

NUMBER:	SP 906.1
EFFECTIVE:	10/13/2016
REVISION:	
PAGES:	6

Statement of.....

## Policy and Responsibility

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SUBJECT: ADA (Americans with Disabilities Act of 1990 and Amendments Act of 2008)

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Murray School District provides qualified individuals with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others. Murray School District prohibits discrimination in recruitment, hiring, promotions, training, pay, social activities, and other privileges of employment. The District will provide reasonable accommodations to the known physical or mental limitations of otherwise qualified individuals with disabilities, unless it results in undue hardship.

- I. **Authority and Purpose.** This policy and procedure are published in accordance with the following federal and state laws:
  - A. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and its implementing regulations (34 C.F.R Part 104). This act states that no otherwise qualified individual with a disability in the United States (as defined) shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
  - B. Title I of the Americans with Disabilities Act of 1990 and the Amendments Act of 2008 (72 U.S.C. §12101, et. al), and its implementing regulations (29 C.F.R. Part 1630). Title I, along with implementing regulations, prohibit private employers, State and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.
  - C. Utah Code, Title 34, Chapter 5, the Utah Antidiscrimination Act. This Act prohibits an employer from hiring, promoting, discharging, demoting, or terminating a person or from retaliating against, harassing, or discriminating in matters of compensation or in terms, privilege, and conditions of employment against a person otherwise qualified because of, among other things, a disability.
- II. **Definitions.**
  - A. "Disability" means:
    1. A physical or mental impairment that substantially limits one or more of the major life activities of such individual;

2. A record of such an impairment; or
  3. Being regarded as having such an impairment. For purposes of this policy, an individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that he or she has been subjected to prohibited action as described in this policy because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.
- B. “Physical or mental impairment” means:
1. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
  2. any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- C. “Major life activities” include, but are not limited to:
1. caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and
  2. the operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.
- D. “Substantially limits” means a degree of functional limitation. Consistent with the Amendments Act of 2008, this term will be interpreted liberally and a determination shall be made without regard to the ameliorative effects of mitigating measures.
- E. “Essential job functions” means the basic job duties that an employee must be able to perform, with or without reasonable accommodation. When considering whether a job function is essential, the District will consider:
1. whether the reason the position exists is to perform the function;
  2. the time spent performing a function;
  3. consequences of not requiring that an employee perform a function;
  4. the number of other employees available to perform the function or among whom the performance of the function is distributed; and
  5. the degree of expertise or skill required to perform the function.
- F. “Qualified individual” means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or is applying

for. The District determines what functions of a District job are essential. A written job description may be considered evidence of the essential functions of the job, but is not necessary to determine the essential job functions.

- G. "Reasonable accommodation" means accommodations that would enable a qualified individual with disabilities to perform the essential functions of his or her job. Reasonable accommodations may include:
  - 1. making existing facilities used by employees readily accessible to and usable by individuals with disabilities
  - 2. job restructuring,
  - 3. part-time or modified work schedules,
  - 4. reassignment to a vacant position,
  - 5. acquisition or modification of equipment or devices,
  - 6. provision of qualified readers or interpreters,
  - 7. adjustment or modifications or examinations, training materials or policies, or
  - 8. other similar accommodations as determined on a case-by-case basis.
  
- H. "Undue hardship" means an action requiring significant difficulty or expense. In determining whether an accommodation imposes an undue hardship on the District, the District will consider:
  - 1. the nature and cost of the accommodation in light of the individual's position;
  - 2. the overall financial resources of the District;
  - 3. and the number of District employees, the effect on expenses and resources, or the impact otherwise of such accommodation on the District's operations.
  
- I. "ADA Coordinator" means the Director of Personnel at the District
  
- J. "ADA Coordinating Committee" means the committee that reviews appeals by individuals who disagree with the determination of the ADA Coordinator, and is made up of 3 or more of the following:
  - 1. The Business Administrator
  - 2. Superintendent
  - 3. Risk Manager
  - 4. A District program manager
  - 5. The District's legal consultant
  - 6. An individual with a similar disability as the individual filing the appeal
  
- K. "Interactive process" means engaging with the individual with a disability to determine what, if any, accommodations should be provided. Generally, this will be a formal meeting between the employee and site supervisor or ADA Coordinator, but may be informal conversations and meetings that both precede and follow a formal meeting.

### III. **Procedures.**

**A. Filing a Request for Reasonable Accommodations**

1. Generally, the individual with a disability carries the burden of informing the District that an accommodation is needed. The individual is not required to state he or she is asking for an ADA accommodation or a “reasonable accommodation”. When an individual requests assistance due to a disability, the individual will be instructed to formally request an accommodation in accordance with the procedures set forth paragraph III.A.3. of this policy.
2. When a disability and need for accommodations are obvious or otherwise known to the site supervisor or District ADA Coordinator, the site supervisor or District ADA Coordinator will engage in the interactive process with the individual regardless of whether the individual formally requests accommodations. The individual will be informed that he or she may request accommodations, and must do so in accordance with the procedures set forth in paragraph III.A.3. of this policy.
3. An individual requesting reasonable accommodations must file a written request for reasonable accommodations using the District “Section 504/Americans with Disabilities Act Request for Accommodation” form. The individual may also be asked to provide a HIPPA Release to allow the District to obtain information from the individual’s health care provider(s). The sole purpose in requesting information protected by HIPPA is to help the ADA Coordinator in the determination of an eligible disability and appropriate accommodations. No other HIPPA information will be requested.
4. The completed forms shall be submitted to the site supervisor or the District ADA Coordinator. The site supervisor will forward all submitted forms to the District ADA Coordinator as soon as practicably possible. The site supervisor does not have authority to agree to specific accommodations or make financial commitments on behalf of the District prior to review of the ADA Coordinator and/or the ADA Coordinator Committee.
5. Within 10 days of receiving the Request for Accommodation form and all other relevant documentation, the site supervisor and the District ADA Coordinator will meet formally with the individual requesting accommodations and discuss each requested accommodation. The individual may be asked to explain why the particular accommodation he or she is requesting will enable the individual to perform essential job functions.

**B. Determination of Eligible Disability and Reasonable Accommodations**

1. Within 5 days of the meeting described above, the District ADA Coordinator shall make one of the following determinations:
  - a. The individual has an eligible disability under Section 504 or the ADA as amended, and the accommodations requested are reasonable, in which case the following actions will be taken:
    - i. The ADA Coordinator will send notice to the individual of the determination, and will immediately work towards providing the requested accommodations.

- ii. All appropriate personnel with a need to know will be notified of the accommodation and only that information about an individual's disability that is necessary in providing the accommodation will be provided. All other information is confidential.
- b. The individual does not have an eligible disability, in which case the ADA Coordinator will notify the individual in writing of this determination as soon as practically possible.
- c. The individual has an eligible disability but the requested accommodations would impose an undue hardship on the school or District, in which case the following actions will be taken:
  - i. The ADA Coordinator will contact the individual to determine if there are alternative accommodations that can be provided.
  - ii. The ADA Coordinator may facilitate the alternative accommodations if deemed reasonable or may review the alternative accommodations with the ADA Coordinating Committee.
  - iii. If no alternative accommodations can be agreed upon, the individual will be notified as soon as practically possible.

2. If the individual disagrees with the ADA Coordinator's determination, the individual may appeal to the ADA Coordinating Committee in accordance with the procedures set forth in Section IV "Redress" of this policy.

3. Both the ADA Coordinator and the ADA Coordinating Committee on appeal will rely on the following in making a determination of eligibility and reasonable accommodations:

- a. definitions in this Policy,
- b. the essential job functions of the individual's position,
- c. whether the individual is a "qualified individual", and
- d. how and to what extent the requested accommodations will impact the school and district.

4. Nothing in these procedures prohibit the ADA Coordinator or the ADA Coordinating Committee from engaging in back and forth communication with the individual as part of the interactive process when making a determination of eligibility and reasonable accommodations.

#### IV. **Redress**

A. If an individual disagrees with the ADA Coordinator's determination, the individual may file an appeal with the ADA Coordinating Committee.

- 1. The appeal must be filed within 5 business days of the ADA Coordinator's written determination.
- 2. The appeal must be in writing and must describe in sufficient detail why the individual disagrees with the ADA Coordinator's determination.
- 3. The ADA Coordinating Committee will review all documents provided to the ADA Coordinator and may request further documentation from or communication with the individual requesting the appeal.

4. The ADA Coordinating Committee will make an independent determination and will issue a written decision within 15 days after receiving the appeal.
  5. If more time is needed to answer the appeal, the individual will be notified with an explanation of the delay and a new deadline date.
- B. The appeal process in the policy does not preclude an individual from seeking alternative forms of redress. At any time, an individual has a right to file a complaint with state and federal agencies responsible for enforcing state and federal laws protecting employees with disabilities. These agencies may be reached at the following addresses and phone numbers:

Utah Antidiscrimination and Labor Divisions (UALD)  
160 E. 300 S. 3<sup>rd</sup> Floor  
PO Box 146630  
Salt Lake City, Utah 84111  
Phone: (800) 222-1238 or (801) 530-6801  
TDD: (801)53-7685

U.S. Equal Employment Opportunity Commission (EEOC)  
3300 N Central Avenue, Suite 690  
Phoenix, Arizona 85012-9688  
Phone: (800) 669-4000  
TTY: (800) 669-6820