

What are my rights as an employee with a disability at the Maricopa Community Colleges?

The Maricopa County Community College District will not discriminate against an employee or applicant for employment because of disability with regard to any position for which the employee or applicant is qualified. In addition, the Maricopa Community Colleges will take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental impairment in all employment practices such as promotion, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training.

Employees who feel they have been victims of discrimination based on disability are encouraged to use the District's internal complaint procedures. Information regarding these procedures, as well as complaint forms, is available from the Affirmative Action Office. Employees may also lodge complaints with appropriate state and federal agencies, such as the Equal Employment Opportunity Commission and the Office of the Arizona Attorney General.

For more information about the Maricopa Community College District's nondiscrimination policy, visit our website:

<http://www.dist.maricopa.edu/legal>

or call the Legal Services Department

480.731.8877

The Maricopa County Community College District is an EEO/AA Institution.

Legal Services Department
Maricopa County Community College District
2411 West 14th Street
Tempe, AZ 85281-6942

CIVIL RIGHTS

The Rights of Employees with Disabilities

Legal Services Department
Maricopa County
Community College District



How does the law protect employees with disabilities?

In 1990, Congress enacted the Americans with Disabilities Act (ADA), which makes it unlawful for an employer to discriminate against a qualified individual with a disability because of that person's disability in regard to job application procedures; hiring, advancement, or discharge; employee compensation; job training; and other terms, conditions, and privileges of employment.

The ADA further prohibits an employer from inquiring of a job applicant as to whether the applicant has a disability, or asking about the nature and severity of the disability.

An employer illegally discriminates against a qualified individual with a disability when it does not make a reasonable accommodation to the known physical or mental limitation of that person, and the person is either an applicant or employee. The employer is not required to make a reasonable accommodation, however, if the accommodation would impose an undue hardship on the employer's business.

Who is a *qualified individual with a disability*?

The ADA defines disability as a physical or mental impairment that substantially limits one or more of a person's major life activities.

A disability can also exist if the person either has a record of such impairment, or is regarded as having such impairment. A qualified individual with a disability is a person who—

with or without a reasonable accommodation—can perform the essential functions of the job that person holds, or for which the person has applied.

The ADA specifically provides that some conditions are not disabilities. A person currently engaging in the illegal use of drugs, for example, is not an individual with a disability. Moreover, Congress has held that compulsive gambling, kleptomania, or various sexual behavior disorders would not be a disability.

In addition, many court decisions have addressed whether certain conditions are disabilities under the ADA. For instance, some courts have decided that obesity may be a disability under federal legislation. And while the Supreme Court has held that victims of contagious diseases may be persons with disabilities, it has questioned whether an individual with a contagious disease who nevertheless does not have a physical impairment may claim to have a disability.

The law does not provide an exhaustive list of impairments that would or would not be considered disabilities. Rather, a physical or mental impairment would qualify as a disability if it meets the definition of that term under the ADA. An impairment need not be of a permanent nature, however, to constitute a disability.

Early legislation protecting the rights of persons with disabilities (such as the Rehabilitation Act of 1973 and the Education of the Handicapped Act of 1970) deemed those persons "handicapped." Since the passage of the ADA, however, Congress has eliminated the

use of that term. Instead, virtually all such legislation now refers to persons or individuals with disabilities.

What is a *reasonable accommodation*?

Under the ADA, an accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities.

The ADA provides that a reasonable accommodation may—depending on the employment circumstances—include making existing facilities used by employees readily accessible to and usable by individuals with disabilities; job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modification of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

According to the US Department of Justice, determining which accommodation is appropriate in a particular situation "involves a process in which the employer and employee identify the precise limitations imposed by the disability and explore potential accommodations that would overcome those limitations."
