

Protect 504

Public
Means **Everyone**



Section 504 of the Rehabilitation Act of 1973: A Legacy of Inclusion, A Future at Risk

This paper was developed by the [Education Rights Counsel](#), Omaha NE.

Immediate Call to Action

We are witnessing a coordinated effort to weaken protections for people with disabilities. [Section 504](#) was born from protest, it must be defended with the same urgency and collective action today.

We call on:

1. Nebraska [Attorney General Mike Hilgers](#) and Iowa [Attorney General Brenna Bird](#) to immediately withdraw from the [Texas v. Kennedy lawsuit](#).
2. All 17 state [Attorneys General](#) involved to drop their support of the Texas v. Kennedy lawsuit.
3. Our community to stay alert, we will share details as soon as the public comment period reopens for the Department of Energy's proposed rollback of accessibility requirements under Section 504.

Introduction

[Section 504 of the Rehabilitation Act of 1973](#) is the first federal civil rights law to protect individuals with disabilities from discrimination. Its passage represented a profound shift in how society regarded disability. For the first time, public policy treated people with disabilities not as objects of charity, but as individuals with enforceable civil rights. Section 504 established that exclusion, segregation or denial of opportunity based solely on disability was not “unfortunate,” but rather, unlawful.

Today the accommodations Section 504 ([see 504 Frequently Asked Questions](#)) enables are largely taken for granted by the general public, and all those who benefit from it daily. Ramps into buildings. Captions on videos. Accessible public transportation. Modified bathrooms. Braille signage. Elevators. Videophones for the Deaf. Adaptive testing for students. A break to use an inhaler. The right to be a part of a community and not be institutionalized. These rights did not always exist. They were hard-won by people with disabilities and their allies through relentless advocacy, legal challenge, and at times, direct civil disobedience.

Today, those protections face existential threats. As political and legal winds shift, we are at risk of losing foundational civil rights protections unless we once again speak up, push back, and insist on full inclusion for all.

This article explores the history, legal framework, implementation, and present-day function of Section 504. It also documents recent political and legal threats and concludes with an urgent call to defend and advance this crucial legislation.

A History of Disability Discrimination Before 1973

In the early 20th century, people with disabilities were often hidden from public view and excluded from schools, jobs, housing, and community life. Education was a major battleground. Children with intellectual, physical, or emotional disabilities were denied access to public education or shunted into segregated classrooms with little to no instruction. Many states had laws explicitly excluding disabled children from school. Families were advised to institutionalize their children, and numerous lower courts upheld

these practices. For example, in [*Beattie v. Board of Education \(1919\)*](#), the Wisconsin Supreme Court upheld the expulsion of a child with cerebral palsy because his presence allegedly distracted other students and made teaching more difficult. The Court affirmed schools could legally exclude students whose disabilities were seen as “disruptive, unhygienic, or burdensome.” Courts in other states echoed this reasoning, reinforcing the belief that public schools had no obligation to accommodate disabled students, especially if doing so required specialized instruction or facilities. These decisions legitimized widespread exclusion and reinforced systemic segregation well into the 20th century. The mass institutionalization of children in appalling conditions finally shocked the nation when [*Willowbrook State School*](#), a notorious institution in New York, became a symbol of this systemic abuse. A young reporter named Geraldo Rivera entered the institution with a hidden camera in 1972. His photos captured children lying naked on floors, covered in their own waste, with no stimulation, education, or care.

In employment, disabled individuals were often viewed as unemployable. Physical environments were designed without any consideration for mobility. Job applications could be legally discarded upon seeing a white cane, a wheelchair, or a note disclosing an impairment. Social stigma branded disabled people as “less productive,” and there were no legal consequences for these assumptions. These discriminatory hiring practices left most adults with disabilities either unemployed or underemployed.

In healthcare, people with disabilities faced medical rationing. Some hospitals refused to treat disabled patients. Physicians made judgments about “quality of life” that led to denial of treatment, particularly for people with intellectual disabilities. Decisions were made to deny resources to individuals with disabilities because of their impairments.

Legal Foundations and the Path to Section 504

The civil rights and anti-war movements of the 1960s galvanized the disability rights movement. Returning veterans with disabilities, parents of disabled children, and self-advocates organized to demand rights, not charity. Activists called for integration, access, and self-determination. Out of this organizing emerged the demand for federal civil rights protections for people with disabilities.

Several landmark cases and laws laid the foundation for Section 504. First, [*Brown v. Board of Education*](#) (1954) established the principle that separate is inherently unequal, which disability advocates would later use to challenge segregation based on disability. [The Civil Rights Act of 1964](#) prohibited discrimination based on race, color, or national origin in federally funded programs, and Section 504 is modeled after Title VI of the Civil Rights Act. In 1968, the [Architectural Barriers Act](#) required federal buildings to be accessible, signaling a growing federal role in access issues. Shortly thereafter, two Supreme Court cases, [*PARC v. Pennsylvania*](#) (1971) and [*Mills v. Board of Education*](#) (1972) affirmed the rights of children with disabilities to a free public education and laid the groundwork for broader federal protections. Congress first considered a disability nondiscrimination provision in the [Rehabilitation Act of 1972](#), which had its roots in veterans' rights, creating grants for vocational rehabilitation. The bill was vetoed by President Nixon. An advocacy push in 1973 led to actual passage of the Rehabilitation Act of 1973, which has several sections. The essence of Section 504 is that any entity that accepts federal funding must make reasonable accommodations for qualified individuals with disabilities. It is believed that Section 504 was drafted by young legal advocates, including disabled veterans, almost as an afterthought to the overall legislation. Yet its impact has been transformative.

The Law as Originally Enacted

The power of Section 504 lies in its breadth and simplicity:

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

Its scope is extensive: "Otherwise qualified" means individuals must meet the essential eligibility criteria for programs or jobs; "Solely by reason of disability" means that the exclusion or discrimination must be because the individual is disabled; and "any program receiving federal financial assistance" means that it applies to all entities that accept

federal funds (like Medicaid or grants), so it is inclusive of universities, public schools, hospitals, and of course, federal state and local governments.

Given this breadth, although its inclusion in the Rehabilitation Act received little attention at the time, Section 504 quickly became a centerpiece of disability rights litigation and advocacy.

Regulation and Enforcement

Despite being enacted in 1973, no implementing regulations for Section 504 were issued for nearly four years. In 1977, disability rights activists launched coordinated sit-ins across the country, including a [26-day occupation of a federal building in San Francisco](#), the longest nonviolent occupation of a federal building in U.S. history. The protestors, many of whom had limited mobility, faced challenges such as sleeping on floors, lack of kitchen facilities, and the need for assistance with basic activities of daily living. After a few days police shut off the hot water and cut the phone lines, so protestors relied on those inside who knew sign language: someone inside would sign out the window to let supporters know what the situation was inside. This type of mass protest was rare. Due to lack of accessibility, people with disabilities were often isolated from each other, and it was difficult for people with a wide variety of disability to gather for extended periods of time. The bonds formed during these times of protest contributed to the building of the disability community we know today.

As a result of the sit-ins, the Department of Health, Education, and Welfare (HEW) finally issued the first regulations on May 4, 1977, specifying what federally funded entities must do to ensure nondiscrimination, including physical access, program modifications, and effective communication. Later, other agencies adopted similar regulations: for example, in 1980, the Department of Education codified Section 504 regulations at 34 C.F.R. Part 104; in 1991, alignments were made with the newly enacted [Americans with Disabilities Act \(ADA\)](#); in 2016, the Department of Health and Human Services (DHHS) updated its regulations to align with the Affordable Care Act's Section 1557; and in 2024, DHHS published final new regulations updating and modernizing the regulations (for example, the 2024 regulations address things like web and mobile accessibility standards, medical

care treatment decisions, accessibility of medical equipment, and provision of services in the most integrated setting). The regulations define what constitutes a disability, how programs must ensure accessibility, and requirements for reasonable accommodations.

There have been several Supreme Court cases (as well as many lower court cases) resulting in an evolution of Section 504 implementation and enforcement. First, in 1979, the Supreme Court held that accommodations that would fundamentally alter a program are not required (see [*Southeastern Community College v. Davis*](#)). However, a “fundamental alteration” is limited to something so significant it would fundamentally change the essential nature of the program or activity. For example, a service animal could create a fundamental alteration if a patient requested the animal accompany her in the operating room where it could compromise a sterile field environment. Next, in 1985, in [*Alexander v. Choate*](#), the state of Tennessee sought to limit the number of annual inpatient hospital days that Medicaid would pay for. A lawsuit was brought alleging that this limit would have a disproportionate effect on those with disabilities. The Supreme Court held that disparate impact alone may not violate 504 without showing actual exclusion based on disability. In [2008, the ADA Amendments Act](#) broadened the definition of disability in favor of individuals, applied it to Section 504 as well, and made clear that the determination of whether an impairment substantially limits a major life activity must be made “without regard to the ameliorative effects of mitigating measures” except for ordinary eyeglasses or contact lenses. In 2017, the Supreme Court made it clear that families do not have to exhaust remedies under the Individuals with Disability Education Act (IDEA) when their claims are fully supported by Section 504 and the ADA ([*Fry v. Napoleon*](#)). In 2022, the Supreme Court found compensatory damages were permissible but not damages for emotional distress caused by the discrimination ([*Cummings v. Premier Rehab Keller, P.L.L.C.*](#)). Most recently, in [*A.J.T. v. Osseo Area Schs \(2025\)*](#), the Supreme Court held that students alleging disability discrimination under Section 504 are not required to prove “bad faith or gross misjudgment” by a school district (overturning an 8th Circuit decision).

Section 504 Today

Today, Section 504 applies to all employment practices of federally funded entities, including hiring, promotion, termination, and reasonable accommodations. Section 504 is the formative groundwork. The ADA expanded these protections in the employment setting to all employers with 15 or more employees, including private employers, and expanded accommodation requirements to businesses that serve the public (restaurants, hotels, stores, doctor's offices, etc.) so that facilities and services are accessible to individuals with disabilities.

Section 504 also applies in education and requires public school districts who serve K – 12 and higher education institutions to provide students with disabilities equal access to education. When a student has a disability that impacts his or her access to education, the public school must create a 504 plan outlining necessary accommodations, such as access to the elevator, access to medication, breaks, extended test time, and use of technology. Section 504 addresses education accommodations, not direct instruction or related services. Section 504, the ADA, and the Individuals with Disabilities Education Act (IDEA) all apply to protect students with disabilities in education.

Section 504 applies to health care as well. Hospitals, clinics, Medicaid programs, and other federally funded health providers must ensure physical and programmatic access to all individuals. For example, this includes offering sign language interpreters, accessible medical equipment, and non-discriminatory policies. Section 504 is especially important in protecting patients from being denied care based on disability.

But enforcement is challenging. Federal agencies are tasked with enforcing compliance. Currently, the Department of Education focuses on access and accommodations in K-12 and postsecondary institutions; DHHS oversees nondiscrimination in health care services; and the Department of Labor (DOL) enforces workplace non-discrimination. Yet enforcement mechanisms rely heavily on individual complaints, investigations by the Office for Civil Rights (OCR), and federal funding leverage. Over the decades, uneven enforcement and shifting political priorities have affected how robust enforcement is. Increased advocacy and litigation have often been necessary to compel agencies to

enforce or clarify existing protections. And now, in [2025, the Department of Education is being dismantled](#), OCR has been downsized and its priority now is elimination of diversity, equity and inclusion programs; Medicaid is being cut which impacts hospitals and clinical care capacity; the Department of Labor is also under threat of being dismantled, with over 20 percent reductions in staffing and a 90% reduction to the Office of Federal Contract Compliance Programs (created to prohibit discrimination in employment by federal contractors and subcontractors). The Equal Employment Opportunity Commission (EEOC), which investigates discrimination based on disability in employment, has not only incurred budget cuts and been ordered to reduce data collections, but the majority of the EEOC Commissioners (who take action on violations) and the EEOC's general counsel have been fired, thus they are without a quorum and cannot act. (This action is being challenged in court). The Justice Department has withdrawn 11 guidance documents aimed at helping businesses comply with the ADA. The White House is no longer providing sign language interpreters at press conferences (resulting in litigation by the National Association of the Deaf) and the White House webpage on accessibility has been taken down. The Department of Veterans Affairs staffing has been cut. DHHS's Administration for Community Living (focusing on ensuring people with disabilities can stay in their homes and communities as they age) is being dismantled and the Retirement and Disability Research Consortium has been de-funded. Disability-related research at the National Institutes of Health (NIH) has been halted, putting research, for example, on treatments for children with intellectual challenges and a study of muscular development at risk.

Finally, emboldened attorneys general of 17 states (including Nebraska and Iowa) have not only challenged DHHS's authority to enforce the nondiscrimination mandates under the new Section 504 regulations, but they have also asked the lower court overseeing the case ([Texas v. Kennedy](#)) to find that Section 504 itself is unconstitutional – a law that has been in place over 50 years. The attorneys general argue the new regulations exceed federal authority and infringe on state sovereignty. If even only part of this litigation were successful, the federal government's ability to condition funding on compliance with civil rights laws would be curtailed, gutting the only methodology by which the federal government can address discrimination in programs funded by federal monies.

Strategic Priorities: Taken together, we can see a huge and coordinated effort to weaken protections for people with disabilities. Section 504 was born from protest. It must be defended with the same urgency. We call on:

- **Congress** to create and fund robust federal agencies and their enforcement abilities, and to resist the executive branch's efforts to weaken Section 504.
- **Federal agencies** to enforce all of Section 504, not just "flavor of the month" aspects of the laws.
- **States and schools** to implement inclusive policies and practices, to speak out in favor of equity for students with disabilities, and to take a public stand against weakening education supports and restrictive education environments.
- **Advocates** to hold all institutions accountable and elevate the voices of individuals with disabilities.
- **The Public** to recognize Section 504 impacts us all, and that accommodations so many of us have and use in our daily lives make individual and communal pride and success possible. We are all in this together and can collectively defend our right to work, learn, and seek health care in our society.

We must reaffirm more than five decades of commitment to equal access, dignity, self-worth and inclusion for all.

This paper was developed by the [Education Rights Counsel](#), Omaha NE.

