

ADMINISTRATIVE PROCEDURE

SAN DIEGO UNIFIED SCHOOL DISTRICT

NO: 0110

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CATEGORY: School District, Nondiscrimination

EFFECTIVE: 6-02-77

SUBJECT: Nondiscrimination on the Basis of Disability, Employees/Applicants

REVISED: 4-20-06

A. PURPOSE AND SCOPE

1. To outline administrative procedures governing implementation of the Americans with Disabilities Act (ADA).

2. **Related Procedures:**

Equal opportunity in employment	0100
Agency complaints alleging discrimination	0120
Employee complaints alleging harassment or discrimination	7110
Employee personnel files	7100

B. LEGAL AND POLICY BASIS

1. **Reference:** Board policy: A-3000, I-1050, I-1360, I-1700, I-1800, I-5500; Americans with Disabilities Act of 1990; Rehabilitation Act of 1973 Sections 50, 504; 29 U.S. Code Section 794; 45 Code of Federal Regulations Sections 84.1, *et seq.*

2. **Board Policy**

In conformance with the principle of equal opportunity, which San Diego Unified School District believes is morally right, educationally sound, and consistent with the law, and in the implementation of this policy, all applicants for employment by San Diego Unified School District or for promotion within the staff of the district shall be accorded equal opportunity regardless of race, religion, creed, color, marital status, veteran status, sex, sexual orientation, gender, ancestry, national origin, ethnic group identification, age, mental or physical disability (A-3000).

Consistent with this policy and in compliance with the Americans with Disabilities Act (ADA), no qualified person with a disability shall, on the basis of disability, be subjected to discrimination in recruitment or employment under any program or activity receiving federal financial assistance. Obligation to comply with this policy is not obviated or alleviated by state or local law, or by the terms of any collective bargaining agreement. This policy applies to:

- a. **Recruitment, hiring, placement,** promotion, tenure, demotion, transfer, layoff, compensation, fringe benefits, or any other term, condition, or privilege of employment.
- b. **Preschool, elementary,** secondary, and adult educational services.

3. **Rehabilitation Act of 1973** covers both students and employees; requirements are similar. Educational policy is administered by the Special Education Programs Division (Procedure 4230).
4. **Dissemination of Policy.** Continuing steps shall be taken to notify all applicants, employees, and employee organizations of the district's policy of nondiscrimination on the basis of disability.

C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to the Human Resource Services Division, Office of the Chief of Staff.
2. **Definitions**
 - a. **Handicapped person and individual with a disability:** An individual who (1) has a physical or mental impairment that substantially limits one or more *major life activities*, (2) has a record of such impairment, or (3) is regarded as having such an impairment (28 Code of Federal Regulations Section 35.104). The individual should be able to provide documentation supporting the statement of a disability.
 - b. **Major life activities:** Those basic activities that the average person in the general population can perform with little or no difficulty. Specifically, major life activities include functions, such as caring for oneself, performing manual tasks, walking, hearing, seeing, breathing, speaking, learning and working (28 Code of Federal Regulations Section 35.104).
 - c. **Qualified individual:** An individual who is able to perform the *essential functions* of the job with or without *reasonable accommodation*.
 - d. **Essential functions of the job:** The fundamental duties of the job are defined by two primary considerations: (1) Is employee *required* to perform the function, and (2) would removing it fundamentally change the job.
 - e. **Reasonable accommodation:** Reasonable accommodation may include (1) making existing facilities used by employees readily accessible to and usable by individuals with disabilities, (2) job restructuring, (3) part-time or modified work schedule, (4) reassignment to a vacant position for which a person is qualified, (5) acquisition or modifications of equipment or devices, (6) appropriate adjustments or modification of examinations, training materials, or policies, (7) the provision of qualified readers or interpreters, and other similar

accommodations for individuals with disabilities. The act requires any and all of the above unless this would impose an *undue hardship* on the employer.

- f. **Undue hardship:** An action requiring significant difficulty or expense. Employers need not take actions that are unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business.
- g. **Supervisor** (for purpose of this procedure)
 - (1) For *school personnel*, the principal.
 - (2) For *all other district organizational units*, the person who signs the employee's performance evaluation as evaluator.
- h. **Coordinator of compliance** with laws and regulations governing harassment or nondiscrimination as applied to employees: the chief human resources officer or designee.

3. **Nondiscrimination in Employment Practices**

- a. **All decisions concerning employment** must be made in a manner which ensures that discrimination on the basis of disability does not occur, and that decisions do not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of disability.
- b. **Pre-employment inquiries** may not be made as to whether an applicant is disabled, or as to the nature or severity of a disability, with minor exceptions such as inquiry required solely to determine remedial action obligations connected with employment, and with the provision that such information is being requested on a voluntary basis and will be kept confidential.
- c. **Pre-employment physical examinations** may be given prior to an employee's entrance on duty provided that all entering employees in designated job classifications are subjected to such an examination. An offer of employment may be conditioned on results of a medical examination if such conditions apply to all applicants for employment in designated job classifications, and the results of an examination are used in accordance with the intent of the policy on nondiscrimination.
- d. **Other employment practices** subject to nondiscrimination on the basis of disability include:

- (1) Recruiting, advertising, and processing of applications for employment; employment criteria and tests.
 - (2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, return from layoff, and rehiring.
 - (3) Rates of pay or any other form of compensation; changes in compensation.
 - (4) Job placements, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists.
 - (5) Leaves of absence, sick leave, or any other leave.
 - (6) Fringe benefits available by virtue of employment, whether or not administered by recipient.
 - (7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities; selection for leaves of absence to pursue training.
 - (8) Employer-sponsored activities, including social or recreational programs.
 - (9) Any other term, condition, or privilege of employment.
4. **Confidentiality of Information.** Information about the medical condition or history of an applicant shall be collected and maintained on separate forms kept in separate locked files that are segregated from personnel files, except that supervisors may be informed regarding restrictions on work or duties of persons with disabilities and regarding necessary accommodations (Procedure 7100). First aid and safety personnel also may be informed, where appropriate, if a condition might require emergency treatment.
5. **Self-Evaluation.** The district conducted a self-evaluation of district policies, practices, and effects thereof. Persons with disabilities were involved in the self-evaluation process. Records were on file for a minimum of three years, listing (a) interested persons consulted, (b) descriptions of areas examined, and (c) descriptions of any modifications made and of any remedial steps taken. Records on file were available to the public for inspection and to the U.S. Department of Education on request.
6. **Reasonable Accommodation.** Federal regulations require that districts make reasonable accommodation to physical or mental limitations of an otherwise qualified applicant or employee with a disability unless it can be demonstrated that an

accommodation would impose an undue hardship on the operation of a program. Reasonable accommodation may include:

- a. **Making facilities used by employees** readily accessible to and usable by persons with disabilities.
 - b. **Job restructuring**, part-time or modified work schedules, acquisition or modification of equipment or devices, provision of readers or interpreters, and other similar actions.
7. **Program Accessibility.** Each program or activity *when viewed in its entirety* must be accessible to persons with disabilities.
- a. **Methods used to make programs** accessible to employees with disabilities may include changes such as alteration of existing facilities, architectural changes in new construction that meet accessibility standards published by the American National Standards Institute, redesign of equipment, and relocation of offices. It is not necessary to make each existing facility accessible and usable by disabled persons; the “reasonable accommodation” rule applies.
 - b. **Notification.** The existence and location of accessible facilities shall be publicized on a continuing basis for the benefit of all interested persons, including persons with impaired vision or hearing.
8. **Requests for Reasonable Accommodation**
- a. **Requests from applicants who are nonemployees.** If an applicant requests reasonable accommodation, the Human Resource Services Division shall require the applicant to document the fact that he/she has a disability as defined by the ADA and is therefore entitled to reasonable accommodation as required by the ADA. The applicant is required to provide documentation from an appropriate professional (e.g., a doctor or rehabilitation counselor) stating that he/she has a disability. The district must provide reasonable accommodation only to individuals who are protected under the ADA statute. The applicant must also provide documentation concerning his/her functional limitations for which reasonable accommodation is requested.
 - b. **Requests from district employees**
 - (1) An employee may initiate a request for reasonable accommodation by submitting a written request to the director, classified personnel, or the appropriate certificated staffing administrator. Medical documentation supporting the request for accommodation should be attached.

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- (2) A review panel will convene and determine appropriate action to be communicated by the director, classified personnel, the appropriate certificated staffing administrator or a human resources analyst or designee.
- (3) The director, classified personnel, or the appropriate certificated staffing administrator, or designee, should engage in an interactive process that involves dialogue with the employee requesting accommodations.

9. **Responsibilities**

- a. **The chief human resources officer** is responsible for (1) dissemination of this policy, (2) districtwide coordination of compliance insofar as employees are concerned, and (3) maintenance of records documenting compliance.

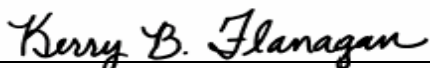
D. IMPLEMENTATION (See Section C.)

E. FORMS AND AUXILIARY REFERENCES

F. REPORTS AND RECORDS

1. All records are confidential and kept by the chief human resources officer, or designee.

G. APPROVED BY



Chief of Staff, Kerry Flanagan
For the Superintendent of Schools