

# **Discrimination on the Basis of Disability**

## **Office for Civil Rights (OCR) Discrimination on the Basis of Disability**

As they apply to entities under the jurisdiction of the Office for Civil Rights (OCR), OCR enforces:

- **Section 504 of the Rehabilitation Act of 1973**, including programs and activities that are conducted by HHS or receiving Federal financial assistance from HHS
- **Section 508 of the Rehabilitation Act of 1973**, covering access to electronic and information technology provided by HHS
- **Title II of the Americans with Disabilities Act (ADA) of 1990**, covering all health care and social services programs and activities of public entities
- **Section 1557 of the Patient Protection and Affordable Care Act (ACA)**, ensuring that an individual is not excluded from participating in, denied benefits because of, or subjected to discrimination as prohibited under Section 504 of the Rehabilitation Act of 1973 (disability), under any health program or activity, any part of which is receiving federal financial assistance, or under any program or activity that is administered by an Executive Agency or any entity established under Title I of the Affordable Care Act or its amendments.

## **Rights and Responsibilities under Section 504 and the ADA**

Section 504 and the ADA protect qualified individuals with disabilities from discrimination on the basis of disability in the provision of benefits and services. See the [Facts Sheet - PDF](#) and the [Regulations](#) for an explanation of who is a qualified individual with a disability and more detailed information about rights and responsibilities.

## **Covered entities must not, on the basis of disability:**

- Exclude a person with a disability from a program or activity;
- Deny a person with a disability the benefits of a program or activity;

- Afford a person with a disability an opportunity to participate in or benefit from a benefit or service that is not equal to what is afforded others;
- Provide a benefit or service to a person with a disability that is not as effective as what is provided others;
- Provide different or separate benefits or services to a person with a disability unless necessary to provide benefits or services that are as effective as what is provided others;
- Apply eligibility criteria that tend to screen out persons with disabilities unless necessary for the provision of the service, program or activity.

### **Covered entities must:**

- Provide services and programs in the most integrated setting appropriate to the needs of the qualified individual with a disability
- Ensure that programs, services, activities, and facilities are accessible
- Make reasonable modifications in their policies, practices, and procedures to avoid discrimination on the basis of disability, unless it would result in a fundamental alteration of the program
- Provide auxiliary aids to persons with disabilities, at no additional cost, where necessary to afford an equal opportunity to participate in or benefit from a program or activity
- Designate a responsible employee to coordinate their efforts to comply with Section 504 and the ADA
- Adopt grievance procedures to handle complaints of disability discrimination in their programs and activities
- Provide notice that indicates:
  - That the covered entity does not discriminate on the basis of disability
  - How to contact the employee who coordinates the covered entity's efforts to comply with the law
  - Information about the grievance procedures

### **Guidance on Telehealth and Federal Protections against Race, Color, National Origin, or Disability Discrimination - July 29, 2022**

During the ADA 32nd Anniversary week, OCR and the Department of Justice released joint guidance explaining how various federal laws addressing nondiscrimination on the basis of disability, race, color, and national origin, including the ADA, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, and Section

1557 of the Patient Protection and Affordable Care Act, apply to telehealth. Although telehealth has many advantages, accessing care via telehealth may present challenges for certain populations. Sometimes these challenges, if not addressed, may result in these populations facing barriers and issues accessing this care. The guidance includes information about how civil rights protections apply to telehealth, and helpful tools for providers to understand their obligations and for patients to understand their rights in this area.

- [Read the Press Release](#)
- [Read the Guidance](#)

## **HHS and DOJ Guidance on Long COVID as a Disability**

The U.S. Department of Health and Human Services and the Department of Justice jointly published a guidance document on “long COVID” as a disability under the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and Section 1557 of the Affordable Care Act. The guidance, released as we commemorate the 31st anniversary of the ADA, provides additional clarity on how these disability nondiscrimination laws apply to people who may be newly covered under these laws because of the impact of the COVID-19 infection on their bodies and their lives. The document discusses when long COVID may be considered a disability under the ADA, Section 504, and Section 1557, and shares examples along with related resources that may be helpful.

- [Read the Guidance](#) (July 2021)
- [Read the Press Release](#)

## **Section 508 of the Rehabilitation Act**

Section 508 requires that any electronic and information technology used, maintained, developed, or procured by the Federal government allow persons with disabilities comparable access to information and technology. This applies to persons with disabilities who use assistive technology to read and navigate electronic materials. [Read HHS’s policy regarding 508 accessibility.](#)

## **Guidance and Resources for Ensuring Accessibility of Health Programs and Activities Offered Through Electronic Information Technology**

The U.S. Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) published guidance to assist providers of healthcare and health coverage in complying with their civil rights responsibilities to ensure that health programs and activities they offer through technology are accessible to all individuals, including individuals with disabilities. The guidance provides clarity on the application of Federal civil rights laws with respect to websites, healthcare kiosks and electronic health record systems used by covered entities.

- [Read the Bulletin](#)
- [Read the Guidance - PDF](#)

## **HHS, DOJ, and DOE Guidance on Non-Discrimination on the Basis of Disability**

The U.S. Department of Health and Human Services, Department of Justice, and the Department of Education sent a joint letter to the nation's medical schools, dental schools, nursing schools, and other health-related schools regarding hepatitis B discrimination. Citing March 2013 settlement agreements that the Justice Department reached with a medical school and a school of osteopathic medicine resolving allegations that the schools violated the Americans with Disabilities Act by excluding previously-accepted applicants with hepatitis B from their programs (read our [related blog post](#)), the Departments express concern that some health-related schools may be making enrollment decisions based on an incorrect understanding of the hepatitis B virus, resulting in unlawful discrimination. The joint letter reminds the schools about the [Updated Recommendations for the Management of Hepatitis B Virus-Infected Health-Care Providers and Students](#) published by the Centers for Disease Control and Prevention (CDC) in a July 2012 MMWR. The letter emphasizes the importance of the CDC's recommendations, especially as they relate to the schools' obligation to comply with federal laws prohibiting discrimination on the basis of disability, race, and national origin.

- [Read the Guidance - PDF](#) (June, 2013)
- [Joint OASH and OCR Letter to Health Professions Schools - PDF](#) (October, 2020)

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