

SDCRAA HUMAN RESOURCES STANDARDS AND PROCEDURES

Section:	Employment
Standard:	ACCOMMODATION OF DISABLED APPLICANTS AND EMPLOYEES
Section #:	A-2
Effective:	September 3, 2008

See Also:	Equal Employment Opportunity and Diversity; Recruitment and Selection; Harassment and Other Prohibited Conduct
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GENERAL STANDARD

In accordance with the Americans with Disabilities Act (“ADA”) and other applicable laws and regulations, the Authority will not discriminate against any qualified applicant or employee because of his/her disability. The Authority is committed to ensuring that qualified disabled individuals receive equal employment opportunity and will provide reasonable accommodation in employment as required by law.

DEFINITIONS

Qualified applicant and employee is an individual with a disability who meets the skill, experience, education, and other job-related requirements of a position and who, with or without reasonable accommodation, can perform essential job functions. Qualified applicants or employees include those with life threatening illnesses or medical conditions, as well as individuals who are rehabilitated former substance abusers.

Disability is a physical or mental impairment that limits one or more of the major life activities of an individual; a record of such impairment; or being regarded as having such impairment.

Reasonable Accommodation is an accommodation that would enable a qualified applicant or employee with a disability to perform the essential functions of a job and would not impose an undue hardship on the Authority with respect to significant costs and expenses, operational needs, and safety considerations. Accommodations may include acquisitions and modifications to equipment or

facilities to make them readily accessible and usable, part-time or modified work schedules, job restructuring, reassignment, appropriate modifications to materials or policies, provision of qualified readers and interpreters and similar other accommodations. Accommodations will vary from case to case and will be evaluated on an individual basis.

It is the Authority's intent that determining appropriate accommodations will be an informal, interactive, problem-solving process between the Authority and the individual with a disability.

Job functions are considered *essential functions* if they meet one or more of the following criteria:

1. The job exists to perform the function. For example: a individual performing word processing must be able to perform word processing activities at the Authority's required level of speed and accuracy;
2. There are a limited number of other employees available to perform the function or among whom the function can be distributed. For example: having a very small maintenance staff in particular trades requires that each staff member be able to perform the full range of tasks in that trade; and/or
3. A function is highly specialized and the person in the position is hired for special expertise or ability to perform it. For example: a computer network specialist hired to install and troubleshoot networks in various facilities must be able to visit each facility.

In addition, when determining whether job functions are considered *essential functions*, the following factors may be considered:

- Written job description;
- Amount of time spent performing the function;
- Consequences of not requiring someone in the job to perform the function;
- Work experience of people who have performed the job;
- Experience of people currently performing the job;
- Any applicable agreement or memorandum of agreement; and

- Judgment or discretion of the manager and/or a representative of the Human Resources Department.

SPECIFIC STANDARDS

- ❑ This standard extends to all aspects of the employment process and relationship, including application, testing, hiring, transfer, promotion, medical examination, job assignments, training, compensation, benefits, performance appraisal, and Authority-sponsored educational, social, and recreational activities.
- ❑ Job position and recruitment announcements will describe many of the position's essential functions and the employment procedures used in the hiring process. Applicants are invited to request any accommodation needed to enable participation in the hiring process, such as administering tests in large print or Braille, allowing extra testing time, or using a signer during an interview.
- ❑ Recruitment and job information will be available in a location and in a manner that is accessible to individuals with disabilities.
- ❑ Only interview questions regarding an applicant's skills and experience in performing essential, job-related functions, and job-related matters will be asked. Questions regarding the nature or cause or prognosis for an individual's disability will not be asked. Individuals with disabilities will be treated equally and courteously. Authority employees will follow the same guidelines that apply for all applicants. If the individual has vision or mobility limitations, physical assistance should not be given until a request for help has been requested and accepted.
- ❑ Medical evaluations may be conducted after a contingent offer of employment has been made so long as such evaluations are administered to all position applicants and are job-related. The results of such evaluation(s) by the health care provider will be released only to the Authority and only with the applicant's or employee's prior written permission.

- ❑ The final determination as to whether a disability reasonably can be accommodated will be made by a member of the Human Resources Department, in consultation with the applicant, the manager or supervisor, and the applicant's or employee's health care provider, if appropriate. In reaching a final determination, a representative of the Human Resources Department shall:
 - I. Consult with the applicant or employee to determine the precise job-related limitations imposed by the individual's disability and how those limitations may be overcome with a reasonable accommodation.
 - II. In consultation with the individual to be accommodated and the hiring manager, identify potential accommodations and assess the effectiveness of each in enabling the applicant or employee to perform the position's essential functions.
 - III. Select an accommodation that is most appropriate for both the applicant or employee and the Authority.

Should a reasonable accommodation not be feasible, the Human Resources Department representative shall document the considerations that support such determination and the related evaluation.

- ❑ The Authority reserves the right to require an examination by an Authority-appointed physician, at the Authority's sole expense, to make a final determination regarding the applicant's or employee's fitness to continue to perform the essential functions of his/her position without undue risk of harm to him/herself or others. Such examination will be based on professional medical opinion and the best available objective evidence, including input from the employee and the employee's experience in his/her job.
- ❑ If a determination is made that a direct health or safety risk exists, the Human Resources Department representative will work with the manager, the employee and the employee's health care provider to determine whether a reasonable accommodation can be made to eliminate or minimize the risk.

- The manager must immediately advise a member of the Human Resources Department of any complaints regarding alleged discrimination, even if the employee or applicant asks that “nothing be said or done about it” or the manager believes s/he satisfactorily has resolved the complaint. Employees and applicants may also file complaints of alleged discrimination directly with a representative of the Human Resources Department.
 - I. A Human Resources Department representative or, if warranted, an independent third party shall conduct investigations of every discrimination complaint and make a determination regarding the facts of the complaint and whether improper or inappropriate behavior may have occurred.
 - II. If improper or inappropriate behavior has occurred, effective remedial action will be taken, consistent with the severity of the offense. Appropriate steps also will be taken to prevent any future improper or inappropriate behavior from occurring.
 - III. No action will be permitted by any manager or employee in retaliation against an individual for making or filing a discrimination complaint.
 - IV. See the ***Harassment and Other Prohibited Conduct*** Standard regarding the Authority’s internal procedures for investigation and resolution of complaints of alleged discrimination or harassment and for information on employees’ rights to file such complaints with state and federal agencies.

GUIDELINES AND PROCEDURES

When a vacant position must be filled, the manager shall review the job description or class specification to ensure that it is accurate, up-to-date, and identifies those functions that are essential as defined herein. Assistance from a representative of the Human Resources Department may offer guidance in distinguishing between functions that are essential and those that do not meet ADA criteria.

Whenever an applicant or employee identifies that s/he has a disability that affects that individual's ability to perform the job, a representative of the Human Resources Department will ask the individual what accommodation would be needed to enable her/him to meet essential job requirements. The Human Resources Department representative will work with the individual in evaluating accommodation alternatives and making an appropriate accommodation determination.

Managers must be sensitive to the uncertain feelings employees may have about working with new employees with disabilities. A representative from the Human Resources Department may assist in preparing and educating staff to ensure productive working relationships with disabled co-workers are developed.

If the manager's employees express concern about the possible contagious nature of an employee's medical condition, the manager should contact a representative of the Human Resources Department *immediately* to discuss the most appropriate way to respond to and manage the issue. Although information regarding an employee's specific medical condition is confidential, managers must be sensitive and responsive to co-workers' questions concerning medical conditions, in general. It is important that the manager have complete and accurate information to respond knowledgeably and appropriately to employees' concerns, keeping the specifics of the medical condition confidential. In certain situations, the Authority may deem it appropriate to inform employees of a possible contagious situation in order for the matter to be handled appropriately and in the best health interests for all.

The Human Resources Department staff is available to assist managers and employees in managing health problems, leaves of absence, and benefits.