

All Personnel

Reasonable Accommodation

Definitions

Disability, with respect to an individual, is defined as any of the following: (Government Code 12926; 29 CFR 1630.2)

1. A physical or mental impairment that limits one or more of the major life activities.
2. A record of such an impairment.
3. Being regarded as having such an impairment.

Limits shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics or reasonable accommodations, unless the mitigating measure itself limits a major life activity. (Government Code 12926)

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. (29 CFR 1630.2)

Reasonable accommodations what an employer may need to provide in connection with modifications to the work environment or adjustments in how and when a job is performed. (29 CFR 1630.2)

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 and who, with or without reasonable accommodation, can perform the essential functions of such position. (29 CFR 1630.2)

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,

Requests for Reasonable Accommodation

The District designates the position specified in BP 4030 - Nondiscrimination in Employment to coordinate its efforts to comply with the Americans with Disabilities Act (ADA) and to investigate any and all related complaints. (cf. 4030 - Nondiscrimination in Employment) (cf. 4031 - Complaints Concerning Discrimination in Employment)

When requesting reasonable accommodation, the employee or employee's representative shall inform the employee's supervisor that he/she needs a change at work for a reason related to a medical condition. All requests for reasonable accommodations are to be forwarded to the District Office.

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

Employees who request a reasonable accommodation will be required to sign a medical release allowing the District to communicate in writing with the employee's health care provider.

Upon receiving a request to reasonably accommodate a qualified individual with a disability, the District will:

1. Determine the essential functions of the job through a review of a job function analysis.
2. Engage in an interactive process with the employee to review the request for accommodation, identify the precise limitations resulting from the disability, identify potential means for providing accommodation, and assess their effectiveness to perform the essential functions of the job.

No accommodation shall impose undue hardship on the District.

No accommodation shall pose any risk of substantial harm to the employee or others in the workplace.

Appeal Process

If the employee or applicant is not satisfied with the decision of the District, he/she may appeal in writing to the Superintendent or designee. This appeal shall be made within ten (10) 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 Superintendent or designee shall give the employee his/her decision within fifteen (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 the Governing Board in accordance with the District's procedure for such complaints.

Legal Reference:

CIVIL CODE

51 Unruh Civil Rights Act

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

UNITED STATES CODE, TITLE 29

791-794e Vocational Rehabilitation Act

UNITED STATES CODE, TITLE 42

12101-12213 Americans With Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act, especially:

35.107 Designation of employee

36.101-36.608 Nondiscrimination on the basis of disability by public facilities

CODE OF FEDERAL REGULATIONS, TITLE 29

1630.2 Direct threat

COURT DECISIONS

Colmenares v. Braemar Country Club, Inc., 2003 Cal.LEXIS 1131

Echazabal v. Chevron USA., (9th Circuit, 2000) 226F.3d 1063

U.S. Airways, Inc. v Barnett, (2002) 535 U.S., 122 S.Ct. 1516