

FACT SHEET

ACCESS TO PUBLIC ACCOMMODATIONS & GOVERNMENT SERVICES IN NEW YORK CITY
RIGHTS OF INDIVIDUALS WITH PHYSICAL DISABILITIES

► WHAT IS DISCRIMINATION AGAINST INDIVIDUALS WITH PHYSICAL DISABILITIES?

Federal, state and city laws protect individuals with physical disabilities from discrimination in places of public accommodation and government programs and services. Generally, the law protects against two kinds of discrimination: intentional exclusion and the failure to make reasonable changes to buildings or policies. Intentional exclusion is when a place tells a person that he or she is not welcome because of his or her physical disability. The other kind of discrimination is when a place won't make reasonable changes to a building or policy so a person with a physical disability can access its goods or services equally.

► WHO IS A PERSON WITH A PHYSICAL DISABILITY?

Generally, if you have a physical impairment that limits use of a part or a system of the body you may have a physical disability. A physical disability may result from conditions such as quadriplegia, multiple sclerosis, epilepsy or cerebral palsy and may make activities like walking, talking or moving difficult. Note that the law may protect you from discrimination even if you are only "regarded as" having or have a "prior record" of a physical disability.



► WHAT PLACES & SERVICES ARE COVERED BY THE LAW?

Under the law, federal, state and city governments must provide equal access to their programs and services. Places of "public accommodation" are also required to grant equal access to their facilities and programs. A "public accommodation" is a place open to the public, where people go for goods or services. This category is quite broad and includes almost all places of business in New York City. Some private clubs and places run by religious entities may not be considered places of public accommodation.

EXAMPLES OF PUBLIC ACCOMMODATIONS: Restaurants, stores, hotels, auditoriums, doctors' offices, hospitals, private schools, daycare centers

EXAMPLES OF GOVERNMENT PROGRAMS & SERVICES: Government agency offices, public transportation, voting sites, courts

► WHAT DO THE LAWS REQUIRE?

Generally, the laws require that governments and places of public accommodation make *reasonable* changes to their buildings, services and policies in order to provide access to people with physical disabilities. What is "reasonable" under the law may depend on how much the changes will cost, whether the changes make the building or service unsafe, and whether the changes "fundamentally alter" the service or good. When deciding whether a proposed change is unsafe, actual risks must be considered, not stereotypes or generalizations. There are two main categories of changes:

- **BARRIER REMOVAL:** Governments and places of public accommodation may have to remove physical barriers to their facilities when it is "readily achievable," meaning it can be done easily. Whether an entity must remove barriers may depend in some cases on when the building was built or renovated. Barrier removal will also depend on whether the changes are physically possible. *Newly* constructed buildings and facilities must be made accessible to the maximum extent feasible.



EXAMPLES OF BARRIER REMOVAL: Ramps, sidewalk curb cuts, lowering store counters, rearranging furniture, widening doors, grab bars in bathrooms, moving a public hearing to a lower floor

If barrier removal is not possible, the government or public accommodation must find another way for an individual with a physical disability to access its services. For example, a grocery store may need to get items from inaccessible shelves or the post office may need to provide home pick-up of packages.



- **POLICY MODIFICATIONS:** In addition to making changes to their physical space, places of public accommodation and governments are required to make changes to their policies or practices to make sure that a person with physical disabilities has equal access.







EXAMPLE OF POLICY MODIFICATION: A store permitting an aide to assist an individual in a dressing room, even if the store's policy is to allow just one person in the dressing room at a time.

► HOW DO I ENFORCE MY RIGHTS?

You can first try to resolve the problem by writing to or speaking directly with people at the business or government office. If that does not work, and if you feel you have been discriminated against on the basis of your disability, there are generally two ways to make a formal complaint: (1) file an administrative complaint or (2) file a lawsuit in court. Typically, administrative complaints take less time than lawsuits. Note that the law protects you from retaliation, too; in other words, the place you are complaining about cannot do anything to “get back” at you just because you complained.

1. ADMINISTRATIVE COMPLAINT

Several administrative agencies accept complaints related to disability discrimination: the New York City Commission on Human Rights, the New York State Division of Human Rights, the United States Department of Justice, and the Offices of Civil Rights at various federal agencies (we list information about 7 key agencies). Below is a brief overview of each agency's process. Please contact the agencies directly for more information. Note that in most situations you cannot file more than one complaint about the same matter.

<p><u>NYC Commission on Human Rights (NYCCHR) & NY State Division of Human Rights (NYSDHR)</u></p> <p>investigate complaints filed under the City and State Human Rights Laws, respectively.</p>	<p> → Time Limit: You have one (1) year from the date of the discrimination to file a complaint.</p> <p> → Process/Outcome: The agency will investigate the claim. If there is evidence of discrimination, the agency may issue a written order telling the facility to stop discriminating against you. The agency may tell the facility to remove barriers or provide some other reasonable solution. You might receive money if the agency finds that you suffered emotional or other harm.</p>
<p><u>Office of Civil Rights (OCR)</u></p> <p>Through an Office of Civil Rights, federal agencies handle discrimination complaints against entities receiving federal funding. Each agency, e.g., the Department of Transportation, handles a specific category of complaints.</p>	<p> → Time Limit: Generally, you must file the complaint within 180 days from when the discrimination happened. Each agency has its own process and time limit, so you should check the agency's website or contact its office to learn how and when to file.</p> <p> → Process/Outcome: The agency will investigate your claim. If it finds that discrimination did occur, then it may try to negotiate to settle the matter. Depending on the agency, a variety of other methods might be used to enforce the law.</p>
<p><u>The United States Department of Justice (DOJ)</u></p> <p>investigates complaints against local governments or private facilities filed under the Americans with Disabilities Act.</p>	<p> → Time Limit: Complaints against the government must be filed within 180 days from when the discrimination happened. There is no time limit for complaints against private facilities.</p> <p> → Process/Outcome: DOJ will investigate your claim, but may not take action on an individual matter. Generally, the DOJ focuses on whether your claim raises a pattern of discrimination or an important public issue. If DOJ does take action, it may try to negotiate a settlement or bring a lawsuit.</p>

DUE TO THE GENERAL NATURE OF THE INFORMATION PRESENTED,
THIS FACT SHEET SHOULD NOT BE REGARDED AS LEGAL ADVICE.

2. LAWSUIT IN COURT

You may also file a lawsuit against the government or a private facility in state or federal court.



→ **Time Limit:** Under each law you have up to three (3) years after being discriminated against to file your lawsuit.



→ **Outcomes:** Each of these laws permits a court to issue an order requiring that barriers be removed or requiring reasonable alternatives. However, only the City and State Human Rights Laws allow for money awards based on emotional or other harm.



► HOW CAN I GET MORE INFORMATION AND RESOURCES?

New York Lawyers for the Public Interest
151 West 30th Street, 11th Floor
New York, NY 10001
Phone: (212) 244-4664
Fax: (212) 244-4570
TTY: (212) 244-3692
www.nylpi.org



<p>NYC Commission on Human Rights 40 Rector Street New York, NY 10006 Voice: (212) 306-7450 TTY: (212) 306-7686 www.nyc.gov/cchr</p>	<p>NY State Division of Human Rights Administrative Offices One Fordham Plaza, 4th Floor Bronx, NY 10458 Voice: (718) 741-8400 TTY: (718) 741-8300 www.dhr.state.ny.us</p>	<p>U.S. Department of Justice Civil Rights Division 950 Pennsylvania Avenue, NW Disability Rights - NYAV Washington, DC 20530 Voice: (800) 514-0301 TTY: (800) 514-0383 www.ada.gov</p>
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OFFICES OF CIVIL RIGHTS: PHONE NUMBERS AND WEBSITES

U.S. Department of Transportation (DOT) Federal Transit Administration (FTA)	New York Regional FTA Office: <u>Voice:</u> (212) 668-2170 <u>Federal Relay Service TTY:</u> (800) 877-8339 http://www.fta.dot.gov/civilrights/civil_rights_2360.html
U.S. Department of Education (DOE)	<u>Voice:</u> (800) 421-3481 <u>TDD:</u> (877) 521-2172 http://www2.ed.gov/about/offices/list/ocr/index.html
U.S. Department of Health and Human Services (HHS)	<u>Voice:</u> (877) 368-1019 <u>TDD:</u> (800) 537-7697 http://www.hhs.gov/ocr/index.html
U.S. Department of Justice, Office of Justice Programs (OJP)	<u>Voice:</u> (202) 307-0690 <u>TTY:</u> (202) 307-2027 http://www.ojp.usdoj.gov/about/offices/ocr.htm
U.S. Department of Housing and Urban Development (HUD)	<u>Voice:</u> (800) 669-9777 <u>TTY:</u> (800) 927-9275 http://www.hud.gov/offices/ftheo/FHLaws/index.cfm
U.S. Department of the Interior (DOI) [This agency covers parks & recreation]	<u>Voice:</u> (202) 208-5693 <u>TTY:</u> (202) 208-5998 http://www.doi.gov/diversity/civil_rights.html
U.S. Department of Agriculture (USDA) [This agency covers food stamps]	<u>Voice:</u> (866) 632-9992 <u>TTY:</u> (202) 401-0216 http://www.ascr.usda.gov/

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