



6.04 OPERATING POLICY & PROCEDURE

Subject: Accessibility & Accommodations		Application: All Departments
First Effective 1/01/14	Revised 11/23/15	Review 2/13/2023

PURPOSE

To communicate to all employees, persons served, volunteers and other stakeholders that individuals with disabilities shall not be excluded from participation or subject to discrimination in any Pivotal funded program, service or activity, and to outline the process for requesting and making accommodations to individuals with disabilities.

DEFINITIONS

The Americans with Disabilities Act (ADA) is a comprehensive Federal law passed in 1990 that prohibits discrimination on the basis of disability in employment, programs and services provided by state and local governments; goods, accommodations, and services provided by private companies; commercial facilities; telecommunication and transportation.

1. The ADA's protection applies primarily, but not exclusively, to individuals with disabilities. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is regarded by others as having such an impairment.
2. The ADA is divided into five titles:
 - a. Title I of the ADA prohibits discrimination in all aspects of employment, including: advertising, recruiting, job application process, hiring, training, advancement, compensation, leaves, fringe benefits, layoffs, firing, access to workplace facilities and any other terms, conditions, or privileges of employment.
 - b. Title II prohibits excluding qualified individuals with disabilities from participating in or being denied benefits of public services that are provided by state and local governments.
 - c. Title III prohibits disability discrimination against customers, clients, or visitors in public, non-governmental settings such as shopping malls, restaurants, and other places that are available to members of the public.
 - d. Title IV addresses adequate telecommunication services for persons with disabilities.
 - e. Title V contains a number of miscellaneous provisions. It assures that the ADA does not limit or invalidate other Federal or State laws.

Accessible refers to a site, facility, work environment, service or program that is easy to approach, enter, operate, participate in and/or use safely and with dignity by a person with a disability.

Reasonable Accommodation

Under Title I, a modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity. If a particular accommodation is not feasible because it would impose an "undue hardship", the entity should consider whether there are alternative accommodations that would not impose a hardship and that meet the needs of the individual. Reasonable accommodation is a key nondiscrimination requirement of the ADA. A reasonable accommodation cannot fundamentally alter the nature of a program or a job.

Section 504 of the 1973 Rehabilitation Act, Pub. L. No. 93-112, 87 Stat. 394 (Sept. 26, 1973), codified at 29 U.S.C. § 701 et seq., (herein referred to as Section 504) is federal legislation that guarantees certain rights to people with disabilities. Section 504 states (in part): No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Undue Hardship

With respect to the provision of a "reasonable accommodation" under Title I of the ADA, an undue hardship is defined as being a significant administrative burden, difficulty or expense incurred by a covered entity, when considered in light of certain factors. These factors include the nature and cost of the accommodation in relationship to the size, resources, nature, and structure of the employer's operation. Where the facility making the accommodation is part of a larger entity, the structure and overall resources of the larger organization would be considered, as well as the financial and administrative relationship of the facility to the larger organization. Employers do not have to provide accommodations that cause an undue hardship.

Undue Burden

With respect to complying with Title II or Title III of the ADA, an "undue burden" is a significant difficulty or expense incurred by a covered entity, when considered in light of certain factors. These factors include: the nature and cost of the action; the overall financial resources of the site or sites involved; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements necessary for safe operation, including crime prevention measures; or any other impact of the action on the operation of the site; the geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity; if applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and if applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.

Major Life Activity is a term used in the ADA definition of disability. It refers to activities that an average person can perform with little or no difficulty, such as walking, seeing, speaking, hearing, breathing, learning, performing manual tasks, caring for oneself, and working. These are examples only. Other activities such as sitting, standing, lifting, or reading are also major life activities.

POLICY

Pivotal will promote accessibility, the removal of identified barriers to people with disabilities, and provide services, programs and activities to individuals with disabilities in the most integrated setting appropriate to meet their needs within the context of the program, service or activity being administered. Unnecessary segregation of people with disabilities violates the ADA.

PROCEDURE

- A. Pivotal will not discriminate on the basis of disability in the admission or access to, or treatment or employment in its programs, services or activities.
1. *Barrier Removal*
Pivotal is committed to removing identified barriers to people with disabilities and other stakeholders. These barriers may include architecture, environmental, attitudinal, financial, employment, transportation, community integration and communication.
 2. *Exclusion*
No individual who meets the eligibility requirements for a program, service, or employment will be excluded from participation in program activities or from employment opportunities solely by reason of disability. All employment decisions are based on the merits of the applicant's qualifications in accordance with defined criteria, and are not based upon the disability of the individual.
 3. *Accommodations*
 - a. Pivotal is committed to making reasonable modifications to policies, procedures, practices, programs, services, activities or facilities at no cost to the individual with a disability when the modifications are necessary to avoid discrimination based on disability unless the modification would fundamentally alter the nature of the program, service or activity, or create an undue hardship. Reasonable accommodations and modifications (refer to above definition) are available to employees, applicants, persons served and other stakeholders in accordance with the ADA and Section 504.
 - b. As necessary within LEP parameters, Pivotal customer-focused information will be made available in alternative languages and/or formats such as Braille, large print, audio or electronic media. Requests can be made to the Customer Services for assistance to secure such documentation. For additional information on addressing communication barriers for service recipients, also refer to Pivotal policy [06.03 \(Limited English Proficiency\)](#)
 - c. In accordance with the ADA and Section 504, each entity within Pivotal

provider network (with 50 or more employees) must outline in a procedure, the process for requesting an accommodation/modification.

4. *Media Coverage*

Pivotal promotional literature, newspaper articles and other media will focus on reducing stigma about disabilities and will seek to promote opportunities for individuals with disabilities.

5. *Mobility Limitations*

Pivotal will monitor to ensure that services provided and meetings are in locations that are accessible for persons with mobility impairments.

B. If an accessibility request/concern is not resolved through discussions with the immediate supervisor or case worker:

1. The individual will be encouraged to complete an Accessibility Request form (Exhibit 6.04A). The right of a person to a prompt and equitable resolution of the issue or complaint filed will not be impaired by the individual's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency, nor is the use of the above process required prior to the pursuit of other remedies.
2. Any staff, applicant, person served or other stakeholder may request a reasonable accommodation to overcome a barrier while at Pivotal due to his or her disability. An individual is encouraged to resolve concerns about accommodations or modifications by communicating with the concerned parties and suggesting an appropriate resolution. Most employee issues should be readily resolved through discussions with the immediate supervisor. Applicants may request an accommodation through the Human Resources Department. Many issues of persons served and/or visiting family members may be readily resolved through discussions with the primary clinician serving the customer. Customer Services department may be of assistance if accommodations for a customer to fully participate in services can not be made readily available.
3. If a requested accommodation cannot be made for an employee, the supervisor is responsible for offering other possible alternative accommodations. When a program is not able to make accommodation(s) for a person served, a possible alternative is to offer the individual services at another accessible program within the provider network.
4. If this informal process does not lead to resolution of the matter, the individual may choose to follow the formal grievance. Additionally, if the matter is not resolved at the initial formal level, then the employee may file a written appeal as outlined in union contract. For a person served, an appeal may be made to the appropriate supervisor or designee.
5. An employee, applicant, person served or other stakeholder has the right to refuse an accommodation. For an employee, this may mean that the individual cannot perform the essential functions of the job and is, therefore, not qualified for the position. For a person served, it may mean that the individual may not fully participate in the receipt of services. There is no civil rights protection for

- individuals who do not identify themselves and do not request accommodations as needed.
6. The responder to an accommodation request must forward a copy of the completed "Accommodation Request Form" or a documented summary of the request and response as noted at the end of this document.
 7. If an individual believes an accommodation is not being adequately or properly implemented, he/she may submit a written request for reconsideration, with suggestions for an appropriate resolution to the person responsible for the implementation. If the matter is not resolved at this level, then the employee may file a written appeal as outlined in the union contract. For a person served, an appeal may be made to the appropriate Senior Executive or designee.
 8. The right of a person to a prompt and equitable resolution of the issue or complaint filed with Pivotal will not be impaired by the individual's pursuit of other remedies at any time such as the filing of an ADA/Section 504 complaint with the responsible federal department or agency.

REFERENCES

- Americans with Disability Act (ADA) of 1990, as amended
- A Guide to Disability Rights Laws, U.S. Department of Justice:
<http://www.ada.gov/cguide.htm>
- Civil Rights Act of 1991
- Section 504 of the Rehabilitation Act of 1973, as amended
- Fair Housing Act, as amended in 1988
- ADA Resources: DBTAC - Great Lakes ADA Center
University of Illinois at Chicago
Institute on Disability & Human Development (MC 728)
1640 West Roosevelt Road, Room 405
Chicago, IL 60608
312-413-1407 (V/TTY)
312-413-1856 (Fax)
<http://www.adagreatlakes.org>
- Pivotal Policy
 - 06.02 (Cultural & Linguistic Competency)
 - 06.03 (Limited English Proficiency)

EXHIBITS

- Exhibit 06.04A – Accommodation Request form