

What Every Paddling Instructor, Outfitter and Paddling Program Provider Needs to Know About People With Disabilities



You rent canoes or kayaks, or take people on paddling trips, or instruct canoeing or kayaking and want to do the right thing. You want to include people who have disabilities in your program. But you have questions – Is it safe? What should I say? What will I have to do? What if I say no? To get the most complete answers, take an Adaptive Paddling Workshop.

But in the meantime there is a step that you need to take. Under the Americans with Disabilities Act (ADA) of 1990, a person with a disability can not be denied participation in a program that is available to people who do not have disabilities, unless that person with a disability does not meet the “essential eligibility criteria” that is applied to all people prior to participation in that paddling program.

Developing Nondiscriminatory Essential Eligibility Criteria

Paddling instructors, outfitters and paddling program providers provide a wide spectrum of activities and programs. The purpose of essential eligibility criteria is to establish whether or not an individual can participate in an activity based on his or her ability to perform the basic functions of the activity. In order to participate in an activity, all potential clients must be able to meet the nondiscriminatory essential eligibility criteria established by you as the instructor, outfitter or program provider for that specific activity.

The essential eligibility criteria for each program must be provided to all potential clients. It can be posted on your website as a portion of the specific program’s description, on any materials provided to the potential client, as part of the registration materials signed by the client. The key is that the essential eligibility criteria must be applied to ALL potential clients. If the essential eligibility criteria is only applied to potential clients who have disabilities, the criteria would likely be considered to be discriminatory when put to a legal challenge.

In reality, the concept of essential eligibility criteria is something most instructors, outfitters and paddling program providers already apply to potential clients - that is following your own goals, concepts and guidelines in determining which potential clients are likely to be able to participate successfully in the the program. The problem is the criteria many programs follow is only in the head of the individual presenting the program, instead of being written down. As a result, two mistakes are likely to be made in applying that essential eligibility criteria to a potential client who has a disability:

- **Subjectivity:** The guidelines used are often subjective. Most instructors, outfitters and program providers pass their teaching traditions through the oral method and do not have these criteria written down. This could spell trouble if you're ever challenged on whether you apply the criteria equally to everyone. You need to document your eligibility criteria carefully.
- **Stereotyping:** Many program providers are forced to make quick assessments of a potential client's abilities without any real knowledge of what the potential client's capabilities. Many people have some stereotypes about the abilities of people with disabilities. When these stereotypes shape the decision process, the chances are likely to increase of unfairly assessing the ability of a potential client, who has a disability, resulting in discrimination.

The purpose of developing essential eligibility criteria is to give both the program provider and the potential client the information they need to make an accurate, objective assessment when deciding if their abilities are appropriate for a specific program. This means that employees must be able to clearly explain the criteria for participation. The criteria must be based on functional components and applied equally to every potential client. Instead of an program provider disqualifying a person from registering for course or a trip because the potential client uses a wheelchair, the program provider must apply the criteria for safe participation in that activity.

The models suggested here is similar to the job description required by employers. Employers must identify the essential and nonessential functions of a job, and then determine whether the individual can perform those essential functions. Following this logic, you are urged to identify the basic eligibility criteria of the experience you are providing and then determine whether the individual can safely perform those functions.

In determining whether a person can successfully participate in your services, you must base your decision on what an individual can do—not on a stereotype. If they can perform the basic functions of an activity, they can participate. Therefore, employees and potential clients must understand the eligibility criteria.

Steps to Developing Nondiscriminatory Essential Eligibility Criteria

Developing guidelines based on what you need your clients to be able to do should be an easy process. You probably already have guidelines in your head—you just need to write them down. Think of this as an exercise in writing down common sense and you are well on the way to success! Follow the steps outlined below:

1. Think in terms of physical and mental abilities necessary for participation in your programs and activities. What does it take to participate in the specific activities of your program such as getting into a canoe or sea kayak, using a paddle? Do you have to be smart? Do you have to be strong? Do you have to understand directions? Does it require an understanding of highly technical factors? Could adaptive equipment be used?
2. Break the activity into the basic stages of participation (for example, putting on equipment, using equipment, and returning equipment to a specific area). In effect, you need to separate the program into the discrete activities or variables that make up the program. Could a companion safely assist an individual in the completion of the task?

3. Consider the abilities necessary to remain safe. What are the most likely causes of death or injury involved with that activity and what does someone need to do to avoid them?
4. Prioritize the stages described in #2 into the critical abilities necessary for safety. For example, paddling a canoe: the ability to remain seated and balanced (with support if needed) is a higher safety priority than the ability to execute specific paddle strokes.
5. Do not use limiting words like walk, climb, or see instead describe the end result that must be accomplished in non discriminatory terms, such as access, ascend, or identify.
6. Consider basic rules or etiquette that the participant must follow. These include issues such as yielding to others who have the right of way or waiting for the rest of the group to catch up.
7. Determine if the guidelines may be satisfactorily met with the help of a companion. An individual may not be able to perform a function independently, but that same individual might easily do it with the help of a friend, or family member.
8. Edit for simplicity. Stick to the basic physical or mental abilities necessary to participate—the fewer the better

Example: of some possible essential eligibility requirements for use of a canoe:

- Entering and Exiting: The ability to enter and exit the canoe independently or with the assistance of a companion (staff member / counselor, etc.)
- Seating: The ability to remain seated and balanced, using adaptive support if necessary.
- Paddling a Canoe: At least one person in the canoe must have the ability to move it through the water in a stable manner and return it back to the launching area.
- Safety: In the event of a capsize – the canoeists must have:
 - The ability to get out from under the watercraft, independently.
 - AND**
 - The ability to right oneself and remain face up in the water with the aid of a personal floatation device (PFD).

Example: of some possible essential eligibility requirements for a flat water Intro to Paddling , Quick Start session

All activities are open to all individuals who meet the following essential eligibility requirements.

Participants must:

1. Be 18 years or older, or accompanied by an adult.
2. Be able to manage all personal care and mobility independently or with the assistance of a companion who accompanies the participant.
3. Be able to get in and out of a kayak independently or with the assistance of a companion, following instruction.
4. Be comfortable in the water including: floating on back independently with a properly fitted PFD, turning from face down to face up independently while wearing a properly fitted PFD, and holding breath while under water.
5. Be able to maintain a balanced, upright position when seated in a kayak, with adaptations if needed. ****NOTE**** No adaptations providing head or neck support will be accepted.

The KEY: Essential eligibility criteria focus on ability, rather than disability. Referring to an activity in terms of who can participate, rather than in terms of who can't, counteracts the tendency to stereotype what a person with a disability can do.

Providing the Nondiscriminatory Essential Eligibility Criteria

You'll need to inform your potential clients of the essential eligibility criteria once you have developed them. You can do this by providing the criteria to all potential clients on your website and brochures and posting them at your facility.

For more information contact Janet Zeller,



Information provided in this document concerning essential eligibility criteria is based the Americans with Disabilities Act with credits to the [Accessibility Guidebook for Outfitter/Guides Operating on Public Lands](#), by the US Forest Service; Greg Lais of Wilderness Inquiry, Minneapolis, MN; and Sam Crowley of Sea Kayak Specialist of Marquette, MI.