

TEXAS STATE TECHNICAL COLLEGE SYSTEM
SYSTEM OPERATING STANDARD

No.HR.2.5.2	Page 1 of 5	Effective Date: 09/09/05
DIVISION:	Human Resources	
SUBJECT:	Americans with Disability Act	
AUTHORITY:	Minute Order #38-05	
PROPOSED BY:	<i>Original Signed by Rich Morris</i>	
TITLE:	Associate Vice Chancellor for Human and Organization Development	Date: 09/12/05
RECOMMENDED BY:	<i>Original Signed by Rich Morris</i>	
TITLE:	Associate Vice Chancellor for Human and Organization Development	Date: 09/12/05
APPROVED BY:	<i>Original Signed by Bill Segura</i>	
TITLE:	Chancellor	Date: 09/12/05

STATUS: Approved by MC 09/09/05

HISTORICAL STATUS: Revised 08/17/05
 Approved by BOR 04/29/05 MO#38-05
 Approved by MC 03/11/05
 Proposed 03/2005

POLICY

It is the policy of Texas State Technical College to administer all policies and practices in accordance with federal and state laws without discrimination against any qualified individual with a disability.

PERTINENT INFORMATION

In accordance with Title I, Employment, of the Americans with Disabilities Act (ADA), TSTC will not discriminate against any qualified individual with a disability because of the disability of that individual in such matters as job application procedures; hiring, advancement or discharge practices; compensation; job training; or other terms, conditions and privileges of employment.

Definitions:

The ADA defines an individual with a disability as a person who: (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) has a record of such impairment; or (3) is regarded as having such an impairment. Definitions of some of these terms include the following.

A physical impairment is any physiological disorder, condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems.

A mental impairment is any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities.

"Substantially limits one or more major life activities" refers to an impairment that renders an individual unable to perform a major life activity, or restricts the duration, manner or condition under which an individual can perform a major life activity, in comparison to an average person in the general population.

Major life activities include walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself, working, sitting, standing, lifting or reading.

"Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors:

1. the nature and cost of the accommodation;
2. 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 otherwise of such accommodation upon the operation of the facility;
3. the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities;
4. the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity;
5. the effect on the safety of the requestor or other individuals.

A qualified individual with a disability means an individual with a disability who, with or without reasonable accommodations, can perform the essential functions of the employment position the individual holds or desires. Essential functions mean those responsibilities that are critical, primary, necessary, basic, vital, required, or indispensable to the job.

Reasonable accommodation may include:

1. making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
2. job restructuring, part-time or modified work schedules; 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 for individuals with disabilities.

Prohibited discrimination includes:

1. limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of the individual because of his/her disability;
2. participating in a contractual or other relationship that subjects a qualified applicant or employee with a disability to the discrimination prohibited by this policy;
3. utilizing standards, criteria, or methods of administration that discriminate on the basis of disability or that perpetuate discrimination;
4. denying equal jobs or benefits to a qualified individual because of the known disabilities of an individual with whom the qualified individual has a relationship or association; or
5. not making requested reasonable accommodations for the documented physical or mental limitations of a qualified individual with a disability who is an applicant or employee, or denying opportunities for employment where reasonable accommodations may be needed and requested.

An accommodation is not required to be made when it would impose an undue hardship.

DELEGATION OF AUTHORITY

The Colleges' Human Resource Departments have the authority and responsibility to implement this System Operating Standard. The TSTC System Human and Organization Development office has the authority and responsibility to implement this System Operating Standard for System Operations.

OPERATING REQUIREMENTS

1. Primary responsibility for ensuring compliance with the ADA rests with the President of the College or his/her designee. The President of the College will have final authority to determine whether accommodations are reasonable.
2. The TSTC System Human and Organization Development office will coordinate and oversee compliance with the ADA.
3. Medical examinations and inquiries

- a. No medical examination may be conducted or required before an offer of employment has been made. A medical examination may be required after an offer of employment has been made and prior to commencement of employment duties, if all persons offered the position are required to have the examination. An offer of employment may be conditioned on the results of such an examination.
 - b. Inquiries may not be made of a job applicant as to the individual's disability, or the nature or severity of such disability, except that inquiries may be made into the ability of an employee to perform job-related functions so long as inquiries are made of all individuals who are interviewed.
 - c. Applicants extended an offer of employment and employees who request an accommodation are responsible for obtaining a medical statement that contains a diagnosis, prognosis, and the major life function that is substantially limited. This medical statement should include an evaluation as to the effect that the impairment has on the employee's ability to perform the duties associated with the employee's or applicant's position.
 - d. All medical information will be treated as confidential and will be kept in a separate file from other personnel records in compliance with the Health Insurance Portability and Accountability Act of 1996.
4. Reporting of claims of discrimination
 - a. Claims of discrimination should be reported to the local College Human Resources Department. In the case of System Operations, such claims should be reported to the TSTC System Human and Organization Development office.
5. Retaliation
 - a. Any employee who, in good faith, reports an alleged incident of discrimination will under no circumstances be subject to reprisal or retaliation of any kind. Any employee who feels he or she has been subjected to such adverse actions should report this to his or her supervisor or the College Human Resources Department. In the case of System Operations, such claims should be reported to the TSTC System Human and Organization Development office. Any employee, however, who is found to have knowingly made a false accusation of discrimination or retaliation may be subject to appropriate disciplinary action up to and including termination.

PERFORMANCE STANDARDS

1. The Human Resource Department at each College and the TSTC System Human and Organization Development office will maintain records of activities related to compliance

with the Americans with Disability Act.

2. These records shall document the activities surrounding each incident relating to the Americans with Disability Act, regardless if an accommodation was made or not.
3. These records shall be kept in a separate file in compliance with the Health Insurance Portability and Accountability Act of 1996.

COLLEGE OPERATING PROCEDURE

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OFFICE OF RESPONSIBILITY:		
APPROVED BY:		
TITLE:		Date
FORWARDED TO SYSTEM OFFICE ON		