

POLICY

SOMERSET COUNTY
BOARD OF EDUCATION

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September 19, 2006
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Subject:
Americans with Disabilities
Act (ADA)

Number:
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1. PURPOSE

To provide procedures for processing requests for accommodations from applicants and employees with disabilities in compliance with the Americans with Disabilities Act.

2. DEFINITIONS

- A. The Americans with Disabilities Act of 1990 (ADA) is a comprehensive civil rights statute that provides protection in applicable part to qualified individuals with disabilities in the areas of employment, federal, state and local government services, and telecommunications.
- B. The term disability is defined as one or more of the following:
 - (1) A physical or mental impairment that substantially limits one or more of the major life activities of an individual
 - (2) A record of such an impairment
 - (3) Being regarded by SCPS as having such an impairment
- C. A qualified individual with a disability, with regard to employment, means an individual with a disability who satisfies the requisite skill, experience, education, and other job related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation can perform the essential functions of such position.
- D. Essential functions mean the fundamental job duties of the employment the individual with a disability holds or desires. The term does not include the marginal functions of that position.

- E. The term direct threat means a significant risk of substantial harm to the health or safety of others, as determined in an appropriate medical assessment, that cannot be eliminated or reduced to an acceptable level by a reasonable accommodation.
- F. Undue hardship with respect to the provision of an accommodation means significant difficulty or expense when considered in the light of:
- (1) The nature and net cost of the accommodation
 - (2) The overall financial resources of the school or unit involved in the provision of the reasonable accommodation
 - (3) The number of persons employed at the school or unit
 - (4) The effect on expenses and resources at the school or unit
 - (5) The overall financial resources of SCPS
 - (6) The overall size of SCPS with respect to the number of its employees
 - (7) The number, type, and location of SCPS facilities
 - (8) The type of operation(s) conducted by SCPS, including the geographic separateness, and administrative or fiscal relationship of the school or unit in question to SCPS as a whole
 - (9) The impact of the accommodation upon the operation of the school or unit, including the impact on the ability of other employees to perform their duties and the impact on the school's or unit's ability to conduct business
- G. Reasonable Accommodation, assuming no undue hardship exists, means:
- (1) Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires
 - (2) 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 a qualified individual with a disability to perform the essential functions of that position

- (3) Modifications or adjustments that enable a SCPS employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated SCPS employees without disabilities

3. **PROCEDURE**

- A. This policy applies to the SCPS job application procedures; the hiring, advancement, or discharge of employees; employ compensation; job training and other terms, conditions, and privileges of employment.
- B. The Director of Human Resources is responsible for coordinating the SCPS efforts to comply with and carry out its responsibilities under the ADA, including assistance with any investigations. The Director is available to facilitate and provide guidance or support in matters related to the rights of individuals with disabilities.
- C. It is the responsibility of administrative and supervisory staff to administer employment policies, regulations, and practices in such a way that the rights of individuals with disabilities are upheld.
- D. Principals will provide reasonable accommodation(s) at the local level to qualified applicants or employees with disabilities.
- E. Requests for an Accommodation
 - (1) Who May Request An Accommodation
 - a) Any SCPS employee with a disability may request an accommodation in order to perform essential job functions or to enjoy other equal benefits of employment.
 - b) An applicant with a disability may request an accommodation in the application process.
 - (2) The Director of Human Resources will adhere to the following procedures:
 - a) Determine whether the individual is protected by the ADA
 - b) If the individual with a disability is protected by the ADA, decide whether the individual is a qualified individual with a disability by determining whether he/she can, with or without reasonable accommodation, perform the essential functions of the job.

- c) If the individual is a qualified individual with a disability and if a health and safety standard is applied to all applicants for the particular job, determine whether he/she would pose a direct threat to his/her own health and safety or to the health and safety of others.
- d) If participation of the individual would pose a significant, specific, current risk of substantial harm, determine whether the risk can be eliminated or reduced to an acceptable level by a reasonable accommodation (A person who poses a direct threat will not be qualified if a reasonable accommodation will not eliminate or reduce the risk to an acceptable level.)
- e) In consultation with the individual, identify or specify reasonable accommodation(s) that would enable the employee/applicant to perform the essential job functions.
- f) Determine whether the requested accommodation(s) would result in an undue hardship at the local level, i.e., would be unduly costly, extensive, substantial, disruptive, or would fundamentally alter the nature or operation of the school or unit.
- g) If the requested accommodation presents an undue hardship for the school or unit and no other accommodation is available at the local level, the Director of Human Resources will refer the determination to the superintendent for his/her consideration.
- h) If the superintendent determines that no reasonable accommodation can be provided, he/she or a designee will inform the employee or applicant in writing, giving the reasons for reaching the conclusion.

F. Filing An ADA Complaint

- (1) The decision of the superintendent (or failure to make a decision) that a requested accommodation would constitute an undue hardship on the school system, therefore not provided may be appealed to the Board of Education within 15 calendar days.
- (2) The Board of Education will review requested accommodations and render a decision within 30 calendar days of notification of appeal.

