

Air District Disability Nondiscrimination Program and Policy

The Bay Area Air Quality Management District (Air District) is committed to providing individuals with disabilities the opportunity for full participation in its programs, services, and activities through its compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990, as amended by the ADA Amendments Act of 2008.¹

The Air District recognizes that individuals with disabilities may need accommodations or modifications² to have equal opportunities to participate in or benefit from the Air District's programs, services, and activities.

It is the Air District's policy that no otherwise qualified individual with a disability will be denied access to or participation in any program, service, or activity offered by the Air District. The Air District will administer programs, services, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.³

The Air District will provide at no cost appropriate auxiliary aids and services including, for example, qualified interpreters to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the programs, services, and activities provided by the Air District in a timely manner and in such a way as to protect the privacy and independence of the individual.

Individuals with disabilities have a right to request accommodations. Individuals will receive accommodations appropriate to their needs in order to fully participate in or benefit from the Air District's services and activities in a non-discriminatory, integrated setting.

The Air District and any of its agents will not coerce, intimidate, retaliate against, or discriminate against any individual for exercising a right under the ADA or Section 504, or for assisting or supporting another to exercise a right under the ADA or Section 504.

This Program and Policy applies to all the Air District agents and contractors.

Definitions

A. Disability means, with respect to an individual:

1. a physical or mental impairment that substantially limits one or more of the person's major life activities;
2. a history of such an impairment; or

¹ The Air District also prohibits discrimination in employment, including on the basis of disability. For the Air District's employment discrimination policy, see the Air District Non-Discrimination Policy <https://www.baaqmd.gov/contact-us/non-discrimination>.

² Section 504 of the Rehabilitation Act refers to reasonable accommodations, while Title II of the ADA refers to reasonable modifications. For purposes of this document, "accommodation" will refer to both.

³ See 40 C.F.R. § 7.55.

3. being regarded as having such an impairment.

Qualified Individual with a Disability is someone who (with or without accommodations) meets the essential eligibility requirements for participating in the Air District's programs, services, and activities.

- B. Accommodation means adjustments including reasonable modifications to rules, policies, or practices; environmental adjustments such as the removal of architectural, communication, or transportation barriers; or auxiliary aids and services. Examples of accommodations include, but are not limited to: scribe, interpreter, environment free of distractions, material in Braille, tapes, and computer-assisted instruction.

Nondiscrimination Coordinator

The Nondiscrimination Coordinator will coordinate the Air District's efforts to comply with Section 504⁴ and ADA,⁵ including ensuring the following:

- A. The Air District will adopt and make readily available in suitable formats (*e.g.*, enlarged, Braille, audio-taped):
 1. a procedure that allows an individual to disclose a disabling condition and request accommodations believed needed to obtain equal access to and enable participation in Air District programs, services, and activities;
 2. a procedure for maintaining personal information in a manner that protects the privacy and independence of the individual; and,
 3. a procedure for providing accommodations.
- B. The Air District will maintain data on the nature and extent of the services provided to individuals with disabilities and develop data collection requirements as part of the operational guidelines for implementing this policy.
- C. The Air District will provide accommodations to allow individuals with disabilities to participate in or benefit from the Air District and its programs, services, and activities in the most integrated setting appropriate.
- D. The Air District will utilize the grievance procedures set forth in its nondiscrimination program and policy for providing prompt and equitable resolution of complaints alleging any action that would violate Title II of the ADA or Section 504. These procedures should be applicable to any anticipated complaint, including an appeal of a denied accommodation request.
- E. The Air District will provide services that are required to comply with ADA and Section 504

⁴ See 40 C.F.R. § 7.85(g): "If the Air District employs fifteen (15) or more employees, it shall designate at least one person to coordinate its efforts to comply with its obligations under [40 C.F.R. Part 7]."

⁵ Please note that EPA enforces Section 504 of the Rehabilitation Act of 1973, but does not enforce Title II of the ADA. References to ADA have been included because the Air District is obligated to comply with ADA Title II regardless of its status as a recipient of federal financial assistance.

free of charge.

- F. The Air District will provide periodic in-service training for faculty and staff to develop their awareness and understanding of the needs of individuals with disabilities and legal compliance issues.

Facility Accessibility

Consistent with the Air District's self-assessment, the Air District will consider the extent to which any Air District facilities are "public facilities" or will be used by the public. The Air District will operate its programs and activities out of those facilities consistent with 40 C.F.R. § 7.65 so that, when each program or activity is viewed in its entirety, it is readily accessible to and usable by individuals with disabilities.

A. Existing Facilities:

1. Structural changes in existing facilities are not required when other methods provide program accessibility. Such methods include:
 - a. Redesigning equipment or the facility after case review.
 - b. Providing appropriate signage directing people to accessible features.
 - c. Reassigning staff, or services to accessible sites.
2. Evacuation procedures will be developed by The Air District for individuals with disabilities.

B. New Construction:

Each facility or part of a facility constructed by, on behalf of, or for the use of The Air District must be designed and constructed in such a manner that the facility is readily accessible to and usable by persons with disabilities. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by individuals with disabilities.

C. Off Campus:

Contractual or lease agreements for the use of non- Air District facilities should reflect efforts to secure accessibility. Any program, service, or activity in that facility must be accessible. If a program, service or activity is not wholly operated by the Air District, Air District will attempt to assure that these programs, services or activities, as a whole, provide an equal opportunity for the participation of individuals with disabilities.

Accommodations:

No participant with a disability in an Air District program, service or activity will be denied the benefits of, be excluded from participation in, or be otherwise discriminated against in the provision of services available to all individuals in general.

Each individual is responsible for making requests regarding accommodations to meet their particular needs in order to enable the Air District to provide an appropriate response to the accommodation request.

All auxiliary aids, services, or other accommodations used by individuals with disabilities to provide access to Air District programs, services, and activities need not be on hand or present at all times.

Accommodations are not required that fundamentally alter the nature of the program, service, or activity; require waiver of essential program or licensure requirements; violate accreditation requirements; or pose an undue fiscal or administrative burden on the Air District.

In determining appropriate accommodations, the Air District gives consideration to the wishes of the individual, and in certain appropriate circumstances, for example, the documentation provided and institutional expertise in working with individuals with disabilities.

The Air District will not require an individual with a disability to accept an accommodation, aid, service, opportunity or benefit under any circumstances.