



How Does Section 504 of the Rehabilitation Act Apply to Immigration?

An Overview

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A large proportion of immigrants who are interacting with federal immigration agencies have disabilities. This is particularly true for asylum seekers, refugees, and those who are detained in immigration detention facilities.¹

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794(a), prohibits disability discrimination by federal agencies. The law covers the two federal agencies most directly involved with immigration:

- U.S. Department of Justice (“DOJ”), which includes the Executive Office for Immigration Review (“EOIR”) and the Board of Immigration Appeals (BIA)
- U.S. Department of Homeland Security (“DHS”), which includes Immigration and Customs Enforcement (“ICE”), U.S. Citizenship and Immigration Services (“USCIS”), and U.S. Customs & Border Protection (“CBP”)

Section 504 and its implementing regulations set out the disability nondiscrimination standards that federal agencies like DOJ and DHS must follow. Each agency has its own Section 504 regulations. See 28 C.F.R. Part 39 (prohibiting disability discrimination by the Department of Justice); 6 C.F.R. Part 15 (prohibiting disability discrimination by the Department of Homeland Security). Under the applicable regulations, no person with a disability may, based on disability, “be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.” 28 C.F.R. § 39.130(a); 6 C.F.R. § 15.30(a).²

The disability nondiscrimination rules apply to every program or activity of the immigration system under DOJ and DHS, including immigration proceedings, adjustment of status, naturalization, immigration detention,³ and interactions with officials and staff.

¹ Caitlin Patler, et al., The health-related experiences of detained immigrants with and without mental illness, 11 J. of Migr. & Health (2025), <https://www.sciencedirect.com/science/article/pii/S2666623525000017>; Disability Rights California, “They Treat Us Like Dogs in Cages”: Inside the Adelanto ICE Processing Center (July 2025), <https://www.disabilityrightscalifornia.org/drc-advocacy/investigations/inside-the-adelanto-ice-processing-center>; Irina Verhulsdonk, et al., Prevalence of psychiatric disorders among refugees and migrants in immigration detention: systematic review with meta-analysis, 7 BJPsych Open. (Nov. 2021); Human Rights First, Representing Asylum Seekers with Disabilities: Relevant Law (Sept. 2023), <https://humanrightsfirst.org/library/representing-asylum-seekers-with-disabilities-relevant-law/>; Adam England, Immigration Trauma: What It Is and How to Cope (Jan. 2026), <https://www.verywellmind.com/immigration-trauma-6745707>.

² The Section 504 regulations by DHS and DOJ (as with other agencies’ Section 504 regulations) prohibit discrimination against people with disabilities “by reason of his or her disability,” 6 C.F.R. § 15.30(a), and do not include the term “solely by reason of her or his disability” that appears in Section 504. See U.S. Department of Homeland Security: Office for Civil Rights and Civil Liberties, Guide 065-01-001-01, Component Self-Evaluation and Planning Reference Guide, page 3 note 1, <https://www.dhs.gov/sites/default/files/publications/disability-guide-component-self-evaluation.pdf>.

³ There are differences in the laws that apply to government and private detention facilities.

Individual with a “Disability”

Section 504 protects people with a broad range of disabilities. In 2008, Congress passed the ADA Amendments Act, which added rules of broad construction and clarified that the definition of “disability” for the ADA and for Section 504 of the Rehabilitation Act “shall be construed in favor of broad coverage of individuals under this chapter, to the maximum extent permitted by the terms of this chapter.” 42 U.S.C. § 12102(4)(A).

In practice, this means that people with a broad range of mental and physical conditions are protected by federal civil rights laws. The following conditions and similar impairments can be “disabilities” under Section 504: PTSD, bipolar disorder, schizophrenia, depression, generalized anxiety disorder, OCD, traumatic brain injury, autism, intellectual and developmental disabilities, mobility disabilities, deafness, blindness, learning disabilities, dyslexia, ADHD, dementia, Alzheimer’s disease, chronic diseases like asthma, COPD, diabetes, high blood pressure, kidney disease, and Long COVID, and cancer or history of cancer. *See also* 28 C.F.R. § 35.108 (DOJ regulation implementing ADA Amendments Act).

Disability Non-Discrimination Rules

These rules prohibit various forms of intentional and unintentional disability discrimination, including through direct and indirect means. Agencies must take affirmative steps to provide reasonable accommodations that disabled people need to access programs and avoid discrimination and to ensure that communication with people with disabilities is effective. DHS policy documents review these obligations.⁴

Specific regulatory prohibitions include:

- An agency may not directly or through contractual or other arrangements deny a disabled person the opportunity to participate in or benefit from aids, benefits, or services on terms that are equal and as effective as those provided to people without disabilities. 28 C.F.R. § 39.130(b)(1)(ii), (iii); 6 C.F.R. § 15.30(b)(1)(ii), (iii).
 - Immigration courts might violate Section 504 if they do not take appropriate steps to make sure that respondents with disabilities such as intellectual and developmental disabilities are able to participate and provide important information about their cases.
 - DHS might violate Section 504 if it operates or contracts for detention facilities

⁴ See Nondiscrimination for Individuals with Disabilities In DHS-Conducted Programs and Activities (Non-Employment) (Sept. 25, 2013), https://www.dhs.gov/sites/default/files/publications/dhs-management-directive-disability-access_0_0.pdf (describing DHS’s nondiscrimination policy for people with disabilities, and listing similar affirmative commitments); Instruction on Nondiscrimination for Individuals with Disabilities in DHS-Conducted Programs and Activities (Non-employment) (March 13, 2015), https://www.dhs.gov/sites/default/files/publications/dhs-instruction-nondiscrimination-individuals-disabilities_03-07-15.pdf (providing instructions for implementation of policy).

with inaccessible programs, such as: orientation videos that are not accessible to deaf and hard of hearing detainees (with captions or sign language); tablets that are inaccessible to blind and low-vision detainees; a lack of accessible telephones (videophones and captioned telephones) that deaf and hard of hearing detainees can use; programs like law library or visitation located in areas that are not accessible to detainees with mobility disabilities.

- DHS might violate Section 504 if it operates or contracts for detention facilities that are less safe for disabled detainees as compared to nondisabled detainees.
- An agency may not directly or through contractual or other arrangements use criteria or methods of administration which would have the purpose or effect of disability discrimination or of defeating or substantially impairing the accomplishment of the program or activity's objectives with respect to people with disabilities. 28 C.F.R. § 39.130(b)(3); 6 C.F.R. § 15.30(b)(4).
 - Rules that apply to immigrants may be analyzed for whether they have the purpose or effect of excluding people with disabilities. For example, the public charge rule, discussed below, may exclude immigrants seeking a green card based on disability.
 - Courts may consider these types of claims as unintentional disparate impact discrimination. As described below, there is a circuit split on whether Section 504 prohibits unintentional, disparate impact discrimination. In practice, the facts may show intentional discrimination and failures to accommodate.

Affirmative obligations to include people with disabilities include:

- An agency must make reasonable accommodations to people with disabilities. Reasonable accommodations are changes that the disabled person needs to meaningfully access a program or activity or to avoid disability discrimination.⁵
 - Reasonable accommodation may include many different types of changes and services, such as sign language interpreters, documents in alternative formats, the participation of a supporter, additional time to answer questions or complete a requirement, changes to a schedule, waiver of a requirement, and the assignment of a qualified representative.
 - In the context of detention, where detainees are reliant on the institution for day-to-day support, reasonable accommodation may include assignment to

⁵ *Alexander v. Choate*, 469 U.S. 287, 301 (1985); *Make the Rd. N.Y. v. Cuccinelli*, 419 F. Supp. 3d 647, 664 (S.D.N.Y. 2019); *New York v. United States Dep't of Homeland Sec.*, 408 F. Supp. 3d 334, 350 (S.D.N.Y. 2019); *Avirmed v. United States Dep't of Homeland Sec.*, No. 25-cv-1310-DMS-DEB, 2025 U.S. Dist. LEXIS 135888, at *15 (S.D. Cal. July 16, 2025); see also 45 C.F.R. § 84.68(b)(7)(i) ("A recipient shall make reasonable modifications in policies, practices, or procedures when such modifications are necessary to avoid discrimination on the basis of disability ...").

accessible housing units with accessible toilets and showers, equipment like shower chairs, hearing aids, wheelchairs, and canes, and assistance with mobility, eating, toileting, and hygiene.⁶

- In some cases, for example, if a disabled detainee is decompensating due to the conditions of detention and as a result is unable to participate in their immigration proceeding, it may be a reasonable accommodation to allow the detainee to transfer to community supervision in order to recover enough to access their proceeding. This would depend on the facts and legal analysis by an experienced immigration and disability rights expert.
- An agency must ensure that its communications with people with disabilities are effective. 28 C.F.R. § 39.160(a); 6 C.F.R. § 15.60(a); *see also* 45 C.F.R. § 84.77(a) (“A recipient shall take appropriate steps to ensure that communications with [people with disabilities] are as effective as communications with others.”).
 - Effective communication between immigration agencies and people with disabilities might require sign language interpreting (including sign language teams with Deaf Interpreters), real-time captioning, documents in alternative formats such as enlarged print, Braille, and digital, and websites and applications that are accessible to screen readers and other technology used by disabled people.
- An agency’s programs and activities must be administered in the most integrated setting appropriate to the needs of people with disabilities. 28 C.F.R. § 39.130(d); 6 C.F.R. § 15.30(d).
 - This obligation is also called *Olmstead* or the integration mandate. Immigration officials might violate this provision if they house all people with disabilities in a segregated detention center or segregated part of a detention center, particularly if the detainees then have less access to programs and services. They might violate this provision if they grant detainees with disabilities less access than others to programs that allow people to live in the community during their immigration case.
- Any new construction or alteration by an agency must comply with applicable access standards. 28 C.F.R. § 39.151; 6 C.F.R. § 15.51. Each program or activity must be readily accessible to and usable by people with disabilities. 28 C.F.R. § 39.150; 6 C.F.R. § 15.50.

➤ **Case Example: Denial of Reasonable Accommodation**

In *Avirmed v. DHS*, the court reviewed the communication barriers experienced by a deaf

⁶ ICE, National Detention Standards (rev. 2025), <https://www.ice.gov/doclib/detention-standards/2025/nds2025.pdf>.

plaintiff who communicates through Mongolian Sign Language (“MSL”) and written Mongolian. The plaintiff was denied MSL in numerous contexts, including during arrest, interviews, medical and mental health evaluations, detention, and immigration proceedings. He also struggled to communicate with his lawyers during video calls. Detention officials imposed a one-hour time limit for everyone, but using an MSL interpreter required additional time.

The court found that the plaintiff was denied reasonable accommodation and ordered the defendants to ensure a qualified MSL interpreter at future proceedings and hearings, to redo plaintiff’s medical and mental evaluations using an MSL interpreter, to extend the time limit for plaintiff’s video phone calls with counsel to three hours, and to allow the plaintiff’s sister to participate in proceedings. 2025 U.S. Dist. LEXIS 135888, at *14-20.

➤ **Case Example: Discrimination Through Methods of Administration**

Immigrants who are seeking to adjust their status must show that they are not a “public charge,” 8 U.S.C. § 1182(a)(4) – that they are not likely to become dependent upon the government to subsist. In 2019, during Trump’s first term, DHS published a rule that considered disability and factors closely tied to disability (such as receipt of Medicaid) as negative factors in the public charge assessment. Lawsuits were filed to challenge the new rule as unlawful, including because it discriminated against people with disabilities in violation of Section 504.

The Southern District of New York sided with the plaintiffs on their Section 504 claims. The court cited various regulatory provisions, including the prohibition on using discriminatory criteria or “methods of administration” that have the effect of disability discrimination. *New York v. United States Dep’t of Homeland Sec.*, 408 F. Supp. 3d 334, 350 (S.D.N.Y. 2019) (citing 6 C.F.R. § 15.30(b)(4)); *Make the Rd. N.Y. v. Cuccinelli*, 419 F. Supp. 3d 647, 664 (S.D.N.Y. 2019) (same).

Subsequent case history: In March 2021, the public charge litigation settled when the Biden administration declined to defend the 2019 rule. In December 2022, the Biden administration finalized a new public charge rule in that repealed the Trump rule and excluded consideration as negative factors disability and participation in non-cash programs like Medicaid. 87 Fed.Reg. 55472, 55521, 55474-75 (Dec. 23, 2022). In November 2025, in Trump’s second term, DHS proposed a new rule which would rescind “all regulatory limitations on the types of public resources that are relevant for considering” whether an immigrant is a public charge, granting DHS officers substantial discretion to consider Medicaid and other non-cash programs. 90 Fed.Reg. 52168, 52183-84, 52186 (Nov. 19, 2025).⁷ Renewed litigation is anticipated.

⁷ See also National Immigration Law Center, Public Charge: What Advocates Need to Know About the November 2025 Proposed Rule (Nov. 18, 2025), <https://www.nilc.org/resources/public-charge-what-advocates-need-to-know-about-the-november-2025-proposed-rule/>.

➤ **Circuit Split: Unintentional Disability Discrimination**

The majority rule is that Section 504 prohibits all forms of disability discrimination, regardless of whether it is intentional or not. *See, e.g., Doe v. CVS Pharmacy, Inc.*, 982 F.3d 1204, 1211 (9th Cir. 2020) (“The fact that the benefit is facially neutral does not dispose of a disparate impact claim based on lack of meaningful access.”); *New York v. United States Dep’t of Homeland Sec.*, 408 F. Supp. 3d 334, 349-50 (S.D.N.Y. 2019) (“Exclusion or discrimination may take the form of disparate treatment, disparate impact, or failure to make reasonable accommodation.”) (citation omitted); *see also Alexander v. Choate*, 469 U.S. 287, 296-97, 299 (1985) (assuming without deciding that “§ 504 reaches at least some conduct that has an unjustifiable disparate impact upon the handicapped,” noting that “much of the conduct that Congress sought to alter in passing the Rehabilitation Act would be difficult if not impossible to reach were the Act construed to proscribe only conduct fueled by a discriminatory intent.”).

The Sixth Circuit has ruled that Section 504 does not prohibit “disparate impact” discrimination. *Doe v. BlueCross BlueShield of Tenn., Inc.*, 926 F.3d 235, 241 (6th Cir. 2019).

In practice, actions and inactions that discriminate based on disability often violate more than one of these prohibitions, as they are interrelated. In other words, advocates can often challenge the actions and inactions of immigration entities as intentional disability discrimination and failure to accommodate without needing to allege unintentional or disparate impact discrimination.

Requirement: Individual Must Be “Qualified”

The disabled person must be “qualified” to bring a claim under Section 504. This means that the disabled person “meets the essential eligibility requirements and can achieve the purpose of the program or activity without modifications in the program or activity that the Department can demonstrate would result in a fundamental alteration in the nature of the program.” 28 C.F.R. § 39.103; 6 C.F.R. § 15.3(e)(2).

In the context of immigration, this requirement can be about whether the person is qualified or eligible for different statuses such as release from detention, asylum, adjustment of status, or naturalization. It can also be about whether the person is qualified or eligible to participate in procedures such as competency assessments and immigration hearings, or day-to-day activities in detention like phone calls, attorney meetings, mail, food, water, and shelter.

➤ **Case Example: “Qualified” Individual**

In *Galvez-Letona v. Kirkpatrick*, 54 F. Supp. 2d 1218, 1225 (D. Utah 1999), *aff’d on other grounds*, 246 F.3d 680 (10th Cir. 2001), the district court reviewed 28 C.F.R. § 39.103 and reasoned that a disabled person is “qualified” if they “meet the ‘essential’ eligibility requirements of the program without any modification at all, or with ‘reasonable’ modifications that do not alter an ‘essential’ requirement that is basic to the nature and purpose of the program.” *Id.* at 1225 (citing *School Board of Nassau County v. Arline*, 480 U.S. 273, 287 n.17 (1987)). Applying that definition, the court found that the plaintiff – an immigrant with Down Syndrome – was

qualified for naturalization despite his need for a waiver of the oath requirement. Citing the waivers made available to children under statute, the court held that “waiving the attachment and oath requirement is a reasonable modification that does not eliminate an essential aspect of the program.” *Id.* The court rejected the government’s claim that the attachment and oath requirements are “essential” to becoming a citizen and that waiver would cause a fundamental alteration. *Id.*⁸

Requirement: Requested Modification or Accommodation Must Be Reasonable

Agencies may argue that a requested modification is not reasonable. The reasonableness of a requested modification “depends on the individual circumstances of each case,” requiring “a fact-specific, individualized analysis of the disabled individual’s circumstances and the accommodations that might allow him to enjoy meaningful access to the program.” *Mark H. v. Hamamoto*, 620 F.3d 1090, 1098 (9th Cir. 2010); *accord Franco-Gonzales v. Holder*, 767 F. Supp. 2d 1034, 1053 (C.D. Cal. 2010) (citing *Mark H.*). An accommodation that provides a preference is not, in and of itself, unreasonable. *Id.* at 1056 (C.D. Cal. 2010) (citing *U.S. Airways, Inc. v. Barnett*, 535 U.S. 391, 402 (2002)).

While the same Section 504 rules apply to all covered entities subject to the law, the context may affect whether a particular modification is considered reasonable. In other words, the responding agency or deciding judge will consider the context of the immigration proceeding or interaction in deciding reasonableness.

Agency Defenses

Federal agencies have affirmative defenses to disability claims and requests for reasonable accommodations, including undue hardship and fundamental alteration.

➤ Fundamental alteration

Section 504 does not require agencies to make fundamental alterations to their programs. 6 C.F.R. § 15.60(d); 28 C.F.R. § 39.160(d); 28 C.F.R. § 39.103; 6 C.F.R. § 15.3(e)(1); United States Attorney General Opinion 26 Op. O.L.C. 16.

Whether a requested accommodation constitutes a fundamental alteration “requires a fact-specific, individualized analysis.” *Franco-Gonzalez v. Holder*, No. CV 10-02211 DMG (DTBx), 2013 U.S. Dist. LEXIS 186258, at *21 (C.D. Cal. Apr. 23, 2013). A fundamental alteration would occur if a requested modification would expand the scope of a program or benefit rather than simply allowing people with disabilities equally effective access to an agency’s program, services or activities. *Id.* at *21-22 (citing *American Council of the Blind v. Paulson*, 525 F.3d 1256, 1267, 381 (D.C. Cir. 2008)).

⁸ See also 26 Op. O.L.C. 16 (Mar. 13, 2002), <https://www.justice.gov/sites/default/files/olc/legacy/2013/07/26/op-olc-26.pdf> (reaching same conclusion).

As with the question of reasonableness, agencies and courts will consider the context of the immigration proceeding or interaction in assessing fundamental alteration.

➤ **Undue hardship**

Agencies may also defend on the grounds that a requested modification would result in an undue financial or administrative burden or hardship. 28 C.F.R. § 39.160(d); 6 C.F.R. § 15.60(d); *Southeastern Community College v. Davis*, 442 U.S. 397, 412 (1979); *American Council of the Blind v. Paulson*, 525 F.3d 1256, 1266 (D.C. Cir. 2008). Modifications that cause undue financial or administrative burdens are not reasonable. *American Council of the Blind v. Paulson*, 463 F. Supp. 2d 51, 59 (D.D.C. 2006) (quoting *Davis*, 442 U.S. at 412); *see also Muir v. United States Department of Homeland Security*, 145 F.4th 1359, 1372-73 (D.C. Cir. 2025) (remanding for determination of undue hardship).

Proving an undue hardship requires agencies to show that the costs of a requested modification are “excessive in relation either to the benefits of the modification or to the entity’s financial survival or health.” *Meyer v. Walthall*, 528 F. Supp. 3d 928, 963 (S.D. Ind. 2021) (quoting *Vande Zande v. Wisconsin Department of Administration*, 44 F.3d 538, 543 (7th Cir. 1995)); *see also Paulson*, 525 F.3d at 1272 (the requested currency design modification “would constitute a ‘small fraction of the [Bureau of Engraving and Printing’s] annual expenditures’”).

Agencies must do more than speculate that a requested modification is not feasible; Section 504 requires agencies “to gather sufficient information from the disabled individual and qualified experts as needed to determine what accommodations are necessary.” *Mark H.*, 620 F.3d at 1098 (quoting *Duvall v. County. of Kitsap*, 260 F.3d 1124, 1136 (9th Cir. 2001)). *See also Lane v. Pena*, 867 F. Supp. 1050, 1069-71 (D.D.C 1994) (memorandum opinion) (undue hardship not established by referencing a federal law that did not require strict adherence to policy at issue, and prior history of accommodations to the policy was evidence against undue hardship).

➤ **Case Example: “Reasonable” Modification Causing No “Undue Burden” or “Fundamental Alteration”**

In Complaint No. 004606-22-ICE, a detainee alleged that he was placed in full mechanical restraints for 19 hours, despite a preexisting bandaged injury to his ankle and foot for which he was using a walker. The restraints on his leg caused pain, distress, crying, and further physical injury. Complainant’s repeated requests that the restraints be adjusted were refused by ICE agents. His subsequent request to ICE-contracted medical personnel that the restraints not be used on his leg in the future was also rejected. In 2023, the DHS Office of Civil Rights and Civil Liberties (CRCL) found that ICE discriminated against the complainant by refusing to adjust the leg restraints:

Complainant’s requests were reasonable in that adjusting or removing the leg restraints was necessary in light of the mobility impairment, particularly because the restraints were applied directly to the injury site, for an excessive period of time, and resulted in additional damage to Complainant’s ankle and foot. Furthermore,

adjusting or removing the leg restraints would not have posed an undue financial or administrative burden, or fundamental alteration of policy, as ICE's own policy allows for exceptions for individuals with physical disabilities or injury, and there is no indication in the record that Complainant posed a safety or security threat to himself or to those around him.

June 14, 2023, CRCL Letter (ordering update to restraint policy) (on file with DREDF).

Enforcement of Section 504 Rights

The first step in enforcing Section 504 with immigration agencies is to communicate in writing with the responsible official(s) about the needs of the disabled person. These officials may include EOIR and BIA judges, directors of detention facilities (together with any disability access coordinators), and other officials designated for receiving requests for disability accommodations.⁹ It is important that these communications are specific and documented. If the disabled person is being detained in a private facility, it may be appropriate to copy an official at the ICE Field Office for the state where the facility is located.¹⁰ Counsel for the disabled person should argue for the application of Section 504 in any immigration- or detention-related proceeding. DREDF may be available to provide technical support.

Disabled people interacting with immigration agencies may also wish to initiate litigation. Courts have held that disabled people may bring affirmative cases under Section 504 against federal agencies in federal court.¹¹ Some courts hold that such claims must be brought through an Administrative Procedures Act (APA) action.¹²

⁹ See, e.g., USCIS, Disability Accommodations for the Public, <https://www.uscis.gov/about-us/disability-accommodations-for-the-public>; ICE Policy 6000: Assessment and Accommodations for Detainees with Disabilities (Feb. 2025), <https://www.aila.org/library/ice-policy-6000-assessment-and-accommodations-for-detainees-with-disabilities>; ICE, Disability Access Plan (Aug. 2020), <https://www.ice.gov/doclib/about/offices/dcr/iceDisabilityAccessPlan.pdf>; CBP, Equal Opportunity Notice - Section 504 of the Rehabilitation Act of 1973, <https://www.cbp.gov/site-policy-notices/accessibility/equal-opportunity-notice-section-504-rehabilitation-act-1973>; CBP, Disability Access Plan for Public-Facing Programs and Activities (June 2019), <https://www.dhs.gov/sites/default/files/publications/cbp-disability-access-plan.pdf>.

¹⁰ ICE Field Offices, <https://www.ice.gov/contact/field-offices>.

¹¹ *Nat'l Ass'n of the Deaf v. Trump*, 808 F. Supp. 3d 150, 153 (D.D.C. 2025); *Nat'l Ass'n of the Deaf v. Trump*, 486 F. Supp. 3d 45, 55 (D.D.C. 2020) (collecting cases); *Yeh v. United States Bureau of Prisons*, No. 3:18cv943, 2019 U.S. Dist. LEXIS 131224, at *9 (M.D. Pa. Aug. 6, 2019); *Washington v. Fed. Bureau of Prisons*, No. 5:16-cv-03913-BHH-KDW, 2019 U.S. Dist. LEXIS 50591, at *24 (D.S.C. Jan. 3, 2019); *Sai v. Smith*, No. 16-cv-01024-JST, 2018 U.S. Dist. LEXIS 11741, at *29 (N.D. Cal. Jan. 24, 2018); *Am. Council of the Blind v. Astrue*, No. C 05-04696 WHA, 2008 U.S. Dist. LEXIS 86524, at *23 (N.D. Cal. Apr. 23, 2008); *Davis v. Astrue*, No. C-06-6108 EMC, 2011 U.S. Dist. LEXIS 92336, at *14 (N.D. Cal. Aug. 18, 2011); *Am. Council of the Blind v. Paulson*, 463 F. Supp. 2d 51, 58 (D.D.C. 2006); see also *Mathis v. United States Parole Comm'n*, 749 F. Supp. 3d 8, 24 (D.D.C. 2024) (allowing private action not under Section 504 but in equity).

¹² *Doe v. Spahn*, Civil Action No. 1: 23-cv-02859 (CJN), 2025 U.S. Dist. LEXIS 86392, at *12 (D.D.C. May 6, 2025) (citing *SAI v. Department of Homeland Security*, 149 F. Supp. 3d 99 (D.D.C. 2015) and *Mathis v. United States Parole Commission*, 749 F. Supp. 3d 8 (D.D.C. 2024)); *Moya v. United States Dep't of Homeland Sec.*, 975 F.3d 120, 124 (2d Cir. 2020).

Private Contractors Within the Immigration System

Most ICE detention occurs in private detention facilities. Private contractors, including private detention facilities, are typically not directly subject to Section 504. Although these contractors receive federal dollars, a federal procurement contract does not qualify as federal financial assistance for purposes of Section 504. An exception is when the arrangement amounts to a federal subsidy.¹³

However, the federal agency is still required to ensure that their private contractor follow the principles of Section 504, including by providing benefits and services to disabled detainees that are equal (including equally safe) and as effective as those provided to nondisabled detainees.¹⁴ Claims can be brought against ICE for its failure to ensure compliance with Section 504. ICE publishes requirements for all detention facilities holding detainees with disabilities.¹⁵

Private contractors are subject to other laws. Courts have ruled that detainees with disabilities may sue contractors that provide medical, mental health and transportation services under disability non-discrimination laws such as Title III of the ADA and California's Unruh Civil Rights Act.¹⁶ There may be additional claims against private contractors for intentional and negligent conduct under state and federal law.

Key Takeaways and What's Next

Many immigrants interacting with the U.S. immigration system have disabilities and are protected from disability discrimination and entitled to reasonable accommodations under Section 504.

Section 504 applies to the federal entities most directly involved in immigration: DOJ, EOIR, BIA, DHS, ICE, USCIS, and CBP. Section 504 typically does not apply to private contractors like private detention facilities, but DHS and ICE are still responsible for ensuring that their contractors follow the rules of Section 504. Private contractors may be subject to other laws.

Section 504 requires that federal immigration agencies make sure that immigrants with disabilities have access to all relevant programs and activities, including by providing reasonable accommodations. Disabled people may seek reasonable accommodations they need to equally access their immigration proceeding. Detainees with disabilities may seek accommodations to stay safe and to have equal access to programs and services.

¹³ *Youngers v. LaSalle Corr. Transp. LLC*, No. 1:20-cv-00465-WJ-JHR, 2022 U.S. Dist. LEXIS 61371, at *9 (D.N.M. Apr. 1, 2022) (citing *DeVargas v. Mason & Hanger-Silas Mason Co.*, 911 F.2d 1377, 1383 (10th Cir. 1990)).

¹⁴ See 28 C.F.R. § 39.130(b)(1)(ii), (iii); 6 C.F.R. § 15.30(b)(1)(ii), (iii).

¹⁵ ICE, National Detention Standards (rev. 2026), Standard 4.7, Disability Identification, Assessment, and Accommodation, <https://www.ice.gov/doclib/detention-standards/2026/nds2026.pdf>.

¹⁶ *Id.*, at *19 (D.N.M. Apr. 1, 2022); *Hernandez v. Cty. of Monterey*, 70 F. Supp. 3d 963, 977 (N.D. Cal. 2014); *Wilkins-Jones v. Cty. of Alameda*, 859 F. Supp. 2d 1039, 1050 (N.D. Cal. 2012).

Federal agencies do not have to grant reasonable accommodations that impose an undue hardship or a fundamental alteration. They do not have to waive “essential” eligibility criteria. In other words, Section 504 means that agencies must treat immigrants with disabilities equally – but the basic rules of immigration still apply. Still, enforcement of Section 504 may help disabled immigrants have safer and more effective access to immigration programs and activities.

In general, DREDF advises against advancing “disparate impact” theories of disability discrimination right now. Reach out to DREDF for advice and technical support on this: info@dredf.org.

Additional Resources

DREDF, Frequently Asked Questions: Disability, Immigration, and Encounters with ICE (May 2026), <https://dredf.org/faqs-disability-immigration-and-encounters-with-ice/>

DREDF, Know Your Rights: Reasonable Accommodations in Immigration Procedures and Proceedings (Apr. 2026), <https://dredf.org/kyr-ras-immigration-procedures-and-proceedings/>

Laura Lunn et al., NQRP Practice Advisory: Procedural Safeguards and Section 504 of the Rehabilitation Act (Oct. 2023), <https://acaciajustice.org/wp-content/uploads/2023/12/2023-10-30-NQRP-Practice-Advisory-Procedural-Safeguards-and-Section-504-FINAL-updated-10-2023.pdf>

Elizabeth Jordan, Accommodating Incompetency in Immigration Court, 119 Nw. U. L. Rev. 513 (2024), <https://scholarlycommons.law.northwestern.edu/nulr/vol119/iss3/1>

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