

Celebrating 50 Years of Disability Rights Under the Rehabilitation Act

Danica Gonzalves, Esq.
Advocacy Attorney



Webinar Process

- Today's webinar will be recorded and available for viewing on PVA.org
- Closed Captioning is available. Click the CC button in the meeting controls bar at the bottom of your screen to turn it on.
- If you have a question, please type it in the Q&A box. Questions will be answered at the end of the program.



Agenda

- Rehabilitation Act
 - Rehab Act vs. Americans with Disabilities Act
 - Architectural Barriers Act
- Section 504, Programs & Activities
- Section 508, Information & Communication Technology
- Section 501, Employment by Federal Agencies
- Section 503, Employment by Federal Contractors
- How to File a Complaint
- Q&A



Rehabilitation Act of 1973

- The Rehabilitation Act of 1973 is a federal law prohibiting the exclusion or denial of individuals with disabilities from equal opportunity to program benefits, services, technology, and employment
- Applies to: federal, or federally-funded, programs, activities, services, technology, and employment (e.g., VA, Department of Defense, National Parks, and federal contractors)
- Different sections cover nondiscrimination laws and other requirements, depending on the type of discrimination or entity

Rehab Act vs. ADA

- The Rehab Act passed before the Americans with Disabilities Act (ADA), which passed in 1990
- The ADA applies to state and local governments and places of public accommodation (private businesses that provide goods or services to the general public)
- The Rehab Act applies to *federal* program, services, and employment
- Some ADA covered entities must also comply with the Rehab Act, if they receive federal funding (e.g., a public housing provider that also receives federal funds)

Architectural Barriers Act

- The Rehab Act does not have scoping requirements for facilities, this is covered under the Architectural Barriers Act (ABA)
- The ABA was passed in 1968, and applies to facilities designed, built, altered, or leased with federal funds
- Facilities built before 1968 are exempt, unless altered post-ABA
- Section 502 of the Rehab Act created the Access Board – which issues accessibility requirements and enforces the ABA

Section 504

Federal Programs & Activities

- Prohibits discrimination on the basis of disability in federal, or federally-funded, programs, services, and activities
- Requires equal opportunity to access program benefits and services for individuals with disabilities
- Program or activity = a service a federal agency offers or funds
- Examples:
 - VA healthcare services
 - Federally-funded housing
 - Recreation opportunities at federal facilities

Section 504 Demonstrations

- To go into effect, regulations had to be issued defining who was a person with a disability and what constituted disability discrimination
- The Department of Health, Education, and Welfare (HEW) was tasked to pass the regulations, but no regulations were passed for four years
- On April 5, 1977, disability advocates arranged a sit-in at federal buildings across the nation. The San Francisco sit-in lasted 26 days
- Due to the pressure from advocates, HEW signed regulations implementing Section 504
 - Video from the Disability Rights Education & Defense Fund – [The Power of 504 \(Part 1\)](#)



PVA.org



PVA1946



ParalyzedVeterans

Reasonable Accommodations

- If a program, service, or activity is not accessible – the entity must provide reasonable accommodations so an individual with a disability can access the program, activity, or service
- Reasonable accommodations = a change, adaptation, or modification to a policy, program, or service that allows a person with a disability to fully participate in the program, activity, or service
- Exception: if it would cause an undue financial or administrative burden on the entity or a fundamental alteration of the program, activity, or service

Section 504 Violations

- Denying a person with a disability from participating in a federal program or service
- Failure to provide reasonable accommodations, e.g., offering a service in an inaccessible building and not providing an alternative way to access the service
- Providing an alternative service that is not equal to the service received by people without disabilities
- Denying a person with a disability from serving on an advisory board
- Limiting an individual with a disabilities' right to enjoy an activity

Section 508

Electronic Technology

- Covers all information and communication technology (ICT) that federal agencies develop, procure, maintain, or use
- ICT = electronic devices; kiosks; transaction machines; websites; mobile apps; electronic documents; computer software; etc.
- People with disabilities, both employees and the public, must have access to and use of information and data that is comparable to the access and use by people without disabilities
- Exception: if accessible ICT would result in an undue burden, the agency may provide an alternative means of access

Section 501

Federal Agency Employment

- Prohibits federal agencies from discriminating against people with disabilities in federal employment, including hiring, promoting, training, and employment benefits
- Must provide reasonable accommodations for a person with a disability to enjoy equal employment opportunities
- Reasonable accommodations = any change in the work environment or in the way things are customarily done so a person with a disability can have equal employment opportunities
- Requires federal agencies to take affirmative action in the hiring, placing, and advancing of individuals with disabilities

Section 503

Federal Contractor Employment

- Prohibits federal contractors from discriminating against people with disabilities in employment, including hiring, promoting, training, and employment benefits
- Must provide reasonable accommodations for a person with a disability to enjoy equal employment opportunities
- Reasonable accommodations = any change in the work environment or in the way things are customarily done so a person with a disability can have equal employment opportunities
- Requires federal contractors to take affirmative action in the hiring, placing, and advancing of individuals with disabilities

Employment Discrimination

- Failure to provide reasonable accommodations during the application or interview process, or during employment
- Firing or harassing an employee because of their disability
- Giving unequal pay or benefits to an employee because of their disability
- Refusing to advance or train an employee because of their disability
- Requesting an applicant or employee to provide medical or physical capability information (in most circumstances)

How to File a Complaint



PVA.org



PVA1946



ParalyzedVeterans

Complaint Tips

- Document the discrimination
 - Write down details of the incident – what occurred, dates/times, any people involved, facility location, etc.
 - Obtain any other type of evidence, e.g., emails, letters, and photos
- Review how a complaint is filed based on the type of discrimination and the entity
 - Check the enforcing agency or office’s website on how to file
- Meet any filing deadlines
- Keep a copy of the complaint and any relevant documents

Filing a Section 504 Complaint Federal Programs & Activities

- Complaints alleging exclusion, denial, or unequal access to a federal, or federally-funded, program, activity, or service
- How to file depends on the agency (generally online, email, mail, or fax)
 - [Department of Veterans Affairs](#)
 - [Department of Health and Human Services](#)
 - [Department of Defense](#)
 - [Department of Housing and Urban Development](#)
 - [National Park Service](#)
- [Section 504 agency contacts](#)
- Need help? Call the DOJ, Civil Rights Division at (800) 514-0301

Architectural Barriers Act

- Complaints alleging inaccessible sites, facilities, buildings, and other built elements (not a Rehab Act complaint)
- File with the [Access Board](#) (filing online is recommended)
- Need help? Contact the Access Board via email at enforce@access-board.gov (preferred) or call (202) 272-0050.

File a Section 508 Complaint Electronic Technology

- Complaints alleging inaccessibility of information and communication technology – devices, kiosks, transaction machines, websites, mobile apps, electronic documents, computer software, etc.
- How to file depends on the agency (generally online, email, mail, or fax)
 - [Department of Veterans Affairs](#)
 - [Department of Defense](#)
 - [Department of Health and Human Services](#)
 - [Department of Housing and Urban Development](#)
 - [National Park Services](#)

Filing a Section 501 Complaint Federal Agency Employment

- Complaints alleging employment discrimination by a federal agency
- Pay attention to filing deadlines throughout the process
- First, contact an Equal Employment Opportunity (EEO) Counselor at the agency (generally, within 45 days from the day the discrimination occurred)
- Second, proceed with the agency's [internal process](#)
- If you disagree with the agency's decision, you can appeal the decision by filing [online](#) with the Equal Employment Opportunity Commission



Filing a Section 503 Complaint Federal Contractor Employment

- Complaints alleging employment discrimination by a federal contractor
- File a complaint with the [Office of Federal Contractor Compliance Programs](#) (OFCCP)
 - Complaint must be filed within 45 days from the day the discrimination occurred
 - If the complaint alleges discrimination based on disability or status as a protected veteran, the complaint must be filed within 300 days
- For more information, call or visit any [OFCCP District and Area Office](#)

Questions & Answers



PVA.org



PVA1946



ParalyzedVeterans



Danica Gonzalves, Esq.

Advocacy Attorney

DanicaG@PVA.org

(202) 416-7790

1875 Eye Street NW, Suite 1100

Washington, DC 20006



PVA.org



PVA1946



ParalyzedVeterans

Thank You!



PVA.org



PVA1946



ParalyzedVeterans