

**Nondiscrimination  
Generally**

No governmental entity, including a college district, shall deny to any person within its jurisdiction the equal protection of the laws. *U.S. Const. Amend. XIV*

An officer or employee of a political subdivision of the state, including a college district, who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:

1. Refuse to issue to the person a license, permit, or certificate;
2. Revoke or suspend the person's license, permit, or certificate;
3. Refuse to permit the person to use facilities open to the public and owned, operated, or managed by or on behalf of the state or a political subdivision of the state;
4. Refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the state or a political subdivision of the state;
5. Refuse to grant a benefit to the person;
6. Impose an unreasonable burden on the person; or
7. Refuse to award a contract to the person.

*Civ. Prac. and Rem. Code 106.001(a)*

**Religious Freedom**

A governmental entity, including a college district, shall make no law prohibiting the free exercise of religion. *U.S. Const. Amends. I, XIV*

A government agency may not substantially burden a person's free exercise of religion. This restriction does not apply if the governmental agency demonstrates that the application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. [See also DAA and FA] *Civ. Prac. and Rem. Code 110.003(a)-(b)*

A religious organization, an organization supervised or controlled by or in connection with a religious organization, an individual employed by a religious organization while acting in the scope of that employment, or a clergy or minister may not be required to solemnize any marriage or provide services, accommodations, facilities, goods, or privileges for a purpose related to the solemnization, formation, or celebration of any marriage if the action would cause the organization or individual to violate a sincerely held religious belief. *Family Code 2.601*

A refusal to provide services, accommodations, facilities, goods, or privileges under Family Code 2.601 is not the basis for a civil or

criminal cause of action or any other action by this state or a political subdivision of this state to penalize or withhold benefits or privileges, including tax exemptions or governmental contracts, grants, or licenses, from any protected organization or individual. *Family Code 2.602*

**Discrimination on the Basis of Sex**

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. [See also DAA and FA] *20 U.S.C. 1681; 34 C.F.R. 106.31*

**Discrimination on the Basis of Race, Color, or National Origin**

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. [See also DAA and FA] *42 U.S.C. 2000d*

**Discrimination on the Basis of Disability—Federal Prohibition**

ADA

Under the Americans with Disabilities Act (ADA), no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, including a college district, or be subjected to discrimination by any such entity. A public entity shall not exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association. *42 U.S.C. 12132; 28 C.F.R. 35.130*

Section 504

Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. *29 U.S.C. 794(a)*

“Disability”

“Disability” means, with respect to an individual:

1. A physical or mental impairment that substantially limits one or more major life activities of an individual;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

The term “disability” does not include:

1. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
2. Compulsive gambling, kleptomania, or pyromania; or
3. Psychoactive substance use disorders resulting from current illegal use of drugs.

*42 U.S.C. 12102(1), (4)(C)–(D); 28 C.F.R. 35.108(a), (d), (g)*

*“Regarded as Having Such an Impairment”*

An individual meets the requirement of being “regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. *42 U.S.C. 12102(3)(A); 28 C.F.R. 35.108(f)*

Transitory and Minor

Item 3 in the definition of “Disability,” above, (“regarded as having such an impairment”) shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. *42 U.S.C. 12102(3)(B); 28 C.F.R. 35.108(d)(1)(ix), (f)(2)*

*Mitigating Measures*

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy or supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; learned behavioral or adaptive neurological modifications; or psychotherapy, behavioral therapy, or physical therapy.

The ameliorative effects of mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

“Ordinary eyeglasses and contact lenses” are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

“Low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image.

*42 U.S.C. 12102(4)(E); 28 C.F.R. 35.108(d)(1)(viii), (4)*

*“Major Life Activities”*

“Major life activities” include, but are not limited to:

1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting,

bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and

2. The operation of a major bodily function, such as the functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

In determining whether an impairment substantially limits a major life activity, the term "major" shall not be interpreted strictly to create a demanding standard. Whether an activity is a major life activity is not determined by reference to whether it is of central importance to daily life.

*42 U.S.C. 12102(2); 28 C.F.R. 35.108(c), (d)*

*"Physical or  
Mental  
Impairment"*

"Physical or mental impairment" means:

1. 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; or
2. Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability.

Physical or mental impairment includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech, and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

Physical or mental impairment does not include homosexuality or bisexuality.

*28 C.F.R. 35.108(b)*

“Qualified Individual with a Disability”	The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the college district. <i>42 U.S.C. 12131(2); 28 C.F.R. 35.104</i>
“Individual with a Disability”	“Individual with a disability” means a person who has a disability. The term “individual with a disability” does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use. <i>28 C.F.R. 35.104</i>
Reasonable Modification	A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.  A public entity is not required to provide a reasonable modification to an individual who meets the definition of “disability” solely under the “regarded as” prong of the definition of “disability” at 28 C.F.R. 35.108(a)(1)(iii).  <i>28 C.F.R. 35.130(b)(7)</i>
Communications	A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public, and companions with disabilities are as effective as communications with others. A public entity shall furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity. In determining what types of auxiliary aids or services are necessary, a public entity shall give primary consideration to the requests of the individual with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. <i>28 C.F.R. 35.160</i>
“Auxiliary Aids and Services”	“Auxiliary aids and services” includes:  1. Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed cap-

tioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;

2. Qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods for making visually delivered materials available to individuals who are blind or have low vision;
3. Acquisition or modification of equipment or devices; and
4. Other similar services and actions.

*28 C.F.R. 35.104*

*Limits of  
Required  
Modification*

Title 28 C.F.R. Chapter I, Part 35, Subpart E does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. *28 C.F.R. 35.164*

Direct Threat

The ADA does not require a public entity to permit an individual to participate in or benefit from the services, programs, or activities of the public entity when that individual poses a direct threat to the health or safety of others.

“Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services as provided below.

*28 C.F.R. 35.104*

In determining whether an individual poses a direct threat to the health or safety of others, a public entity must make an individualized assessment, based on reasonable judgment that relies on cur-

rent medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;
2. The probability that the potential injury will actually occur; and
3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

*28 C.F.R. 35.139*

Notice

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of 28 C.F.R. Chapter I, Part 35 and its applicability to the services, programs, or activities of the public entity, and make such information available to them in such manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured them by the ADA and 28 C.F.R. Chapter I, Part 35. *28 C.F.R. 35.106*

Compliance  
Coordinator

A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under 28 C.F.R. Chapter I, Part 35, including any investigation of any complaint communicated to it alleging its noncompliance with 28 C.F.R. Chapter I, Part 35 or alleging any actions that would be prohibited under 28 C.F.R. Chapter I, Part 35. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated. *28 C.F.R. 35.107(a)*

Complaint  
Procedures

*ADA*

A public entity that employs 50 or more persons shall adopt and publish grievance procedures for the prompt and equitable resolution of complaints alleging any action that would be prohibited by 28 C.F.R. Chapter I, Part 35. [See GB] *28 C.F.R. 35.107(b)*

*Section 504*

A recipient of federal financial assistance that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by 34 C.F.R. Part 104 (Section 504 of the Rehabilitation Act of 1973 regulations). Such procedures need not be established with respect to complaints from applicants for employment. [See GB] *34 C.F.R. 104.7(b), .11*

**Discrimination on the Basis of Disability—State Prohibition**

*Non-Discrimination*

No person with a disability may be denied admittance to any public facility in the state because of the person's disability. No person with a disability may be denied the use of a white cane, assistance animal, wheelchair, crutches, or other device of assistance.

The discrimination prohibited by this section includes a refusal to allow a person with a disability to use or be admitted to any public facility, a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a public facility and a failure to:

1. Comply with Government Code Chapter 469;
2. Make reasonable accommodations in policies, practices, and procedures; or
3. Provide auxiliary aids and services necessary to allow the full use and enjoyment of the public facility.

*Human Resources Code 121.003(c)–(d)*

*Regulations*

Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their disabilities or use of assistance animals or other devices for assistance in travel, would fall within the designated class. *Human Resources Code 121.003(e)*

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**Note:** For information regarding access by service or assistance animals and miniature horses to public facilities, see FAA(LEGAL).

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**Retaliation**

No recipient of federal financial assistance or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Title IX, or Section 504 or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under 34 C.F.R. Parts 100, 104, or 106. *34 C.F.R. 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)*

**Social Security Numbers**

It shall be unlawful for any local government agency, including a college district, to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his or her social security account number.

Exceptions

The above provision does not apply with respect to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the social securi-

ty number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;

2. The disclosure of a social security number to any federal, state, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or
3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within a college district's jurisdiction.

Statement of Uses

A college district that requests disclosure of a social security number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

*5 U.S.C. 552a Note; Pub. L. No. 93-579, 7, 88 Stat. 1896 (1974)*

**Handgun License as  
Proof of  
Identification**

A person may not deny the holder of a concealed handgun license issued under Government Code Chapter 411, Subchapter H access to goods, services, or facilities, except as provided by Transportation Code 521.460 (regarding motor vehicle rentals) or in regard to the operation of a motor vehicle, because the holder has or presents a concealed handgun license rather than a driver's license or other acceptable form of personal identification.

This section does not affect the requirement under Government Code 411.205 that a person present a driver's license or identification certificate in addition to a concealed handgun license.

*Business and Commerce Code 507.001*