

Ensuring Equal Access to CAA Programs

January 2022

Consider the Following Scenarios

Scenario 1: Amanda, the mother of a Head Start child, is deaf and wants to attend a presentation offered to Head Start parents.

Scenario 2: Will, a CAA client who uses a wheelchair, wants to make copies of his resume. The Community Action Agency (CAA) makes a copy machine available for client use. The CAA's policy is for clients, and not staff, to make the copies. However, the controls for the copier are located on top and at the back of the machine - too high and too deep for Will to reach or to read from his wheelchair.

Scenario 3: Sandra can see images and words of a certain size and within a certain distance but is considered legally blind. She wants to sign up for a job training program offered by the CAA. The sign-up process requires clients to fill out an application and submit it at the CAA's front desk. The application form consists of a single sheet of paper that asks for the individual's name, address, and phone number, as well as a brief summary of their work history. Sandra is unable to fill out the paperwork. Additionally, the CAA does not have any equipment or materials that would enable Sandra to participate in the training. An organization that the CAA has previously partnered with on various community projects not only offers the same job training program as the CAA but also caters to the needs of individuals like Sandra. The only difference between the CAA's program and the other organization's program is that the CAA gives its participants a small stipend to help with the costs associated with participation, and the other organization does not.

Is the CAA required to accommodate these individuals? If so, what reasonable accommodations is the CAA required to make? This article is intended to help CAAs better understand their responsibilities under Section 504 of the Federal Rehabilitation Act of 1974 (Section 504) to accommodate clients with disabilities, and the ways in which they can fulfill those responsibilities.

Legal Overview

Section 504 is incorporated by reference in the Community Services Block Grant (CSBG) Act¹ and applies to any program or activity receiving federal financial assistance.² It requires CAAs to ensure that people with disabilities enjoy the same opportunity as others to receive benefits and participate in programs offered by the CAA. Regulations issued by the federal Department of Health and Human Services (HHS) further explain how HHS grant recipients, including CAAs, must ensure compliance with Section 504.³

Section 504 protects each "qualified individual with a disability", i.e., a mental or physical impairment that substantially limits one or more major life activities, such as caring for one's self,

walking, seeing, hearing, speaking, breathing, working, performing manual tasks, or learning.⁴ An individual with a disability is “qualified” if they meet the eligibility requirements for receiving benefits or services.⁵ For example, CSBG programs serve individuals and families who are income eligible. A person with a disability who wants to participate in a CSBG program must meet the income eligibility requirements to be considered qualified for purposes of receiving protection from Section 504. In other cases, there may be legitimate physical qualifications that are essential to participation in particular programs. For example, a person who is completely blind and wants to participate in a driver’s education training offered by a CAA would not be protected. Even if the individual otherwise possesses all the qualifications for enrolling in the training program, the fact that they are ineligible to drive under any state’s laws means that they are not a qualified individual with a disability protected by Section 504.⁶

This article focuses on the Section 504 requirement to make services and programs offered by CAAs accessible. It does not address the Section 504 requirements regarding structural changes to facilities to ensure accessibility, nor the additional protections for clients with disabilities provided by the Americans with Disabilities Act (ADA), nor funding source-specific requirements, such as those in the Head Start Act and Performance Standards.⁷

Section 504 requires CAAs to provide qualified individuals with disabilities:

- The opportunity to participate in and benefit from the aid or services offered;
- The same aid or services offered to others unless it is necessary to offer different or separate aid or services to ensure that such are as effective as those provided to others;
- The opportunity to participate as a member of a planning or advisory board;
- The equivalent enjoyment of any right, privilege, advantage or opportunity as experienced by others receiving the aid or services; and
- The opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.⁸

Furthermore, a CAA may not enter into any contract or arrangement with another organization or use any site or location that either subjects individuals to discrimination on the basis of a disability or defeats or substantially impairs accomplishing program objectives with respect to individuals with disabilities.⁹

The regulations further clarify that for an aid or services to be equally effective does not mean that they produce identical results or the same level of achievement for people with and without disabilities. Rather, it means giving individuals with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to their needs.¹⁰

CAAs must ensure that qualified individuals with disabilities have meaningful access to services and benefits offered and, to achieve this end, a CAA may have to make reasonable accommodations to its programs or benefits.¹¹ While a CAA is not required to make fundamental or substantial modifications that jeopardize the integrity of programs and benefits offered, it may be required to make reasonable ones.¹² One example of a reasonable accommodation would be providing staff assistance to a client with a learning disability, such as dyslexia, when filling out forms. On the other hand, an example of an accommodation that would require fundamental or substantial modification to the service or program offered would be providing full-time, one-on-one supervision to a participant in a class or educational program.¹³

Approach to a 504 Accessibility Request

When responding to an individual's Section 504 requests for accommodation, such as the scenarios presented at the beginning of this article, CAAs should develop an approach that contemplates multiple factors. The following questions may help guide this approach:

1. Is the individual with a disability “qualified”, i.e., do they meet the basic eligibility requirements for the service or program?¹⁴
2. Does the qualified individual with a disability have meaningful access to the service or program?
 - a. Does your CAA provide the qualified individual with a disability an opportunity to participate in or benefit from the service or program?
 - b. Does your CAA offer the qualified individual with a disability the same service or program offered to others?
 - i. Is it necessary to offer a different or separate service or program to ensure that it is as effective as what is provided to others?
 - ii. If permissibly separate or different programs exist, does the qualified individual with a disability have the opportunity to participate in programs or activities that are not separate or different?
 - c. Does your CAA ensure that qualified individuals with a disability are able to experience the same enjoyment of any right, privilege, advantage, or opportunity experienced by others?
3. Is it reasonable to provide the qualified individual with a disability with an accommodation?
 - a. Will the accommodation requested fundamentally alter the nature of your CAA's program or service?

It is important to remember that technological advances can be expected to enhance opportunities available to qualified individuals with disabilities.¹⁵ When considering possible accommodations, you may also find helpful guidance in standards developed by disability experts. For example, the Web Content Accessibility Guidelines (WCAG) are widely accepted standards that help website developers and other producers of web-based content ensure that their materials are perceivable, operable, and understandable by the widest range of individuals.¹⁶

Possible Accommodations to Consider

Some common disabilities that CAAs may be asked to accommodate include being hard of hearing or deaf; visually impaired or blind; or physically disabled. Below are some possible accommodations that are often employed to make programs and benefits accessible to qualified individuals with these disabilities.

Possible accommodations for those who are deaf or hard of hearing:

- Installing Text Telephone software (TTY), which helps people who are deaf, hard of hearing, or speech-impaired use to communicate by typing messages to one another instead of talking and listening.¹⁷
- Providing a sign language interpreter when one is requested within a reasonable time.
- Enabling deaf or hard of hearing individuals to sit close to a presenter/speaker and a sign language interpreter, if present. This enables such individuals to see the interpreter or read the lips of the presenter.

- Ensuring that instructions or other information given orally may also be made available in written form.
- Enabling closed captioning and transcription during virtual meetings, webinars, or other audio/visual communications.

Possible accommodations for those who are blind or visually impaired:

- Offering to guide those who are visually impaired as they enter the unfamiliar space of the CAA. If they accept the assistance, offer them your arm rather than taking theirs.
- Giving a blind or visually impaired individual precise direction to where they are heading (with approximate distance, etc.), if they do not wish to accept physical guidance.
- Providing documents used as a part of your CAA's services in Braille.
- Using a screen reader to make webpages and documents available on the CAA's computers (if your CAA requires the use of computers as a part of participation). A screen reader is a software program that allows blind or visually impaired users to read the text that is displayed on the computer screen with a speech synthesizer. If a screen reader is used, make sure your employees are trained to use the software and able to set the individual up at a computer station.
- Offering assistance in filling out any necessary forms for your CAA's programs and services.

Possible accommodations for those who are physically disabled:

- Training employees to assist a physically disabled client in using equipment offered to other clients for use such as copiers, computers, etc.
- Assisting clients who are physically disabled with filling out any necessary forms for participation in your CAA's programs and services.

When considering what accommodations to make for individuals with disabilities, keep the following goals in mind:

- Promote non-discrimination,
- Ensure maximum integration,
- Facilitate effective communication, and
- Avoid additional costs, when possible.

Scenarios Revisited

In light of the Section 504 legal requirements relating to accommodations for qualified individuals with disabilities discussed above, consider whether any reasonable accommodations exist for the individuals in the scenarios in this article:

Scenario 1: A reasonable accommodation for Amanda may include providing the services of a sign language interpreter for the presentation and reserving a seat for her in the front row so she can easily see the interpreter.

Scenario 2: A reasonable accommodation for Will may include revising the CAA's policy so that staff may accompany Will to the copy machine and operate the controls for him.

Scenario 3: Several reasonable accommodations exist for Sandra. One may include having at least one computer with a screen reader and offering an electronic version of the workshop

application form so Sandra can use one of the CAA's computers to fill out the form by herself. Another possibility is for a staff member to assist Sandra in filling out the form. A third option is to offer Sandra the stipend she would have received by participating in the program and register her in the identical program offered by the other organization that caters to the needs of individuals with disabilities like hers. If the CAA decides to pursue this third option, it must ensure that Sandra is willing to accept it, since the law requires CAAs to integrate qualified individuals with disabilities unless the individual agrees to participate in separate and different programs. When offering this third option to Sandra, the CAA must also make clear that it will work to accommodate Sandra in its program if she prefers that option. A fourth option is to offer Sandra the third option as a standby until the CAA can take the necessary steps to accommodate Sandra in its program. If Sandra chooses this fourth option, the CAA should establish a time frame within which it expects to accommodate Sandra.

The above solutions to the various scenarios are “reasonable” in that they do not require the CAA to fundamentally alter the services they provide. They are simply providing the qualified disabled individual with meaningful access to the CAA's benefits and programs, as required by law.

¹ 42 U.S.C. § 9918(c)(1).

² 29 U.S.C. § 794(a).

³ 45 C.F.R. § Part 84.

⁴ 29 U.S.C. § 794(a), 705(20).

⁵ 45 C.F.R. § 84.3(l).

⁶ See *Southeastern Community College v. Davis*, 442 U.S. 397, 407, FN7 (1979).

⁷ Title II of the ADA requires that state and local governments give people with disabilities an equal opportunity to benefit from all their programs, services, and activities. State and local governments must also follow specific architectural standards in new construction and the alteration of their buildings. They must relocate programs, or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision, or speech disabilities. Title III of the ADA requires places of public accommodation, including private social service center establishments (e.g., day care centers, senior citizen centers, homeless shelters, food banks, and adoption agencies), to comply with basic nondiscrimination requirements that prohibit exclusion, segregation, and unequal treatment. Places of public accommodation must also comply with specific requirements related to architectural standards for new and altered buildings; reasonable modifications to policies, practices, and procedures; effective communication with people with hearing, vision, or speech disabilities; and other access requirements. 42 U.S.C. §§ 12131-12134 (Title II) and 42 U.S.C. §§ 12181-12189.

⁸ 45 C.F.R. § 84.4(b)(1), (3).

⁹ 45 C.F.R. § 84.4(b)(4).

¹⁰ 45 C.F.R. § 84.4(b)(2).

¹¹ See *Alexander, Governor of Tennessee, et al. v. Choate et al.*, 469 U.S. 287, 301 (1985).

¹² See *id.* at 300.

¹³ See *Southeastern Community College* at 409.

¹⁴ Notice that we do not encourage CAAs to spend time evaluating whether an individual has produced sufficient evidence of their disability. The passage of the ADA Amendments Act of 2008 clarified that the definition of disability should be interpreted in favor of broad coverage of individuals. 42 U.S.C. § 12102. Thus, the safest approach is to assume that an individual requesting a reasonable accommodation for a disability has that disability, unless you have evidence to the contrary.

¹⁵ See *Southeastern Community College* at 412.

¹⁶ See www.w3.org/WAI/standards-guidelines/wcag/ for more information.

¹⁷ TTY software, available at <https://askjan.org/solutions/TTY-Software.cfm>.

This publication is part of the Community Services Block Grant (CSBG) Legal Training and Technical Assistance (T/TA) Center. It was created by Community Action Program Legal Services, Inc. (CAPLAW) in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Cooperative Agreement - Award Number 90ET0482-02. Any opinion, findings, conclusions, or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of HHS and ACF. The contents of this publication are intended to convey general information only and do not constitute legal advice. Any communication through this publication or through CAPLAW's website does not constitute or create an attorney-client relationship. If you need legal advice, please contact CAPLAW or another attorney directly.