



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

TITLE: Reasonable Accommodation for Individuals with Disabilities

NUMBER: BUL-4569.0

ISSUER: David Holmquist, Chief Operating Officer

Roberta Fesler, General Counsel
Office of General Counsel

DATE: November 24, 2008

ROUTING

All Employees
All Locations

POLICY: The District is committed to providing equal employment and educational opportunities for individuals with disabilities and does not discriminate on the basis of a disability in its employment, programs or activities.

ALTERNATIVE FORMAT: As a reasonable accommodation, an alternative format of this Bulletin will be provided upon request. Please contact the Division of Risk Management and Insurance Services, Reasonable Accommodation Program for more information by calling (213) 241-1319.

MAJOR CHANGES: This Bulletin replaces Associate Superintendent, Human Resources, Bulletin S-6, dated August 15, 2001 (expired). This Bulletin reflects current state and federal requirements, provides guidance and current procedures for responding to employee/applicant requests for reasonable accommodation, and contains updated information regarding the related resources.

BACKGROUND: Federal and state laws and District policy provide that no individual shall be denied the right and opportunity to seek, obtain and hold employment, or be subjected to discrimination by reason of a disability. This is in accordance with Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act (ADA) of 1990, Fair Employment and Housing Act (FEHA), and applicable state laws.

An employee may have separate rights to protected leave under the Family and Medical Leave Act, California Family Rights Act, and/or bargaining unit agreements.



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GUIDELINES:

The reasonable accommodation process requires the cooperation of all involved to ensure that individuals with a disability are given the accommodations necessary to perform the essential functions of their job and receive the benefits and privileges of employment. State and federal statutes mandate that the employer engage the employee/applicant in an interactive process to determine effective reasonable accommodation any time the employee/applicant requests a reasonable accommodation, or if the disability is known and the employer becomes aware of a potential need for accommodation.

RELATED DEFINITIONS:

Direct Threat: A significant risk of substantial harm to the individual with a disability or others which cannot be eliminated or reduced to an acceptable level with reasonable accommodation. A determination of a direct threat to the individual with a disability or to others requires an individualized assessment based on objective, factual information. Factors to consider include, but are not limited to, the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the imminence of the potential harm. The mere possibility of harm or the existence of a disability may not necessarily rise to the level of a direct threat to the individual with a disability or to others.

Essential Job Functions: Job duties that are so fundamental to the position the individual holds or seeks as an applicant that he/she cannot do the job without performing 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; or the function is specialized and the individual is hired based on his/her ability to perform it.

Formal Reasonable Accommodation: A reasonable accommodation that has been granted to an individual with a disability by the District’s Reasonable Accommodation Program or the Reasonable Accommodation Appeals Committee.

Health & Safety of Disabled Individual or of Others: Under state law, it is a permissible defense for an employer to demonstrate that after reasonable accommodation the applicant/employee cannot perform the essential functions of the position in question in a manner which would not endanger his or her health or safety because the job imposes an imminent and substantial degree of risk to the applicant/employee, or the health and safety of others to a greater extent than if an individual without disability performed the job. However, it is not a defense to assert that an individual with a disability has a condition with a future risk, so long as the condition does not presently interfere with his or her ability to perform the job in a



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manner that will not immediately endanger the disabled individual or others, and the individual is able to safely perform the job over a reasonable length of time.

Individual with a Disability: An individual who has a physical or mental impairment that limits one or more life activities, a record of having such impairment, or is regarded as having such impairment.

Informal Reasonable Accommodation: An accommodation implemented at the local worksite or department after an interactive process between the site administrator/designee and the employee/applicant with a disability. The decision regarding an informal accommodation shall be documented by the site administrator/designee on Attachment A, Record of Interactive Process.

Interactive Process: A timely and good faith discussion, preferably in person, between an employee/applicant requesting an accommodation and the site administrator/designee in order to determine an effective accommodation. A timely, good faith interactive process is mandated by state and federal law and must occur whether or not the interactive process would result in an obligation to provide a reasonable accommodation.

Reasonable Accommodation: Any effective adjustment or modification made to accommodate the known physical or mental limitations of an employee/applicant with a disability, provided such accommodation does not impose an undue hardship on the District. Individuals with disabilities seeking employment with the District may request a reasonable accommodation during the application process.

Timeline: The reasonable accommodation process shall begin as soon as the request for accommodation is made to the site administrator/designee or the Reasonable Accommodation Program. In addition, the reasonable accommodation process shall begin if the disability is known and the potential need for accommodation to perform the essential job functions is obvious or apparent to the site administrator/designee.

Undue Hardship: An accommodation that would be unduly costly, disruptive, or *would* fundamentally alter the nature or operation of the District.

For further assistance or clarification regarding these definitions, refer to ASSISTANCE, page 10 of the Bulletin.



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MEDICAL RELATED INFORMATION - CONFIDENTIALITY REQUIREMENT:

All medical related information, including but not limited to medical correspondence, medical notes and physician's reports must be kept confidential. This means that all medical information shall be kept in files in a secure location and be separate from an individual's personnel file. Any site administrator/designee who obtains or receives medical information is bound by these confidentiality rules.

The disclosure of this information is allowed only in the following circumstances:

1. The Reasonable Accommodation Program staff shall be provided with medical documentation or information regarding a request for accommodation.
2. The site administrator/designee may be advised about restrictions to facilitate the application/appeal process.
3. First aid and safety personnel may be advised, when appropriate, if the disability might require emergency treatment.
4. Government officials investigating compliance with the Americans with Disabilities Act and the Fair Employment and Housing Act must be given relevant information upon a reasonable request and/or upon service of a subpoena.
5. The District may give information to the State Division of Workers' Compensation and the District's workers' compensation claims administrator, in accordance with applicable laws.
6. Those persons with a need to know within the confines of the District's policies and procedures.

NOTIFICATION POSTING:

The District's 3-part employer poster, which includes the required Department of Fair Employment and Housing notice, "Discrimination and Harassment in Employment are Prohibited By Law" (DFEH 162), and the required Equal Employment Opportunity Commission notice, "Equal Employment Opportunity is the Law," shall be displayed in a prominent location. "Prominent location" means a location where notices regarding rules, regulations, procedures and standards of conduct are posted.

Site Administrators can obtain additional copies of the poster from the



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Division of Risk Management and Insurance Services – FMLA Programs
Section by calling (213) 241-3079.

ACCOMMODATIONS OFF-SITE: Accommodations for employees attending meetings, participating in trainings, or working outside of their usual place of work:

Accommodations that are provided at an employee's usual worksite may need to be provided for off-site meetings/trainings or when working outside their usual place of work. The meeting/training organizer must ensure that District sponsored events are located at facilities that are accessible to employees with disabilities. When the facility is not able to provide a necessary accommodation, it is the responsibility of the meeting/training organizer or supervisor to arrange that accommodation.

The Reasonable Accommodation Program staff is available to provide assistance in arranging for accommodations. In order to provide timely assistance, the Reasonable Accommodation Program should be given adequate advance notice of the need for an accommodation.

REASONABLE ACCOMMODATION PROCESS:

The reasonable accommodation process shall begin as soon as the employee/applicant makes a request for accommodation to the site administrator/designee or the Reasonable Accommodation Program.

Pursuant to relevant regulations, the request does not need to be in writing nor does the employee/applicant have to use special words such as "reasonable accommodation" or "disability". A verbal request should be documented in writing by the employee/applicant or site administrator/designee. The site administrator/designee shall provide assistance to any employee/applicant who because of a disability cannot complete a written request. Alternately, the site administrator/designee may refer the individual to the Reasonable Accommodation Program for assistance in completing a written request.

Even in the absence of a verbal or written request, if the disability is known and the need for accommodation to perform the essential job functions is obvious or apparent, the site administrator/designee shall ask the individual with a disability if he/she perceives a need for accommodation. This must be done promptly and carefully in order to avoid an improper inquiry about an employee's/applicant's possible disability. The site administrator/designee shall consult with the Reasonable Accommodation Program staff if there are any questions regarding the propriety of an inquiry.



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INFORMAL PROCESS (INTERACTIVE PROCESS):

The site administrator/designee is expected to evaluate and implement accommodations that are reasonable and necessary. In general, the process for identifying a reasonable accommodation is as follows:

1. The site administrator/designee shall acknowledge and meet with the employee/applicant within a reasonable period of time upon the request for accommodation being made.
2. The site administrator/designee shall review and consider the particular job position involved and determine its purpose and actual essential job functions, including but not limited to, a review of the job duties, responsibilities, and class descriptions.
3. The site administrator/designee shall engage in an interactive process by meeting with the employee/applicant to determine his/her specific physical or mental abilities and limitations as they relate to essential job functions, identify the barriers to job performance and assess how these barriers could be overcome with reasonable accommodation. Medical confidentiality must be maintained at all times during and after the Interactive Process.
4. Unless the disability and the need for accommodation are obvious (for example, the employee/applicant is in a wheelchair and requests accessibility), the employee/applicant shall provide medical documentation to support his/her request for reasonable accommodation.

The District has the right to request additional medical information if the information submitted by the employee/applicant does not clearly explain the nature of the disability, the need for reasonable accommodation or does not clarify how the requested accommodation will assist the employee/applicant in the performance of the essential job functions.

The request for additional medical information must be specific to the disability for which the employee/applicant is requesting a reasonable accommodation and the functional limitations caused by the disability. A sufficient medical certification describes the nature, severity and duration of the limitation, the activities that the impairment limits, the extent to which the impairment limits the ability to perform job duties and substantiates why the requested accommodation is needed.



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5. In consultation with the individual, the site administrator/designee shall identify potential accommodations and assess how effective each would be in enabling the individual to perform essential job functions and enjoy the benefits and privileges of employment. The Reasonable Accommodation Program is available to provide assistance to all participants in the Interactive Process, as well as, throughout the reasonable accommodation process.
6. If there are several effective accommodations that would provide an equal employment opportunity, the site administrator/designee shall consider the preference of the individual with a disability and then select the accommodation that best serves the needs of the individual and local site. The accommodation need not be the most expensive or exactly what the employee/applicant requested, but the accommodation must be effective.
7. If the Interactive Process does not identify an appropriate accommodation, technical assistance is available from the Reasonable Accommodation Program.
8. The site administrator/designee shall record the results of the Interactive Process with the employee/applicant on Attachment A and forward a copy of the completed form to Division of Risk Management and Insurance Services, Reasonable Accommodation Program.
9. The site administrator/designee shall provide the employee/applicant with a copy of the completed Interactive Process (Attachment A).
10. If a reasonable accommodation cannot be made at the local site for any reason, the site administrator/designee shall inform the employee/applicant of the formal reasonable accommodation application procedure.

**FORMAL PROCESS
(APPLICATION FOR
REASONABLE
ACCOMMODATION):**

An employee/applicant may request an application from his/her site administrator/designee or by contacting the Reasonable Accommodation Program at (213) 241-1319.



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FORMAL EVALUATION PROCESS:

Upon receipt of the application materials from the employee/applicant or supervisor, the Reasonable Accommodation Program will, within ten (10) business days, issue the employee/applicant a written acknowledgement of receipt of the Application for Reasonable Accommodation.

The Reasonable Accommodation Program will determine whether the requested accommodation is reasonable based on the specific circumstances. If the information submitted by the employee/applicant is insufficient or if an independent confirmation is necessary, the Disability Coordinator may make a referral to the District Medical Director. The District reserves the right to obtain additional medical information, including an independent medical examination of the employee/applicant, which is job-related and consistent with business necessity as allowed under the law.

In addition, the Disability Coordinator may convene a Reasonable Accommodation Committee. The Reasonable Accommodation Committee shall be composed of certificated and classified personnel who convene to consider requests for reasonable accommodation where an informal accommodation cannot be made at the local work site. The employee/applicant requesting an accommodation shall be invited to address the Committee and may provide additional material and documents relevant to his/her accommodation request. The site administrator may also be invited to address the Committee when appropriate.

REASONABLE ACCOMMODATION COMMITTEE DECISION:

The Reasonable Accommodation Program will provide the employee/applicant with written notification of the Committee's decision within ten (10) business days. A copy of the Reasonable Accommodation Committee's decision will also be mailed to the employee's current supervisor and appropriate personnel branch or, in the case of a job applicant, to the applicant's appropriate personnel branch.

Employees with accommodations approved by the Reasonable Accommodation Committee who later transfer to a new location or site have the responsibility to notify the new supervisor, as well as the Reasonable Accommodation Program Office at (213) 241-1319. This will facilitate coordination and implementation of the approved accommodations at the new location, if necessary.

APPEAL:

An employee/applicant who disagrees with the Reasonable Accommodation Committee's decision may file a written appeal using Attachment C, "Appeal of Reasonable Accommodation Committee Decision," with the District's Educational Equity Compliance Office no later than thirty (30) calendar days of the date of receipt of the Reasonable Accommodation



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Committee decision letter. Attachment C, “Appeal of Reasonable Accommodation Committee Decision” may be obtained by contacting the Educational Equity Compliance Office at (213) 241-7682.

APPEAL COMMITTEE:

A Reasonable Accommodation Appeal Committee comprised of District employees will be convened to reconsider the decision of the Reasonable Accommodation Committee. These committee members shall not be selected from the Reasonable Accommodation Committee that previously considered the accommodation request.

The Committee will meet within forty-five (45) calendar days of receipt of the request for appeal. The employee/applicant requesting an appeal will be invited to personally address the Committee, and may provide additional materials and documents relative to the appeal. The site administrator may also be invited to address the Reasonable Accommodation Appeal Committee when appropriate.

APPEAL COMMITTEE DECISION:

The Educational Equity Compliance Office will provide the employee/applicant with written notification of the RA Appeal Committee’s decision within ten (10) business days. A copy of the Reasonable Accommodation Appeal Committee’s decision will also be mailed to the employee’s current supervisor and appropriate personnel branch or to the applicant’s appropriate personnel branch, as applicable.

Employees with accommodations approved by the either the Reasonable Accommodation Committee or Reasonable Accommodation Appeal Committee who later transfer to a new location or site have the responsibility to notify their new supervisor, as well as the Reasonable Accommodation Program Office at (213) 241-1319. This will facilitate coordination and implementation of the approved accommodations at the new location, if necessary.

The decision of the RA Appeal Committee completes the administrative process of the requested reasonable accommodation(s). These appeal procedures have been developed to protect the substantive rights of interested persons, to meet the appropriate due process standards and to ensure that the District complies with state and federal laws and implementing regulations.



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NON-RETALIATION PROTECTIONS: The District prohibits retaliation against an employee/applicant who makes a request for reasonable accommodation, files an appeal of reasonable accommodation decision, or participants in the Reasonable Accommodation process.

AUTHORITY: This is the policy of the District Superintendent of Schools. The following legal standards are applied to this policy:

- Americans with Disabilities Act
- Fair Employment and Housing Act
- Section 504 of the Rehabilitation Act of 1973

RELATED RESOURCES:

- *Enforcement Guidance, Equal Employment Opportunity Commission:* www.eeoc.gov/policy/guidance
- *Live Animal including Guide Dogs/Service Animals and Training Dogs/Service Animals, in the Classroom, at school events and at District-sponsored activities,* Los Angeles Unified School District Policy Bulletin
- *Nondiscrimination Required Notices,* memorandum issued annually by the Office of the General Counsel
- *Stay at Work Policy,* Los Angeles Unified School District, available at <http://stayatwork.lausd.net>

ASSISTANCE: For further information, to ask questions, to seek assistance, or for related resources, contact any of the following District Offices:

Reasonable Accommodation Program at (213) 241-1319
TTY (213) 241-6882

Educational Equity Compliance Office at (213) 241-7682
Reasonable Accommodation Appeal Process

Equal Opportunity Section (EOS) at (213) 241-7685
Employment Disability Discrimination Complaints

FMLA Programs Section at (213) 241-3079



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Local District Office

- School Services Director
- Staff Relations Coordinator

Additional related information/communications regarding reasonable accommodation may be found at the following website:

<http://reasonableaccommodation.lausd.net>

ATTACHMENTS:

1. Attachment A, Record of Interactive Process
2. Attachment B, Reasonable Accommodation Application
3. Attachment C, Appeal of Reasonable Accommodation Committee Decision

**LOS ANGELES UNIFIED SCHOOL DISTRICT
RECORD OF INTERACTIVE PROCESS**

ATTACHMENT A

Directions: To be completed by site administrator/supervisor in discussion with employee/applicant. Please review the class description/job analysis if available together with the employee/applicant and answer the questions below. Refer to this Bulletin or the Reasonable Accommodation Program for guidance on conducting the interactive process.

Section I – Employee/Applicant Information		
Employee/Applicant Name		Employee Number
Job Title	Worksite	Work Number
Does the employee have a previous reasonable accommodation request on file?		<input type="checkbox"/> No <input type="checkbox"/> Yes, date: _____

Section II – Documentation of Interactive Process (attach additional sheet(s) if necessary)
a) Date(s) of meeting with employee/applicant (in person):
b) What symptoms or limitations affect the employee’s performance of the essential job functions?
c) What specific job tasks are problematic as a result of these symptoms and limitations?
d) Possible accommodation(s) identified? <input type="checkbox"/> Yes <input type="checkbox"/> No Explain.

Section III – Outcome of Interactive Process
Were informal accommodation made at the school site/office? <input type="checkbox"/> Yes <input type="checkbox"/> No
Explain:

Section IV – Certification		
Print Name of Site Administrator/Supervisor	Date	Phone Number
Signature of Site Administrator/Supervisor	Email Address	

Mail original form to:
Disability Coordinator, Division of Risk Management and Insurance Services
333 S. Beaudry Avenue, 28th Floor, Los Angeles, CA 90017

A copy of the form may be faxed to (213) 241 – 6778 for prompt assistance. However the original must be mailed to the Disability Coordinator. Please keep a copy for your records.

Directions: To be completed by the employee/applicant. Refer to this Bulletin or the Reasonable Accommodation Program for guidance.

Section I – Employee/Applicant Information			
Employee/Applicant Name		Employee Number	
Home Address		Home Phone Number	
City	State	Zip Code	Alternate Number
Job Title	Worksite	Work Number	
Do you have a previous reasonable accommodation request on file? <input type="checkbox"/> No <input type="checkbox"/> Yes, date:			

Section II – Request for Accommodations
a) Describe your medical condition. Attach any pertinent medical note/report from your physician.
b) Describe the job functions you are unable to perform due to your medical condition.
c) Describe the specific accommodation(s) you are seeking to facilitate your performance of the essential job functions. Include alternate accommodations.

Section III – Outcome of Interactive Process

Explain the results of your discussion with your site administrator/supervisor.

Section IV – Certification

I certify that all information contained in this application is true and correct. I understand that if I am granted an accommodation and it is subsequently determined that the decision was based upon material misrepresentation or falsification, I am subject to disciplinary action by the District, my request will be cancelled, and/or I will be subject to reimbursing the District for related costs.

I further understand that this application, attachments, and all medical information subsequently requested will be considered as confidential medical information and will be retained by the Los Angeles Unified School District except where released by the applicant for other use or otherwise required by law.

Print Name of Employee/Applicant

Date

Signature of Employee/Applicant

Phone Number

Email Address

Mail or fax (1) Attachment A – Interactive Process, (2) this form (Attachment B), and (3) Medical Note/Report to:

Disability Coordinator
 Division of Risk Management and Insurance Services
 333 S. Beaudry Avenue, 28th Floor
 Los Angeles, CA 90017

Telephone: (213) 241-1319 / Fax (213) 241-6778

Section III – Alternative/Additional Suggestions for Accommodation

List any alternative suggestions for an accommodation, which, if granted, would enable you to perform the essential duties of your job:

Please attach additional pages if more space is needed.

Section IV – Certification

I certify that all information in this request is true and correct.

Print Name of Employee/Applicant _____

Date _____

Signature of Employee/Applicant _____

Email Address _____

Initial here if you wish to personally address the committee who will consider your appeal: _____

Please forward this appeal form, along with any letters, statements, reports, or other documents which you feel are relevant to your requested accommodation(s) and appeal to:

Sue Spears, Director
 Educational Equity Compliance Office
 Los Angeles Unified School District
 333 S. Beaudry Avenue, 20th Floor
 Los Angeles, CA 90017

Telephone: (213) 241-7682 / Fax: (213) 241-3312

This form should be submitted to the Educational Equity Compliance Office within 30 (thirty) calendar days of the date of receipt of the Reasonable Accommodation Committee decision letter.

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FOR OFFICE USE ONLY: Date Received _____ By _____

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