

AMERICANS WITH DISABILITIES ACT

AR 4032 Reasonable Accommodation

The Newhall School District will comply with the Americans With Disabilities Act of 1990 (ADA) which makes it unlawful to discriminate in employment against a qualified individual with a disability. The ADA also outlaws discrimination against individuals with disabilities in state and local government services, public accommodations, transportation and telecommunications. The ADA protects individuals with disabilities who can perform the essential functions of the job with or without reasonable accommodation. The ADA requires employers to make reasonable accommodation to the known physical or mental limitations of qualified applicants or employees with disabilities.

Title I of the ADA specifies that an employer, employment agency, labor organization or joint labor-management committee may not discriminate against any qualified individual with a disability due to that disability. This prohibition applies to job application procedures, hiring, advancement or discharge, employee compensation, job training, and terms, conditions or privileges of employment.

Title II of the ADA specifies that no qualified individual with a disability may be discriminated against by a department, agency, or special purpose district of a state or local government. Title II includes a specific requirement applicable to public transportation provided by public transportation authorities.

Title III of the ADA specifies that no individual shall be discriminated against on the basis of disability in the full and equal employment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation operated by a private entity. In addition, Title III prohibits discrimination in public transportation services provided by private entities. This Title effects providers of public accommodations, such as hotels, restaurants, theaters, retail sales and services establishments, schools, etc., as well as entities responsible for constructing places that have a potential for being places of employment, and is primarily concerned with accessibility to individuals with disabilities.

Title IV mandates the provision of telephone services to hearing and speech-impaired individuals that are functionally equivalent to those provided to hearing individuals.

Title V of the ADA includes a number of miscellaneous provisions and discusses a study of accessibility to National Wilderness Areas.

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PROCEDURES

Requests for reasonable accommodation may first be considered informally by the site administrator. If an accommodation can not be made at the site because it would impose undue hardship or because of lack of funds, the site administrator shall ask that the request be submitted in writing to the Assistant Superintendent, Personnel. The site administrator shall provide the employee or applicant with any assistance he/she may need in order to submit this request.

Reasonable accommodation may consist of a modification or adjustment to a job, a work environment or customary work practices and may include, but is not limited to:

1. Job restructuring.
2. Part-time or modified work schedules.
3. Reassignment to a vacant position.
4. Acquisition or modification of equipment or devices.
5. Appropriate adjustment or modification of examinations.
6. The provision of qualified readers or interpreters.
7. Use of accrued paid leave or unpaid leave for necessary treatment.
8. Reserved parking space for persons with mobility impairment.

Upon receipt of a request to reasonably accommodate the physical or mental disability of a district employee or qualified job applicant, the Assistant Superintendent, Personnel, shall make the determination of whether an individual poses a significant risk of substantial harm to others shall be made on a case by case basis and shall be based on objective, factual evidence, taking into consideration the duration of the risks, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the imminence of potential harm. (Code of Federal Regulations, Title 29, Section 1630.2)

The Assistant Superintendent, Personnel, may confer with the site administrator, the district medical advisor and/or other district staff before making a final decision.

The Assistant Superintendent, Personnel, shall notify the employee or applicant of the results of his/her determination.

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Reasonable Accommodation Committee

The Assistant Superintendent, Personnel, may appoint a Reasonable Accommodation Committee to review or assist in the development of appropriate plans to reasonably accommodate an employee or qualified job applicant who has requested an adjustment in work duties or environment because of known physical or mental disabilities. The membership of this committee may change, depending on the particular case at hand. The committee may include:

1. A district administrator
2. A site administrator
3. A medical advisor
4. A certificated employee
5. A classified employee

Committee members shall be selected on the basis of their knowledge of the issues at hand, including:

1. The specific functions and duties required in the position
2. The physical work environment
3. Available accommodations

At the Assistant Superintendent, Personnel's discretion, the employee or applicant requesting accommodation may participate in or be excluded from committee meetings. If the employee or applicant is excluded from committee meetings, the Assistant Superintendent, Personnel, shall communicate with him/her so that he/she has the opportunity to interact and contribute to planning the reasonable accommodation.

The Assistant Superintendent, Personnel, shall take steps to ensure the confidentiality of information related to medical conditions.

Appeal Process

If the employee or applicant is not satisfied with the decision of the Assistant Superintendent, Personnel, he/she may appeal in writing to the Superintendent or designee.

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This appeal shall be made within 10 days of receiving the decision and shall include:

1. A clear and concise statement of the reasons for the appeal.
2. A statement of the specific remedy sought.

The Superintendent or designee shall consult with the Assistant Superintendent, Personnel, and review the appeal, together with any available supporting documents. The Superintendent or designee shall give the employee or applicant 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 Board in accordance with the district's procedure for such complaints.

Legal Reference:

United States Code, TITLE 29

791 et. seq. Vocational Rehabilitation Act of 1973, Sections 503 and 504

UNITED STATES CODE, TITLE 42

12101 et. seq. Americans With Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 29

1630.2 Direct Threat