

Key Provisions and Regulations Implementing Section 504 of the Rehabilitation Act of 1973

Title V of the Rehabilitation Act has several key Sections (or components):

Section 501:

Section 501 covers Federal employment and requires the Federal Government to be a model employer of persons with disabilities.

Section 502:

Section 502 created the U. S. Architectural and Transportation Barriers Compliance Board to ensure effective enforcement of the Architectural Barriers Act of 1968, and authorized the Board to develop minimum standards for architectural access to certain Federally constructed, leased or financed buildings and facilities.

Section 503:

Section 503 covers contractors' employment and provides for nondiscrimination in employment by Federal contractors.

Section 504:

Section 504 provides for nondiscrimination in all programs, services and activities receiving federal financial assistance; and in programs, services and activities conducted by Executive agencies.

Section 505:

Section 505 provides that the rights, remedies and procedures available under Title VI of the Civil Rights Act of 1964 shall be available to individuals who wish to file a complaint under Section 504. In addition, Section 505 allows attorney's fees for the prevailing party.

Section 508:

Requires that Federal agencies' electronic and information technology be accessible to people with disabilities, including employees and members of the public.

SECTION 504

This Web site focuses on Section 504, and on HUD's regulations implementing Section 504 in federally assisted programs services and activities. These regulations are codified at 24 CFR Part 8.

Section 504 states:

"No otherwise qualified individual with a disability in the United States... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service."

HUD's regulations at 24 CFR Part 8 apply to all applicants for, and recipients of, HUD financial assistance in the operation of programs or activities receiving such assistance.

Individual with Disabilities Defined

HUD's Section 504 regulations define an individual with a disability as any person who has a physical or mental disability that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment [24 CFR 8.3]. Major life activities include walking, talking, hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself. The law also applies to individuals who have a history of such impairments as well as those who are perceived as having such an impairment.

A person who meets the above definition, and who is otherwise qualified for the program, service or activity, is covered under Section 504. To be otherwise qualified means the individual meets the essential eligibility requirements, including, for example, requirements for tenancy, if the program is a housing program.

Recipient Defined

The regulations define "recipient" as any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. An entity or person receiving housing assistance payments from a recipient on behalf of eligible families under a housing assistance payments program or a voucher program is not a recipient or sub-recipient merely by virtue of receipt of such payments [24 CFR 8.3].

Section 504 Coverage

Section 504 covers all programs, services and activities of recipients of HUD financial assistance, including, for example:

- Outreach and public contact, including contact with program applicants and participants
- Eligibility criteria
- Application process
- Admission to the program
- Tenancy, including eviction
- Service delivery
- Employment policies and practices

Section 504 Prohibitions Against Discrimination

Guarantee	Prohibition
Opportunity to participate	Denying a qualified individual with disabilities the opportunity to participate in, or benefit from, the housing, aid, benefit, or service.
Equality of benefits	Failing to afford a qualified individual with disabilities the opportunity for equal participation and benefit.
Equality of opportunity	Failing to provide a qualified individual with disabilities a program or service that affords the same opportunity to benefit as that afforded others.
No unnecessary difference or separateness	Providing different or separate housing, aid, benefits or services on the basis of disability unless providing such is necessary to provide housing or benefits that are as effective as that provide to persons without disabilities.
No assistance to entities that discriminate	Providing significant assistance to an agency, organization or person that discriminates on the basis of disability in any aspect of a federally assisted activity.

Opportunity to serve on boards	Denying a qualified individual with disabilities the opportunity to participate as a member of planning or advisory boards.
No denial of right to a dwelling	Denying a dwelling to an otherwise qualified buyer or renter because of a disability of that buyer or renter or another prospective tenant.
No discriminatory limitation of benefits	Limiting in any other manner a qualified individual with disabilities in the enjoyment of any right, privilege, advantage, or opportunity afforded to others.
Most integrated setting	Providing programs or services to qualified individuals with disabilities in settings that are unnecessarily separate, segregated or restricted.

Recipients' Responsibilities Under Section 504:

In order for recipients to comply with Section 504, they must:

- Take steps to ensure effective communication with applicants, beneficiaries, and members of the public. [24 CFR 8.6]
- Take steps to ensure that employment activities, including job announcements, recruitment, interviews, hiring, work assignments, promotions and dismissals, do not discriminate on the basis of disability. [24 CFR 8.10 - 8.13]
- Ensure that all non-housing programs are operated in a manner that does not discriminate on the basis of disability and that new construction and alterations of non-housing facilities are made accessible in accordance with applicable standards. [24 CFR 8.21]
- Operate existing housing programs in a manner that does not discriminate on the basis of disability, and take steps, as needed, to ensure that existing housing programs are readily accessible to and usable by persons with disabilities. Develop and implement a transition plan to assure compliance. [24 CFR 8.24]
- Provide reasonable accommodations which may be necessary for a person with a disability to use or participate in the program, service or activity; unless the recipient can demonstrate that the accommodation will result in an undue financial and administrative burden or a fundamental

alteration in the nature of the program, service or activity. A reasonable accommodation is an adaptation or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Reasonable accommodations may include, but are not limited to, adjustments or modifications to buildings, facilities, dwellings, and may also include provision of auxiliary aids, such as readers, interpreters, and materials in accessible formats.

[24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]

- Pay for a reasonable accommodation needed by the individual (e.g., a ramp to a unit) unless providing that accommodation would be an undue financial and administrative burden or a fundamental alteration of the program.
[24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
- Ensure that all new construction of housing facilities is readily accessible to and usable by persons with disabilities, and meets the requirements of applicable accessibility standards. [24 CFR 8.22 and 8.32]
- Ensure that substantial alterations, when undertaken, meet the requirements for new construction. [24 CFR 8.23(a)] Ensure that all other alterations, to the maximum extent feasible, meet the requirements of the applicable accessibility standards. [24 CFR 8.23(b)]
- Conduct any required needs assessments (for recipients who are public housing agencies) to determine the extent to which the housing needs of persons with disabilities are being met in the recipient's program and in the community. [24 CFR 8.25]
- Distribute accessible dwelling units throughout projects and sites and make such units available in the same ranges of sizes and amenities to provide housing choices for persons with disabilities that are the same as those provided to others. [24 CFR 8.26]
- Adopt suitable means to ensure persons with disabilities are made aware of the availability of accessible units and to maximize use of accessible units by individuals needing the features of these units. [24 CFR 8.27]
- Conduct any required self-evaluations of programs, services, and activities to determine if they are programmatically and physically accessible to persons with disabilities, and involve persons with disabilities in these evaluations.
[24 CFR 8.51]
- Recipients with 15 or more employees—designate an employee to ensure the recipients' programs, services and activities meet the requirements of Section 504; adopt a grievance procedure to effect due process standards and prompt and equitable resolutions of complaints. [24 CFR 8.53]
- Recipients with 15 or more employees—notify participants, beneficiaries, applicants and employees of their nondiscriminatory provisions. [24 CFR 8.54]

- Maintain records and reports of efforts to meet the requirements of Section 504, and keep these records on file so that they are available if a complaint is filed, or if HUD conducts a compliance review. [24 CFR 8.55]

Responsibilities of Persons with Disabilities

Persons with disabilities can help assure compliance with Section 504 in a variety of ways:

- Persons with disabilities are encouraged to assist in educating recipients about Section 504 and letting recipients know where they may obtain more information, such as through this Web site, or by contacting the nearest HUD Office of Fair Housing and Equal Opportunity.
- It is the responsibility of the person with a disability to request a reasonable accommodation if such accommodation may be necessary to allow him or her to participate in the recipient's program, service or activity. [24 CFR 8.4, 8.11, 8.20, 8.21, 8.24, 8.25, 8.33]
- Persons with disabilities, just like any other persons, are expected to comply with any applicable requirements of programs, including, for example in the case of housing programs, the requirement to meet obligations of tenancy.
- Persons with disabilities who believe they have been subjected to discrimination prohibited by Section 504 should file a complaint with the Department. Any person who believes that any specific class of persons has been subjected to discrimination prohibited by Section 504 and who is a member of that class or who is the authorized representative of a member of that class may file a complaint with the Department. [24 CFR 8.26(c)]