

Cayuga County DSS: Americans with Disabilities Act Policy

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April 22 – 23, 2019

What we'll cover in this training

- Basic overview of the Americans with Disabilities Act
 - Focus on the Cayuga Co. DSS ADA Policy
- Some ADA basics
 - Who has to comply
 - Who is protected
 - Communication issues – sensory impairments
 - ADA coordination – grievances
- Basic takeaway – reasonable accommodations



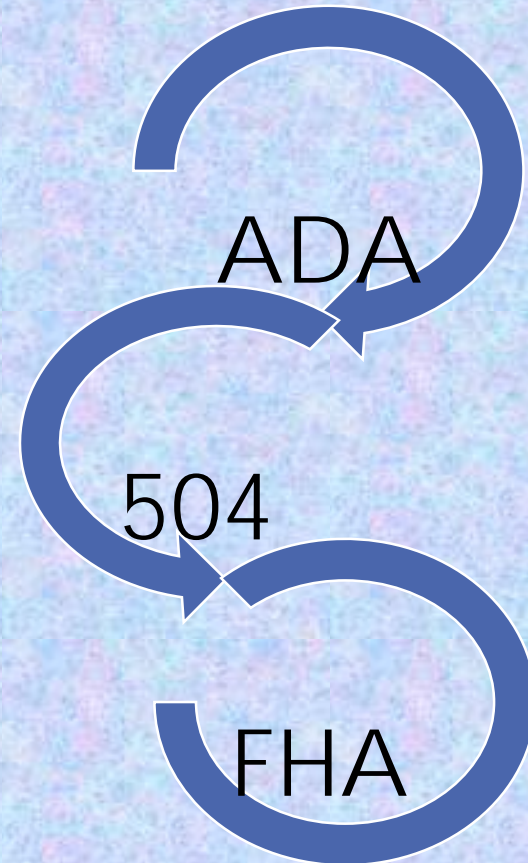
Persons with disabilities: Some numbers

- **United States:** 12.8% of persons of all ages have a disability (2016)
 - Ages 65 – 74: 25.3% / Ages 75+: 49.6%
- **New York:** 11.6% of persons of all ages have a disability (2017)
- **Poverty:**
 - National: 26.6% **with disability** / 10.9% **without disability** (2016)
 - New York State: 29.6% **with disability** / 12.2% **without disability** (2017)
 - TANF recipients:
 - 17.5% movement limitations
 - 14% with emotional/mental disabilities
 - 10% with cognitive/memory disabilities



Disability rights: The basic laws

- Americans with Disabilities Act
- Rehabilitation Act of 1973
- Fair Housing Amendments Act of 1988



Americans with Disabilities Act of 1990: An Overview

- *"... a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities."*
- **Title I:** Employment
- **Title II:** Public Entities
- **Title III:** Public Accommodations and Services Operated by Private Entities



What does the ADA require?

- Meaningful access and equal opportunity to participate/benefit
- Reasonable accommodations
- No discriminatory effect from program administration
- Full participation
- Independent living
- Effective communication



What is a “disability”?

- “Disability” means –
 - (1) a *physical or mental impairment* that
 - (2) *substantially limits*
 - (3) one or more *major life activities* of an individual

- This covers many people who don’t qualify for SSI.

Also –

- a *record* of such an impairment; or
- *being regarded as having* such an impairment.”



“Major life activities”

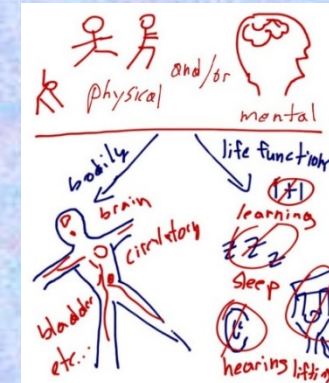
- *Non-exclusive lists:*
- Tasks -
 - Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
- Major bodily functions –
 - Immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

“Physical or mental impairment”

- Physiological disorders/conditions, cosmetic disfigurement, anatomical loss affecting referenced body systems
 - *Examples:* neurological, respiratory, cardiovascular
- Mental, psychological disorders
 - *Examples:* “mental retardation,” organic brain syndrome, specific learning disabilities
- Contagious/noncontagious diseases, conditions
 - *Examples:* orthopedic, speech, hearing, cancer, heart disease, diabetes, emotional illness, HIV

“Substantially limits” – Defining disability is usually straightforward

- Impairment must substantially limit a major life activity –
 - As compared to most people in the general population
 - Won't usually require scientific, medical, statistical evidence
- **Need not** –
 - Prevent/significantly/severely restrict major life activity
- Requires individualized assessment
- Mitigating measures *not* considered
- Active vs. episodic/in remission
- **Bottom line** – defining disability should not generally be complicated



What is discrimination under the ADA?

- **The law says:**

- "... no *qualified individual with a disability* shall, by reason of such disability, be *excluded from participation* in or be *denied the benefits* of the services, programs, or activities of a public entity, or be *subjected to discrimination* by any such entity."

- Prohibited discrimination:

- Denial of equal opportunity to participate
- Provision of different, separate, segregated, or ineffective aids, benefits, or services
- **Failure to give reasonable accommodations**



Denial of service or participation

- **Example –**
 - During an orientation session, one of the applicants leaves and returns to the room five times in the first 15 minutes of the session. When she is in the room, she moves from chair to chair, fidgets incessantly, repeatedly taps a pencil on the table, and sighs very loudly every few minutes. The staff person asks the applicant to leave the orientation because she is being disruptive.
- **Comments?**

Segregation / Equal Access

- **Example –**
 - Ruth, a client with a severe hearing impairment, is a participant in a work training workshop. She asks the trainer to provide an interpreter because she wants to be able to participate in the group. The trainer tells Ruth interpreters aren't available so she will need to go home and the workshop materials will be sent to her, to read on her own.
- **Comments?**

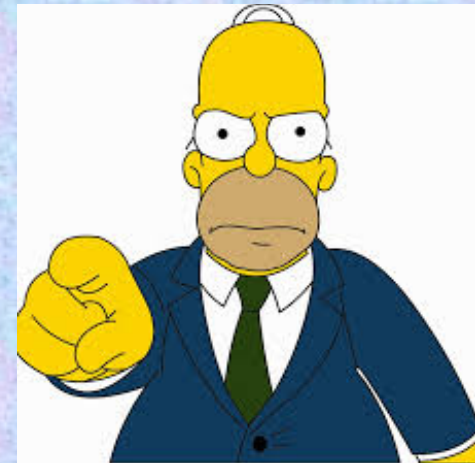
Who is a “qualified” individual with a disability?

- An individual with a disability who –
 - *with or without reasonable modifications* to rules, policies, or practices,
 - *meets the essential eligibility requirements* for the receipt of services or the participation in programs or activities provided by a public entity.
- *What are essential eligibility requirements in public benefits?*



Who must comply with the ADA?

- Programs and services of “public entities”
 - State or local governments
 - Departments, agencies, or other instrumentalities
 - Contractors
- Public entities are bound if they:
 - “Provide a service directly” or
 - “through contractual, licensing, or other arrangements.”



Reasonable accommodation examples

- Provide help/time extensions in completing applications, obtaining verification
- Schedule interviews –
 - At an accessible location
 - By phone
 - Through home visit
- Extend education/training time limits
- Support services, auxiliary aids
- Flexible work activity schedules
- Work activity exemptions



Many accommodations can be readily provided

- The worker should try to see a client who has difficulty standing as soon as possible, when the waiting room is crowded and seats are unavailable. First-come, first-served policies may need to be altered to provide this accommodation.
- A client who has difficulty thinking or concentrating may need help with explanations and completion of notices, applications, recertifications, and other program eligibility documents.
- A client who has difficulty remembering can be given reminder phone calls for upcoming appointments.
- A client who has difficulty traveling to the DSS office because of a mobility impairment can be allowed to talk with a worker on the phone. Also, a home visit to the client could be offered.

“Allowing equal access” may not be enough

- *“It is not enough to open the door for the disabled . . . a ramp must be built so the door can be reached.”*



More about reasonable accommodations

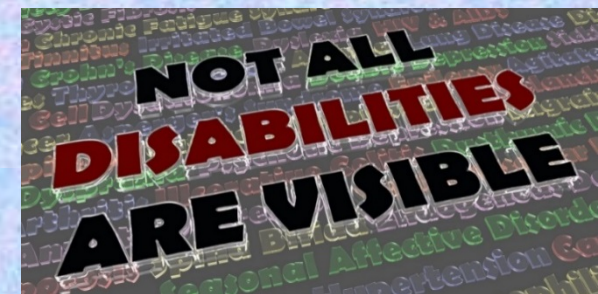
- Reasonable accommodations:
 - Are *fact-specific*
 - Are *voluntary*
 - *Consequences should be explained to the client*
- *Not making reasonable accommodations may be considered discrimination under the ADA.*



Reasonable Accommodation

Special situations involving “hidden” disabilities:

- Clients may be unaware of, or in denial of their mental impairments.
- They may be unable to ask for help.
- These clients may need reasonable accommodations.
- Staff should make reasonable efforts to recognize the presence of “hidden” disabilities
 - Common-sense behavioral observations
 - Historical information



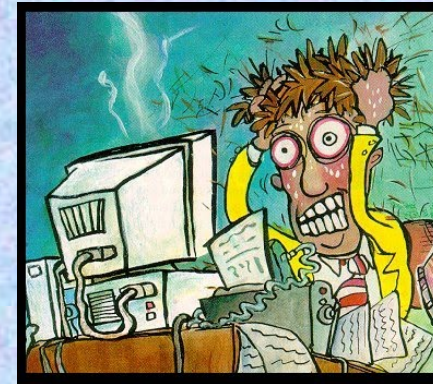
Providing reasonable accommodations: the process

- **Who gives accommodations?**
 - Every DSS worker is responsible for providing accommodations
 - Clerical/line staff may not **deny** accommodation
 - Client information on file can be used to offer accommodations
- **What if an accommodation decision isn't clear?**
 - Consult with:
 - Supervisors or ADA Coordinator for Cayuga Co. DSS
- **Interactive process with the client**
- **Is there a time frame for providing accommodations?**
 - Many must be provided the same day
 - Should be provided in time to prevent denial of access
 - Should be provided within 5 days



Documenting disability-related information

- Accommodations are needed on an ongoing basis.
 - Clients should not need to make repeated accommodation requests.
- Workers must record information in client case records:
 - Client's disability
 - Type of accommodation requested
 - Whether request was granted/denied
 - Whether accommodation was provided
 - Reason accommodation was denied



Client notice and grievance rights

- **Notice:**

- Applicants, recipients, members of public entitled to notice of ADA rights
- Staff must give notice at interaction points with client

- **Grievances:**

- Everyone has a right to file a grievance
- Assistance given to client in filing grievance
- No adverse actions while grievance pending
- Investigation and decision by ADA Coordinator



Effective communication with persons with disabilities

- DSS must provide:
 - **Effective communication** with persons with disabilities
 - Includes hearing, vision, and cognitive impairments
 - Applies to applicants, recipients, companions, and members of the public
 - **Auxiliary aids and services** needed for effective communication
- **Individualized** assessment
- **Primary consideration** given to person's request
- Must be **timely, accessible, preserve independence**



Effective communication: Persons with hearing impairments

- Both **in-person and remote** communications must be effective
- Applies to discussions about person's benefits
- **Qualified sign language interpreters** are *provided free of charge*
 - Use designated providers / Try to provide advance notice
 - Delays in arranging for interpreters cannot count against the client
 - Persons not required to accept friends, family, or DSS employees as interpreters
 - Children should **not** be used to interpret
 - Telephone communication / TTY / video relay / speech to speech relay

Effective communication: Persons with vision impairments

- For persons who are blind/seriously visually impaired, DSS must provide **auxiliary aids and services** that include –
- Conversion of written documents into alternate formats
 - Braille, large print, audio, accessible electronic documents
 - Applies to applications, publications, and communications
 - Medicaid, SNAP, PA, HEAP programs covered
- Process for obtaining conversion into alternate formats –
 - Must not be burdensome
 - Client not required to submit medical documentation

***16-ADM-08, Alternative Format and Disability Accommodation Indicator Use
(June 22, 2016)***

Service animals

- DSS cannot exclude service animals or limit access to programs/services
- Service animal is trained to perform specific tasks related to disability
- Staff may inquire:
 - If animal is required because of a disability
 - What task the animal has been trained to perform
- Service animal must be tethered, housebroken
 - Can be excluded if a direct threat



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