



**HSPRD**

**SYSTEMIC CHANGE  
TO IMPROVE THE  
LIVES OF PEOPLE  
WITH DISABILITIES**

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# INTRODUCTION

**S**ection 504 of the Rehabilitation Act of 1973 was enacted 50 years ago to prohibit discrimination against people with disabilities by municipalities and entities that receive federal financial assistance. The passage of the Americans with Disabilities Act, 32 years ago, promised to integrate people with disabilities in all aspects of society. And, 13 years ago, the Affordable Care Act, prohibited healthcare entities that participate in Medicare, Medicaid, and other federal healthcare programs or receive funding from the Department of Health and Human Services from discriminating against people with disabilities in the provision of their healthcare services.

Supplemented in nearly every jurisdiction with similar state laws, the Federal antidiscrimination legal framework has existed to ensure that people with disabilities have the equal opportunity, as those who are not disabled, to live within their community in housing that is affordable and accessible, in communities with safe and accessible public rights-of-way, and to have access to and receive comparable care as their nondisabled counterparts in government and privately owned hospitals, healthcare clinics, dental clinics, behavioral health facilities among other healthcare facilities.

**While the lives of people with disabilities have improved remarkably over the past 50 years, it is inarguable there is so much that needs to still be done. That is particularly true in the areas of: Housing, Civic Access, and Healthcare. Addressing those three critical aspects of our life is the primary focus of the HSP's Disability Rights Team.**

# AREAS OF FOCUS: RATIONALE

## *Accessible Housing*

**T**here is a significant shortage of affordable and accessible homes. A national study released in 2021 revealed there are only 37 affordable and available homes for every 100 extremely low-income renters, resulting in a shortage of nearly 7 million affordable and available homes for the 10.8 million extremely low-income renters' households across country.<sup>1</sup> The shortage of

affordable and available homes is also a shortage of accessible homes as renters with disabilities struggle to find adequate homes to meet their needs. For some, finding a suitable home is sometimes almost impossible. Municipalities throughout the country apply for and receive federal financial assistance from the U.S. Department of Housing and Urban Development to build not only affordable housing, but affordable housing that is also accessible. In exchange for that



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<sup>1</sup> National Low Income Housing Coalition, *The Gap A Shortage Of Affordable Homes*, April 2022

financial assistance, municipalities must ensure developers and builders comply with the architectural accessibility standards, and municipalities must also adopt policies and procedures to ensure that accessible units are prioritized for occupancy by people with disabilities.

The federal antidiscrimination laws are not consistently enforced by municipalities in the area of housing. Moreover, the Fair Housing Act's prohibitions on discrimination on the basis of disability are also frequently ignored by municipalities as new multifamily apartment buildings are permitted to be designed and constructed without compliance with the Fair Housing Act's accessibility requirements.

Countless studies have documented the unprecedented and disproportionate toll of the Covid-19 virus upon people disabilities who lived in congregate facilities. A large percentage of them were not able to integrate into the community for the lack of accessible and affordable housing.

**This must end.**

## ***Civic Access: Accessible Public Rights-of-Way***

In addition to providing accessible and affordable housing, municipalities have an obligation to ensure they have a system of public rights-of-way that is accessible and safe for persons with mobility disabilities, and for those who are blind or visually impaired residing in their communities. Those obligations stem from the federal nondiscrimination laws and the Fair Housing Act in situations where an equal opportunity to access housing may be negatively impacted by the disrepair or impassability of a sidewalk.



People with mobility disabilities and people who are blind or have low vision face significant challenges when it comes to accessing safe public rights-of-way. Sidewalks that are broken, uneven, or obstructed by trees, utility poles, and mailboxes; and intersections missing curb ramps, or with curb ramps that are broken or are otherwise unusable pose dangerous conditions for people with disabilities. When those barriers exist, people with mobility



disabilities often find themselves having to roll into streets and move alongside vehicle traffic at risk to themselves. Similarly, the absence or disrepair of detectable warning surfaces, and the absence of accessible pedestrian signals that emit an auditory cue for persons who are blind or with low vision, subjects them to risk of life and limb.

Without access to safe, accessible public rights-of-way, people with disabilities may be unable to participate fully in their communities, access essential services or facilities or participate in community activities. This often leads to social isolation, loneliness, and feelings of exclusion; and loss of independence. A heightened risk of injury or harm may exist if, for example, sidewalks are uneven or obstructed, as people using wheelchairs or scooters may be at risk of getting stuck or falling, and those who are blind or have low vision may be at risk of tripping or running into obstacles. In addition,



without accessible public rights-of-way people with mobility disabilities and those who are blind or have low vision may be unable to access essential resources such as healthcare, education, public transportation, employment, and social services. This further contributes to the reduction of their quality-of-life. Access to safe, accessible public rights-of-way is essential for people with disabilities to fully participate in, and enjoy, their communities.

While no express obligation exists under the federal antidiscrimination laws for a municipality to provide sidewalks, if sidewalks are constructed, they must be fully compliant with the architectural standards adopted by the ADA Accessibility Guidelines and the Public Rights-of-Way Accessibility Guidelines and must be maintained. Numerous courts have held that sidewalks represent programs, services, and activities

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<sup>2</sup> See, in general, Health Affairs Journal, October 2022, which focused exclusively on disability and health. See also, *'I'm Not the Doctor for You': Disabled Americans Face Discrimination*

of the local government. As municipal authorities are trustees for the public, they have a duty to keep the streets open and available for the movement of people and property, the primary purpose for which streets are dedicated, and the equal duty to ensure sidewalks are accessible and safe for all residents and visitors, regardless of ability.

**Compliance is not an option; it is a legal requirement.**

## ***Accessible Healthcare***

**R**ecent published studies have raised the public consciousness to the persistent and systemic Ableism that exists within healthcare.<sup>2</sup> It is not just providers' attitudes and perceptions that serve as obstacles for people with disabilities to obtain the health, dental, vision and mental health care and treatment they may need, people with disabilities must

*Seeking Care*, U.S. News & World Report, October 4, 2022 (and carried by the New York Times and other major news outlets)



also confront physical and programmatic barriers at healthcare facilities. Affecting people across all categories of disabilities, barriers persist today that the federal antidiscrimination statutes were designed to eliminate.

Persons with mobility disabilities who cannot independently bear weight or transfer are seldom weighed and more often than not are treated and examined as they remain in their wheelchairs, resulting in incomplete examinations or they are not treated or examined. Persons who are Deaf or hard of hearing struggle to communicate in all healthcare settings for the

absence of on-site sign language interpreters, effective video remote interpreting equipment or other appropriate auxiliary aids and services. The inability to have free-flowing conversations with their healthcare providers inhibits their ability to participate in their own healthcare, provide informed consent, understand their treatment options, or understand the condition, prognosis or treatment and care options for their loved ones. Persons who are blind or with low vision seldom receive written information provided by healthcare providers in alternative formats. Information like treatment summaries, discharge instructions, plans of

care, or educational information for preventive care and wellness.

Moreover, hospitals and other healthcare facilities have complex functions and programs, and their facilities can become disconnected mazes of disorienting spaces. Navigating those facilities for persons with sight is challenging, and without the use of the effective wayfinding, or the provision of patient escorts, navigation of those facilities for persons who are blind or with low vision can be nearly impossible.

For people with intellectual or developmental disabilities, as they transition into adults, they are often required to remain with their pediatric providers for their inability to find providers willing and capable of treating them. In some instances, families are traveling well in excess of 2 hours one-way just to find a provider who will care for their loved ones, and if not, hospital emergency rooms have become the de facto health clinics and dental clinics for this population.

In our experience, both personal and professional, healthcare providers often recognize their federal legal obligation to provide accessible healthcare services and accessible healthcare facilities but until forced to comply, they simply will not. Even public health centers, those funded primarily through federal grants under the Public Health Service Act and are created for the purpose to focus on serving at risk and underserved populations ignore their accessibility requirements.

**Accessible healthcare is a federal legal and civil right.**



# OUR PRIMARY FOCUS

In strategic collaboration with local and national disability advocacy organizations, disability rights organizations, and communities of people with disabilities, through use of proven strategies of education, advocacy, and when required, litigation, the HSP's Disability Rights Team has as its primary focus addressing the needs of people with disabilities throughout this country in the areas of Housing, Civic Access and Accessible Healthcare.

Education of people with disabilities, municipal leaders, and healthcare providers, on their legal rights and legal obligations, respectively, under the Federal antidiscrimination mandates. Advocacy through the use of Structured Negotiation and other collaborative methods to help address and resolve systemic accessibility problems. When required, the use of state and/or federal courts to hold municipal and healthcare leaders accountable to ensure full compliance under the law.

If your community lacks accessible and affordable housing, if persons with mobility disabilities and those who are blind or visually impaired cannot safely access their communities because of the absence or disrepair of sidewalks, or if persons with disabilities in your community struggle to obtain accessible healthcare, contact the HSP Disability Rights Team.



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