Draft Board Policy *
Short-Term Accommodations for Medically Vulnerable Personnel

I. Purpose

Berkeley Unified School District (BUSD) is committed to providing reasonable accommodations to individuals who have pre-existing medical conditions which make them particularly vulnerable to life-threatening symptoms if exposed to communicable diseases (At-risk employees). Accommodations for At-risk employees may include, but are not limited to the provision of Essential Protective Equipment (EPE), social distancing protocols, work reassignments, teleworking and/or the use of accrued sick leave. The employee and BUSD representative shall review these accommodations on a case-by-case basis as part of the interactive process. These accommodations are intended to allow At-risk employees to perform the essential functions of their position without causing an undue hardship on BUSD's program or posing a direct threat to themselves or others. At-risk employees are encouraged to contact BUSD's Department of Human Resources should they have further questions.

II. Essential Protective Equipment/Social Distancing

In many cases, the use of EPE combined with social distancing is an effective strategy to avoid exposure to communicable diseases. This accommodation will be provided in most cases to the extent feasible. EPE may be provided subject to availability and need. Examples of EPE include, but are not limited to face masks, face shields, latex gloves, hand sanitizer and cleaning wipes/sprays.

III. Teleworking

Teleworking does not change the duties, obligations, responsibilities, or terms and conditions of BUSD employment. Teleworking employees must comply with all BUSD rules, policies, practices, and instructions. A teleworking employee must perform work during scheduled telework hours. Employees may not engage in activities while working remotely that would not be permitted at the regular worksite. Teleworking employees may take care of personal business during unpaid lunch periods, as they would at the regular worksite. All BUSD rules regarding the use of computers and the internet apply while an employee is teleworking, regardless of whether the employee is using BUSD-provided or personal equipment.

A. Eligibility

Eligibility for teleworking is based on both the position and the employee. Not every job, or every employee, may be well-suited for telecommuting due to the nature of their work. If an employee requests to telework based on being considered at-risk, an ADA interactive process meeting will be held to discuss if teleworking is a reasonable accommodation.

Before entering into any telecommuting agreement, the employee, manager, and Human Resources representative will evaluate the suitability of such an arrangement, reviewing the following areas:

- Employee suitability. The employee and manager will assess the needs and work habits of the employee, compared to traits customarily recognized as appropriate for successful telecommuters.

- Job responsibilities. The employee and manager will discuss the job responsibilities and determine if the job is appropriate for a telecommuting arrangement.
- Equipment needs, workspace design considerations and scheduling issues. The employee and manager will review the physical workspace needs and the appropriate location for the telework.
- District needs. The employee and manager will assess the overall suitability for teleworking in view of the District's needs, which may require some staff working on-site to ensure effective operations of services.
- Tax and other legal implications. The employee must determine any tax or legal implications under IRS, state and local government laws, and/or restrictions of working out of a home-based office. Responsibility for fulfilling all obligations in this area rests solely with the employee.

B. Expectations

All expectations applicable at the regular worksite are applicable while teleworking.

- Teleworking employees will perform designated work during scheduled work hours.
- Employees will check BUSD email and voicemail frequently, with the same consistency as if working on site.
- Employees must account for and report time spent telecommuting the same way they would at the regular worksite, or according to the terms of the teleworking policy.
- Employees may work overtime only when directed to do so and approved in advance by the supervisor.
- Employees must obtain approval to use vacation, sick, or other leave in the same manner as departmental employees who do not telework.
- Teleworking employees who become ill must report the hours actually worked, and use sick leave for hours not worked, unless exceptions are allowed during emergency situations, such as the COVID-19 pandemic, in which case the applicable leave and reporting guidance must be followed.
- Communications concerning public business on a personal account, such as email, phone or computer, may be subject to disclosure under the California Public Records Act ("CPRA").

C. Safety

Employees are expected to maintain their home workspace in a safe manner, free from safety hazards.

D. Evaluation

Evaluation of telecommuter performance will include regular interaction by phone, video calls, and e-mail between the employee and the manager, and regularly scheduled meetings to discuss work progress and problems. Evaluation of telecommuter performance will be consistent with that received by employees working at the office in both content and frequency and will focus on work output and completion of objectives.

An appropriate level of communication between the telecommuter and supervisor will be agreed to as part of the discussion process. During the teleworking agreement, the manager and telecommuter will communicate at a level consistent with employees working at the office or in a manner and frequency that is appropriate for the job and the individuals involved.

E. Equipment

BUSD accepts no responsibility for damage or repairs to employee-owned equipment. BUSD reserves the right to make determinations as to the supplying of appropriate equipment, which is subject to change at any time. Equipment supplied by BUSD is to be used for business purposes only. The telecommuter must sign an inventory of all BUSD property received and agree to take appropriate action to protect the items from damage or theft. Upon termination of the teleworking agreement, all BUSD property will be returned to the District, unless other arrangements have been made.

BUSD will supply the employee with appropriate office supplies or provide reimbursements for business-related expenses as deemed necessary. The District shall make the final determination whether to provide items or reimbursements.

The employee will establish an appropriate work environment within his or her home for work purposes. BUSD will not be responsible for costs associated with the setup of the employee's home office, such as remodeling, furniture or lighting, nor for repairs or modifications to the home office space.

F. Confidentiality

Consistent with BUSD's expectations of information security for employees working at the office, telecommuting employees will be expected to ensure the protection of BUSD, employee, and student information accessible from their home office. Steps include the use of locked file cabinets and desks, regular password maintenance, and any other measures appropriate for the job and the environment.

IV. Modified Duties

Under limited circumstances, BUSD may consider providing modified duties to at-risk employees on a limited term basis. For the duration of the assignment, the employee would work on duties which may or may not be outside their regular job description. The employee shall have no right to such assignments, which may altered or discontinued at any time. These accommodations will be subject to the availability of such work, feasibility, medical restrictions and interest of both parties and shall not exceed 60 days.

V. Sick Leave

At-risk employees who are unable to utilize other accommodations listed above may use accrued sick leave and/or other leaves.

VI. Process for Requesting Accommodations

At-risk employees initiate the accommodations process by completing the following steps:

1. Submit “Request for Accommodation” to Human Resources
2. Submit documentation of high risk status
3. Participate in ADA Interactive Process Meeting with Supervisor and Human Resources