



**THE PARTNERSHIP**  
FOR INCLUSIVE DISASTER STRATEGIES

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# Rights of People with Disabilities in Disasters: Region 10

— [www.disasterstrategies.org](http://www.disasterstrategies.org) —

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# **Welcome and Training Housekeeping**

# Who We Are: The Partnership

**The Partnership for Inclusive Disaster Strategies** is the only U.S. disability-led organization with a focused mission on equity for people with disabilities and people with access and functional needs throughout all planning, programs, services and procedures before, during and after disasters and emergencies.

## Your Disability & Disaster Hub





# Group Agreements

- Maintain confidentiality.
- Ask questions.
- Have fun!

# Disclaimer

Material presented does not constitute legal advice and is for informational purposes only.

If you are seeking legal advice, please contact a qualified attorney.

# This Presentation is an Overview

This presentation is an overview of legal obligations; many specifics have not been included here.

# What You Can/Cannot Expect From This Training

## You will not:

- Become an expert on disability rights in disasters

## You will:

- Have an idea of some rights disabled people have in disasters
- Know where to get answers to questions about rights of disabled people in disasters
- Have an opportunity to practice advocating for your rights

# Training Goals

For you to have a better understanding of:

- The legal rights of disabled people throughout the disaster cycle
- The legal obligations of government agencies and nonprofits to disabled people throughout disasters
- How disabled people can advocate for these rights

# Disability Civil Rights

# Disability Rights are Civil Rights

In order to be able to protect your own and participants' rights throughout disasters, you need to understand basics of those civil rights obligations.

# What are Civil Rights?

## Disability Rights are Civil Rights

“Civil Rights are personal rights guaranteed and protected by the U.S. Constitution and federal laws enacted by Congress, such as the Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990. Civil rights include protection from unlawful discrimination.”



**Civil rights of people with disabilities are NEVER suspended, including during disasters!**

# **Disability Civil Rights Laws**

# Question for You

How familiar are you with the ADA and Section 504 of the Rehab Act?

1. Not at all familiar
2. Kinda familiar
3. Very familiar

# Another Question for You

What is your biggest question about disability rights?

# Why it is Important to Understand Disability Rights

- We can't protect disability rights if we don't know them.
- Some misunderstand or ignore disability rights decades after the signing of the ADA and 50 years after the signing of the Rehabilitation Act.
- By claiming our rights, we may be able to mitigate some of the effects of systemic ableism.

# **Section 504 of the Rehabilitation Act**

# Section 504

Section 504 of the Rehabilitation Act applies to any agency/organization that gets money from the federal government, such as:

- State agencies
- Local government agencies (i.e., cities, towns, counties)
- Businesses
- Nonprofits or other organizations

# Section 504 Requires...

- An organization, business, or agency that gets federal money to not discriminate against people with disabilities.
- Programs and services be accessible to people with disabilities.

Section 504 obligations are nearly identical to Title II of the ADA.



# ADA Title II and Section 504 Obligations

Obligations under Title II of the ADA and Section 504 of the Rehabilitation Act are functionally identical.

- Same definition of disability
- Same obligations

# **Americans with Disabilities Act**

# Americans with Disabilities Act

The ADA:

- Was passed in 1990
- Protects the civil rights of people with disabilities even when there is no federal government money involved

# Americans with Disabilities Act

Sections 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 are just discussing Titles II and III.**

# Comparison: Section 504 and ADA

## Section 504:

- Federally funded agencies, programs, and activities can't discriminate against people with disabilities.

## ADA:

- **Federal money does not have to be spent** to trigger ADA.
- Title II (state and local government, including public schools) provides the same protections as section 504.

# Goals of the ADA and Rehab Act (504)

The goal of the ADA and Section 504 of the Rehab Act is to create a level playing field for people with disabilities through:

- Integration
- Full participation
- Equal opportunity

# The ADA is Not...

- A benefits program
  - People with disabilities don't get money from the ADA
  - People with disabilities do not have to register to be protected under the ADA
- A government agency
- An affirmative action law

# Court Decision that Protects Disabled People During Disasters

## Olmstead Decision (1999)

The Supreme Court decision that interpreted the ADA to require that people with disabilities must receive services in the most integrated setting appropriate to their needs



**Questions?**

# **Who is Protected Under ADA/504?**

# Definition of Disability

Under the ADA and the Rehab Act, people with disabilities 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

# Substantially Limits

Substantially limits “does not mean a severe condition, but it does mean a condition that creates an impairment when compared to most people. Determining whether a condition is substantially limiting must be done on a case-by-case basis.”

**Example:** A mild allergy to pollen is not a substantially limiting condition.

# Major Life Activities

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

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

# Major Bodily Functions

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.

# **Who Has Obligations Under the ADA/504?**

# Entities with Obligations Under ADA

Entities with obligations under ADA include:

- City, town, county, state emergency management, public health, public schools, public hospitals
- Governor's office and state legislature
- Nonprofits, including American Red Cross, and Centers for Independent Living



# Entities with Obligations Under 504

Entities with obligations under 504 include anyone receiving federal funds:

- Religious entities and other nonprofits receiving federal funds
- City, town, county, and state emergency management and public health that receive federal funds
- Federal agencies, including FEMA

**Questions?**

# **Obligations Under ADA/504 in Disasters**

**Disaster-related programs  
and services must not  
discriminate against  
people with disabilities!**

# Programs and Services

These programs and services must comply with ADA and 504 (as applicable):

- Exercises/drills
- Planning meetings
- Disaster Recovery Centers (DRCs)
- Points of Distribution (PODs)
- Shelters
- Transportation
- Emergency alerts/notifications

# Structural Access

Structural and program access means that programs and services must be accessible.

Structurally accessible requires an ADA compliant:

- Path of travel
- Restrooms
- Areas where programs and services are provided

# Programs and Services

To comply with its obligations covered entities must provide

- Structural/program access
- Equally effective communication
- Non-discrimination in general operations

# Structural Access

ADA compliant path of travel requirements:

- Non-slip surfaces
- No steps or high thresholds
- Accessible restrooms
- Compliant ramps where necessary
- Visual fire alarms
- Tactile signage



# Structural Access

To determine if a facility is ADA compliant, consult with someone who is familiar with ADA and state building code requirements.

- Don't assume competence to conduct access surveys based on disability status.
- Surveyors should be appropriately compensated as professionals.

**Never** assume that any facility is accessible.

# Program Access

Under Title II of the ADA:

- In existing construction (pre-1991), **all programs** must be accessible.
- However, not all buildings or every part of every building must be accessible.
- Programs may be moved to an accessible part of a building or to another building in reasonable geographic proximity.
- “New” (post-1991) construction must be accessible.

# What is Equally Effective Communication?

Communication with individuals with disabilities must be as effective as communication to people without communication disabilities.

Communication disabilities are:

- Visual disabilities
- Speech disabilities
- Hearing disabilities

# Providing Equally Effective Communication

**In order to provide equally effective communication, sometimes auxiliary aids and services (accommodations) may be required.**

# Providing Effective Communication

For emergency planners, equally effective communication requirements mean that:

- Planning meetings, activities, and exercises must provide equally effective communication for all events, including outreach and follow-up
- Planners should model compliance

# Equally Effective Communication: Visual Disabilities

Examples of auxiliary aids and services for people with visual disabilities include:

- Large print
- Readers (people who read short documents)
- Screen reader-accessible electronic material
- Braille

# Equally Effective Communication: Speech Disabilities

Examples of auxiliary aids and services for people with speech disabilities include:

- Allowing for extra time
- Using a communication board or speech synthesizer
- Pen and paper
- Using an electronic device (i.e. tablet/ipad, phone, computer)

# Equally Effective Communication: Hearing Disabilities

Examples of auxiliary aids and services for people with hearing disabilities:

- American Sign Language interpreters
- Tactile interpreters
- Oral interpreters
- Video Remote Interpreting (VRI)
- Communication Access Real-time Translation (CART)
- Assistive listening system
- Video phone
- Using a microphone



# Planning for Effective Communication

To provide effective communication, planners need to know how to:

- Identify and schedule sign language interpreters
- Use Video Remote Interpreting (VRI)
- Create accessible electronic material or have material assessed for accessibility

# Non-Discrimination in General Operations

Some requirements:

- Surcharges prohibited
- Service animals must be allowed
- No discriminatory eligibility criteria
- Equal opportunity to participate and benefit

# Non-Discrimination in General Operations

Requirements:

- Programs and services in the most integrated setting appropriate to the needs of the person (*Olmstead decision*)
- Reasonable modifications to policies, practices, and procedures

# Non-Discrimination in General Operations

Reasonable modifications to policy, practice, or procedure include:

- Completing a form for someone who cannot due to their disability
- Allowing someone to have a support person with them
- Allowing someone with difficulty standing to advance in a line

# Non-Discrimination in General Operations

Reasonable modifications to policy, practice or procedure include:

- Providing accessible transportation during evacuations and emergency situations.

Reasonable modifications are not required when they **fundamentally alter** the nature of the program.

# Obligations as they Apply to Disasters

# Equal Access to Disaster-Related Programs and Services

## Obligations as they apply to notifications:

- Notifications **should** be ASL interpreted and must be captioned
- Alternatives to door knocks must be used
- Maps must be accessible

# Equal Access to Disaster-Related Programs and Services

## Obligations as they apply to evacuation:

Building evacuation and geographic area evacuation must be accessible. This includes:

- Information must be in an accessible format
- Verbal instruction should be interpreted
- Accessible transportation must be provided when provided for others



# Equal Access to Disaster-Related Programs and Services

## Obligations as they apply to sheltering:

- Quiet areas must be provided
- Service animals must be allowed
- Personal assistants must be allowed
- Personal assistance services must be provided
- Dietary accommodations must be provided
- No segregation or separation

# Equal Access to Disaster-Related Programs and Services

## Shelters must:

- Be structurally accessible
- Provide equally effective communication
- Meet general non-discrimination obligations

# Equal Access to Disaster-Related Programs and Services

Structurally-accessible shelters must include ADA compliant:

- Path of travel
- Restrooms, including showers
- Registration
- Eating areas
- Sleeping areas, including accessible cots
- Quiet areas
- Other areas in shelters

# Equal Access to Disaster-Related Programs and Services

Equally effective communication includes:

- On-site interpreters or VRI
- Print material in multiple formats
- Tactile signage

# Equal Access to Disaster-Related Programs and Services

Disaster-related programs and services must be provided in the most integrated setting most appropriate to the needs of the person with a disability.

# Scenario 1

You are Deaf and checking into a disaster shelter. Shelter staff indicate that you will have to communicate using notes. They ask the person with you if they can interpret.

**What should you do?**

**Is it required that there be sign language interpreters/video remote interpreting?**

**Questions?**

# **Institutionalization During and After Disasters**



# Institutionalization During and After Disasters

## Consequences of institutionalization:

- People get lost
- People get sick
- People lose their jobs, homes, and independence
- People die

# Institutional Bias

**Definition:** The unconscious or conscious individual belief and systemic practice that people with disabilities belong, or are better off, in institutions, such as nursing facilities.

Ageism is often, but not always, a factor.

# Institutionalization During and After Disasters

**Waivers are an example of institutional bias.**

In recent disasters, Centers for Medicare and Medicaid (CMS) have issued blanket 1135 waivers that waive the 3-day hospital stay before a person is transferred to a long-term care facility.

Nursing facility pre-admission screening are also waived.

# Institutionalization During and After Disasters

**Under waivers, people can be placed in nursing facilities from:**

- Their homes if they don't have a personal care attendant (PCA) and call 911
- Emergency departments
- Hospital rooms, if it will benefit another patient

# Advocacy Resources

As part of disaster prep, provide links to resources that can support disabled people's rights during disasters including:

- [Protection and Advocacy agencies](#)
- [Local Centers for Independent Living](#)
- [Statewide Independent Living Councils](#)
- The Partnership for Inclusive Disaster Strategies' [Disability and Disaster Hotline](#)
- Regional Offices of the [National ADA Network](#) (for information)

## Scenario 2

You have quadriplegia and use a power wheelchair for mobility. You need a personal assistant to assist you in transferring and you need an accessible cot. You are told that you can sleep in your chair or go to a nursing facility.

**What should you do?**

**Who do you contact?**

**Questions?**

# **What Disabled People Need to Know**



# Provide Information About Disability Rights

As part of disaster preparedness programs, provide:

- Training on rights in disasters
- Instruction on accessing accurate information about rights from their phones or devices
  - This may be particularly important for services animal handlers, but all disabled people should do it.

# Being at the Table

Disabled people and advocates need to know that it is important to get a seat at planning tables to enforce our rights.

They can do this by:

- Asking to notified of meetings and asking to be put on list serves
- Inviting planners to Disability Community events

# **What Planners Need to Know**

# Inclusive Disaster Planning Strategies

- Involve disabled people throughout the process.
- Comply with disability rights laws before being asked.
  - Suggestion: Include a line item for accommodations in your budget.
- Go beyond compliance when you can.

# Beyond Compliance

After meeting legal obligations, work with people with disabilities to prioritize disabled people's experiences throughout disaster planning, mitigation, preparedness, response, recovery, and reconstruction.

**Questions?**

# Another Scenario

# Scenario 3

Food and water are being distributed at an outdoor location that is not accessible. You use a wheelchair.

**What should you do?**  
**Who should you contact?**



# Resources

# Additional Resources

- National Council on Disability: [Preserving Our Freedom: Ending Institutionalization of People with Disabilities During and after Disasters](#)
- [Disability Rights and Immigrant Rights in Disasters](#)
- [How to File a Civil Rights Complaint](#)
- [Accessibility Reminders for Points of Distribution \(PODs\)](#)
- [Some Considerations for Inclusive Planning](#)



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# Thank you!

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