

AMERICANS WITH DISABILITIES ACT

I. Purpose

The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA) are federal laws that prohibit disability discrimination in all employment practices including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions and privileges of employment. It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits, and all other employment-related activities. It is the policy of the Albemarle County School Board to comply with all federal and state laws concerning the employment of persons with disabilities.

II. Disability Discrimination Protection

A. Who is Protected

Job applicants and employees who are qualified individuals with a disability are protected.

B. Definitions

1. *Direct threat*: means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.
2. *Disability*: means a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.
3. *Essential functions of the job*: refer to those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified.
4. *Major life activities*: include the following, 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. It also includes operation of major bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Also covered are any mental or psychological disorders, such as intellectual disability (formerly termed mental retardation), organic brain syndrome, emotional or mental illness, and specific learning disabilities.
5. *Qualified individual*: means an individual 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 the employment position that such individual is applying for or holds.

6. *Reasonable accommodation*: means any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to enjoy an equal employment opportunity including, but not limited to, participating in the application process and/or performing 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. Reassignment of an essential job function to another employee is not a reasonable accommodation.
7. *Substantially limiting*: Determining whether an impairment substantially limits a major life activity requires an individualized assessment. An impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include, but are not limited to, epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder, and schizophrenia. An impairment, such as cancer, that is in remission but that may possibly return in a substantially limiting form also is considered a disability.
8. *Undue hardship*: means an action requiring significant difficulty or expense by the employer. In determining whether an accommodation would impose an undue hardship on an employer, factors to be considered include, but are not limited to:
 - a. The nature and cost of the accommodation.
 - b. The overall financial resources of the department or departments involved in the provision of the reasonable accommodation; the number of persons employed by the department; the effect on expenses and resources; or the impact of such accommodation upon the operation of the department.
 - c. The overall financial resources of the employer; the size, number, type and location of facilities/departments.
 - d. The type of operations of the employer, including the composition, structure, and functions of the workforce; administrative or fiscal relationship of the particular department involved in making the accommodation to the employer.
 - e. The impact of the accommodation on the operation of the department.

III. Requesting a Reasonable Accommodation

A. Pre-employment Requests

1. An applicants with a disability who can be reasonably accommodated will be given the same consideration for employment as any other applicant.
2. A job applicant with a disability may request a reasonable accommodation by contacting Human Resources and completing the designated form.
3. Human Resources will engage in the interactive process with the applicant to determine if the School Division can provide a reasonable accommodation without creating an undue hardship or causing a direct threat to workplace safety.
4. An applicant who poses a direct threat to the health, safety, or well-being of him/herself or others in the workplace, and when the threat cannot be eliminated by reasonable accommodation, will not be hired.

B. Employment Requests

1. An employee with a disability may request a reasonable accommodation by contacting Human Resources or their supervisor and completing the designated form. Employees requesting reasonable accommodations must provide appropriate documentation.
2. Supervisors who receive requests for reasonable accommodations or have reason to know that an employee may need a reasonable accommodation must contact Human Resources immediately. Supervisors should not investigate medical conditions without guidance from Human Resources.
3. Human Resources will engage in the interactive process with employees claiming or having a disability to determine if the School Division can provide a reasonable accommodation without creating an undue hardship or causing a direct threat to workplace safety. Generally, accommodation meetings will be held with Human Resources, the employee, and the employee's supervisor to discuss the need for accommodation and reasonable accommodation options.
4. The School Division will reasonably accommodate a qualified individual with a disability so that the employee can perform the essential functions of the job unless doing so causes a direct threat to these individuals or others in the workplace. The School Division will attempt to eliminate the threat by developing a reasonable accommodation. However, if the accommodation creates an undue hardship to the School Division, the accommodation will not be utilized.

- C. Who to Contact
Contact the Human Resource Department at (434) 296-5827 or humanresources@albemarle.org with any questions or requests for accommodation.

IV. Excluded from Coverage

- A. Direct Threat
Individuals who pose a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation are excluded from coverage under this policy.
- B. Illegal Drugs
Individuals who are currently using illegal drugs are excluded from coverage under this policy.

Adopted:

Legal Ref.: Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.)
Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq., as amended)
29 C.F.R. Part 1630

Cross Ref.: AC, Non-Discrimination
AD, Educational Philosophy
GB, Equal Employment Opportunity/Non Discrimination
GBA, Prohibition Against Harassment and Retaliation