

## **Employment Objectives: Nondiscrimination**

### **General Nondiscrimination—**

The District shall not, because of an individual's race; color; sex; pregnancy, childbirth or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability [or handicap](#); sexual orientation; or gender identity:

1. Discharge, demote, terminate, retaliate against, harass, or refuse to hire or to promote any otherwise qualified individual; or,
2. Discriminate against an otherwise qualified individual with respect to compensation or in terms, privileges, and conditions of employment.

[Utah Code § 34a-5-106\(1\)\(a\)\(i\) \(2016\)](#)

### **Otherwise Qualified—**

An individual is not considered "otherwise qualified" unless the individual has the education; training; ability, with and without reasonable accommodation; moral character; integrity; disposition to work; adherence to reasonable rules and regulations; and other job-related qualifications required by the District for the particular job, job classification, or position.

[Utah Code § 34a-5-106\(1\)\(a\)\(ii\) \(2016\)](#)

### **Nursing Mothers in the Workplace—**

The District may not refuse to hire, promote, discharge, demote, or terminate an individual, or may not retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against an individual otherwise qualified because the individual breastfeeds or expresses milk in the workplace.

[Utah Code § 34-49-204 \(2015\)](#)

### **Title IX Coordinator—**

The District shall designate at least one employee whose responsibilities shall include coordination of the District's efforts to comply with Title IX of the Education Amendments of 1972, as amended, and its implementing regulations. The District shall notify all employees of the name, office address, office telephone number, and email address of the employee(s) so designated.

[34 CFR § 106.8\(a\)](#)

### **Notification—**

The notification may take the following form:

The District designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended:

Name \_\_\_\_\_ Position \_\_\_\_\_

Office Address \_\_\_\_\_

Office Email \_\_\_\_\_ Telephone \_\_\_\_\_

**Disability—**

No otherwise qualified person with a disability shall, solely on the basis of disability, be subject to discrimination in employment in any of the District's operations so long as any part of its programs and activities receive federal financial assistance.

[29 U.S.C. § 794](#)

**Definitions—**

~~“Individual with a disability”~~ Handicapped person means any person who has a record of, is regarded as having, or has a physical or mental impairment that substantially limits one or more of life's major activities. A “qualified ~~individual with a disability~~ handicapped person” is a handicapped person ~~with a disability~~ who can perform the essential functions of the position in question, with or without reasonable accommodation. Employees or prospective employees have the responsibility of notifying the District personnel office of the need for reasonable accommodations on account of a disability.

[29 U.S.C. § 705\(20\)](#)

[34 CFR § 104.3](#)

“Has a record of such an impairment” means has a history of or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

“Regarded as having an impairment” means:

1. Has a physical or mental impairment that does not substantially limit major life activities but that is treated by the District as constituting such a limitation;
2. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such impairment; or
3. Has no physical or mental impairment but is treated by the District as having such an impairment.

“Physical or mental impairment” means:

4. Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory,

including speech organs; cardiovascular; reproductive; digestive; genitourinary; ~~hermic~~ and lymphatic; skin; endocrine; or

5. Any mental or psychological disorder, such as ~~mental retardation~~ intellectual disability, organic brain syndrome, ~~emotional or mental retardation, organic brain syndrome~~, emotional or mental illness, and specific learning disabilities.

"Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

**Exceptions—**

The following are not included in the definition of an "individual with a disability:" or "handicapped person":

1. A person whose is currently using of alcohol or illegal drugs when the District is acting on the basis of that use.
- ~~1.2.~~ A person who is an alcoholic whose current use of alcohol prevents the person from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would of job responsibilities or constitutes a direct threat to the property or safety of others.
- ~~2.3.~~ A person who has a currently contagious disease or infection and who therefore would constitute a direct threat to the health or safety of other individuals, or who therefore is unable to perform the duties of the job.

29 U.S.C. § 705(20)(C)(i), (iv), (D)

**Section 504 Coordinator—**

The District will designate at least one person to coordinate its efforts to comply with Section 504 of the Vocational Rehabilitation Act of 1973 and its implementing regulations.

**Notification—**

The District will take appropriate continuing steps to notify applicants and employees that it does not discriminate on the basis of disability in violation of Section 504 of the Vocational Rehabilitation Act of 1973 and its implementing regulations. The notification shall include identification of the designated coordinator, which may be in the following form:

The District designates the following person to coordinate its efforts to comply with Section 504 of the Vocational Rehabilitation Act of 1973:

Name \_\_\_\_\_ Position \_\_\_\_\_  
Office Address \_\_\_\_\_  
Office Email \_\_\_\_\_ Telephone \_\_\_\_\_

[34 CFR § 104.7\(a\)](#)

**Residence—**

The Board shall not require an employee to reside within the District as a condition of employment.

[Utah Code § 53G-4-408 \(2018\)](#)

**Duty to Report—**

If any employee of the District knows of or has reason to believe that another employee is being harassed at the workplace by others on the grounds of race; color; sex; pregnancy, childbirth or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability [or handicap](#); sexual orientation; or gender identity, then the employee must promptly report such harassment to the Board. The report shall be made confidentially and the Board shall maintain the confidence of any report of such harassment.

**Penalties for Engaging in Harassment—**

Within the discretion of the Board, any employee may be terminated for cause, suspended with or without pay or placed on probation for engaging in any form of harassment of another employee on the grounds of race; color; sex; pregnancy, childbirth or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability [or handicap](#); sexual orientation; or gender identity.

*Baker v. Weyerhaeuser Co., 903 F.2d 1342 (10th Cir. 1990)*