

FREQUENTLY ASKED QUESTIONS REGARDING REASONABLE ACCOMMODATIONS

1. Who is an individual with a disability?

An individual who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Major life activities include seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, thinking, caring for oneself, and working.

2. Who is a “qualified individual with a disability?”

A person who meets legitimate skill, experience, education, or other requirements of an employment position that he or she holds or seeks, and who can perform the “essential functions” of the position with or without reasonable accommodations.

3. What are essential job functions?

Essential job functions are those job duties that are so fundamental to the position that the individual holds or desires that he or she cannot do the job without performing those duties. A function can be “essential” if, among other things:

- The position exists specifically to perform that function;
- There are a limited number of employees who can perform the function; or
- The function is specialized and the individual is hired based on his or her ability to perform it

An essential job function does not include marginal or incidental job functions. The District’s judgment as to which functions are essential, and a written job description prepared before advertising or interviewing for a job will be considered as evidence of essential functions. Other kinds of evidence that will be considered include: an essential functions job analysis completed by the District, the actual work experience of present or past employees in the job, the time spent performing a function, and the consequences of not requiring that an employee perform a function.

4. What is a reasonable accommodation?

A reasonable accommodation is a modification or adjustment to the work environment or to the manner in which the position held or desired is customarily performed that will enable a qualified individual with a disability to perform the essential functions of that position.

Reasonable accommodations must be provided to qualified part-time, full-time, permanent, or temporary employees. A reasonable accommodation need not be the best or most expensive accommodation available, as long as it is effective for the purpose. Reasonable accommodations do not include adjustments to a job and/or work environment that alter or eliminate essential job functions, create positions that would otherwise not exist, lower performance standards, or provide personal care needs. The District is not required to provide an accommodation that would constitute an undue hardship or cause a direct threat of harm to the employee or others. Irving ISD does not need to provide the employee’s preferred accommodation as long as an effective alternative accommodation that is reasonable is provided.

5. What is an undue hardship?

Undue hardship means an action requiring significant difficulty or expense. Determination of undue hardship is made on a case-by-case basis, considering several factors including:

- The nature and cost of the accommodation needed;
- The overall financial resources of the District in making the reasonable accommodation;
- The number of persons employed at the campus and/or District facility and in that position;
- The effect on expenses and resources of the campus and/or District facility;
- The operations of the District, including the structure and functions of the workforce; and
- The impact of the accommodation on the operation of the campus and/or District facility.

6. What is alternative work?

An employee's performance of an assignment other than in his or her regular position. Alternative work may be temporary, long-term, or permanent. Temporary alternative work may encompass tasks not organized in an approved classification, but assigned to allow a disabled employee to remain working for a short duration of time. Long-term or permanent alternative work requires that: 1) there is a vacancy in the District approved to be filled; 2) the disabled employee is qualified to perform the work; 3) the disabled employee is able to perform the work with or without reasonable accommodation; 4) the salary for the alternative work is the same or less than the disabled employee's current classification's salary; and 5) the assignment to alternative work does not contravene Board policy and/or District regulations or procedures.

7. What is permanent or long-term disability?

A disability that an appropriate health care provider expects to continue for an indeterminate amount of time or for the life of the eligible person.

8. What is temporary or short-term disability?

A disability that an appropriate health care provider expects to last for a specific amount of time, typically for not longer than six months.

9. What kind of information can Irving ISD gather during the accommodation review process?

If the disability is not obvious or known, the District can ask for information necessary to verify that an employee has a disability that limits a major life activity and for information related to an employee's functional limitations or restrictions and the duration of such limitations or restrictions. The information requested by the District is limited to information that is relevant to making a decision about reasonable accommodation and must be job related. The District cannot and will not ask a physician to disclose diagnoses, prognoses, or treatment plans without the written consent of the employee or applicant.

10. What does Irving ISD do with the information received during the accommodation review process?

All documents related to the interactive process are kept confidential and stored in a file that is separate from personnel files.

11. What happens if an employee does not provide requested information or cooperate during the accommodation review process?

The process requires good faith participation by both the employee and the District. If an employee does not provide the necessary documentation to establish that he/she has a disability or sufficient information about his/her functional limitations so that the District can determine if there is a reasonable accommodation available, the employee will be deemed to have waived his/her right to participate in the process, and the District will have no obligation to provide a reasonable accommodation. Furthermore, if the employee cannot perform the essential functions of his/her job, or if a necessary reasonable accommodation is refused, the individual may be considered not qualified for his/her position.

12. Can Irving ISD require that an employee undergo a fitness for duty evaluation as part of the accommodation review process?

Yes. The District may require an employee to undergo a fitness for duty evaluation in order to gather necessary information to respond to a request for accommodation or to determine if an employee is fit to perform the essential functions of a position. The fitness for duty evaluation must be job-related and consistent with business necessity.

13. How does Irving ISD determine if there is an available reasonable accommodation?

The accommodation review process is the method used by the District to gather necessary information to determine if there is a reasonable accommodation that can be made. The determination of an available reasonable accommodation is made on a case-by-case basis, and is determined based on a variety of factors, including but not limited to the employee's functional limitations, essential job functions and qualifications for alternative positions.

14. Is Irving ISD required to provide an employee with his/her preferred accommodation?

No, but the employer must give the employee's preference due consideration.

15. How does an employee become eligible for reassignment into another position?

A regular employee who is determined not to be able to perform the essential functions of his/her current position, with or without reasonable accommodation, will be considered for placement into another position as a form of reasonable accommodation. Placement into an alternative position is only reasonable when the appointment would not be considered a promotion. However, an employee who is eligible for a reasonable accommodation appointment or transfer does not need to compete for the new position. The new position must be vacant and the employee must be qualified and able to perform the essential functions of the new position, with or without accommodation. In addition, the appointment or transfer cannot violate any applicable Board policies or District regulations or procedures.

16. Is Irving ISD required to change a person's supervisor as a form of reasonable accommodation?

No. It is not a reasonable accommodation to change an employee's supervisor or co-workers. A supervisor, however, might be required to change certain supervisory methods as a reasonable accommodation. For example, a supervisor may give direction to an employee in a manner that breaks down a complex assignment into smaller components.

17. Is Irving ISD required to accommodate an employee with a disability who violates a code of conduct rule?

Irving ISD will make reasonable accommodations to enable a qualified employee with a disability to meet a conduct rule in the future if such accommodation does not cause an undue burden or present a significant risk of substantial harm to the employee or others for known disabilities. However, accommodations are prospective. As such, Irving ISD is not required to excuse past misconduct when it did not know about the employee's disability, even if such misconduct was a result of the employee's disability.

18. If a co-worker asks a question about another employee's accommodation, can Irving ISD say the employee has a reasonable accommodation?

No. Information about an employee's disability is confidential. Information about an individual's accommodation should be disclosed only on a "need-to-know" basis and when the co-worker has to participate in the accommodations plan to make it effective. In situations where co-workers are inquiring why someone is receiving what is perceived as "different" or "special" treatment, Irving ISD can respond that it assists all employees to do their jobs, that many workplace issues are personal, and it is Irving ISD's policy to respect employee privacy.

19. When can the District refuse to provide an accommodation?

The District can refuse to provide an accommodation if the accommodation would (1) constitute an "undue hardship" based on an evaluation of the facts; or (2) present a significant risk of substantial harm to the employee or others established through objective, medically-supported information.