



Disability Law and National Service Programs

It is essential for national service programs to acquire a basic knowledge of the state and national laws affecting the inclusion of people with disabilities. This chapter provides an overview of the important laws that promote the inclusion of people with disabilities in the United States. How these laws may affect the operation of your program depends upon your funding sources, your organization’s purpose and activities, and a number of other individualized factors.

****Please note: the guidance provided in this chapter is for information purposes only and should not be taken as legal advice. Legal issues are best addressed with an attorney familiar with disability law.***

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Important Disability Laws

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 (Rehab Act) prohibits discrimination against people with disabilities under **any program or activity receiving Federal financial assistance**, or under any program conducted by any Executive agency or by the United States Postal Service. The Rehab Act is often credited as a major factor that set the Disability Rights movement in motion in the United States.

As recipients of Federal funding, ALL national service programs and activities are prohibited from discriminating against people with disabilities.

To view the complete text of section 504 of the Rehabilitation Act of 1973 please visit the web site of the U.S. Department of Labor www.dol.gov/oasam/regs/statutes/sec504.htm

The Americans With Disabilities Act

The Americans With Disabilities Act (ADA) was enacted in 1990 to provide a clear and comprehensive national mandate to end discrimination against individuals with disabilities. The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of TDD/telephone relay services. To view the complete text of the ADA along with the changes made by the ADA Amendment Act of 2008 please visit the Department of Justice ADA website: <http://www.ada.gov/pubs/ada.htm>

The Michigan Persons with Disabilities Civil Rights Act

The Michigan Persons with Disabilities Civil Rights Act was enacted in 1976 and prohibits discrimination against Michigan citizens with disabilities in the areas of employment, public accommodation, public service, education, and housing.

Persons With Disabilities Civil Rights Act: Act 220 of 1976

An Act to define the civil rights of persons with disabilities; to prohibit discriminatory practices, policies, and customs in the exercise of those rights; to prescribe penalties and to provide remedies; and to provide for the promulgation of rules. To view the full text of the civil rights Act please visit the following website:

http://www.michigan.gov/documents/act-220-of-1976_8771_7.pdf



Providing Reasonable Accommodations

The Americans With Disabilities Act (ADA) was enacted in 1990 to provide a clear and comprehensive national mandate to end discrimination against individuals with disabilities. The law works to ensure that people with disabilities are given equal access to employment, public services, public accommodations, and telecommunication.

As a national service program, one of the important steps in fulfilling your inclusion commitment is being ready to provide reasonable accommodations to applicants and participants with disabilities. The information below focuses on what you need to know about providing reasonable accommodations.

Basic ADA Terminology

A **qualified applicant or participant with a disability** means an individual who satisfies the requisite skills, experience, education, and other service-related requirements of the position and can perform the essential functions of the position, with or without reasonable accommodation.

Essential functions are those duties that are so fundamental to the position that the individual holds or desires that he or she cannot do the job without performing them.

A **reasonable accommodation** is any change in the work environment or in the way things are customarily done that enables a qualified individual with a disability to enjoy equal service opportunities. Reasonable accommodations allow qualified individuals to have rights and privileges equal to those of participants without disabilities.

The ADA does not require programs to provide accommodations that pose an undue hardship. An **undue hardship** is defined as a reasonable accommodation that causes *significant difficulty or expense*. However, it is important to remember that most accommodations are not expensive nor do they involve a great deal of effort to implement.

Requirements for Making Reasonable Accommodations

National service programs and activities must be accessible to people with disabilities and the grantee must provide reasonable accommodations to the known disabilities of qualified service providers and applicants. All selections and project assignments must be made without regard to the need to provide reasonable accommodation.

In keeping with and supporting the spirit of the ADA, accommodations should be made without regard to coverage under the ADA when it is reasonable to do so. The Corporation for National and Community Service and the MCSC are committed to making service opportunities available to people with disabilities. This is the primary goal to keep in mind when making decisions about providing accommodations. The need for and appropriateness of any type of accommodation must be made on a case-by-case basis. Each individual, regardless of disability, will have unique abilities and needs.



Reasonable Accommodations May Include:

- Providing print materials in alternate formats (large print, Braille, etc.)
- Flexible work/service schedules
- Rearranging an office environment
- Restructuring the position duties
- Modifying equipment or devices
- Purchasing and installing new equipment or devices
- Providing qualified readers and interpreters
- Appropriate modification of the application and examination procedures and training materials

Reasonable Accommodations Do Not Include:

- Eliminating a primary position responsibility
- Lowering production standards that are applied to all service members
- Providing personal use items, such as prosthetic limbs, wheelchairs, eyeglasses, or hearing aids

Funding for Reasonable Accommodations

For cases where a reasonable accommodation would prove to be an undue hardship for a program, limited funding is available through the MCSC to provide accommodations for service applicants, AmeriCorps*State and National Direct members, Senior Corps volunteers, and Learn and Serve program participants. Programs should seek alternative funding or cost-sharing resources whenever possible. All national service programs must provide reasonable accommodations where required by law regardless of their eligibility for MCSC or outside funding.

The Reasonable Accommodation Process

The reasonable accommodation process must be confidential; no information is to be communicated to anyone who is not directly involved. Records pertaining to a disclosed disability, related medical information, and the reasonable accommodations made for that disability must be kept separate from the participant's regular file.

Disclosure of a disability is at the sole discretion of the participant. If the participant with a disability is willing to discuss his/her disability, they can be a valuable resource for educating fellow participants. However, they are under no obligation to do so.

The issue of confidentiality is particularly important when handling questions by other program participants or staff. While they may question accommodations received by another participant, program directors and other supervisory personnel are prohibited from discussing any information that addresses the accommodated individual's disability or need for reasonable accommodation. The best way to prevent conflicts around the issue of reasonable accommodation is to provide disability awareness training and to educate all participants as to your organization's responsibility to hold all personnel matters confidential. As part of that training, participants should be informed that reasonable accommodations are available to *any* qualifying participant.



Requesting a Reasonable Accommodation

As noted by the Equal Employment Opportunity Commission, individuals may request an accommodation at any time. Before an accommodation can be made, however, the individual must disclose to his/her Program Director or Site Supervisor that a disability exists and that an accommodation is needed. It is up to each individual to decide whether, when, how, and to whom he or she will self-disclose a disability. By stating, either verbally or in writing, that a disability exists, a person with a disability is then afforded and entitled to all the protections and provisions of the ADA. Disability related information provided in writing is, by law, kept confidential and separate from other personnel documents and may only be shared with others on a need-to-know basis.

Since the law prohibits asking if or assuming that a person has a disability, no matter how obvious a disability may appear, documentation of and accommodations for a disability cannot be provided until self-disclosure has occurred. If the individual does not self-disclose, he or she is not protected by the ADA and accommodations cannot be provided. The MCSC encourages national service participants to request reasonable accommodations when needed because of a disability to ensure full participation in all aspects of serving in a national service program.

Often an accommodation can be accomplished on site by a site supervisor or other staff member. In these cases it is not necessary to involve others in this process. Many accommodations can be made with little or no cost.

Reasonable Documentation

When the disability and/or need for accommodation is not obvious, the site supervisor or program director may ask an individual for reasonable documentation about his/her disability and functional limitations. Reasonable documentation means that the program or service site may require only the documentation that is needed to establish that a person has an ADA-covered disability and the disability necessitates a reasonable accommodation. Participants are not required to repeatedly provide medical information about an ongoing condition.

The Interactive Accommodation Process

One of the best resources for determining the appropriate accommodation can be the individual with the disability. However, it is important to be aware that people have varying levels of experience and success with requesting and receiving accommodations. It is important that the process remain as positive, open, and interactive as possible.

Once an accommodation has been requested, the participant or applicant and the program director or site supervisor should engage in an informal process to clarify the individual's needs and possible accommodations. The nature of this discussion will vary. In some instances both the disability and the type of accommodation required will be obvious. In other situations, the program director or site supervisor may need to ask questions concerning the nature of the disability and the individual's functional limitations in order to identify an effective accommodation. While the individual with a disability does not have to be able to specify the



precise accommodation, he or she does need to describe the problems posed by the service site barrier.

Providing the Reasonable Accommodation

As long as it is effective, the program may choose the accommodation that is easiest to provide, is least expensive, or is otherwise less burdensome. While the preference of the individual with a disability should be given primary consideration, the program is not obligated to provide the preferred accommodation. The participant has the right to refuse the offered accommodation, but if they do so and cannot perform the essential functions of their position, they may not be covered under the ADA.

Reasonable accommodations should be provided without delay. In most cases, participants serve for a limited amount of time and delays in implementing accommodations could keep the participant from having a successful service experience.

Reasonable Accommodation as an Ongoing Process

Once an accommodation has been implemented, it is important to monitor the success and continued appropriateness of the chosen accommodation. People and situations change and it is important to recognize that reasonable accommodation is a process and not a one-time fix.

Assessment of Service Performance

A person with a disability is not exempt from job/service standards and discipline but needs to be assessed in the framework of their eligibility for coverage under the ADA and the accommodations that have been provided. Keep in contact with the participant to ensure the accommodation is enabling them to serve effectively and accomplish his or her goals.



The Michigan Community Service Commission Reasonable Accommodation Funding Process

****By statute, only Michigan's AmeriCorps State and National AmeriCorps members, Senior Corps volunteers, and Learn and Serve participants are eligible to use these funds. However, all national service programs must provide reasonable accommodations where required by law regardless of their eligibility for MCSC or outside funding.***

Submission of the Application

Once it has been established that an applicant or member is eligible for a reasonable accommodation, the accommodation has been identified, and the program has determined that providing the accommodation would not be an undue hardship, an application for funding should be submitted to the MCSC as quickly as possible.

The MCSC Inclusion Coordinator will receive all applications for funds confidentially and the application reviewed for completeness and accuracy. If additional information is needed, the Inclusion Coordinator will contact the program director by telephone or letter to request the additional information. Complete applications will be forwarded for review.

Application Review Process

The Inclusion Coordinator, the MCSC Deputy Director, and an AmeriCorps Program Officer will review the application. The review process and notification of approval or denial will be completed within 30 days from the date of receipt. If circumstances necessitate a faster response, please contact the Inclusion Coordinator to discuss the situation.

Upon completion of the review, the Inclusion Coordinator will contact the program director to discuss the result. A letter of explanation detailing the outcome of the review process will be mailed to the program director within 30 days. If the application is approved, final arrangements will be made between the program director and the Inclusion Coordinator for providing the member with the requested accommodation(s).

Appeal of Denial of Funds

If the application is denied, the submitting organization has 30 days from the date of their application submission in which to appeal. The request for reconsideration must be in writing from the program director or other official of the applicant organization and submitted to the MCSC Inclusion Coordinator. The request for reconsideration should state the reasons why the applicant thinks the MCSC should reverse its decision, responding to the reason(s) given for the adverse decision noted by the MCSC. The MCSC will make a final decision within 30 days of receipt of the request for reconsideration.

Reporting Use of Reasonable Accommodation Funds

Programs are required to provide two reports on their use of any reasonable accommodation funds granted. The first report is due no later than two months after the accommodation has been provided and should detail the nature of the accommodation, the date of implementation, and the participant's initial response to the appropriateness of



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accommodation. The second report is due six months from the date the accommodation was provided. Information to be provided includes the nature of the accommodation, any changes to the accommodation, and an evaluation of the effectiveness of the accommodation provided. To insure confidentiality, the name of the member provided with the accommodation should not be used.

All reports are to be submitted to the Inclusion Coordinator. These reports will be used in the annual report to the Corporation for National and Community Service on the success of the Michigan's national service inclusion initiative and use of related funds.



Accommodation Funding Request (additional pages may be added if necessary)
Please describe the requested reasonable accommodation(s) and how it will allow the applicant/member to perform essential service functions or participate in program activities.

Estimated Cost of the Accommodation _____

Amount of MCSC funds requested _____

Describe additional funding you have secured for the accommodation requested, if applicable.

Will more than one individual benefit from this accommodation? If yes, please describe.

What measures will be used to determine if the reasonable accommodation was effective for the individual with a disability?

**Please attach any estimates or other information that supports your request.*

Program Director Signature / Date

Send, Fax, or Email the completed form to: Michigan Community Service Commission
Attn: Michelle Mackie
1048 Pierpont Ste 4
Lansing MI 48913
Fax: (517) 373-4977

*Email should be sent to Michelle Mackie at metzmaker1@michigan.gov

The Michigan Community Service Commission is firmly committed to providing access, equal opportunity, and reasonable accommodation in its programs, activities, and materials. Please call (517) 335-4295 to request accommodation or to obtain materials in an alternate format.



Michigan's Persons with Disabilities Civil Rights Act & The Michigan Civil Rights Commission and Department of Civil Rights

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The Michigan Civil Rights Commission & Department of Civil Rights

The Michigan Civil Rights Commission was created by the Michigan Constitution of 1963 to carry out the guarantees against discrimination articulated in Article I, Section 2. As further stated in Article V, Section 29, the state constitution directs the Commission to investigate alleged discrimination against any person because of religion, race, color or national origin and to "secure the equal protection of such civil rights without such discrimination." Public Acts 453 and 220 of 1976 and subsequent amendments have added sex, age, marital status, height, weight, arrest record, and physical and mental disabilities to the original four protected categories.

The Michigan Department of Civil Rights was established in 1965 to provide a staff complement to the policy-making responsibilities of the Commission. In 1991, the Department was expanded further. During that year, the Michigan Women's Commission was transferred from the Department of Management and Budget to this agency by Executive Order.

The Department of Civil Rights works to prevent discrimination through educational programs that promote voluntary compliance with civil rights laws and investigates and resolves discrimination complaints. It also provides information and services to businesses on diversity initiatives, equal employment law, procurement opportunities and feasibility studies, and joint venture/strategic alliance matchmaking.



A Guide to Disability Rights Laws

This document, published by the U.S. Department of Justice, provides an overview of several disability-related laws. Of particular importance to national service programs are:

- The Americans With Disabilities Act (ADA)
- The Rehabilitation Act
- Other Sources of Disability Rights Information

The complete document can be found online at: www.usdoj.gov/crt/ada/cguide.htm. This guide provides an overview of Federal civil rights laws that ensure equal opportunity for people with disabilities. To find out more about how these laws may apply to you follow the link provided and then contact the agencies and organizations listed for additional information.

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**From the U.S. Department of Justice, Civil Rights Division, Disability Rights Section*

Michigan Department of Civil Rights (Bill of Rights)

The Michigan Department of Civil Rights (MDCR) investigates complaints of discrimination in employment, education, housing, public accommodation, law enforcement, and public service based on religion, race, color, national origin, age, sex, marital status, height, weight, arrest record, disability or familial status. Click on the following link to view the MDCR Bill of Rights and Responsibilities:

http://www.michigan.gov/documents/mdcr/BillofRights41210_317647_7.pdf