

Employment of Personnel

7.01
Board Adopted
(03-24-00)

Authority

7.01-1

The authority for the employment of school personnel is delegated to the Superintendent of Schools. The Superintendents may implement procedures necessary to carry out this responsibility.

Equal Opportunity Employment

7.01-2

Nondiscrimination

7.01-2.1

With certain exceptions stipulated below, Windham School District shall adhere to a policy of equal employment opportunities for all employees. On the basis of an individual's race, color, religion, sex, national origin, or age, Windham School District shall not fail or refuse to hire or discharge, nor shall it otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment. The District shall not limit, segregate, or classify its employees, or applicants for employment, in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise affect the individual's status as employee. Sexual harassment is a form of sex discrimination.

Exception

7.01-2.2

As an exception to the policy stated above, the Board may employ an individual on the basis of the individual's religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the educational program.

The prohibition against discrimination on the basis of age as stated in 29 U.S.D. 631, et seq., applies to individuals who are at least forty years of age.

Title IX

7.01-2.3

The District shall not discriminate on the basis of sex in its employment practices in programs that receive direct federal financial assistance.

The Superintendent shall designate at least one employee to coordinate its 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, and telephone number of the employee(s) so designated.

Disability

7.01-2.4

The Windham School District shall not discriminate against a qualified individual with a disability because of the individual's disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. Discrimination includes not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless the Windham School District can demonstrate that the accommodation would impose an undue hardship on the operation of the Windham School District.

The Windham School District shall not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association.

The term "disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the individual's major life activities, a record of having such an impairment, or being regarded as having such an impairment. "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

The term "qualified individual with a disability" means an individual with a disability who meets the skill, experience, education, and other job-related requirements of a position held or desired and who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires. Consideration shall be given to the Windham School District's judgment as to what functions of a job are essential, and if a written description has been prepared before advertising or interviewing applicants for the job, this description shall be considered evidence of the job's essential functions.

The term "reasonable accommodation" means modification or adjustments to application or working conditions which may include (1) making existing facilities used by employees readily accessible to and usable by individuals with disabilities and (2) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. Once an accommodation has been granted, qualified disabled employees shall be held to the same performance and production standards as other employees in a similar position.

The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of factors related to the nature and cost of the accommodation needed, overall financial resources of the affected facility and the Windham School District, and other factors set out in law.

The term "qualified individual with a disability" does not include any employee or applicant who is currently engaging in the illegal use of drugs, when the Windham School District acts on the basis of such use. Nor does it include any individual who is an alcoholic whose current use of alcohol prevents the employee from performing the duties of the job in question or whose employment, by reason of such

Employment of Personnel

7.01
Board Adopted
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current alcohol abuse, would constitute a direct threat to property or the safety of others.

As a qualification standard, the Windham School District may require that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace. Although the term “physical or mental impairment” includes such contagious diseases as HIV disease (whether symptomatic or asymptomatic) and tuberculosis, an individual who by reason of such disease or infection would pose a direct threat to the health or safety of others that cannot be eliminated or reduced by reasonable accommodation or who is unable to perform the duties of the job shall not be considered a “qualified individual.”

The determination that an individual poses a “direct threat” shall be based on an individualized assessment of the individual’s present ability to safely perform the essential functions of the job. The assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include:

1. The duration of the risk.
2. The nature and severity of the potential harm.
3. The likelihood that the potential harm will occur.
4. The imminence of the potential harm.

Notice

7.01-2.5

The Windham School District shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title II, Subtitle A, of the Americans with Disabilities Act and its implementing regulations, including any investigation of any complaint communicated to it alleging the Windham School District’s noncompliance or actions prohibited by those provisions. The Windham School District shall make available to all interested individuals the name, office address, and telephone number of the employee(s) so designated.

The Windham School District shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of Title II of the Americans with Disabilities Act and its applicability to the Windham School District’s programs, services, and activities. The information shall be made available in such manner as the Board and Superintendent find necessary to apprise such persons of the protections against discrimination assured them by the ADA.

Procedures

7.01-2.6

Applicants for Windham School District Positions

The District shall receive, process the application of, and consider for hire qualified individuals with disabilities who can perform the essential functions of a job with or without reasonable workplace accommodation. Upon a conditional offer of employment, it is the applicant’s responsibility to notify the District of any workplace accommodation that may be required to perform the essential functions of the job because of a disability that substantially limits a major life activity. Outside applicants may:

1. Make known their need for an accommodation prior to any testing procedures;
2. Make known their need of assistance with a job search; or
3. Make known their needs when the conditional offer of employment is made.

Current Employees Seeking a Workplace Accommodation

The application for reasonable workplace accommodation for qualified employees with a disability who require reasonable workplace accommodations is attached as Appendix A, Pages 1 through 8. A current employee should request an application packet from the Windham School District Personnel Department.

Upon request, the Personnel Department shall assist the employee in completing the Request for Reasonable Workplace Accommodation form. Employees should submit to the ADA Coordinator a complete Reasonable Workplace Accommodations Packet. The packet, to be considered complete must contain the following forms (see Appendix A): Request for a Reasonable Workplace Accommodation Due to a Disability, an Authorization For Release of Medical Information, Employee Work History, and Medical Information. In lieu of the Medical Information form, and in accordance with the appropriate leave policy, employees may submit a current doctor's statement on letterhead assessing the essential functions and what workplace accommodation(s) may be needed. The doctor's statement must also contain the medical facts associated with the disability, limitations and/or restrictions, and whether the condition is temporary or permanent. No employment decisions shall be made based upon genetic (DNA) testing. Additional information as needed may be requested. It is the employee's responsibility to ensure that all forms and additional requested documents are furnished.

Search for a Reasonable Workplace Accommodation:

From the date the Request to Accommodate a Disability form is received in the Personnel Department, the ADA Coordinator shall process the employee/applicant application for a period of up to 90 days.

1. After receiving the application, the ADA Coordinator shall determine:
 - a. If there is a disability which impairs a major life activity based on the doctor's report, statements from the employee, and the assessment of the District;
 - b. If the applicant is a qualified individual with a disability;
 - c. Whether a reasonable workplace accommodation that is required constitutes an undue hardship to the District, and whether a reasonable accommodation is available.
2. If it is determined that the employee/applicant is a qualified individual with a disability, the ADA Coordinator, shall contact the employee/applicant, review their request, clarify any missing information, and inform the employee/applicant of his/her rights under the Americans with Disabilities Act and the Texas Commission on Human Rights Act.

3. The ADA Coordinator shall review the Request to Accommodate A Disability and doctor's statement or supportive documentation to verify which of the essential functions the employee is unable to perform and determine if the workplace accommodation requested is reasonable. If necessary, the Coordinator shall contact the employee and/or the employee's doctor to obtain any additional information.
4. The Coordinator shall verify necessary reasonable workplace accommodation. A review of the applicant's education, skills, abilities and knowledge shall be conducted. Each of these items should be detailed in the Work History section of the application.
5. A determination shall be made if the appropriate workplace accommodation should be for equipment, a modification in the workplace, job reassignment, etc.
6. Appropriate personnel shall be contacted by the ADA Coordinator and provided instructions concerning the ordering of equipment, any arrangement for structural changes needed, or assisting with other needed modifications.
7. When a job reassignment is determined to be a reasonable workplace accommodation, the ADA Coordinator shall:
 - a. Review all existing vacancies in the employee's stated preferred geographic locations, and the current salary as indicated on the Request to Accommodate A Disability form. Job descriptions and the ADA Questionnaire containing the physical and mental characteristics of the position shall be compared to the employee's limitations, restrictions, education, skills, abilities, knowledge, and training as stated in the Work History section of the packet.
 - b. In order to transfer to another job, the employee must have sufficient qualifications to be able to perform the essential functions of the position with or without reasonable accommodation. The Coordinator shall contact the Principal/Department Head to schedule a job interview consistent with interviews of other applicants for the same position. When the interview has been scheduled, the Coordinator shall notify the employee of the time and place.
 - c. The Personnel Department shall advise the employee of the outcome of the interview. Reasons for rejection must be related to the qualifications and skills required in the job position. If accepted for the position, a report date shall be coordinated with the receiving department.
 - d. If selected for the position, the employee shall be advised when to report and to whom. Upon reporting, the employee shall sign and date the letter indicating their acceptance of the position as a reasonable workplace accommodation.
 - e. The receiving department shall fax a copy of the letter to the Personnel Department and forward the original by truck or first class mail.

- f. After an employee has been accommodated with the job reassignment, if additional workplace accommodations are needed (i.e., modifications, adjustments), the employee should submit a new request. However, the employee shall not be provided another job reassignment unless the medical condition degenerates to where the employee is unable to perform the essential functions of the position with or without another accommodation. Nor shall the employee be allowed to return to the position for which he/she was disqualified; with or without another accommodation because of a previously declared disability.

If the District determines that a reasonable workplace accommodation has been offered and refused, including the opportunity to interview or be hired in a position of the same pay and for which the employee meets the minimum qualifications, the application shall be administratively closed prior to the end of the 90-day period.

Employees who pose a direct threat to the health or safety of themselves or others that cannot be eliminated or reduced by reasonable accommodation may be separated from service administratively. When deemed appropriate, the District, in consultation with a certified doctor, psychologist, rehabilitation counselor, occupational or physical therapist, independent living specialist or licensed psychotherapist shall determine whether an employee poses a direct threat.

Certification

7.01-3
(11-01-01)

All applicants for employment must meet the minimum certification and other established requirements as identified by the *State Board for Educator Certification (SBEC)*, the Texas Board of Criminal Justice, and the Windham School District (WSD).

Credential Requirements. Before school personnel, whose positions are described in Chapter 21 of the Texas Education Code may be issued contracts, assigned duties, or paid from any source of funds, they must possess valid credentials. All credentials must meet requirements as set forth by the SBEC.

Credentials for Professional Personnel

- (1) For a professional employee whose position requires certification, the credential must be in the form of a current valid Texas Teacher Certificate, a Nonrenewable Permit (DEPR-030), or an Emergency Permit (DEPR-024). All certification requirements must meet the standards as set forth by the SBEC.
- (2) For a professional employee whose position does not require certification, except as provided in paragraphs (3) and (4) of this section, the credential must be an official transcript verifying a degree from an accredited college or university.
- (3) For some special education related service personnel, the credential must be appropriate licensure from the State of Texas.

Employment of Personnel

7.01
Board Adopted
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- (4) For those special education related service personnel, who do not require Texas certification or licensure, proper credentials as issued by SBEC are required.

Credentials for Education Aide Personnel. The credential must be a valid SBEC Education Aide Certificate. The district shall apply for the certificate, and the employee shall pay the fee. All Education Aide Certificates must meet standards as set forth by the SBEC. The certificate is the property of the certificate holder. When employment with the district is terminated, the original certificate shall be returned to the employee by the Personnel Department.

Filing of Credentials. All certification credentials must be kept on file and, except for required official transcripts, must be in the form of the SBEC Virtual Educator Certificate. When employment with the district is terminated, original credentials (excluding Emergency Permits) shall be returned to the employee by the Personnel Department. Legible copies shall be maintained for audit purposes.

Emergency Permits

7.01-3.1

The Superintendent of Schools, or authorized representative, may activate an Emergency Permit (DEPR024) for an individual who is not certified for assignment to a professional service, special education, bilingual education, English as a Second Language, Learning Resources, or a vocational teaching position. In order to be eligible for issuance of an Emergency Permit for Special Education, ESL or Learning Resources, the individual must hold a current SBEC certificate. To be issued a permit, an individual must meet all permit requirements as set forth by the *SBEC*. The individual must provide the district with an official Deficiency Plan (CERT-003) as completed by an approved college/university. An Emergency Permit is authorized by the school district and is not the property of the individual for whom the permit is activated. An Emergency Permit is valid only for the remainder of the school year during which it is activated and only in the school district for which the application for permit is made. If the individual completes all requirements for permit renewal, the Superintendent of Schools or authorized representative may renew the permit for one additional year. The employee must meet all requirements and procedures for permit renewal. The employee must complete a minimum of six hours from the courses detailed in the Deficiency Plan and must submit an official transcript to the WSD Personnel Department before August 31 of each permit year.

Upon completion of all deficiencies, including EXCET or TECAT test requirements, the employee will be recommended for certification by the college/university. A Letter of Recommendation/Completion, signed by the college certification officer, shall be submitted to the WSD Personnel Department for placement in the personnel file of the employee until the official Teacher Certificate is received from the SBEC.

Assignment of Counselor

7.01-3.2

A Counselor shall hold the proper certification for his/her assignment or be eligible for permit. For an individual to be issued on an Emergency Permit, an approved college/university shall evaluate transcripts and complete a Deficiency Plan (CERT-003) for Professional School Counselor. The Deficiency Plan must be on file with the district personnel office within 30 days of employment.

Assignment of Career and Technology Education (CTE) Teacher

7.01-3.3

A CTE teacher shall hold the required certification for an assignment or be eligible for a State Board for Educator Certification (SBEC) emergency permit. A CTE teacher shall have an approved Statement of Qualifications (CERT-026) on file with the district. Windham School District (WSD) shall not recognize a Statement of Qualifications for a CTE teacher, which approved by another district. The WSD Division Director for Instruction or authorized representative shall assume the final responsibility of evaluation, approving, or rejecting the SOQ and industry certification for vocational teachers.

If the CTE teacher does not hold appropriate certification, the applicant shall contact an accredited college/university, which offers an SBEC approved vocational education certification program and complete the required documents to enroll in the university certification program. In order for the university to prepare a Deficiency Plan P Form (CERT-003), the WSD certification officer shall request the document from the university. The university shall evaluate applicable transcripts, review the SOQ approval letter or approve the SOQ. The Deficiency Plan P Form shall be on file with the district personnel office within 30 days of employment. The CTE teacher, employed by authorization of an Emergency Permit, shall provide the district with evidence of successful completion of a competency examination of basic skills (TASP) and an official transcript verifying the completion of course requirements prior to the first renewal of the permit.

Industry Certification/License

A CTE teacher shall possess and maintain appropriate, endorsed industry certification as required by the Windham School District. A teacher holding a certificate, which expires within the current contract period, shall submit the new certificate/license prior to the last working day of the month in which the certificate/license expires. If a teacher fails to renew or pursue renewal of the certificate/license prior to the last working day of the month in which the certificate/license expires, the teacher shall be terminated from WSD. A teacher, who attempts a certification/license test during the last month of the renewal period, shall be given 30 calendar days to receive and forward the results of the test to the district Certification Officer, WSD Personnel Department. All copies of the test results and certificate/license renewal shall be sent to the WSD Personnel Department via certified mail.

Industry Certification and New CTE Teachers

Within 90 calendar days of initial employment, applicants offered a contract in identified employment areas shall obtain the appropriate industry certificate or license that is required to teach the content of the course for which they are employed. The following teaching assignments require industry certification or license within 90 calendar days of the employment date:

- Automotive Specialization (Air Conditioning and Heating): EPA Approved Mobile Air Conditioning Refrigerant Handling License

- Horticulture: Texas Department Non-Commercial Pesticide Handler/Structural Pesticide Non-Commercial Application License Lawn and Ornamental

- Landscape Design and Construction Maintenance: Texas Department of Agriculture Non-Commercial Applicators License/Structural Pesticide Non-Commercial Application License Lawn and Ornamental
- Major Appliance Service Technology: EPA Approved 608 Refrigerant Handling and Recovery
- Heating, Air Conditioning, and Refrigeration: EPA Approved 608 Refrigerant Handling and Recovery

If the industry certificate/license is required by WSD to enhance curriculum (i.e. NCCER, MOUS, CMI, etc.), the vocational teacher shall obtain the certificate/license before the end of the contract year in which the teacher is first employed. The teacher shall have the responsibility to take the required test and submit the results to the Certification Officer, WSD Personnel Department, via certified mail.

Industry Certification and Current CTE Teachers

For all new program implementation, current CTE teachers shall secure the appropriate industry certificate/license, which is identified by the CTE Department. Current CTE teachers shall have twelve months from the beginning date of the program change to acquire the appropriate industry certificate/license.

Assignment of Academic Teachers

7.01-3.4

Teachers assigned to Literacy I classrooms, or who teach any combination of classes having Literacy I students enrolled for academic instruction, shall possess elementary level certification.

The Superintendent of Schools may authorize a current WSD teacher, who possesses secondary level certification in one or more of the teaching fields listed in this section, to be assigned to a Literacy I classroom upon the completion of a Letter of Intent. When completing a Letter of Intent, the employee agrees to complete a minimum of six college credit hours (within one calendar year and as approved by Windham Personnel Director) in courses designed to teach others to read (See Sample A). Employees placed in Literacy I classrooms prior to 9-1-92, who are not elementary certified, will be "safeguarded" in their current position and shall not be required to attain additional reading course work or elementary certification. However, if any employee should change units, leave Windham employment and return, or change teaching assignments, he/she must satisfy all requirements as established in this section.

Teachers assigned to Literacy II and/or Literacy III classes may possess either elementary or secondary certification. Acceptable teaching fields for secondary certified employees include: English, English language arts, reading, mathematics, mathematics/science composite, biology, life/earth science, chemistry, physics, physical science, science composite, anthropology, economics, geography, government-political science, history, psychology, sociology, social science composite, and social studies. Ideally, experience and/or course work in teaching reading will be given high priority in candidate selection for Literacy II and III positions. All teachers newly assigned or transferred to these positions must meet these requirements.

Teachers assigned to classes such as the CHANGES and Cognitive Intervention programs should have training and experience related to the subject matter they will be teaching. They may possess either elementary or approved secondary academic certification. Secondary certified personnel in this assignment must hold certification in one of the acceptable teaching fields for secondary certified employees listed in this section. Individuals possessing a vocational teaching certificate, and who have at least a bachelor's degree from an accredited institution may be assigned to teach CHANGES and Cognitive Intervention.

Teachers assigned to teach Short-Term Vocational courses must have an approved Statement of Qualifications (SOQ, CERT026) verifying appropriate work experience for the short-term course to be taught. The SOQ must be on file in the Windham Personnel Department.

Teachers assigned to teach ESL must also possess certification in one of the acceptable teaching fields listed in this section and have the ESL endorsement or be eligible for permit. Librarians and special education teachers shall hold the proper endorsement for their particular assignment or be eligible for permit.