

Federal Housing Protections for People with Disabilities

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Introduction

More than 70 million people in the U.S. live with disabilities, and many face one or more barriers to living in affordable, accessible, and integrated housing. Disabled people experience some of the highest rates of homelessness, housing discrimination, and housing insecurity across the country. More than 18 million disabled adults qualify for federal housing assistance but do not currently receive it. The 7.4 million people who rely on Supplemental Security Income (SSI), including older adults and people with disabilities, are priced out of every housing market in the U.S. and, on average, need to spend 142% of their income to afford basic housing. Many also continue to be impacted by institutionalization – in part because of a lack of supportive, affordable, accessible housing. These individuals include roughly 1.2 million adults living in nursing homes, more than 360,000 people in psychiatric facilities, and more than 268,000 people with intellectual and developmental disabilities who live in congregate, institutional settings or who are on waitlists for services and residential programs. The experiences of discrimination, housing insecurity, homelessness, and institutionalization are even more compounded for Black, Brown, Indigenous, immigrant, and LGBTQIA disabled people.

Thanks to people-led movements for disability rights and fair housing, a strong foundation exists of federal housing protections and rights for people with disabilities. This article summa-

rizes key federal civil rights laws and issues, the forecast for protecting disability rights in 2025, and suggestions for advocating with federal policymakers. Beyond the current framework, significant work remains to defend and strengthen existing protections and ensure they are fully realized for every disabled person.

Overview of Key Federal Civil Rights Laws

The federal “Fair Housing Amendments Act” (FHA), Section 504 of the “Rehabilitation Act,” and the “Americans with Disabilities Act” (ADA) provide housing protections for people with disabilities. People with disabilities are broadly defined as individuals with mental or physical impairments that substantially limit at least one major life activity (such as caring for yourself, learning, walking, etc.). Federal civil rights laws also protect people who have a history of, or are perceived as having, such impairments.

Together, these civil rights laws cover most types of housing – from homeless shelters and private housing, to subsidized housing and nursing homes. In general, the FHA applies to most housing, Section 504 applies to federally-assisted housing, and the ADA applies to housing provided by state and local governments and places of public accommodation.

These laws prohibit discrimination against people with disabilities and aim to ensure that they have equal access to housing opportunities. Some key legal requirements and issues are described below. Advocates should also note that states often have their own fair housing and disability discrimination laws, which may offer more protections than federal laws.

Key Issues

REASONABLE ACCOMMODATIONS

Federal civil rights laws generally require housing providers to grant [reasonable accommodations](https://bit.ly/4cLDCVf): <https://bit.ly/4cLDCVf> for people with disabilities. Reasonable accommodations are changes to rules, policies, or practices that are necessary to ensure that people with disabilities have equal access to housing. For example, a housing provider may need to waive certain lease terms and allow a live-in aide as a reasonable accommodation for a disabled person. Many people with disabilities also need service or emotional support animals, and these individuals may need housing providers to waive no-pet or no-animal policies as a reasonable accommodation. Other reasonable accommodations may include providing auxiliary aids and services (large print documents, interpreters, etc.) to ensure effective communication with people with disabilities.

The denial of reasonable accommodations is a widespread type of housing discrimination and, depending on the context, may violate the Fair Housing Act, Section 504, and/or the ADA. [A 2022 report from the U.S. Department of Housing and Urban Development \(HUD\)'s Office of Inspector General \(OIG\): https://bit.ly/4istlON](https://bit.ly/4istlON) revealed that, from 2009 to 2019, the number of federal fair housing complaints based on alleged failure to provide reasonable accommodations increased by 46.1% even as the total number of housing discrimination complaints decreased. More recent data show that reasonable accommodation cases continue to comprise a high percentage of all complaints filed – 44.2% in 2022 and 44.6% in 2021.

PHYSICAL ACCESSIBILITY

Housing providers also generally have legal obligations to ensure that properties and units are physically accessible for people with disabilities. These obligations may include providing or

permitting structural [reasonable modifications](https://bit.ly/4iu382x): <https://bit.ly/4iu382x>, such as the installation of ramps or grab bars. In other cases, federal civil rights laws may require housing providers to design and construct housing according to specific accessibility standards. Section 504, for instance, requires covered multifamily housing projects to include a minimum of 5% of total dwelling units that are accessible for people with mobility impairments, as well as an additional 2% of units that are accessible for people with hearing or vision impairments.

Despite these legal requirements, the need for physically accessible housing far exceeds the current supply. Nationally, less than 5% of housing is accessible for people with moderate mobility difficulties, and less than 1% of units are accessible for people using a wheelchair. In contrast, about 12.2% of all U.S. adults and about 25% of older adults have a mobility disability. And with the aging of the U.S. population, one in five Americans in 2030 will be 65 or older, further increasing the need for accessible housing.

OLMSTEAD AND COMMUNITY INTEGRATION

The ADA and *Olmstead* Supreme Court decision, along with Section 504, require HUD, federally-assisted housing providers, and state and local governments to deliver programs and services in the most integrated setting possible for people with disabilities. This integration mandate means that disabled people should have the opportunity to live independently in the community among non-disabled people (rather than face unnecessary segregation and institutionalization in places like nursing homes). Additionally, the FHA includes a statutory duty for HUD and its grantees to “affirmatively further fair housing” (AFFH). Under HUD regulations, this obligation may include working to ensure that people with disabilities have the option to live where they choose.

By offering integrated housing options, [HUD housing programs help support state and local governments' Olmstead efforts: https://bit.ly/3SbqCOV](https://bit.ly/3SbqCOV) to help disabled people avoid or transition out of institutions. For example, the Mainstream Voucher program serves people with disabilities aged 18-61, and vouchers are often targeted to those who are leaving institutions or at risk of institutionalization. The Section 811 Project Rental Assistance (PRA) program, meanwhile, provides funds to state housing agencies to incentivize property owners to offer integrated housing for younger people with disabilities. HUD's Continuum of Care (CoC) program is another important source of housing opportunities, helping to fund integrated, scattered-site permanent supportive housing (PSH) that serves disabled people experiencing chronic homelessness.

CIVIL RIGHTS ENFORCEMENT

HUD enforces the federal FHA and the agency's Section 504 regulations. The U.S. Department of Justice (DOJ) also enforces the FHA as well as the ADA. HUD, through its Fair Housing Initiatives Program (FHIP) and Fair Housing Assistance Program (FHAP), partners with nonprofit fair housing organizations and state/local government agencies to carry out education and enforcement activities across the country. More than 75% of housing discrimination complaints are processed by nonprofit fair housing organizations, such as legal aid agencies.

Year after year, most [fair housing complaints: https://bit.ly/3Ry2kOZ](https://bit.ly/3Ry2kOZ) (over 50%) involve disability discrimination. Many housing providers intentionally or unknowingly (due to lack of knowledge and training) engage in disability discrimination, which can take many forms and commonly results from the denial of reasonable accommodations/modifications or non-compliance with accessibility standards in federal civil rights laws. Yet a [2023 Government Accountability Office \(GAO\) report: https://bit.ly/4iCyoMJ](https://bit.ly/4iCyoMJ)

[ly/4iCyoMJ](https://bit.ly/4iCyoMJ) showed that HUD lacks a proactive oversight strategy to ensure that HUD-assisted housing providers comply with reasonable accommodation requirements and meet accessibility needs. GAO recommended that, in addition to investigating complaints, HUD develop and conduct more comprehensive front-end civil rights compliance reviews.

Forecast for 2025

It is unlikely that HUD will continue recent rulemaking efforts to advance disability rights. In 2023, HUD issued an advance notice of proposed rulemaking to seek public input on modernizing HUD's Section 504 regulations, which have not been updated in over 30 years. Under the Trump Administration, however, strengthening Section 504 regulations is not expected to be a priority. HUD had also been working on issuing a new final Affirmatively Furthering Fair Housing (AFFH) rule that, among other improvements, would have required HUD grantees to identify barriers to integration and access to opportunity for people with disabilities. Unfortunately, in 2025 advocates expect HUD to not only withdraw its pending final AFFH rule, but to also move to weaken the FHA. Potential actions may include attempts to rescind the current 2021 Interim Final Rule (IFR) on AFFH. In addition, HUD may try to limit the ability for complainants and plaintiffs to challenge discriminatory housing policies that have a disparate impact on protected classes, including people with disabilities.

On the legislative front, advocates are concerned about deep cuts to federal housing benefits and funding for HUD's affordable housing and homelessness programs, including fair housing programs. If enacted, such cuts would increase homelessness and institutionalization among low-income older adults and people with disabilities. These cuts would also slash the capacity for enforcement of fair housing and other civil rights laws.

Another potential threat is the de-funding of “Housing First” homelessness programs, which provide expedited access to permanent housing with voluntary supportive services. In its CoC program, HUD currently discourages homeless service providers from imposing barriers to housing and instead prioritizes funding programs with a Housing First approach. However, in 2025 HUD may stop centering the evidence-based Housing First model, and Congress may try to divert funding for Housing First programs to those that require participation in treatment as a condition of securing housing. The result would be increased hurdles to housing for people experiencing homelessness, a disproportionate number of whom are older adults and people with disabilities.

What Advocates Can Do

- Ask members of Congress to oppose regulatory efforts to weaken the FHA and other civil rights laws.
- Submit comments to HUD opposing proposed rules that would reduce housing access for people with disabilities and urge HUD to increase oversight on reasonable accommodations and other fair housing issues.
- Report housing discrimination against people with disabilities. Contact a local [FHIP \(fair housing\) organization: https://bit.ly/4lCmhSu](https://bit.ly/4lCmhSu) for legal representation or help with filing fair housing complaints. Advocates can also [file complaints with HUD: https://bit.ly/4iyBMlm](https://bit.ly/4iyBMlm). People who have faced housing discrimination can file an administrative fair housing complaint up to one year from the date of the last act of discrimination, and/or file a lawsuit for up to two years from that date. [Justice in Aging: https://justiceinaging.org/contact-us/](https://justiceinaging.org/contact-us/) is also available to provide case consultations on these issues.
- Connect with inclusive affordable housing developers, like [The Kelsey: https://thekelsey.org/](https://thekelsey.org/), who can share best practices and

models for not just compliant housing, but also how property managers and developers can foster affirmative and inclusive housing experiences for people with disabilities.

- Urge Congress to support maximum levels of funding for all HUD affordable housing and homelessness programs, as well as bills that would expand access to housing for disabled people (such as the [VITAL Act: https://bit.ly/4iypaBe](https://bit.ly/4iypaBe), the goal of which is to increase the stock of affordable, accessible housing).
- Advocate for expanded funding for fair housing programs and programs providing integrated housing, such as Mainstream Vouchers and the Section 811 PRA program.

What to Say to Legislators

- Through storytelling and data, share how people with disabilities and older adults disproportionately experience housing discrimination, insecurity, homelessness and institutionalization in the legislator’s district.
- Dismantle harmful stereotypes about people with disabilities that can lead to further noncompliance and discrimination and share examples of how implementing disability rights and fair housing protections supports not just the health and wellbeing of the disabled tenant or applicant but can also benefit the broader community.

For More Information

Powerful networks of people and organizations can support you in advocating for federal disability and housing protections, including the [Consortium for Constituents with Disabilities \(CCD\) Housing Task Force: https://bit.ly/44DBDA2](https://bit.ly/44DBDA2), [Justice in Aging: https://bit.ly/4itPkVy](https://bit.ly/4itPkVy), [Disability Rights Education and Defense Fund \(DREDF\): https://bit.ly/4itPkVy](https://bit.ly/4itPkVy), [The Kelsey: https://thekelsey.org/](https://thekelsey.org/), and many more.