

Project ALI  E



Accessible Life-saving Integrated Vaccine Equity

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# **Legal Obligations to People with Disabilities During the Vaccination Process For Arkansas Public Health Departments**

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# **Welcome and About Us**

# Welcome and Introductions

**Project ALIVE** (Accessible Life-saving Integrated Vaccine Equity) is a short-term (February-October 2022) focused effort to remove barriers to COVID-19 vaccinations for people with disabilities living in the rural areas of Arkansas, Montana, and Missouri.

**The goal is to help those wanting a vaccine and needing support, to access one.**

# Project ALIVE: Arkansas Partners

## Project ALIVE



Accessible Life-saving Integrated Vaccine Equity

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# Population Focus of Project ALIVE

Project ALIVE's focus is on:

- People with disabilities in rural areas of Arkansas who desire a COVID-19 vaccine and experience barriers to access the vaccine.
- People who are hesitant but are still open to getting vaccinated.
- Strengthening relationships between Centers for Independent Living (CILs) and Public Health Departments.

# Objectives

By the end of this module, you will have a basic understanding of:

- Legal obligations of public health to disabled people throughout the vaccine process.
- How vaccine sites can utilize a checklist to assess their compliance with these obligations
- Resources available to support compliance

# Disclaimer

Material presented does not constitute legal or clinical advice and is for informational purposes only. If you are seeking legal or clinical advice, please contact a qualified attorney or clinician.

**This training is an overview!**



# Goal During the Vaccination Process

Getting vaccinations to everyone with a disability who wants them in ways that are accessible and minimize trauma.

# What is NOT a Goal

A vaccine-seeker leaves a vaccination site because they were afraid, intimidated, confused, or overwhelmed.

OR

Authorities being called unnecessarily resulting in a vaccine-seeker ending up in jail or in an institution.

# Legal Obligations

# The Vaccination Process Must be Accessible to People with Disabilities

This includes:

- Making an appointment online, by phone, and in person
- Checking in for the vaccine
- Waiting in line for the vaccine
- Receiving the vaccine
- Waiting after vaccine

# Some Disability Civil Rights Laws that Apply to Vaccine Sites

The entire vaccination process must be accessible to disabled people under:

- Americans with Disabilities Act (ADA) 42 U.S. Code § 12102 et seq.
- Rehabilitation Act (Rehab Act) 29 U.S.C. § 701 et seq.

# Definition of Disability

Under the ADA, disabled people are individuals with a:

- Physical or mental impairment that substantially limits one or more **major life activities**
- Record of having such impairment
- Regarded as having an impairment

# Definition of Disability

Under the ADA Amendment Acts of 2008, **major life activities** include but are not limited to:

- Walking
- Standing
- Lifting
- Bending
- Speaking
- Breathing
- Learning
- Reading
- Concentrating
- Thinking
- Communicating
- Working
- Major bodily functions
- Caring for oneself
- Performing manual tasks
- Seeing
- Hearing
- Eating
- Sleeping

# Definition of Disability

Under the ADA Amendment Acts of 2008, **major bodily functions** include but are not limited to:

- Functions of the immune system;
- Normal cell growth; and,
- Digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.



# Five Titles of the ADA

**Title I:** Employment

**Title II:** State and Local Government Entities

**Title III:** Places of Public Accommodation

**Title IV:** Telecommunications

**Title V:** Miscellaneous

**Today, we will discuss obligations under  
Titles II and III.**

# Who has Obligations Under the ADA?

## Under Titles I and II:

- **State, county, municipalities** have obligations.

## Under Titles I and III:

- Certain **private providers** have obligations.

# Rehabilitation Act

Any recipient or subrecipient of federal funds has obligations under the Rehabilitation Act (Rehab Act).

These obligations are virtually identical to obligations under Title II of the ADA.

# **Government Entity Retains Obligations Under the ADA and Rehab Act**

A government entity cannot “contract away” Rehab Act or ADA obligations.

# Obligations Under ADA Title II and Rehab Act

Obligations include:

- Equally effective communication
- Non-discrimination in operations
- Program and facility accessibility

# Vaccine Sites Have Obligations

During:

- Online registration
- Phone registration
- Registration at site
- Vaccination areas
- Vaccination waiting areas

# Types of Vaccination Sites

Some types include:

- Pharmacies
- Doctor offices
- Hospitals
- Mobile sites
- Pop-up sites
- Drive-through sites
- Mass vaccination sites
- At-home vaccinations

# Equally Effective Communication

During the vaccination process, vaccination sites must provide equally effective communication to people with:

- Hearing disabilities
- Visual disabilities
- Speech disabilities



# Equally Effective Communication

Equally effective communication is communication that is as effective for people with communication disabilities as people without disabilities.

# Auxiliary Aids and Services (Accommodations)

Auxiliary aids and services may be required to provide equally effective communication to people with communication disabilities

- Auxiliary aids and services are referred to as “accommodations”

# Effective Communication for People with Hearing Disabilities

Auxiliary aid and services (accommodations) could include:

- Sign Language interpreter
- Tactile interpreter (for people who are Deafblind)
- Oral interpreter
- Communication Access Real-time Transcription (CART)
- Written notes (under limited circumstances)

# Effective Communication for People with Visual Disabilities

Auxiliary aid and services (accommodations) could include:

- Readers
- Large print
- Screen reader compatible electronic material
- Braille

# Effective Communication for People with Speech Disabilities

Auxiliary aid and services (accommodations) could include:

- Communication boards
- Written notes
- Paper and pen
- Allowing additional time for appointments

# Primary Consideration

Primary Consideration should be given to the specific type of auxiliary aid or service that is requested

Entity may choose accommodation other than what is requested if that auxiliary aid or service provides effective communication

# Plain Language

## Plain Language:

- Is “communication that can be understood by the intended audience and meets the purpose of the communicator.”
- Provides access, but is not required under equally effective communication provisions.

# Non-Discrimination in General Operations: Service Animals

These obligations include:

- Adopting and complying with a policy to allow service animals in all areas members of the public are allowed



# Non-Discrimination in General Operations: Service Animals

- Service animals are dogs and miniature horses that are trained to assist a person with a disability
- Service animals must be housebroken and under owner's control

# Non-Discrimination in General Operations: Surcharges

- Surcharges, extra charges for accommodation to the disabled person are prohibited.
- People with disabilities cannot be charged for an auxiliary aid or service (accommodation).

# Surcharge Examples

Some examples of a prohibited surcharge at a vaccination site are charging fees for:

- An interpreter
- Material in Braille
- A ramp

# **Non-Discrimination in General Operations: Eligibility Criteria**

Eligibility criteria for program participation cannot screen out people with disabilities.

# Example of Prohibited Eligibility Criteria

An example includes:

- Requiring people to have a driver's license to get the vaccine.

This would impact people who do not have a driver's license due to their disability.

# **Non-Discrimination in General Operations: Reasonable Modifications**

Reasonable modification to policies, practices, and procedures must be made when the modification does not fundamentally alter the nature of the program.

# Examples of Reasonable Modifications

Some examples include:

- Assisting an individual who can't write due to their disability complete a form
- Notifying a person wearing noise-canceling headphones due to a disability in the waiting area that it is time for them to advance in the process

# Examples of Reasonable Modifications

Some examples include:

- Assisting an individual who can't write due to their disability complete a form.
- Notifying a person wearing noise-canceling headphones due to a disability in the waiting area that it is time for them to advance in the process.



# Examples of Reasonable Modifications

Some examples include:

- Allowing someone with a behavioral health disability or intellectual disability to have a support person with them

**Modifications are not required when they cause a fundamental alteration to the nature of the program.**

# Program and Facility Accessibility

All **programs** must be accessible to and usable by people with disabilities when viewed in their entirety.

# Program and Facility Accessibility

This means:

- If constructed before 1990 under ADA, not every building or every area of every building must be accessible
- Not all vaccine sites must be physically accessible
- **BUT** there must be accessible vaccine sites within reasonable geographic proximity, open similar hours or longer, providing the same services

# Accessible Vaccine Sites

Sites must have accessible:

- Entrances/Exits
- Registration area
- Vaccination area
- Waiting area
- Restroom

# Limitation on Obligations

- Undue Burden
- Fundamental Alteration

# **Vaccine Site Checklist Overview**

# Checklist Overview

- The checklist:
  - Contains sections that can be used independently of each other
  - Should be completed in its entirety to assess the accessibility of vaccination sites
  - Should be used for all vaccination sites, including walk-in, drive-through, pop-up, and mobile unit.
- Addresses obligations and considerations for at-home vaccinations.

# Section 1: Vaccination Registration and Appointment Checklist for Non-Structural Elements

- Provides instructions for people with disabilities registering for the vaccine online or by phone.
- Is also a tool to assess:
  - Equally effective communication
  - Vaccine site's capacity to provide access to people with disabilities that is non-structural in nature



## Section 2: Examples from Checklist

### Page [7]: Check in

Is there a policy allowing companions to accompany people with disabilities who need on-site assistance?

Yes  No

## Section 2: Examples from Checklist

### Page [7]: Check in:

Are sign language interpreters available on-site to interpret for individuals who are Deaf, Hard of Hearing, or Deafblind during registration, the vaccination process, and while waiting after the vaccine is administered?

Yes  No

## Section 2: Examples from Checklist

### Page [7]: Check in:

Which dates and times are the sign language interpreters available?

[ \_\_\_\_\_ ]

Is the availability of sign language interpreters posted on the virtual registration site?

[ ] Yes [ ] No

## Section 2: Examples from Checklist

### Page [8]: Check in:

Are peer support specialists available on-site or virtually to assist individuals with psychiatric disabilities who may need support while waiting at the vaccination site?

Yes  No

## Section 2: Examples from Checklist

### Page [9]: Check in:

Is there a policy allowing service animals to accompany people with disabilities?

Yes  No

Are vaccination site staff provided training on the service animal policy?

Yes  No

## Section 2: Examples from Checklist

### Page [9]: Check in:

Are there circumstances where would someone would be allowed to move to the front of the line because of their disability?

Yes  No

## Section 2: Examples from Checklist

### Page [9]: Check in:

Please describe examples of these circumstances.

[ \_\_\_\_\_ ]

If “yes,” have staff been instructed on this practice?

[ ] Yes [ ] No

# **Section 3: Structural Checklist for Drive-Through and Walk-in Vaccination Sites**

- Tool to assess adherence of structural elements of vaccine sites with Americans with Disabilities Act Accessibility Guidelines (ADAAG)



# Section 3: Hints

## Page [10]: Measuring tools:

- Tape measure
- Electronic measuring device
- Two-foot level
- Spring gauge or door pressure assessment device to ascertain door pressure weight (i.e., pressure)

# Section 3: Hints

## Page [10]: Start on the outside:

- Parking
- Walkways
- Drop-off areas
- Exterior ramps
- Entrances

## Section 3: Hints

Use the “Comments” space provided in each section to describe conditions that:

- Need attention or correction, or to add details that cannot be adequately addressed
- In the questionnaire recorded comments ensure that faulty memory - the bane of accurate assessment - does not produce inaccurate evaluation results

# Section 3: Hints

Use the glossary:

- Pages 11-12 contains a Glossary on Section 3. It will be helpful when conducting access surveys

# Scenarios

## Scenario

You get a call from a vaccination site asking what to do when a person is rushing out of the vaccination site covering their ears and saying "I can't stand this."

## Scenario

You get a call from a vaccination site asking what to do when a wheelchair user is at a vaccine site that is not structurally accessible.

## Scenario

You get an email from Deaf person who was vaccinated last month saying they got a bill for an ASL interpreter after getting a vaccine.



## Scenario

You get a call from a vaccination site asking what to do when a person without an apparent disability is upset because someone with a disability was perceived to cut in line.

## Scenario

You get a call from a vaccination seeker saying they were told to leave their service miniature horse outside of the vaccine site.

## Scenario

You get a call from a call from a vaccination site asking what to do when a Deaf person who requested an interpreter ahead of time shows up at the site and and there is no interpreter.

# Resources

## Local Centers for Independent Living (CIL)

- [Mainstream Center for Independent Living](#)
- [Spa Area Independent Living Services, Inc. \(SAILs\)](#)
- [Southeast Arkansas Independent Living Services \(SAILs\)](#)
- [Sources for Community Independent Living Services, Inc.](#)

# Resources

## Plain Language

- **Self Advocacy Resource and Technical Assistance Center (SARTAC):** [COVID-19 Vaccine Information in Plain Language](#)
- **Autistic Self Advocacy Network (ASAN):** [COVID-19 Vaccine Fact Sheet in Plain Language](#)
- **Association of University Centers on Disabilities (AUCD):** [Tools for Using Plain Language and Easy Read](#)
- **CDC's National Center for Health Marketing:** [Plain language thesaurus for health communications](#)

# Resources

## Vaccines

- **CDC:** [Prevaccination Checklist for COVID-19 Vaccines](#)
- **CDC:** [In-Home COVID-19 Vaccinations](#)
- **Immunization Action Coalition:** [Screening Checklist for Contraindications to Vaccines for Adults](#)

# Resources

## Access surveys and ADA

- [ADA Information Line](#)
- [Southwest ADA Center](#)
- [U.S. Access Board](#)

## Door access:

- U.S. Access Board: [Maneuvering at Doors](#)

## Clear floor space for wheelchairs:

- ADA.gov: [ADA Accessibility Guidelines For Buildings and Facilities](#)

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# Thank you!

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# Project ALIVE



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