

# The Law

*With regard to students with disabilities, South Mountain Community College is governed by one State and two Federal laws: Title II of the 1990 Americans with Disabilities, Title II of the 1993 Arizonan's with Disabilities Act, and Section 504 of the 1973 Rehabilitation Act.*

## **Americans with Disabilities Act (ADA)**

The Americans with Disabilities Act (ADA), was enacted on July 26, 1990, “to provide a clear and comprehensive mandate for the elimination of discrimination against individuals with disabilities.”

This federal legislation expanded equal treatment of people with disabilities in employment, public services and transportation, public accommodations, and telecommunications services.

South Mountain Community College adheres to all employment, programmatic, and architectural requirements in accordance with the ADA.

## **Rehabilitation Act of 1973**

The Rehabilitation Act is generally regarded as the first “civil rights” legislation for persons with disabilities on the national level. Section 504 (Subsection E) of the Rehabilitation Act bears directly upon post-secondary programs.

**Section 504** is a program access statute that prohibits discrimination on the basis of disability in any program or activity offered by an entity or institution receiving federal financial assistance.

**Section 504** defines a “person with a disability” as someone with a physical or mental impairment that substantially limits one or more major life activities. A person is considered to be a person with a disability if he/she has the disability, has a record of the disability or is regarded as having the disability.

***Physical impairment*** – means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organ, respiratory, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin and endocrine; “*mental impairment*” means any psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and *specific learning disabilities*.

***Substantially limits*** – means unable to perform a major life activity, or significantly restricted as to the condition, manner, or duration under which a major life activity can be performed, in comparison to the average person or to most people: the availability of some mitigating measure (such as a hearing aid for someone with a hearing loss that brings hearing acuity within normal limits) is not to be considered when determining if the disability substantially limits the individual.

***Major life activity*** – means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

**Section 504 states:** No otherwise qualified person with a disability in the United States. . .shall, solely on the basis of disability, be denied access to, or the benefits of, or be subjected to discrimination under any program or activity provided by any institution receiving federal financial assistance.”

### **What the Rehabilitation Act of 1973 Does Not Require**

**Section 504** does not require special educational programming to be developed for students with disabilities, but does require that an institution (public or private) be prepared to make appropriate academic adjustments and reasonable modifications to policies and practices in order to allow the full participation of students with disabilities in the same programs and activities available to non-disabled students.

**Section 504** does not obligate an institution to waive specific courses or academic requirements. Curricula should in no case be “watered down.”

**Section 504** does not required post-secondary institutions to produce the identical auxiliary aid, result, or level of achievement for disabled and non-disabled persons, but must afford disabled persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person’s needs. Aids, benefits, and services, should be equally effective, but not identical.

The institution will analyze the appropriateness of an aid or service in its specific context. For example, the type of assistance needed in a classroom by a student who is hearing-impaired may vary, depending upon whether the format is a large lecture hall or a seminar. With the one-way communication of a lecture, the service of a note taker may be adequate, but in the two-way communication of a seminar, an interpreter may be needed. The institution will give primary consideration to the requests of individuals with disabilities.

**Section 504** does not require recipients to provide attendants, personal aids, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature. Personal aids and services, including help in bathing, dressing, or other personal care, are not required to be provided by postsecondary institutions. Title II of the ADA similarly states that personal services are not required.

**Having been governed by these regulations for quite some time, South Mountain Community College (SMCC) has practiced a strong commitment to nondiscriminatory practices.**

### **Grievance Procedures**

Section 504 and the ADA require that a grievance procedure be available to the student who wishes to appeal an administrative decision regarding disability-related accommodations and/or issues. A detailed procedure is outlined in the Student Handbook under *Discrimination*

*Complaint Procedures for Students.* Any questions regarding this procedure can be forwarded to the Disability Resources & Services Manager.