

THE BIG PICTURE...

The ADA is not a “yes” or “no” law, the answer is usually “it depends.” You should evaluate each situation on a case-by-case basis.

ADA PRINCIPLES

1. Advise participants of their right to accommodations.

- A. Participants have the right to:
 - i. program access;
 - ii. auxiliary aids and services to ensure effective communication;
 - iii. modifications to policies, practices, or procedures.
- B. Include the UW-Extension accommodation statement on registration and/or informational materials.
- C. Verbally remind participants at the beginning of a program that they may request accommodations.
- D. Although encouraged, accommodation requests do not have to be made in advance, nor do they have to be in writing.
- E. You cannot automatically deny an accommodation simply because it was not requested in advance. Consider alternative accommodations that could be provided or offered immediately.
- F. Participants don't have to use any “magic words” to request an accommodation. They do not have to specifically say “I request an accommodation.”

2. Determine the purpose of the program. Establish that the person is qualified.

- A. What are the intended outcomes? Why does the program exist?
 - i. You do not have to fundamentally alter the program.
- B. A person must be “qualified” to participate. “Qualified” means that the person meets the “essential eligibility requirements.”
- C. Participation should be as inclusive as possible. However, you cannot bar a person from participating in an activity because s/he is unable to have an equal benefit or experience.

Examples discussion:

Wilderness Backpacking Survival Trip
Nature Trail Wildlife Appreciation

3. Determine that the person has a disability.

- A. The “legal” definition of disability can be very different from the “common” one.
- B. Diagnosis does not equal disability! The definition of disability under the ADA is based upon functionality: “substantial limitation of major life activity,” not a diagnosis or label.
- C. Be careful that you don’t “perceive” someone as being disabled.
- D. Not all inappropriate behavior is the result of a disability.
- E. If someone is not disabled, they are not entitled to the accommodations rights offered by the ADA.
- F. The ADA is not the same as IDEA; ADA accommodations are not the same as educational rights. A school may provide services that Extension is not obligated to provide.

4. Don’t retain medical documentation. Preserve confidentiality.

- A. Don’t accept medical documents, have the participant contact Christine Curley at the Office of Equal Opportunity and Diversity Programs (OEODP).
- B. Keep the disability and accommodation process confidential. Have the accommodation discussion in a private area; do not talk about a person’s disability or accommodations where other participants can overhear.
- C. A Doctor’s note is not a “free pass.” You do not have to provide something simply because a doctor requests it. You should evaluate the request using the reasonable accommodation process.

5. Ensure program access and provide accommodations.

- A. Interactive Dialogue
 - i. What are you accommodating? What’s the relationship between the request and the disability?
 - ii. Discuss what accommodations should be provided, don’t “decide.” Talk with the individual and/or parent first. The accommodation process should be interactive; it should be a discussion.
 - iii. Not everything that is asked for must be provided, nor do the accommodations necessary have to be provided in the format or manner requested. Ask the question: “Does it get the job done?” and “Is it effective?”
 - iv. Requests don’t have to be in writing.
 - v. Participants cannot be charged for accommodations.
 - vi. The accommodation process is not a “one-shot deal.” A person can ask for additional accommodations at a later time.
 - vii. You cannot force an individual to accept an accommodation, but s/he can be held responsible for the consequences if it is refused

- viii. 4-H volunteers must also follow the ADA requirements.
- ix. Ask before “helping.”
- B. You don’t have to fundamentally alter the program.
- C. You do not have to provide an accommodation if it would result in an “undue hardship,” which means “significant difficulty or expense.”
 - i. You do not have to provide an accommodation that is unduly costly, extensive, substantial or disruptive, although alternative accommodations should be investigated.
 - ii. Don’t make promises, don’t say “yes” if you’re not sure the accommodation can or should be provided.
- D. You can deny participation to a program if the person poses a “direct threat,” which means “a significant risk of substantial harm.”
 - i. Be careful when evaluating a safety risk. This evaluation cannot be based upon stereotypes, speculation, or rumor. When deciding whether or not someone poses a direct threat, you should consider:
 - 1. the duration of the risk;
 - 2. The nature and severity of the potential harm;
 - 3. the likelihood that the potential harm will occur;
 - 4. and the imminence of the potential harm.
 - ii. If you determine that there is a direct threat to self or others, you must try to find a way to mitigate that threat.

6. Know who to contact for advice.

- A. Christine Curley at the Office of Equal Opportunity and Diversity Programs (OEODP), 608-265-2406, christine.curley@uwex.edu, <http://www.uwex.edu/diversity>
- B. Job Accommodation Network (JAN) <http://janweb.icdi.wvu.edu/>

7. Contact the appropriate Extension representative for budget and/or resource guidance.

- A. The person with the disability cannot be charged for accommodations!
- B. It is the responsibility of the county agent in charge of the program to coordinate an accommodation. If you are unsure of the available resources or how to provide the accommodation, you may contact JoAnn Hinz (at 608-263-5110) or Christine Curley (at 608-265-2406).
- C. Cooperative Extension pays for the costs of accommodations for program participants from a statewide fund. Invoices should be approved by the county agent who ordered the service or equipment, etc. and then sent to JoAnn Hinz in the Office of the Dean and Director.
- D. If the expected cost of the accommodation is more than \$500, contact JoAnn Hinz before committing to the accommodation.