

2.9 Americans with Disabilities Act and Americans with Disabilities Act Amendments Act Policy

Category: Administration

Name of Responsible Office: Human Resources and Organization Development

Title of Responsible Executive: Executive Director, Human Resources and Organizational Development

Date Established: August 17, 2015

Date Last Approved: November 23, 2020

Summary

Consistent with the values of Monroe Community College and its commitment to equal employment opportunity and affirmative action, the College does not discriminate in employment against qualified individuals with disabilities. In addition, the College provides reasonable accommodations to individuals with disabilities who are able to perform the essential functions of the job they are seeking or that they hold. This fosters a diverse, inclusive and supportive learning and working environment.

Policy

Policy Statement

The Americans with Disabilities Act of 1990 (ADA) and the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) are federal laws that prohibit discrimination in employment against qualified applicants and employees with disabilities. These laws require employers to provide reasonable accommodations to applicants and employees who are qualified for a job, so that they may perform the essential job duties of the position. Employers are prohibited from retaliating against an applicant or employee for asserting their rights under the ADA, and it is unlawful to discriminate against an applicant or employee, whether they have a disability (or not), because of their family, business, social, or other relationship or association with an individual with a disability.

It is the policy of Monroe Community College to comply with all federal and state laws concerning the employment of persons with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). Furthermore, it is the College's policy not to discriminate against qualified individuals with disabilities in regard to recruitment, application procedures, hiring, job assignments, advancement, discharge, compensation, training, leave, lay-off, benefits, or other terms, conditions, and privileges of employment.

Background

When an individual with a disability requests accommodation and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety, they will be given the same consideration for employment as any other qualified applicant or employee. Applicants or employees who pose a direct threat to the health, safety, and well-being of themselves or others in the workplace when the threat cannot be eliminated by reasonable accommodation will not be hired or retained.

Applicability

This policy applies to all employees at the College and to all applicants for employment with the College. An individual with a disability must be qualified to perform the essential functions of the job with or without

reasonable accommodation in order to be protected under this policy. Individuals who are currently using illegal drugs are excluded from coverage under this policy.

Any employee who believes that they require a reasonable accommodation should contact the Human Resources Office. Human Resources will then engage in an interactive process with the employee to arrive at a reasonable accommodation. Accommodations will be made on a case-by case basis because the nature and extent of the disabling condition and the requirements of each job will vary.

An individual who believes that they have been the victim of discrimination as a result of disability should complete a Discrimination Complaint form.

Definitions

Individual with a disability: A person who has a physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such an impairment, or is regarded as having such an impairment.

Major life activities: A substantial impairment is one that significantly limits or restricts a major life activity such as, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major bodily functions: Includes physical or mental impairment such as any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine. Also covered are any mental or psychological disorders, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Substantially limiting: In accordance with the ADAAA final regulations, the determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder, and schizophrenia. An impairment, such as cancer that is in remission but that may possibly return in a substantially limiting form, is also considered a disability.

Direct threat: A significant risk to the health, safety, or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.

Qualified Individual: An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

Reasonable Accommodation: Includes any changes or adjustments to a job or work environment that permit a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. May include making existing facilities readily accessible to and usable by individuals with disabilities; job restructuring; part-time or modified work schedules; telecommuting; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials or policies; the provision of qualified readers or interpreters; and other similar accommodations.

Undue hardship: An action requiring significant difficulty or expense by the employer, or would fundamentally alter the nature or operation of the College. In determining whether an accommodation would impose an undue hardship, factors to be considered include:

- The nature and cost of the accommodation.
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact of such accommodation on the operation of the facility.
- The overall financial resources of the employer; the size, number, type and location of facilities.
- The type of operations of the company, including the composition, structure, and functions of the workforce; administrative or fiscal relationship of the particular facility involved in making the accommodation to the employer.

Essential functions of the job: The basic job duties that an employee must be able to perform with or without accommodation. Refers to those job activities that are determined by the employer to be essential or core to performing the job. These functions cannot be modified.

The examples provided in the above terms are not meant to be all-inclusive and should not be construed as such. They are not the only conditions that are considered to be disabilities, impairments, or reasonable accommodations covered by the ADA/ADAAA policy.

Responsibility

Executive Director, Human Resources and Organizational Development

Contact Information

Office of Human Resources and Organizational Development
Brighton Campus, Building 6, Room 301
(585) 292-2048

Related Information

College Documents

- [Notice of Non-Discrimination](#)
- 2.12 Equal Employment Opportunity and Affirmative Action Policy
- [Discrimination Complaint Procedure](#)

Related Links

- [U.S. Equal Employment Opportunity Commission](#)
- [New York State Department of Labor](#)

History

Item	Date	Explanation
3-year review	July 5, 2018	No recommended revisions
Compliance review	August 20, 2019	Mandatory revisions approved by College Officers