

REGULATION MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries: GBH, GKA-RA, KLA-RA
Responsible Office: Human Resources

Reasonable Accommodations for Individuals with Disabilities With Regard to Employment

I. PURPOSE

The purpose of this regulation is to provide procedures for processing requests for accommodations from applicants and employees with disabilities, 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 to qualified individuals with disabilities in the areas of employment, state and local government services, and telecommunications.
- B. An *individual with a disability* is described as follows:
1. A person with a physical or mental impairment that substantially limits one or more of the major life activities of an individual.
 - a) The term *substantially limits* means:
 - (1) Unable to perform a major life activity that the average person in the general population can perform; or
 - (2) Significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity
 - b) The following factors should be considered in determining whether an individual is substantially limited in a major life activity:

- (1) The nature and severity of the impairment
 - (2) The duration or expected duration of the impairment
 - (3) The permanent or long-term impact, or the expected permanent or long-term impact of or resulting from the impairment
- c) *Major life activities* are functions that an average person can perform with little or no difficulty, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; or
2. A person with a record of such an impairment
 3. A person regarded by MCPS as having 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 position, as determined by the Montgomery County Public Schools (MCPS), that 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 that cannot be eliminated by reasonable accommodations.
- 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 MCPS;
 3. the overall size of MCPS with respect to the number of its employees;
 4. the number, type, and location of MCPS facilities;

5. the type of operation(s) conducted by MCPS, including the geographic separateness, and administrative or fiscal relationship of the school or unit in question to MCPS as a whole; and
6. the impact of the accommodation on 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* means the following:

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 an MCPS employee with a disability to enjoy equal benefits and privileges of employment, as are enjoyed by other similarly situated MCPS employees without disabilities.

III. PROCEDURES

- A. This regulation applies to the MCPS job application procedures; the hiring, advancement, or discharge of employees; employee compensation; job training and other terms, conditions, and privileges of employment.
- B. The human resources compliance specialist in the Office of Human Resources is responsible for coordinating MCPS efforts to comply with and carry out its responsibilities under the Americans with Disabilities Act (ADA), including assistance with any investigations. The human resources compliance specialist 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 or supervisors will provide reasonable accommodation, if possible, at the local level to qualified applicants or employees with disabilities.

E. Requests for an Accommodation

1. Who May Request an Accommodation

- a) An MCPS employee who is a qualified individual with a disability may request a reasonable accommodation in order to perform essential job functions or enjoy other equal benefits of employment by completing the appropriate section on MCPS Form 270-6: *Request for an ADA Accommodation/Modification*, if the request cannot be handled informally.
- b) An applicant who is a qualified individual with a disability may request a reasonable accommodation in the application process by completing the appropriate section on MCPS Form 270-6: *Request for an ADA Accommodation/ Modification*, if the request cannot be handled informally.

2. Responsibility of the Principal/Supervisor

The principal or supervisor to whom a request for accommodation is made will consult with the Office of Human Resources and use the following procedures:

- a) Determine whether the individual requesting an accommodation meets the criteria to be a qualified individual with a disability under the ADA.
- b) Determine whether the individual is a qualified individual with a disability by ascertaining whether he/she can, with or without reasonable accommodation, perform the essential functions of the job.
- c) If a health and safety standard is applied to all applicants for the particular job, and if the individual is a qualified individual with a disability, 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 employee/applicant who is a qualified individual with a disability, 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) In consultation with the human resources compliance specialist, 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 accommodations.
- h) If the requested accommodation presents an undue hardship for the school or unit and no other accommodation is available at the local level, the principal or supervisor 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 school or unit.
- i) If the superintendent/designee determines that no reasonable accommodation can be provided, he/she 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 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 as follows:

- a) Employees should follow Regulation GKA-RA: *Administrative Complaint*.
- b) Applicants should follow Regulation KLA-RA: *Responding to Inquiries and Complaints from the Public*.

Regulation History: New regulation, July 20, 1994; revised September 25, 2006