

# Emergency Planning for People with Disabilities: A Legal Perspective



## Background

The mission of public health is to serve all members of the community, a goal that can become more difficult during an emergency response. According to the most recent census, one in five individuals in the United States lives with at least one disability.<sup>1</sup> People with disabilities are more likely to be unprepared for or left behind in a disaster or emergency due to inadequate plans that do not take into account the needs of people with disabilities.<sup>2</sup> All-hazards emergency preparedness and response efforts are not effectively reaching people with disabilities in the United States. A 2008 United States Government Accountability Office report details key gaps in federal and state emergency planning for people with disabilities, calling this “one of the most serious deficiencies” in current plans.<sup>3</sup>

According to the Americans with Disabilities Act of 1990 (ADA), a person with a disability is defined as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.<sup>4</sup> Disability includes impairments, activity limitations, and participation restrictions.<sup>5</sup> Types of disabilities include physical disability like paralysis and amputation, cognitive disability like intellectual disability or Autism, and sensory disability like blindness or deafness.



In the context of a public health emergency, people with disabilities will have functional or access needs that must be addressed to maintain independence, health, and safety during the emergency or disaster. During emergency planning and response, health departments will need to address disabilities that are already identified (e.g., people who have disabilities according to the ADA) and the disabilities that people will acquire during a disaster (e.g., broken limbs or post-traumatic stress disorder). One framework for public health emergency planners to consider implementing is the

Communication, Medical Needs, Independence, Supervision, and Transportation (C-MIST) functional access framework. The C-MIST functional access framework helps planners remove barriers to inclusion by ensuring that planning efforts address each component of the framework. C-MIST focuses on addressing the functional and access needs of an individual or group, not the specific vulnerability or condition.

Compliance with ADA, Title II Regulations: Part 35 Nondiscrimination on the Basis of Disability in State and Local Government Services, §35.130 requires planners to meet three obligations:

- Physical access, also referred to as architectural access, encompasses access to buildings, structures, and the environment;
- Programmatic access, or program access, addresses access to goods, services, activities, or any offering of federal, state, and local government or business (public accommodations must be readily accessible by people with disabilities); and
- Effective communication specifies that a public entity must take appropriate steps to ensure that communications with members of the public with disabilities are as effective as communications with others (e.g., Braille, American Sign Language, large print, audio, and electronic formats).

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## A Legal Perspective

Various federal laws, policies, and directives inform the whole community approach. The ADA has serious implications for whole community planning. Recently, court cases in Los Angeles and New York have highlighted the legal implications for cities that fail to meet the needs of persons with disabilities in planning for disasters.

### **Communities Actively Living Independent and Free, et al. v. City and County of Los Angeles**

In February 2011, a California court found that the City and County of Los Angeles were discriminating against people with disabilities because they had no plan to notify and evacuate or provide transportation or shelter in a disaster.

As a result of this class action lawsuit, the County of Los Angeles drafted the Disability and Access and Functional Needs Annex to the Operational Area Emergency Response Plan. In the Annex, the County of Los Angeles will do the following:

- Ensure that people with disabilities are aware of the mass notification systems available and that the county will use a variety of different accessible communication methods;
- Engage in various activities to ensure an adequate number of accessible transportation resources will be available during evacuations and other emergency activities;
- Coordinate with vendors, other departments, and organizations to ensure that necessary shelter resources are secured; and
- Ensure the planning for continuity of services for people with disabilities and those with access and functional needs.

### **Brooklyn Center for Independence of the Disabled v. The City of New York**

In November 2013, the United States District Court, Southern District of New York, handed down a ruling in a class action lawsuit brought on behalf of all people with disabilities. The suit charged that the New York City Emergency Preparedness Program failed to accommodate the needs of people with disabilities. The court ruled that the city violated the ADA, the Rehabilitation Act of 1973, and the New York City Human Rights Law by failing to provide meaningful access to the emergency preparedness program. Specifically, the court highlighted six areas of deficiencies:

- The city's evacuation plans do not accommodate the needs of people with disabilities with respect to high-rise evacuation and accessible transportation;
- The city's shelter plans do not require that the shelter system be sufficiently accessible, either architecturally or programmatically, to accommodate people with disabilities in an emergency;
- The city has no plan for canvassing or for otherwise ensuring that people with disabilities are able to access the services provided by the city after an emergency;
- The city's plans to distribute resources in the aftermath of a disaster do not provide for accessible communications at the facilities where resources are distributed;
- The city's outreach and education program fails in several respects to provide people with disabilities the same opportunity as others to develop a personal emergency plan; and
- The city lacks sufficient plans to provide people with disabilities information about the existence and location of accessible services in an emergency.

## Conclusion

Health departments must engage people with disabilities when developing emergency plans to ensure that all people can be protected by their jurisdictions' emergency response plans. To comply with federal law and policy, health departments must revise plans to incorporate the functional needs of an individual or population to ensure equal access to assistance. Further, health departments should engage people with disabilities to educate them on ways to prepare themselves better for emergency and disaster. Working with people with disabilities will result in better preparedness for the community and for the individuals in the community with the greatest needs.

## Resources

- NACCHO Health and Disability Learning Community: *Ways to enhance emergency planning and preparedness activities that engage and include people with disabilities*  
[www.naccho.org/topics/hpdp/healthdisa/eplearncomm.cfm](http://www.naccho.org/topics/hpdp/healthdisa/eplearncomm.cfm)
- NACCHO Fact Sheet: *Tools and resources for inclusive planning, preparedness, and response*  
<http://naccho.org/topics/hpdp/healthdisa/loader.cfm?csmodule=security/getfile&pageID=258713>
- NACCHO Advanced Practice Centers: *Easy-to-use pocket translator and pictogram tools*  
<http://apc.naccho.org/products/apc20071675/pages/overview.aspx>
- Whole Community Inclusion Project Website: *Free resources to aid in whole community planning*  
<http://wcphep.org>
- Department of Justice: *ADA best practices toolkit for state and local government*  
[www.ada.gov/pcatoolkit/toolkitmain.htm#pcatoolkitch7](http://www.ada.gov/pcatoolkit/toolkitmain.htm#pcatoolkitch7)
- Department of Justice: *ADA checklist for emergency shelters*  
[www.ada.gov/pcatoolkit/chap7shelterchk.htm](http://www.ada.gov/pcatoolkit/chap7shelterchk.htm)
- Centers for Disease Prevention and Control: *Public health workbook to define, locate, and reach special, vulnerable, and at-risk populations in an emergency*  
[www.bt.cdc.gov/workbook/pdf/ph\\_workbookfinal.pdf](http://www.bt.cdc.gov/workbook/pdf/ph_workbookfinal.pdf)
- Ready.gov: *Personal preparedness for individuals with functional or access needs*  
[www.ready.gov/individuals-access-functional-needs](http://www.ready.gov/individuals-access-functional-needs)
- Assistant Secretary for Preparedness and Response: *Website on personal preparedness for individuals with disabilities*  
[www.phe.gov/preparedness/planning/abc/pages/shelterinplace.aspx](http://www.phe.gov/preparedness/planning/abc/pages/shelterinplace.aspx)
- The Red Cross: *Publication on personal preparedness for people with disabilities*  
[www.hhs.gov/od/documents/disabilityAmericanRedCross.pdf](http://www.hhs.gov/od/documents/disabilityAmericanRedCross.pdf)

# [FACT SHEET]

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3. Government Accountability Office. (2008). *National disaster response—FEMA should take action to improve capacity and coordination between government and voluntary sectors*. Government Accountability Office. Washington, DC.
4. Americans with Disabilities Act Title II Regulations. *Part 35 nondiscrimination on the basis of disability in state and local government services (as amended by the final rule published on September 15, 2010), subpart B—general requirements, §35.130: General prohibitions against discrimination*. Retrieved from [http://www.ada.gov/regs2010/titleII\\_2010/titleII\\_2010\\_regulations.htm](http://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm)
5. World Health Organization. (2013). *Disability and health*. Retrieved Dec. 19, 2013, from <http://www.who.int/mediacentre/factsheets/fs352/en/>

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