

Accessible Health Care Self Advocacy Toolkit



The Equal Rights Center

The Equal Rights Center

The Equal Rights Center (ERC) is a national non-profit civil rights organization dedicated to promoting equal opportunity in housing, employment, public accommodations, and government services.

With a national membership including individuals in all 50 states and the District of Columbia, the ERC has worked for 30 years to identify, address and remedy both individual instances of discrimination, as well as large-scale, systemic discrimination nationwide.

Through education, research, testing, advocacy, collaboration and enforcement, coupled with a commitment to innovation, the ERC combines both time-tested and groundbreaking approaches to advancing civil rights.



Equal Rights Center

11 Dupont Circle N.W., Suite 450

Washington, D.C. 20036

(202) 234-3062 (Voice)

(866) 719-4372 (Toll Free)

Relay 711

(202) 234-3106 (Fax)

www.equalrightscenter.org

complaints@equalrightscenter.org

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Introduction

If you are a person with a disability, you have a right to equal access to health care services. By law, health care providers must offer their services in a way that is accessible to people with disabilities. This means that you must be able to enter and navigate the facility, have access to appropriate medical equipment and auxiliary aids, and not be subject to policies or procedures that will limit or deny your care.

The ability to access affordable, quality, and accessible medical care promotes the wellbeing and active participation of all people in their communities and in the workforce. The lack of accessible health care facilities, equipment, and services too often means compromised medical diagnoses and treatment, to the detriment of patients with disabilities.

This toolkit is designed to inform individuals with disabilities about the rights to accessible health care, and how to effectively advocate for yourself when experiencing discrimination in the health care setting.

Your Right to Accessible Health Care

People with disabilities have a right to accessible health care under federal, state and local laws. The most important federal laws governing equal access are the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504). Each law applies to a different health care setting:

- **Section 504 applies to medical providers that receive federal financial assistance.**
- **Title II of the ADA applies to public hospitals, clinics, and medical offices operated by state and local government entities.**
- **Title III of the ADA applies to private hospitals and medical offices.**

Under these laws, you are considered an individual with a disability if you have a physical or mental impairment that substantially limits a major life activity, have a record of such impairment, or are regarded as having such impairment. Major life activities include, but are not limited to: seeing, hearing, walking, working, and major bodily functions.

The ADA and Section 504 require medical providers to ensure that people with disabilities have access to equivalent services as other patients. As a result, to be considered fully accessible and comply with federal law, a health care provider must provide structural access into and throughout a facility, accessible equipment, and be willing to provide reasonable accommodations and auxiliary aids to people with disabilities.

These laws are designed to prohibit **discrimination** against people with disabilities due to a lack of accessibility. However, they do not require a health care provider to provide services that would be a **fundamental alteration** to the services they normally provide.

For example, while a doctor's office must allow a person with a disability to enter with their service animal, the provider is not obligated to provide a service animal to someone who needs one.

A :: Structural Access

Structural access refers to the physical accessibility of a medical facility itself. Under federal law, all health care services must be available to individuals with disabilities in an accessible facility. In order for a facility to be considered accessible, it must, at a minimum, meet the following criteria:

- Routes into and throughout facilities are flat and wide enough to provide maneuvering clearance;
- Counters are low enough for individuals to interact with receptionists and other medical personnel;
- Doors are wide enough and light enough to navigate;
- Restrooms are fully accessible with items low enough to be easily accessed, grab bars properly installed, and sufficient floor clearance; and
- Examination rooms are large enough to accommodate service animals, wheelchairs, or other assistive devices.

B :: Accessible Medical Equipment

Accessible medical equipment refers to the usability of the equipment itself. Denying service to a patient with a disability because of a lack of appropriate equipment is a form of discrimination. Medical facilities need to provide accessible equipment and have staff trained on how to use the equipment to properly assist patients with disabilities. Some examples of accessible medical equipment include:

- Examination tables low enough to facilitate patient transfer;
- Adequate supports;
- Weight scales that are flat with a large base;
- The availability of lifts; and
- Specialized equipment, such as mammography equipment that is height adjustable.

C :: Reasonable Modifications and the Provision of Auxiliary Aids

Reasonable modifications are changes in a facility's policies, practices, or procedures that ensure equal access for individuals with disabilities in all aspects of medical care.

Reasonable modifications in the health care setting may include:

- Allowing a service animal in the facility;
- Providing extra assistance in filling out forms; and
- Allowing a patient to bring an assistant or family member into the examination room.

Auxiliary aids are services provided to ensure that a person with a disability is not excluded or otherwise treated differently. They include possession and usage of specialized equipment and are most often needed to facilitate effective communication.

The following are examples of auxiliary aids in the health care setting:

- Providing forms in alternative formats, such as large print materials;
- Assisting with alternatives to verbal communication during an appointment, such as providing an American Sign Language interpreter; and
- Use of a telecommunications relay service for scheduling appointments

The law does **not** require modifications or auxiliary aids that would result in an undue burden or in a fundamental alteration in the nature of the goods or services provided by a public accommodation. An undue burden is when a modification or auxiliary aid can only be provided with significant difficulty or expense. A fundamental alteration is a modification that is so substantial that it alters the nature of the goods, services, facilities, privileges, advantages, or accommodations offered. These limitations are derived from existing regulations and case law, and are determined on a case-by-case basis.



Alerting a Health Care Provider to an Accessibility Barrier

As a person with a disability, you can best ensure that your needs are met by being an effective self-advocate, in the health care setting.

Alerting staff that a facility lacks structural accessibility, or that equipment is not accessible, may help them better assist you and ensure that you receive equal quality care.

When raising issues of accessibility, it is helpful to include the following information:

- What barrier(s) you encountered;
- How the barrier(s) impacted your ability to access care;
- What you would require for the facility or equipment to be accessible (if known); and
- A request for an update when the barrier has been removed or the facility/equipment has otherwise been made accessible.

For more information on how to provide information about the lack of structural accessibility, see the Equal Rights Center's Public Accommodations Self-Advocacy Toolkit at www.equalrightscenter.org/publications.

If you need a reasonable modification or an auxiliary aid, you should inform the health care facility staff before your visit. By providing notice of your accessibility need, you will help ensure that they have the tools in place to provide the best medical care possible. While a doctor's office will likely have their own policies in place for providing accommodations, the sooner you provide notice the more likely that they can effectively provide an accommodation.

When requesting a modification or auxiliary aid, it is helpful to include the following information:

- The nature of your disability;
- What modification or auxiliary aid you will need; and
- When you will be visiting the office or otherwise need the modification or auxiliary aid.

Reporting Discrimination

If you are denied accessible health care or otherwise believe you may have experienced discrimination in violation of the ADA or Section 504 of the Rehabilitation Act, you may contact the Equal Rights Center (ERC) for assistance, or you may file a complaint directly with the applicable federal or local entity.

The ERC can explain your rights under the law and discuss possible options to address the problem. When making contact with the ERC, or filing a complaint form yourself, be sure to include the following information:



Your name, address, email, phone number(s)



Name(s) of the person(s) who committed or were involved in the alleged discrimination



The accessibility barrier encountered



Specific date(s) and time(s) discrimination occurred, including when you made any request(s) for a reasonable modification or auxiliary aid, and when you received any responses(s)



Location(s) where the discrimination took place, including the name of the health care facility or doctor's office you were trying to access



A brief description of the events, in chronological order



Any actions you have already taken and any responses received

Advocacy Tips

Whether you are working with the ERC, or filing a complaint on your own, knowing how to be an effective advocate will help you reach a better resolution. Below are some advocacy tips that can help you in addressing your issue:

Identify the Problem—Clearly identify which law applies to you, and how you were denied accessible health care.

Take notes and keep all documentation—In order to assist with the identification of the issue, you may want to prepare a written description of the events that took place and retain copies of any policies, documentation, or correspondence from the business or housing provider. Photographs that show how a facility is inaccessible can also be helpful.

Understand your legal rights—The more you know about your rights and responsibilities, the more easily you can spot potential problems early, identify laws that apply and use those laws as tools to resolve those issues.

Be persistent—If you are denied a modification or auxiliary aid, try following up with a phone call and letter. If the health care provider refuses to communicate with you, then you may eventually have to involve a third party, such as the ERC.

Know when it is time to get outside assistance—If you cannot reach a resolution, call the ERC and we will advise you on possible next steps.



Where to go for Help

Contact the ERC

Individuals can call the ERC, or use the ERC online complaint form located on our website, to submit a complaint or ask a question about discrimination. Depending on the circumstances, the ERC uses a variety of tools to resolve complaints, including: investigating the extent of possible discriminatory behavior, communicating directly with medical service providers to attempt to reach an agreeable outcome for the complainant, assisting in the filing of complaints with administrative agencies, and, when appropriate, assisting in finding legal representation.

You may file a complaint with the ERC by visiting the ERC's website at www.equalrightscenter.org/complaint. You may also contact the ERC for assistance at:

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Contact a Government Agency

If you wish to file a complaint with a government agency on your own, then you should contact the local agency for your region or the appropriate federal agency. For public accommodations/ADA complaints, the U.S. Department of Justice is the appropriate federal agency.

U.S. Department of Justice

Complaints of discrimination under the Americans with Disabilities Act can be filed with the U.S. Department of Justice. To file a complaint send a letter including the following information:

- Your full name, address, and telephone number, and the name of any other party also discriminated against by the same person or entity;
- The name of the business, organization, or institution that you believe has discriminated against you;
- A description of the act or acts of discrimination, the date or dates of the discriminatory acts, and the name or names of the individuals who you believe discriminated; and
- Other information that you believe necessary to support your complaint. Please send copies of relevant documents. Do not send original documents (retain them).

To learn more about filing an ADA complaint, visit www.ada.gov/filing_complaint.htm. To file an ADA complaint you may fill out a form and mail or fax the form to:

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights - NY AVE
Washington, D.C. 20530

You may also file a complaint at ADA.complaint@usdoj.gov.

If you have questions about filing an ADA complaint, please call:
ADA Information Line: 800-514-0301 (voice) or 800-514-0383 (TTY).

Health and Human Services Office of Civil Rights

If your complaint concerns a health care provider funded by the federal government, including state and local health care facilities that receive federal funds, then it falls under Section 504. Complaints of Section 504 violations should be filed with the U.S. Department of Health and Human Services' Office for Civil Rights (OCR).

OCR complaints may be filed by mail, fax, e-mail, or on OCR's on-line portal. Be sure to include the following information:

- Your name
- Full address
- Telephone numbers (include area code)
- E-mail address (if available)
- Name, full address and telephone number of the person, agency or organization you believe discriminated against you
- Brief description of what happened. How, why, and when you believe your (or someone else's) civil rights were violated
- Any other relevant information
- Your signature and date of complaint

Office for Civil Rights
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201
Hotlines: 1-800-368-1019 (Voice) 1-800-537-7697 (TDD)
E-Mail: ocrmail@hhs.gov
Website: <http://www.hhs.gov/ocr>

District of Columbia Office of Human Rights

For private health care providers in the District of Columbia, you can instead file a complaint with the D.C. Office of Human Rights (“DCOHR”), who will apply both the ADA and District law. DCOHR requires that an intake questionnaire be completed and submitted to begin the filing process. This questionnaire can be found at: www.ohr.dc.gov/ohr/cwp/view,a,3,q,638025.asp. Once completed, you can submit the complaint online, or send it by fax, mail or in person to DCOHR.

D.C. Office of Human Rights
441 4th Street N.W., Suite 570 North
Washington, D.C. 20001
(202)727 – 4559 (Voice)
TTY: 711
Fax: (202) 727-9589
Email: ohr@dc.gov
www.ohr.dc.gov

References

The Americans with Disabilities Amendments Act of 2008. 42 U.S.C. § 12181-89.

Americans with Disabilities Act Title III Regulations 2010. 28 CFR Part 36.

Section 504, Rehabilitation Act of 1973. 29 U.S.C. § 701

Americans with Disabilities Act: Access to Medical Care for Individuals with Mobility Disabilities. U.S. Department of Justice: Civil Rights Division. 2010.



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