

	<p align="center">State of Hawaii Department of Education Standard Practice (SP) Document</p>	<p align="center">Office of the Superintendent</p>
<p>Document No. SP 0202</p>	<p>Distribution: All DOE Employees</p>	<p>Release Date: 5/22/2018</p>
<p>SUBJECT</p>	<p>Reasonable Accommodation</p>	

1. Purpose

The State of Hawaii Department of Education (“DOE”) is committed to complying with the reasonable accommodation requirements of the Americans with Disabilities Act Amendments Act of 2008 to ensure that individuals with disabilities enjoy full access to equal employment opportunities. The DOE will process requests for reasonable accommodation on a case-by-case basis and, where appropriate, provide reasonable accommodations to qualified applicants with disabilities during the employment application process and to qualified employees with disabilities in performing the essential functions of their jobs, unless to do so would cause an undue hardship to the DOE or a direct threat to the health and safety of the individual or others.

2. Effective

Immediately.

3. Applies to

This SP applies to employment practices and actions affecting employees and applicants for employment in the DOE, including, but not limited to, casual hires, classified, and certificated employees.

4. Definitions

As used in BOE Policy 900-1 and this SP:

“Disability” means the state of having a physical or mental impairment which substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment.

“Physical or mental impairment” means 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 or any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

“Substantially limits” means restricting an individual from performing a major life activity; however, an impairment need not prevent, or significantly or severely restrict, an individual from performing a major life activity in order to be considered substantially limiting. The term “substantially limits” will be construed broadly in favor of expansive coverage. It may be useful in appropriate cases to consider, as compared to most people in the general population, the condition under which the individual performs the major life activity; the manner in which the individual performs the major life activity; and/or the duration of time it takes the individual to perform the major life activity, or for which the individual can perform the major life activity. Consideration of facts such as condition, manner, or duration may include, among other things, consideration of the difficulty, effort, or time required to perform a major life activity; pain experienced when performing a major life activity; the length of time a major life activity can be performed; and/or the way an impairment affects the operation of a major bodily function.

“Major life activities” include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, working, and the operation of a major bodily function, including functions of the immune system, special sense organs and skin, normal cell growth, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

“Having a record of such an impairment” means an individual with a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

“Regarded as having such an impairment” means an actual or perceived physical or mental impairment, whether or not that impairment substantially limits, or is perceived to substantially limit, a major life activity.

“Qualified” means that the individual satisfies the requisite skill, experience, education and other job-related requirements of the position such individual holds or desires and can perform the essential functions of such position, with or without reasonable accommodation.

“Reasonable Accommodation” means modifications or adjustments to a job application process that enable the qualified applicant with a disability to be considered for the position such qualified applicant desires; or modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed that enable an individual with a disability who is qualified to perform the essential functions of that position; or modifications or adjustments that enable a DOE employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities. Examples of reasonable accommodations include, but are not limited to: job restructuring, parking, modified work schedules, modification or purchase of equipment, modifications of examinations and training materials or policies. Reasonable accommodations do not include accommodations that cause an undue hardship on the employer or cause a direct threat of harm to the individual or others.

“RA Coordinator” means the individual designated to ensure compliance with this SP.

“Essential Functions” means the fundamental job duties of the employment position the individual with a disability holds or desires. Essential functions do not include marginal duties.

“Undue hardship” means significant difficulty or expense incurred by an employer with respect to the provision of an accommodation. Significant difficulty can mean accommodations that are unduly extensive, substantial, or disruptive, or would fundamentally alter the nature or operation of the business, or would impact upon collective bargaining agreements or civil service laws.

“Direct Threat” means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.

5. Procedures for Applicants to Request Reasonable Accommodations

An applicant with a disability, like all other applicants, must be able to meet the DOE's requirements for the job, such as education, training, employment experience, skills, or licenses. In addition, an applicant with a disability must be able to perform the essential functions of the job, either on his/her own or with the help of reasonable accommodations. However, an employer does not have to provide a reasonable accommodation that will cause an undue hardship.

If an applicant with a disability would like a change or adjustment to the application/interviewing process because of a medical condition, he/she can make a request to the DOE. The applicant can make this request orally or in writing, or someone else may make a request for the applicant (e.g., a family member, friend, health professional or other representative).

If an applicant makes a request for reasonable accommodations during the application process, administrators, managers, and supervisors shall direct the applicant to the RA Coordinator. The applicant may need to discuss the request more fully with the RA Coordinator in order for the DOE to understand the disability and to agree upon an accommodation that will enable the applicant to fully participate in all aspects of the application/interviewing process. Examples of reasonable accommodations for applicants may include, but are not limited to, providing written materials in accessible formats; providing readers or sign language interpreters; ensuring that recruitment, interviews, tests and other components of the application process are held in accessible locations; providing or modifying equipment or devices; or adjusting the time allowed for taking a written test.

Prior to making a job offer, administrators, managers, supervisors, or anyone else on an interview panel shall not ask questions during the interview process that are likely to reveal the existence of a disability. However, such questions and medical examinations are permitted after extending a job offer but before the individual begins work.

Applicants for employment to whom a conditional offer of employment has been made may request a reasonable accommodation to perform the essential functions of the position offered. The determination of a reasonable accommodation in such instances will be made as if the applicant is an employee. A conditional offer of employment may be revoked if the applicant is unable to perform the essential functions of the position being offered with or without accommodation and no reasonable accommodation is available, or if an applicant

refuses a reasonable accommodation and is unable to perform the essential functions of the position.

6. Procedures for Employees to Request Reasonable Accommodations

An employee with a disability may make a request for reasonable accommodations through their administrator, manager or supervisor, or may make a request directly to the Civil Rights Compliance Office (CRCO) or the RA Coordinator. The employee is responsible for initiating and submitting the request for reasonable accommodation. While a request may initially be made orally, the employee making the request will be asked to confirm the request in writing and/or submit the request on the Request for Accommodation Under the Americans with Disabilities Act (Form RA-1) to the CRCO or the RA Coordinator. If an employee makes a request for reasonable accommodation to the administrator, manager, and/or supervisor, the request should be promptly forwarded to the CRCO or the RA Coordinator.

The CRCO or the RA Coordinator will inform the employee and the employee's worksite administrator that the request has been received.

Interactive Process

To determine whether a reasonable accommodation exists, the DOE and employee must engage in an interactive process. This means that the administrator, manager, or supervisor and the employee will discuss the limitation(s) resulting from the disability and potential reasonable accommodations that could overcome those limitations. The administrator, manager, or supervisor and employee must participate in good faith in the interactive process procedure to determine a reasonable accommodation, which includes, but is not limited to, meeting to discuss reasonable accommodations and providing a release for medical information or providing relevant medical documentation relating to the need for a reasonable accommodation. The CRCO or RA Coordinator will initiate this communication.

The purpose of the interactive process is to determine what, if any, accommodation should be provided to an employee. The CRCO and/or the RA Coordinator will make the ultimate determination about the reasonable accommodation to be provided.

For the interactive process to be effective, the RA Coordinator may need to obtain relevant medical information/clarification regarding the requester's physical and/or mental disability in order to make a determination. If requested, the employee should provide the necessary release for medical information on the Authorization for Release of Medical Information for Disability Accommodation (Form RA-3).

Determining Reasonable Accommodations

The CRCO or the RA Coordinator will consider each request for reasonable accommodation and determine which potential reasonable accommodation(s) to provide, if any, and whether any of the potential reasonable accommodations constitute an undue hardship for the office or district or a direct threat of harm to the employee or others. Determining what accommodation is reasonable is an individual matter and will be considered on a case-by-case basis.

A determination of undue hardship must be based on an individualized assessment of current circumstances that show a specific reasonable accommodation would cause significant difficulty or expense. If one particular reasonable accommodation will cause undue hardship, but a second type of reasonable accommodation will be effective and will not cause an undue hardship, then the second accommodation should be provided.

The CRCO or the RA Coordinator will notify the employee in writing of the determination of whether the reasonable accommodation is possible and the identified accommodation. If a reasonable accommodation has been identified, the administrator, supervisor or manager will implement the reasonable accommodation as soon as practicable.

The duty to provide a reasonable accommodation may be an ongoing process. If a reasonable accommodation turns out to be ineffective and the employee with a disability remains unable to perform an essential function of his or her position, the administrator, manager or supervisor must consider whether there would be an alternative reasonable accommodation that would not pose an undue hardship or a direct threat of harm.

An employee may refuse a reasonable accommodation, however, if the employee refuses a reasonable accommodation and is unable to perform the essential functions of his/her position, he/she may be subject to discharge, in accordance with applicable State laws, rules, policies and collective bargaining agreements.

A conditional offer of employment may be revoked if the applicant is unable to perform the essential functions of the position being offered with or without accommodation and no reasonable accommodation is available or refuses a reasonable accommodation and is unable to perform the essential functions of his/her position.

Medical Evaluation

When the CRCO or the RA Coordinator have a reasonable belief, based on objective evidence, that an employee is unable to perform an essential function or will pose a direct threat of harm to him/herself or others because of a medical condition, the CRCO or the RA Coordinator may request that the school or office require the employee to be evaluated by a medical provider to determine his/her qualifications for the employee's current position, to assess the employee's current physical, psychological and/or emotional capacities, or to be evaluated to determine his/her qualifications for reassignment in a suitable, vacant position within the DOE. Any evaluation requested will be paid for by the school or office where the employee works. A decision to have an employee evaluated by a medical provider must be approved by the CRCO.

Return to Work Priority Program

If it is determined after engaging in the interactive process, that the employee, because of a disability, can no longer perform the essential functions of his/her current position with or without reasonable accommodations, a job search will be conducted under the Return to Work Priority Program. If an employee is unable to perform the essential functions of his/her position with or without reasonable accommodation and no vacant positions are available OR the employee refuses a vacant position and is unable to perform the essential functions of his/her position, the employee may be subject to discharge, in accordance with applicable State laws, rules, policies and collective bargaining agreements.

Confidentiality

Medical documentation obtained during the determination of a reasonable accommodation, either during the hiring process or during employment, will be maintained by the CRCO or the RA Coordinator and will be kept confidential. The confidentiality requirements protect both information voluntarily revealed as well as information revealed in response to an employer's written or oral questions or during a medical examination. The information may be shared with other decision-makers involved in the reasonable accommodation process who need the information in order to make employment decisions consistent with State and federal laws. Any employee who obtains or receives such information is bound by confidentiality requirements.

7. Responsibilities

Civil Rights Compliance Office

The CRCO is responsible for designating RA Coordinators for each complex area. The RA Coordinator will obtain any release for medical information and any necessary medical records in order to determine whether a reasonable accommodation can be provided.

Administrators, Managers, and Supervisors

The obligation to provide reasonable accommodation is a form of non-discrimination. All state, complex, and school level administrators of the DOE are responsible for implementing reasonable accommodations approved by the CRCO or the RA Coordinator and ensuring equal opportunities for qualified employees with disabilities. If an employee makes a request for reasonable accommodations, administrators, managers and supervisors will direct the employee to the CRCO or the RA Coordinator. The CRCO or the RA Coordinator will work with the administrator, manager or supervisor to determine whether a reasonable accommodation may be provided.

Administrators, managers, and supervisors are prohibited from engaging in conduct that would violate this SP, such as unreasonably denying a request for reasonable accommodation, failing to participate in the interactive process, or retaliating against an employee for making a request for reasonable accommodation. Any administrator, manager or supervisor who engages in such conduct shall be subject to discipline, up to and including discharge, in accordance with applicable State laws, rules, policies and collective bargaining agreements.

8. SP Maintenance Responsibility

The CRCO is responsible for the maintenance and administration regarding this SP and for answering any questions relating to this SP.

9. References, Resources, and Forms

- (a) Request for Accommodation Under the Americans for Disabilities Act (Form RA-1).
<http://www.hawaiipublicschools.org/DOE%20Forms/Civil%20Rights/ReasonableAccommodation.pdf>
- (b) Authorization for Release of Medical Information for Disability Accommodation (Form RA-3)
<http://www.hawaiipublicschools.org/DOE%20Forms/Civil%20Rights/ReleaseOfMedicalInfo.pdf>