



## Disability Resources & Incentives

Innovations in Employment Supports



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## Pre-knowledge Check

Section 1



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### Knowledge Check ADA & Disclosure



An applicant must disclose their disability prior to hire if they need an accommodation.

The definition of disability for ADA can include someone with a record of a previous impairment or regarded as having an impairment.

The purpose of granting an accommodation is to allow the employee to complete all the essential functions of their job.

An employer cannot terminate a person with a disability if they have an accommodation.

The purpose of disclosing disability is to request an accommodation.



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# Americans with Disabilities Act [ADA]

## Section 2

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Signed into law on July 26, 1990, the ADA is a wide-ranging civil rights law that prohibits, under certain circumstances, discrimination based on disability. It affords similar protections against discrimination to Americans with disabilities as the Civil Rights Act of 1964, which made discrimination based on race, religion, sex, national origin, and other characteristics illegal.

### Americans with Disability Act

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### The ADA prohibits the discrimination of qualified people with disabilities

A qualified person with a disability means one who satisfies the requisite skill, experience, education, and other job-related requirements of the position such individual holds or desires, and who *with or without reasonable accommodation can perform the essential functions of such position.*



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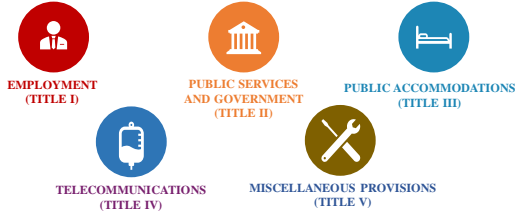
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The ADA covers 5 key areas:



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**Rights [Title I]**

- Have information about your disability, treated confidentially and respectfully.
- Seek information about hiring practices from any organization.
- Choose to disclose your disability at any time during the employment process.
- Receive appropriate accommodations in an interview so you may demonstrate your skills and abilities.
- Be considered for a position based on your skill and merit.
- Have respectful questioning about your disability for the purpose of reasonable accommodation
- Be self-determined and proactive.

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**Responsibilities [Title I]**

- Disclose your need for accommodation if you desire any work-related adjustments.
- Search for jobs that address your skills and abilities.
- Inform the manager or interview panel about your need for appropriate interview accommodations in a timely manner.
- Identify appropriate and reasonable accommodations for an interview.
- Negotiate reasonable accommodation(s) with an employer at the point of job offer and beyond.
- Bring your skills and merits to the table.
- Be truthful, self-determined, and proactive.

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### Definition of Disability [ADA]



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The Americans with Disabilities Act (ADA) defines a person as having a disability if they:

- Have a physical or mental impairment that significantly limits one or more major life activities
- Have a history or record of such an impairment
- Are perceived by others as having such an impairment

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### Reasonable Accommodations



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A reasonable accommodation under the Americans with Disabilities Act (ADA) is a change or adjustment that allows people with disabilities to participate in the job application process, perform their job duties, and receive the same benefits as other employees.

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Over 50% of accommodations for employees with disabilities will cost:

- A. Nothing
- B. Between \$500 - \$1000
- C. Over \$1000
- D. More than the employer can afford

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### Key Concepts in Accommodations

1. Equal opportunity
2. Individualized needs
3. Reasonableness
4. Undue hardship
5. Accessibility
6. Interactive process

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### 3 Primary Types of Accommodations

**Modification** to the work environment

This type of accommodation involves changing the physical work environment or altering policies to make it accessible for individuals with disabilities.

**Restructuring** - Changes to work schedules or job task

This refers to modifying work schedules, duties, or providing flexibility to help individuals perform their job duties.

**Provision of service** -Providing assistive technology or services

This type includes providing devices, software, or services to help individuals with disabilities communicate, perform tasks, or access information.

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### Resources

- [411 on Disability Disclosure](#)
- [411 on Disability Disclosure: Families, Educators](#)
- <https://askjan.org/>
- [Northeast ADA Center](#)

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# Disclosure of Disability

## Section 3



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The act of voluntarily informing an employer or other relevant party about a person's disability, typically done when requesting accommodations or to ensure fair treatment in a situation where the disability might impact their ability to perform certain tasks; it is a personal choice and not always necessary, depending on the situation and individual needs.

### Disclosure of Disability



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## Not just about what you see...

- Non-obvious (hidden) Disabilities are . . .
- Invisible
  - Often permanent
  - May be well managed
  - Real



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### The Workplace Climate: *Whispers speak louder than the words*



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### The Confidential Release of Information



- Requires written consent from the individual
- Specifies the information to be disclosed, who will receive it, and how it will be used
- For the performance of official duties
- Is voluntary, and can be limited in scope or revoked by the individual

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Self Disclosure

VS.

Self Identification

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## DISCLOSURE

### What is Disclosure?

It's when you tell your employer or prospective employer by choice about disability or health condition

### When Should I Disclose?

Whenever you feel it's appropriate or when you've made a decision about it

### Why Should I Disclose?

To get some type of job adjustment or accommodation that will help you perform your job at your best

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## SELF-IDENTIFICATION

THIS INFORMATION IS STRICTLY CONFIDENTIAL & ANONYMOUS

### What is Self-Identification?

When an employer, usually their HR Department, asks if you "self identify" as a person with a disability. Your response is voluntary.

### When Do They Ask?

Usually 1) When you apply 2) Get a job offer 3) Or once a year as an employee

### Why Do They Ask?

- 1) To promote Diversity & Inclusion in the workplace
- 2) They might be required by law to keep track of the makeup of their workforce
- 3) To keep count of the types of job applicants and employees they have

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## Resources

- [How to tell Employers about your Disability](#)
- [One-page guide to Disability Disclosure](#)
- [Creating a Disclosure Script](#)
- [Disclosing a Disability for Employment](#)
- [VCU – Disclosure Decisions To Get The Job](#)
- [Frequently Asked Question \(FAQ\)](#)
- [Section 503](#)

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Fair Labor Standards Act [FLSA]—  
State Employment Leadership Network [SELN]  
Section 4



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**Knowledge Check**  
Fair Labor Standard Act [FLSA]



- You can only do unpaid Community Vocational Experiences [CVE] at not-for-profits.
- There is no time limit on CVEs if the business agrees.
- The CVE must be in the vocational interest area of the trainee.
- The strongest selling point for a situational assessment is that an individual can cover for a employee so they can do other things.
- The impact of not following the FLSA falls solely on the business.
- OPWDD oversees the FLSA.



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Volunteering, internships and unpaid job exploration can be effective strategies for people with disabilities to gain work-related experience, as well as assessments and training.



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**Unpaid Community Vocational Experiences**

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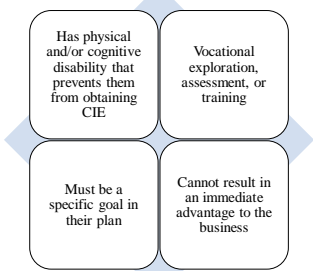
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**HIGHLIGHTS**

**Unpaid Community Vocational Experiences**




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**The Trainee can't...**

• Displace regular employees	• Fill a vacant position
• Relieve regular employees of assigned duties	• Perform duties that are a clear advantage to the business
• Under the supervision of the business instead of rehab agency	• Engaged in activities that don't address the needs identified in the service plan
• Service plan must specify a limit on the time	

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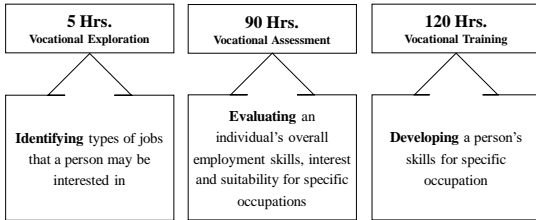
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Unpaid CVE Hour Limitations – Per Dept. of Labor



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# Volunteering

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Examples —

What types of not-for-profits do you have relationships with?

What makes them a not-for-profit?

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### HIGHLIGHTS

#### Volunteering

Volunteering refers to unpaid activities with non-profit groups that are open to the public.

DOL "individuals may volunteer or donate their services for public service, religious or humanitarian objectives."

Volunteering may be a step towards employment. It is a way of exploring interests, developing skills, gaining experience, building a resume and making connections that lead to future paid jobs.

Volunteering should not be a long-term substitute for paid employment.

Volunteer activities should be based on a person's interests and preferences.

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### General Characteristics of a Volunteer Opportunity

Generally part-time

Activities are the kind associated with volunteer work rather than paid employment

Services are offered freely and without pressure or coercion

Regular employees have not been displaced to accommodate the volunteer

The person does not receive or expect to receive any benefit (beyond the experience itself)

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What do you think?



It is permissible for a CBPV to fold pizza boxes for a local restaurant in exchange for pizza party.



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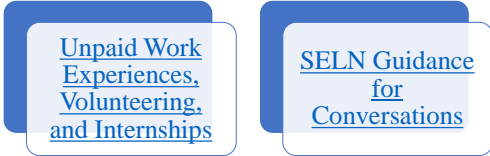
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## State Employment Leadership Network [SELN]



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## Resources

- [Guide to the FLSA](#)
- [Digital Handy Reference Guide to FLSA](#)
- [Brochure – Rights for Workers with Disabilities](#)
- [Facts-Workers with Disabilities paid at Subminimum Wage](#)
- [State Employment Leadership Network \[SELN\]](#)



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## 55 A & B Programs

Section 5



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### 3 Government Programs

- **55a program** — City and local government
- **55b/c program** — State government

Provides eligible persons the ability to be considered for positions in the Civil Service **without** having to take a Civil Service examination.



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### 55b Eligibility

- 55 B is limited to persons with physical or mental disabilities, who are otherwise qualified to satisfactorily perform the duties of a position.
- Employee Health Service (EHS) of the NYS Department of Civil Service will determine eligibility based on the degree of functional limitation and employment history.
- An application DPM—I must be completed.



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### 55a Eligibility

- Eligibility is determined on a job-by-job basis. You may be eligible if:
  - a) You are certified as having a mental or physical disability which is a substantial barrier to employment; and
  - b) You are qualified to perform satisfactorily the duties of a particular job.
- The local Civil Service Commission will request the position duties and responsibilities are reviewed by **NYS ACCES-VR** or **NYS Commission for the Blind** to determine if the nominee is able to perform the duties of the position.
- Civil Service determines if you meet the minimum educational and/or experience qualifications for a particular job.

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### ACCES-VR's role in the Process

- In the case of County, Municipal and Federal employment, ACCES-VR certifies individuals for eligibility.
- In the case of NYS 55b, the ACCES-VR Vocational Rehabilitation Counselor (VRC) can assist a qualified worker with a disability to apply for certification through the NYS Department of Civil Service.
- If you are a public employer, you can learn how your agency can participate in these programs by reaching out to your Business Relations Team contact.



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### Resources

- [ACCES-VR Business Relations Team](#)
- [ACCES-VR Public Employers](#)
- [55—b/c FAQ page](#)
- [DPM – 1 55b/c application](#)
- [Workers with Disabilities \(55a\)](#)



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## NYS and Federal Tax Incentives

Section 6



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### WETC/WOTC Partnering for Employers

- The Work Opportunity Tax Credit, in conjunction with Workers (with Disabilities) Employment Tax Credit, is a wonderful opportunity for employers to gain from hiring individuals with disabilities.
- For the **first year of employment**, the federal tax credit WOTC is in effect. The tax credit is 40% of the first \$6,000 in wages.
- The state tax credit WETC is in effect for **the second year of employment** and the amount of the tax credit is 35% of the first \$6,000 in qualified wages for that year.
- Therefore, when WOTC is linked with WETC the total credit possible is **\$4,500**.

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### WOTC - Tax Incentives for Businesses

- Work Opportunity Tax Credit - WOTC (Federal)
  - Up to \$2,400 in federal tax savings in the first year of employment
  - Must complete at least 120 hours of work to qualify for the partial WOTC credit of \$1,500 and over 400+ hours for the full \$2,400
  - Employee must be verified as a member of a targeted group
  - Employer must complete within 28 calendar days



<https://www.dol.gov/agencies/eta/wotc>

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### WETC — Tax Incentives for Businesses



- The tax credit equals 35% of the first \$6000 paid during the second year of employment.
- Complete Form 8850
- Applies to qualified employees who have been certified by:
  - NYS Education Department ACCES-VR
  - Office of Children and Family Services NYS CB
- My also be eligible under other qualifying categories

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### Other Qualifying Categories [Form 8850]

- Temporary Assistance for Needy Families (TANF)
- Referred by rehabilitation agency approved by the state as an employment network under the Ticket to Work or Department of Veterans Affairs
- Receive supplemental security income (SSI) for any months during the past 60 days
- SNAP (Ages 18-40)
- During past year, convicted of a felony or released from prison for a felony
- Have received unemployment compensation for 27 consecutive weeks.



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### Resources

- [Work Opportunity Tax Credit](#)
- [AskJan Tax Incentive Topics](#)
- [Workers with Disabilities Employment Tax Credit](#)
- [Disabled Access Credit](#)
- [Barrier Removal Tax Deduction](#)
- [Work for Success Program](#)
- [Recovery Tax Credit Program](#)
- [Form 8850](#)
- [ACCES-VR Business Relations Team](#)



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### Career One-Stops & Disability Resource Coordinators [DRCs]

Section 7



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### Career One Stop

- Explore Career Options
  - Assessments
  - Career research
- Find training and education
  - Schools and programs
  - Scholarships
  - Certificates
- Job search planning
  - Resumes
  - Job finder
- Find local help and services

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### Disability Resource Coordinators [DRCs] —Highlights—

- Credentialed benefits advisement and work incentive counseling
- Ensure access
- Advocate within the workforce development system
- Web-based career exploration tools
- Identify career, training, and employment opportunities

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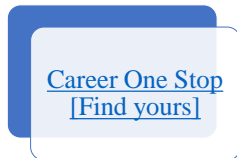
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### Resources



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 [info@Eleversity.org](mailto:info@Eleversity.org)

 (585) 340-2051

 [www.Eleversity.org](http://www.Eleversity.org)

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