



Reasonable Accommodation and Disability Rights

under the NYS Human Rights Law



dhr.ny.gov

Disability Defined Under NYS Human Rights Law

The term "reasonable accommodation" means actions taken which permit an employee to perform the activities involved in the job or occupation sought, including provision of an accessible worksite; acquisition or modification of equipment; support services; job restructuring; and modified work schedules.

The definition of "disability" under the NYSHRL has been broadly construed. The definition requires, in part, a physical, mental, or medical impairment which prevents the exercise of a normal bodily function. There are no qualifiers as to the severity of the disability.

Unlike federal law, there is no requirement under the NYSHRL that the impairment "substantially limit a major life activity."

Overview of DHR

The New York State Division of Human Rights (DHR) was created to enforce the state's Human Rights Law. The mission of the agency is to ensure that "every individual . . . has an equal opportunity to participate fully in the economic, cultural, and intellectual life of the State."

DHR protects New Yorkers against discrimination in employment, housing accommodations, nonreligious educational institutions, places of public accommodation, commercial spaces, and credit transactions.

DHR takes legal action in response to complaints about discrimination, initiates investigations of individual and systemic cases of discrimination, and conducts outreach to communities throughout the State of New York.

Major Jurisdictions of the NYS Human Rights Law

Disability is a protected class under the law in the following areas:

- **Employment:** Refusal to hire, or a decision to fire, demote, lay-off, or in any way harass an employee, based upon a protected class is prohibited.
- **Housing:** Refusal to sell or rent, or decisions to evict, and harassment based upon a protected class are prohibited.
- **Places of Public Accommodation:** Denial of access to, or enjoyment of, public places, such as restaurants, movie theaters, and retail stores based upon a protected class is prohibited. Discrimination in the provision of medical care in hospitals, medical clinics, and dental offices is also prohibited.

Major Jurisdictions of the NYS Human Rights Law

- **Nonreligious Education Institutions:** Denial of access or admittance to public or private nonreligious schools, colleges, and universities based upon a protected class is prohibited. Harassment or discrimination at educational institutions is also prohibited.
- **Credit and Lending:** Decisions on the terms of loans, including the length of the term or interest rate, based upon a protected class are prohibited.

The Human Rights Law also protects individuals from unlawful discrimination based on age, creed, race, color, sex, national origin, marital status, domestic violence victim status (in employment only), pregnancy-related condition, military status, favorably resolved arrest record, conviction record, sexual orientation, gender identity or expression, predisposing genetic characteristics, familial status, and lawful source of income (in housing only).

Retaliation for complaining about or opposing discrimination is also against the law.

Human Rights Law Protections: Housing

The NYSHRL prohibits housing providers from refusing to sell, rent, lease or otherwise deny any person a housing accommodation on account of disability; and discriminating against any person because of disability in the terms, conditions, or privileges of the sale, rental, or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

Housing providers are obligated to reasonably accommodate persons with disabilities to allow them use and enjoyment of their home. Such accommodations may include removing architectural barriers, providing accessible parking, and waiving no pet policies for persons who have a disability related need for a service or emotional support animal. Housing providers are required to pay and provide for reasonable modifications to common areas to make them accessible to persons with disabilities. New multifamily housing built on or after March of 1991 must meet basic design and construction requirements to ensure that access to and inside the dwellings are provided to persons with disabilities.

Human Rights Law Protections: Employment

The NYSHRL prohibits discrimination against persons with disabilities in employment. The NYSHRL covers all employers (regardless of number of employees), and applies to employment agencies, labor organizations, and apprentice programs.

Employers are prohibited from: refusing to hire, interview, promote or terminate on account of disability; diminishing compensation or conditions of employment on account of disability; or refusing to provide a reasonable accommodation to an employee with a disability.

The term "reasonable accommodation" means actions taken which permit an employee to perform the activities involved in the job or occupation sought, including provision of an accessible worksite; acquisition or modification of equipment; support services; job restructuring; and modified work schedules.

Human Rights Law Protections: Public Accommodations

The NYSHRL has prohibited places of public accommodation from discriminating against persons with disabilities. Places of public accommodation include hotels, motels, restaurants, stores, parks, establishments dealing with goods or services of any kind, clinics, hospitals, theatres, and state and local government entities.

Places of public accommodation are prohibited from discriminating against persons with disabilities and are required to provide reasonable accommodations to persons with disabilities to ensure access to goods and services.

Such accommodations may include the provision of a sign language interpreter or removal of an architectural barrier to allow access for persons with disabilities.

Human Rights Law Protections: Public Accommodations

The NYSHRL defines a service animal as a dog, or miniature horse, that has been trained to do work or perform tasks for the benefit of an individual with a disability.

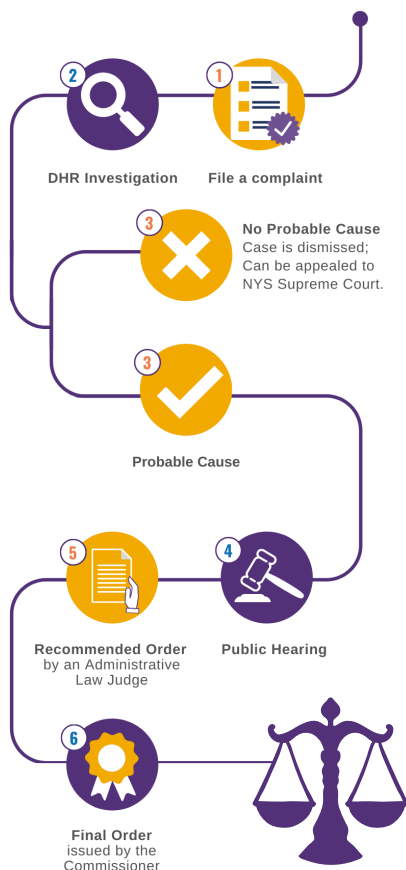
Further, places of public accommodation must permit covered service animals to accompany an individual with a disability on their premises. Examples of work or tasks include assisting individuals who are blind or have low vision with navigation; alerting individuals who are deaf or hard of hearing to the presence of people or sounds; providing physical support and assistance with balance and stability to individuals with mobility disabilities.

Emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

DHR Complaint Process

- **Visit dhr.ny.gov/complaint to file a complaint of discrimination.** There is no charge for filing a complaint. DHR will investigate your complaint to determine if there is probable cause to believe that the law may have been violated. If there is no probable cause, the complaint is dismissed and closed.
- **If there is probable cause,** DHR will prosecute your complaint at a public hearing before an administrative law judge.
- **After the public hearing,** DHR's Commissioner will issue an order with a final decision either dismissing or sustaining the complaint.
- **If the complaint is sustained,** possible remedies may include a change in policies and/or practices; reinstatement to a job; back pay with interest or benefits lost due to the discriminatory practice; the provision of services; equal treatment in an accommodation, institution, or program; and/or compensation for emotional distress. Civil fines may also be assessed.

DHR Complaint Process



Resources

• DEPARTMENT OF HEALTH (DOH)

Early Intervention Program:

https://www.health.ny.gov/community/infants_children/early_intervention/

• DEVELOPMENTAL DISABILITIES PLANNING COUNCIL

Grant-related resources: <https://ddpc.ny.gov/funding>

• JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS

Advocacy services:

<https://www.justicecenter.ny.gov/advocacy-support>

• OFFICE OF THE AGING

Programs and services for the elderly and people of all ages with disabilities, along with their families and caregivers:

<https://aging.ny.gov/>

• OFFICE OF CHILDREN AND FAMILY SERVICES (OCFS)

New York State Commission for the Blind (NYSCB):

<https://ocfs.ny.gov/main/cb/>

Division of Child Care Services:

<https://ocfs.ny.gov/main/childcare/mat/matadaguidance.asp>

• OFFICE OF MENTAL HEALTH (OMH)

Directory of organizations offering an Assertive Community Treatment (ACT) team for individuals diagnosed with a psychiatric disability: <https://omh.ny.gov/omhweb/adults/>

• OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES (OPWDD)

OPWDD provides various services:

<https://opwdd.ny.gov/types-services>

It is unlawful for a landlord to take any discriminatory action because of a history of a disability or because they perceive that an individual has a disability.

"Disability is part of the natural diversity of being human and the narratives of disabled people are constantly erased within the diversity conversation. We need integration, visibility, and accessibility, not erasure."

Anna Segura
YouTuber, artist, and activist for LGBT and disability rights

It is unlawful to discriminate against individuals with a disability in the rental, sale, or leasing of housing.

"Stonewall can be more than a blog post, essay, or book. It can be an emoji, a meme, a selfie, or a tweet. It can become a movement for social change."

Alice Wong
Disability activist, media maker, and consultant

"Disability representation matters and it's time we come together and raise our voices as one."

Imani Barbarin
Public speaker, writer, and blogger

The Division of Human Rights helps to ensure that injured service members return to civilian life by strictly enforcing New York's broad prohibition against discrimination based upon disability.

"Your success and happiness lies in you. Resolve to keep happy, and your joy and you shall form an invincible host against difficulties."

Helen Keller
Author, political activist, and lecturer

Places of public accommodation are prohibited from discriminating against persons with disabilities and must make their goods and services accessible.



Division of
Human Rights

If you believe that
you have been
discriminated against,
you can file a complaint
with the New York
State Division
of Human Rights.

Visit DHR's website
dhr.ny.gov or call
(888) 392-3644.