

Reasonable Accommodation

Except when undue hardship would result to the Solano County Office of Education (SCOE), the Superintendent or designee shall provide reasonable accommodation:

1. In the job application process, to any qualified job applicant with a disability
2. To enable any qualified employee with a disability to perform the essential functions of the position s/he holds or desires to hold or to enjoy equal benefits or other terms, conditions, and privileges of employment as other similarly situated employees without disabilities

SCOE designates the position specified in Administrative Policy 4030 – Nondiscrimination in Employment, as the Coordinator of its efforts to comply with the Americans with Disabilities Act (ADA) and to investigate any and all related complaints.

Definitions

Disability, with respect to an individual, is defined as any of the following: (Government Code 12926; 20 CFR 1630.2)

1. A physical or mental impairment that limits one or more of the major life activities
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.
2. A record of such an impairment
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 accommodations 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 s/he 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 SCOE's other similarly situated employees without disabilities

Qualified individual with a disability means a job applicant or employee with a disability who:

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position s/he holds or desires
2. Can perform the essential functions of such position with or without reasonable accommodation
3. Would not pose a significant risk of substantial harm to himself/herself or others in the job s/he holds or desires, which cannot be eliminated or reduced by reasonable accommodation

The 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.

Policy 4032 (Continued)

Undue hardship is a determination based on an individualized assessment of current circumstances that shows that the provision of a specific accommodation would cause significant difficulty or expense to SCOE.

Request for Reasonable Accommodation

When requesting reasonable accommodation, the employee or employee's representative shall inform the employee's supervisor that s/he 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 for the hiring process, a job applicant shall inform the Coordinator that s/he will need a reasonable accommodation during the process.

When the disability 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 employee's condition, the employee's functional limitations and the need for reasonable accommodation. The employee may be asked to sign a limited release allowing the Coordinator 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 SCOE.

SCOE may make a medical or psychological inquiry of a job applicant or require him/her to submit to a medical or psychological examination after s/he 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.

The Coordinator shall not request any job applicant's or employee's genetic information except as authorized by law.

In accordance with law, the Coordinator shall take steps to ensure the confidentiality of information related to medical conditions or history. As applicable, s/he 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.

Granting Reasonable Accommodation

Upon receiving a request for reasonable accommodation from a qualified individual with a disability, the Coordinator shall:

1. Determine the essential functions of the job
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 accommodations, and assess their effectiveness
3. Develop a plan for reasonable accommodation which will enable the individual to perform the essential functions of the job or gain equal access to a benefit or privilege of employment without imposing undue hardship on SCOE

Policy 4032 (Continued)

A determination of undue hardship should be based on several factors, including:

- a. The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions and/or outside funding
- b. The overall financial resources of the facility making the accommodation, the number of persons employed at this facility, and the effect on expenses and resources of the facility
- c. The overall financial resources, number of employees, and the number, type, and location of facilities of SCOE
- d. The type of operation of SCOE, including the composition, structure, and functions of the workforce and the geographic separateness and administrative or fiscal relationship of the facility making the accommodation to other SCOE facilities
- e. 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.

The Coordinator may confer with the site administrator, any medical advisor chosen by SCOE, and/or other appropriate staff before making a final decision as to the accommodation.

Reasonable Accommodation Committee

The Coordinator may appoint a committee to review or assist in the development of appropriate plans to reasonably accommodate qualified individuals who request modifications or adjustments in their work duties or environment because of known physical or mental disabilities.

Committee members shall be selected on the basis of their knowledge of the specific functions and duties required in the position, the physical work environment, available accommodations, and other relevant issues. The committee may include a SCOE administrator, site or program administrator, medical advisor or rehabilitation specialist, and, as necessary, a certificated and/or classified employee. Membership may change on a case-by-case basis.

At the Coordinator's discretion, the employee or applicant requesting accommodation may participate in the committee meetings. If the employee or applicant is excluded from the committee's meetings, the Coordinator shall communicate with him/her so that s/he has the opportunity to interact and contribute to planning the reasonable accommodation.

The Coordinator shall take steps to ensure the confidentiality of information related to medical conditions.

Appeal Process

Any qualified individual with a disability who is not satisfied with the decision of the Coordinator may appeal in writing to the County 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 Superintendent or designee shall consult with the Coordinator and review the appeal, together with any available supporting documents. The Superintendent or designee shall give the individual his/her decision within 15 working days of receiving the appeal.

Any further appeal for reasonable accommodation by an employee or qualified applicant may appeal directly to the Office for Civil Rights at any point.

OFFICE OF THE SOLANO COUNTY SUPERINTENDENT OF SCHOOLS

Policy 4032 (Continued)

Legal Reference:

CIVIL CODE

51 Unruh Civil Rights Act

GOVERNMENT CODE

12900-12996 Fair Employment and Housing Act

UNITED STATES CODE, TITLE 29

701-794e Vocational Rehabilitation Act

UNITED STATES CODE, TITLE 42

2000ff-1-2000ff-11 Genetic Information Nondiscrimination Act of 2008

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

A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455

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

Chevron USA v. Echazabal, (2002) 536 U.S. 73, 122 S.Ct. 2045

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

Policy Cross-Reference:

0410 Nondiscrimination

4030 Nondiscrimination in Employment

4031 Complaints Concerning Discrimination in Employment

4112.6 Personnel Records

4161.8 Family Care and Medical Leave