

# Disability Rights: Now More Than Ever



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[Disabinfo.net](http://Disabinfo.net)

# PowerPoint Materials

- Available at <https://disabinfo.net/category/presentations/>
- [See also: Advocacy 101: What's Your Personal Style](#)

# Why We Need to Understand our Rights

To Achieve Inclusion, Justice, Access,  
and Equity

**Disability advocacy** is acting, speaking or writing to promote, protect and defend the *human rights* of people with disabilities. We don't want to be "accommodated" only as "disabled people".

# Where Do Our Rights Come From?

- Laws which are disability specific
- All other state and federal laws
- Regulations
- Constitutions

# Federal Laws

- These laws are primarily enforced by federal agencies like the Department of Justice (DOJ), the Equal Employment Opportunity Commission (EEOC), and the Department of Transportation (DOT).
- We also enforce our rights under these laws in state and federal courts.

# Americans with Disabilities Act (ADA)

- Most widely known disability rights law
- Broadly prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities.
- Does NOT apply to the federal government

# Who is Protected?

1. Someone with a physical or mental impairment that substantially limits one or more major life activities;
2. Someone who has a record of such an impairment;  
or,
3. Someone who is regarded as having such an impairment.

# What is Protected?

- Title I – Employment
- Title II – State and Local Government Services and Public Transit (Not federal government)
- Title III – Public Accommodations: places which serve the public: stores, restaurants, offices, swimming pools
- Title IV - Telecommunications
- Title V – Miscellaneous: retaliation, accommodations, attorney's fees

# Limitations on Enforcement

- Undue Burden
- Fundamental Change
- Interactive Process

# Rehabilitation Act of 1973

- Prohibits discrimination on the basis of disability in programs:
  - conducted by federal agencies;
  - receiving federal financial assistance; or
  - in federal employment

\*\*\*\*federal money is the key\*\*\*\*

# Sections 501, 503, 504 and 508

- The Rehabilitation Act of 1973: pre-ADA civil rights legislation which prohibits discrimination based on disability in programs conducted by federal agencies, receiving federal financial assistance, or under federal contracts (Sections 501, 503, 504)
- It authorizes vocational rehabilitation, independent living services, and ensures access to technology (Section 508).

## Section 504-federal funding

- Used as a substitute for Special Education
- Doesn't have the same protections or services as IDEA

# Individuals with Disabilities Education Act (IDEA): Special Ed

- Ensures that children with disabilities receive a free appropriate public education (FAPE) in the least restrictive environment
- Requires special education and related services
- Detailed protections and Due Process rights

# IDEA Enforcement

- Due Process, Manifestation hearings
- California Department of Education complaints:  
<https://www.cde.ca.gov/re/cp/>
- Federal Department of Education Office of Civil Rights. May return in the future

# Special Education Resources

- Family Resource Centers (mandated by IDEA)
- Parent Training and Information Centers (PTIs) funded through IDEA. SpEd. Birth-22.
- Community Parent Resource Centers (CPRCs): low income, ESL, IDEA
- [parentcenterhub.org](http://parentcenterhub.org)
- Family Empowerment Centers on Disability (California)

# Fair Housing Act (FHA)

- Prohibits discrimination in housing. Includes: renting, buying, financing, or advertising. It requires accessible housing design and protects against harassment, unequal terms, and steering.
- Group Homes: zoning and land use provisions
- Accessibility Requirements included in the law and regs

# FHA Enforcement

- [State of California Civil Rights Department](#)
- The Department of Justice brings cases where there is evidence of a [pattern or practice](#) of discrimination or where a denial of rights to a group of persons raises an issue of general public importance.
- Individuals may file a complaint with the [Department of Housing and Urban Development \[HUD\]](#) or file their own lawsuit in federal or state court.

# Architectural Barriers Act (ABA) of 1968

- First federal law to require that buildings and facilities designed, built, or altered with federal funds be accessible to people with disabilities.
- **ADA Standards for Accessible Design**: Enforceable standards for ensuring public spaces are accessible to individuals with disabilities.
- Enforced by the US Access Board: <https://www.access-board.gov/enforcement/>

# State Laws

- **Lanterman Welfare and Institutions Code §4500 et seq**
- **California Unruh Act (Civ. Code § 51):** Focuses on "full and equal" access to business establishments.
- **California Disabled Persons Act (Civ. Code § 54):** Specifically ensures the right to full and free use of public places, facilities, and transportation for people with disabilities.

# Air Carrier Access Act (ACAA) of 1986

- Prohibits airlines from discriminating against passengers on the basis of disability.
- It requires carriers to provide accessibility, including assistance with boarding, deplaning, connecting flights, and accommodating wheelchairs and other devices.
- The Department of Transportation enforces these rules for U.S. and foreign flights to/from the U.S.:  
<https://www.transportation.gov/airconsumer>

# Voting Accessibility for the Elderly and Handicapped Act of 1984

- Requires polling places in federal elections to be physically accessible to people with disabilities.
- [Access to Voting for People with Disabilities](#)

# Telecommunications Act of 1996

- Requires manufacturers of telecommunications equipment and providers of telecommunications services to ensure they are accessible if "readily achievable"
- Covers phones, pagers, fax machines, and computers with modems
- Enforced by the FCC: [fcc.gov/complaints](https://www.fcc.gov/complaints)
- Can also file with FCC for internet service, or TV and radio services

# Civil Rights of Institutionalized Persons Act (CRIPA)

- Authorizes the U.S. Attorney General to investigate conditions of confinement at state and local government institutions and to file suit to correct violations of federal rights.

# Misc

- **Achieving a Better Life Experience (ABLE) Act**: Allows for tax-advantaged savings accounts for individuals with disabilities.
- **Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA)**: Requires federal contractors to take affirmative action to employ protected veterans, including those with disabilities.
- **Workforce Innovation and Opportunity Act (WIOA)**: Focuses on improving employment opportunities for individuals with disabilities.

# Enforcing Your Rights: Tell Someone

- Is the building accessible?
- Is the coffee stand accessible?
- Is the music too loud or lights too bright?
- Parking
- Bathrooms
- Signs at the correct height

ADA Coordinators

Program managers

# Remedies

- Statutory Damages: Unruh minimum of \$4,000
- Actual Damages: up to 3x for property damage, economic loss
- Injunctive Relief: Court order to stop the violation
- Attorney's Fees and Costs
- Punitive Damages for despicable conduct

# **Information and Assistance**

# Access through Lawyers

- **The Usual Path:** you ask a lawyer to represent you in a court of law and you pay large fees for the privilege of enforcing your rights.
- **Pros:** Someone who knows the system and will interact with other lawyers and speak for you.
- **Cons:** Expensive, time consuming, delay, hard to find attorneys who know our community, and who can truly speak for you.

# Protection & Advocacy

- Non-profit agencies established by Congress to provide free legal services to PWD to enforce rights to benefits and services
- P&A systems for: Developmental Disabilities, Traumatic Brain Injury, Access to Voting, Assistive Technology
  - California: [Disability Rights California](#)

# PAIMI/ CAP/OCRA state grants

- Protection and Advocacy for Individuals with Mental Illness – grants administered by the Substance Abuse and Mental Health Services Administration (SAMHSA)
- Client Assistance Program: Rehabilitation Services Administration. ADA Title I and Rehabilitation Act of 1973 (Department of Rehabilitation and Independent Living Centers)
- Office of Clients' Rights Advocacy (Calif.)



# Administrative Agencies

- Every State and Federal Department has a complaint process on its website.
- US Dept of Ed Office of Civil Rights
- HUD (Housing and Urban Development)
- Ombuds Office for Health Care
- [ADA.gov](https://www.ada.gov)

# DOE discrimination complaint

- U.S. Department of Education Office for Civil Rights
- OCR's mission is to ensure vigorous enforcement of civil rights for DOE funded agencies: schools, libraries, museums, TV.
- Race, color, national origin, sex, disability, or age.  
(Note: Your IDEA complaints must go follow IDEA process)

# How to file

- Who can file: ANYONE
- Civil Rights laws prohibit retaliation; you can also file anonymously
- Timeline: 180 days or good cause OR 60 days after internal process completed

# Think Outside Disability

- Housing
- Landlord/Tenant
- Family Law
- Elder assistance programs
- Low-income programs: Legal Services Corp.
- Legal Aid
- English as a second language
- Veterans
- ABA

# Money, Money, Money, Money

- Contingency fees in civil rights cases
- Spouse may pay in family court
- Deducted from government benefits due
- Non-profits
- Law Schools
- Legal Services

# How to Find a Lawyer

- Government Disability Advocates and general legal assistance programs
- Non-profits: search by subject matter. E.g. Housing, Veterans
- Bar associations
- Modest means programs
- [Legal Services Corp](#)
- [American Bar Association](#)

# Finding Advocates

- **Administrative governmental agencies**
- **Non-profit and government legal assistance programs – Protection and Advocacy, Family Resource Centers**
- **Community Advisory Committees**
- **Government Advisory Councils**
- **[Court websites](#)**

