



Policy Checklist

A Guidepost for Analyzing State Policy from a Disability Perspective

SEED | State Exchange on Employment & Disability

July 26, 2020 marks the 30th anniversary of the signing of the Americans with Disabilities Act (ADA). The ADA is based on two principles. First, disability is a natural and normal part of the human experience that in no way diminishes a person's right to fully participate in all aspects of society. Second, public policy must ensure that facilities, products, services, and supports are accessible to and usable by people with the widest possible range of functional capabilities (universal design), including people with disabilities. The ADA also enunciates the four goals of disability policy: equality of opportunity, full participation, independent living, and economic self-sufficiency.

Consistent with the precepts of the ADA and goals guiding our nation's disability policy, the State Exchange on Employment & Disability (SEED) has prepared a policy checklist that can be used by state and local policymakers as a lens or guidepost to design, implement, and evaluate generic, as well as disability-specific, public policies (including legislation and executive orders) to ensure meaningful and effective inclusion of people with disabilities in mainstream society and the workplace.

This policy checklist is designed to help you develop inclusive policies for your constituents, including people with disabilities, and covers the following five components, often included in legislation or executive orders:



Statement of Findings

Most policy pronouncements include a carefully constructed rationale ("Statement of Findings"), which facilitates enactment of the legislation by convincing policymakers of its merits. Once the policy is enacted, the rationale provides a clear statement to guide implementation. A well-constructed Statement of Findings includes the following four major items:

- ✓ A description of the historical treatment of persons with disabilities;
- ✓ A summary of the nature of the problems and barriers addressed by the proposed policy;
- ✓ An explanation of why the issue is important and why change is needed; and
- ✓ A description of the role of various entities in designing, implementing, and evaluating the policy.

Statement of Purpose

In addition to the inclusion of a Statement of Findings, most major disability-specific policy includes a statement of purpose, which articulates the underlying conceptual basis for the policy. A well-constructed Statement of Purpose also provides a clear statement to guide implementation of the law. The Statement of Purpose should reflect the precepts and goals of disability policy.

- ✓ **Precept:** Disability is a natural and normal part of the human experience that in no way diminishes a person's right to participate fully in all aspects of life, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual.
- ✓ **Goals:** The proper goals regarding individuals with disabilities are to ensure:
 - Equality of opportunity;
 - Full participation (empowerment);
 - Independent living; and
 - Economic self-sufficiency.

Definition of Disability

Policymakers must define who will be protected or benefit from the proposed policy. Most policy pronouncements include Definitions of Key Terms. The definition of the term "disability" within the specific legislation is drafted to accomplish its specific purposes.

- ✓ Civil rights statutes and executive orders contain a definition of "disability" that enables the reader to determine which individuals will be protected against discrimination on the basis of disability by the policy.

Note: The ADA defines a person with a disability as a person who has a physical or mental impairment that substantially limits one or more major life activities. The term also includes people who have a record of such an impairment, even if they do not currently have a disability. In addition, the term includes individuals who do not have a disability but are regarded as having a disability.
- ✓ The definition of "person with a disability" is also included in formula grants and entitlement programs to determine which individuals are eligible for benefits or services.

Core Policies

Consistent with the Statements of Findings and Purpose, it is critical for policymakers to specify Core Policies. These core policies describe the scope and limitations of the protections, the nature and type of benefits and services and supports, and the circumstances under which benefits and services and supports will be provided.

The numerous core policies can best be understood when they are organized under the four goals of disability policy articulated in the ADA—equality of opportunity, full participation (empowerment), independent living, and economic self-sufficiency.

1. Equality of Opportunity

The core policy of equality of opportunity includes three main components: (1) individualization, (2) genuine, effective, and meaningful opportunity, and (3) inclusion and integration.

- ✓ **Individualization.** Make decisions based on the unique strengths, resources, priorities, concerns, abilities, and capabilities of each person with a disability. This may be accomplished through the following actions:
 - Treating a person with a disability as an individual based on facts and objective science and evidence, and not based upon generalizations, stereotypes, fear, ignorance, prejudice, or pernicious mythologies;
 - Using definitions and eligibility criteria that result in even-handed treatment of a person with a disability;
 - Using interdisciplinary assessments to make decisions, performed on a timely basis by qualified personnel conducted across multiple environments;
 - Using information provided by the individual with a disability, the person's family, or the representative; and
 - Developing individualized plans that identify and describe needs, goals, objectives, services, and accountability measures.
- ✓ **Genuine, Effective, and Meaningful Opportunity.** Ensure that the opportunities that are made available to persons with disabilities are genuine, effective, and meaningful. This may be accomplished through the following actions:
 - Providing appropriate services and supports that address the unique needs of the individual;
 - Making reasonable modifications to policies, practices, and procedures;
 - Providing auxiliary aids and services;
 - Providing reasonable accommodations to applicants and employees;
 - Making programs (to include physical locations and transportation options) physically accessible; and
 - Providing information and communication technology that is accessible and usable.

- ✓ **Inclusion and Integration.** Foster the inclusion and integration of persons with disabilities in programs, projects, and activities. The presumptive/default placement is the regular environment alongside nondisabled persons. Persons with disabilities should not be subjected to unnecessary or unjustified isolation or segregation. This may be accomplished by the following:
 - Administering programs, projects, and activities in the most integrated setting appropriate to the needs of the individual; and
 - Providing services in the least restrictive environment (continuum of program options).

2. Full Participation

The core policy of full participation includes empowering persons with disabilities, fostering self-determination and self-advocacy, allowing real and informed choices, and participating actively in decision-making processes at the individual and system level.

- ✓ Foster the active involvement (including self-advocacy) and real and informed choice of the individual with a disability in decisions directly affecting them by encouraging the following:
 - Opportunities to receive information about programs;
 - Assessments of progress;
 - Planning;
 - Services and supports (including the right to refuse or terminate services); and
 - Selection of service providers.
- ✓ Facilitate active involvement and real and informed choices of family members (under appropriate circumstances) in decisions affecting the individual with a disability and the family, including the following:
 - Opportunities to receive information about programs;
 - Assessments of the individual's progress;
 - Planning;
 - Services and supports for the individual (including the right to refuse or terminate services); and
 - Selection of service providers.
- ✓ Provide for active involvement in policy decisions at the system level, including the following:
 - Opportunities to comment on agency proposals and agency response;
 - Participation in governing boards, working groups, and/or councils that make or recommend policies relating to the program; and
 - Joint sign-off between the public agency and the governing board or council.
- ✓ Use "people-first" language that puts the person before the diagnosis, describing what a person "has" rather than asserting what a person "is."

3. Independent Living

The third core policy is to foster the ability and capabilities of individuals with disabilities to live independently.

- ✓ Provide independent living skills development and specialized planning, by offering the following:
 - Training in individual and systems advocacy;
 - Services related to securing food, clothing, and shelter;
 - Management of personal assistants and other support personnel; and
 - Use of assistive technology devices.
- ✓ Provide long-term services and supports necessary to enable an individual to live independently in the community, including consumer-directed and agency-directed personal assistance services and supports.
- ✓ Provide cash assistance and other programs of assistance that enable the individual to live independently in the community include, for example:
 - Cash assistance;
 - Health care;
 - Transportation;
 - Housing; and
 - Food.

4. Economic Self-Sufficiency

The fourth goal is to foster the economic security, stability, and productivity of persons with disabilities consistent with their actual capabilities, strengths, needs, interests, and priorities.

- ✓ Establish systems that provide employment-related skills and supports, including:
 - Education;
 - Training;
 - Self-employment (entrepreneurship); and
 - Ongoing assistance on-the-job.
- ✓ Provide cash assistance and other programs, such as the following:
 - Worker incentive provisions;
 - Health care;
 - Transportation;
 - Housing; and
 - Food.
- ✓ Establish tax policies that provide:
 - Incentives to employers, consistent with business objectives, to hire people with disabilities; and
 - Deductions and credits for employment-related expenditures enabling an individual with a disability to work, such as accessible transportation and reasonable accommodations, for employers and individuals with disabilities.

Methods of Administration (Implementation Strategies)

Public policy pronouncements must not only articulate goals and core policies, they must also include specific “methods of administration” to facilitate implementation. These methods of administration are designed to maximize the likelihood that the protections afforded by the civil rights statutes are realized, and that the benefits, services, and supports made available under entitlement and grant-in-aid programs are provided and implemented in accordance with best, promising, and emerging practices.

1. State Plans and Applications

- ✓ Establish leadership and infrastructure through executive orders or legislation.
- ✓ Review the historical context.
- ✓ Conduct needs assessments.
- ✓ Articulate policy and program components, including:
 - Goals;
 - Measurable objectives;
 - Specific action steps (including best, promising, and emerging practices, specific timetables, and responsible individuals or agencies);
 - Outcome performance measures;
 - Processes for continuous quality performance and improvement; and
 - Budgets and other funding.
- ✓ Provide for meaningful ongoing and supported involvement of stakeholders, including individuals with disabilities, in the design, implementation, and evaluation of the program.

2. Intake and Admissions Procedures and Processes and Transition Programs

- ✓ Take steps to correct current inappropriate program placements and prevent inappropriate future placements.
- ✓ Include transition programs to address inappropriate placements.

3. Design Elements

- ✓ Include person-centered planning and budgeting, including stakeholder involvement in the process, and consumer-controlled community-based services and supports.

4. Financing Systems

- ✓ Ensure that the system for financing the services and supports facilitates the precepts, goals, and core policies.
- ✓ Use waiting lists as a management tool to achieve objectives, not to unreasonably delay achieving stated objectives.
- ✓ Take advantage of existing funding sources, particularly Federal funding sources and waivers.

5. Reimbursement Schemes

- ✓ Provide for risk adjustment for serving those with significant disabilities requiring more intensive, on-going services and supports (prevent nonrandom selection of participants).

6. Interagency Coordination and Collaboration

- ✓ Ensure that the system is person-centered and not segmented based on the jurisdiction of various agencies (remove silos).
- ✓ Establish a seamless system.
- ✓ Sign memoranda of understanding that include blending and braiding of funding
- ✓ Include an effectively functioning information and referral system.

7. Service Coordination

- ✓ Provide service coordination to assist individuals in receiving necessary services when a comprehensive array of services is required, and such services are provided or paid for by multiple agencies.

8. Adequacy of the Network of Qualified Providers

- ✓ Ensure that qualified personnel provide a range of necessary supports and services.

9. Monitoring and Enforcement

- ✓ Include a process for government agencies to review policies, practices, procedures, and implementation, and enable agencies to respond to findings in a timely and effective manner. This includes:
 - Preparing monitoring instruments;
 - Conducting monitoring reviews;
 - Issuing reports;
 - Requiring corrective action;
 - Imposing sanctions; and
 - Securing remedies for individuals.

10. Procedural Safeguards

- ✓ Provide for, among other things, a complaint resolution process/grievance procedure (including due process hearing and the right to appeal) for individuals to supplement the monitoring and enforcement by government agency personnel.
- ✓ Protect privacy and confidentiality.
- ✓ Require informed consent to minimize the extent of government intrusion.
- ✓ Provide for access to records to ensure individuals have the necessary information to make informed choices.
- ✓ Include self-advocacy training for protected class members, individual representation, and attorney's fees for the prevailing party.

11. Outcome Performance Measures; Information and Data Collection System

- ✓ Collect and provide necessary data and information for public agencies to provide for continuous quality improvement and for the legislative branch to carry out its funding and oversight responsibilities (measures should facilitate, not impede achieving policy goals and disaggregate data based on disability).
- ✓ Provide outcome performance measures that include:
 - Standards and performance indicators that reflect the expected outcomes for recipients with disabilities;
 - Sanctions for failure to meet expected outcomes; and
 - Rewards for exceeding expectations.

12. Outreach, Information Dissemination, and Technical Assistance to and Representation of Potential Beneficiaries

- ✓ Ensure that intended beneficiaries understand their rights and responsibilities and can exercise these rights themselves and through the provision of information and assistance by others.

13. Capacity Building/Training of Personnel

- ✓ Ensure that personnel who provide services and supports satisfy qualification standards to perform assigned tasks in an effective and efficient manner.
- ✓ Ensure personnel, including managers and supervisors, are knowledgeable about civil rights statutes and best, promising, and emerging practices by offering training and other learning programs.

14. Cultural Diversity

- ✓ Ensure services are provided in a culturally competent manner and are responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of individuals receiving services to ensure maximum participation in the program.

15. Systems Change and Research

- ✓ Support ongoing systems change and research to ensure that the services and supports remain state-of-the-art.

To learn more about the ADA, visit: dol.gov/odep/topics/ADA.htm.

For assistance creating customized policy options, executive orders, and more, contact the SEED team: dol.gov/odep/topics/SEED.htm.