

VENTURA COUNTY OFFICE OF EDUCATION

SUPERINTENDENT POLICY NO. 4032

ADOPTED: 02/14/96

CLASSIFICATION: Personnel

REVISED:

SUBJECT: Reasonable Accommodation

Requests for reasonable accommodation may first be considered informally by the department/site administrator. If an accommodation cannot be made because it would impose undue hardship or because of a lack of funds, the administrator shall ask that the request be submitted in writing to the Coordinator for Nondiscrimination in Employment (Director of Human Resources). The administrator shall provide the employee or applicant with any assistance he/she may need in order to submit this request.

The duty to reasonably accommodate an individual with a disability is limited to those accommodations which do not impose an undue hardship upon VCOE. Undue hardship is determined on a case-by-case basis and includes any action that is unduly costly, extensive, substantial, disruptive, or that fundamentally alters the nature or operation of VCOE. The burden of proving undue hardship rests with VCOE, and what may be an undue hardship for one department may not be an undue hardship for another, depending on factors such as cost, size and/or job. Even if cost does pose an undue hardship, the disabled person should have the opportunity to pay for the portion of the cost that constitutes an undue hardship, or to personally provide the accommodation.

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 receiving a request to reasonably accommodate the physical or mental disability of an employee or qualified job applicant, the Coordinator shall:

1. Determine the essential functions of the job.
2. Consult with the employee or applicant to determine his/her precise limitations and how they may be mitigated.
3. With the employee or applicant's help, review the request for accommodation, identify potential means for providing accommodation, and assess their effectiveness; and
4. If possible, develop a plan for the accommodation that would satisfy the employee or applicant's concerns without imposing undue hardship on the district.

In order to be qualified for a job, a person must not pose a "direct threat" to the health and safety of himself/herself or others in the workplace. A "direct threat" is a significant risk that cannot be eliminated or reduced by reasonable accommodation. Before finding that a person is not qualified by reason of posing such a threat, VCOE will consider whether reasonable accommodation could reduce the risk of harm to an acceptable level. If no such accommodation exists, VCOE may refuse to hire the applicant or may discharge the employee in question.

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.

The Coordinator may confer with the department/site administrator, a medical advisor and/or other staff before making a final decision.

The Coordinator shall notify the employee or applicant of the results of his/her determination.

Reasonable Accommodation Committee

The Coordinator 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. An administrator.
2. An immediate supervisor.
3. A medical advisor.
4. The risk management specialist.
5. An employee familiar with the job classification.

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 Coordinator'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 Coordinator shall communicate with him/her so that he/she has the opportunity to interact and contribute to planning the reasonable accommodation.

The Coordinator 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 Coordinator, he/she may appeal in writing to the Superintendent or designee. This appeal shall be made within 10 days of receiving the decision and shall include:

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

The Superintendent or designee shall consult with the Coordinator 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 should comply with the 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