
Americans with Disabilities Act and Accommodation Policy

Policy Statement:

This policy addresses Bergen Community College's (Bergen, the College) commitment to providing and maintaining an accessible and inclusive culture and environment. The College does this by integrating inclusive language, practices, and accessible physical/digital design across all programs, services, and activities; creating safe spaces; providing reasonable accommodations; and establishing clear policies against discrimination. This ensures that all College community members including those with disabilities feel welcomed, respected, and fully supported in their learning, employment, and well-being.

Reason for Policy:

To document Bergen's commitment and adherence to all federal and state laws and regulations which protect the rights of qualified individuals with disabilities including:

- Ensuring equal rights, opportunities, and access is provided to all the College's services, programs, and activities.
- Providing reasonable accommodations provided they do not pose an undue hardship for the College.
- Communicating the rights and responsibilities of qualified individuals with disabilities in their requests for accessibility and reasonable accommodations.
- Having a grievance process to report discrimination and violations of rights protected by federal and state laws and regulations.

Who Should Read This Policy:

All students, faculty, staff, and visitors

Definitions:

Accessibility

Providing individuals with disabilities equal opportunity to acquire the same information, engage in the same interactions and activities, and enjoy the same services as individuals without disabilities in an equally effective and integrated manner, with substantially equivalent ease of use.

Qualified Individual with a Disability

Under the ADA an individual who has a disability (physical/mental impairment) limiting a major life activity, has a history of one, or is regarded as having one, AND can meet the essential requirements of a program, activity, or job with or without reasonable accommodation, meaning they can perform the core functions and requirements of the role.

Major Life Activities

The basic activities that most people can perform with little, or no difficulty as defined by the ADA which include the following: actions like eating, sleeping, speaking, and breathing; movements like walking, standing, lifting, and bending; cognitive functions like thinking and concentrating; sensory functions like seeing and hearing; tasks like working, reading,

learning, and communicating; the operation of major bodily functions like circulation and reproduction; and the function of individual organs like the heart, lungs, or pancreas.

Reasonable Accommodation

A modification or adjustment to a policy, procedure, program, service, or activity, provided to a qualified individual with a disability which enables the individual to participate in educational programs and activities, perform the essential functions of a job, apply for admissions or apply and interview for employment, or have access to the College's facilities, programs, and events. Any accommodation that poses an undue hardship on the College is not a reasonable accommodation as articulated in the ADA.

Undue Hardship

An action requiring significant difficulty or expense by the College in fulfilling an accommodation request by the individual with a disability. Examples of factors considered if a requested accommodation would impose an undue hardship include the nature and cost of the accommodation, the impact of the accommodation on the operations of the College or a department, and legitimate safety concerns.

Essential Functions and Responsibilities of Educational/Employment Programs or Activities

The fundamental core duties that an individual must be able to perform with or without reasonable accommodation to fulfill the position's purpose. In employment they are the basic critical job duties and responsibilities essential for the position as determined by the employer that are core to performing the job. In educational programs and activities, they are the fundamental student learning outcomes, curriculum requirements, or activities necessary for program participation.

The Policy:

Bergen is committed to providing equal access to all services, programs, and activities and reasonable accommodation to qualified individuals with disabilities. This commitment is extended to current and prospective students and employees and visitors to the College. Bergen is guided by an ethic of care that supports individuals with disabilities. The College adheres to all applicable federal and state laws and regulations including the Americans with Disabilities Act (ADA) and all its amendments, the Pregnant Workers Fairness Act ("PWFA"), the Rehabilitation Act of 1973, and the New Jersey Law Against Discrimination. The College strictly prohibits and has zero tolerance for any discrimination against individuals with disabilities in its educational and employment programs, services, and activities, or for any retaliation of individuals with disabilities for exercising their federal and state protected rights or for reporting violations of such rights.

The ADA establishes the legal requirements for the essential protections, services, access rights, and accommodations afforded to qualified individuals with disabilities. Equal access includes physical campus access; access to digital resources/technologies; accessible events, programs, and activities; and inclusive academic curriculum design and employment opportunities. The College's separate and more in-depth Accessibility Policy is focused on proactive inclusion by addressing Bergen's commitment to physical space access, universal design of programs, services, and activities, and digital accessibility.

Qualified Individuals with Disabilities

The ADA protects individuals with permanent or temporary physical or mental impairments that substantially limit, restrict, or prevent a major life activity, regardless of whether the student, employee, or visitor needs accommodation(s) or not. The ADA recognizes individuals that have a history of a disability (e.g., a person who is blind or paralyzed) and individuals as having a disability even if they do not have a history of actually having one (e.g., a person using a wheelchair due to a temporary injury). Under the ADA an impairment does not have to limit a major life activity completely or severely for it to be considered a substantial limitation. The limitation can be less than complete or severe and an individualized assessment can determine if an impairment substantially limits a major life activity. Fitness for Duty related impairments or limitations that do not qualify as disabilities under the ADA are addressed in the College's Fitness for Duty Policy and not this policy.

Qualified individuals with disabilities, with or without reasonable accommodation, are held to the same standards of conduct, job performance, and academic and technical standards as all other employees, students, or third parties, and are given the same consideration for admission to or employment at the College as any other individual without a disability.

Bergen prohibits the illegal use of drugs and use of alcohol on its three campuses and at any College-sponsored events, programs, or activities off campus. The College will enforce disciplinary action or sanctions under its Student and Employee Codes of Conduct and its Drug Free Schools and Communities Act Policy. As part of Bergen's enforcement policies, the College also adheres to the ADA's position on substance abuse, specifically illegal drug use/addiction and alcoholism (i.e., alcohol use disorder). Although the ADA provides certain protections and rights to individuals with substance abuse issues, the College will enforce its rules and policies against illegal drug and alcohol use on College premises, activities, and events.

Neither the ADA nor this policy protects employees currently using illegal drugs.¹ Although federal law reclassified medical marijuana to Schedule III in April 2026, use, possession, cultivation, sale, or distribution of cannabis (including smoking or ingestible products) is strictly prohibited on College property and at College-sponsored events. As a recipient of federal funding, the College complies with the Drug-Free Schools and Communities Act and federal law, which override state medical marijuana allowances. The College maintains a zero-tolerance policy for cannabis regardless of state medical card status. Consequently, medical marijuana is not permitted on campus facilities or during College activities and will not be granted as a reasonable accommodation.

Individuals who are currently using or addicted to illegal drugs are not qualified individuals with disabilities and thus are not protected by the ADA or this policy. The ADA protects individuals who are no longer addicted to illegal drugs because the addiction may be considered a substantially limiting impairment. This includes those individuals who have successfully been rehabilitated, are participating in supervised rehabilitation treatment, or have a history of addiction.² Individuals who casually used drugs illegally in the past but were not addicted are not individuals with a disability based on past drug use and thus not protected by the ADA.

Individuals who are alcoholics with Alcohol Use Disorder (AUD) are considered to have a disability and protected under the ADA. As required by the ADA, Bergen offers such individuals protection from discrimination and provides reasonable accommodation (e.g., treatment leave). The College may request proof of AUD or rehabilitation treatment if an individual requests reasonable accommodation and such documentation is necessary to verify the need for the accommodation. ADA protection is extended to individuals with past alcohol addiction and those with current addiction seeking rehabilitation treatment. However, although individuals with past or current AUD are protected, such protection does not extend to them if they are under the influence in any of the College's on-campus or off-campus sponsored programs, services, events, and activities.

Reasonable Accommodation

Bergen provides reasonable accommodation to qualified members of the College community with disabilities so that they can perform the essential functions and responsibilities of their educational or employment programs and activities. Reasonable accommodation is provided unless doing so results in any of the following,

- Causes a direct threat to these individuals or others and the threat cannot be eliminated or reduced to an acceptable level by such accommodation,
- The accommodation/modification fundamentally alters the nature of a college program, service, or activity,
- The accommodation creates an undue hardship to the College.

Individual students, faculty, staff, and visitors are responsible for identifying themselves as a qualified individual with a disability when requesting that the College provide reasonable accommodation. When a qualified individual's disability is

¹ Under the current ADA, individuals engaging in the illegal use of drugs are excluded from protection under 42 U.S.C. § 12114, a rule courts have categorically applied to Schedule I substances.

² Alcoholism is recognized as a disability under the ADA, however, current alcohol use affecting job performance can justify termination, as with drugs.

not obvious, the individual must provide documentation which addresses their disability (from an appropriately licensed professional), and they must demonstrate how their disability limits or affects their ability to perform essential job functions or participate in and benefit from educational programs and activities of the College. The College does not require individuals with disabilities to submit documentation about their disabilities nor demonstrate the limitations of their disabilities if obvious (e.g., blind or wheelchair bound).

Accommodations are determined on a case-by-case basis, as they are fact specific. Accommodations in general are tailored to address the specific nature of the disability and needs of the individual within the context of job requirements, program of study, or the College's programs, services, or activities. The burden is on the individual to self-identify as having a disability and to initiate the accommodation process. Students and visitors are required to submit reasonable accommodation requests in writing with required supporting information to the Office of Specialized Services (OSS) while employees (faculty and staff) must submit such requests and information to the Human Resources (HR) Department. The OSS or HR will determine if individuals are eligible for accommodation under the ADA and will work with other required departments, offices, or programs to ensure the timely implementation of such accommodation when approved. If reasonable accommodation is not implemented in an effective and timely manner, the qualified individual with disability is responsible for notifying OSS or HR personnel.

For college sponsored events held on- or off campus, Bergen will accommodate requests for accommodation by qualified individuals with disabilities in advance of such events and activities and identify resources to facilitate accommodation requests. Organizing college departments or offices for such events will publish information that informs individuals with disabilities to request any accommodation needed in advance of the events.

Qualified individuals with disabilities are informed in writing if their requests for accommodation have been denied with the reason(s) why. When or if an individual's specific reasonable accommodation request is denied by the College, but a different accommodation is offered in its place, the College will explain both the reason(s) for the denial and why the alternative accommodation will be effective. When an original accommodation request is denied and an alternative accommodation cannot be identified, the qualified individual with disability may appeal the decision to either OSS or HR depending on which department the original request was submitted to. An individual receiving agreed-upon reasonable accommodation who requests another accommodation may be required to submit additional documentation in support of the additional request.

All documents concerning a student's or employee's disability and reasonable accommodation request are kept confidential in accordance with applicable confidentiality laws and regulations (e.g., FERPA, HIPAA).

Grievance Process

The College has a grievance process that allows individuals to file ADA related complaints or violations related to disability discrimination or lack of accommodation, which ensures confidentiality and timely equitable outcomes as mandated by the ADA. This involves the submission of oral or written complaints or violations, opportunities for individuals involved to present information, a prompt investigation process, a written determination with resolution, and an appeal process for individuals dissatisfied with the outcome. Students and visitors should file their complaint or violation with the OSS, while employees should file with the HR Department.

Complaints or violations can also be reported to the following federal or New Jersey state agencies:

- **Office for Civil Rights (OCR)**: File a complaint with the **U.S. Department of Education's Office for Civil Rights (OCR)** for federal disability discrimination in schools receiving federal funds.
- **U.S. Department of Justice (DOJ)**: For broader public service/place of public accommodation issues, file with the **DOJ's Civil Rights Division**, or

Fill out and send the paper ADA Complaint Form (Regular Format | Large Format) or a letter containing the same information to:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW

- [NJ Division on Civil Rights \(DCR\)](#): For broader discrimination, especially employment

Applicable State and Federal Laws, and Regulations

Americans with Disabilities Act (ADA)

Landmark civil rights law prohibiting discrimination against individuals with disabilities. Its aim and purpose are to make society accessible and ensure that individuals with disabilities have the same rights and opportunities as individuals without disabilities. Title I prohibits discrimination against qualified individuals with disabilities in all employment practices and requiring reasonable accommodations. Title II ensures people with disabilities have equal access to state and local government services, programs, and activities, including public education, and explicitly addresses digital and physical accessibility requirements. Title V covers various important aspects and technical provisions including rules against retaliation.

Pregnant Workers Fairness Act (PWFA)

A federal law requiring employers with 15 or more workers to provide reasonable accommodations for known limitations related to pregnancy, childbirth or related medical conditions, unless it causes an undue hardship. Under the PWFA, a qualified employee is defined as an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if (A) any inability to perform an essential function is for a temporary period; (B) the essential function could be performed in the near future; and (C) the inability to perform the essential function can be reasonably accommodated.

Rehabilitation Act of 1973 (Section 504 and 508)

U.S. legislation prohibiting disability discrimination by federal agencies, federal contractors, and programs receiving federal funds. Section 504 states that no person with a disability can be excluded from, denied benefits of, or subjected to discrimination in any program or activity receiving federal financial assistance. It forbids organizations and employers from excluding or denying individuals with disabilities an equal opportunity to receive and have access to program benefits and services. Section 508 requires federal agencies and programs receiving federal funding to ensure their electronic information and communication technology is accessible to people with disabilities, setting standards for web and software accessibility.

Drug-Free Schools and Communities Act (DFSCA)

Federal law which requires institutions of higher education that accept federal funding to have policies and programs that prevent the unlawful use, possession, or distribution of alcohol and drugs on campus or during school-related activities. The DFSCA requires colleges and universities to adopt alcohol and drug prevention programs, prohibit illicit substances on campus, and distribute annual policy notices. Key requirements include establishing standards of conduct, providing the health risks associated with substance use, listing school and legal sanctions, and completing prevention program biennial reviews.

New Jersey Law Against Discrimination

New Jersey state law that mirrors the protection of the ADA and prohibits employers from discriminating against disabled employees. The law also prohibits discrimination against other protected classes/characteristics including race, religion, sex, sexual orientation, national origin, age, and marital status. It also prohibits harassment and protects against retaliation for reporting violations.

Related Documents/Policies:

Accessibility Policy

Policy History: (adopted/amended)

Adopted: 10/13/2026

Amended:

Reviewed: