Reasonable Accommodations related to COVID-19

FAQ’s

# What is a reasonable accommodation?

*A reasonable accommodation is any change to a job, the work environment, or the way things are usually done that allows an individual with a disability to apply for a job, perform job functions, or enjoy equal access to benefits available to other individuals in the workplace that does not jeopardize safety or pose an undue hardship to the employer and/or other employees.*

# What is the “interactive process?”

# *When an employee with a disability seeks a reasonable accommodation, the employer and employee use the interactive process to reach an accommodation. The interactive process is informal and usually involves a discussion (or series of discussions) between the employer and employee. The employee’s job functions, job-related limitations imposed by the disability, potential accommodation, and the employee’s preference for accommodation are typically included within the interactive process*

# I am a person of 65 years of age or older or I am pregnant so I am in a higher risk for developing complications from Coronavirus can I receive a workplace accommodation under the ADA?

No – For this reason alone you are not eligible for accommodation under the ADA, however, we will work with you the best we can to protect these workers from occupational exposure by providing PPE, through workplace safety protocol and by encourage all students and staff to stay home if they are sick.

# I am a caregiver or parent to a person with a compromised immune system or is in the protected class am I entitled to receive a workplace accommodation under the ADA?

No - you are not eligible for accommodation under the ADA because the disability is not your own but you may be entitled to a leave under the Federal Family and Medical Leave Act (FMLA) or the recently passed federal Families First Coronavirus Response Act. Please contact HR to find out if you are eligible.

# I have a disability that causes me to have a compromised immune system am I eligible to receive an accommodation under the ADA?

Possibly – please contact the Human Resources Department to request an accommodation under the ADA and we will begin the interactive process The employer will work with you to determine what, if any, accommodations can be made based on your role in the district and what accommodation you are requesting. You may be required to supply disability-related documentation.

Is the request to have a virtual or distance learning assignment based on some type of COVID risk a trigger for the ADA process even if there is no prior disability?

*It depends. If an underlying medical condition is exacerbated by COVID-19 and results in a disability, an employee is entitled to a reasonable accommodation, absent undue hardship. If the employee is simply requesting a virtual or distance learning assignment due to age or another unprotected reason that does not qualify as a disability, the ADA process is not implicated.*

If offering virtual learning, are we obligated to allow staff who are immune compromised be assigned the virtual assignments first?

*No. Notwithstanding, we are obligated to go through the interactive process, and said reasonable accommodation may include a virtual assignment.*

Will staff members who have health concerns that make it difficult to wear a mask be required to wear one?

*If the employee has a disability that prevents him/her from wearing a mask, the school district should consider providing a reasonable accommodation that puts the staff member to productive work in a manner that does not put others at risk. A reasonable accommodation might be: a different type of facing covering (such as a clear shield or cloth gaiter); designating one-way aisles in the workplace; moving offices; or using tables or other barriers to remind staff and students to remain physically distant.*

What does "medically tolerate" mean relative to masks?

*There is no specific definition of “medically tolerate.” Districts should require documentation from a medical professional similar to protocol for other types of accommodations (e.g., a reasonable accommodation under the ADA).*

May a school district require employees to wear a face shield if they are unable to medically tolerate a mask?

*Likely yes. Masks are generally required unless the employee is unable to medically tolerate a mask. Requirement of a face shield would likely be similar to a reasonable accommodation.*

If an employee is required to quarantine, can we require him/her to telework if it feasible for his/her position?

*Yes*.

Can a school district require employees to come to work if the district is required to be closed (Phases 1, 2, or 3) or is optionally implementing online learning (Phases 4, 5, or 6)? If employees refuse to report, what are our options?

*Generally, yes. School employees and contractors may be required at a building through*

*Phase 3 to conduct basic school operations, including remote live instruction. For Phases*

*4 and above, schools are not required to be closed physically; even if students are not*

*present, staff presence may be required. Staff who refuse to report are insubordinate and*

*may be disciplined, absent extenuating circumstances (e.g., ADA reasonable*

*accommodation considerations).*

Can the District choose to restrict a teacher’s ability to return to work after visiting an area of high risk?

*Yes. However, the teacher should be paid for the time s/he is restricted. Teleworking would be an option during this time.*