

## AMERICAN'S WITH DISABILITIES ACT: REASONABLE ACCOMMODATION

### Generally

The City of Portsmouth School Board recognizes its obligation to provide equal employment opportunity and equal access to services, programs and programs for persons with disabilities. It is the policy of the School Board to not discriminate and provide reasonable accommodation(s) to a qualified person pursuant with the Americans with Disability Act (ADA) to enable such person to perform the essential functions of the position for which he/she is employed or is applying for employment.

This regulation applies to all employment practices and actions, including but not limited to recruitment, the job application process, hiring, training, disciplinary actions, rates of pay or other compensation, advancement, classification, transfer, reassignment and promotions. Employees or applicants with disabilities may request reasonable accommodations.

### Definitions

1. Disability- Under the ADA, a disability is:
  - a. A physical or mental impairment that substantially limits one or more major life activities of such individual;
  - b. A record of such impairment; or
  - c. Being regarded as having such an impairment.
2. Regarded as having such an impairment means that the individual has been subjected to an action prohibited under the ADA 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; however, it shall not apply to impairments that are transitory and minor.
3. Transitory impairment is an impairment with an actual or expected duration of six (6) months or less.
4. Major Life Activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
5. Major bodily functions are major life activities and also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
6. Essential Job Functions are the essential job duties that an employee must be able to perform with or without a reasonable accommodation. For purposes of this regulation it is the School Division's judgment as to what functions of a job are

7. essential, if a written and up to date description exists, and actual functions and duties of the job.
8. Reasonable Accommodation is any change or adjustment to a job or work environment which allows an employee with a disability to perform the essential functions of a job. Typical accommodations include but are not limited to: job restructuring, reassignment, and equipment and furniture modifications.
9. Undue hardship is an accommodation which would be unduly costly, extensive, disruptive, or would substantially alter operations. Such accommodations need not be provided. Please note that the School Division does have the obligation to explore and locate other suitable accommodations which would not constitute undue hardship if possible.
10. Qualified individual is an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

### **Reasonable Accommodation Requests**

An employee or applicant, who perform the essential functions of their position or position applying to but need an accommodation to do so , may submit a request for reasonable accommodation by submitting a Request for ADA Accommodation form to the Department of Human Resources. Upon receipt of the form the Compliance Office will verify the information provided by the employee by forwarding the Medical Certification form and job description to the healthcare provider identified by the employee. The healthcare provider will have ten (10) business days to complete the form and return to the Department of Human Resources.

Within fifteen (15) working days of the receipt of all ADA forms and consultation with the employee, the Compliance Officer will write up findings to submit to the Director of Human Resources to determine if the employee has a “disability” as defined in the Act and whether the employee can perform the essential functions of their position but need accommodation to do so. The Director of Human Resources and the Compliance Officer will review the request for accommodation information from the employee and healthcare provider(s) to determine the appropriate accommodation.

The Compliance Officer will advise the employee or applicant in writing regarding whether the requested reasonable accommodation(s) can be provided, whether another reasonable accommodation can be provided or whether providing the reasonable accommodation would constitute an undue hardship for the School Division and cannot be provided. If an accommodation is approved, the employee will then perform their work in conjunction with the approved accommodation and the employee’s work

performance will be monitored to determine the ongoing success of the accommodation or, if needed, any possible modification.

### **Appeal of decision**

Should an employee find the response unsatisfactory, the grievance procedure may be used to seek redress. Should an applicant find the response unsatisfactory, the applicant may file an appeal in writing within fifteen (15) business days of receipt of response. The appeal should be filed with the Superintendent. The Superintendent or designee (other than Director of Human Resources) will review the appeal and undertake further investigation before rendering a decision regarding the applicant's appeal. The Superintendent or designee will provide a written decision regarding the appeal to the applicant within thirty (30) business days of receipt of the appeal. This Regulation shall be construed to protect the substantive rights of interested persons to meet appropriate due process standards and to ensure that the School Board complies with the ADA and its implementing regulations.

### **Retaliation or false accusations prohibited**

Persons who use this procedure for good faith complaints will not be retaliated against by the School Board or School Division staff. The School Board directs that appropriate action be taken against any person who retaliates against another person for reporting alleged discrimination or participating in related proceedings. Persons who knowingly file false discrimination complaints and any person who gives false statements or evidence in a related proceeding shall be subject to discipline or other appropriate action. School Board employees may be subject to discipline up to and including termination. Volunteers, nonemployee agents of the School Board or visitors may be subject to measures up to and including exclusion from School Board property, buses, communication systems and school sponsored events.

### **File Maintenance**

The Compliance Officer shall maintain the files and records of the School Board relating to the complaints filed pursuant with this regulation. All documentation submitted or collected pursuant to this Regulation will be held in the strictest of confidence and kept separate from the personnel files. Documentation and reports from medical exams will be used solely to assist the School Division in making an informed decision about the request for an accommodation.

Adopted: June 22, 2017

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Legal Ref.: *The American with Disabilities Act* of 1990 as amended by the Americans with Disabilities Act Amendment Act of 2008