficulty or expense. A determination of undue hardship should be based on several factors, including:

1. The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions and/or outside funding;

2. The overall financial resources of the facility making the reasonable accommodation, the number of persons employed at this facility, the effect on expenses and resources of the facility, or the impact on the operations of the facility;

3. The overall financial resources, size, number of employees, and the number, type and location of facilities of the district;

4. The type of operation of the district, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation; and

5. The impact of the accommodation on the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

Requests for Reasonable Accommodation

When requesting reasonable accommodation, the employee or his/her representative shall inform the employee's supervisor that he/she needs a change at work for a reason related to a medical condition. The supervisor shall inform the coordinator of the employee's request as soon as practicable.

When requesting reasonable accommodation during the hiring process, a job applicant shall inform the coordinator that he/she will need a reasonable accommodation for the process.

When the disability and/or the need for accommodation is not obvious, the coordinator may ask the employee to supply reasonable documentation about his/her disability. In requesting this documentation, the coordinator shall specify the types of information that are being sought about the individual's condition, the individual's functional limitations and the need for reasonable accommodation. The employee may be asked to sign a limited release allowing SBCSS to submit a list of specific questions to the health care or vocational professional.

If the documentation submitted by the employee does not indicate the existence of a qualifying disability or explain the need for reasonable accommodation, the coordinator shall request additional documentation that specifies the missing information. If the employee does not submit such additional documentation in a timely manner, the coordinator may require him/her to submit to an examination by a health care professional selected and paid for by SBCSS.

SBCSS may make a medical or psychological inquiry of a job applicant or require him/her to submit to a medical or psychological examination after he/she has been given a conditional offer of employment but before the commencement of his/her job duties, provided the inquiry or examination is job-related, consistent with business necessity, and required for all incoming employees in the same job classification.

In accordance with law, the coordinator shall take steps to ensure the confidentiality of information related to medical conditions or history. As applicable, he/she shall notify the supervisor or manager of the qualified individual of any reasonable accommodation granted the individual and may notify first aid and safety personnel when the disability of the qualified individual may require emergency treatment.

Upon receiving a request to reasonably accommodate a qualified employee with a disability, the coordinator shall:

1. Determine the essential functions of the job involved;

2. Engage in an informal, interactive process with the individual to review the request for accommodation, identify the precise limitations resulting from the disability, identify potential means for providing accommodation, and assess their effectiveness; and

3. Develop a plan for reasonable accommodation which will enable the individual to perform the essential functions of the job or to gain equal access to a benefit or privilege of employment without imposing undue hardship on SBCSS.

To qualify for a job, an individual shall not pose a significant risk of substantial harm to himself/herself or others in the workplace which cannot be eliminated or reduced by reasonable accommodation. I'he determination of whether an individual poses a significant risk of substantial harm to himself/herself or others shall be made on a case-by-case basis and shall be based on objective, factual evidence, taking into consideration the duration of the risks, the nature and severity of the potential harm, the likelihood that the potential harm will occur and the imminence of potential harm.

The coordinator may confer with the site administrator, any medical advisor chosen by SBCSS and/or other SBCSS staff before making a final decision as to the accommodation. While the preferences of the employee or applicant will be given consideration, the coordinator is free to choose among effective accommodations and select the one that is least expensive or easiest to provide.

Appeal Process

If the employee or applicant is not satisfied with the decision of the coordinator, he/she may appeal in writing to the Superintendent or designee. This appeal shall be made within 10 working days of receiving the decision and shall include:

1. A clear, concise statement of the reasons for the appeal

2. A statement of the specific remedy sought

The County Superintendent or designee shall consult with the administrative designee and review the appeal, together with any available supporting documents. The County Superintendent or designee shall give the employee or applicant his/her decision within 15 working days of receiving the appeal.

Any further appeal for reasonable accommodation shall be considered a complaint concerning discrimination in employment and may be taken to SBCSS in accordance with the procedure for such complaints.

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