



POLICY 3.06

5-C I recommend that the Board approve development of the proposed **revised** Policy 3.06, entitled “Policy Concerning Persons with a Disability and Procedures for Accommodation.”

[Contact: Sandra Gero, PX 48873.]

Development

CONSENT ITEM

- The purpose of this policy is to provide procedures for processing requests for accommodations from applicants and employees with disabilities, in compliance with the *Americans with Disabilities Act of 1990*, as amended by the *ADA Amendments Act of 2008* or hereafter amended, and *Section 504 of the Rehabilitation Act of 1973*, as now or hereafter amended.
- Revisions include the addition of a definitions section and procedures for ADA eligibility determination and accommodations.

POLICY 3.06

POLICY CONCERNING PERSONS WITH A DISABILITY AND PROCEDURES FOR ACCOMMODATION

- 1 1. **Purpose.** The purpose of this policy is to provide procedures for processing
2 requests for accommodations from applicants and employees with disabilities, in
3 compliance with the *Americans with Disabilities Act of 1990*, as amended by the
4 *ADA Amendments Act of 2008* or hereafter amended, and *Section 504 of the*
5 *Rehabilitation Act of 1973*, as now or hereafter amended.
- 6 2. **Definitions.**
 - 7 a. **“Qualified individual with a disability”.** A qualified individual with a disability
8 is an individual who, with or without reasonable accommodation, can perform
9 the essential functions of the employment position that such individual holds or
10 desires.
 - 11 b. **“Disability”.** A disability is a physical or mental impairment that substantially
12 limits one or more of the major life activities of such individual; a record of
13 such impairment; or being regarded as having such impairment.
 - 14 c. **“Impairment”.** An impairment is a physiological disorder, or condition,
15 affecting one or more of the body systems or a mental or psychological
16 disorder, such as emotional or mental illness.
 - 17 i. The following are **NOT** considered to be impairments:
 - 18 A. Temporary conditions, such as a broken leg, and those that are
19 minor (such as poor vision that is correctable with eyeglasses)
 - 20 B. Environmental, cultural and economic disadvantages
 - 21 C. Homosexuality and bisexuality
 - 22 D. Pregnancy
 - 23 E. Physical characteristics (eye and hair color, left handedness)
 - 24 F. Personality traits or behaviors
 - 25 G. Normal deviations in height, weight or strength
 - 26 H. Gender identity disorders or other sexual disorders

- 30 I. Conditions resulting from current illegal use of drugs
- 31 d. **“Substantially limiting”.** An impairment is substantially limiting if it prevents
32 or to a large degree restricts an individual’s ability to perform a particular major
33 life activity, as compared to the ability of the average person in the general
34 population performing the same activity. The determination of whether an
35 impairment substantially limits a major life activity depends on the nature and
36 severity of the impairment and the duration or expected duration of the
37 impairment. The impairment’s impact must be permanent or long term.
- 38 e. **“Major Life Activities”.** Major life activities include, but are not limited to,
39 functions such as caring for oneself, performing manual tasks, walking,
40 seeing, hearing, speaking, breathing, learning, working, sitting, standing,
41 lifting, reaching, reading, eating, sleeping, bending, concentrating,
42 communicating or thinking.
- 43 f. **“Essential functions”.** The essential functions of a position are those that
44 are central to accomplishing the tasks that are required of the position, not
45 those that are marginally related to the outcome. The following questions can
46 provide assistance in determining which functions are essential to the job:
- 47 i. Will removing the functions fundamentally alter the position?
- 48 ii. Is the function included in the written job description?
- 49 iii. Is the function specified under collective bargaining agreements?
- 50 iv. How much time is spent performing the function?
- 51 v. What are the consequences of the employee failing to perform the
52 function?
- 53 vi. How many other employees are available to perform the function?
- 54 vii. Does the position exist to perform the function?
- 55 viii. What experience is needed to perform the function?
- 56 ix. What is the experience of the past and/or current incumbents of the job?
- 57 g. **“Reasonable accommodation”:** A reasonable accommodation is any
58 change in the work environment or the manner in which a job is performed that
59 enables an individual with a disability to enjoy equal employment
60 opportunities. Reasonable accommodation may include:
- 61 i. Making existing facilities used by employees readily accessible to and

- 62 usable by individuals with disabilities:
- 63 ii. Job restructuring:
- 64 iii. Part-time or modified work schedules:
- 65 iv. Acquisition or modification of equipment or devices:
- 66 v. Appropriate adjustment or modifications of examinations, training
67 materials or policies:
- 68 vi. The provision of assistance by other personnel (e.g. qualified readers or
69 interpreters):
- 70 vii. Permitting the use of accrued paid leave or providing additional unpaid
71 leave for necessary treatment.
- 72 viii. Reassignment to a vacant position for which the employee is qualified, if
73 the disabled person is unable to perform the original job. (Reassignment
74 should only be considered when there are no possible accommodations
75 that would allow the employee to perform the current position without
76 creating an undue hardship on the employer. The employee should
77 identify vacant positions for which he/she is qualified and which have the
78 equivalent pay status and conditions of employment).
- 79 3. **Policy Statement.** The School District of Palm Beach County, in accordance with
80 the *Americans with Disabilities Act of 1990 (ADA)*, shall not discriminate against a
81 qualified individual with a disability, because of the disability of such individual, in
82 regard to job application procedures, hiring, advancement, discharge,
83 compensation, job training, or other terms, conditions, or privileges of employment,
84 and shall provide reasonable accommodation to such an individual when
85 necessary to enable the individual to perform the essential functions of the position,
86 unless such accommodation would impose undue hardship on the school system.
87 The burden of demonstrating undue hardship will be with the School District in
88 accordance with law. Additionally, accommodation is not required when an
89 individual poses a direct threat, i.e. a significant risk of substantial harm to the
90 health or safety of the individual or others if the risk cannot be eliminated or
91 reduced by reasonable accommodation.
- 92 4. **Procedures for ADA Eligibility Determination and Accommodations**
- 93 a. **Responsibilities of Worksite Administrators/Supervisors.** Worksite
94 administrators or supervisors are required to:
- 95 i. Refer employees seeking assistance under the ADA to the EEO/ADA
96 Coordinator at 561-982-0905. No accommodation for a disability as

97 defined in this policy in accordance with the Americans with Disabilities
98 Act (ADA), shall be provided without the approval of the ADA Coordinator.

99 ii. Refer to the EEO Coordinator at 561-982-0905 any complaints from
100 employees alleging that the school District is not meeting its obligations
101 under the employment and/or accessibility requirement provisions of the
102 ADA.

103 b. **Responsibilities of Employees.** Employees seeking ADA eligibility and
104 accommodation are responsible for initiating requests for any desired
105 disability-related workplace accommodations. As such employees shall:

106 i. Contact by telephone or in person the EEO/ADA Coordinator

107 ii. Complete the following District documents:

108 A. Form 2160, ADA Reasonable Accommodation Request located at
109 <http://www.palmbeachschools.org/Forms/>.

110 B. Form 2161, Authorization for Release of Employee Medical
111 Information located at <http://www.palmbeachschools.org/Forms/>.

112 C. Submit the above completed forms to:

113 EEO/ADA Coordinator

114 Safe Schools Institute

115 1790 N.W. Spanish River Blvd.

116 Boca Raton, FL 33431

117 Or via fax: 561-982-0944.

118 c. **Responsibilities of ADA Coordinator.**

119 i. Request and Discussion. Upon receipt of a request for
120 accommodation, the ADA Coordinator shall engage in an interactive
121 process with the employee requesting accommodations, to determine
122 eligibility and reasonable accommodations in accordance with the ADA.

123 ii. Documentation of Disability. Upon receipt of an **AUTHORIZATION FOR**
124 **RELEASE OF MEDICAL INFORMATION**, the ADA Coordinator shall
125 contact relevant medical professionals regarding a request for
126 accommodation, to verify the disability. This may vary depending on the
127 nature and extent of the disability and the accommodation requested. In

128 the event the District determines it is appropriate to obtain a second
129 professional opinion concerning the nature or impact of a mental or
130 physical disability, the District will bear the cost of obtaining the second
131 opinion.

132 iii. Evaluation. The request for an accommodation will be evaluated
133 once all documentation has been submitted by the employee to the
134 EEO/ADA Coordinator. Appropriate accommodations will be determined
135 following an individualized assessment of each request.

136 iv. Notification. The ADA Coordinator shall notify the employee and
137 relevant parties of the determination regarding eligibility and
138 accommodation.

139 v. Implementation. The ADA Coordinator shall take necessary steps to
140 implement the selected reasonable accommodations, including
141 consulting with other parties (supervisors, equipment and facilities
142 contractors, interpreters) who may be relevant to the ADA request, to
143 determine and plan the implementation of reasonable accommodations.

144 5. **Confidentiality and Records.** All District employees have a legal obligation to
145 maintain confidentiality regarding an employee's disability-related information. To
146 that end, the worksite administrators or supervisors and the EEO/ADA Coordinator
147 shall provide information to others parties, including employees, only when
148 necessary to facilitate accommodations.

149 **Any employee shall retain the right to file a complaint with the appropriate**
150 **agency other than the EEO/ADA Coordinator.**

151 6. **Inquiries.** Questions regarding this policy should be directed to the EEO/ADA
152 Coordinator at 561 434-8637 or 561 982-0905.

153 ~~It is the policy of the School District of Palm Beach County, in accordance with the~~
154 ~~Americans with Disabilities Act of 1990 (ADA), that it shall not discriminate against a~~
155 ~~qualified individual with a disability, because of the disability of such individual, in regard~~
156 ~~to job application procedures, hiring, advancement, discharge, compensation, job~~
157 ~~training, or other terms, conditions, or privileges of employment. The School District~~
158 ~~shall provide reasonable accommodation to a qualified individual when necessary to~~
159 ~~enable the individual to perform the essential functions of the position, unless such~~
160 ~~would pose an undue hardship on the operation of the District's business.~~

161 **DEFINITIONS:**

162 1. ~~Qualified individual with a disability: An individual who, with or without reasonable~~
163 ~~accommodation, can perform the essential functions of the employment position~~
164 ~~that such individual holds or desires.~~

- 165 ~~2. Disability: A physical or mental impairment that substantially limits one or more of~~
166 ~~the major life activities of such individual; a record of such an impairment; or~~
167 ~~being regarded as having such an impairment.~~
- 168 ~~3. Physical or mental impairment: Any physiological disorder, or condition, cosmetic~~
169 ~~disfigurement, or anatomical loss affecting one or more of the following body~~
170 ~~systems: neurological, musculoskeletal, special sense organs, respiratory~~
171 ~~(including speech organs), cardiovascular, reproductive, digestive, genito-urinary,~~
172 ~~hemic and lymphatic, skin, and endocrine, or any mental or psychological~~
173 ~~disorder, such as mental retardation, organic brain syndrome, emotional or~~
174 ~~mental illness, and specific learning disabilities.~~
- 175 ~~a. Existing impairments are to be determined without regard to mitigating~~
176 ~~measures such as medicines or prosthetics (e.g., epileptic using seizure~~
177 ~~control medicines, or deaf using hearing aid).~~
- 178 ~~b. Physical characteristics (i.e., height, weight, muscle tone or other~~
179 ~~characteristics) that are within a normal range and are not the result of a~~
180 ~~physiological disorder are not impairments. Personality traits such as poor~~
181 ~~judgment or a quick temper are not impairments, if not symptomatic of a~~
182 ~~mental or psychological disorder. Pregnancy is not an impairment under~~
183 ~~this policy.~~
- 184 ~~4. Substantially limits: Causes inability to perform a major life activity that the~~
185 ~~average person in the general population can perform; or significantly restricts~~
186 ~~the condition, manner or duration under which an individual can perform a~~
187 ~~particular major life activity as compared to the condition, manner, or duration~~
188 ~~under which the average person in the general population can perform that same~~
189 ~~major life activity. Factors to be considered include:~~
- 190 ~~a. The nature and severity of the impairment;~~
- 191 ~~b. The duration or expected duration of the impairment; and~~
- 192 ~~c. The permanent or long term impact, or the expected permanent or long~~
193 ~~term impact of or resulting from the impairment.~~
- 194 ~~5. Major life activities: Functions such as caring for oneself, performing manual~~
195 ~~tasks, walking, seeing, hearing, speaking, breathing, learning, working, sitting,~~
196 ~~standing, lifting, reaching or reading.~~
- 197 ~~6. Essential functions: The fundamental job duties of the employment position the~~
198 ~~individual with a disability holds or desires. A function may be essential if:~~
- 199 ~~a. The reason the position exists is to perform that function;~~
- 200 ~~b. There is a limited number of employees available among whom the~~
201 ~~performance of that job function can be distributed; and/or~~

- ~~202 c. The function is highly specialized so that the incumbent in the position is~~
- ~~203 hired for his or her expertise or ability to perform the particular function;~~
- ~~204 d. Supervisor's assessment of what elements are crucial to the adequate~~
- ~~205 discharge of the job;~~
- ~~206 e. Pre-employment written job descriptions;~~
- ~~207 f. The amount of time on the job spent performing the function;~~
- ~~208 g. The consequences to the department of not having the employee perform~~
- ~~209 the function;~~
- ~~210 h. The terms of a collective bargaining agreement;~~
- ~~211 i. The work experience of past holders of the position;~~
- ~~212 j. The work experience of incumbent employees in a similar position.~~
- ~~213 7. Direct threat: A significant risk of substantial harm to the health or safety of the~~
- ~~214 individual or others that cannot be eliminated or reduced by reasonable~~
- ~~215 accommodation.~~
- ~~216 8. Reasonable accommodation: Modifications or adjustments to the work~~
- ~~217 environment, or to the manner or circumstances under which the position held or~~
- ~~218 desired is customarily performed, that enable a qualified individual with a~~
- ~~219 disability to perform the essential functions of the position; or modifications or~~
- ~~220 adjustments that enable an employee with a disability to enjoy equal benefits and~~
- ~~221 privileges of employment as are enjoyed by other similarly situated employees~~
- ~~222 without disabilities. Reasonable accommodation may include:~~
 - ~~223 a. Making existing facilities used by employees readily accessible to and~~
 - ~~224 usable by individuals with disabilities;~~
 - ~~225 b. Job restructuring;~~
 - ~~226 c. Part-time or modified work schedules;~~
 - ~~227 d. Reassignment to a vacant position;~~
 - ~~228 e. Acquisition or modification of equipment or devices;~~
 - ~~229 f. Appropriate adjustment or modifications or examinations, training~~
 - ~~230 materials or policies;~~
 - ~~231 g. The provision of qualified readers or interpreters;~~
 - ~~232 h. Any other similar accommodations for individuals with disabilities.~~

- 233 ~~9. Undue hardship: An action resulting in significant difficulty or expense in light of~~
234 ~~the following factors:~~
- 235 ~~a. Nature and cost of the accommodation;~~
 - 236 ~~b. Overall financial resources of the School/Department involved;~~
 - 237 ~~c. Number of persons employed within a School/Department;~~
 - 238 ~~d. Effect on expenses;~~
 - 239 ~~e. Effect on resources;~~
 - 240 ~~f. Impact on the operation of the facility (beyond resource and expense);~~
 - 241 ~~g. Overall financial resources of the School District;~~
 - 242 ~~h. Number of employees potentially benefiting from an accommodation and~~
243 ~~the availability of sufficient funding to defray an accommodation's cost.~~

244 **PROCEDURE**

245 ~~A person with a disability who is in need of an accommodation may either~~
246 ~~contact, by telephone or in person, the ADA Coordinator (position title of~~
247 ~~E.E.O. Coordinator), and/or complete the attached REQUEST for~~
248 ~~ACCOMMODATION and submit it to the ADA Coordinator, at the following~~
249 ~~address:~~

250 ~~E.E.O. Coordinator~~
251 ~~Risk Management~~
252 ~~3370 Forest Hill Boulevard, Ste. A-103~~
253 ~~West Palm Beach, Florida 33406-5870~~
254 ~~561-434-8203~~

255 ~~Once a request has been received, the ADA Coordinator shall schedule a~~
256 ~~meeting with the employee requesting accommodations, and how such~~
257 ~~will assist the employee in performing the essential functions of his/her~~
258 ~~job. If necessary to verify the medical need for an accommodation and/or~~
259 ~~possible effectiveness of request accommodations, a letter shall be sent to~~
260 ~~the employee's health care provider, with a signed AUTHORIZATION~~
261 ~~FOR RELEASE OF MEDICAL INFORMATION. After the meeting and~~
262 ~~receipt of all relevant documentation, a determination shall be made by~~
263 ~~the ADA Coordinator, in conjunction with the Risk Manager and/or the~~
264 ~~ADA Committee, as to whether the individual is a qualified individual with~~
265 ~~a disability for which reasonable accommodation shall be provided. The~~
266 ~~School District reserves the right to require that the requesting individual~~
267 ~~be examined by a physician designated by the School District, at the~~
268 ~~District's expense, to verify the health care provider's report.~~

269 ~~If the individual is dissatisfied with the determination, the individual may~~
270 ~~file an appeal in accordance with the applicable grievance procedure.~~

271 ~~A supervisor/manager who becomes aware of an employee's possible~~
272 ~~need for accommodation is encouraged to consult with the ADA~~
273 ~~Coordinator. No accommodation for a disability, as defined in this policy in~~
274 ~~accordance with the Americans with Disabilities Act (ADA), shall be~~
275 ~~provided without the approval of the ADA Coordinator.~~

276 ~~Questions regarding this policy should be directed to the E.E.O. Coordinator in~~
277 ~~Risk Management at 434-8203.~~

278 STATUTORY AUTHORITY: Fla. Stat. §§ 1001.41; 1001.42 ~~230.23; 230.33~~
279 LAWS IMPLEMENTED: 42 USC § 12101, et seq; 29 USC § 1630, et seq
280 HISTORY: 9/21/94; 5/21/97; __/___2011

Legal Signoff:

The Legal Department has reviewed proposed Policy 3.06 and finds it legally sufficient for development by the Board.

Attorney

Date