

# G-12: Administrative Procedures

## Disability, Religious, and Other Similar Accommodations



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### REFERENCES

[Board Policy G-12](#)

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### DEFINITIONS

**Conscience:** A sincerely held belief as to the rightness or wrongness of an action or inaction.

**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\*\*:**

- A. Individuals with a disability: For a qualified individual this 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.
- B. Individuals with a sincerely held religious belief: schedule change, break modification, voluntary shift substitutions or swaps, job reassignments, and or task change or exception,

**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.

**Religion:** For the purpose of these procedures, religion includes all aspects of religious observance and practice as well as theistic and nontheistic beliefs, religion should be broadly defined to include not only traditional and organized religions, nor should it be limited solely to practices that are mandated or prohibited by a religious tenet.

**Religiously Objectionable Expression:** For the purpose of these procedures, religiously objectionable expression means expression, action, or inaction that burdens or offends a sincerely held religious belief, including dress and grooming requirements, speech, scheduling, prayer, and abstention, including abstentions relating to healthcare.

**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.

**Sincerely held religious beliefs:** For the purpose of these procedures, a belief is "religious" if it is "religious" in the person's "own scheme of things," and it is a "sincere and meaningful" belief if it "occupies a place in the life of its possessor parallel to that filled by a higher power.

**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.

For the purposes of determining whether an undue hardship exists in granting an employee's request to be relieved from performing a certain task based on a sincerely held religious belief or conscience, the following factors shall be considered:

- A. the practical impact on the district in light of the district's nature, size, and operating cost;
- B. the disruption of the district's operations;
- C. the nature of the employee's duties;
- D. the number of district employees the governmental entity will be required to grant a request to if the district grants the employee's request;
- E. the type of workplace; and
- F. the number of requests by the employee in the preceding 12 months from the day on which the employee submitted the request.

\*\*The examples provided in the above definitions are not meant to be all-inclusive and should not be construed as such.

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## 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. Accommodations Under the Americans with Disabilities Act – Employment Setting

#### A. Request for Reasonable Accommodation

1. 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.
2. 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.

**B. General Process for Hiring/Workplace Accommodation**

1. 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.
2. 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."
3. HRS will process requests for accommodations in a reasonable manner.
  - a. 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.
4. Upon notification of a request for an accommodation, the following will occur:
  - a. 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.
  - b. HRS will then review the information provided and may request additional information if needed to make a decision.
  - c. The request will be evaluated to determine if a reasonable accommodation can be made for the individual.
5. The interactive process begins at the time the request for accommodation is made.
  - a. 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.
  - b. 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.
6. The district will engage in the interactive process to find a reasonable accommodation(s) for qualified individuals with a disability:
  - a. 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;
  - b. 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
  - c. when they are an employee and need an accommodation to enjoy equal benefits and privileges of employment.
7. A reasonable accommodation will not be provided when doing so causes:
  - a. an undue hardship to the district; or
  - b. 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.
    - i. 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.
8. HRS will send written notification of the final decision, including the requester's right to appeal.
  - a. 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.
  - b. 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.

**C. 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.

**II. 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.

### III. 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.

#### **IV. Religious Accommodations**

- A. An employee requesting to be relieved from performing a certain task based on a sincerely held religious belief must follow the process outlined in Section V below.
- B. An employer may not compel an employee to engage in religiously objectionable expression that the employee reasonably believes would burden or offend the employee's sincerely held religious beliefs, unless accommodating the employee would cause an undue burden to the employer by substantially interfering with the employer's:
  - 1. core mission or the employer's ability to conduct business in an effective or financially reasonable manner; or
  - 2. ability to provide training and safety instruction for the job.
- C. An employee shall submit a written request for an accommodation to their supervisor; employment applicants for employment with the district should submit a written request for an accommodation to any HRS director.
  - 1. Employees are asked to initiate requests for any desired religious-related workplace accommodation by contacting their supervisor in a timely manner.
    - a. Employees who anticipate being absent from work because of a religious observance must submit their request for time off in advance as soon as they become aware of the need or at least 10 business days in advance.
  - 2. The request must include:
    - a. The specific workplace accommodation that is being requested (for example, time to pray, leave for religious observance, religious attire, etc.);
    - b. The religious practice or belief being impacted, and how this accommodation enables participation in or conformity with the asserted religious practice or belief;
      - i. This statement should include how the provision of the requested accommodation will not negate the performance of the requester's essential job functions; and
    - c. The date[s]/frequency of the requested accommodation (e.g., daily or weekly religious requirements) within the current academic (fiscal) year.
- D. All requests for accommodation will be reviewed and considered on an individual basis.
- E. Supervisors should meet with a requester if they need more information about the employee's religious needs or to discuss available accommodation options.
- F. Supervisors should consider the following factors in determining whether to grant the requested accommodation:
  - 1. the nature of the accommodation requested;
  - 2. the duration of the request;
  - 3. possible alternative accommodations;
  - 4. the impact on the operation of the district; and
  - 5. the ability of the individual to perform the essential functions of the position if the accommodation is granted.
- G. Accommodation requests should be granted unless doing so would impose an undue hardship on the district.
- H. Before denying any request, the supervisor should consult with the district's compliance and investigations/Title IX coordinator.
- I. Within five business days of receiving the request, the supervisor must provide written notification to the employee of the decision.
- J. If a request is denied, the employee may file a written appeal with any HRS director within five business days of receiving the initial denial.
- K. HRS shall review the appeal and issue a final decision within 10 business days.

**V. Requests to be Excused From Performing a Specific Task**

- A. Except as provided in Section V.B, the district may not deny an employee's reasonable request to be relieved from performing a certain task if:
  - 1. performing the task would conflict with the employee's sincerely held religious beliefs or conscience;
  - 2. the employee has complied with the requirements of Subsection IV.C.2.; and
  - 3. relieving the employee from the task would not impose an undue hardship on the district.
- B. The district is not required to grant an employee's request if:
  - 1. granting the request would relieve the employee from performing a task that is part of training or safety instructions directly related to the employee's employment;
  - 2. granting the request would result in a deficit in the amount of work for which the employee is compensated;
  - 3. granting the request would create a conflict with an existing legal obligation and the district cannot avoid the conflict if the district grants the employee's request under Section V.C.;
  - 4. the employee's asserted religious beliefs or conscience is being asserted for an improper purpose.
- C. An employee seeking to be relieved from performing a certain task shall:
  - 1. as soon as practicable but not more than two days after the day on which the employee received the assignment to perform the task, submit a written request to the employee's supervisor providing an explanation as to why the task would conflict with the employee's sincerely held religious beliefs or conscience; or
  - 2. if the employee receives the assignment to perform the task within two days after the day on which the employee received the assignment, orally or in writing immediately request to be relieved from performing the task; and
  - 3. provide the district with a reasonable opportunity to grant the employee's request or otherwise address the employee's concerns.
- D. The employee's request must be in writing and include an explanation as to why the task would conflict with the employee's sincerely held religious beliefs or conscience.
- E. A supervisor that
  - 1. receives a request shall respond to the request as soon as practicable but at least five days before the day on which the certain task is required to be performed.
    - a. An employee and supervisor may agree in writing to waive or extend this time limit.
  - 2. denies an employee's request shall include in the response:
    - a. an explanation of the governmental entity's decision and why:
      - i. granting the request would impose an undue hardship on the district; or
      - ii. the district is not required to grant the employee's request for a reason described in Section V.B; and
    - b. that the employee may appeal the denial to an HRS director within five business days of receiving the supervisor's denial.
      - i. The employee will be relieved of performing the task during the pendency of the appeal; and
      - ii. HRS shall review the appeal and issue a final decision within 10 business days.
- F. The district may not take retaliatory action against an employee for submitting a meritorious request.
  - 1. For purposes of this section, retaliatory action means:
    - a. a dismissal;
    - b. a reduction of compensation;
    - c. a failure to increase compensation by an amount that the employee is otherwise entitled to or was promised;
    - d. a failure to promote if the employee would otherwise be promoted; or
    - e. a threat to take an action described in subsections (a) through (d) above.

**VI. Training**

All employees will receive biennial training on these procedures, including the Americans with Disabilities Act and Title VII of the Civil Rights Act as part of the district's online training program. New employees must complete the online training module within 30 days of their hire.