Celebrating 50 Years of Disability Rights Under the Rehabilitation Act

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Webinar Process

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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
• 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)
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
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
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Thank You!