

June 11, 2025

RE: Docket Number [DOE-HQ-2025-0015](#) (New Construction Requirements Related to Nondiscrimination in Federally Assisted Programs or Activities)

Docket Number [DOE-HQ-2025-0024](#) (Rescinding Regulations Related to Nondiscrimination in Federally Assisted Programs or Activities (General Provisions))

To Department of Energy:

The Survival Coalition of more than 20 statewide disability organizations in Wisconsin is strongly opposed to the proposals that would weaken or eliminate Section 504 regulations and accessible environments in new federal buildings and/or renovations and additions to federal buildings.

We are submitting this significant adverse comment opposing the direct final rules at Docket Numbers DOE-HQ-2025-0015 and DOE-HQ-2025-0024. The proposed rules roll back vital parts of the Department of Energy (DOE)'s regulations implementing Section 504 of the Rehabilitation Act. Number 2025-0015 would rescind 10 C.F.R. § 1040.73, which requires recipients to ensure that new construction and alteration is fully accessible to people with disabilities. Number 2025-0024 would rescind portions of DOE's program access rule for existing facilities at 10 C.F.R. § 1040.72(c) & (d), including the requirement to make a transition plan to eliminate access barriers in these existing facilities.

The proposed rules are not legal. "Direct final rules" must be routine or noncontroversial. But the proposals would eliminate provisions implementing Section 504 in contradiction of Congress's clear understanding of the law.

"[E]limination of architectural barriers was one of the central aims of the [Rehabilitation] Act." *Alexander v. Choate*, 469 U.S. 287, 297 (1985). The requirement that newly constructed and altered facilities be fully accessible to people with disabilities, as measured by applicable access standards, is central to this purpose. As important is the requirement that recipients of federal funds undertake careful accessibility planning to remove barriers in existing buildings.

The proposed rules would encourage new construction that people with disabilities could not access or use. This includes the millions of Americans with access needs who are employed and financially self-sufficient. But it isn't just people with disabilities: the features that make buildings accessible also provide universal design that help so many others: young families with strollers, older adults with limited mobility or stamina, and many others. Additionally, people can become disabled or temporarily disabled (broken leg, hip replacement) at any time. The features that allow for accessibility end up benefiting everyone. We also are concerned that failing to embed these features in new building and renovations/additions will be more costly in the long-run, when the federal government has to go back to correct features that were not designed under the regulations.

The history of the 1977 and 1978 rules are impressive: HEW consulted extensively with Congress and engaged in multiple rounds of notice and public comment. The final rules carefully balanced the challenge of addressing barriers to people with disabilities in existing buildings with the opportunity for new construction and alterations to achieve greater accessibility going forward. This was sound legislation that truly listened to both people with access needs and builders who needed to ensure affordability and feasibility. The compromise reached has been adopted by more than 80 federal

Congress has repeatedly reviewed and approved the regulatory standards that DOE now seeks to delete, giving them the force of law. Federal courts have enforced the rules for decades. DOE may not lawfully eliminate foundational rules for the implementation of Section 504.

Compliance with access standards in new construction and alterations is critical to advancing the goals of Section 504 in allowing barrier-free access to everyone. The deletion of the regulatory reference to the Uniform Federal Accessibility Standards as a measure of compliance would directly undermine the goals of Section 504. Access standards are key to making new construction and alterations accessible. Architects and contractors need a comprehensive set of design rules to ensure that new construction and alterations are built to be fully accessible to people with disabilities. Accessibility is often a matter of inches, making the difference between full access and either no access to costly accidents. We have seen people with mobility challenges take horrible and expensive falls when features of buildings fail to meet compliance standards. Without access standards, we will never reach the fully inclusive society intended by Congress in enacting and reenacting Section 504.

The rules would also create confusion in enforcement standards. Often recipients of federal financial assistance from DOE include many entities that receive funding from other federal departments and agencies, and/or that are subject to the requirements of the ADA. These recipients would be required to comply with access standards due to their other funding or under the ADA, but would remain open to liability under the general nondiscrimination language at section 1040.71.

Ensuring that new construction and alterations are fully accessible to people with disabilities is critical to both advancing the goals of Section 504 of the Rehabilitation Act and in demonstrating to the world that the United States is comprised of people with all types of access needs, but who can and are contributing members of their communities with appropriate supports.

Sincerely,

Survival Coalition of Wisconsin Disability Organizations

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