

**Cochise College
District Board Policy**

**Category: All Employee Groups
Policy Number: 612
Title: Americans with Disabilities Act**

The College shall not discriminate against a qualified individual with a disability because of the individual's disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training and other terms, conditions, and privileges of employment.

**Procedure 612.1
American with Disabilities Act**

General Scope

This guideline sets forth the process by which employee, applicant and student requests for accommodation because of disability will be processed by the College. This process complies with Title I and II of the Americans with Disabilities Act of 1990 (ADA), and Section 504 of the Rehabilitation Act of 1973. The intent of this guideline is to ensure that every employee, applicant, or student who makes a request for an accommodation under the ADA shall be promptly and properly advised of the request and accommodation process. All employee, applicant and student requests for accommodation because of disability will be processed under this guideline. The College is committed to providing reasonable accommodations for qualified individuals with disabilities in the most effective and timely manner possible.

The employee/applicant/student has an obligation to request an accommodation and submit appropriate documentation to support the request within the timeline specified. The College has the responsibility to provide a reasonable accommodation for those employees/applicants/students determined to be protected under the ADA unless the accommodation is deemed to pose an undue hardship to the College.

All personal, psychological, rehabilitation and medical information obtained as a result of this process shall be treated as confidential. Disclosure of information will be made only on a "need to know" basis. All records related to the ADA accommodation request will be maintained in separate, locked files, and access will be strictly limited to the ADA Coordinator, Associate Vice President for Human Resources, and human resources staff. The Vice President Instruction/Provost and President may have a need to know when a final dispute determination requires their signature.

Definitions

An individual with a disability is any person who: (1) has a physical or mental impairment which substantially limits one or more major life activities (e.g., performing manual tasks, walking, seeing, hearing, speaking, breathing, or learning); (2) has a record of such an

impairment (e.g., medical history); (3) is regarded as having such an impairment (e.g., generally perceived by College personnel to be limited, impaired, and/or disabled); or (4) is a recovering alcoholic or rehabilitating drug addict. Also, any individual who has a relationship with or is a primary caregiver for a person with a disability is protected from discrimination under the ADA.

An individual with a disability does not include someone who: (1) has a temporary disabling condition (e.g., broken leg); (2) is a current substance user/abuser; or (3) has a contagious disease and poses a threat to others.

A qualified individual with a disability is a person with a disability who satisfies the requisite skill, experience, education and other job-related requirements of an employment position that is currently held or desired. Further, a qualified person with a disability can, with or without reasonable accommodation, perform the essential functions of the position.

The term “with or without” reasonable accommodation recognizes that individuals with disabilities are qualified to perform many of the essential functions of a job without need of any accommodation. However, when an individual with a disability who is otherwise qualified cannot perform one or more essential job functions because of his or her disability, the hiring authority/position supervisor must consider whether there are job modifications or work place adjustments that would enable the person to perform additional essential functions.

Undue hardship is defined by the ADA as an action that is “excessively costly, extensive, substantial, disruptive, or that would fundamentally alter the nature or operation of the business.”

Under the ADA “direct threat” means a significant risk or substantial harm to the health and safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.

1. Requesting Accommodation – Current Employees

- a. An employee will notify his/her supervisor of any modification or accommodation needed to perform the job because of limitations caused by a disability. This notice may be made orally or in writing.
- b. Once a supervisor has been notified of a need by the employee, the supervisor will immediately assist the employee in completing a Request for Accommodation form.
- c. On a case-by-case basis, pending confirmation of the disability and identification of possible reasonable accommodations, the employee may receive an interim accommodation for 10 working days authorized by the ADA Coordinator. Any costs associated with this interim accommodation will be provided through the ADA employee accommodation budget.

2. Medical Documentation

- a. A medical, psychological or rehabilitation statement establishing proof of disability may be required by the College for review and evaluation. The medical, psychological or rehabilitation statement must include current information on the diagnosis and/or classification of the disability, prognosis related to the essential functions or duties of the employee's job, anticipated duration of disability, recommended accommodation(s), and the anticipated duration for the needed accommodation(s).
- b. The ADA Coordinator will request the statement as well as forward a current job description and a release of information form signed by the employee, to the employee's physician, vocational rehabilitation representative, and/or any other entity that might provide the appropriate documentation to determine the employee's level of disability.
- c. To ensure confidentiality, all medical and/or psychological documentation provided to the College on behalf of an employee, should be addressed directly to the ADA Coordinator and identified as "Confidential" by the sender.
- d. In the event the College needs additional information to determine an individual's eligibility for ADA accommodation(s), a signed medical release form is included as part of the request process. If no additional information related to the request is needed, the release form will not be utilized by College personnel for any other purposes.
- e. Depending on the nature of the disability, an employee may be required to undergo further testing and/or evaluation by medical personnel retained by the College to verify the disability, the need for accommodation, and to provide a basis upon which a reasonable accommodation can be established. The cost of such evaluation and testing will be paid by the College.

If any employee fails to comply with any of the steps required in this section, they will be considered "not otherwise qualified."

3. Evaluating Proof of Disability

- a. The ADA Coordinator, in consultation with appropriate College personnel, is responsible for the evaluation of medical documentation and current job specifications to determine whether an employee qualifies for an accommodation under ADA. When deemed necessary, medical or other knowledgeable professional resources retained by the College may also be consulted to assist in this determination.

4. Notification

- a. Once a determination is made, the ADA coordinator will immediately provide written notices to the employee and the position supervisor as to whether the request for accommodation is approved or denied. Prior to providing written notice of denial, the notice will be countersigned by the appropriate area administrator, e.g. Dean or Vice President.

- b. Before an individual is notified at any step in this process that their request is denied based on “undue hardship” or “direct threat” a review and approval by the President or his/her designee, is required.

5. Eligibility Dispute

When the determination is made, through application of this process, that the employee is not a “qualified individual” under the ADA, the internal College process for the provision of accommodation is concluded. The requesting employee has the right to file a formal complaint of discrimination on the basis of disability outside the College with the Equal Employment Opportunity Commission.

6. Implementation of Reasonable Accommodation

- a. As soon as possible following the determination to grant a reasonable accommodation, the ADA Coordinator shall convene a meeting with the employee and the employee’s supervisor to discuss potential accommodations, the effectiveness of each, and the safety of each.
- b. Information resulting from the meeting will be reviewed in a prompt and timely fashion by the ADA Coordinator and the area administrator for final selection of the accommodation most reasonable for both the individual and the College.
- c. The ADA Coordinator provides written notice of the accommodation(s) that will be provided by the college to both the employee and to the position supervisor. The notice will be countersigned by the appropriate area administrator, and a copy placed in the ADA file of the employee.
- d. Implementation of or arrangement for the accommodation(s) will begin immediately and its initiation is the responsibility of the employee’s supervisor. The ADA Coordinator may require verification that an accommodation has been completed.
- e. Any expense incurred in the process of implementing the accommodation will be approved and processed by the ADA Coordinator.
- f. An employee service plan is developed by the ADA Coordinator and the employee’s supervisor to document disability, accommodation(s) or adjustments, and level of functioning in the position. Employee service plans will be updated at least once annually by the employee’s supervisor and the ADA Coordinator to determine if there have been changes in the performance or functioning of the employee and his/her ability to perform the essential duties as assigned in the job description.

7. Employee Dispute

- a. If there is a dispute about the reasonableness or effectiveness of the accommodation, or the timeliness in which an accommodation is implemented, the employee will present the issue, in a timely manner, to the ADA Coordinator. The ADA Coordinator will provide written notification of final resolution to the employee.
- b. Disputes arising from the implementation of this internal procedure will be presented to the Associate Vice President for Human Resources. The Associate Vice President for Human Resources will present all disputes to the College President. The President shall notify, in writing, the employee as to the outcome of the dispute. The resolution constitutes a final decision on behalf of the College.

8. Additional Considerations

- a. An employee provided with a reasonable accommodation will be held to the same job performance standards and requirements as other employees without disabilities.
- b. If an employee requests, then rejects a reasonable accommodation offered by the College, the employee will no longer be considered a qualified individual with a disability and the employee will be expected to satisfactorily perform the essential functions of the job without the accommodation.

Requesting Accommodation – Job Applicants

An applicant may request an accommodation at any stage of the application process. It is the applicant's responsibility to initiate the request in a timely manner. The request may be oral or written.

1. An accommodation request begins by submitting a written or oral request to the Associate Vice President for Human Resources at least five (5) days in advance of the needed accommodation.
2. The Associate Vice President for Human Resources may require the applicant to provide documentation to determine if the applicant is a "qualified individual" as defined by the ADA and to support the need for an accommodation, depending on the nature and/or obviousness of the disability. When an applicant with a known or obvious disability requests a reasonable accommodation, the Associate Vice President for Human Resources will promptly determine an appropriate and effective accommodation.
3. The Associate Vice President for Human Resources is responsible for making arrangements to provide reasonable accommodation for a qualified individual during the application and hiring process.

Additional Considerations

1. The College reserves the right to select the most qualified individual for an announced position. The College will not discriminate against a disabled individual in the selection process. If an individual is hired, and has an undisclosed disability at the time of hiring, the college is under no obligation to provide an accommodation until a formal accommodation request is made.
2. When a job accommodation or adjustment is necessary for a newly hired individual or current employee who is promoted, the same procedure described in "Requesting Accommodation – Current Employees" will be followed.
3. All adverse hiring and discharge decisions involving individuals with disabilities require review by the ADA Coordinator and Associate Vice President for Human Resources before decisions are final. A joint decision will be provided by the ADA Coordinator and Associate Vice President for Human Resources to the requesting supervisor in a prompt and timely manner.
4. The College may acquire medical information to evaluate a job candidate's ability to safely perform the essential functions of a job.
 - a. The College may not inquire about an individual's medical or psychological background, or require a physical examination prior to

making an offer of employment. The College may inquire about an individual's medical or psychological background only if the individual has requested reasonable accommodations in the application process and the request requires verification of a disability.

- b. After a conditional job offer is made, medical questions may be asked and unrestricted physical examinations may be required as long as the requirement for exam is known to all persons entering the job category, and is required for any individual entering the job category.
- c. A conditional job offer may be withdrawn due to the results of such an examination or inquiry. However, the withdrawal of the job offer will be based only on job-related direct threat, and/or undue hardship reasons for which no reasonable accommodation is available; or, the individual is found to be unable to perform the essential functions of the job with or without reasonable accommodation.