



California's protection & advocacy system

Disability Discrimination Fact Sheet: Government Agencies and Other Public Entities

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Federal and State Disability Discrimination Laws

Title II of the Americans with Disabilities prohibits disability-based discrimination by state and local governmental entities (public entities). Section 504 of the Rehabilitation Act provides similar protections from discrimination by entities that receive federal funds.

California law provides similar protections to Title II and Section 504. Government Code Section 11135 prohibits discrimination by state and local governments. The Unruh Civil Rights Act (Civil Code Section 51) and the Disabled Persons Act (Civil Code Sections 54 – 55.32), which prohibit disability-based discrimination by business establishment, also apply to government entities in some circumstances. Any violation of the ADA is also a violation of state law. However, in some circumstances, state law or other federal laws such as Section 504 may provide a higher level of protection than Title II.

Discrimination is the exclusion, segregation, and unequal treatment of people with disabilities by public entities. This includes the failure to make changes in policies and practices (known as “reasonable modifications” or “reasonable accommodations”) to allow a person with a disability equal access to government services. These changes are required if they do not fundamentally alter the nature of the government services and do not impose an undue financial or administrative burden.

Discrimination also includes the failure to provide “auxiliary aids and services” if necessary to ensure effective communication for people with disabilities.

Examples of auxiliary aids and services include qualified sign language interpreters, real-time captioning, and qualified readers for people who are blind. They also include providing documents in accessible formats such as large print or Braille, documents compatible with screen-reading software, or audio recordings of printed information. Public entities are not required to provide auxiliary aids and services if it would fundamentally alter the nature of the goods or services they provide or impose an undue financial or administrative burden.

You can find more information about disability discrimination, reasonable modifications, and the right to effective communication here:

U.S. Department of Justice website:

- Information and Technical Assistance on the ADA: <https://www.ada.gov/taman2.html>
- Effective Communication fact sheet: <https://www.ada.gov/effective-comm.htm>

California Department of Fair Employment and Housing (DFEH) website:

- Recipients of State Funding: <https://www.dfeh.ca.gov/state-contractors-or-subcontractors-or-recipients-of-state-funding-must-not-discriminate/>

A person with a disability may also face discrimination if a public entity’s facilities are not physically accessible. The ADA and California law provide architectural standards for new and altered buildings. The ADA also requires public entities to ensure “program access” in existing facilities. This means that a public entity’s programs and services, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. In some cases, ensuring program access may require physical alterations to existing facilities. However, public entities are not required to make structural changes in existing facilities where other methods are effective in achieving program access.

You can find more information about architectural accessibility here:

- U.S. Access Board website: www.access-board.gov
- U.S. Department of Justice website:
https://www.ada.gov/ada_title_II.htm
- California Division of the State Architect website:
<http://www.dgs.ca.gov/dsa/Programs/progAccess.aspx>
- California Commission on Disability Access website:
www.cdda.ca.gov

Obtaining Reasonable Modifications / Auxiliary Aids and Services

These are the steps to take to obtain a reasonable modification or auxiliary aid or service from a public entity:

1. Write a request for reasonable modifications / auxiliary aids and services. Your request should explain the following:
 - that you are a person with a disability (you do not need to disclose the name of your disability);
 - the ways in which your disability affects your ability to access or benefit from the public entity's goods or services;
 - the specific modifications / auxiliary aids and services you need; and
 - the date by which you expect a response.
2. Unless your disability and need for modifications / auxiliary aids and services are apparent, obtain a support letter from your doctor or other treating professional. This letter should explain why you need the requested modification because of your disability.
3. Send your written request and support letter, if applicable, to the public entity.

A sample letter requesting reasonable modifications / auxiliary aids and services and a sample support letter are at the end of this fact sheet.

Administrative Complaints

Title II of the ADA is enforced by the U.S. Department of Justice (DOJ). Section 504 can be enforced by individual federal agencies, which may have arrangements for shared enforcement with the DOJ. The California Unruh Act, Disabled Persons Act and Government Code Section 11135 are enforced by the DFEH.

If you believe that you have been discriminated against, you can file an administrative complaint with the DOJ under federal law, or with the DFEH under state law. Title II complaints must be filed with the DOJ within 180 days of the discriminatory conduct. DFEH complaints must be filed within one year of the discriminatory conduct. Contact information for the DOJ and the DFEH is below.

DOJ Complaints:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section – 1425 NYAV
Washington, D.C. 20530

Online Filing: https://www.ada.gov/filing_complaint.htm

Phone: (800) 514-0301

TTY: (800) 514-0383

DFEH Complaints:

Online Filing: <https://www.dfeh.ca.gov/filing-a-complaint-online/>

Phone: (800) 884-1684

TTY: (800) 700-2320

Mail: Call (800) 884-1684 and request the appropriate complaint form to print and return. Please allow additional time for mail and processing.

Other agencies may also have jurisdiction to hear specific types of complaints regarding public entities. For example, the California Victim Compensation Board offers compensation for victims of violent crimes.

Litigation

Violations of the laws discussed above may also be enforced through private lawsuits. Please be aware that statutes of limitations restrict the timeframe for filing litigation, and that you could potentially lose claims if

you do not act within the applicable statute of limitations. These deadlines can be as short as two years from the date of discrimination.

Additionally, the Government Tort Claims Act requires that a government tort claim be filed within six months of a discriminatory incident before bringing a lawsuit for money damages against a state or local governmental entity. More information about tort claims can be found at <https://www.disabilityrightsca.org/publications/tort-claims-filing-claims-against-public-entities-under-the-california-tort-claims-act>. Please note that this website links to the form for claims against the state or a state agency or employee, which may not apply in your case. Other public entities may have their own tort claims form available on their website. If you are interested in pursuing litigation, you should consult with an attorney as soon as possible.

If you are seeking less than \$10,000 in money damages, another option is to file a discrimination case in Small Claims Court. The statutes of limitations discussed above will apply. You cannot use a lawyer if you go to small claims court. Here is a link to a Disability Rights California publication that explains the process of using Small Claims for discrimination cases: <https://www.disabilityrightsca.org/publications/a-guide-to-small-claims-court-how-to-sue-if-a-business-or-landlord-discriminates>

Sample Letter to Request a Reasonable Modifications or Auxiliary Aids and Services

[Date]

Dear [Public Entity]:

I am writing to request [reasonable modifications / auxiliary aids and services] for my [disability / disabilities].

I [am receiving / would like to receive] services from [Public Entity]. Because of my disability, I need the following: [list modifications / auxiliary aids and services]:

My [physician / psychiatrist / psychologist / therapist / social worker / occupational therapist / other individual (describe)] has deemed these modifications / auxiliary aids and services necessary in light of my disability. Please see the attached letter from [doctor or professional's name].

Federal and state law require that public entities provide reasonable modifications / auxiliary aids and services for people who have disabilities. Please respond to this request by [date]. Feel free to contact me at [your phone number and / or e-mail address] if you have any questions. Thank you.

Sincerely,

[Your name]

[Your address]

Sample Support Letter

[Date]

Dear [Public Entity]:

I am the [physician / psychiatrist / psychologist / therapist / social worker / occupational therapist] for [Name], and am familiar with [his / her] condition. [She / he] has a disability that causes certain functional limitations. These limitations include [list functional limitations that require the requested modification / auxiliary aid or service].

[The requested modification / auxiliary aid and service] is necessary for [Name] to [apply for / have equal access to the services and benefits of] [name of Public Entity]. [Describe how the modification / auxiliary aid and service will assist or support the individual].

Thank you for providing this reasonable modification for [Name].

Sincerely,

[Name and Title]

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For legal assistance call 800-776-5746 or complete a [request for assistance form](#). For all other purposes call 916-504-5800 (Northern CA); 213-213-8000 (Southern CA).

Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.