Reasonable Accommodations

Tips for Running an Inclusive National Service Program
Trends Across Programs

Discussion of:
- Disability Accommodation issues
- Recruiting issues
- Inclusion and retention issues
Defining “Disability”

“A person has a disability if they have a mental or physical impairment that substantially limits one or more major life activities.”

- Definitions are the same in Section 504 of the Rehabilitation Act and the ADA.
- Any entity receiving federal funding is required by Section 504 to provide reasonable accommodations to qualified members with disabilities.
The Americans with Disabilities Amendments Act clarifies “a major life activity” includes activities like:
- Walking
- Talking
- Seeing
- Thinking
- Communicating
- Lifting
- Bending
- Sleeping
- Working

Note: these are examples and not a comprehensive list.
What does this apply to?

- Episodic impairments are covered by the ADA.
- A disability only needs to limit one major life activity, not multiple activities.
- There is a “big tent” interpretation of who is protected by the ADA.
- “Regarded as” and “record of” are given protection according to the ADA.
A grantee reaches out about a training retreat they have planned where the meals are communally purchased and prepared. They have a set budget for meal costs and a incoming member just told them that they have celiac disease (which is the inability to digest gluten). This incoming member wants to have special food purchased and prepared.

What are their obligations, if any, to this member?
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*Would the grantee undergo different analysis if the member was vegan?*
Legal Obligations

All grantees receive federal funds and are required to provide reasonable accommodation to qualified members with disabilities according to section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

Learn more through e-courses on the Disability Knowledge Network page: https://www.nationalservice.gov/resources/disability-inclusion
Steps for Accommodation Process

Step 1: Recognize Request
Step 2: Gather Information
Step 3: Explore Accommodations
Step 4: Choose Accommodation
Step 5: Implement Accommodations
Step 6: Monitor Accommodations
A grantee is trying to determine if they are safe to reassign or even dismiss a member who has chronic tardiness issues. This member seems somewhat withdrawn and moody. They also stated they have a hard time getting up in the morning which is why they are routinely late to begin their service each day.

Does this grantee need to attempt to accommodate a possibly unarticulated disability?
Can you ask if they are disabled?

- You cannot approach a member who has not disclosed their disability and ask if they have one.
- The member is the only one who can initiate the disability status conversation.
- Don’t spend your valuable time being a medical detective -- even with the best intentions.
Is this an accommodation request?

A member tells their program supervisor that they have chronic migraines and they will not be able to serve when they need to treat their migraine.

Does the grantee have a request for disability accommodation?

Elements:
- A member tells a staff member they have some sort of medical issue.
- This issue will interact with their ability to serve.

Tip: train all supervisors to spot requests.
A member tells their supervisor that they have a Traumatic Brain Injury and have difficulty processing information.

What kind of information could the grantee gather to assist this member?

- A grantee is entitled to collect medical documentation from any member with a non-apparent disability.
- An apparent disability is one that you know someone has without asking them (e.g. a member uses a mobility device like a wheelchair or walker, a member uses a white cane for navigation who is blind, etc.).
- Non-apparent disabilities include but aren’t limited to: psychological disabilities, learning disabilities, developmental disabilities, chronic illnesses, autism spectrum disorder, etc.
What are you looking for with medical documentation?
- A brief statement from a doctor or rehabilitation professional who can state the name of the disability.
- The professional should also describe the functional limitations the member has associated with the disability.

What is inappropriate when collecting information?
- According to the Equal Employment Opportunity Commission: Supervisors should not request tests or test results or large volumes of medical information.

Who gets to see this information?
- Only those who need to know. Preferably not the direct supervisor and never co-members/peers.
- Documents Should be kept in a secure location.
When there is no concrete request

A member knows they have a traumatic brain injury and have difficulty because of it. However, they do not know what to ask for in terms of accommodations. *What could a grantee do to accommodate?*

- Work smarter, not harder by avoiding being Dr. Google.
- Start by asking the member for more information.
  - Prompt them – asking about accommodation in a summer job or other service experience.
- Get suggestions from medical professionals.
- Get suggestions from Vocational rehabilitation counselors.
- Ask the Job Accommodation Network in a free consult or refer to their online resources like the “A-Z Disability” resource: [www.askjan.org](http://www.askjan.org).
Another grantee gets a request from someone with a learning disability and this member provides them with a request with tremendous detail. In fact, they ask for 69 different items in a long written document. *The grantee asks me if they have to provide all of these things in order to comply with the law.*
When the request is sizeable cont.

Use the position description and list of their requests to do a matching exercise:
- Start with their requests - Boil down their requests looking for things that are duplicative or extremely similar.
- Match each request to their essential functions.
- Ensure all tasks in their position description are accounted for in your accommodation plan (they might not have thought of everything).
  - You are permitted at this stage to ask them how they will do X or Y.

Who gets to determine which accommodations are in the plan?
- The program/management.
- But, take into consideration their preferences since we all do better with buy in.
A grantee gets a request to purchase assistive software that reads the computer screen aloud. However, when the program loads the software on the computer the member uses, they experience all kinds of technology issues and the software never really works. The member is struggling to perform and the program wonders if they’ll even be able to serve at all since they can’t perform the essential functions of the position.

*Have the efforts they made been sufficient for the member? Or, what could they do? Who could help them if they have already gone round and round with their technology staff?*
Implementing accommodations

- A member is qualified for the position if they can perform the essential functions with or without accommodation.
- Ensure accommodations are implemented properly.
- Only evaluate “fit” after a member is effectively accommodated.
- Look to manufacturers of assistive technology for guidance on proper installation.
- A grantee has a member with bi polar disorder. They talked through the accommodations they would need and developed a plan. The plan doesn’t seem to work and the grantee does not know what to do. *Are they at the point where they can determine that the member is not a “good fit” since they tried accommodating them?*

- The final step in the accommodation process is monitoring accommodations. This includes tweaking the original accommodation plan if it isn’t working for either the member or the program.

  You are not “locked into” accommodations that you put in a plan.
  - Consider a trial time period for all accommodations.
  - Revisit it at a set time with the member to monitor successful implementation and workability.
  - Look for other solutions for things that are not working well – contact JAN or me.
Conduct violations

- A grantee has a member with ADD who has violated conduct rules for the program. The member claims it is because of their ADD. *Can they still institute the no tolerance policy even though a disability is in play?*

- Disability status and disability accommodation is not meant to be a free pass to violate a program’s rules.

- A reasonable accommodation is a request to change a program’s policies (so long as it doesn’t change the nature of the position).

- Document your efforts to show your due diligence.
- A grantee is contacted via email by someone who discloses their disability in the first interaction and asks questions about the service position. *Since the member disclosed, are they permitted to discuss disability and how the member would do the service tasks?*

- You can only discuss disability accommodation *after* offering the person an opportunity to serve.
Can you change their schedule?

A member asks if they can change the hours they serve since it is difficult to get up in the morning because of the medication they take to deal with depression. *Is this a reasonable accommodation?*

- Changing policies, like the hours of a position, is widely considered a reasonable accommodation.
- Changes should not change the nature of the program.
A member asks if they can serve part-time for a full-time position.

- All of these requests are arranged through Office of General Counsel.
A grantee just interviewed an applicant who is deaf. They know the cost for American Sign Language interpretation was expensive for the interview and are concerned they will not be able to afford the accommodations they will need. *What do they do?*

- Don’t jump to conclusions.
- This analysis cannot be a factor in recruitment decisions
- Know that there are other resources to assist with funding like the ASN reimbursement process and vocational rehabilitation programs.
- All disabilities and accompanying accommodation plans are unique. You will not know ahead of time what you will need to fund.
A grantee wants to know if they can ask how the member would do the functions of the position because they cannot imagine that they’re qualified to serve. *Can they ask anything ahead of the offer? How will they know what they are getting themselves into?*

- Ask the same questions of all applicants.
- Pose problem solving questions.
- Focus on their experience versus your fears of what may or may not happen.
A member is on disability benefits from the Social Security Administration and wants to know if the living allowance will impact their receipt of benefits.

It depends on the type of benefit:
- You can retain Supplementary Security Income (SSI) without a problem.
- However other benefits, like SSDI, are impacted with ASN service.

See the Questions and Answers for Prospective Members with Disabilities:
- Disability Knowledge Network:
  - https://www.nationalservice.gov/resources/disability-inclusion
- Job Accommodation Network:
  - www.askjan.org
- Stephanie Enyart
  - Disability & Inclusion Advisor
  - disability@cns.gov
  - Phone: 202-440-2206
Questions?