



Disability Inclusion



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Inclusive Service Environments

An inclusive service environment embraces all people, regardless of disability, and reaches out to individuals with disabilities at all levels – from first time participants to board members.

In an inclusive service environment, people with disabilities are welcomed and valued for their contributions as individuals. The presence of a disability is not seen as a detriment, but valued as part of the range of human diversity.

Creating an Inclusive Service Environment

Creating an inclusive service environment is a challenging process due to the constant need to respond to evolving policies and the dynamic nature of the work environment. This process starts with the actions and attitudes of the people already in the environment, especially the manager.

- Think first about what someone can do instead of any limitations
- Lead by example: for people with disabilities, a personal preference actually may be a personal need
- Provide training in disability awareness and sensitivity
- Work to ensure equal expectations and contributions among all program participants
- Do not pry into medical histories or diagnoses
- Do not casually exchange privileged information

The Physical Work Area

Although the physical work area seems the most obvious for needing attention, adaptation of spaces can be easily overlooked. Consider accessibility by all attendees when planning events, seeking program or meeting space, and evaluating placement sites.

The “built” environment (paths, doors, rooms, restrooms, kitchens) of an inclusive environment must meet current accessibility standards.

Ask yourself: When I move desks or serve refreshments, can people with mobility, hearing, visual, and cognitive disabilities continue to use the space independently?



service

Community organizations, and numerous guides and checklists, can assist you in considering accessibility. See <http://www.usdoj.gov/crt/ada/cguide.htm> for some ideas.

Types of Disabilities

There is no comprehensive list of protected disabilities because there are so many conditions that can result in disability. For the sake of simplicity, this course provides the following tips for working with people who have disabilities in five categories.

Visual Impairment

When talking with a person who is blind or has a visual impairment, always identify yourself at the beginning of the conversation and remember to inform the person when you are ending the conversation, changing location, or leaving the area. Never hold the person's arm while walking; let her hold your arm. This will allow her to walk slightly behind you and get a sense of what to expect from the motion of your body. Ask if the person would like verbal cues as to what is ahead when you approach steps, curbs, or other barriers.

Never pet or call to a service animal when the animal is in a harness. The harness tells the animal that it is time to work; its attention needs to be focused on the master. When the animal is at rest or out of harness, ask the owner for permission to pet it.

Assistive Devices

Assistive devices (canes, crutches, wheelchairs, walkers, communication boards, etc.) should be respected as extensions of the person or as personal property. Do not move or play with them without permission from the user.

Cognitive or Psychiatric Disability

When talking with an adult with a cognitive or psychiatric disability, do not speak as would to a child. Use age-appropriate language and mannerisms. Also, do not assume that because a person may not that they are unable to understand or hear you.

Do not assume that a person with a physical disability also has a cognitive disability.

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speak,

When talking with a person with a psychiatric disability, make eye contact and be aware of your body language. Be patient and understanding, and speak normally – mental illness does not mean an inability to hear or understand language. It also does not mean that someone will behave inappropriately.

Impaired Hearing

When speaking with a person who is Deaf or has a hearing loss, always look directly at the person. Keep your mouth and face free of hands or shadows. Do not speak with exaggerated slowness or with exaggerated facial expressions. As is proper telephone etiquette with all persons, speak clearly and distinctly when leaving voice mail

messages. Also, do not shout; an increase in volume may actually make it more difficult for the person to understand you.

Impaired Speech

If you are speaking with a person with impaired speech, listen carefully and repeat what you've heard. Don't pretend to understand if you don't, and don't give up and say, "Never mind, it wasn't important." This tells the person you are talking to that you do not value his input enough to continue the conversation. Also, allow more time for a conversation with a person with speech impairment; do not rush him or try to finish his sentences.

Interacting with People with Disabilities

Fear is one of the main reasons we are reluctant to interact with people with disabilities. Do not let fear of making a mistake, fear of saying the wrong thing, or fear of the unknown make you reluctant to interact with people with disabilities. If you make a mistake, acknowledge it, apologize, and move on.

Be aware of barriers, both permanent and temporary.

Do not assume your assistance is needed. Politely offer assistance, and wait for a reply before acting. If you are accepted, wait to be directed. Do not be offended if your offer of assistance is not accepted; many persons with disabilities would rather do things for themselves whenever possible.

Never lean on a person's wheelchair, as it is often considered an extension of the body; leaning on it is the same as leaning directly on the person. If you bump into a person's wheelchair, say, "Excuse me." It's the same as bumping into the person directly.

When talking to a person in a wheelchair, try to sit so that you are at eye level.

When talking to a person with a disability, speak directly to the person. If there is a companion or interpreter present, always direct your comments to the person with the disability.

When interacting with a person who has difficulty with attention or short-term memory, face the person and maintain eye contact. Use short sentences and give instructions in increments.

Language Does Matter

Language often shapes our perception. Using “people first” (“person with a disability”, “person with a visual impairment”) helps remind us and others that people with disabilities are people first, and are more than their disability.

Say this	Instead of this	Because
Persons with disabilities	The handicapped	Handicapped is derived from “cap in hand” and implies that someone is dependent on society.
Persons with disabilities	The Disabled	One is a person before one is disabled.
Uses a Wheelchair, or Wheelchair user	Wheelchair Bound, or Confined to a wheelchair	A Wheelchair is not confining —it allows movement from one place to another
Congenital Disability	Birth Defect	Persons with disabilities are not defective.
Has a Disability	Crippled	Crippled comes from Old English “to creep” and is also used as an adjective meaning inferior.
Persons with Down Syndrome	Mongoloid	Mongoloid is a racist term.
Person with Mental Illness	Mental, Crazy, Psycho, Insane, Nut Case	These are offensive and negative stereotypes
Non-Disabled	Normal, Healthy, Whole	People with disabilities may also be normal, healthy, and whole.
Person who is Deaf or a Person who Does Not Speak	Deaf and Dumb, Deaf-Mute	Simply because someone is deaf does not mean they cannot speak, and they are not dumb.

People with Disabilities

What “Disabled” Has Meant Throughout History

People with disabilities have long been separated from experiencing mainstream culture and society.

Dark Ages	In hunter and gatherer cultures, those born with disabling conditions or those who acquired disabilities were killed or left to die because they would weaken the group and threaten its survival.
Middle Ages	The presence of a disability was seen as punishment of sin or resulting from witchcraft.
18th - 19th centuries	Persons with disabilities were confined to attics or basements, sent to institutions, or regarded as invalids who were confined to bed.
20th century	Babies born with disabilities were sent to institutions, in what was considered an act of humanity, where they could live with their “own kind”. People with disabilities were victimized during the Holocaust and were freely used as subjects in experiments.
1940s	The development of penicillin in World War II allowed soldiers to survive war injuries and return home. It also assured the survival of thousands who would have otherwise died from infection. Polio epidemics left many children and adults alive, but limited in mobility. Improved prenatal care and obstetrics led to the survival of infants with congenital disabilities who previously would not have survived. Still, persons with disabilities were sent to institutions, nursing homes, or confined to their homes.
1970s	Disability rights and deinstitutionalization movements began to emerge. The deinstitutionalization movement began when improvements in psychiatric treatment led to the ability of persons with mental illness to function in community-based settings. It paved the way for group homes and supported living arrangements for persons who formerly were institutionalized. Today, institutional care is almost nonexistent, and most large, state-run facilities have closed their doors.

What “Disabled” Means Now

Today, most individuals with cognitive disabilities live in communities. The disability rights movement fought for individual choice, equal opportunity, and the right of participation. This movement led to:

- Laws that created a right for all children with disabilities to receive a free and appropriate education in a regular classroom with their able-bodied peers
- The development of independent living centers, the majority of which are controlled and staffed by people with disabilities

- Obtaining passage of several federal laws that advance the civil rights of persons with disabilities:
 - Section 504 of the Rehabilitation Act
<http://www.section508.gov/index.cfm?FuseAction=Content&ID=15>
 - The Air Carrier Access Act
<http://airconsumer.ost.dot.gov/rules/382SHORT.htm>
 - Fair Housing Act Amendments
<http://www.hud.gov/library/bookshelf09/fhefhag.cfm>
 - Americans with Disabilities Act (ADA)
<http://www.usdoj.gov/crt/ada/adahom1.htm>

How Many People with Disabilities Are There?

Approximately 50 million Americans have disabilities (2000 Census: www.census.gov). While it is almost impossible to make generalizations about a group this large, here are some ideas to keep in mind:

- People with disabilities often are more limited by attitudes, environments, or policies than by a disability.
- The incidence of disability occurs in every socioeconomic, ethnic, religious, and racial group.
- Each person with a disability experiences it differently.
- Many people with disabilities regard their disability as a personal characteristic, a “part of who they are.”

The Definition of Disability

There are many definitions of a disability. Some definitions focus on medical conditions, while others focus on the functional limitations that result from disability. Different federal and state laws and programs use different definitions. Many people have medical conditions that are disabling, but that does not necessarily mean they meet the definition of having a “disability” as laid out in Section 504 of the Rehabilitation Act of 1973, and in the Americans with Disabilities Act. To be protected by these federal laws, an individual must meet the definition described in the law.

Under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, a person with a disability is one who:

Has a physical or mental impairment that substantially limits one or more major life activities, has a history of such an impairment, or is perceived or “regarded as” having such an impairment, even when the impairment does not exist.

Let's look a little closer at the core phrases in this definition:

Phrase	Meaning
Major life activities	Functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
Substantially limits	Unable to perform a major life activity, or significantly restricted in the condition, manner, or duration it can be performed, when compared to most people in the general population
Perceived or regarded as	The person does not need to have a disability if it is perceived by other that the disability is present, and the perception is acted upon.

The determination that a disability substantially limits an individual in performing major life activities is made on a case-by-case basis. It is not based merely on the existence of a condition (a physical or mental impairment), but on the impact of that impairment on an individual's ability to perform major life activities. Also, an impairment for one person may substantially limit a major life activity, while someone else may not be substantially limited..

Now put the definitions to the test.

*Has a physical or mental impairment that substantially limits one or more **major life activities***

Case Study 1a

Janice, an RSVP participant, is paralyzed from the waist down and is substantially limited in her ability to walk. She has a disability.

Case Study 1b

Michael's knee chronically aches when he plays soccer. Since he is not substantially limited in a major life activity, he does not have a disability.

*Has a **history** of such an impairment*

Case Study 2

Clarice has an addiction to alcohol and is in recovery. She may not have a disability now, but she is protected against discrimination based on her history of addiction.

Is *perceived* or “*regarded as*” having such an impairment, even when the impairment does not exist

Case Study 3

Wendy’s behavior seems “strange” to the program supervisor, and the supervisor thinks that she has a psychiatric disability. If the supervisor takes action against Wendy based on her misperception that Wendy has a disability, Wendy is protected against discrimination under the “perception of disability” part of the definition.

Inclusive Service Descriptions

Inclusive service descriptions clearly demonstrate the essential and marginal functions of a position. They are a critical first step to creating an inclusive service environment. Taking the time to ensure that your service descriptions are inclusive will assist you in outreach and recruitment. It will send a clear message that you are actively inclusive and will help you make good management decisions.

- Matching an applicant with a disability and a service position is virtually the same as matching any other applicant with a service position.
- Evaluate service positions periodically. Positions change and you should reflect those changes in the service description.
- An essential function is one that is critical to the position. Teaching is an essential function of a tutoring position.
- A marginal function is less important: The nature of the position does not change if the function is removed. Answering the telephone might be a marginal function for a tutor.

The key objective of a service description is to identify the essential functions of the position.

Essential Function

An essential function is a task or service duty that is critical to the position. If it is not performed, the nature of the position is fundamentally changed. Any one of the following three factors can make a function essential:

- The position exists to perform a specific function.
- There are a limited number of other participants available to perform the function or among whom the function can be distributed.
- A function is highly specialized and the person in the position is selected for special expertise or ability to perform it.

Marginal Function

A marginal function is a non-essential part of a service position. It may be a task that is completed on an as-needed basis, or a task that can be easily reassigned.

Classifying a task

To determine whether a function is essential or marginal, ask these questions:

1. Identify the purpose and importance of each task focusing on the end result rather than the method:
What is the product of the completed task or function?

Essential functions must be completed, but they can often be completed in a variety of ways.

2. Consider whether the task is critical to the service position:
If the task is not performed, will the nature of the position fundamentally change?
3. Consider the frequency with which the task is performed:
Can the task be performed on an as-needed basis?
4. Estimate the amount of time required to perform the function:
Is this a time-intensive task?
5. Consider skills or other requirements associated with the task:
Can the task be easily reassigned?

Examples: Essential and Marginal Functions

Service Task

Participants will provide homework help to third grade students at an after-school program. Participants will occasionally fix snacks for students as needed.

Essential functions:

Ability to read and explain third grade subject matter

Ability to communicate effectively with children

Marginal functions:

Fixing snacks at the end of the tutoring session



Service Task

Participants will establish committees of residents in low-income housing to promote self-sufficiency and drug/crime prevention programs.

Essential functions:

- Effective communication
- Diplomacy and tact
- Planning organization, and follow through on activities and goals
- Ability to communicate in Spanish and English

Marginal functions:

- Answering telephones
- General computer skills
- Boxing and transporting materials to meetings

Definition: “Qualified Individual with a Disability”

A “qualified individual with a disability” is able to perform the essential functions of the position with or without accommodations. He or she must also meet any qualifications or certifications that the program has in place, such as being a registered nurse. Simply because someone may be a person with a disability does not mean that you must accept him or her to serve as a participant in your program.

The individual must meet the same qualifications as other participants in the program. Individuals who wish to be participants must be able to perform the essential functions of the position with or without accommodations.

Service Description Template

When writing service descriptions, be sure to include each of the elements listed in this template.

Service Description Template	
Service Position Title:	Indicate title and whether a full- or part-time position.
Immediate Supervisor/Title:	List name and/or title.
Service Position Summary:	Briefly describe the responsibilities of the position in a narrative format.
Essential Functions of Position:	List all basic duties that must be performed with or without reasonable accommodations. Identify only the tasks essential to the position. Focus on function, not “how to’s.” For example, if the essential function is to get from A to B to conduct training, do not say driving or a driver’s license is required.

Service Description Template	
Marginal Functions of Position:	List additional duties that are preferred, are re-assignable to others, or can be eliminated or otherwise do not change the nature of the position.
Principal Working Relationships:	Identify internal and external working relationships required for successful accomplishment of responsibilities.
Knowledge, Skills, and Abilities	Identify the specific areas of knowledge and abilities required to qualify for the position, as well as any required skills.
Academic and Experience Qualifications	List minimum qualifications and experience required to be eligible for the position. Do not include "nice to have's."
Service Conditions	Identify the conditions under which the position must be accomplished. For example, service is to be performed in a classroom, or service is performed primarily outdoors, or service involves travel outside the state.
Physical, Emotional, and Intellectual Demands	Identify the degree to which these and demands are applied to the requirements of the position. <ul style="list-style-type: none"> • An emotional demand might be: Patience is required because of work with children with cognitive disabilities • An intellectual demand might be: Duties include extensive research and analysis of data.
Equipment Used	List the types of tools and equipment used in this position. Other than completion of marginal functions, the above functions may be completed with or without accommodations. This description lists the minimum duty requirements.

Inclusive Outreach & Recruitment

Recruiting People with Disabilities

Two basic approaches to recruitment of persons with disabilities as participants in your program are:

6. Recruit persons with disabilities as part of your overall recruitment process, or
7. Conduct specific outreach activities with communities of persons with disabilities and organizations that serve these communities.

Making Recruitment Activities Inclusive

Before you begin aggressively recruiting, make sure that your staff, participants and others who are involved are prepared. To ensure your recruitment activities are inclusive:

Great outreach efforts go unrewarded if the staff is not trained to accommodate persons who request it!

- Include images of people with disabilities as service providers in your brochures, videos, and other materials.
- Include captioning and audio-description in any videos you produce.
- Make a clear statement of your willingness to provide accommodations.
- Familiarize your staff with your state relay services or your TDD/TTY number.
- Insert a non-discrimination clause in all of your written materials.
- Proactively let the public know that you will provide materials in alternate formats.
- Make your website is accessible (check out CAST at www.cast.org).
- Double-check that your application forms have no questions regarding disabilities, history of disabilities (the applicant or their family), or other medical information – unless it requests a voluntary response that is separated and filed separately and used for statistical purposes only.
- Identify organizations or individuals in your community with disability experience who can review materials to ensure that your language is appropriate.
- Hold meetings and events in locations that are barrier free, and let people know the events are accessible.

Resources for Inclusive Recruitment

Several free national recruitment resources are provided either directly by the federal government or through federal grants. Some provide you directly with resumes or job-related information about people with disabilities, while others work in conjunction with state and local agencies.

These include the resources listed below:

- Employment Assistance Referral Network (EARN)



- Workforce Recruitment Program (WRP)
- State Governors' Committees on Employment of People with Disabilities
- U.S. Department of Veterans Affairs
- State and Local Vocational Rehabilitation Agencies

CNCS: CNCS has awarded funds to 11 agencies to conduct outreach to disability communities. These agencies are promoting national service as an option and are developing training and promotional materials. Refer to the CNCS's web page: www.nationalservice.org for further information on this subject. You are encouraged to post your national service positions there.

Job Links: This service, provided by the U.S. Department of Labor's Office of Disability Employment Policy, links prospective job applicants with job listings on the Internet employment pages of organizations seeking to hire people with disabilities.

NICHCY: Many disability organizations provide recruitment and placement assistance to individuals with particular types of disabilities. A comprehensive listing may be found at www.nichcy.org.

Community Organizations

Schools, Colleges, University Centers of Excellence and Technical Schools

Almost all post-secondary schools have an office for with disabilities. Staff in these offices can provide information about your program to students with a disabilities. Many have bulletin boards where you can information. Some have campus-wide newsletters.

School districts have offices on special education. offices are aware of all students identified with disabilities, including those who are fully mainstreamed in their classrooms. In addition, most have special education teachers who know students disabilities well.



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Vocational Rehabilitation Offices

Each state has an office of vocational rehabilitation that in turn has local offices. Vocational rehabilitation counselors, who assist individuals with disabilities in achieving educational and vocational goals, staff these offices. Counselors will know of individuals with disabilities who may be interested in service programs. In addition, there are instances where national and community service programs may become part of a vocational plan, in which case additional supports may be available from vocational rehabilitation programs.

Disability Organizations

Even the smallest community has at least one or two organizations (or affiliates of them) that work with people with disabilities from the very young to the very old.

Parent resource centers	Brain Injury Association affiliates
Self advocacy groups	National Association of the Deaf
Independent living centers	Self Help for Hard of Hearing chapters
National Mental Health Association	Lighthouses (visually impaired)
UCP affiliates	Easter Seals affiliates
Arc affiliates	

Support Groups

All communities have support or self-help groups for a variety of issues that people face in their lives. Often, self-help groups are listed in local papers.

Civic Groups

Many civic groups support disability issues and may fundraise activities on behalf of scholarship programs special circumstances. Some are:

Civitans Kiwanis Lions Quota Clubs

conduct
or under

Youth Organizations

- Boy and Girl Scouts
- 4-H
- Campfire programs
- YMCA/YWCA

Senior Organizations

- Senior Centers
- AARP

State and Federally Funded Community and National Resources

Strengthening Outreach and Recruitment Activities

The best way to strengthen outreach activities is to cultivate a relationship with disability organizations. Unfortunately, simply sending recruitment information to community organizations does not usually generate significant interest. If staff at these organizations do not know you, do not understand national and community service, or do not know your program in particular, they are not likely to do much with your material.

Ways to strengthen outreach and commitment include:

- Arrange a personal visit with the staff of an organization. This will allow you to share the world of service and its potential benefits for people with disabilities.
- Meet with staff individually, or perhaps ask to attend a staff meeting.
- Organize a service day or project in conjunction with a disability organization. This activity can help them experience the rewards of service first hand and build personal relationships that will be valuable to you as you recruit persons with disabilities in your program.
- Attend local or statewide disability-related conferences or meetings. Many have space for exhibitors. You may be able to recruit and publicize your program at the same time.
- Place ads in disability organization newsletters.
- Offer to write an article about service opportunities for a newsletter.



Meetings and Events: Opportunities To Recruit

Meetings and events, whatever the purpose, are great ways to let people with disabilities know that you are serious about providing access and that you are serious about inclusion. To be inclusive means that you are thinking about accessibility in all of your activities, not just when you know there may be people with disabilities present. There are opportunities for recruitment no matter what the purpose of your meeting or event.

- Hold your meeting or event in an accessible location.
- Let the public know that you will provide accommodations to those who need them.
- Include statements in your meeting announcements that clearly welcome people with disabilities.
- Provide contact information, including a phone number or email address, to indicate willingness to provide accommodations.



An Outreach Success Story

In Maryland, the State Commission funds inclusive service projects with agencies that serve people with disabilities to perform service to benefit a third party. An AmeriCorps program that tutors at-risk youth partnered with a local Arc chapter to clean and paint the gymnasium of a local youth center together.

This joint service project gave the AmeriCorps program the opportunity to see people with disabilities as active service providers, and individuals with disabilities were able to learn about and experience AmeriCorps. The community benefited from the service performed. This type of partnership can be replicated across all national service programs.

Inclusive Interviewing & Service

Disability-related Inquiry

Many legal do's and don'ts can make the interview and selection process intimidating. In most cases, an interviewer has no intention of discriminating against a participant, but sometimes mistakes are made.

An inclusive interview and selection process focuses on what an individual can contribute to his or her community through service and what the program can bring to the individual. The existence of a disability should be a secondary consideration. The information in this section will help you avoid making some common errors during the interview process. For tips on disability-related inquiries with participants already in service, see Legal Requirements later in this module.

When interviewing, think about the meaning of the questions you are asking and the types of responses you are looking for.

- General inquiries should be geared toward goals and interests, whether short term or long terms.
- Questions about the functions of the position should be specific to the job and should not probe into the interviewee's disability-related details.
- Only ask questions about accommodations AFTER the applicant as mentioned a need for accommodation.

When interviewing:

- Face the applicant
- Interview only in accessible locations
- Use the service description as a guide
- Create a list of questions to ask all applicants

Effective Questioning Skills Sample questions



Good Technique

Unacceptable

General	
"Tell me about yourself. "	"Tell me about your disability."
"What are your greatest strengths and weaknesses?"	"Describe any physical or mental problems or disabilities you have."
"Tell me about your interests."	"Have you ever received Worker's Compensation, SSDI, or SSI?"
"What do you see yourself doing in 5 years?"	"Are you taking prescribed drugs?"
	"Have you ever been hospitalized?"
	"How many days were you absent from work for illness last year?"

 **Good Technique**

Unacceptable 

Skills and Abilities	
“Are you able to perform the essential functions of this position with or without reasonable accommodation?” (Note: Ask the question so that requires only a “yes” or a “no” response. The applicant is not required to disclose if an accommodation is needed.)	“Do you have any disabilities, impairments, or illnesses that may affect your performance in this position?”
“This position requires traveling from one local school to another. Can you do that?”	“How do you teach a class when you are Deaf?”
“This position involves doing X and Y at Z speed. Can you do X and Y at this speed?”	“How can someone with your disability drive a truck?”
“This position involves taking information over the phone and entering it into a computer. Can you do that?”	“How can you manage playground duty when you can’t see?”
“This position requires moving construction materials weighing 15 pounds to various parts of a work site. Can you do that?”	“How can you clear trails, dig a ditch, pull weeds, or mow lawns with your handicap?”
“This position requires reading to children. Can you do that?”	“What kinds of help will we have to give you so that you can do these tasks?”

 **Good Technique**

Unacceptable 

Accommodation Needs	
If an applicant volunteers that he/she can perform the task with an accommodation, then you may ask: “What accommodation will you need to perform this task?”	“To do this job you will obviously need accommodations. Which ones will you need?”

Do’s...

Do make accommodations during the interview

- If accommodations are requested for the interview, you can only make sufficient inquiries to enable you to provide the accommodations for the interview. Such accommodations are provided to enable equal opportunity to interview. However, accommodations that may be required to perform the essential functions of the service position should not be discussed at this point.
- If an applicant has a visible disability or, during or prior to the interview, he or she discloses a disability or a need for accommodation to perform the essential functions of the position, it is not advisable to pursue the issue at this point and you cannot consider this in your selection decision. A response might be, “We are an inclusive project that encourages participation by all persons with the skills and abilities to do the job, and we provide needed accommodations.”

Do ask every candidate the same questions

An interview is often a conversation, and conversations with different applicants will often cover topics in different ways. It is important, however, to ask ALL applicants the SAME questions. This will help ensure that you do not inadvertently obtain information from one applicant that you do not obtain from all applicants.

Don'ts...

Don't ask disability-related questions

You may not ask disability-related questions and you may not request medical information prior to offering the position to the applicant. There are very specific rules to protect people from disability-related discrimination. An inclusive manager focuses on an applicant's abilities to perform the essential functions and not on speculation about possible disabilities.

"Disability-related inquiry" includes:

- Inquiries about disability details: "Do you have (or ever had) a disability?" or "What impairments do you have?"
- Asking for confidential medical information: "Please provide me medical documentation" (unless in context of a reasonable accommodation request by the employee)
- Probing into causes or diagnosis-related information: "How did you become disabled?" Asking about genetic information
- Asking about personal financial or insurance-related information: "Have you ever been on workers' compensation?"
- Asking an employee's doctor, co-worker, family member, or other person about an employee's disability/potential disability
- Monitoring an employee's taking of drugs or medications: "Tell me what prescription drugs or medications you're taking, and what have you taken in the past?"

"Non-disability-related inquiry" includes:

- Asking about an employee's well being, such as: Asking "How are you?", "Are you feeling OK?" "Are your allergies bad today?" or "How are you doing [after divorce, death of loved one, etc.]?"
- Asking about non-disability impairments, such as: "How did you break your leg?"
- Asking whether he/she has been drinking or asking about current illegal use of drugs
- Asking for name and phone number of an emergency contact person

Don't make assumptions

During the interview, focus on questions regarding the ability of an applicant to perform the essential functions of the position with or without accommodations. Even if an applicant has a visible disability, do not make assumptions about his or her ability or the accommodations that he or she will need.

Medical Examinations

In rare instances, service programs will require medical examinations of applicants. If you require a medical examination after making a contingent offer, you must require the same exam of every applicant offered similar positions. In addition:

Under no circumstances are you authorized to require a medical exam prior to offering a position, but your offer may be contingent on the results of a medical exam.

- You may not require an exam only for persons with disabilities or persons you might think have disabilities.
- You will need to justify any disqualification based on the results of the medical examinations as job-related and consistent with business necessity.

Some programs require a medical examination or drug testing before allowing participants to serve. If you require such testing, all applicants must take the test. In other words, you cannot test some applicants and not others.

Not all medical- or health-related procedures are considered medical examinations.

“Medical exams” include:

- vision tests
- blood, urine, and breath analyses to check for alcohol use
- blood, urine, saliva, and hair analyses to detect genetic markers
- blood pressure screening and cholesterol testing; nerve conduction, range-of-motion or pulmonary tests
- psychological tests designed to identify a mental disorder or impairment
- X-rays, CAT scans, MRIs.

“Medical exams” do not include:

- Tests to determine current illegal use of drugs
- Physical agility and fitness tests (as long as they measure employee's ability to perform actual or simulated service tasks and do not include medical exams [e.g., measuring heart rate or blood pressure])
- Tests to evaluate ability to read labels or distinguish objects (as long as they are part of a demonstration of the ability to perform actual service functions)

- Psychological tests that measure personality traits like honesty preferences, and habits
- Polygraph exams (as long as no disability-related questions are asked)

This is a tricky area, and we recommended that you seek additional technical assistance through one of these resources:

- National Service Inclusion Project (INFOQuick link)
<http://www.servicandinclusion.org/index.php>
- Disability and Business Technical Assistance Center (DBTAC)
800-949-4232 (V/TTY)
<http://www.adata.org/centers.htm>
- Job Accommodation Network (JAN) at 800-526-7234 (V/TTY)
<http://www.jan.wvu.edu/>
- The National Service Inclusion Project
www.servicandinclusion.org

Accessibility

What is Accessibility?

When most people hear the word “accessibility” they think of ramps, automatic doors, and elevators. While these provide some access, accessibility refers to **all** the features that make an environment accessible. Not only are accessibility standards designed to assist and benefit persons with a wide range of disabilities, but accessible design benefits everyone.

- Ramps make it easier for senior citizens, people with children, and delivery people to enter buildings.
- Wider doors and levered handles make it easier for everyone to negotiate doorways.
- Signage requirements make it easier for everyone to see and understand signs.

The Five Areas of Accessibility

Architecture

Architectural accessibility refers to the physical work environment or “built environment”, and the means of getting around in that environment. An architecturally accessible environment sometimes is referred to as “barrier-free.”



Removing barriers in an architectural environment does not need to be expensive. However, retrofitting old buildings to remove barriers may be an undue financial burden for your organization, therefore, may not be required.

The Americans with Disabilities Act Accessibility Guidelines (ADAAG) is the standard resource to use for achieving architectural accessibility. Other resources can help you in discover inexpensive ways to remove barriers and increase program access.

For more information about the Americans with Disabilities Act:
<http://www.access-board.gov/indexes/accessindex.htm>

Policies & Procedures

Separate and apart from architectural access issues, your program’s eligibility requirements, policies, or operating procedures may be causing additional programmatic barriers to full and meaningful access. For example:

- Do you require your participants to have a driver’s license so they can drive from school to school because the service position requires tutoring students in different locations? *Don’t assume that the ability to get from place to place requires the ability to drive.*
- Do you require your participants who do computerized research as an essential function to serve from 8:00 AM to 5:00 PM? *Don’t overlook the fact that this could be a barrier to a person*



whose medication makes it difficult to get up in the morning, or to someone whose transportation is only available at specific hours.

Flexibility, wherever possible, is the key. Think creatively.

Travel

Travel for people with disabilities can sometimes be challenging for everyone involved. Careful planning and good questions will contribute to a successful experience.



- Notify airlines in advance about special needs
- Check accessibility of hotel and meeting spaces

Be aware that some participants with disabilities are not experienced travelers and may not realize the barriers they may encounter while traveling. Advise participants to call a DBTAC or Independent Living Center for suggestions for a good travel experience.

Technology

Specific Design

In some cases technology is specifically designed for use by people with disabilities. Augmentative communication devices, wheelchairs, and screen readers that “speak” what is on the computer screen are all examples of personal technology used by individuals with disabilities to increase accessibility and inclusion. Remember that technology access does not necessarily mean complex electronic devices, it can be as simple as a rubber pen grip.

Universal Design

Accessibility is sometimes built into the technology that everyone uses. Computers, websites, telephone systems, and televisions all are increasingly accessible to and useable by people with a range of disabilities, including visual, hearing, mobility, and cognitive. Such technologies are often referred to as “universal design” because they are accessible for everyone regardless of ability or disability.

Universal design technology

- Adjustable Work Stations
- Hearing Aid Compatible Phones
- Caller ID
- Closed Captioning on video and televised media
- Capacity to Use Larger Fonts
- Tape Recorder

Section 508 of the Rehabilitation Act (www.section508.gov) is a recently strengthened federal requirement to ensure technology access in federal agencies.

Website Accessibility

It is important to consider accessibility in your website. Remember, any audio information should also be written. “Alt tabs” which describe graphics make websites accessible to persons using screen readers. The Center for Applied Special Technology (<http://www.cast.org/index.html>) provides information on how to incorporate accessibility features on your website.

Communication Access

- Note-writing
- Assistive Listening Devices
- Interpreters
- Real-time Captioning
- Taped Information

For people with hearing, speech, cognitive, or learning disabilities, you may also have to provide the technology or services necessary to make communication effective. In such cases, the focus on ensuring that information is clear and properly understood. This sometimes requires some thought and discussion.

Documentation and Information Formats

For people with visual impairments, written material needs to be provided in alternate formats, including Braille, text file, large print, and audiotape. You should provide the format requested in a timely manner. An inclusive program will provide information in alternate formats at the same time that it provides any written information.

To prepare a document for text-to-speech software:

1. Save it as a text file (.txt).
2. Deliver the file on diskette or attached to e-mail.

Measuring Your Program's Accessibility

It is important for programs to continually evaluate the level of accessibility in their program offices, sites, and activities. There are several good checklists that can help you determine your current level of accessibility in all five areas and will provide you guidance in planning strategies to increase your level of accessibility.

All programs can use the Disability Business and Technical Assistance Centers (DBTACs: www.adata.org). Many independent living centers can help you do an evaluation of your sites and the level of accessibility. The Job Accommodation Network (JAN: www.jan.wvu.edu) can help you determine sources for accommodations.

All programs that receive federal financial assistance are held to the standards found in Section 504 of the Rehabilitation Act. When you call for technical assistance, be sure to let the provider know that you are a "504 entity."



Accessibility Checklist

- “Access” and “accommodation” are sometimes used interchangeably. Access means that conditions exist so that a wide range of persons with disabilities can access a building, a program, or an activity. Accommodations are a part of access. They are the specific services, equipment, or changes in policy, procedures, or the built environment that allow an individual with a disability to participate in activities.
- Accessible routes are stable, firm, slip-resistant, 36-inches wide, with no objects protruding that someone cannot detect with a cane.
- Door handles — outside, indoor, restroom stalls — should be fully operable with a closed fist. The same is true for water faucets.
- Be watchful of creating transient or temporary barriers by placing furniture, boxes, or plants in the path of travel.
- Do not assume that everyone with hearing loss uses American Sign Language (ASL). For persons who use sign language, you may need to provide interpreter services.
- Be watchful of naturally occurring barriers. For example, low, overhanging tree limbs can grow across sidewalks, and sidewalks can “buckle,” creating hazards and barriers.
- For persons with cognitive or learning disabilities, you may need to provide information in a different form, or to provide assistance in understanding that material.
- When preparing video materials, captioning provides access to persons with hearing loss. In the same way, using voice-overs when there are images or music allows persons who are visually impaired to experience the video.
- Do not to put heavy boxes on top of Braille documents. The raised dots will be crushed and rendered unusable.
- Your Disability and Business Technical Assistance Center (DBTAC) or Independent Living Center can refer you to a local supplier of Braille documents.
- Many independent living centers can conduct an accessibility evaluation for you. Make sure they know you are a “504 entity.”

Accommodations

“Access” and “accommodation” are sometimes used interchangeably, but they are subtly different. Access means that conditions exist so that a wide range of persons with disabilities can access a building, a program, or an activity. Accommodations are a part of access.

TECHNOLOGY + SERVICES + ENVIRONMENT = ACCOMMODATION

Accommodations include technology, services, and changes in the work (policies and procedures) and the built environments that enable individuals with disabilities to perform essential functions or to equally participate in events and programs.

An inclusive service environment:

- Does not presume a person requires an accommodation, but creates conditions that are open and allow for effective communication about needs.
- Creates conditions that give a qualified individual with a disability the confidence to request the needed accommodation(s) and carefully considers each request.
- Engages in a dialogue with the individual requester to help determine the appropriate and effective accommodation(s).
- Provides accommodations with the goal of truly enabling an individual to fully participate and contribute. It approaches the provision of accommodations as one of doing all it can do to ensure access and inclusion, rather than focusing on what “has to happen.”

Types of Accommodations

The type of accommodation needed varies depending on the individual need, the disability, the program, resources available, and the tasks that need to be completed. Some individuals will need more than one accommodation.

A few examples of accommodations are:

- Removing barriers to increase accessibility
- Restructuring a service position
- Modifying a service schedule
- Modifying policies or procedures
- Obtaining or modifying equipment or devices
- Reassigning a member to a vacant position
- Providing services, such as qualified readers, interpreters, or real-time captioning
- Adjusting training activities or examinations
- Modifying training materials

People may ask for accommodations without using the word “accommodation.” For example, a participant who uses a wheelchair informing his supervisor that the wheelchair does not fit under the desk in his office is a request for an accommodation. If unsure how to accommodate a need, seek assistance from reliable resources.

When to Provide Accommodations

Two common instances when you will need to provide accommodations are:

8. For public events and meetings that your program may sponsor, including service activities.

Ensure that you provide members of the public an opportunity and a means to request accommodations. A simple statement not only demonstrates your effort to create an inclusive environment, but responses to the statement give you time to make sure needed accommodations have been addressed.

9. When a qualified individual with a disability in your current program specifically requests accommodation.

Once an individual requests an accommodation, the first step is to talk to the individual to find out what functional limitations exist that might hamper the fulfillment of essential functions. Discuss any existing barriers that might prevent or limit participation in the program or activity.

Making the Requested Accommodation

On occasion, someone may request an accommodation that you feel is too expensive, unwieldy or impacts your program's ability to meet its mission.

The NSIP, DBTAC, JAN and ILC can help you identify accommodations that are both effective and cost-conscious.

Under these circumstances, it is always a good idea to contact technical assistance resources for guidance. There may be options neither you nor the participant thought about that might fully accommodate any functional limitations and allow the member to perform the essential functions of the position.

Individuals usually know what they need and how to secure it, but in some cases they won't. Also, a participant may request accommodations but you may be unclear about his or her functional limitations. Seeking technical assistance can be beneficial and cost effective.

National Service Inclusion Project (NSIP) of the Institute for Community Inclusion, University of Massachusetts/Boston is the organization funded by the Corporation for National and Community Service to provide its grantees with training and technical assistance in the area of disability inclusion. NSIP can be reached at 1-888-491-0326 (v/TTY) or by email at NSIP@umb.edu

Disability and Business Technical Assistance Centers (DBTACs) are a federally funded resource that can assist you. They can be reached at 1-800-949-4232 (voice/TTY) or www.adata.org.

Job Accommodation Network (JAN) is another excellent resource that is available to you at no cost. JAN can be reached at 1-800-526-7234 (voice/TTY) or www.jan.wvu.edu.

Independent Living Centers (ILCs) are federally funded and located across the country and can provide you with assistance. You may find your closest ILC at www.ilru.org. Keep in mind that you are legally required to provide an effective accommodation, unless you can prove that doing so is an undue financial or administrative burden to your program.

What to Remember about Accommodations

Have a Positive Attitude. Remember, as a program director or supervisor, you are in a position of authority and you have the ability to create a positive or negative experience. If you approach requests for accommodations from the perspective of creating an inclusive environment and of maintaining open communication, the results will be much more positive. Openness and creativity are important when identifying appropriate and effective accommodations for a participant with a disability.

Encourage Accommodation Requests. The more inclusive and open the environment, the more likely it will be that someone will request accommodations early in their service term, and the sooner you can provide the accommodation. A service term is often limited. If it takes as long as six months to put accommodations into place, the service term is well underway, and everyone becomes frustrated.

Accommodations that are part of an accessible environment often are designed to assist a particular individual.

Respect Privacy. Discussions about accommodations must remain as confidential as possible. While sometimes it is impossible for the accommodations themselves to be “invisible,” the accommodation does not need to be a program-wide discussion or debate.

Sample solutions for accommodation

- Jeremy, who has a visual disability, needed software to “read” text to him. The program purchased the software.
- Annette relies on a local transportation service that could not get her to her service site by 9:00 a.m. An adjustment was made to her schedule to accommodate the transportation need.
- Zach, who has a hearing loss, has trouble hearing in team meetings. The program borrowed an assistive listening device from the local retailer.

Management and Retention

Managing People with Disabilities

Managing persons with disabilities in an inclusive service environment is the same as managing effectively in any environment. People with disabilities, like any other participants, have valuable talents, skills, time, and enthusiasm to contribute to the betterment of their communities. In inclusive environments and accommodations, those contributions will shine through.

Performance Expectations

Consistent expectations of all participants in a program is a key contributing factor to an inclusive service environment. Managers and supervisors should have the same performance expectations of their participants with disabilities as they do of all their participants.

For the same reason, do not to have **greater** expectations of persons with disabilities. Some media portrayals of persons with disabilities show unrealistic images of always optimistic, eager, non-frustrated people. People with disabilities face the same issues, frustrations, and bad days as anyone else. In some cases, poor performance may warrant verbal warnings or disciplinary action. The fact that a participant has a disability should not affect your approach to discipline.

People with disabilities are as accountable as anyone else.

Expectations for Conduct

Managers and supervisors should take care to ensure that they hold their participants with disabilities to the same standards of conduct they expect of all their participants.

1. If you expect your participants to arrive on time, have that same expectation of participants with disabilities. Even if you have adjusted hours as an accommodation, expect them to arrive at their adjusted arrival time.
2. If you do not allow your participants to be under the influence of alcohol or illegal substances during service hours, have that same expectation of participants with disabilities. Even though addictions to legal substances are protected disabilities, they are not an excuse for violations of your rules of conduct.

Some disabilities can impact an individual's ability to interact with others, to control emotions, or to judge social and work situations appropriately. . If an individual has disclosed a disability that may result in inappropriate behavior, you should discuss accommodations and strategies to ensure program disruptions resulting from disruptive behavior.

Inappropriate behavior, in itself, is not a disability.

Each situation needs to be dealt with on its own. When a person has not disclosed such a disability, handle behavioral issues as you would with any other participant.

Disability Issues Raised During Disciplinary Action

In rare instances, an individual who is receiving disciplinary action as a result of poor performance or misconduct may reveal a disability only when he/she realizes that their disability is impacting their success in the program. You should consider opening the process of providing effective accommodations at this point. If you make an accommodation, allow ample time to evaluate the accommodation success and conduct improvement.

When in doubt, contact your Training and Technical Assistance Provider, the National Service Inclusion Project (NSIP: <http://www.serviceandinclusion.org/index.php>) of the University of Massachusetts/Boston.

Asking Disability-related Questions

You may observe performance problems leading you to believe that:

- The participant's ability to perform essential service functions is impaired by a disability or medical condition, or
- What appears to be a participant's medical problem could pose a direct threat to the health or safety of self or others.

In these instances, you may:

Ask the participant limited disability-related questions, or

Request a limited amount of documentation about the nature of the disability and how it impacts the essential functions of the position.

Defining "limited" is tricky and complex. We recommend contacting the resources mentioned earlier, such as Job Accommodation Network (JAN), your Disability Business and Technical Assistance Center (DBTAC), or the National Service Inclusion Project (NSIP).

Another helpful resource is the EEOC (www.eeoc.gov), specifically:

- EEOC's Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (ADA) (July 2000), available at www.eeoc.gov.
- EEOC's Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (ADA) (March 1999).

Retaining Participants with Disabilities

Retaining participants, disabled or not, is always a challenge for programs. Effective retention not only requires that participants are satisfied and rewarded, but also that their experience is positive and there is a sense of excitement and fun. Creativity, flexibility, and a willingness to negotiate responsibly will benefit you, your program, and participants with and without disabilities.

Remember: when dealing with specific retention issues, don't assume that the participant's problem is necessarily related to disability.

For participants with disabilities, an inclusive service environment, effective accommodations, and open communication are critical to retention. There are some strategies that you can undertake to ensure that participants with disabilities are able to successfully complete their term of service.

To ensure retention of participants with disabilities:

- Create and maintain a truly inclusive service environment
- Hold participants with disabilities to the same levels of accountability as other participants
- Develop clear expectations and hold participants to these expectations
- Keep the lines of communication clear and open
- Develop clear position descriptions that outline tasks, essential functions, and expectations
- Take action when you see that a participant is not participating

For those issues that may arise that are specific to disability, e.g., the provision of accommodations and truly including an individual with a disability in service, you may need to approach situations with creativity. Relationships that you develop with disability providers, Disability and Business Technical Assistance Centers (DBTACs), or key disability leaders in your community can be invaluable in assisting you in this area.

Identifying a Potential Retention Problem

People are more likely to complete service assignments when:	People are less likely to complete service assignments when:
They perceive that what they are doing is valuable.	They perceive they are give “make work” assignments.
The receive appropriate equipment and support.	Accommodations are inappropriate, inconsistent or unreliable.
There is a feeling of belonging.	There is a failure to recognize the importance of participation (e.g., saying “Just sit this one out.”)
There are opportunities for personal growth.	Assignments are dead-ends.
Mutual expectations are met.	They perceive a lack of effective and open communication.
They are treated as part of a team.	They feel they are ignored.
They are challenged.	There is unwarranted praise, which can be perceived as insincere.

Collaboration

Benefits of Collaboration

Organizations that collaborate with others can achieve more than they would be able to achieve alone, particularly if the organizations have mutual or complementary goals. Organizations that provide services to people with disabilities, or advocate for people with disabilities, are found in every community. Strong and effective collaborations with these organizations can help your program with:

- Creating an inclusive service environment
- Recruitment (through newsletters, brochures, and individual referrals)
- Retention
- Compliance with federal and state laws
- Accessibility and accommodations

Community service provides great opportunities for both disability organizations and individuals with disabilities. Individuals who complete a positive service experiences help to change perceptions that people with disabilities are always recipients of service, not service providers. Collaboration helps the service organizations nurture and increase excellence in both the service programs and the consumer's perceptions of service.

Potential benefits for disability organizations and service programs		
Service Activity / Benefits	Benefits to Disability Organizations	Benefits to National & Community Service Programs
Outreach/Placement	Create opportunities for consumers	Identify potential participants with disabilities
Recruitment	Educate consumers about possibilities	Recruit qualified, committed participants
Accommodations	Allow consumers to fully participate in service, gaining valuable experience	Retain participants with disabilities
Networking	Learn about national service	Develop relationships with disability organizations
Community awareness	Joint projects	Joint projects

Initiating Collaboration

Successful collaborations are based on relationships that are mutually beneficial. Become familiar with the organizations in your community and for them to get to know your programs so you can identify areas of common interest.

Eight ways to familiarize yourself with local organizations:

1. Set up short, informal meetings with the leadership of local disability organizations. Be prepared to explain your program and the goals of national and community service.
2. Invite staff and consumers of disability organizations to service events and meetings and make certain those meetings are accessible.
3. Coordinate a service-day project with a disability organization to benefit the organization or its consumers.
4. Invite disability organizations to conduct disability awareness training for your staff and participants.
5. Join the board or advisory committee of a disability organization.
6. Write articles about your program for newsletters.
7. Link your website to theirs (with permission, of course).
8. Present a workshop or exhibit at a booth statewide or countywide conferences and meetings.

Common Structure of Disability Organizations

Before approaching a disability organization with which you want to collaborate, it is important to understand how they are set up.

Disability organizations are organized according to one of these three models:

1. Private non-profit organizations, private for-profit organizations, government agencies (such as vocational rehabilitation offices and state/county offices for people with disabilities), and service providers.
2. Organizations that provide services to or for people with disabilities, and advocacy organizations that are controlled and staffed by people with disabilities.

Organizations such as UCP, Arc, and Easter Seals provide direct services to people with disabilities.

3. Organizations that are disability-specific (serve one disability) or cross-disability (serve a wide range of disabilities), such as Independent living centers.

UCP affiliates serve a range of people with disabilities but tend to focus on persons with physical and cognitive impairments. Other organizations focus on particular types of disabilities, such as the National Association of the Deaf (NAD) and the American Federation of the Blind.

Many disability organizations are affiliates or chapters of national organizations. The state or local organization may be very large or very small. In addition, some local organizations provide services that are not necessarily affiliated with a national organization. They can assist you in locating the closest local organizations.

Participation & Government Benefits

Government Benefits Received by People with Disabilities

Many persons with disabilities receive government benefits: sometimes on the basis of their income eligibility, sometimes on the basis of their disability, and sometimes both. The Social Security Administration (SSA: www.ssa.gov) administers Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI).

For some people, SSI and SSDI are a sole source of income and provide access to Medicaid and Medicare, crucial sources of health care and services. In addition, a range of other federal, state, and local benefit programs provide housing assistance, transportation, and other services. Often, these government benefits are critical to the ability of a person with a disability to remain self-sufficient.

Depending on the type of service program and the type of government benefits, participating in a service program could jeopardize an individual's eligibility for government benefits. Most often, only full-time AmeriCorps participants will be impacted.

An effective and inclusive program manager will be aware of these concerns and will be prepared to direct individuals to appropriate resources for assistance.

“Income Disregard” Rules

The term “income disregard” means that income should not affect the person's benefits. Two primary sources that explain the income disregard rules and the influence of service one's eligibility for government benefits are:

- **AmeriCorps VISTA, Senior Corps, and Learn and Serve America**

Based on the “income disregard” rule in the Domestic Volunteer Service Act (DVSA: <http://www.nationalservice.org/pdf/dvsadec99.pdf>), participation in the above projects should not affect an individual's eligibility for any government assistance program. AmeriCorp memorandum (<http://www.americorps.org/resources/memo.html>) dated January 12, 2000, summarizes and clarifies the DVSA rules specific to this subject.

- **AmeriCorps, Tribe, Territory, Education Award Promise Fellow and National Civilian Community Corps**

Because the “income disregard” rule in the current National Community Service Act is narrower than the DVSA rules, other AmeriCorps participants who receive government benefits should proceed with caution.

Any changes due to reauthorization will be noted on the Corporation for National and Community Service website: www.nationalservice.org.

SSI and SSDI and AmeriCorps State/National

Two potential areas of concern for individuals who receive SSI or SSDI and serve in AmeriCorps State/National are:

4. Eligibility for both SSI and SSDI is based on a finding that an individual is disabled. In several cases, the Social Security Administration (SSA) determined that an individual who was participating in AmeriCorps State/National was engaged in “substantial gainful activity” and therefore was no longer disabled. SSI and SSDI recipients need to be aware of this risk and that they may decrease this risk by taking advantage of SSA work incentives and income exclusions.
5. SSI recipients serving in AmeriCorps State/National need to be aware that SSA considers the living allowance to be “earned income.” This may result in a decrease in monthly SSI benefits, which are based on an individual’s countable income. SSI recipients can lessen the reduction (and increase their total income) by taking advantage of SSA’s work incentive options.

SSA recently made two policy changes for SSI recipients who participate in AmeriCorps State/National:

1. Extended the Student Child Earned Income Exclusion to AmeriCorps participants under the age of 22 who are neither married nor the head of household
2. Excluded from countable income the AmeriCorps education award to the extent that it is used for paying tuition, fees, and other necessary educational expenses.

Valuable resources
Through cooperative agreements with SSA, state and local organization provide assistance and counseling on benefits for persons with disabilities.

Benefits Impacted

Participant benefits in AmeriCorps WILL NOT IMPACT an individual’s eligibility for these benefits:

- Food Stamps
- Women, Infants, and Children (WIC)
- HUD-subsidized housing
- Veterans’ benefits
- Any other need-based Federal or federally assisted program (except a program supported under the Social Security Act or Federal student financial aid)

Participant benefits in AmeriCorps State/National programs MAY IMPACT an individual's eligibility for the following benefits:

- Temporary Assistance to Needy Families (TANF)
- Supplemental Security Income for the Aged, Blind, and Disabled (SSI)
- Social Security Old Age, Survivors, and Disability Insurance (OASDI)
- Medicaid and Medicare
- State Children's Health Insurance Program (CHIP)
- Title 20 Social Services
- Unemployment Insurance
- Need-based Federal Student Financial Aid

Preventing Loss of Benefits

- Inform all applicants and participants about the potential risk regarding participation and eligibility for government benefits.
- Encourage participants to notify the government benefits agency (e.g., Social Security Administration) that they will be participating in service to identify any potential problems and ways to address those problems.
- Emphasize the availability of work incentives and other policies that might lessen any adverse impact on SSI or SSDI benefits.
- Develop working relationships with local Social Security offices and local organizations to raise awareness and ensure that participation in national service will not result in a loss or reduction in disability benefits.
- Advise applicants who receive SSI/SSDI to talk to their local Social Security Office or seek assistance from the local independent living center

The Social Security Administration (SSA) may consider the living allowance potential income even if the member declines the allowance..

Legal Requirements

Several federal laws are in place to ensure that people with disabilities receive equal opportunity. National service programs have an obligation to ensure non-discriminatory environments, practices and procedures for qualified persons with disabilities. In most cases, a program is likely in legal compliance when it:

- Is clearly open to the full inclusion of persons with disabilities, and
- Creates a respectful and inclusive service environment

This section provides a brief overview of key areas of the federal laws that apply to service programs. More in-depth and specific information is available by contacting the Corporation for National and Community Service (<http://www.nationalservice.org/>) Training and Technical Assistance provider on disability issues.

Two federal disability laws specifically address national and community service programs:

The Americans with Disabilities Act of 1990 (ADA)
<http://www.usdoj.gov/crt/ada/adahom1.htm>

Section 504 of the Rehabilitation Act of 1973
<http://www.section508.gov/index.cfm?FuseAction=Content&ID=15>

The Americans with Disabilities Act of 1990 (ADA).

The Americans with Disabilities Act, or ADA, is perhaps the most well known federal statute that extends civil rights protections to persons with disabilities. The ADA, enacted in 1990, prohibits discrimination on the basis of disability in:

- Employment
- State and local government
- Public accommodations
- Commercial facilities
- Transportation
- Telecommunications

While an entity that receives CNCS assistance may be subject to the ADA, compliance with the ADA is not a condition of receiving assistance from the CNCS. We recommend focusing on the requirements under Section 504, which are stricter than the requirements under the ADA.

Section 504 of the Rehabilitation Act of 1973

Section 504 states:

“No otherwise qualified individual with a disability in the United States . . . 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 . . .”

Section 504 applies to any entity that receives federal assistance, including:

- Grant funds
- Services of federally sponsored participants
- Federally subsidized training

While some entities, such as tribal governments or religious organizations, may be specifically exempt from certain federal nondiscrimination requirements, Section 504 does not include any such exemptions.

The bottom line

Any entity that applies for and receives assistance from the CNCS must certify that it will comply with Section 504.

Programs and activities covered by Section 504 must:

- Be accessible to persons with disabilities
- Provide reasonable accommodations to allow a qualified person with a disability to receive services, participate in the entities’ programs, or perform the essential function of a position

Section 504 does not require grantees to take any action that would result in a “fundamental alteration” in the nature of a program or activity or that would cause an “undue financial or administrative burden.”

Familiarize yourself with CNCS’ published regulations, 45 CFR Part 1232, that are specific to Section 504 requirements. These rules include provisions on the selection and supervision of employees and service participants, reasonable accommodation, and program accessibility.

See <http://www.serviceandinclusion.org/handbook/index.php?page=sectionxii>.

Accessibility Rules

Under Section 504 and Corporation regulations, the applicable standards for making facilities accessible to individuals with disabilities depend upon the age of the building

- **Older facilities (existing as of May 30, 1979)** – A grantee is not required to make structural changes if other methods may achieve compliance and “when viewed in its entirety” the program or activity is readily accessible to, and usable by, individuals with disabilities.
- **Facilities constructed or altered for the grantee’s use after May 30, 1979** must be readily accessible to, and usable by, individuals with disabilities. For these newer facilities, the more flexible “when viewed in its entirety” standard does not apply.

Section 504 Exclusions

Section 504 specifically excludes the following conditions:

- transvestism
- transsexualism
- pedophilia
- exhibitionism
- voyeurism
- gender identity disorders not resulting from physical impairments
- other sexual behavior disorders
- compulsive gambling
- kleptomania
- pyromania
- psychoactive substance use disorders resulting from the current illegal use of drugs

The phrase physical or mental impairment does not include homosexuality or bisexuality. These are not considered disabilities.

Temporary Disabilities

Many people experience temporary disabilities, such as a broken arm, a sprained ankle or severe seasonal allergies. They are not protected under Section 504 or the Americans with Disabilities Act. However, if a program is truly inclusive, it will be natural to accommodate persons with temporary disabilities even though it is not required by law.



Direct Threat

In some cases, supervisors may be concerned that an individual with a disability may pose a “direct threat” to themselves or others because of their disability. To ensure compliance with the law, you should approach these cases with caution.

“Direct threat”
A significant risk of substantial harm to the health or safety of the individual or others that a reasonable accommodation cannot eliminate.

To determine a “direct threat” to health or safety, base your assessment on the individual’s present ability to safely perform the essential functions of their position. In determining whether an individual would pose a “direct threat,” consider:

Duration of the risk

Nature and severity of the potential harm

Imminence of the potential harm

Any risk must be based on the most current medical knowledge and/or on the best available objective evidence. Prior to excluding an individual, it must be clear that even when reasonable accommodations are provided, the risk cannot be eliminated or reduced to a level below that of “direct threat”.

Always call the Training and Technical Assistance Provider from CNCS when faced with this kind of situation.

Drug Use

A person who is addicted to drugs may be protected under Section 504 because addiction can substantially limit major life activities. A person who has a past history of addiction to illegal substances, and who is successfully participating in a drug rehabilitation program, is protected. This person is perceived to have a drug addiction.

However, an individual who is currently using illegal substances is not protected under the statutes. This includes persons who:

- Use illegal substances (e.g., using heroine, cocaine, methamphetamine, or marijuana)
- Illegally using legal substances (e.g., use someone else’s prescription drug, use alcohol while underage, or sniff glue, cleaners, or solvents to “get high”)

Undue Financial or Administrative Burden

Occasionally you may receive requests for accommodations that you believe are unduly disruptive to your program or are too expensive. Under Section 504 and the terms of your grant or agreement with the CNCS, you must provide accommodation upon request by a qualified individual with a disability, unless doing so causes:

“undue financial or administrative burden to your program”

This is a very high standard. Consider the resources of your entire organization when determining undue financial burden, not just those of your service program. Factors to consider include:

- The overall size of your program, including the number of employees or service participants, the number and type of facilities, and the size of your budget
- The type of operation you have, including the composition and structure of your workforce or service participants
- The nature and cost of the accommodation needed

An accommodation that is difficult to achieve, time-consuming or costly does not meet this standard.

Test the request: Does it meet the standard?

YES	NO
Policy and procedure changes that violate the provisions of the National and Community Service Act or the Domestic Volunteer Service Act are always an undue administrative burden.	Changes, policy changes and changes to handbook provisions are not undue administrative burdens.

Meets standard: You can change your policies but you can never change the legal statutes to make an accommodation.

A Case Study

An AmeriCorps*State/National participant has a medical condition that has unexpectedly limited her ability to complete the required number of service hours within the term of service. The member has requested an extension on her service term to allow her to complete the required number of service hours.

This type of accommodation is an undue burden. In addition, there is an alternative for accommodation: You may suspend service for a period of time and add the suspension time to the end of the original service term when a participant is unable to serve due to a medical condition for an extended period.

In-service Disability-Related Inquiries and Medical Exams

During the service term, disability-related inquiries and medical examinations are permitted only when they are “*job-related and consistent with business necessity*” **and** under these specific circumstance.

- Medical condition:** You have a reasonable belief, **based on objective evidence**, that the participant’s ability to perform an essential function will be impaired by a medical condition or the participant will pose a direct threat to the health or safety of self or others due to a medical condition. An assessment must be made, and must be based on objective evidence (not general assumptions) available to you prior to making an inquiry or requiring a medical exam.
- Requests for accommodation:** The service participant requests a reasonable accommodation. You may make disability-related inquiries and request medical documentation only when the disability is not known or obvious. In addition, any documentation you request must focus on only:
- the nature, severity, and duration of the impairment
 - functional limitations on the participant’s specific position
 - to substantiate any accommodation need
- Substantiated observations:** You know or have been given reliable information by a credible third party about the participant’s medical condition, and you have observed performance problems; and you can reasonably attribute the problems to the medical condition.
- Sick leave requests:** The service participant requests sick leave; or when a participant who has received extended sick leave requests an extension of the sick leave; or when a participant, who has been on leave for a medical condition, seeks to return to work.