

# Intro to HHS OCR & Our Recent Final Rules

Office for Civil Rights (OCR)

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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
**Office for Civil Rights**

# Disclosure Statement

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***Jamie Rahn Ballay, faculty for this event, has reported no relevant financial relationships to disclose.***

***The planners and reviewers for this activity have reported no relevant financial relationships to disclose.***

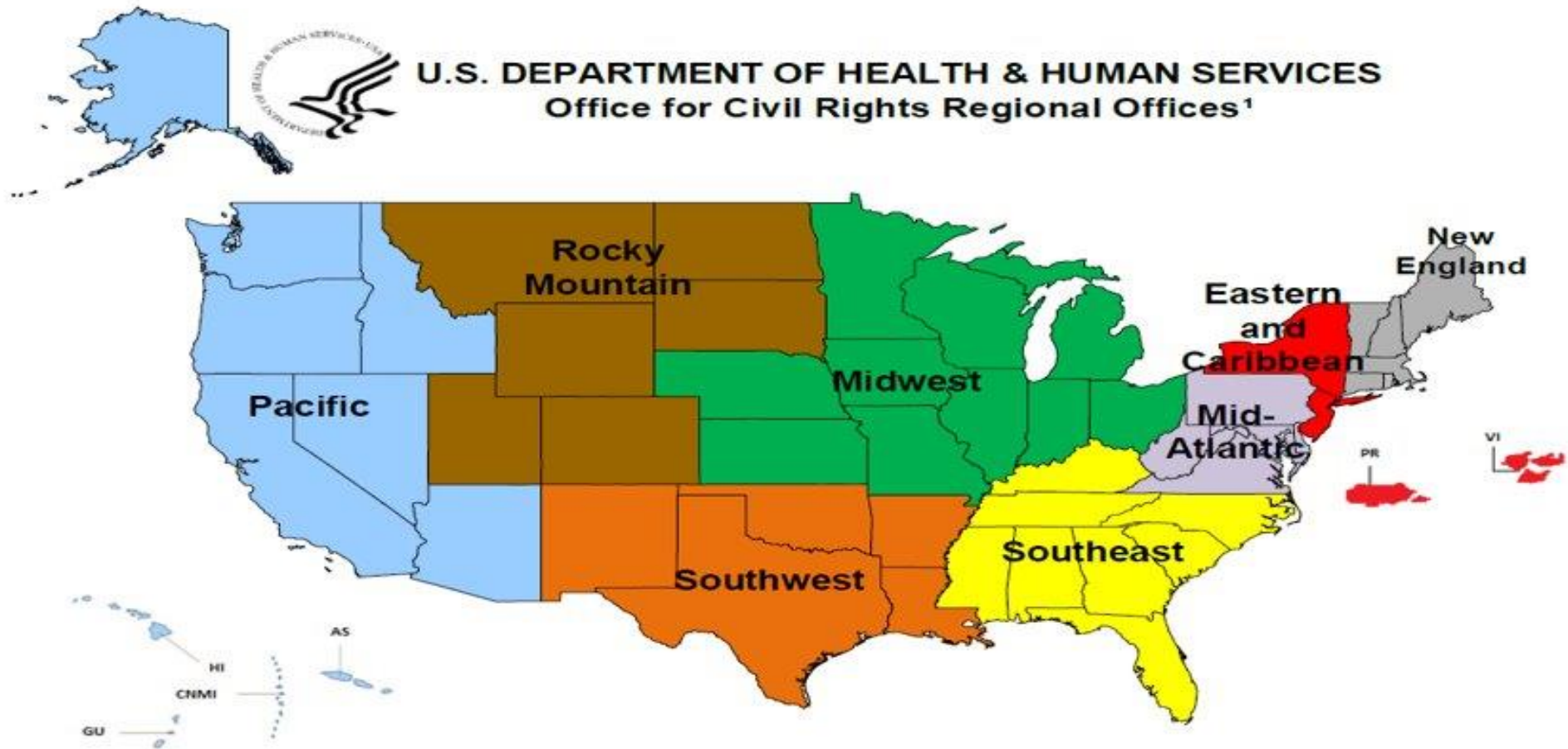
# What Is the Office for Civil Rights (OCR)?

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- The Office for Civil Rights operates as a Staff Division at the U.S. Department of Health and Human Services.
- OCR is tasked with enforcing Federal civil rights laws that protect non-discrimination in healthcare as they relate to recipients of Federal Financial Assistance (FFA) from HHS, public entities, and programs & activities conducted by HHS.
- OCR enforces the HIPAA Privacy, Security, and Breach Notification Rules.



# Where We Are



<sup>1</sup> U.S. Department of Health and Human Services Regional Offices

New England Region: HHS Region 1  
Eastern and Caribbean Region: HHS Region 2  
Mid-Atlantic Region: HHS Region 3  
Southeast Region: HHS Region 4

Midwest Region: HHS Region 5 and 7  
Southwest Region: HHS Region 6  
Rocky Mountain Region: HHS Region 8  
Pacific Region: HHS Region 9 and 10

# HIPAA Privacy Rule to Support Reproductive Health Care Privacy

- The HIPAA Privacy Rule to Support Reproductive Health Care Privacy strengthens the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule by prohibiting the disclosure of protected health information related to lawful reproductive health care in certain circumstances.
- On **April 22, 2024**, the HHS Office for Civil Rights (OCR) issued this Final Rule to bolster patient-provider confidentiality and help promote trust and open communication between individuals and their health care providers or health plans.

# **HIPAA Privacy Rule to Support Reproductive Health Care Privacy Final Rule**

- The Final Rule bolsters the HIPAA Privacy Rule's protections.
- It protects individuals' health information, so it cannot be used or disclosed to investigate or impose liability on someone for the mere act of seeking, obtaining, providing, or facilitating lawful reproductive health care.
- **Effective Date: June 25, 2024.**

# **Key Provisions of the HIPAA Privacy Rule to Support Reproductive Health Care Privacy Final Rule**

- Prohibition
- Rule of Applicability
- Presumption
- Attestation
- Notice of Privacy Practices

# Section 1557 of the ACA

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- The Affordable Care Act (ACA) is a comprehensive health care reform law passed in 2010. It advanced health equity by making health care more affordable and accessible to millions of Americans.
- Section 1557 is the non-discrimination provision of the ACA. It prohibits discrimination on the basis of race, color, national origin, sex, age, and disability in any health program or activity that receives Federal financial assistance.
- On **April 26, 2024**, the HHS Office for Civil Rights (OCR) issued a final rule to restore and bolster civil rights protections under Section 1557.
  - The prior versions were published in 2020 and 2016.



# Section 1557 Final Rule

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- The Section 1557 Final Rule is an expansive nondiscrimination rule—which spans LGBTQI+ care, Artificial Intelligence, Language access, and restores and bolsters civil rights protections against discrimination on the basis of race, color, national origin, sex, age, and disability.
- The Final Rule reinstates crucial patient rights and strengthens protections from discrimination on the above basis.
- **Effective Date: July 5, 2024.**

*Please Note: Pursuant to decisions by various district courts regarding the 2024 Final Rule implementing Section 1557, entitled Nondiscrimination in Health Programs and Activities, 89 Fed. Reg. 37,522 (May 6, 2024) (“2024 Final Rule”), certain provisions regarding gender identity are stayed nationwide. Other provisions are stayed or enjoined as indicated at [www.hhs.gov/1557](http://www.hhs.gov/1557).*

# Key Provisions of the Section 1557 Final Rule

- Restores clear nondiscrimination standards for the health insurance industry.
- Ensures patients can access and understand information about their health and health care regardless of the primary language they speak.
- Medicare Part B payments will be treated as Federal financial assistance for the purpose of triggering coverage under the Federal civil rights statutes.
- Protects patients from discrimination on the basis of sex (sexual orientation, and gender identity, as well as pregnancy and related conditions).
- Prohibits discrimination in the use of artificial intelligence (AI) and telehealth.
- Clarifies disability protections consistent with existing law.
- Outlines a clear assurance process with regard to religious freedom and conscience protections under Federal laws.



# **Section 1557 Language Access and Effective Communication**

- The Rule adopts the longstanding interpretation of civil rights laws that Federal financial assistance recipients must take reasonable steps to provide meaningful access to each individual with limited English proficiency (LEP).
- It also requires effective communication with individuals with disabilities, including through the provision of appropriate auxiliary aids and services.
- The Rule requires covered entities that have 15 or employees to designate a Section 1557 coordinator to coordinate its responsibilities under 1557. Among other things, the coordinator is responsible for implementing language access and effective communication procedures and related staff training required under the Rule.

# Section 1557 Language Access and Effective Communication Notice Requirements

- Covered entities are required to let people know that language assistance services and auxiliary aids are available, free of charge, if needed.
- The notice must be provided in English and in at least the 15 most common languages spoken by people with limited English proficiency (LEP) in the State(s) served.
- To ensure effective communication, these notices must be communicated to individuals with disabilities as effectively as they are to individuals without disabilities.
- Covered entities are required to provide these notices in prominent locations both physically and on their websites, make them available upon request, and include them with a specific list of communications.
- Sample notices: <https://www.hhs.gov/civil-rights/for-providers/resources-covered-entities/index.html>.

# Section 1557 Language Access Procedures

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- A covered entity must implement written language access procedures describing its processes for providing language assistance services to individuals who are LEP
- At minimum, these procedures must include:
  - current contact information for the section 1557 Coordinator (if applicable);
  - how an employee identifies whether an individual has limited English proficiency;
  - how an employee obtains the services of qualified interpreters and translators the covered entity uses to communicate with an individual with limited English proficiency;
  - the names of any qualified bilingual staff members; and
  - a list of any electronic and written translated materials the covered entity has, the languages they are translated into, date of issuance, and how to access electronic translations.
- Covered entities are also required to train their staff on these policies and procedures and retain documentation that the training has occurred.

# **Section 1557 Achieving Meaningful Access for Individuals with LEP**

- Language assistance services must be provided free of charge, be accurate and timely, and protect the privacy and the independent decision-making ability of the individual with LEP.
- Interpretation and translation services must be qualified.
- Generally, a covered entity may not require an individual with LEP to pay for or provide their own interpreter.
- The covered entity may not use minors to interpret with very limited exceptions.
- The Rule also sets quality and staff training standards for the use of video remote interpreting (VRI) and real time audio interpreting services.

# Section 1557 Effective Communication Procedures

- A covered entity must implement written effective communication procedures describing the covered entity's process for ensuring effective communication for individuals with disabilities
- At a minimum, the procedures must include:
  - current contact information for the Section 1557 Coordinator;
  - how an employee obtains the services of qualified interpreters the covered entity uses to communicate with individuals with disabilities;
  - the names of any qualified interpreter staff members;
  - and how to access appropriate auxiliary aids and services.
- Covered entities are also required to train their staff on these policies and procedures and retain documentation that the training has occurred.



# Section 1557 Achieving Effective Communication for Individuals with Disabilities

- Covered entities must take appropriate steps to ensure that communications with individuals with disabilities, are as effective as communications with non-disabled individuals in its health programs and activities.
- Covered entities must provide appropriate auxiliary aids and services where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the health program or activity in question.
- Auxiliary aids and services must be provided free of charge, in accessible formats, in a timely manner, and in such a way to protect the privacy and the independence of the individual with a disability.
- Examples: qualified sign language interpreters (in-person or through VRI), communication access real-time captioning (CART), braille, large print.



# Section 504 of the Rehabilitation Act

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- Section 504 of the Rehabilitation Act prohibits discrimination on the basis of disability in any program or activity that receives Federal financial assistance.
- The final rule helps ensure people with disabilities served by federally funded health and human services programs receive equitable care and treatment.
- Had not been meaningfully updated since the 1970s.
- On **May 1, 2024**, the HHS Office for Civil Rights (OCR) issued a final rule to strengthen civil rights protections for people with disabilities under Section 504.

# Section 504 Final Rule

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- The final rule updates and modernizes the Section 504 rule prohibiting discrimination on the basis of disability.
- The rule advances equitable health outcomes for people with disabilities by ensuring consistency with current law and addressing newer forms of disability related discrimination.
- The rule clarifies and strengthens civil rights protections for people with disabilities in areas like medical treatment, accessible web content, accessible medical diagnostic equipment, and child welfare programs and activities.
- Effective Date: July 8, 2024.

# Key Provisions of the 504 Final Rule

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- Medical Treatment
- Value Assessment Methods
- Child Welfare Programs and Activities
- Web and Mobile App Accessibility
- Accessible Medical Equipment
- Integration
- Judicial and Legislative Consistency

# **Section 504 Protections for Individuals with Substance Use Disorder**

- Section 504 includes protections for individuals with substance and alcohol use disorders and those who receive medications for substance or alcohol use disorders.
- A recipient of HHS funding cannot discriminate against an individual who has a history of substance use disorder if that individual is not engaging in the current illegal use of drugs and they are a person who:
  - Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;
  - Is participating in a supervised rehabilitation program; or
  - Is erroneously regarded as engaging in such use
- Additionally, a recipient who operates a health care facility that receives funding from HHS may not discriminate in admission or treatment against an individual with a substance or alcohol use disorder who has a medical condition, because of the person's substance or alcohol use disorder.



# Section 504 Effective Communication

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- Recipients of HHS funding must take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others.
- This includes the requirement to provide individuals with disabilities appropriate auxiliary aids and services free of charge where necessary to ensure equal access to programs and services.
- Primary consideration must be given to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.

# Section 504 Effective Communication

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Recipients of HHS funding cannot:

- require an individual with a disability to bring another individual to interpret for him or her.
- rely on an adult accompanying an individual with a disability to interpret or facilitate communication except in limited circumstances.
- rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public when there is no interpreter available.

# Section 504 Effective Communication

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- Articulates standards for the use of VRI, including staff training requirements.
- Requires accessible telecommunications and telephone emergency services
- Addresses web, mobile, and kiosk accessibility for individuals with disabilities

# Resources

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- For press releases, fact sheets, and other helpful resources visit:
  - HIPAA Privacy Rule to Support Reproductive Health Care Privacy
    - <https://www.hhs.gov/hipaa/for-professionals/special-topics/reproductive-health>
  - Section 1557
    - <https://www.hhs.gov/1557>
  - Section 504
    - <https://www.hhs.gov/civil-rights/for-individuals/disability/section-504-rehabilitation-act-of-1973>







Q & A



# Connect with Us

## Office for Civil Rights

U.S. Department of Health and Human Services



[www.hhs.gov](http://www.hhs.gov)



Join our listservs at [LISTSERV 16.5 - Subscribe or Unsubscribe to the OCR-CIVILRIGHTS-LIST List \(nih.gov\)](#)



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**Office for Civil Rights**