

Nondiscrimination training

Definitions

Auxiliary aids and services

- Qualified on-site interpreters
- Remote video interpreting services
- Note takers; real-time, computer-aided transcription services; written materials
- Telephone handset amplifiers, assistive listening devices/systems, telephones compatible with hearing aids
- Closed caption decoders, open and closed captioning
- Text telephones (TTYs), videophones, captioned telephones, videotext displays

Definitions (cont.)

- Qualified reads, taped texts, audio recordings
- Braille materials
- Screen reader software, optical readers, and other effective methods of making visual materials available to blind or low-vision individuals

Definitions (cont.)

Disability

- A physical or mental impairment that substantially limits one or more major life activities
- A record of impairment or being regarded as having an impairment

Gender identity

- An individual's internal sense of gender
- May be male, female, neither, or a combination of male and female
- May be different from an individual's sex assigned at birth

Definitions (cont.)

On the basis of sex

- Includes but is not limited to discrimination on the basis of pregnancy, false pregnancy, termination of pregnancy (or recovery from), childbirth and related medical conditions, sex stereotyping, and gender identity

Definitions (cont.)

Qualified bilingual/multilingual staff

- A member of a covered entity's workforce who is designated to provide oral language assistance as part of the individual's assigned job responsibilities and who has demonstrated:
 - Proficiency in speaking and understanding both spoken English and at least one other spoken language.
 - The ability to effectively, accurately and impartially communicate directly with individuals with limited English proficiency (LEP) in their primary languages.

Definitions (cont.)

Qualified interpreter for an individual with a disability

- Is able to communicate via a remote interpreting service or an onsite appearance
- Adheres to generally accepted interpreter ethics principles, including client confidentiality
- Is able to effectively, accurately and impartially interpret, both receptively and expressively, using any necessary specialized vocabulary, terminology and phrases (e.g., sign language interpreters, oral translators, cued language translators)

Definitions (cont.)

Qualified interpreter for an individual with limited English proficiency

- Is able to communicate via remote interpreting services or an on-site appearance
- Adheres to generally accepted interpreter ethics principles, including client confidentiality
- Has demonstrated proficiency in speaking and understanding both spoken English and at least one other spoken language
- Is able to effectively, accurately and impartially interpret, both receptively and expressly, to and from such language(s) and English, using any necessary specialized vocabulary or terminology

Definitions (cont.)

Qualified translator

- A translator who:
 - Adheres to generally accepted translator ethics principles, including client confidentiality
 - Has demonstrated proficiency in writing and understanding both written English and at least one other written non-English language
 - Is able to effectively, accurately and impartially translate to and from English and non-English languages using any necessary specialized vocabulary or terminology

Title VI of the Civil Rights Act of 1964

- Title VI is a federal law that protects members from discrimination based on their race, color or national origin in programs and activities that receive federal financial assistance
- If members are eligible for TennCare or other health care/human services, they cannot be denied assistance because of race, color or national origin

Title VI of the Civil Rights Act of 1964 (cont.)

Entities receiving financial assistance shall *not* do any of the following based on protected status:

- Deny an individual a service, aid or other benefit
- Provide a benefit that is different or is provided in a different manner
- Subject an individual to segregation or separate treatment
- Restrict an individual in the enjoyment of benefits or privileges
- Treat an individual differently when determining eligibility
- Select sites or locations of facilities that exclude protected individuals

Title II of the Americans with Disabilities Act (ADA) of 1990

- Title II prohibits discrimination on the basis of disability in the services, programs or activities of all state and local governments
- A disability is a physical or mental impairment that substantially limits a person's major life activities

Compliance with the ADA

Do

- Provide services, programs and activities in an integrated setting.
- Make reasonable changes to policies, practices and procedures to avoid discrimination on the basis of disability.
- Provide auxiliary aids to individuals with disabilities (e.g., qualified interpreters, materials in Braille).

Don't

- Refuse to allow a person with a disability to participate in or benefit from services, programs or activities.
- Provide services to individuals with disabilities through programs that are separate or different unless the programs ensure the benefits and services are equally effective.

The Age Discrimination Act of 1975

- Federal law that prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance
- Applies to persons of all ages
- Does not cover employment discrimination
 - The Age Discrimination in Employment Act applies specifically to employment practices and programs both in the public and private sectors and only to persons over the age of 40.

The Age Discrimination Act of 1975 (cont.)

- The Age Discrimination Act contains certain exceptions that permit, under limited circumstances, the use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age.

The Age Discrimination Act of 1975 (cont.)

- For example, the Age Discrimination Act does not apply to an age distinction contained in that part of a federal, state, or local statute or ordinance adopted by an elected, general purpose legislative body that:
 - Provides any benefits or assistance to persons based on age.
 - Establishes criteria for participation in age-related terms.
 - Describes intended beneficiaries or target groups in age-related terms.

Section 504 of the Rehabilitation Act of 1973 (Section 504)

- Federal law that protects qualified individuals from discrimination based on their disabilities
 - The nondiscrimination requirements of the law apply to employers and organizations that received financial assistance from any federal department or agency.
- Forbids organizations and employers from excluding or denying individuals with disabilities an equal opportunity to receive program benefits and services
- Defines the rights of individuals with disabilities to participate in, and have access to, program benefits and services

Section 504 (cont.)

Section 504 protects qualified individuals with disabilities. Under this law, individuals with disabilities are defined as the following:

- Persons with a physical or mental impairment that substantially limits one or more major life activities
- People who have a history of or who are regarded as having a physical or mental impairment that substantially limits one or more major life activities

Examples of major life activities

- Caring for oneself
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Working
- Performing manual tasks
- Learning

Impairments that can limit major life activities

- AIDS
- Alcoholism
- Blindness or visual impairment
- Cancer
- Deafness or hearing impairment
- Diabetes
- Drug addiction
- Heart disease
- Mental illness

The Affordable Care Act (ACA)

Nondiscrimination Protection in the ACA: Section 1557

- Prohibits discrimination in health care programs on the basis of race, color, national origin, sex, sex stereotypes, gender identity, age or disability
- Prohibits denial or limitation of health services that are ordinarily or exclusively available to individuals of one sex to a transgender individual based on the fact that sex assigned at birth, gender identity or gender otherwise recorded is different from the one in which health services are ordinarily or exclusively available

The ACA (cont.)

- Health insurers, hospitals, health insurance exchanges and any other entities that receive federal funds are covered by this law.
- Prior to the passage of the ACA, no federal law provided comprehensive protection against sex discrimination in health care.

Cultural competency

- Culture shapes how people experience their world. It is a vital component of how services are both delivered and received.
- Cultural competence begins with an awareness of your own cultural beliefs and practices, and recognition that people from other cultures may not share them. This means more than speaking another language or recognizing the cultural icons of a people. It means changing prejudgments or biases you may have of a people's cultural beliefs and customs.

Cultural competency (cont.)

- **Culture:** The integrated pattern of human knowledge, belief and behavior that depends upon the capacity for learning and transmitting knowledge to succeeding generations. The set of shared attitudes, values, goals and practices that characterizes an institution or organization.
- **Cultural competency in health care:** The effective integration and transformation of knowledge about individuals; the transformation of knowledge about individuals and groups of people into specific standards, policies, practices and attitudes used in appropriate cultural settings to increase the quality of health care, thereby, producing better health outcomes.

Cultural competency (cont.)

- It is important to promote mutual respect. Cultural competence is rooted in respect, validation and openness towards someone with different social and cultural perceptions and expectations than your own.
- People tend to have an “ethnocentric” view in which they see their own culture as the best. Some individuals may be threatened by or defensive about cultural differences.

Cultural competency (cont.)

- Moving toward culturally appropriate service delivery means being:
 - Knowledgeable about cultural differences and their impact on attitudes and behaviors.
 - Sensitive, understanding, nonjudgmental and respectful in dealings with people whose culture is different from your own.
 - Flexible and skillful in responding and adapting to different cultural contexts and circumstances.

Health care literacy

Literacy can be defined as a person's ability to read, write, speak, and compute and solve problems at levels necessary to:

- Function on the job and in society.
- Achieve one's goals.
- Develop one's knowledge and potential.

The term "illiteracy" means being unable to read and write. A person who has limited or low literacy skills is *not* illiterate. Health care literacy is the degree to which individuals have the capacity to obtain, process and understand basic health information and services needed to make appropriate health decisions.

Health care literacy (cont.)

Health care literacy is dependent on individual and systemic factors:

- Communication skills of lay persons and professionals
- Lay and professional knowledge of health topics
- Culture
- Demands of the health care and public health systems
- Demands of the situation/context

Health care literacy (cont.)

Health care literacy affects an individual's ability to:

- Navigate the health care system (e.g., understanding health plan member handbooks, locating providers and services).
- Independently complete necessary documents relevant to their care (e.g., permission to release personal health information, providing personal health history).

Health care literacy (cont.)

- Engage in self care; understand/adhere to instructions for prescription/over-the-counter drugs.
- Adhere to treatment plans for acute situations and chronic-disease management.
- Understand mathematical concepts that are applicable to probability/risk as related to incidence of disease and prognosis of outcomes of medical treatment plans.

Language interpretation and translation services

- Amerigroup Community Care provides language interpretation and translation services to any member who needs such services, including members with LEP and members who are hearing impaired.
- Such services are provided free of charge and are available in the form of in-person interpreters, sign language or access to telephonic assistance.
- If a member needs language interpretation and translation services, please direct the member to the Amerigroup Member Services telephone number (1-800-600-4441).

Language interpretation and translation services (cont.)

- For members who are hearing impaired, Amerigroup provides a TTY number (711).
- For more details, see the Member Rights and Responsibilities section and *Discrimination Complaint Form* in the provider manual.

Language interpretation and translation services (cont.)

- A qualified interpreter must be offered when oral interpretation is a reasonable step in providing meaningful access.
- A qualified translator must be used when translating written content in paper or electronic form.
- An individual with LEP is not required to accept language assistance services.

Language interpretation and translation services (cont.)

- An individual with LEP cannot be required to provide their own interpreter or rely on an adult accompanying them to interpret or facilitate communication except:
 - In an emergency involving imminent threat to their safety/welfare and no qualified interpreter is immediately available.
 - When the individual with LEP specifically requests that the accompanying adult interprets or facilitates communication and the adult agrees to provide the assistance.

Language interpretation and translation services (cont.)

- An individual with LEP cannot be required to rely on a minor child to interpret or facilitate communication except in an emergency involving imminent threat to safety/welfare and there is no qualified interpreter immediately available.
- An individual with LEP cannot be required to rely on staff other than qualified bilingual/multilingual staff to communicate directly with other LEP individuals.

Language interpretation and translation services (cont.)

When using video remote interpreting services, the following must be used:

- Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images
- A sharply delineated image large enough to display the interpreter's face and the participating individual's face
- A clear, audible transmission of voices
- Adequate training to users of the technology to ensure efficient set-up and use of the equipment

Intellectual and developmental disabilities FAQ

What is an intellectual disability?

- Intellectual disability is a disability characterized by significant limitations in both intellectual functioning (reasoning, learning, problem solving) and adaptive behavior, which covers a range of everyday social and practical skills.
- This disability originates before the age of 18.

Intellectual and developmental disabilities FAQ (cont.)

Is an intellectual disability the same as a developmental disability?

- Developmental disability is an umbrella term that includes intellectual disability but also includes other disabilities that are acknowledged during early childhood.
- Some developmental disabilities are largely physical issues such as cerebral palsy or epilepsy.
- Some individuals may have a condition that includes a physical and intellectual disability such as Down syndrome or fetal alcohol syndrome.

Intellectual and developmental disabilities FAQ (cont.)

Is intellectual disability just determined by an IQ test?

- No, the evaluation and classification of an intellectual disability is a complex issue.
- The American Association of Intellectual and Developmental Disabilities stresses that in addition to an assessment of intellectual functioning, professionals must consider factors such as community environment, the individual's peers, linguistic diversity and cultural differences in the way people communicate, move and behave.

Intellectual and developmental disabilities FAQ (cont.)

- The IQ test is a major tool in measuring intellectual functioning, which is the mental capacity for learning, reasoning, problem solving and so on.
- A test score below or around 70, even as high as 75, indicates a limitation in intellectual functioning.

Intellectual and developmental disabilities FAQ (cont.)

Is intellectual disability the same as mental retardation?

- The term intellectual disability covers the same population of individuals who were previously diagnosed with mental retardation in the number, kind, level, type and duration of disability as well as the need of people with this disability for individualized services and supports.
- Every individual who is or was eligible for a diagnosis of mental retardation is eligible for a diagnosis of intellectual disability.
- While intellectual disability is the preferred term, it takes time for language that is used in legislation and regulations, and even the names of organizations, to change.

Intellectual and developmental disabilities FAQ (cont.)

How are intellectual disability and developmental disability different?

- Intellectual disability is one type of a larger universe of many types of chronic disabilities that can be cognitive, physical or both.
- Intellectual disability encompasses the “cognitive” part of this definition; it is a disability broadly related to thought processes.
- Because intellectual and other developmental disabilities are often concurrent, intellectual disability professionals often work with people who have both types of disabilities.

Intellectual and developmental disabilities FAQ (cont.)

What causes intellectual disability?

- There are a number of causes of intellectual disability. Our understanding of the causes of intellectual disability focuses on types of risk factors (biomedical, social, behavioral and educational) and the timing of exposure (prenatal, perinatal and postnatal) to those factors.

Filing a complaint

Individuals who feel they have been discriminated against may contact the following:

- Amerigroup nondiscrimination compliance coordinator
(615-316-2400)
- Amerigroup Member Services telephone number
(1-800-600-4441)
- TTY (711)
- Bureau of TennCare Office of Civil Rights
 - Local (615-507-6474)
 - Toll free (1-855-857-1673)

Filing a complaint (cont.)

- Tennessee Human Rights Commission — Title VI Compliance Program (1-800-251-3589)
- U.S. Department of Health & Human Services — Region IV Office of Civil Rights (404-562-7859)
- U.S. Department of Health & Human Services — Office of Civil Rights (1-800-368-1019)