

# ADA Accommodation Policy

## PURPOSE

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As the leading nonprofit dedicated to youth development, healthy living, and social responsibility, the YMCA of the Fox Cities (YMCA) is committed to providing programs and services to children and families that are inclusive of individuals with special needs. In addition, the Y is committed to providing staff with clear and consistent guidelines for compliance with federal, state, and local laws, Association standards and best practices.

This policy ensures the YMCA complies with the requirements of Title III of the Americans with Disabilities Act of 1990 (ADA). This policy does not address provisions under Title I of the ADA governing the employment relationship.

## SCOPE

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This policy applies to all YMCA programs, services, and facilities.

## DEFINITIONS

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1. **Public Accommodation** - is generally defined as facilities or services provided by a private entity for use by the public. Examples include retail stores, places of lodging, places of education, social service establishments, places of exercise or recreation, and places of public gathering. A public accommodation can be within a facility that is owned, leased to, leased by, or operated by a private entity. A private entity may operate a public accommodation subject to Title III within a facility that is owned by a public entity, such as a school district or municipality.
2. **Disability** - The ADA protects three categories of individuals with disabilities: 1) those with a physical or mental impairment that substantially limits one or more major life activities; 2) those with a record of such an impairment; or 3) those who are regarded as having such an impairment, whether or not they have the impairment.
3. **Reasonable Accommodation/Modification** - Accommodations to policies, practices or procedures, also referred to as modifications, are wide-ranging and reasonably necessary to avoid discrimination against individuals with disabilities. The purpose of accommodations is to minimize the barriers to the individual with a disability limiting their ability to participate in programs and services with the YMCA. The duty to provide reasonable accommodation or modification is limited to those accommodations that do not fundamentally alter the nature of the

services or facilities it provides and do not impose an undue burden on the YMCA.

4. **Undue Burden** – means an accommodating action that places significant difficulty or expense on the YMCA.
5. **Readily Achievable** – means a facility modification that is easily accomplishable and able to be carried out without much difficulty or expense.
6. **Auxiliary Aids** - Include such services or devices as qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TDD's), videotext displays, readers, taped texts, braille materials, and large print materials.
7. **Service Animal** - Service animals are defined as dogs (or miniature horses in some cases) that are individually trained to do work or perform tasks for the benefit of an individual with a disability. Examples of such work or tasks include guiding people with impaired vision, alerting people with impaired hearing, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA, although they may qualify as service animals under local ordinances.
8. **Direct Threat** – is defined as a significant risk of substantial harm to the health or safety of self or others, which cannot be eliminated or reduced by a reasonable accommodation/modification.
9. **ADA Branch Program Staff and Branch ADA Compliance Officers** – For the purposes of this policy the department Program Director shall be the initial point of contact for a member or participant to submit a Request for Modifications. The Program Staff and Branch Compliance Officer will provide response to an accommodation request. Program Directors and those staff appointed as an ADA Branch Compliance Officer shall be provided additional training in the Americans with Disabilities Act, this policy and strategies for successful inclusion.
10. **ADA Accommodation Committee** - for the purposes of this policy, this committee shall review and provide resolution to requests for accommodation. This committee may also be convened to review member/program participant requests if the ADA Branch Compliance Officer is either unavailable or unable to resolve a specific request on their own. The Committee may be comprised of the YMCA Leadership Team members including the Executive Director of the branch where the request originated, the President and Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, Human Resources Director and Membership and Community Relations Director.

## **POLICY**

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YMCA of the Fox Cities is committed to a policy ensuring that it will not discriminate against any individual on the basis of disability. The YMCA will make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford its services and facilities to individuals with disabilities, unless the modifications would fundamentally alter the nature of its services. The YMCA will not exclude any individual with a disability from the full and equal enjoyment of its services and facilities, unless the individual poses a direct threat to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services. The YMCA will not exclude any individual from the full and equal enjoyment of its services and facilities because of the individual's association with a person with a disability.

## **RESPONSIBILITY**

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- a. The Chief Operating Officer is responsible to the President/CEO for the oversight of this policy and related implementation and training content.
- b. Branch ADA Compliance Officers are responsible to the Chief Operating Officer for the communication and implementation of this policy within each branch and key program areas.

## **TITLE III REQUIREMENTS FOR PUBLIC ACCOMMODATIONS:**

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- Provide goods and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.
- Eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy the goods and services of a place of public accommodation.
- Make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless the modification would fundamentally alter the nature of the goods and services provided.
- Furnish auxiliary aids when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result.
- Remove architectural and structural communication barriers in existing facilities where readily achievable.
- Provide readily achievable alternative measures when removal of barriers is not readily achievable.
- Provide equivalent transportation services and purchase accessible vehicles in certain circumstances.

- Maintain accessible features of facilities and equipment.
- Design and construct new facilities and, when undertaking alterations, alter existing facilities in accordance with the Americans with Disabilities Act Accessibility Guidelines issued by the Architectural and Transportation Barriers Compliance Board and incorporated in the final Department of Justice title III regulation.
- A public accommodation is not required to provide personal devices such as wheelchairs; individually prescribed devices (e.g., prescription eyeglasses or hearing aids); or services of a personal nature including assistance in eating, toileting, or dressing.
- A public accommodation may not discriminate against an individual or entity because of the known disability of a person with whom the individual or entity is known to associate.
- Private entities offering certain examinations or courses (i.e., those related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes) must offer them in an accessible place and manner or offer alternative accessible arrangements.

## **ELIGIBILITY FOR GOODS AND SERVICES**

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In providing services, the YMCA may not use eligibility requirements which tend to screen out individuals with disabilities. Safety requirements may be imposed only if they are necessary for the safe operation of the YMCA. Safety requirements must be based on actual risks not speculation. Extra charges may not be imposed on individuals with disabilities to cover the costs related to measures necessary for inclusion such as removing barriers or providing auxiliary aids.

## **AUXILIARY AIDS**

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A public accommodation must provide auxiliary aids and services when they are necessary to ensure effective communication with individuals with hearing, vision, or speech impairments. The auxiliary aid requirement is flexible. For example, a braille program brochure is not required if staff are instructed to read the program brochure to blind customers.

Auxiliary aids that would result in an undue burden, (i.e., "significant difficulty or expense") or in a fundamental alteration in the nature of the goods or services are not required by the regulation. However, a public accommodation must still furnish another auxiliary aid, if available, that does not result in a fundamental alteration or an undue burden.

## EXISTING FACILITIES: REMOVAL OF BARRIERS

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Physical barriers to entering and using existing facilities must be removed when "readily achievable." These requirements apply to facilities owned, leased to, leased by or operated by the YMCA for programs and services covered by Title III. If the YMCA operates in a facility owned by another entity, either public or private, that entity will generally have a corresponding duty under the ADA to remove barriers. The YMCA and the other entity can decide by contract how to apportion the responsibility for barrier removal, but both will owe a separate duty to those using the facility.

The regulation does not require the rearrangement of temporary or movable structures, such as furniture, equipment, and display racks to the extent that it would result in a significant loss of selling or serving space.

Legitimate safety requirements may be considered in determining what is readily achievable so long as they are based on actual risks and are necessary for safe operation.

### EXAMPLES OF BARRIER REMOVAL MEASURES MAY INCLUDE:

- Installing ramps,
- Making curb cuts in sidewalks and entrances,
- Rearranging tables, chairs, vending machines, display racks, and other furniture,
- Widening doorways,
- Installing grab bars, and
- Repositioning telephones.

Barrier removal measures must comply, when readily achievable, with the alterations requirements of the ADA Accessibility Guidelines. If compliance with the Guidelines is not readily achievable, other safe, readily achievable measures must be taken, such as installation of a slightly narrower door than would be required by the Guidelines.

Examples of alternative measures include:

- Relocating or providing services at accessible locations, or
- Retrieving items from inaccessible shelves or racks.

## **NEW CONSTRUCTION AND ALTERATIONS**

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All newly constructed places of public accommodation and commercial facilities must be accessible to individuals with disabilities to the extent that it is not structurally impracticable. Alterations after January 26, 1992 to existing places of public accommodation and commercial facilities must be accessible to the maximum extent feasible.

## **PROCEDURES FOR CONSIDERATION OF ACCOMMODATION REQUESTS**

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### **I. GENERAL GUIDELINES**

- a. YMCA of the Fox Cities will meet the needs of a diverse community in an equitable manner.
- b. No person will be turned away because of a disability, and no one will be charged for reasonable accommodations.
- c. It is the responsibility of staff that has the initial contact with a participant to obtain information regarding the person's needs and to arrange to provide the support that is requested in a reasonable length of time.
- d. It is the responsibility of the member, guest, or participant, or if a minor their parent/legal guardian, to seek available assistance to make his/her needs known to YMCA staff, and to give adequate time for the YMCA to make reasonable accommodations/modifications.

### **II. REASONABLE ACCOMMODATIONS/MODIFICATIONS IN YMCA YOUTH PROGRAMS**

- a. YMCA programs welcome all children. The YMCA will provide services to children with special needs in the same manner as services are provided for other children of comparable age, to the extent it is reasonably able to do so.
- b. The YMCA has the obligation to ensure the physical and emotional safety of all of the children entrusted to its care. It is essential that all pertinent information about the child's needs be available to staff from the outset of enrollment and that a continuing bond of trust and mutual partnership exists for the benefit of the child. Therefore, a parent is encouraged to disclose significant medical, physical or behavioral issues caused by a disability at the time of the child's enrollment and on an ongoing basis. All information provided will be kept as confidential as reasonably possible and used only for the purpose of establishing what, if any, reasonable modification(s) may be provided.
- c. One-to-One Assistance

The YMCA will consider a request for extra monitoring and supervision as a possible accommodation, to the extent that such additional monitoring or

supervision does not result in a fundamental alteration to the nature of the program and to the ability of the YMCA youth program to provide for the safety and well-being of all children.

The fundamental nature of most YMCA programs is that they are group based. Group based care is consistent with YMCA supervision standards for the protection of our participants and staff. For the safety of children in our programs the YMCA does not generally provide one-to-one assistance as part of its programs.

#### d. Toileting Assistance

A YMCA program will consider a request for toileting assistance for a child as a possible accommodation, to the extent that such toileting assistance does not result in a fundamental alteration to the nature of the program and to the YMCA youth program staff's ability to provide for the safety and well-being of all children.

The fundamental nature of YMCA programs is that they do not generally provide toileting assistance to children over the age of 4 years. Kids Corner programs require parents to be onsite and therefore are not required to provide diapering; if they do choose to provide diapering they will only do so up to 4 years old. In Kids Corner programs, all children older than 3 years must be potty-trained and/or have the assistance of a parent/guardian in their toileting needs. In general, mandated staff-child ratios and the YMCA's supervision policies do not permit YMCA staff to sequester one or more staff in a private area away from the group of children in order to perform this service.

#### e. Medication and Medical Special Needs

The YMCA programs will administer oral, topical, eye/ear drops/ointments, and nasal medications in accordance with YMCA Medication Administration Procedures and Wisconsin Child Care Licensing regulations. If those programs choose to handle medications, medications will only be administered to children with the medical necessity for medication administration during program hours. Medications requiring an injection or suppository will be considered as a possible accommodation on a case by case basis, to the extent that such medication administration does not fundamentally alter the nature of the program, does not put the child or staff at risk and does not violate any local or state law or regulation.

#### f. Personal Aide/Assistants

There are instances when a child's personal needs cannot be met in a group care setting through accommodations which are reasonable in policy, practicality and/or cost, and they can potentially be successfully accommodated with a personal aide or assistant not funded by the YMCA. In those instances, an agreement with the YMCA must be in place prior to such attendance by the personal assistant. The agreement will provide that the personal assistant meets all applicable state standards for the type of services that the personal assistant will provide to the child; that the personal assistant will not be an employee or independent contractor of the YMCA; and the personal assistant will be subject to the overall supervision of the YMCA program while he or she is present at a YMCA program.

#### g. Service Animals and Emotional Support Animals

A service animal is permitted on YMCA property and within YMCA buildings unless the use of a service animal would result in a fundamental program alteration or jeopardize the safe operation of the YMCA. A service animal must have been trained as a service animal in the work or tasks directly related to the person's disability. Individuals are permitted to bring a service animal in all areas of the YMCA. Individuals with disabilities are not required to show proof of certification for their service animal.

When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions: (1) is the dog/horse a service animal required because of a disability, and (2) what work or task has the dog/horse been trained to perform. Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the animal, or ask that the animal demonstrate its ability to perform the work or task.

Fear of dogs and allergies are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility. A determination of whether a person with a severe allergy and a person using a service animal can both be accommodated will be made on a case by case basis.

A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the animal is out of control and the handler does not take effective action to control it or (2) the animal is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff

must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.

Facilities that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.

Staff are not required to provide care or food for a service animal.

Specific to miniature horse service animals: The regulations set out four assessment factors to assist entities in determining whether miniature horses can be accommodated in their facility. The assessment factors are (1) whether the miniature horse is housebroken; (2) whether the miniature horse is under the owner's control; (3) whether the facility can accommodate the miniature horse's type, size, and weight; and (4) whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

### III. REQUESTS FOR REASONABLE ACCOMMODATION/MODIFICATION

a. Should Program staff be notified of a request for reasonable accommodation for a potential or existing member or participant, please follow the following steps:

i. Notify your designated Branch ADA Compliance Officer that you have a request for reasonable accommodation/modification.

ii. In the event your Branch ADA Compliance Officer is unavailable (and/or you have been unable to connect with them), please contact the Chief Operating Officer.

b. Once a person/parent contacts a Program Director and Branch ADA Compliance Officer will make every attempt to schedule a meeting to discuss any requests for modifications/reasonable accommodation within one week (five business days). At that time, the participant and/or participant parent will be asked to bring their request for modification in writing, as well as information regarding any other available potential resources/aids that may better ensure the individual's successful participation in the activity/program.

c. If it is unclear whether the YMCA program can reasonably accommodate the unique needs of an individual, the ADA Accommodations Committee will review and will arrive at a final decision by reviewing the circumstances on a case by case basis. Such review will be comprised of some, if not all, of the following steps, unless such process would not meaningfully contribute to a final decision:

- i. The program director's or his/her designee's documentation from meeting with the individual and family.
  - ii. The director or his/her designee will observe the individual in the program setting and speak with program staff.
  - iii. The director or his/her designee will assess the staff person's ability to handle the various manifestations of the individual's special needs, and consider whether additional training, the cost of which is not unreasonable, would be helpful.
  - iv. The director or his/her designee will observe the individual's adaptation to the other participants.
  - v. The director or his/her designee will discuss the individual's needs with the YMCA staff with relevant experience and responsibilities.
  - vi. A discussion of possible, necessary accommodations will be undertaken and those accommodations that are reasonable and do not fundamentally alter the nature of the program will be implemented.
  - vii. If the individual's attendance cannot be accommodated because the needed accommodations are unreasonable or alter the nature of the service, the individual or individual's parents will be informed without delay.
- d. Once the meeting has been concluded, an action plan will be developed or outlined to establish what, if any modification is available for the individual. This plan will be kept at the branch and copy submitted to the appropriate ADA Accommodations Committee member.
  - e. Every effort will be made to notify the parent/legal guardian(s) of the child the final outcome within a period of ten (10) working days from the date of the initial meeting with the Branch Representative.

## **APPEALS AND GRIEVANCES**

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Individuals have the right to appeal decisions made regarding their eligibility for membership or service, the types of programs and services in which they may participate, and any disciplinary actions taken resulting from problems experienced during participation. The appeal process is structured to ensure fairness.

### *Members and program participants:*

Any member, guest or program participant may file a grievance or complaint regarding an alleged violation of this policy by making an oral or written complaint to the Chief Operating Officer at 218 E Lawrence Street Appleton, WI 54911. The nature of the complaint should be specified along with the corrective action being sought. The member or participant will be given the opportunity to discuss the matter in private. Following a thorough investigation, the member or participant will receive a written decision within ten (10) working days, or an appropriate date will be given as to when a response should be expected.

If the member or participant is not satisfied with the decision, the complaint must be presented in writing to the President/CEO. The President's decisions are final and binding. The President may select a committee to hear grievances and make suggestions to him/her for final decisions.

If you or a member has any questions regarding this policy, please contact the Chief Operating Officer.