



FACT SHEET

U.S. Department of Health and Human Services • Office for Civil Rights • Washington, D.C. 20201 • (202) 619-0403

YOUR RIGHTS AS A PERSON WITH HIV INFECTION OR AIDS

The Office for Civil Rights (OCR) of the U.S. Department of Health and Human Services (HHS) enforces federal laws that prohibit discrimination by health care and human service providers. Two of these laws are Section 504 of the Rehabilitation Act of 1973 ("Section 504"), and Title II of the Americans with Disabilities Act of 1990 ("ADA").

Section 504 and the ADA protect individuals with Human Immunodeficiency Virus ("HIV") or Acquired Immune Deficiency Syndrome ("AIDS") from discrimination on the basis of their disability. The information in this Fact Sheet applies to persons who have tested positive for HIV, persons who have AIDS, and persons regarded as having HIV or AIDS.

Protections Against Discrimination

Both Section 504 and the ADA prohibit discrimination against qualified persons with HIV and other disabilities. Section 504 prohibits discrimination by health care and human service providers (called "entities") that receive Federal funds or some other types of Federal assistance. Title II of the ADA prohibits discrimination by state and local government entities even if they do not receive Federal financial assistance. Examples of entities that may be covered by Section 504 and the ADA include hospitals, clinics, social services agencies, drug treatment centers and nursing homes.

Discrimination may occur if the entity excludes a person with HIV from participating in a service, or denies them a benefit. The person living with HIV must meet the essential eligibility requirements for the benefit or service he or she is seeking. The entity may be required to make a reasonable accommodation to enable the person with HIV to participate. The ADA also protects other persons, such as family and friends, who are discriminated against because of their association with someone who has HIV.

Types of Discrimination Against Persons With HIV/AIDS

Persons with HIV infection have been denied access to social services, or denied medical treatment, or had treatment or services delayed, solely because they have HIV or AIDS. Such actions by an agency, organization, hospital, nursing home, drug treatment center, clinic, medical or dental office, or other entity, may be unlawful discrimination under either Section 504 or the ADA, or both.

Examples of practices which may be illegal discrimination are:

- *A nursing home that has space available denies admission to a person with HIV, because their staff is not trained to care for HIV-related conditions, even though the home could easily provide the necessary training.*
- *A social services agency removes a foster child from his foster home because the agency learns that one of the foster parents is a person with HIV.*

How to File a Complaint

If you believe that you have been discriminated against because of your HIV infection, you or your representative may file a complaint with OCR. The deadline for filing a complaint is 180 days from the date the discrimination occurred, unless there is good reason for delay. You may request a complaint form from OCR, or obtain one from OCR's Internet website at www.hhs.gov/ocr.

If you do not use OCR's complaint form, please write down the following information and send it to OCR:

- A. Your name, address and telephone number; please sign your name. You may send a complaint for another person, providing their contact information and stating your relationship to that person, such as spouse or friend;
- B. Name and address of the entity you believe discriminated against you;
- C. How, why and when you believe you were discriminated against, and
- D. Any other important information.

Send the complaint to the nearest OCR regional office; please see contact information below. OCR staff will review the complaint to decide if Section 504 or the ADA may cover it.

- If OCR does not have authority to investigate your complaint, we will refer it to the correct agency, if possible.
- If OCR does have authority to investigate the complaint and finds that there is discrimination, OCR will work with the entity to correct the action.
- Once you file a complaint with OCR, it is against the law for the entity to take any action against you, or any other person who provides information about the complaint to OCR. If this happens, tell OCR about it immediately.

Under Section 504 and ADA, you may also file a private lawsuit. A private attorney or your local legal aid office can tell you what the court deadlines are for filing a lawsuit.

For Further Information, Contact:
Director
Office for Civil Rights
U. S. Department of Health and Human Services
200 Independence Avenue, SW - Room 506-F
Washington, D.C. 20201

Hotlines: 1-800-368-1019 (Voice)
E-Mail: ocrmail@hhs.gov

1-800-537-7697 (TDD)
Website: <http://www.hhs.gov/ocr>