



Huntington Beach Union High School District Board Policies and Administrative Regulations

AR 4032
Page 1 of 6

All Personnel

Reasonable Accommodations

Except when undue hardship would result to the district, 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 he/she 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.

No employee or job applicant who requests an accommodation for his/her physical or mental disability shall be subjected to discrimination or to any punishment or sanction, regardless of whether the request for accommodation was granted. (Government Code 12940)

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.
2. A record of such 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)

All Personnel (continued)

Reasonable Accommodations (continued)

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. (Government Code 12926; 29 CFR 1630.2)

Districts that have not so designated an individual in AR 4030 – Nondiscrimination in Employment should modify the following paragraph to include the title of the individual designated by the district. The district designates the position specified in AR 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.

Reasonable accommodation 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 he/she 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 the district'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 he/she holds or desires.
2. Can perform the essential functions of the position with or without reasonable accommodation.
3. Would not pose a significant risk of substantial harm, which cannot be eliminated or reduced by reasonable accommodation, to himself/herself or others in the job he/she holds or desires.

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 the district.

All Personnel (continued)

Reasonable Accommodations (continued)

Request for Reasonable Accommodation

When requesting reasonable accommodation, an employee or his/her representative shall inform the employee's supervisor that he/she 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 he/she 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 his/her 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 the district.

The district may make a medical or psychological inquiry of a job applicant or rehire him/her to submit to a medical or psychological examination after he/she 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. (Government Code 12940)

The coordinator shall not request any job applicant's or employee's genetic information except as authorized by law. (42 USC 2000ff-1, 2000ff-5)

In accordance with law, the coordinator shall take steps to ensure the confidentiality of information related to medical conditions or history. As applicable, he/she 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. (42 USC 12112)

All Personnel (continued)

Reasonable Accommodations (continued)

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 involved.
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 the district.

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 the district.
- d. The type of operation of the district, 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 district 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 the district, and/or other district staff before making a final decision as to the accommodation.

All Personnel (continued)

Reasonable Accommodations (continued)

Appeal Process

Any qualified individual with a disability who is not satisfied with the decision of the coordinator may appeal in writing to the 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 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

701-794c 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 Definitions

All Personnel (continued)

Reasonable Accommodations (continued)

COURT DECISIONS

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

Colmenares v. Braemar Country Club, Inc., (2003) 29 Cal4th 1019

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

US Airways, Inc. v. Barnett, (2002) 535 U.S. 391, 122 S.Ct. 1516

Management Resources:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002

WEB SITES

Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

Equal Employment Opportunity Commission: <http://www.eeoc.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices.list/ocr>
(3/03/7/10) 12/15

Regulation approved: 11/7/17

**HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT
REQUEST FOR REASONABLE ACCOMMODATION
Americans with Disabilities Act (ADA)
Section 504/Rehabilitation Act of 1973**

Employee _____ **Date of Request** _____

Current Position _____ **Location** _____

Site Administrator's Signature (Acknowledgment Only) _____

1. General description of your physical condition.

2. Describe the effect of this condition upon your ability to perform the functions of your job. Be as specific as possible.

3. Specifically list the functions of your job which you are unable to perform and the reason you are unable to perform these tasks.

4. Name, address, and telephone number of your primary physician treating this condition. A request for information regarding this matter will be sent to this physician. Your signature on the appropriate form (RRA-2) authorizes release of information to and from your physician.

Employee's Signature _____

**HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT
RESPONSE BY PERSONNEL SERVICES TO EMPLOYEE’S REQUEST
FOR REASONABLE ACCOMMODATION
Americans with Disabilities Act (ADA)
Section 504/Rehabilitation Act of 1973**

TO: _____
Employee

FROM: _____
Personnel Services Administrator

DATE: _____

SUBJECT: “REQUEST FOR REASONABLE ACCOMMODATION”

Date of Request: _____

You have submitted a “Request for Reasonable Accommodation” under the guidelines of Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. A review of your request has been completed and the following determination has been made:

Request Denied

The following “reasonable accommodation”
will be implemented

Please call me if you wish to discuss this matter further.

Appeal of this decision: If you wish to appeal this decision, within ten (10) days submit a letter to the Superintendent’s Office. Your appeal should include a clear, concise statement of the reasons for the appeal and a statement of the specific remedy sought. The Superintendent or designee shall respond to this appeal within fifteen (15) working days of receiving the appeal.

RRA-3 (2/99)

**HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT
 CHECK LIST ON REQUEST FOR REASONABLE ACCOMMODATION
 Americans with Disabilities Act (ADA)
 Section 504/Rehabilitation Act of 1973**

(To be completed by the Personnel Services Division)

Employee's Name	Position	Location
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Date

Request Received in Personnel Services Division _____

Request for Related Information Sent to Physician _____

Information Received from Physician Written _____

 Telephone _____

Meeting with Employee _____

Determination of Request

Employee Informed of Determination _____

 Employee Appeal _____

 Superintendent/Designee Response to Appeal _____

Review/Reassessment Date _____