**Operating Procedure No. 5413P**

**Human Resources**

**COVID-19 ACCOMMODATION FOR HIGH-RISK EMPLOYEES-PROCEDURE**

Consistent with [SB 5115 / Health Emergency Labor Standards Act (HELSA)](http://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/Senate/5115-S.SL.pdf?q=20210628142237), and guidance from the Centers for Disease Control (CDC) and Department of Labor (DOL), PSESD has adopted an infectious disease High-Risk Worker Policy No. 5413 for responding to requests for accommodation to reduce exposure to COVID-19 in the workplace. This procedure should be referenced when responding to requests for accommodation governed by Policy 5413 only. For requests for Reasonable accommodation unrelated to High-Risk status due to COVID-19, continue to refer to the existing applicable policy. Please contact HR with any questions regarding the application of this procedure.

**Requests for an Accommodation from High-Risk Employee**

Employees at high risk of severe illness from COVID-19 may request an accommodation due to the potential threat of exposure to COVID-19 in the workplace by completing a [Request for Accommodation form](https://pugetsoundesd.sharepoint.com/my/hr/Shared%20Documents/HR%20Forms/Request%20for%20COVID%20High%20Risk%20Accommodation.docx?d=w7bc92d81224a49b0a48b7beaf7465a5f). The Benefits and Leave Administrator will, in partnership with the supervisor:

* Provide the employee a copy of COVID-19 Accommodation for High-Risk Employees Policy No. 5413.
* Determine if the employee is High-Risk under Policy 5413. PSESD will require medical verification that determines whether the employee is high-risk and whether the employee may return to the workplace with additional accommodations in place, taking into account the employee’s medical condition, vaccination status, and circumstances of the job or workplace. PSESD Benefits and Leave Administrator may follow-up with employee’s medical provider as needed to seek clarification regarding medical documentation content.
* Implement any requested accommodation on a temporary basis (if easy to adapt) and inform the employee that the accommodation is being temporarily implemented while a reasonable accommodation feasibility analysis is being conducted. If temporary accommodations are not possible during the feasibility analysis phase, document the reason (focusing on the impact to operational needs) and employee may take sick and/or annual leave for this period.
* Engage in a reasonable accommodation feasibility analysis, as discussed below; and
* Memorialize the request for accommodation and PSESD’s response, including any schedule or location changes, anticipated end date, and any other requirements, in writing within at most thirty (30) days of the request. This should be provided to the employee and maintained in the employee’s confidential file.
* PSESD will give an employee at least 14 calendar days’ advanced written notice itemizing any changes to the accommodation. If you have difficulties documenting the impact to business processes, contact the HR Benefits and Leave Administrator, (425) 917-7624.

**Feasibility Analysis for Consideration of Accommodation Requests**

To the extent feasible for the job assignment, operational needs, and to safely allow the employee to perform the essential functions of the job while reducing exposure to COVID-19 to others in the workplace or while commuting, PSESD will consider:

* Utilizing or adding Personal Protective Equipment (PPE) to reduce exposure,
* Enhanced social distancing measures (e.g., physical barriers),
* Telework,
* Alternative or remote work locations,
* Temporary or permanent reassignment to a different position or job duties,
* Modification of schedule or shift assignment (e.g., staggering shifts), and/or
* Alternative work assignments.

**When Accommodation Requested Is Not Feasible**

If after engaging in a feasibility analysis, PSESD concludes that the accommodation requested is not feasible or the employee declines the offered accommodation, PSESD will:

* Permit a high-risk employee to use any of their accrued and available leave benefits in any order the employee elects without retaliation, **or**
* Permit the employee to apply for specific unemployment benefits without needing to exhaust all leave available and without retaliation.
* Maintain all employer-related health insurance benefits for employees who remain eligible for benefits in accordance with PSESD policies and procedures. Employees no longer eligible will be provided 14 days’ advance notice of end of eligibility, which will begin the 1st of the month following the elapse of the notice period.

**Leave Requests When Accommodation Not Feasible**

If the accommodation requested is not feasible or the employee declines the offered accommodation, and the employee chooses to use their leave benefits, they should refer to PSESD leave policies/procedures under 5000s Human Resources and consult with the HR Benefits and Leave Administrator to explore options. Generally, employees can use any accrued leave, including annual sick, and compensatory time. Employees who choose to take leave must give at least five days’ advance notice.

**Unemployment Benefits When Accommodation Not Feasible**

If the accommodation requested is not feasible or the employee declines the offered accommodation, the employee may choose to apply for unemployment insurance benefits. Employees who choose this option should work with the HR Benefits and Leave Administrator regarding options to pay their portion of their benefit premiums.

**Prohibition against Retaliation and Job Protection**:

PSESD will not take any adverse employment action, such as termination, suspension, or discipline, or otherwise retaliate against an employee seeking accommodation under Policy 5413. Nor will PSESD take any action against the employee that would result in loss of the high-risk employee’s current position by permanent replacement. However, when no such work reasonably exists for a high-risk employee, such as in a reduction in force, PSESD may temporarily or permanently layoff the employee. Layoff will not adversely affect the employee’s eligibility for unemployment benefits.

Adopted: May 2021

Revised: July 2021