

DHS Civil Rights Training Series for Recipients: **Disability Access in Recipient Programs and Activities**

Presented by

U.S. Department of Homeland Security
Office for Civil Rights and Civil Liberties

May 5, 2021



Homeland
Security

Webinar Purpose

Today's presentation is intended to assist recipients in understanding their obligations under Section 504 of the Rehabilitation Act of 1973, and in so doing assist recipients in fulfilling the disability access requirements of the DHS Civil Rights Evaluation Tool.

DHS Civil Rights Evaluation Tool

Section 4, Item 7, of the Tool requires recipients to:

- “Provide copies of the recipient's policy and procedures used to ensure nondiscrimination and equal opportunity for persons with disabilities to participate in and benefit from the recipient's programs and services.”

Section 504 of the Rehabilitation Act

- Section 504 of the Rehabilitation Act of 1973, as amended, “prohibits discrimination on the basis of disability in programs and activities receiving federal financial assistance.”
- Many DHS grantees, such as state and local government recipients, are subject to the provisions of both Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act (ADA). Congress and the courts have generally construed the obligations under Section 504 to parallel those under Title II of the ADA.

Obligations

Under Section 504, the recipient is obligated to ensure:

- program accessibility, including by providing equal opportunity to access programs, services, and activities and delivering these in the most integrated setting appropriate to the individual's needs;
- physical access, including by providing accessible new construction and alterations in accordance with applicable architectural standards;
- effective communication, including by providing auxiliary aids and services, giving primary consideration to the individual's preference regarding type of aid or service; and
- reasonable modification, including by conducting an interactive process with the individual to determine how best to meet their need.

Note on Terminology

- In the context of serving members of the public with disabilities, the recipient's obligation commonly known as "reasonable accommodation" includes:
 - effective communication, through the provision of auxiliary aids and services, as well as
 - the modification of policies, practices, and procedures.
- In today's presentation, we will present effective communication and reasonable modification as two distinct topics.

Presentation Agenda

- 1:00 Welcome and Webinar Overview
- 1:10 Module I: Assessing Overall Programmatic Access
- 1:55 Module II: Ensuring Effective Communication
- 2:25 Break
- 2:35 Module III: Providing Reasonable Modifications
- 3:05 Module IV: Tips for Interacting with People Who Have Disabilities
- 3:50 Wrap Up
- 4:00 Close

MODULE I

Assessing Overall Programmatic Access for Individuals Who Have Disabilities

Assessment Questions

- DHS developed the assessment questions used in this Module to assist in identifying potential barriers and gaps facing members of the public with disabilities who interface with DHS programs and activities.
- These questions may also help recipients in evaluating how to provide access to their programs.

Assessment Questions (Continued)

- These questions may also help DHS recipients in guiding recipient actions to strengthen disability access.
- We have included hypotheticals from a variety of settings and asked if the actions described are “likely compliant” with obligations under Section 504.
- The assessment questions are arranged into three Parts, in order to assess Program Policies and Practices, Effective Communication, and Physical Accessibility.

Part A: Accessibility of Program Policies and Practices

Assessment

A-01. Is there an established policy ensuring equal treatment for individuals with disabilities within the program?

A-02. Are there any program policies, procedures, or eligibility criteria that explicitly exclude, or have the effect of excluding, individuals with disabilities?

Likely Compliant? Yes or No

A valid driver's license is the only form of government-issued identification that is accepted by the program to establish eligibility for services.

[Answer: No. For most programs, such a requirement is too restrictive, and the program should be able to accept other forms of government-issued ID.]

Assessment (Continued)

A-03. Are there any program policies, procedures, or eligibility criteria that result in individuals with disabilities receiving lesser or unequal treatment compared to persons without disabilities?

Likely Compliant? Yes or No

The program maintains a policy of issuing short summaries of public notices as the “accessible format” of the notices.

[Answer: No. Providing short summaries is “lesser” treatment. The program should seek to issue the entire contents of its publicly posted notices in accessible formats.]

Likely Compliant? Yes or No

An emergency services agency has established a policy and procedures for providing aids, services, and reasonable modifications to volunteers with disabilities from the community to ensure their participation in an emergency exercise.

[Answer: Yes. The agency has put in place necessary measures to ensure the full participation of volunteers with disabilities. The agency has not automatically assumed that involving individuals with disabilities in the exercise would be too expensive, disruptive, or dangerous.]

Assessment (Continued)

A-04. How are the program's interactions with individuals with disabilities conducted in the most integrated setting appropriate?

Likely Compliant? Yes or No

Program policies guide the selection of accessible sites where individuals with disabilities have an equal opportunity to seek and obtain services available to other members of the general public.

[Answer: Yes. This is an illustration of a program fulfilling the principle of integrated service delivery.]

Likely Compliant? Yes or No

A correctional facility makes use of segregated or medical settings to house inmates with a disability due to inaccessible facilities.

[Answer: No. The recipient should consider structural and nonstructural changes to the facility to ensure integration of inmates with disabilities with the general population to the maximum extent possible.]

Assessment (Continued)

A-05. If individuals with disabilities are offered a separate program setting, are they notified that they retain the option to participate within the integrated setting of the general program?

A-06. Describe any instances in which individuals with disabilities are asked to meet any other requirements not imposed on other program participants.

Likely Compliant? Yes or No

- Deaf individuals who use sign language are required to provide their own qualified interpreter.
- [Answer: No. Deaf individuals are being required to provide qualified interpreters at their own expense just to ensure equal opportunity to benefit from the program.]

Assessment (Continued)

A-07. Describe the procedures established for the presence of service animals accompanying individuals with disabilities in program settings.

Assessment (Continued)

A-08. How are contractors informed about their nondiscrimination obligations under Section 504 and how do contractors provide assurances to this effect?

A-09. How does the program ensure that its contractors' interactions with individuals with disabilities do not result in discrimination?

Likely Compliant? Yes or No

- A contracted program that provides call center services ensures that it has trained personnel on the use of telephone and video relay, as well as use of TTY, to ensure that individuals with disabilities (deaf or hard of hearing and speech disabilities) can engage in effective two-way communication to obtain services.
- [Answer: Yes. The program is contracting with an entity that is ensuring equal opportunity for individuals with disabilities. A program cannot “contract away” its responsibility to ensure nondiscrimination for beneficiaries of its services.]

Assessment (Continued)

A-10. Describe any circumstances in which a consideration related to disability would influence the choice of a procurement contractor.

A-11. Describe the program's process for providing individuals with disabilities with reasonable modification of its policies, procedures, and practices.

Likely Compliant? Yes or No

Potential needs for reasonable modification are discovered only when they happen to be identified during encounters with persons with disabilities or as part of other customer requests or complaints.

[Answer: No. The program needs to have a policy and procedure in place to ensure that it can solicit, consider, and fulfill requests for reasonable modification.]

Assessment (Continued)

A-12. How are staff and members of the public notified that individuals with disabilities have the right to request a reasonable modification to a program's policies, procedures, and practices?

A-13. Within the past three years, if a modification was denied due to a determination that it would impose a fundamental alteration or an undue burden to the program, explain the circumstances of the denial.

Assessment (Continued)

- A-14. Do all the program's public and internal references to and portrayals of individuals with disabilities in written and audio-visual materials respect personal dignity, including use of appropriate terminology?
- A-15. What actions does the program take to solicit the input of individuals with disabilities and their representatives?

Assessment (Continued)

A-16. How are individuals with disabilities notified regarding their rights under Section 504 and the procedure for filing a complaint?

Likely Compliant? Yes or No

A law enforcement program that has routine interaction with the general public has posted its Section 504 nondiscrimination obligations and procedures for filing a complaint on its fully accessible website.

[Answer: Yes. Use of the program's website is an effective means for posting this information. The program may also want to consider posting this information in physical locations within its facility that are frequented by the general public.]

Assessment (Continued)

A-17. Describe the circumstances and resolution of any complaints received within the past three years in which failure to provide equal opportunity or reasonable modification and/or discrimination based on disability was alleged.

Part B: Effective Communication

Assessment (Continued)

B-01. How do the program's personnel and procedures ensure that individuals with disabilities are treated in a nondiscriminatory manner?

B-02. What are the procedures for personnel to follow to effectively communicate with individuals who have vision, hearing, speech, physical, and intellectual disabilities?

Assessment (Continued)

B-03. What is the program's process for providing auxiliary aids and services (including qualified sign language interpreters) upon request to ensure effective communication with individuals with disabilities?

Likely Compliant? Yes or No

The program has no way to arrange for qualified interpreters for “walk-in” or scheduled appointments. The program asks a person who is unable to communicate to read lips or write/draw during complex and/or lengthy communications such as during an eligibility interviews or medical consultation.

[Answer: No. The program needs to have an established procedure in place for furnishing auxiliary aids and services.]

Assessment (Continued)

B-04. In providing auxiliary aids and services, how is primary consideration given to the preference of the individual with a disability?

Likely Compliant? Yes or No

A law enforcement agency will not allow an individual with an intellectual disability to use his picture board for expressive communication because of concerns it will be burdensome and that using this approach will not lead to an accurate record of the interaction.

[Answer: No. The agency should honor the individual's preferred communication method since it is unlikely that allowing him to use his own communication board would be an undue burden. Denying the use of the picture board will likely lead to less accurate communication with the individual.]

Assessment (Continued)

B-05. Describe the training and instruction on the use of auxiliary aids and services provided to personnel.

B-06. How is on-site information regarding the program provided in an accessible manner for individuals with vision, hearing, physical, and intellectual disabilities?

Likely Compliant? Yes or No

Welcome videos are shown with audio description and open captioning at service centers to ensure that individuals with disabilities can learn about the types of assistance available and successfully obtain assistance.

[Answer: Yes. These measures ensure that the visual and audio information contained in the welcome videos is accessible to a variety of people with disabilities.]

Assessment (Continued)

B-07. How do individuals with hearing or speech disabilities access a TTY or an equally effective telecommunications system at the program location?

Likely Compliant? Yes or No

A law enforcement program has well-trained officers able to identify potential communication-related disabilities and a process in place to obtain the device/service needed to achieve effective communication.

[Answer: Yes. The obligation to ensure effective communication with individuals with disabilities extends to all aspects of law enforcement.]

Assessment (Continued)

B-08. How has staff responsible for phone communications been trained on the use of the accessible telecommunications system?

B-09. How are the program's interactions with the public through telephone lines made accessible for individuals with disabilities?

Assessment (Continued)

B-10. If the program maintains a hotline for urgent issues from the public, how does this telephone line allow for direct access by a TTY or other equally effective communication system?

B-11. How is on-site electronic and information technology (e.g., registration computers, application or information kiosks, security verification equipment) provided in an accessible manner for individuals with disabilities?

Likely Compliant? Yes or No

Service center facilities all have at least one computer station that is equipped with screen magnification software and screen reader software for users who are blind or have low vision.

[Answer: Yes. And staff should be trained to offer basic assistance to customers on how to use the equipment if needed.]

Assessment (Continued)

B-12. How does the program ensure that its Internet-based information and applications are accessible for individuals with disabilities?

Assessment (Continued)

B-13. Describe the processes in place to ensure that the organization complies with the obligation to ensure effective communication in accordance with Section 504.

B-14. How are members of the public informed of their right to file a complaint under Section 504 related to the organization's provision of auxiliary aids and services?

Assessment (Continued)

B-15. How are public meetings and events (both in-person and virtual) made accessible for individuals with disabilities?

Likely Compliant? Yes or No

An agency policy requires that all televised press conferences featuring agency leadership have a qualified interpreter visible alongside the speaker.

[Answer: Yes. Providing in-frame sign language interpretation ensures that many deaf individuals viewing the broadcast will receive the important information in a form understandable to them.]

Assessment (Continued)

B-16. How is the existence and location of accessible services, activities, and facilities communicated to individuals with disabilities?

B-17. How are the program's structural communications (including displays, signage, and elevator controls) made accessible for individuals with disabilities?

Assessment (Continued)

B-18. How are the program's evacuation procedures and emergency communications made accessible for individuals with disabilities?

Likely Compliant? Yes or No

The facility's occupant emergency plan requires all visitors with disabilities to remain in areas of rescue assistance because it has been deemed unsafe to have individuals with disabilities use the stairs during an evacuation of the building.

[Answer: No. This policy is based upon preconceptions about people with disabilities. Many individuals with disabilities are able to use the stairs safely and efficiently. Visitors should be given the choice to remain in the area of rescue assistance or use the stairs, based upon their knowledge of their own capabilities.]

Assessment (Continued)

B-19. Describe the circumstances and resolution of any complaints received within the past three years in which lack of effective communication with individuals with disabilities was alleged.

Part C: Physical Accessibility

Assessment (Continued)

C-01. What are the key physical features of the program's facilities that ensure access for individuals with disabilities (including approach/entrance, service areas, housing units, restrooms, and amenities)?

Assessment (Continued)

C-02. Describe any structural changes that have been made within the past three years to ensure access to program facilities for individuals with disabilities.

C-03. Describe any nonstructural strategies that have been used within the past three years to ensure overall program access for individuals with disabilities.

Likely Compliant? Yes or No

An agency facility with stairs leading to its entryway is on the Historic Register. The facility installs a temporary ramp to enable individuals with mobility disabilities to access the building.

[Answer: Yes. Recipients generally do not have to make structural changes that will damage the historical significance of the building. However, recipients should take other measures to make the program accessible to individuals with disabilities.]

Assessment (Continued)

C-04. What policies and criteria have been established to ensure that selection of new program sites/facilities comply with applicable accessibility standards?

C-05. What policies have been established to ensure that owned and leased property and facilities provide physical access for individuals with disabilities?

Assessment (Continued)

C-06. Describe how facility managers consult with program managers about the purpose and function of the physical space to ensure that new construction and alterations are readily accessible to and usable by individuals with disabilities?

C-07. What assurances are required of contractors to ensure that their facilities provide physical accessibility for individuals with disabilities?

Assessment (Continued)

C-08. What procedures have been established to ensure that accessible features (including mechanical elements) are maintained?

C-09. What measures have been taken to ensure that transportation activities associated with the program have been made accessible to individuals with disabilities?

Likely Compliant? Yes or No

A newly constructed training complex has accessible vehicles within its fleet to transport employees and visitors with disabilities to outlying areas of the campus.

[Answer: Yes. The facility has prepared for the needs of employees and visitors with disabilities who require accessible transportation.]

Assessment (Continued)

C-10. Describe any circumstances within the past three years in which the inaccessible features of facilities resulted in segregated interactions with individuals with disabilities.

Likely Compliant? Yes or No

The program opts to renew its lease in a popular, well-trafficked location where the service center entrance has stairs but no ramp at the entryway. The staff ask individuals with disabilities who use mobility devices to remain outside the facility and staff bring the necessary forms for assistance to them.

[Answer: No. The issue here is that the program chose not to re-locate to an accessible facility when it had the opportunity to do so at the time the lease expired.]

Assessment (Continued)

C-11. Describe the circumstances and resolution of any complaints received within the past three years in which lack of physical access for individuals with disabilities was alleged.

MODULE II

Ensuring Effective Communication with Individuals Who Have Disabilities

Effective Communication

All recipients of federal funding are required to take steps to ensure that their communications with people with disabilities are as effective as communications with others. This requirement is referred to as “effective communication.”

Effective Communication (Continued)

- Simply put, “effective communication” means that whatever is written or spoken must be as clear and understandable to people with disabilities as it is for people who do not have disabilities.
- Ensuring effective communication often involves furnishing auxiliary aids and services to individuals with disabilities.

Examples of Common Auxiliary Aids and Services

For individuals with hearing or speech disabilities:

- Qualified interpreters; qualified deaf/blind interpreters; note takers; exchanging written notes; open and closed captioning; real-time captioning; assistive listening devices; and text telephones.

For individuals who are blind or have low vision:

- Screen reader software; magnification software; optical readers; electronic, large print, and braille materials; and qualified readers.

Interactive Process

- Your organization should consult with the individual with a disability whenever possible to determine what type of auxiliary aid is needed to ensure effective communication – what we refer to as an “interactive process.”
- If the aid or service will pose an undue burden to the program, your organization does not need to provide the auxiliary aid and service but must still seek other ways to provide effective communication utilizing a different auxiliary aid or service.
- There is NO CHARGE to the individual for these aids & services.

Assistive Listening Systems/Devices (ALS)

- These systems or devices are essentially amplifiers that bring sound directly into the ear.
- They separate speech and other important sounds that a person wants to hear from background noise, improving the “speech to noise ratio.”
- ALS devices are quite effective in large program settings, gatherings, meetings, or events.

Training Scenario

You are hosting a training session. It will be held in a large meeting room at your facility. There will be read ahead materials and a test at the end. Presenters will be using a microphone and there are several speakers at locations around the room. The number of participants will be about 75 people. The room has hardwood floors and paneled walls. This training will result in a certificate of professional achievement.

True or False

You've received one request for an assistive listening device, but because presenters will be using the microphone system, there should be no need to provide such a device.

[Answer: False. The description of the training room indicates that there are many hard surfaces, which may result in echoing or other interference with being able to clearly hear what's being said for someone with hearing loss. There will be a large group present, perhaps resulting in increased background noise. Also, given the importance of the training – attendees will receive professional certification – it is likely that you should provide the assistive listening device.]

Qualified Sign Language Interpreters

Consider the following factors in determining the need for a Qualified Interpreter:

- What is the context of the conversation?
- How many people are involved in the conversation?
- How important is the communication?
- Are the individual's civil rights being discussed?
- Are there any legal, medical, safety or program eligibility issues being discussed?

Qualified Interpreters (Continued)

Your organization cannot require an individual with a disability to bring another individual to provide sign language interpretation. You may not rely on an adult (including an accompanying family member) to interpret or facilitate communication, except:

- in an emergency involving imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter available; or
- when the individual with the disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for assistance is appropriate under the circumstances.

You may NOT rely on a minor child to interpret except under the emergency circumstances described above.

Telecommunications

When the recipient uses an automated-attendant system, including, but not limited to, voicemail and messaging, or an interactive voice response system, for receiving and directing incoming telephone calls, that system must provide effective real-time communication with individuals using auxiliary aids and services, including text telephones (TTYs) and relay services, including Internet-based relay systems.

True or False

While accepting training registrations over the phone, your organization receives a call that begins with the caller saying , "Hello. This is the relay service..." This is likely a prank call and you should just hang up.

[Answer: Likely, false. You are likely receiving a call from a communication assistant who is speaking on behalf of a deaf person or someone who has a speech disability. Do not hang up.]

Yes or No

You have already received a request for, and have made arrangements for, providing a sign language interpreter at your training session. A different registrant then requests an on-site captioner. Will providing the interpreter fulfill your accessibility obligations for both participants?

[Answer: Likely no. Not everyone who uses sign language can comprehend captioning as effectively, and not everyone who uses captioning can comprehend ASL as effectively.]

True or False

On the day of your training, you are notified that the ASL interpreter you had hired to interpret for participants has experienced an emergency and will not be able to fulfill her duties; it is too late to find a replacement. One of your staff is currently studying American sign language and believes she knows enough to fill in and provide ASL for the training session. This is ok, as she works at your organization and knows most of what will be presented during the training.

[Answer: False. The staff person offering to assist is NOT a qualified interpreter. Despite the inconvenience, you would need to re-schedule the training so that the requested qualified interpreter is present.]

Effective Communication for Individuals with Vision or Manual Disabilities

- Staff should be prepared to assist individuals who have difficulty completing paperwork associated with programs or services that you provide.
- For lengthy or complex paperwork, consider hiring and providing a qualified reader, by appointment. If no confidential or legal information is required, a staff member may serve as a qualified reader.
- Paperwork could be provided in an alternate format, such as large print or braille, per the needs of the individual.
- Electronic formats may also be used. If so, they must be accessible to individuals with disabilities.

Planning the Training

- Ensure that your training announcement and all training materials are provided in accessible electronic formats. Here is a resource:
<https://www.section508.gov/content/build/create-accessible-documents>
- Provide information in your announcement about how to request an auxiliary aid, service, or modification and any timelines for making this request.
- If provision of an ASL interpreter is involved, once you have obtained the interpreter for the training, you may provide the training participant with contact information for the interpreter.
- Provide select meeting-related materials to the interpreter ahead of the meeting so that the interpreter can develop familiarity with the subject matter.

True or False

In order to fulfill your obligation to provide accessibility, you must always provide a sign language interpreter, anticipating that someone might need this service at the training session.

[Answer: False. You do not need to provide a sign language interpreter without a request to do so. However, in your training announcement, you should provide an avenue for registrants to request an auxiliary aid or reasonable modification of policy. If a registrant requests in advance that you provide an interpreter at the training, you are then obligated to do so.]

Yes or No

You have ensured that all training materials, including in-class worksheets, have been produced in an accessible electronic format. A blind participant requests that you provide an on-site reader to assist them with reading and completing the in-class worksheets. Do you have to provide the reader?

[Answer: Likely, yes. The participant may need the reader, who in this case might be a staff member, for accomplishing tasks such as completing written worksheets, reading other classmates' worksheets, and reading/describing the written flipchart notes posted around the room.]

Selecting the Training Location

- Are the entryways to the building accessible, for example are there automatic door openers and ramps in addition to stairs?
- Is there accessible parking available?
- Is there accessible public transportation nearby?
- Is there a grassy area for service animals to use when taking a break?
- Are seating and tables arranged in a manner so that individuals with mobility devices can move about without obstruction?
- If a podium will be used, is its height adjustable so that all presenters will be visible to the audience?
- Are restrooms accessible?

Tips for Virtual Events

- Examples of format options that can be used are Microsoft Teams and Zoom, which both offer the ability to join meetings using audio and video from a device or to dial-in via a conference phone number from a telephone. This way participants can select the format that suits them best.
- Individuals who are deaf or hard of hearing may request live captions or sign language interpreters on camera in order to access the spoken content of an online event. Other meeting participants can benefit from captions as well, both for live and recorded meetings.
- Monitor the chat box, read aloud the author and questions/comments to be addressed. Use of the chat box is also an alternative method of communication to speaking aloud.

Resources for Virtual Events

- [Virtual Meetings: Accessibility Checklist & Best Practices \(americanbar.org\)](#)
- [National Association of the Deaf - NAD](#)
- [Hosting Accessible Virtual Meetings and Events | University Disability Resources \(harvard.edu\)](#)
- [Hearing Assistive Technology - Hearing Loss Association of America](#)

Key Principles for Effective Communication

- Take steps to ensure that communications with individuals with disabilities are as effective as communications with others by providing, where necessary, appropriate auxiliary aids and services.
- Give primary consideration to providing the type of aid or service requested by the individual with a disability; the recipient should honor that choice, unless it can demonstrate that another equally effective means of communication is available.
- Provide notice to potential participants regarding the availability of alternative forms of communication.
- Take other action that ensures effective communication if granting the requested auxiliary aid would pose a fundamental alteration or undue burden to the program.

Key Principles for Effective Communication (Continued)

- No One Size Fits All - Many individuals experience disability in different ways, and their requests and preferences cannot be assumed or fully predicted in advance.
- The recipient should maintain a core capacity, including establishment of procedures, to provide the most commonly requested auxiliary aids and services to individuals who have sensory, manual, and speech disabilities.
- For less common requests, the recipient should have in place procedures for obtaining these auxiliary aids and services in a timely manner.

Module III

Providing Reasonable Modifications of Policies, Practices, and Procedures

Reasonable Modification

A reasonable modification is a change or modification to afford a qualified individual with a disability full enjoyment of the recipient's programs or activities, unless modifications of policies, practices, and procedures would fundamentally alter the nature of the program, service, or activity, or result in undue financial and administrative burdens to the recipient.

Reasonable Modification (Continued)

- The individual does not need to put their request for modification in writing; however, making a written request can be helpful documentation for ensuring that the recipient provides the desired modification.
- Note that the individual does not need to use the specific words “reasonable modification” when making the request.

Interactive Process

- In some cases, the recipient will need to consult with the individual in an interactive process to determine on a case-by-case basis what modifications can be made.
- The recipient's questions should be limited to understanding the barrier to the individual's ability to participate in the program or activity and the nature of a modification that will remove this barrier.

No Surcharges

A recipient cannot charge a qualified individual with a disability a fee for providing program access, an auxiliary aid or service, or a reasonable modification of policies, practices, and procedures.

Undue Burden

- If the recipient believes that providing program accessibility, an auxiliary aid or service, or a modification to policies, practices, and procedures for an individual with a disability would pose a fundamental alteration or undue burden to the program, the recipient does not have to take this action.
- However, such a determination must be made at the highest level of the organization and must consider all of the recipient's resources available for use in the funding of the program.
- The recipient must also take any other action that would not result in an alteration or burden but would nevertheless ensure that the individual with a disability receives the benefits and services of the program.

Service Animals

- A common form of reasonable modification is the modification of “No Pets” policies to permit the presence of service animals.
- Under the ADA and Section 504, a service animal is a dog that has been individually trained to do work or perform tasks for an individual with a disability.

Scenarios

The following are hypothetical scenarios illustrating the principles of reasonable modification in the context of a town holding an awards ceremony for local first responders.

Yes or No

Scenario 1: One of the 15 awardees requests the town to move the date of the event so that her father, who requires a personal care attendant, can attend the event when the care attendant is available to accompany him. Does the town have to grant this request?

[Answer: Likely not. The town may be able to deny the request on the grounds that granting the request would pose a fundamental alteration to the program.]

Yes or No

Scenario 2: A member of the public who is planning to attend the event requests that the town make structural changes to the front entrance of the event venue to enable him to enter the front door using his wheelchair rather than entering through the accessible side door. Does the town have to grant this request?

[Answer: Likely not. If the venue was built in compliance with applicable standards at the time of construction, the town may be able to deny the request and still fulfill its obligation to provide overall program access by having the individual use the side door.]

Yes or No

Scenario 3: Now being aware that someone who uses a wheelchair will be attending the event, the event staff scramble to find a lower registration table that will work for someone using a wheelchair. Could the event staff have handled this differently?

[Answer: Yes. The staff could have planned to use an accessible table from the outset. This is an example of how planning ahead for maximum accessibility promotes access for everyone and avoids the need for reactive site modifications.]

Yes or No

Scenario 4: Following registration, the event staff direct the wheelchair user to an open space just behind the main seating where the individual will have a direct line of sight down to the stage. Have event staff fulfilled their accessibility obligations?

[Answer: Likely not. If there was a side ramp or door leading to the lower seating area, the staff could have offered that option to the individual. The organizer has an obligation to establish multiple options for integrated, accessible seating among the rest of the audience.]

Yes or No

- Scenario 5: Event staff have reserved the first row of seating for each awardee to have one family member present. One of the awardees has invited his brother who has an intellectual disability; his brother requires the presence of a support person. Were the event staff correct to modify the seating policy so that the awardee's brother could be accompanied by his support person in the front row?
- Answer: Yes. Event staff were correct to modify the seating limitation to permit the brother to be accompanied by his support person, if requested.]

Yes or No

- Scenario 6: At the top of the steps leading down to the seating area, event staff observe an older woman walking very slowly, carefully and using a cane who pauses and peers around, seemingly to find an easier way to access the seating area. Do the event staff have an obligation to approach the woman to see if she needs assistance?
- [Answer: Yes. If the event staff know, or reasonably should know, that the woman may need assistance due to a disability, staff have an affirmative obligation to approach the woman to initiate the interactive process. They should ask if she needs assistance, and if she does, they could lead her to the side ramp to access the seating area.]

Yes or No

- Scenario 7: At the front entrance to the venue, event staff turn away a woman carrying a cat who claims the cat is her service animal. Have event staff fulfilled their obligation?
- [Answer: No, not entirely. The staff were correct to state that the cat cannot be permitted inside as a service animal, but the staff should have told the woman she could come back without the cat and attend the event.]

Yes or No

Scenario 8: During intermission, an event staff member approaches a young man offering water from a bowl to his service dog in the restroom, and the staff member asks the young man to discontinue this activity due to hygiene concerns. Was the staff member correct to express these concerns?

[Answer: No. With very few exceptions, service animals are permitted to enter into any location visited by the general public, including restrooms.]

Key Principles for Reasonable Modification

The recipient:

- must make reasonable changes to rules, policies, practices, and procedures to provide meaningful access to qualified individuals with disabilities;
- must let program applicants and participants know about their right to request reasonable modifications; and
- may deny the modification if providing it would result in a fundamental alteration or undue financial and/or administrative burden to the program.

Key Principles (Continued)

- Each request for an accommodation or modification must be assessed individually.
- A recipient may not base its decisions on assumptions, stereotypes, or beliefs about individuals with disabilities.
- The decision must be based on an objective, fact-based inquiry regarding the need and how best to accommodate it.
- The recipient must engage with the qualified individual with a disability in an interactive process, which involves a good faith effort to identify a modification that will be effective and reasonable.
- The recipient may wish to establish procedures by which the interactive process is conducted.

Module IV

Tips for Interacting with People Who Have Disabilities

Introduction

Nondiscrimination often begins by treating people with respect, which includes:

- understanding disability myths and facts;
- using terminology preferred by the community; and
- practicing tips for interacting with people who have disabilities.

Myths

Many misconceptions about people with disabilities persist, particularly in the minds of those who have not experienced disability within their own life or in the lives of people around them.

Facts

Disability is a natural part of the human experience. People with disabilities are part of the fabric of the community and share the same societal goals.

True or False

Treating everyone the same fulfills my nondiscrimination obligation.

[Answer: False. Sometimes, furnishing aids and services, modifying policies and procedures, or removing structural barriers is necessary to ensure equal opportunity for people with disabilities.]

True or False

All people with disabilities are heroes.

[Answer: False. Most people with disabilities are just going about their ordinary lives. However, like anyone, a person with a disability can become a hero by performing a heroic act.]

Myths/Facts – Key Points

- Do not generalize about the nature of a disability.
- Do not attempt to “imagine” what it must be like to have a disability.
- Engage directly with people who have disabilities to gain their perspective.

Preferred Terminology

It is important to use terminology that is preferred by the disability community. The way we view and communicate with people who have disabilities shapes our relationships with them.

People First

- People with disabilities are people first; they are not defined by a condition or medical diagnosis.
- Example: A person is not an “epileptic;” he is “a person with epilepsy.”
- Putting the person first in our communications is not “political correctness;” it is showing respect for the dignity of the individual.

Disrespectful Terms

- disabled, handicapped, impaired
- crippled, lame, defective, invalid
- afflicted with, suffers from, stricken with, victim of
- special needs, challenged, differently abled
- normal person, healthy person (when contrasted with a person with a disability)

Disrespectful Terms (Continued)

- speech impaired, halted, mute
- wheelchair bound, confined to a wheelchair
- mentally retarded, mentally impaired
- crazy, psycho

Yes or No

Are all of the following terms generally acceptable to the community?

- deaf, hard of hearing
- blind, low vision
- little person

[Answer: Yes. Each of these terms is widely used within the community. In addition, the terms, “the Deaf,” and “the blind,” are also acceptable to those communities.]

Preferred Terminology – Key Points

- Not all people with disabilities use the same terminology, and different terms may be preferred in some circles and not in others.
- Begin by using the generally accepted terms, and then respect the individual's terminology preferences, if different.
- Do not attempt to use disability slang or jargon unless you are a part of that community.

True or False

- American Sign Language is the English language translated into gestures.

[Answer: False. ASL is its own language, with its own unique rules of grammar and syntax.]

Person with a Hearing Disability

- Look directly at the person and speak clearly, naturally, and slowly to establish whether the person can speech read.
- Offer to the person a means of exchanging written messages to see if that would be helpful to facilitate the communication process.
- If a sign language interpreter is present, look at and speak to the person who is deaf, not the interpreter.
- When gathered as a group, speak one at a time.

True or False

- People who are blind do not develop a better sense of hearing.

[Answer: True. People who are blind do not develop better hearing faculties, but they do often use their hearing in different ways.]

Person with a Vision Disability

- Greet the person verbally and identify yourself to them.
- Do not grab the person's arm or cane assuming they need assistance; ask first.
- If they ask for assistance, offer your arm as a guide just above the elbow and describe any obstacles in the path of travel.
- If the person has a guide dog, walk on the side opposite the dog and do not engage with the dog, even through eye contact.
- Indicate in advance if you will be moving from one place to another, and let it be known when the conversation is at an end.

Person with a Speech Disability

- Listen attentively; keep your manner encouraging rather than correcting.
- Do not attempt to speak for a person with a speech disability.
- Never pretend to understand if you are having difficulty doing so.
- Repeat what you understand or incorporate the person's statements into follow-up questions.
- The person's reactions will guide you.

True or False

- Many people who use wheelchairs are able to stand and walk short distances.

[Answer: True. The mobility and dexterity of wheelchair users ranges greatly from individual to individual.]

Person with a Mobility Disability

- When talking at length to a person who uses a wheelchair or crutches, sit in a chair, whenever possible, in order to put yourself at the person's eye level.
- Do not touch the person's wheelchair or equipment without the owner's prior consent or instructions.
- Never patronize people who use wheelchairs by immediately addressing them by their first name, or by patting them on the head or shoulder.
- People with limited hand use or who wear an artificial limb can usually shake hands; shaking hands with the left hand is an acceptable greeting.

Person with an Intellectual or Developmental Disability

- Speak directly to the person and respect their expressed preferences as to choices or decisions.
- If you are in a public area with many distractions, consider moving to a quiet location.
- Be aware of the possible need to speak to the person in clear and short sentences. Repeat your information and your questions, as needed.
- Use concrete words and visual aids or color-based cues.
- It may be helpful to offer assistance completing forms or understanding written instructions, and provide extra time for decision-making.

True or False

Most people with mental illness are dangerous.

[Answer: False. Most people who have mental illness do not exhibit violent behavior. They are among the most stigmatized because they are among the most misunderstood.]

Person with a Non-Apparent Disability

- Most disabilities are not observable or apparent.
- People with brain injury, epilepsy, mental illness, autism, or developmental disability are often misunderstood because their behaviors or ways of communicating may appear “unusual.”
- Seek to communicate directly with the individual and be cautious about seeking the assistance of the person’s companion, caregiver, or personal assistant.
- Allow extra time for the person to process what you are saying and to respond.

Interactions – Key Points

- Talk directly to the person with a disability.
- Do not engage with service animals.
- Communicate clearly and comprehensibly.
- Be mindful of the individual's personal space (including their equipment).
- Do not assume the preferences and needs of people with disabilities.

Interactions – Key Points (Continued)

- Do not ask about the nature of the person's disability.
- Focus on what the person with a disability is communicating to you.
- Relax, act naturally, and do not be afraid to use common expressions (such as saying “See you later” to a person who is blind).
- Only if the person appears to need help, ask if, and then how, you may be of assistance.

Technical Assistance Resources

Online Resource Guides and Additional Information

- [Reasonable Accommodation Guidance, Sample Notice and FAQs](#)
- [Section 504 of the Rehabilitation Act of 1973](#)
- [DHS Component Self-Evaluation and Planning Reference Guide](#)
- [DHS Guide to Interacting with People Who Have Disabilities](#)
- [ADA.gov](#)
- [Sample Notice of Nondiscrimination / Policy Statement](#)
- [Developing a Discrimination Complaints Process](#)
- Webinar Presentations Slides
- [Civil Rights Evaluation Tool Overview](#)

Recipient Resource Webpage:

<https://www.dhs.gov/resources-recipients-dhs-financial-assistance>

Click on “Recipient Resources”



Homeland
Security

Contact Us

For questions or technical assistance on meeting your civil rights obligations, please contact:

DHS Office for Civil Rights and Civil Liberties (CRCL)

Email:

CivilRightsEvaluation@hq.dhs.gov

Website:

<https://www.dhs.gov/resources-recipients-dhs-financial-assistance>