

ADMINISTRATIVE REGULATION 4015

SOUTH ORANGE COUNTY
COMMUNITY COLLEGE DISTRICT

HUMAN RESOURCES

REASONABLE ACCOMMODATION(S) FOR EMPLOYEES/APPLICANTS

I. REQUEST FOR REASONABLE ACCOMMODATIONS

A reasonable accommodation is an adjustment or change concerning some aspect of the application process, the job, or a benefit of employment that allows an individual who is qualified for the job to perform the essential functions of that job and enjoy equal employment opportunities.

A. Identifying Requests For Reasonable Accommodation

An individual may provide notification of their request for reasonable accommodation by submitting documentation from the individual directly and/or from the individual's health care provider. An individual may request a reasonable accommodation at any time, orally or in writing. A request for an accommodation may also be made by a representative of the individual (e.g. family member). If the request is received through a third party, the request should be confirmed with the individual who is in need of the reasonable accommodation.

All requests for reasonable accommodation must be submitted to the District's ADA Compliance and Leave Administration Manager at the District office of Human Resources, who will initiate and manage the interactive accommodation process and ensure that an appropriate accommodation is provided that meets the individual's disability-related needs and enables the individual to fully and safely perform the essential functions of the position.

An accommodation request does not have to include any special words, such as "reasonable accommodation," "disability," or "ADA." A request is any communication in which an individual asks or states that the individual needs a change because of a medical condition. A manager, recruiter or the ADA Compliance and Leave Administration Manager needs to ask an individual whether they are requesting a reasonable accommodation if the nature of the initial communication is unclear.

Each request for reasonable accommodation will be handled on a case-by-case basis, to accommodate the individual's specific functional limitation(s).

B. The Interactive Process

A request for reasonable accommodation will initiate the Interactive Process. The Interactive Process requires timely communication and good-faith exploration of possible accommodations between the District and the individual in need of reasonable accommodation. The shared goal is to identify an accommodation that allows the individual safely and fully perform their job functions.

The ADA Compliance and Leave Administration Manager will manage and respond to requests for reasonable accommodations as soon as feasible. It is expected that in the case

of accommodations for applicants or candidates, the process would be an especially high priority and begin immediately upon request so that the individual does not miss the opportunity to compete for the job.

A robust interactive process frequently requires input from the department manager, the individual and/or the individual's health care provider. Other departments, a third party vendor, as well as outside disability-related organizations, may be consulted depending on the type of request sought.

If the disability or need for accommodation is obvious or adequate medical documentation has already been provided for other reasons (i.e. Family Medical Leave Act, Workers Compensation), no medical documentation will be required.

C. Health Care Provider Certification

When the disability or need for accommodation is not obvious, the individual will be asked to provide a written statement from their health care provider. The ADA Compliance and Leave Administration Manager may also give the individual a health care provider questionnaire, which includes a list of questions to give to the health care provider or other appropriate professional to answer. The health care provider should be provided with the individual's job description, when available, in order to have an informed opinion as to any accommodations that will both meet the job requirements, and help to maintain positive health.

Information that should be included in the health care provider's statement include:

1. Verification that the individual has a disability;
2. What the individual's work restrictions or functional limitations are;
3. Recommendations for specific reasonable accommodation(s); and
4. Indication of whether the limitations are temporary or permanent; if the functional limitations are temporary, a time frame for when they are expected to end must be provided.

The District will not request, nor can it receive, any protected or private medical information from the individual or their health care provider that relates to medical diagnosis, treatment plan, medications or genetic information of the individual or family member.

D. Fitness For Duty Examination

If sufficient medical information is not provided by the individual after several attempts, the ADA states that the District has the right to coordinate a Fitness for Duty Examination with a qualified Occupational Medicine Physician, Psychologist, or Psychiatrist for any of the following reasons:

1. It is job related.
2. It is consistent with business necessity.
3. If the District reasonably believes that the individual's condition may prevent them from performing the essential functions of the job.

4. If the individual poses a direct threat to their own safety or the safety of others.

When a Fitness for Duty Examination is being coordinated, the individual is obligated to cooperate with the process. A failure to do so could result in delayed consideration of a request or in its denial.

E. Assessing Options for Reasonable Accommodation

After a request for accommodation has been made, and if need be, confirmed by a health care provider, the next step in the interactive accommodation process is to determine what, if any, reasonable accommodation should be provided. During the interactive process, the ADA Compliance and Leave Administration Manager will support the individual requesting the accommodation and make collaborative efforts with the individual's manager, Human Resources, and, if requested, a representative selected by the employee, to determine the most effective reasonable accommodations to implement.

The interactive process and accommodation discussion shall include:

1. Reviewing the individual's job description and the essential functions of their position.
2. Reviewing the individual's work restrictions or limitations that are in need of reasonable accommodation.
3. Having an open discussion about what accommodation solution(s) may support the individual in successfully meeting the requirements of the job.

F. Determination of Reasonable Accommodation

An accommodation is deemed reasonable under the ADA if the accommodation does not pose a safety concern to the individual or others or cause an undue hardship. A reasonable accommodation should support the individual in safely performing the essential functions of their position.

Some accommodations are implemented on a long-term basis, while other accommodations may last for only a temporary period. Every situation is unique and dependent on the individual's limitations, restrictions, specific accommodation needs, and the impact the accommodation will have on job performance and business operations.

Implementing a temporary accommodation offers the opportunity to evaluate an accommodation for its effectiveness before making the decision to implement the change on a long-term basis.

When a temporary accommodation is implemented, the individual will be required to submit updated health care provider documentation by the end date for the temporary work restrictions, and the accommodations being provided will be re-assessed for their effectiveness in supporting the individual's recovery and in safely performing their job duties.

If a reasonable accommodation is approved and implemented and is no longer effective, then the interactive process will be re-assessed.

If a request for accommodation is denied, the denial and reason for the denial will be communicated to the individual requesting the accommodation during the interactive process. The District will continue to explore additional options for accommodations for example, alternative work or a leave of absence accommodation.

II. LACTATION ACCOMMODATION

The District has a separate Administrative Regulation for lactation accommodations.

III. DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING ACCOMMODATION

The District will also engage in the interactive process and provide reasonable accommodations to employee-victims of domestic violence, sexual assault, or stalking, that would protect the safety of the employee-victim engaged in district employment or district-related business. The goal is to identify safety-related accommodations that do not cause undue hardship and that do not compromise the safety and health of all employees.

If an individual requests an accommodation for their safety, and it relates to being a victim of domestic violence, sexual assault, or stalking, the District may require the individual to provide a written statement regarding the need for the accommodation, and a certification of their status as a victim of domestic violence, sexual assault, or stalking. In addition, the District may request recertification of the documentation after a certain period of time. If circumstances change and the employee needs a new accommodation, the District will restart the interactive process.

IV. RELIGIOUS BELIEF OR OBSERVANCE

Although there are no legal requirements for the District to engage in the interactive process for employees with religious belief or observance, the District will make a good faith effort to provide reasonable accommodations for such requests. Religious creed, religions, religious observance, religious belief and creed include all aspects of religious belief, observance, and practice, including religious dress and grooming practices. Religious dress practice is construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of the observance by an individual or their religious creed. An individual or their religious creed construes religious grooming practice broadly to include all forms of head, facial, and body hair that are part of the observance.

References:

Americans with Disabilities Act of 1990 (Pub. L. 101-336) (ADA)
California Fair Employment and Housing Act (FEHA) Government Code 12900-12996
Government Code Sections 12926, 12940, and 12945;
Labor Code Sections 230 and 1030 et seq.;
California Code of Regulations Title 2 Sections 11040 et seq., 11050, et seq., and 11060 et seq.;
29 U.S. Code Section 207(r);
42 U.S. Code Sections 12101 et seq.;
42 U.S. Code Sections 2000e et seq.;
29 Code of Federal Regulations Parts 1605.1 et seq.