Sample Disability Nondiscrimination Program and Policy[1]

Recipient is committed to providing individuals with disabilities the opportunity for full participation in its programs, services, and activities through its compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990, as amended by the ADA Amendments Act of 2008.[2]

Recipient recognizes that individuals with disabilities may need accommodations or modifications[3] to have equal opportunities to participate in or benefit from Recipient's programs, services and activities.

It is Recipient's policy that no otherwise qualified individual with a disability will be denied access to or participation in any program, service, or activity offered by Recipient. Recipient will administer programs, services, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.[4]

Recipient will provide at no cost appropriate auxiliary aids and services including, for example, qualified interpreters to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the programs, services, and activities provided by Recipient in a timely manner and in such a way as to protect the privacy and independence of the individual.

Individuals with disabilities have a right to request accommodations. Individuals will receive accommodations appropriate to their needs in order to fully participate in or benefit from Recipient's services and activities in a non-discriminatory, integrated setting.

Recipient and any of its agents will not coerce, intimidate, retaliate against, or discriminate against any individual for exercising a right under the ADA or Section 504, or for assisting or supporting another to exercise a right under the ADA or Section 504.

This Program and Policy applies to all Recipient subrecipients, agents and contractors.

Definitions

A. Disability means, with respect to an individual:

1. a physical or mental impairment that substantially limits one or more of the person's major life activities;
2. a history of such an impairment; or
3. being regarded as having such an impairment.

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[1] This sample policy is provided for the purpose of providing technical assistance to assist Recipient in complying with federal civil rights laws and EPA's nondiscrimination regulation. *See* 40 C.F.R. § 7.105. It is not intended as legal advice. Also, while EPA has made every effort to ensure the accuracy of the information discussed in this sample policy, the relevant statutes, regulations, and other legally binding requirements determine Recipient's obligations as a recipient. In the event of a conflict between the sample policy and any statute or regulation, the sample policy would not control.

[2] Recipient also prohibits discrimination in employment, including on the basis of disability. For Recipient's employment discrimination policy, see Recipient Policy ####.

[3] Section 504 of the Rehabilitation Act refers to reasonable accommodations, while Title II of the ADA refers to reasonable modifications. For purposes of this document, "accommodation" will refer to both.

[4] *See* 40 C.F.R. § 7.55.

B. Qualified Individual with a Disability is someone who (with or without accommodations) meets the essential eligibility requirements for participating in Recipient's programs, services, and activities.

C. Accommodation means adjustments including reasonable modifications to rules, policies, or practices; environmental adjustments such as the removal of architectural, communication, or transportation barriers; or auxiliary aids and services. Examples of accommodations include, but are not limited to: scribe, interpreter, environment free of distractions, material in Braille, tapes, and computer-assisted instruction.

Nondiscrimination Coordinator

The Nondiscrimination Coordinator will coordinate Recipient's efforts to comply with Section 504[5] and ADA,[6] including ensuring the following:

A. Recipient will adopt and make readily available in suitable formats (*e.g.*, enlarged, Braille, audio-taped):

   1. a procedure that allows an individual to disclose a disabling condition and request accommodations believed needed to obtain equal access to and enable participation in Recipient programs, services, and activities;
   2. a procedure for maintaining personal information in a manner that protects the privacy and independence of the individual; and,
   3. a procedure for providing accommodations.

B. Recipient will maintain data on the nature and extent of the services provided to individuals with disabilities and develop data collection requirements as part of the operational guidelines for implementing this policy.

C. Recipient will provide accommodations to allow individuals with disabilities to participate in or benefit from Recipient and its programs, services, and activities in the most integrated setting appropriate.

D. Recipient will utilize the grievance procedures set forth in in its nondiscrimination program and policy for providing prompt and equitable resolution of complaints alleging any action that would violate Title II of the ADA or Section 504. These procedures should be applicable to any anticipated complaint, including an appeal of a denied accommodation request.

E. Recipient will provide services that are required to comply with ADA and Section 504 free of charge.

F. Recipient will provide periodic in-service training for faculty and staff to develop their awareness and understanding of the needs of individuals with disabilities and legal compliance issues.

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[5] *See* 40 C.F.R. § 7.85(g): "If the recipient employs fifteen (15) or more employees, it shall designate at least one person to coordinate its efforts to comply with its obligations under [40 C.F.R. Part 7]."
[6] Please note that EPA enforces Section 504 of the Rehabilitation Act of 1973, but does not enforce Title II of the ADA. References to ADA have been included because Recipient is obligated to comply with ADA Title II regardless of its status as a recipient of federal financial assistance.

Facility Accessibility

Consistent with Recipient's self-assessment, Recipient will consider the extent to which any Recipient facilities are "public facilities" or will be used by the public. Recipient will operate its programs and activities out of those facilities consistent with 40 C.F.R. § 7.65 so that, when each program or activity is viewed in its entirety, it is readily accessible to and usable by individuals with disabilities.

A. Existing Facilities:

1. Structural changes in existing facilities are not required when other methods provide program accessibility. Such methods include:

    a. Redesigning equipment or the facility after case review.
    b. Providing appropriate signage directing people to accessible features.
    c. Reassigning staff, or services to accessible sites.

2. Evacuation procedures will be developed by Recipient for individuals with disabilities.

B. New Construction:

Each facility or part of a facility constructed by, on behalf of, or for the use of Recipient must be designed and constructed in such a manner that the facility is readily accessible to and usable by persons with disabilities. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by individuals with disabilities.

C. Off Campus:

Contractual or lease agreements for the use of non-Recipient facilities should reflect efforts to secure accessibility. Any program, service, or activity in that facility must be accessible. If a program, service or activity is not wholly operated by Recipient, Recipient will attempt to assure that these programs, services or activities, as a whole, provide an equal opportunity for the participation of individuals with disabilities.

Accommodations:

No participant with a disability in a Recipient program, service or activity will be denied the benefits of, be excluded from participation in, or be otherwise discriminated against in the provision of services available to all individuals in general.

Each individual is responsible for making requests regarding accommodations to meet their particular needs in order to enable Recipient to provide an appropriate response to the accommodation request.

All auxiliary aids, services, or other accommodations used by individuals with disabilities to provide access to Recipient programs, services, and activities need not be on hand or present at all times.

Accommodations are not required that fundamentally alter the nature of the program, service, or activity; require waiver of essential program or licensure requirements; violate

accreditation requirements; or pose an undue fiscal or administrative burden on Recipient.

In determining appropriate accommodations, Recipient gives consideration to the wishes of the individual, and in certain appropriate circumstances, for example, the documentation provided and institutional expertise in working with individuals with disabilities.

Recipient will not require an individual with a disability to accept an accommodation, aid, service, opportunity or benefit under any circumstances.