



National Service Inclusion Project Fact Sheet

Substance Abuse and Disability

When is Drug Addiction a Disability?

An individual who is addicted to drugs is SOMETIMES protected under Section 504 of Rehabilitation Act because addiction sometimes results in a substantial limitation of major life activities.

Someone who has a history of addiction to illegal substances who is successfully participating in a drug rehabilitation program is protected. In addition, a person perceived to have a drug addiction is also protected against discrimination.

*Example: If a supervisor or program director perceived someone to be addicted to illegal drugs based upon rumor and the groggy appearance of the individual, but the rumor was false and the appearance was a side-effect of a lawfully prescribed medication, this individual would be "regarded as" an individual with a disability (an individual with drug addiction) and would be protected from discrimination based upon that false assumption. If an employer did not regard the individual as someone with an addiction, but simply as a social user of illegal drugs, the individual would not be "regarded as" an individual with a disability and would not be protected under Section 504.**

However, a person who is currently using illegal substances is **NOT** protected under Section 504. This includes people currently using illegal substances such as using heroine, cocaine, methamphetamine, or marijuana. This also includes individuals **currently illegally using legal substances** such as engaging in the use of someone else's prescription drug, underage use of alcohol, or sniffing glue, cleaners, or solvents to "get high."

When is Being An Alcoholic a Disability?

According to the Equal Employment Opportunity Commission (EEOC), alcoholism is an impairment. Therefore, a person with alcoholism who is substantially limited in a major life activity is regarded as a person with a disability under the ADA. However, even if a person with alcoholism meets the definition of disability, the organization may discipline, discharge, or deny a service position to an individual who is an alcoholic whose current use of alcohol adversely affects job performance or conduct to the extent that s/he is not "qualified" for the position s/he's applying for (EEOC, 1992).

Expectations for Dealing with People who are in Recovery

Require that service members who illegally use drugs or alcohol meet the same qualifications and performance standards applied to other service members.

Unsatisfactory behavior such as absenteeism, tardiness, poor job performance, or accidents caused by alcohol or illegal drug use need not be accepted nor accommodated.

Example: If a service member is often late or does not show up for work because of alcoholism, her supervisor can take direct action based on the conduct. However, the organization would violate the ADA if it imposed greater sanctions on such a service member who is alcoholic than it did on other service members for the same misconduct.

Situations and Solutions:

Case 1: An AmeriCorps member who works in a medical clinic as a certified nurse has a drug addiction and was restricted from dispensing medication after she was caught using illegal drugs. Her organization had a policy allowing service members to participate in drug rehabilitation and return to work with a last chance agreement. When the service member returned to work after rehabilitation, she was reassigned to a job that did not require her to dispense medication and was given periodic drug tests.

Case 2: A Senior Corps member with alcoholism came to the service site under the influence of alcohol. When confronted by his supervisor, he disclosed that he had recently relapsed after his son was diagnosed with a serious medical condition. His supervisor decided not to terminate him under the circumstances, but required him to sign a last chance agreement before allowing him to return to the volunteer site.

Reasonable Accommodations and Resources:

Accommodation ideas for service members and volunteers who are in recovery can vary, for example: a modified work schedule to permit an individual to attend an ongoing self-help program, as long the service member/volunteer is qualified for the position s/he enrolled. Reasonable accommodations should be made on a case by case basis, considering each individual abilities and accommodation needs. Organizations/agencies are encouraged to contact Job Accommodation Network (JAN) at <http://www.jan.wvu.edu/media/atoz.htm> or NSIP to discuss specific situations in more detail.

Adapted from *Creating an Inclusive Environment: A Handbook for the Inclusion of People with Disabilities in National and Community Service Programs* (CNCS 2004) and Job Accommodation Network (JAN)

*Example was adapted from JAN's website, <http://www.jan.wvu.edu/links/ADAтам1.html#VIII>



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NSIP is the training and technical assistance provider on disability inclusion for the Corporation for National and Community Service.