



**Commission on
Human Rights**

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NYC COMMISSION ON HUMAN RIGHTS ISSUES NEW LEGAL GUIDANCE TO CLARIFY ANTI-DISCRIMINATION PROTECTIONS FOR NEW YORKERS WITH DISABILITIES IN HOUSING, EMPLOYMENT, AND PUBLIC ACCOMMODATIONS AND PROVIDE BEST PRACTICES TO IMPROVE ACCESSIBILITY

Guidance provides examples of discriminatory practices and policies, best practices for accommodating people with disabilities, examples of reasonable accommodations, and several forms to guide the accommodation request process

Disability discrimination claims continue to be largest area of complaint at Commission, constituting 20 percent of all claims

NEW YORK – The NYC Commission on Human Rights issued [new legal enforcement guidance](#) today that explains discrimination against people with disabilities in housing, employment, and places of public accommodation under the NYC Human Rights Law, including clarification on discriminatory policies and practices, best practices on how to assess and provide reasonable accommodations to people with disabilities, and examples of reasonable accommodations. Today’s guidance, which seeks to provide clarity, transparency, and best practices to stakeholders and members of the public to make sure that every New Yorker has equal access in New York City, is responsive to questions and requests for clarification from employers, housing providers, and providers of public accommodation about how to meet their obligations under the Law.

“Making New York City more inclusive and accessible allows people with disabilities to be full participants in New York City life, from engaging with their communities, accessing fundamental services, and meeting their most basic and critical needs like entering and remaining in the workforce,” said **Chair and Commissioner of the NYC Commission on Human Rights, Carmelyn P. Malalis**. “Today’s guidance provides a helpful roadmap for employers, landlords, and business owners to help them comply with the NYC Human Rights Law and improve accessibility so that all New Yorkers can access services, spaces, and programs in New York City. The Commission looks forward to continuing its work educating New Yorkers about their rights and obligations, and working with stakeholders, advocates, and elected officials to make New York City an accessible city for all.”

“New Yorkers with disabilities rely on the legal protections of the New York City Human Rights Law to combat discrimination in housing, employment, and places of public accommodation. The guidance released today provides a vital tool for all members of the public regarding their legal obligations and best practices in providing reasonable accommodations,” said **Commissioner of the Mayor’s Office for People with Disabilities Victor Calise**. “MOPD commends the

Commission on Human Rights for its continued work to ensure that New Yorkers with disabilities are able to receive the reasonable accommodations that they need, and are legally entitled to, free of discrimination. We look forward to continuing our strong partnership with the Commission to ensure that New York is the most accessible city in the world."

It is a violation of the NYC Human Rights Law to discriminate against individuals with disabilities in housing, employment, and places of public accommodation, which includes failing to provide individuals with reasonable accommodations. Under the Law, all accommodations are reasonable unless an entity shows that the requested accommodation would cause an "undue hardship." This standard is more protective than federal and state law. Under the NYC Human Rights Law, the burden is on the entity itself to prove that an accommodation is an undue hardship. The Commission understands the contours of these protections can be broad and complex at times, which is why it issued today's legal guidance to assist employers, businesses owners, and housing providers on how to comply with the Law, avoid potential violations, and better accommodate people with disabilities.

Disability discrimination has consistently made up the largest area of complaint at the NYC Commission on Human Rights over the last five years, making up 20 percent of all claims (245 claims) in 2017. The Commission is currently investigating over 1,000 claims of disability discrimination, roughly half of which (502 claims) are in housing. Whenever possible, the Commission's Project Equal Access team will work with businesses, landlords, and providers of public accommodations before a complaint is filed to help them comply with the NYC Human Rights Law. In 2017 alone, the team worked with entities to negotiate 216 pre-complaint modifications on behalf of people with disabilities, including installing ramps, renovating bathrooms and other areas to make them accessible, installing electronic doors, grab bars, and handrails, and training staff on how to accommodate people with disabilities.

Examples of Potential Violations

Today's guidance provides common examples of potential violations of the Law, including examples of disparate treatment, policies, and public postings that may discriminate against people with disabilities in the workplace, housing, and places of public accommodations. Examples of potential violations include a landlord who requires tenants with service animals to pay an additional security deposit, an employer with a "maximum leave policy" who refuses to engage in a cooperative dialogue with an employee who may need more time due to a disability, or a restaurant owner who makes a deaf customer wait until other customers have been served first because they believe communicating with them will take longer.

The guidance also provides examples of more subtle forms of discrimination against individuals with disabilities based on stereotypes or assumptions about their abilities or circumstances, including:

- A landlord who decides not to rent an apartment to an otherwise qualified applicant who has a mental health disability because of unfounded speculation that the individual poses a danger;

- An employer who decides not to hire an otherwise qualified applicant whose recent bout with cancer is now in remission because the employer believes that that the condition will recur and cause the employee to miss work;
- A gym employee who asks an individual with a mobility disability to sign extra waivers that other patrons do not sign because of a fear that the individual poses a liability.

Best Practices

The guidance also offers best practices on how employers, landlords, and business owners may avoid violations of the Law, including best practices on how an entity can assess or grant requests for reasonable accommodations for people with disabilities:

- Entities should strive to create an environment in which all individuals feel comfortable engaging in the process of requesting an accommodation by developing a transparent, clear, and fair process, including providing advance notice or information to employees, residents, and customers detailing their right to be free from discrimination based on disability;
- Entities that learn, either directly or indirectly, that an individual requires an accommodation due to their disability have an affirmative obligation to engage in a “cooperative dialogue” with the individual to evaluate their needs and consider the possible accommodations for the individual that would allow them to perform the essential requisites of the job or enjoy the right or rights in question. The guidance suggests best practices on conducting cooperative dialogues and provides several scenarios;
- Written policies that express limitations or prohibitions, such as a “maximum leave policy” in an employee handbook or a “no pets” policy in a lease, should be clear about the availability of and the process for seeking and granting an exception or modification to the policy as a reasonable accommodation.

Examples of Reasonable Accommodations

The guidance also provides examples of reasonable accommodations to help entities understand how to better accommodate employees, residents, or customers with disabilities, including:

- Employers should allow the use of accrued paid leave or unpaid leave so that the employee with a disability can return to work after the leave and perform the essential requisites of the job;
- Housing providers could provide alterations such as installing grab bars to a bathtub, installing a roll-in shower, or adjusting the location of appliances or other fixtures to make units or common spaces more accessible to individuals with disabilities;

- A restaurant may allow an individual with a service animal to access the restaurant with their animal.

There may be instances where it will be impossible for landlords, employers, and providers of public accommodation to make the accommodations requested. However, this guidance should serve as a reference to help entities think thoughtfully and creatively about possible accommodations and as a reminder to always have a cooperative dialogue with people with disabilities who know best what their needs are and how to accommodate them. It also reminds entities that they should have internal policies to educate employees, residents, and members of the public about their rights under the Law, regularly train staff on these issues, and create an easy way to request an accommodation without fear of adverse action.

For more information about disability protections under the NYC City Human Rights Law or to download the guidance or forms to assist in assessing and granting reasonable accommodations in New York City, visit the Commission’s website at NYC.gov/HumanRights.

If you or someone you know believes they have been the victim of discrimination or harassment, they should call the Commission’s Infoline at 718-722-3131.

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“The New York City Human Rights Law is critical for enforcing the rights of persons with disabilities in New York City,” said **Managing Director of Litigation of Disability Rights Advocates Michelle Caiola**. “We applaud the Commission’s ongoing efforts to educate housing providers, employers, public accommodations, and individuals on the obligation to provide reasonable accommodations under City law.”

“Too often people with disabilities are put in the difficult position of having to file complaints to enforce anti-discrimination laws, said **Human Rights Commissioner and Chief Operating Officer of Independence Care Systems Regina Estela**. “The Commission is working hard to change that equation by offering concrete, practical guidance on how to proactively include people with disabilities, decreasing the need for complaints and increasing opportunities for people with disabilities. It is both an excellent educational resource for employers, landlords, businesses and other public accommodations, and an important reminder of New York City’s broad legal protections for people with disabilities. On the 28th Anniversary of the passage of Americans with Disabilities Act, a law that has recently been attacked on the federal level, it is wonderful to see New York City so committed to making sure that New Yorkers with Disabilities can live, work and enjoy all that New York has to offer.”

“NYLAG applauds the NYC Commission on Human Rights for issuing this bold legal guidance that will strengthen protections for New Yorkers with disabilities,” said **President & Attorney-in-Charge of the New York Legal Assistance Group Beth Goldman**. “NYLAG is proud to represent thousands of clients with disabilities, many of whom face discrimination both blatant and subtle every day. Today’s guidance serves as a message to landlords, employers, and businesses that discrimination based on disability will not be tolerated in New York City.”

"The Commission's comprehensive guidance to support the rights of New Yorkers with disabilities, including the detailed materials and forms, will be of great use to our clients," said **Director of the Disability Justice Program at New York Lawyers for the Public Interest Ruth Lowenkron**. "Every day, we work hard to ensure equal rights for people with disabilities, and such guidance signals that the voices of New Yorkers with disabilities are being heard."

"We applaud the release of the Commission's Enforcement Guidance. In our daily work, we consistently see how people living with disabilities are systematically pushed out of their homes and the workforce when laws pertaining to reasonable accommodations are not followed, said **Executive Director of Mobilization for Justice Jeanette Zelhof**. "This Guidance provides much needed clarity on important legal protections that ensure equal access and opportunities for people with disabilities."