

# Rights of Immigration Detainees with Disabilities

The Department of Homeland Security (DHS), its components, including Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), and their contractors are **prohibited from discriminating against people with disabilities**.<sup>1</sup> Importantly, this means that individuals **arriving at airports and borders** and detainees **in federal, state, and private detention facilities** are **entitled to reasonable accommodations/modifications** if necessary to avoid disability discrimination.<sup>2</sup> If you, your family member or your client requires it due to a disability, request a **“reasonable accommodation,”** and **state the disability and the reason it makes the requested accommodation necessary**. Examples of accommodations include:

- **Effective communication:**
  - **Sign language interpreters for people who are deaf.**
  - **Crucially, effective communication for people not fluent in *American Sign Language* will require a “Certified Deaf Interpreter.” Be sure to request a “CDI” or a “Deaf/Hearing Team.”**<sup>3</sup>
  - **Videophones or captioned telephones permitting deaf detainees to communicate with family, advocates, and lawyers.**
  - **Reading/translating forms for people who are blind.**
- **Accommodations for physical disabilities:**
  - **Accessible restrooms and showers.**
  - **Wheelchairs, accessible beds, and other amenities.**
  - **Protection from extreme temperatures.**
  - **If handcuffs must be used, may need to be looser (circulation) or in front (so a deaf detainee can communicate).**
- **Access to appropriate medications and treatment.**
- **Other accommodations not listed:** [contact us with questions](#).

This protection covers only people with disabilities, defined (in part) as people who have a physical or mental impairment that substantially limits one or more major life activities.<sup>4</sup> The following conditions would likely be considered disabilities under the law: **blindness; deafness; paralysis or significant motor impairment; diabetes; cognitive disability; serious mental illness**. The following **may require a more rigorous showing** that they substantially limit a major life activity: digestive, bowel, or bladder dysfunction; respiratory or heart disease; food allergy.<sup>5</sup>

The [Civil Rights Education and Enforcement Center](#) has significant experience with litigation on behalf of individuals with disabilities and is ready to consult with other lawyers and advocates or assist with pleadings to enforce these rights: [info@creeclaw.org](mailto:info@creeclaw.org); 303-800-6983.

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1. [Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794](#); [Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132](#), 6 C.F.R. pt. 15; DHS Directive No. 065-01 ([https://www.dhs.gov/sites/default/files/publications/dhs-management-directive-disability-access\\_0\\_0.pdf](https://www.dhs.gov/sites/default/files/publications/dhs-management-directive-disability-access_0_0.pdf)); DHS Instruction No: 065-01-001 ([https://www.dhs.gov/sites/default/files/publications/dhs-instruction-nondiscrimination-individuals-disabilities\\_03-07-15.pdf](https://www.dhs.gov/sites/default/files/publications/dhs-instruction-nondiscrimination-individuals-disabilities_03-07-15.pdf)); DHS, Guide 065-01-001-01 (“Guide”), at 23-24 (<https://www.dhs.gov/sites/default/files/publications/disability-guide-component-self-evaluation.pdf>).

2. 28 C.F.R. § 35.130(b)(7); *Alexander v. Choate*, 469 U.S. 287, 301 (1985); Directive 065-01, ¶ V(A)(2); Guide at 17-18; *Franco-Gonzalez v. Holder*, 2013 WL 3674492, at \*4 (C.D. Cal. Apr. 23, 2013) (holding detainees entitled to reasonable accommodations under § 504).

3. For a directory of sign language interpreters: <https://myaccount.rid.org/Public/Search/Member.aspx>. For a CDI, ✓ the ☐ for CDI.

4. [29 U.S.C. § 705\(9\)\(B\)](#), incorporating [42 U.S.C. § 12102](#).

5. This list is by way of example only. Any condition that substantially limits a major life activity is included.