

RELIGIOUS ACCCOMMODATION PROCEDURE

Employees and Students

*Office of the General Counsel
Maricopa County Community College District*

Employees: Samantha Blevins, (480) 731-8875

Students: Melissa Flores (480) 731-8418



MARICOPA
COMMUNITY COLLEGES

What We'll Cover today:

1. What is the protection under the law
2. What constitutes a religious or sincerely held belief?
3. Legal Protections
4. Religious Discrimination: How it Happens
5. Religious accommodation process for employees/students
6. Undue Hardship
7. Prohibition against retaliation
8. Scenarios



Protection under the law

FOR EMPLOYEES

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on one's religion.

The law protects not only people who belong to traditional, organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical or moral beliefs.

FOR STUDENTS

The civil rights laws enforced by the Office for Civil Rights (OCR) protect all students, regardless of religious identity, from discrimination on the basis of race, color, national origin, sex, disability, and age; but none of the laws that OCR enforces expressly address religious discrimination.

Under the U.S. Department of Justice's jurisdiction, Title IV of the Civil Rights Act of 1964 prohibits discrimination on the basis of religion in public institutions of higher education.



What constitutes a religious or sincerely held belief?

- Title VII defines “religion” broadly to include “all aspects of religious observance and practice as well as belief.” 42 U.S.C. § 2000e(j). The sincerity of a stated religious belief is not typically in dispute. This is the same definition for both employees and students—a set of attitudes, beliefs, or practices that permeate a person’s life.
- *The law prescribes broad protection.*
- Religion includes not only traditional, organized religions but also religious beliefs that are new, uncommon, or that may even seem illegal or unreasonable to others and typically concerns “ultimate ideas about life, purpose and death,”
- Social, political, or economic philosophies, as well as preferences, are not religious beliefs.



What does “protection” mean?

- This law states that it is unlawful employment practice for an employer “...to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s religion.
- The law states that a student cannot be discriminated against or harassed because of their religious or sincerely held beliefs, particularly as it pertains to the student’s ability to access a federally funded programs and/or activity.
- In both employment and education, religious accommodations may be requested and must be provided **unless such accommodation is an undue hardship or materially alters the student’s course.**



Legal Protections

- No discrimination based on a person's religion or lack of religious beliefs
- No harassment
- Employers must accommodate employee's religious beliefs and practices unless there is undue hardship or materially alters the terms and conditions of their employment or classes
- No requirement to participate, or not, in religious activity as a condition of employment or as a condition of their status as a student
- No retaliation



MARICOPA
COMMUNITY COLLEGES

Religious Discrimination: How it Happens

1. Affiliation with a particular religious group or the perception or beliefs that someone is a member of a religious group.
2. Display of physical or cultural traits commonly associated with a particular religion.
3. Employer or Instructor's failure to accommodate.
4. Conflicts between religious expression and the need for a harassment-free work or educational environment.
5. Stereotypes of non-mainstream religions.
6. Accommodating some religions and sincerely held beliefs but not others
7. Unconscious bias.



Student Religious Accommodation Process

1. All students may request a religious accommodation by making a written request for an accommodation to the appropriate faculty member. *(Preferably at least two (2) week before the requested absence from class).*
2. Faculty members will submit the request to the dean or department chair and review the request within a reasonable time, possibly requesting additional information, if needed.
3. The faculty member will inform the student of the decision and will sign the request form (disposition).
4. If accommodation is denied, the District Compliance Office must review the reasons for the denial within 72 hours (3 business days) after the denial.



Employee Religious Accommodation Process

1. All employees may request a religious accommodation by making a written request for an Accommodation to their supervisor(s) who will consult with college and/or District HR regarding the request.
2. Employees will be required to complete a formal accommodation request form and may be required to provide other documentation or information supporting the request.
3. Employees who anticipate being absent from work because of a religious observance must submit their request for time off in advance and as soon as they become aware of the need or at least ten (10) business days in advance. Failure to do so, when reasonably unavoidable, will not prevent the granting of the absences.
4. Supervisors will inform employees of determination (in writing).
5. If accommodation is denied, the District Compliance Office must review the reasons for the denial within 72 hours (3 business days) after the denial.



Undue Hardship and/or Materially Altered work or classroom environment

Undue Hardship is...

based on objective evidence, not mere speculation about hardship.

- More than ordinary administrative costs.
- Materially changes the essential functions of the job.
- Diminished efficiency in other jobs or in the classroom environment (curriculum or pedagogy).
- Materially changes the terms of the class, the classwork, or the curriculum.
- Infringement on other employees' job rights or benefits, such as seniority rights.
- Impaired workplace or classroom safety.
- Shifts share of hazardous or burdensome work to other employees.
- Conflicts with another law or regulation.

Undue Hardship is not...

- Instructor, classmate, or co-worker preference
- Pointing out classroom or department attendance policies/expectations
- Worrying that “everyone will want it”
- Permitting an employee to engage in harassing conduct
- Minor timekeeping or payroll changes that are not overly expensive
- Vague statements about how the accommodation will cause disruption in the work or classroom environment
- Automatically denying a change in days off



MARICOPA
COMMUNITY COLLEGES

Prohibition Against Retaliation

Retaliation occurs whenever the employer, instructor (or academic leadership) punishes the employee for doing something that is legally protected.

For example, it is unlawful to retaliate against applicants or employees for engaging in a protected activity, such as:

- filing or being a witness in an official investigation, charge, complaint, or lawsuit
- communicating with a manager/supervisor or academic instructor (or academic leadership) about discrimination, including harassment
- answering questions during an investigation of alleged harassment or discrimination
- resisting sexual advances, or intervening to protect others
- requesting accommodation of a disability or for a religious practice



More on retaliation

Participating in a complaint process is protected from retaliation under all circumstances.

Engaging in a protected activity, however, does not shield an employee from all discipline or discharge or a student from conduct and/or academic reviews, if motivated by *non-retaliatory and non-discriminatory* reasons that would otherwise result in such consequences.



MARICOPA
COMMUNITY COLLEGES

Scenario #1

You teach a hospitality course that works with various hotels in the city. As part of your course requirements, you have a dress and grooming standard for your students. This semester you have a student, Joseph, who wears dreadlocks. You inform him that if he does not cut his hair, he will not be able to participate in the hotel experiences (and will likely fail the class) due to his violation of the dress and grooming standard. Joseph informs you that he is Rastafarian and cannot cut his hair based on his sincerely held religious belief. You know other Rastafarians who do not wear dreadlocks, so you reject Joseph's claim of sincerely held belief. He refuses to cut his hair; you do not send him on the hotel experiences; and he fails the course. Problematic?



MARICOPA
COMMUNITY COLLEGES

Scenario #2

A Muslim man applies for a maintenance position at your college and is granted an interview. At the interview, the applicant is told that he would have to shave his beard in order to qualify for the position. The applicant informed the interviewer that his beard is part of his religious practice only to be told that “God would understand,” if he cut it. The interviewer indicated the company has a procedure for requesting a religious accommodation to wear the beard; but if hired, the applicant would have to shave his beard while he waited for the accommodation process to run its course, which could take months. The applicant decides not to continue with the job interview. Problematic?

Scenario #3

One of your students sends you an email to inform you that his father has passed away. The student has attached to the email the religious accommodation request form wherein she has asked for 2 excused absences due to her family's observance of sitting Shiva. The first absence would occur two days from the day you received the email. You email back that your class attendance policy requires at least 1 week advanced notice for an absences to be excused. After discussing it with your student, you agree that a good accommodation is to excuse one of the absences but not the other, since the student did not request the absence with the proper lead time.

Problematic?



MARICOPA
COMMUNITY COLLEGES

Scenario #4

An Academic Advisor requests an absence for a religious observation, but the date falls on a black out day for the department as it is during an often busy student registration period. The Supervisor denies the request. Problematic?



MARICOPA
COMMUNITY COLLEGES

Scenario #5

A student in your Anatomy class has requested a religious accommodation. The student has requested to be given an alternative assignment while the rest of the class is working with cadavers. The student indicates being around dead bodies is against his religion. As is prescribed in procedure, you meet with the Dean of Student life to explain that there is no way to modify assignments, since approximately 70% of the class time is spent at the cadaver lab. You refuse to develop alternative assignments.

Problematic?



MARICOPA
COMMUNITY COLLEGES

ANY
QUESTIONS
?



MARICOPA
COMMUNITY COLLEGES

Chandler-Gilbert | Estrella Mountain | GateWay | Glendale | Mesa | Paradise Valley |
Phoenix | Rio Salado | Scottsdale | South Mountain



MARICOPA
COMMUNITY COLLEGES