



Guidelines/Procedures

SUBJECT: Employment of Individuals Under the Americans With Disabilities Act, As Amended

Guideline/Procedure for AR#: [6.01.003](#)

Date Effective: 04/13/2016; amended 11/05/14, 09/11/19

Procedures

The Austin Community College District (“ACC” or “the College”) complies with Title I of the Americans with Disabilities Act of 1990, as amended (ADAA).

Who is protected by Title I?

The ADAA prohibits employment discrimination against “qualified individuals” with disabilities on the basis of the disability. A qualified individual with a disability is 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 a job.

A person with a disability is an individual who:

- Has a physical or mental impairment that substantially limits one or more of his/her major life activities;
- Has a record of such an impairment, or
- Is regarded as having such impairment.

Employment Practices Regulated by Title I of the ADAA

The College will not discriminate against people with disabilities in regard to any employment practices or terms, conditions, and privileges of employment. This prohibition covers all aspects of the employment process, including:

Application	Evaluation	Medical Examinations	Leave
Testing	Compensation	Layoff/Recall	Benefits
Interviewing	Hiring	Training	Termination
Assignments	Promotion	Disciplinary Actions	

Reasonable Accommodation

The College will make a reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability unless providing the accommodation would cause an undue hardship on operations.

Some examples of reasonable accommodation include:

- Making existing facilities used by employees readily accessible to, and usable by, an individual with a disability;
- Job restructuring;
- Modifying work schedules;
- Reassignment to a vacant position;
- Acquiring or modifying equipment or devices;
- Adjusting or modifying examinations, training materials, or policies;
- Providing qualified readers or interpreters.

The College is not required to lower production or performance standards, approve a change in supervisor, shift essential functions of the job to other personnel, eliminate an essential function of the job, or provide personal use items such as glasses or hearing aids, as accommodations.

It is the responsibility of the applicant or employee with a disability to inform the immediate supervisor or the Office of Human Resources Department that an accommodation is needed. Upon receiving notice, the Human Resources Department is responsible for managing the request for accommodation. ACC will select an effective accommodation if needed.

Employee Medical Examinations

The College may require medical examinations under the ADAA when an employee has requested an accommodation but the employee's disability is not obvious, or when an active employee is having performance issues that appear to be caused by a mental or physical condition. An employee may be required to supply a medical examination report or Physician's Statement under the following conditions:

- There is some evidence of performance problems;
- There is a safety problem or concern related to the employee's ability to perform the job expectations;
- There is a need to determine whether individuals in physically demanding jobs continue to be fit for duty;
- It is necessary to determine whether the employee can continue to perform the essential functions of their job;
- When an employee suffers an injury on the job;
- To determine if the individual meets the ADAA definition of "individual with a disability" in cases where an accommodation has been requested;
- To identify an effective accommodation that would enable the person to perform the essential job functions in a current job or vacant job for which the person is qualified; or
- There is suspected abuse of leave.

Determination of Reasonable Accommodation

When a qualified individual with a disability requests an accommodation, the Office of Human Resources will evaluate the request and make an effort to provide a reasonable accommodation that is effective for the individual.

In many cases, the accommodation will be obvious, but frequently the individual must assist the Office of Human Resources by providing recommendations of changes or adjustments needed to ensure the employee's ability to perform the job duties. The Office of Human Resources and the individual should work together in an interactive process to identify the appropriate accommodation.

The Office of Human Resources will:

- review the job description and job duties and determine the essential functions of the job;
- consult with the individual with a disability to find out his or her specific abilities and limitations as they relate to the essential job functions;
- secure medical information if it is necessary to make a determination;
- in consultation with the individual, identify potential accommodations and assess how effective each would be in enabling the individual to perform essential job functions;
- consult with the supervisor and the Office of Safety and Environmental Management (SEM); consider the proficiency of the individual and select an effective accommodation that best serves the needs of the individual and ACC;
- consult with the Office of Safety and Environmental Management (SEM) to identify reasonable accommodations; and
- notify the employee and the supervisor of the accommodation selected.

All requests for accommodation will be processed as quickly as possible with the understanding that some accommodations take more time to provide than others. For example, if the accommodation request involves the purchase of furniture or equipment, ACC purchasing processes must be followed.

Undue Hardship

The College must provide a reasonable accommodation if a qualified person with a disability needs to be accommodated in order to apply for a job, perform the essential functions of a job, or enjoy benefits equal to those offered to other employees unless it will impose an undue hardship on the operation of business. Undue hardship is defined by the ADAA as an action requiring significant difficulty or expense when considered in light of factors that involve the nature and cost of the accommodation, the financial impact on the College, and the impact on College operations. This taking into consideration such matters as the size of the college, the number of employees of the College, and the nature of the College's operations.

Direct Threat

An individual is not a qualified individual with a disability if the individual poses a direct threat to the individual or to others in the workplace. A direct threat is a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

Temporary Impairments

Generally, temporary non-chronic impairments (such as the flu, broken limbs, sprains, concussions, appendicitis, etc.) do not qualify as a disability and thus, reasonable accommodations do not apply unless the condition is severe enough to meet the definition of “disability”.

Documentation & Confidentiality

The employee must complete all forms requested by the Office of Human Resources to support the need for a reasonable accommodation. When the Office of Human Resources selects a reasonable accommodation, the Office of Human Resources will document the conditions, responsibilities, period and any other important elements of the agreement.

ADAA documents are confidential. Information can be confidential even if it contains no medical diagnosis or treatment course and even if it is not generated by a health care professional. Medical information will be kept in a separate medical file that is accessible only to officials designated by the Office of Human Resources. Medical information stored electronically will be similarly protected.

Employees who are aggrieved and believe that the ADAA has been violated may file a grievance pursuant to Administrative Rule 6.08.005 and Guideline/Procedure 6.08.005.

Complaint Procedures

If an applicant or employee wants to file a complaint regarding discriminatory treatment, has witnessed discriminatory treatment or believes the College has not met its obligations under the ADAA, the situation should be reported using the complaint procedures of the College or contact the Office of Human Resources for assistance.

Any employee found to have engaged in retaliation against an applicant or employee for making request for reasonable accommodations, registering a complaint, or for assisting in the investigation of any registered complaint will be subject to immediate disciplinary action up to and including discharge.

Appeals

Should an employee or applicant be denied an employment accommodation or receive an alternate accommodation that they consider ineffective, the individual may submit an appeal of the accommodation to the Executive Vice President, Finance & Administration.

Appeals must be received within 20 business days of the issuance of the final determination letter issued by the Office of Human Resources, Benefits.

Confidentiality

All information obtained concerning the medical condition or history of an applicant or employee will be treated as confidential information, maintained in separate medical files in the Office of Human Resources and disclosed only on a need-to-know basis and as permitted by law.