



QUICK PRIMER ON DISABILITY LAW FOR GRANTEES

Who is a “grantee” under civil rights laws?

A “grantee” is any entity receiving monies, service members, or other assistance paid in whole or in part by Corporation funds. Every site or station where a full- or part-time service member is assigned is a “grantee.” “Grantee” also includes any entity receiving funds from the Corporation and distributing the monies to other entities that conduct national service programs.

What do federal statutes require of grantees in terms of persons with disabilities?

Section 504 of the Rehabilitation Act of 1973 prohibits recipients of federal financial assistance from discriminating against a qualified person with disabilities in any of their programs or activities. This applies to the Corporation’s primary grantees and all subgrantees.

The Americans with Disabilities Act of 1990 applies to Corporation grantees. For State and local government grantees, the standards under the two statutes are similar. However, for other Corporation grantees, while both statutes apply, the higher standards of the Rehabilitation Act govern.

The National and Community Service and Domestic Volunteer Service Acts are the statutes that authorize the Corporation and its programs. These statutes prohibit an individual with responsibility for the operations of a grantee from discriminating against a service member or staff member on the basis of disability, if the person is a qualified individual with a disability.

Who is a person with a disability?

Under all four statutes applicable to Corporation grantees, a person with a disability is defined as person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such an impairment, even though no impairment in fact exists.

What are impairments?

Impairments include any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting body systems. They include mental or psychological disorders and learning disabilities. They do not include homosexuality or bisexuality.

What are “major life activities?”

Major life activities include all aspects of a person’s life, such as walking, talking, breathing, seeing, hearing, and working.

Who is a “qualified person with a disability?”

A qualified person with a disability is a disabled person who can, with or without reasonable accommodation, fulfill the essential functions of the position.

Are there exceptions?

Persons **currently** using illegal substances or illegally using legal substances are excluded from the definition. Persons previously addicted but who are no longer illegally using substances are within the definition.

Persons who pose a direct threat to themselves or others (with the determination based on facts, not stereotypes, and considering the specific job or service requirements) are outside the definition. This is a very high standard -- use it only after careful documentation and counsel of experts.

Persons with infectious diseases pose a direct threat **only if** their disease presently poses direct threat when considered in terms of their specific job or service requirements.

“Disability” does not include pedophilia, transvestism, voyeurism, exhibitionism, transsexualism, gender identity disorders not resulting from physical impairments, other sexual behavior disorders, kleptomania, compulsive gambling, or pyromania.

How is disability discrimination established?

- Direct evidence of discrimination (comments, slurs, stereotypes)
- Circumstantial evidence (disparate treatment or impact analyses)
- Failure to provide reasonable accommodation

What can occur if a grantee discriminates or otherwise fails to comply with these laws?

The Corporation will attempt to bring the grantee into voluntary compliance. If those efforts fail, the Corporation must take action to suspend, terminate, or refuse to grant or continue to grant. The latter actions apply to all federal financial assistance, not just assistance from the

Corporation.

What are some of the most important concepts under the disability laws?

- Do not treat persons differently because of their disability or because you think they need/require/ are entitled to special treatment.
- Do not presume someone has a disability based on how he/she looks, acts, or what he/she says.
- To be entitled to reasonable accommodation and civil rights protections, the person must self-identify and establish he/she has a disability. Only then do you provide what is necessary for him/her to do the job or to perform service.
- Do not stereotype or lump all persons with a particular type of disability together. Persons with the same diagnosis may evidence their impairment in very different ways and have very different needs for any reasonable accommodation.
- Consider every situation on a case by case basis.

The Corporation's Office of Civil Rights and Inclusiveness (OCRI) may be reached at (202) 606-7503 (voice), (202) 565-2799 (TDD), (202) 606-3465 (FAX), or eo@cns.gov.

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