

REGULATION

MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries:

Responsible Office: Department of Human Relations

Reasonable Modifications for Individuals with Disabilities With Regard to Services, Programs, and Activities

I. PURPOSE

To provide procedures for processing requests for modifications from members of the public with disabilities with regard to services, programs, and activities in compliance with the *Americans with Disabilities Act*

II. 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, state and local government services, and telecommunications.

B. The term *disability* means 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 MCPS as having such an impairment

C. A *qualified individual with a disability*, with regard to services, means an individual with a disability who meets the essential eligibility requirements for the receipt of MCPS services or the participation in MCPS programs or activities and does not pose a direct threat to the health and safety of himself/herself or others with or without:

1. Reasonable modifications to rules, policies, or practices
2. The removal of architectural, communications, or transportation barriers

3. The provision of auxiliary aids
- D. The term *services* includes any services, programs, and activities provided by MCPS.
 - E. The term *auxiliary aids* includes any auxiliary aids, benefits, or services provided by MCPS.
 - F. 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 modification of policies, practices, or procedures, the removal of architectural, communications, or transportation barriers, or by the provision of auxiliary aids or services.
 - G. *Undue hardship* means an action that would result in a fundamental alteration of MCPS services or present an undue financial and administrative burden.
 - H. *Reasonable modification* means:
 1. A reasonable modification of a policy, practice, or procedure to avoid discrimination on the basis of disability, unless that modification would fundamentally alter the nature of the service
 2. A method of making a service accessible or usable to a qualified individual with a disability, unless that method would result in a fundamental alteration of the service or an undue financial and administrative burden. Depending on the circumstances, such methods may include:
 - a) Redesign of equipment
 - b) Reassignment of service to accessible buildings
 - c) Assignments of aides to beneficiaries
 - d) Home visits
 - e) Delivery of services at alternative sites
 - f) Alteration of existing facilities

- g) Construction of new facilities
 - h) Any other method that would result in making services readily accessible to and usable by qualified individuals with disabilities
3. The provision of auxiliary aids for qualified individuals with disabilities, unless those aids would fundamentally alter the nature of the service or, where applicable, would constitute an undue financial and administrative burden. The following are examples of auxiliary aids:
- a) Qualified interpreters or other effective methods of making aurally delivered materials available to qualified individuals with hearing impairments
 - b) Qualified readers, taped texts, or other effective methods of making visually delivered materials available to qualified individuals with visual impairments
 - c) Acquisition or modification of equipment or devices
 - d) Other similar services and actions
- I. *Program accessibility* means that MCPS services, when viewed in their entirety, must be readily accessible to and usable by qualified individuals with disabilities.
- J. The term *principal* means the principal of an MCPS school or an individual in charge of an MCPS unit that is not a school.

III. PROCEDURES

- A. This regulation applies to the participation in any MCPS service of qualified members of the public with disabilities.
- B. Consistent with applicable laws, this regulation does not apply to the provision of a free, appropriate public education to special education students under the Individuals with Disabilities Education Act (IDEA) or students who qualify under Section 504 of the Rehabilitation Act of 1973. Accommodations or modifications for IDEA students are addressed through the Admission, Review and Dismissal (ARD) process. Accommodations or modifications for Section 504 students are addressed through the Educational Management Team process.

- C. The ADA Coordinator in the Department of Human Relations is responsible for coordinating the efforts of MCPS to comply with and carry out its responsibilities under the ADA, including assistance with investigations. The ADA Coordinator is available to facilitate and provide guidance or support in matters related to the rights of individuals with disabilities.
- D. Principals will attempt to provide reasonable modifications to qualified individuals with disabilities at the local level.
- E. Requests for Modification
1. An individual with a disability may request a modification in order to participate in an MCPS service for which he/she is eligible by completing the appropriate section on MCPS Form 270-6: *Request for an ADA Accommodation/Modification* if the request cannot be handled informally
 2. The principal to whom the request is made will consult the MCPS *ADA Handbook: Services, Programs and Activities* and use 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 meet the essential eligibility requirements for the service with or without a reasonable modification
 - c) If the individual is a qualified individual with a disability, determine whether his/her participation in the service would pose a direct threat to his/her own safety or to the safety of others (See the MCPS *ADA Handbook: Services, Programs and Activities* for guidance.)
 - d) If participation of the individual with a disability in the service would pose a direct threat, determine whether a reasonable modification of policy, practice, or procedures would mitigate the risk (A person who poses a significant risk will not be qualified if reasonable modifications to policy, practice, or procedures, removal of architectural, communications, or transportation barriers, or by the provision of auxiliary aids or services will not eliminate or reduce the risk to an acceptable level.)

- e) In consultation with the individual, identify potential modifications and assess their effectiveness
- f) Determine whether the requested modification would result in a fundamental alteration of the local service or present an undue financial and administrative burden for the school or unit
- g) In consultation with the ADA Coordinator, consider any known funding from sources outside of MCPS, such as grants, and the experience, if any, of other schools or facilities in handling similar requests for modifications
- h) If the requested modification presents an undue financial and administrative burden for the school or unit or would result in a fundamental alteration of the service and no other modification is available at the local level or with outside funding, the principal will refer the determination to the superintendent/ designee for his/her consideration of all systemwide resources available for use in the funding and operation of the service
- i) If the superintendent/designee determines that no reasonable modification can be provided, he/she will inform the requester 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 modification would constitute an undue financial and administrative burden or result in a fundamental alteration of the nature of the service may be appealed to the Board of Education within 14 calendar days.
2. All other complaints not related to requests for accommodation may be filed by following Administrative Regulation KLA-RA: *Responding to Inquiries and Complaints from the Public*.

Regulation History: New Regulation July 20, 1994.