

Academic Affairs Manual (ACD)

ACD 405: Individuals with Disabilities

Effective: 10/23/1992

Revised: 7/20/23

Purpose

To specify university policy on equal opportunities, access, and reasonable accommodations for individuals with disabilities

Sources

Americans with Disabilities Act of 1990 (ADA), 42 *United States Code* § 12101 et seq.

ADA Amendment Act of 2008 (P.L. 110-325)

The Civil Rights Act of 1991, 42 *United States Code* § 1981, § 2000e; 329 *United States Code* § 626(e), all as amended

The Rehabilitation Act of 1973, 29 *United States Code* §§ 701–796

Arizonans with Disabilities Act of 1992, *Arizona Revised Statutes* § 9–499.02; 41–1492 et seq.

Applicability

ASU employees, students, contractors, and vendors who do business with ASU, and members of the general public who receive services from ASU or participate in ASU activities or programs

Policy

ASU provides equal opportunity to qualified [employees](#) and [students](#), and to members of the general public who have a [disability](#) and provides [reasonable accommodation](#) as appropriate in employment, the application for employment, services, programs, and activities. Individuals with a disability are those who have a physical or mental impairment that substantially limits one or more [major life activity](#), have a record of such impairment, or are regarded as having such impairment.

The university [ADA](#) Consultant is within the Office of Diversity, Equity, and Inclusion. In accordance with this policy the ADA Consultant or designees, or OHR Consultants, must be contacted for assistance in all matters pertaining to compliance with this policy. Contact the Office of Diversity, Equity and Inclusion, ADA Consultant, to assist with reasonable accommodations (480/727-1770). The Office of General Counsel may also be contacted for assistance (480/965-4550).

Before denying a request for disability accommodations, requiring a medical exam, or taking other action related to ADA requirements under this policy, unit or higher level administrators must consult with the ADA Consultant and obtain concurrence with the denial or action.

Drugs and Alcohol

University policy prohibits consuming, using, manufacturing, selling, possessing, distributing, dispensing, purchasing, or being under the influence of alcohol or illegal drugs (drugs not authorized by a physician) in the [workplace](#) or while on

duty. The ADA does not include current illegal drug use in the definition of “disability”; an alcoholic may be defined as an individual with a disability. The ADA does protect individuals who have overcome drug or alcohol addiction, including those who are in or have completed rehabilitation.

The university may seek reasonable assurance that an [applicant](#) or employee is not using alcohol or illegal drugs as noted above and may take action to address, prohibit, or prevent alcohol or illegal drug use in the workplace or while on duty. The appropriate unit administrator must consult with the OHR Consultant or the Office of General Counsel before requesting such assurance from an applicant or employee.

Physical and Program Accessibility

To assure equal opportunity, [qualified individuals](#) with disabilities will be provided reasonable accommodations and access to university services, programs, and activities in settings as integrated as possible, provided the access or accommodation will not result in an [undue hardship](#) or a fundamental alteration of a service, program, or activity.

[Facilities](#) designed, constructed, or altered after June 26, 1992, must be accessible and usable by persons with disabilities, and must conform to the accessibility standards of the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Alterations to existing buildings will comply with ADAAG except where technically infeasible, for example, where a physical or site restraint prevents compliance or where compliance would require removal of a load-bearing part of a structure.

The university also will provide [auxiliary aids and services](#) to individuals with disabilities to enable them to communicate effectively with ASU and to receive the benefits of services, programs, and activities unless to do so will create an undue hardship or create a fundamental alteration of the services, programs, or activities.

Web Accessibility

ASU offices and [departments](#) creating Web sites, including course Web sites, should consider the following guidelines and aim for compliance, as feasible:

1. provide alternative texts for images, applets, and image maps
2. provide descriptions for important graphics, scripts, or applets if they are not fully described through alternative text or in the document’s content
3. provide textual equivalents for audio information (captioning)
4. make verbal descriptions of moving visual information available in both auditory and text form
5. make text and graphics perceivable and understandable when viewed without color
6. make moving, blinking, scrolling, or auto-updating objects or pages so they can be paused or frozen
7. make pages using the newer HTML features that transform easily into an accessible form
8. make features that enable activation of page elements via input devices other than a pointing device (e.g., via keyboard, voice) available
9. provide sufficient information to determine the purpose of frames and how they relate to each other
10. make tables (not used for layout) that have the necessary markup to be properly restructured or presented by accessible browsers and other user agents
11. indicate structure with structural elements and control presentation with presentation elements and style sheets
12. provide supplemental information needed to pronounce or interpret abbreviated or foreign text
13. build accessibility into elements that contain their own user interface
14. use interim accessibility solutions to assure that assistive technologies and older browsers will operate correctly
15. group controls, selections, and labels into semantic units
16. create good link phrases
17. provide mechanisms that facilitate navigation within your site

and

18. create a single downloadable file for documents that exist as a series of separate pages.

Methods for complying with the standards above may be found at <http://www.w3c.org>.

Employment

Actions based on an individual's disability (e.g., refusal to provide requested accommodation, providing an accommodation, refusal to hire, etc.) may not be taken by the hiring official without consultation with the OHR Consultant first.

The university prohibits discrimination against qualified individuals with disabilities in the application for employment and in the terms and conditions of employment, including hiring, termination, training, compensation and benefits, promotion, and other terms of employment. The university will not use standards, tests, or criteria that screen out or tend to screen out an applicant with a disability unless the criteria are job-related and required by business necessity or it is determined that an applicant will pose a [direct threat](#) to the health or safety of the applicant or others. The Office of Diversity, Equity and Inclusion will review all job announcements to assure job requirements and [essential functions](#) are appropriate to the position.

Hiring officials and search committees will not ask applicants for employment about illness, disability, impairment, mental or physical condition, disease, hospitalization, prior absenteeism, medication, or claims for worker's compensation before a conditional offer of employment is made. Hiring officials and search committees may ask applicants if they can perform the essential functions of a position and may ask applicants to demonstrate how they would perform the essential functions. If one applicant is asked questions about essential functions and asked to demonstrate how the essential functions would be performed, then all applicants must be asked the same questions and asked to demonstrate how the essential functions would be performed.

Inability to Perform Essential Functions

When a qualified applicant, with or without reasonable accommodations, is unable to perform the essential functions of a position, the applicant will be considered ineligible for hire. When a qualified employee, with or without reasonable accommodations, is unable to perform the essential functions of the job, the university will make a good faith effort to find another position for the employee for which she or he is qualified. In consultation with the ADA Consultant, the hiring official will make every effort to find another position within the department for the employee. When that is not possible, the employee will be referred to Human Resources, Recruitment and Selection, for assistance in identifying positions for which the employee can perform the essential functions of the position, with or without an accommodation, and meet the minimum qualifications and the necessary desired qualifications. When a position is identified, the employee will be transferred to that position via a waiver of recruitment. When a position cannot be identified after 30 days from the date the employee is determined to be unable to perform the essential functions of his or her current position, the employee may be terminated. The 30-day period for trying to find alternative employment commences upon notification to the employee by the hiring official of this action.

Reasonable Accommodations

The university will make a good faith effort to provide reasonable accommodation for qualified applicants, employees, students, and members of the public with a disability unless the accommodation requested would cause an undue hardship as defined by the ADA and this policy. For purposes of providing reasonable accommodation, applicants and employees are considered qualified if they possess the minimum qualifications of the position and can perform the essential functions of the position with or without reasonable accommodation. The individual with a disability must ask the unit administrator for the reasonable accommodation and provide appropriate disability documentation (e.g., medical, psychoeducational, and/or psychological) sufficient to document the disability and the need for the accommodation. The unit administrator must consult with the ADA Consultant as soon as a request for an

accommodation is made by an applicant for employment, employee, or member of the public. Students requesting accommodation must notify the Disability Resource Center (DRC) and work with that office for the provision of reasonable accommodations. The cost of providing the reasonable accommodation is the responsibility of the department providing the employment, program, service, or activity, except in the case of providing general class accommodations for students with disabilities (see [ACD 304-08](#), “Classroom and Testing Accommodations for Students with Disabilities”; [SSM 701-01](#) “Disability Resource Center—General Policy”).

Disability Documentation/Records Retention

Medical and/or psychological examinations may be required post-offer of employment or as a result of an illness or injury sustained by an employee who desires to return to work following a medical leave. ASU identifies specific jobs that require a physical and/or psychological exam before a person can begin work. The hiring department bears the cost of these exams. The records provided as a result of any required medical/psychological exam or disability documentation provided as evidence of a disability and the need for accommodation will be maintained by the ADA Consultant for three years after the date of receipt or for the length of an employee’s employment. Such records and documentation will be maintained confidentially and separately from application materials and/or official personnel records. The DRC will maintain disability documentation for all students requesting accommodations.

Right to File a Complaint

Any individual who believes he or she has been discriminated against by ASU on the basis of disability in violation of this policy or [ACD 401](#), “Prohibition Against Discrimination, Harassment, and Retaliation,” may contact the ADA Consultant and/or file a complaint with the Office of University Rights and Responsibilities and/or may report or file a complaint pursuant to ACD 401 within 120 days of the last act of alleged discrimination. Individuals may also file a complaint with the Arizona Civil Rights Division, the Equal Employment Opportunity Commission ([EEOC](#)), the Office of Civil Rights of the Department of Education ([OCR](#)), or other agencies designated in ADA, within 180 days of the last act of alleged discrimination. (EEOC provides 300 days to file.)

Individuals who have complaints may also file private lawsuits in appropriate courts within certain timelines and should consult their legal advisors accordingly.

Retaliation

Retaliation against a person who has filed a complaint with the university or outside the university or who is cooperating with/participating in an investigation is prohibited and may be grounds for disciplinary action up to and including termination of employment.

Cross-References

For related information see:

1. the *Academic Affairs Policies and Procedures Manual*:
 - a. [ACD 122](#), “Drug-Free Campus Environment”
 - b. [ACD 304-08](#), “Classroom and Testing Accommodations for Students with Disabilities”
 - c. [ACD 401](#), “Prohibition Against Discrimination, Harassment, and Retaliation”
 - d. [ACD 509-02](#), “Grievance Policy for Faculty”and
 - e. [ACD 509-03](#), “Grievance Policy for Academic Professionals”
2. the *Police Department Policies and Procedures Manual*: [PDP 101-04](#), “Emergency Evacuation”

3. the *Parking and Transportation Services Policies and Procedures Manual*: [PTS 103](#), “Permits for Persons with Disabilities”

and

4. the *Student Services Manual*:

a. [SSM 304–03](#), “Nondiscrimination—Equal Employment Opportunity”

and

b. the policies in [SSM 700](#), “Disability Resources.”