

ADMINISTRATIVE PROCEDURE

PROCESSING REQUESTS FOR REASONABLE ACCOMMODATION

4172

Procedure No.

August 15, 2013

Date

- I. **PURPOSE:** To establish procedures for processing requests for reasonable accommodation by employees and applicants of Prince George's County Public Schools (PGCPS). Persons with disabilities will be provided an equal opportunity to participate in or benefit from all services as offered to other individuals. To the greatest extent reasonable and possible, this will be done in the most integrated setting appropriate to the needs of the individual with a disability. Prince George's County Public Schools will not use standards, criteria, or methods of administration that screen out, exclude, or discriminate based on disability.
- II. **SCOPE:** The provisions of these procedures apply to all PGCPS employees and applicants with disabilities.
- III. **DEFINITIONS:**
 - A. **Qualified Individual with a Disability.** An individual with a disability is qualified if (1) he/she satisfies the requisite skill, experience, education and other job-related requirements of the position; and (2) he/she can perform the essential functions of the position, with or without reasonable accommodation. A qualified individual with a disability includes an individual "perceived" as having a disability.
 - B. **Reasonable Accommodation.** Any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities.
 - C. **Undue Hardship.** If a specific reasonable accommodation causes significant difficulty or expense, then the school system will not be required under the law to provide that particular accommodation. Determination of undue hardship must be made on a case-by-case basis, considering factors such as the cost of the reasonable accommodation needed and the impact of the reasonable accommodation on the operation of the school system. Undue hardship includes any action that is unduly costly, extensive, substantial, disruptive, and/or that would fundamentally alter the nature or operation of the school system.
 - D. **Essential Functions.** Those job duties that are so fundamental to the position that the individual cannot do the job without performing them. A function can be "essential" if, among other things, the position exists specifically to perform that function; there are a limited number of other

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employees who could perform the function; or the function is specialized and the individual is hired based on ability to perform. The essential functions of a position must be determined on a case-by-case basis so that it reflects the job as actually performed.

- E. **Extenuating Circumstances.** Extenuating circumstances are factors that could not reasonably have been anticipated or avoided in advance of the request for the accommodation.

IV. **PROCESS:** PGCPS will ensure that requests for reasonable accommodation are handled in an effective and expeditious manner so as:

- A. To enable the individual employee to perform the essential functions of the position, or to gain access to the workplace.
- B. To enable an applicant with a disability to have an equal opportunity to participate in the application process and to be considered for a job.
- C. To allow an employee with a disability an opportunity to enjoy the same benefits and privileges of employment as are enjoyed by employees without disabilities.

V. **ASSIGNMENT OF RESPONSIBILITIES:**

- A. Employees and Applicants. An employee or applicant shall:
1. Initiate a request for reasonable accommodation orally or in writing in accordance with procedures listed below in Section VI.
 2. Provide sufficient information and documentation to support the limitation and effect on employment, the accommodation requested, and an explanation of how it would enable an employee to perform the job or assist an applicant in the selection process.
 3. Provide relevant medical information related to the functional impairment and the requested accommodation. PGCPS recognizes that where a disability is obvious, it will not require medical documentation as a prerequisite for reasonable accommodation.
- B. Compliance Officer. The Compliance Officer shall:
1. Ensure a continuing affirmative application process and vigorous enforcement of the procedures contained herein, including notice to all applicants of their rights to request a reasonable accommodation.

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2. Request sufficient resources for program implementation to ensure efficient and successful processing of requests for reasonable accommodation. Confirm actions meet all legal compliance.
 3. Manage requests for reasonable accommodations. Provide reasonable accommodation in a prompt, fair and efficient manner.
 4. Maintain confidential records related to an employee's request for accommodation. Ensure that medical records are kept confidential and maintained in files separate from the individual's official personnel file.
 5. Prepare an annual report for the Chief Executive Officer including the number of requests for accommodation (approvals and denials), cost, training, and timeline for completion.
 6. Request relevant supplemental medical information if documentation submitted does not clearly explain the nature of the disability, reason for reasonable accommodation, or does not plainly describe how the requested accommodation will assist the applicant/employee to perform the essential function of the job.
 7. Provide orientation, training, and advice to managers and supervisors regarding the implementation of the procedures.
 8. Determine appropriate actions and coordinate with appropriate personnel involved ensuring timely completion of individual requests.
 9. Recommend alternatives to address specific requests.
- C. Chief Human Resources Officer. The Chief Human Resources Officer or designated official shall:
1. Process requests for reasonable accommodation from applicants during the recruitment and application process, as needed.
 2. Make vacancy announcements available to applicants/employees with disabilities.
 3. Ensure that all vacancy announcements include a statement that accommodations are available upon request by the applicant.
 4. Support the Division of Human Resources to increase the representation of people with disabilities in the PGCPS workforce.
 5. Assist the Compliance Officer with reassignments as a reasonable accommodation in accordance with Employee Equal Opportunity Commission (EEOC) regulations and laws.
- VI. **PROCEDURES:** An employee or applicant with a disability, or his/her family member, health professional or other representative who is acting on behalf of the employee or applicant (requestor) may initiate a request for reasonable accommodation.

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- A. The process for requesting an accommodation begins with the requestor contacting the Compliance Officer by telephone or by submitting the Request for Reasonable Accommodation and Medical Inquiry Form to Support Accommodation Request (if required), Attachment 1, to the Compliance Officer in the Employee and Labor Relations Office. If the request is initiated by telephone, the requestor will complete the Request for Reasonable Accommodation and Medical Inquiry Form to Support Accommodation Request for record keeping purposes.
- B. After receiving a request, the Compliance Officer will take immediate action of investigating and considering the requested accommodation, including consulting appropriate resources for assistance. Suggested resources available to assist both school system personnel and the requestor in identifying possible accommodations, are listed in Attachment 2. If approved, accommodations will be provided within ten (10) business days, or sooner, from the date the request is received by the Compliance Officer. Extenuating circumstances, including the unavailability of equipment from the manufacturer, delay in installation, etc., may prevent meeting the ten (10) day deadline. Expedited processing might be necessary where, for instance, the reasonable accommodation is needed to enable an individual to apply for a job, or the reasonable accommodation is needed for a specific activity that is scheduled to occur soon after the request is initiated.
- C. If there are extenuating circumstances that will delay either processing a request for, or delivering, a reasonable accommodation, the Compliance Officer will notify the requestor promptly and keep the requestor informed of the approximate date the school system will complete the process or issue a decision. The Compliance Officer will investigate the possibility of temporary measures that could be taken to assist the requestor. Any changes or developments will be communicated promptly to the requestor.
- D. Upon granting or denying the request for reasonable accommodation, the Compliance Officer will either complete the "Reasonable Accommodation Information Report" (Attachment 3) or issue a formal letter; these documents will be maintained for future reporting.
- E. If the Compliance Officer denies the request, the requestor will either be informed, in writing, of the denial (See Attachment 4) or issued a formal letter; these documents will be maintained for future reporting. The reasons for denial are:

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1. The requestor has failed to satisfy the requirements; or
 2. The accommodation would create an undue hardship on PGCPS.
- F. The denial notice will clearly specify reasons for the denial (e.g., why the medical documentation, if appropriate, was inadequate to establish that a qualified individual with a disability needs reasonable accommodation; or why the accommodation would pose an undue hardship to the school system; or why the requested accommodation would not be effective).
- G. Within ten (10) business days after receipt of the denial notice, if the requestor wishes reconsideration of the decision to deny reasonable accommodations, then he or she may submit additional information for reconsideration. New evidence and sound justification should be presented to support this request. The Compliance Officer will issue a decision on reconsideration within five (5) business days after receipt of the requestor's request for reconsideration. Pursuing reconsideration or any other informal dispute resolution procedures does not toll the time limits for initiating statutory claims.
- H. If the Compliance Officer denies the request a second time, the requestor can appeal the decision to the Director of Employee and Labor Relations within ten (10) business days.
- I. If the Director of Employee and Labor Relations denies the request, the requestor can appeal the decision to the Chief of Human Resources within ten (10) business days of the Compliance Officer's second denial of the requested accommodation.
- J. If the Chief of Human Resources denies the request, the requestor can appeal the decision to the Chief Executive Officer or his/her designee and Labor Relations' denial of the requested accommodation.
- K. If the Chief Executive Officer denies the request, the requestor may appeal the decision to the Board of Education in accordance with Section 4-205 of the Education Article, Annotated Code of Maryland within thirty (30) days of the Chief Executive's denial. The Compliance Officer will also notify the requestor that he/she has a right to file a complaint, pursuant to AP 4170, Discrimination and Harassment, and with a designated local, State or federal equal employment agency.
- L. In instances where the employee has requested an accommodation from his or her immediate supervisor without contacting the Compliance Officer, the immediate supervisor will contact the Compliance Officer only if the

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requested accommodation is denied. The Compliance Officer will review all information and follow the procedures outlined above.

VII. ADDITIONAL GUIDELINES:

- A. Request for Reassignment.
1. Reassignment will only be considered if accommodations are unavailable to enable the employee to perform his or her current job, or if the only other effective accommodation would cause undue hardship.
 2. In considering whether there are positions available for reassignment, the Compliance Officer will work with Human Resources staff to identify possible vacant positions. The Human Resources staff is responsible for conducting the search for reassignment, and will focus on positions which are equivalent to the current job in terms of pay, status, grade level, and other relevant factors. If there is no vacant equivalent position, the school system will consider vacant positions of a lower level for which the employee with a disability is qualified.
- B. Medical Information.
1. The Compliance Officer has a right to request relevant supplemental medical information if the information submitted: (a.) does not clearly explain the nature of the disability, or the need for the reasonable accommodation, (b.) does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace, or (c.) in the case of an applicant, assist him or her with the application process. The school system shall have the right to have medical information reviewed by a medical expert of PGCPS' choosing, at its expense.
 2. Where medical documentation is provided by an employee requesting an accommodation is insufficient, the Compliance Officer will explain to the employee why the documentation is insufficient and identify the information still needed. The school system's request for medical information will follow the requirements set forth in the EEOC's Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act (available on EEOC's internet sites).

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3. If, after a reasonable period of time, there is insufficient information to demonstrate that the individual has a disability and needs a reasonable accommodation, PGCPS may either deny the request for accommodation or request that the individual requesting accommodation be examined by a physician selected by the school system.

C. Information Tracking.

The Compliance Officer and Director of Employee and Labor Relations will ensure that medical records are kept confidential. Such records will be maintained in files separate from the employee's official personnel file, and will be disclosed only in accordance with EEOC regulations.

VIII. **RELATED PROCEDURES AND REGULATIONS:** Administrative Procedure 4170, Discrimination and Harassment; Rehabilitation Act of 1973, 29 U.S.C. 701 et reg.; Title I of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101-12117; The ADA Amendments Act of 2008; and Section 4-205 of the Education Article, Annotated Code of Maryland.

IX. **MAINTENANCE AND UPDATE OF THESE PROCEDURES:** These procedures originate with the Office of Employee and Labor Relations and will be updated as needed.

X. **CANCELLATIONS AND SUPERSEDES:** This Administrative Procedure cancels and supersedes Administrative Procedure 4172 dated August 22, 2011.

XI. **EFFECTIVE DATE:** August 15, 2013.

Attachments: 1 - Request for Reasonable Accommodations
2 - Recruitment Resources
3 - Reasonable Accommodations Information Report
4 - Denial of Reasonable Accommodations Request

Distribution: Lists 1, 2, 3, 4, 5, 6, 9, 10, and 11