

# Disability Rights

GUIDE FOR ATTORNEYS  
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Legal Aid Disaster  
Resource Center

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### I. Overview

Individuals with disabilities face unique challenges during disasters and are disparately impacted by inequitable opportunities, negligent emergency preparedness, and failure of units of local and state governments to fulfill obligations in prohibiting discriminatory conduct. Emergency and disaster recovery workers have the responsibility of planning and ensuring that people with disabilities have equal access to all services and programs. These guidelines are meant to support legal advocates in protecting the rights of people with disabilities and ensuring their appropriate treatment during all four phases of a disaster.

### II. Legal Framework

Disaster services for individuals with disabilities are governed by both federal and state law. Emergency managers, shelter planners, and pro-bono attorneys should familiarize themselves extensively with these provisions and the legal issues that typically arise during their governance.

#### 1. Americans with Disabilities Act of 1990



The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination on the basis of disability in employment, state and local government, commercial facilities, transportation, telecommunications, and public accommodations.<sup>1</sup> It provides a national mandate for the elimination of discrimination against individuals with disabilities and ensures the Federal Government plays a central role in enforcing this standard.<sup>2</sup> Specifically, the act states:

No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.<sup>3</sup>

The act defines a “Public Entity” as any state or local government, department agency, special purpose district, or other instrumentality of a state or states or local government.<sup>4</sup>

The act defines a “Disability” as a physical or mental impairment that substantially limits one or more major life activities of such individual, a record of such impairment, or being perceived by others as having such an impairment.<sup>5</sup> The act does not contain a specific listing of all the impairments that are covered.

## 2. Rehabilitation Act of 1973

Section 504 of The Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs conducted by federal agencies, in programs receiving federal financial assistance, and in federal employment. It provides that the Federal Government will assist states and providers of services to ensure that:

No qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under any program or activity that either receives federal financial assistance or is conducted by any Executive agency.<sup>6</sup>

The standards for determining discrimination under the Rehabilitation Act, including but not limited to the definitions of “disability” and “qualified individuals”, are generally the same as those used in an ADA analysis.<sup>7</sup> The ADA extended Section 504 protections beyond entities receiving federal funds.<sup>8</sup> However, the ADA only applies to state and local jurisdictions, whereas Section 504 applies to any entity receiving federal funds and also requires subsequent regulations to address prohibition of discriminatory conduct.

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<sup>1</sup> *A Guide to Disability Rights Laws*, AMERICANS WITH DISABILITIES ACT (February 24, 2020), <https://www.ada.gov/cguide.htm#anchor62335>.

<sup>2</sup> 42 U.S.C. §12101 (2018).

<sup>3</sup> 42 U.S.C. §12132 (2018).

<sup>4</sup> 42 U.S.C. §12131(1) (2018).

<sup>5</sup> 42 U.S.C. §12102(1) (2018).

<sup>6</sup> 29 U.S.C. §794 (2018).

<sup>7</sup> *A Guide to Disability Rights Laws*, *supra* note 1.

<sup>8</sup> *A Comparison of ADA, IDEA, and Section 504*, DISABILITY RIGHTS EDUCATION & DEFENSE FUND, <https://dredf.org/legal-advocacy/laws/a-comparison-of-ada-idea-and-section-504/> (last visited Jul. 23, 2020).



### 3. The Stafford Act of 1988

The Stafford Act is the statutory authority for federal disaster relief and emergency assistance.<sup>9</sup> It allows for an orderly means of federal assistance to state and local governments in carrying out their emergency assistance obligations. 42 USC §5151 requires nondiscrimination in all disaster assistance, and ensures that distribution of supplies, processing of applications, and other relief activities shall be accomplished in an equitable and impartial manner.

### 4. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services

28 CFR §35.130 implements the requirements of the ADA to all services, programs and activities provided by public entities. A public entity providing aid, benefits, or services may not, on the basis of disability, deny an individual the opportunity to participate, afford a service to those with a disability that is not equal to others, or provide a service that is not as effective in affording equal opportunity.<sup>10</sup>

### 5. FEMA Policy on and Assistance to Individuals with Disabilities

In accordance with the Rehabilitation Act of 1973, 44 CFR §16 and the Stafford Act prohibit the Federal Emergency Management Agency (FEMA) from discriminating on the basis of disabilities in its programs and activities. FEMA's policies require that "all personnel carrying out federal major disaster or emergency assistance functions, including the distribution of supplies, the processing of applications, and other relief and assistance activities, shall perform their work in an equitable and impartial manner without discrimination."<sup>11</sup> These policies apply to all entities to which FEMA provides financial assistance, including state and local governments and other organizations.<sup>12</sup>

These requirements require FEMA to provide individuals with disabilities equal access and opportunity under the law. Unfortunately, many individuals with disabilities report less than favorable experiences with FEMA.<sup>13</sup> From the application itself through the registration process and access to FEMA workers in the field, individuals with disabilities report barriers which prevent them from accessing or utilizing FEMA programs and services.<sup>14</sup> Thus, to ensure the equal access guaranteed by federal law, legal advocates for individuals with disabilities during emergency response and disaster recovery programs must hold FEMA accountable for inaccessible disaster services. These include:

**Application Process:** FEMA is obligated to ensure all members of a community have access to Disaster Recovery Centers. If a disaster survivor cannot physically access a Disaster Recovery Center, FEMA must provide accommodations to ensure individuals with disabilities can benefit from all programs

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<sup>9</sup> 42 U.S.C. §5121 (2018).

<sup>10</sup> 28 C.F.R. §35.130 (2016).

<sup>11</sup> *Civil Rights*, OFFICE OF EQUAL RIGHTS (Jun. 3, 2020), <https://www.fema.gov/office-equal-rights>.

<sup>12</sup> *Accommodating Individuals with Disabilities in the Provision of Disaster Mass Care, Housing, and Human Services*, DEPARTMENT OF HOMELAND SECURITY (May, 2007), [https://www.dhs.gov/sites/default/files/publications/07\\_0518-section-689-reference-guide.pdf](https://www.dhs.gov/sites/default/files/publications/07_0518-section-689-reference-guide.pdf).

<sup>13</sup> *Disability Rights, Obligations and Responsibilities Before, During and After Disasters*, THE PARTNERSHIP FOR INCLUSIVE DISASTER STRATEGIES, 50 (May, 2018), [https://disasterstrategies.org/wp-content/uploads/2018/08/5-23-18\\_After\\_Action\\_Report\\_-\\_May\\_2018.pdf](https://disasterstrategies.org/wp-content/uploads/2018/08/5-23-18_After_Action_Report_-_May_2018.pdf).

<sup>14</sup> *Id.* at 51.



and services. For example, FEMA workers should provide disabled applicants with internet access where connectivity is available so they can apply for FEMA assistance online with worker support. To facilitate online access, workers should be equipped with laptops in the field in numbers proportionate to the impact of the disaster. Lastly, Disaster Recovery Centers should manage the length of lines for registration services. Long lines have a disproportionate impact on people with disabilities, and those people should not be denied access to FEMA programs and services because of a poorly managed application process.<sup>15</sup>

**Pre-Disaster Assistance:** FEMA provides national frameworks to build resilient inclusive communities for all phases of disasters and to assist state, local, territorial, and tribal governments. This guidance may be used to develop plans, coordinate services, develop memorandums of understanding, establish procurement processes, build stakeholder relationships, and develop other mechanisms to ensure people with disabilities gain equal access to services. The FEMA Office of Disability Integration and Coordination should be involved with developing strategies and processes to expand support to people with disabilities: <https://www.fema.gov/office-disability-integration-and-coordination>.<sup>16</sup> The ODIC publishes a strategic plan that establishes its objectives in its approach to disability integration.<sup>17</sup> Each FEMA Joint Field Office should be assigned a Disability Integration Advisor to advise coordinating officers. They advise the agency on strategies for meeting the needs of individuals with disabilities, assess potential building sites for Disaster Recovery Centers, and train personnel on assistive technology equipment for those with disabilities. However, as of 2018, Disability Integration Specialists reported varied awareness of FEMA's proposed changes to integration plans, and reported that they had not received written implementation plans.<sup>18</sup> Thus, FEMA workers should ensure they are up to date with FEMA's latest integration objectives.

**Post-Disaster Support:** Once a disaster has been declared, FEMA should coordinate with other Federal agencies and local partners to monitor and validate the need for workers and materials. FEMA relies on damage assessments performed by state, territorial, tribal and local governments for validation.<sup>19</sup> FEMA must ensure the American Red Cross is deploying durable medical equipment, assistive technology, accessible hygienic stations, portable ramps, and enhanced cots to shelters. It must ensure facilities meet ADA requirements and other accessibility measures (see below), and coordinate with veterinary and animal welfare organizations to support resources for service and assistance animals.

## 6. FEMA Remedies

Individuals involved with the legal rights of people with disabilities have multiple remedies to pursue when FEMA fails to provide equal access and opportunity to its services:

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<sup>15</sup> Id.

<sup>16</sup> Id. at 29.

<sup>17</sup> *Disaster Assistance: FEMA Action Needed to Better Support Individuals Who are Older or have Disabilities*, U.S. GOVERNMENT ACCOUNTABILITY OFFICE, 4 (May 14, 2019), <https://www.gao.gov/assets/700/699061.pdf>.

<sup>18</sup> Id. at 42.

<sup>19</sup> *Preliminary Damage Assessment Guide 2020 Summary of Changes*, FEMA (May 8, 2020), [https://www.fema.gov/media-library-data/1590687214063-b945efebebd3273830ce6d3e4ac75556/PDA\\_Guide\\_FactSheet\\_5\\_26.pdf](https://www.fema.gov/media-library-data/1590687214063-b945efebebd3273830ce6d3e4ac75556/PDA_Guide_FactSheet_5_26.pdf).



- The FEMA helpline can be reached at 1(800) 621-3362. If FEMA fails to properly address complaints, legal advocates should escalate the problem to its Office of Equal Rights: <https://www.fema.gov/office-equal-rights> and file a discrimination complaint.
- The American Bar Association’s Young Lawyer Division runs the Disaster Legal Services program to provide disaster survivors with free, immediate legal assistance. The program provides weekly meetings where assistance providers can ask for services or be connected with beneficial programs. Legal advocates can have representatives at these calls bring up any problems or concerns: [https://www.americanbar.org/groups/young\\_lawyers/projects/disaster-legal-services/resources/](https://www.americanbar.org/groups/young_lawyers/projects/disaster-legal-services/resources/)
- Protection and Advocacy Systems (P&As) in each state provide legal support to people with disabilities. They partner with emergency management leaders to protect the rights and dignity of individuals with disabilities, and can ensure those rights through litigation and structured negotiations.<sup>20</sup> P&As for each state or territory can be found at <https://www.ndrn.org/about/ndrn-member-agencies/>
- Multiple federal agencies investigate complaints of discrimination against people with disabilities during disaster relief situations. Legal advocates can explore filing complaints with the U.S. Department of Health and Human Services Office for Civil Rights: <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>

## 7. Nondiscrimination Principles of Law

To comply with the above mentioned federal civil rights laws, legal professionals involved in emergency management and disaster response should understand common concepts of accessibility, and how they apply in these situations. The following are explanations of key nondiscrimination concepts under federal laws and how they apply to all four phases of emergency management.<sup>21</sup>

- **Effective Communication:** People with disabilities must be given information comparable in content and detail to that given to the general public. It must also be accessible, understandable, and timely. All provided information should follow the provisions of the Twenty-First Century Communications and Video Accessibility Act of 2010.<sup>22</sup>
- **Equal Access:** People with disabilities must have access to and benefit from emergency programs and services in ways equal or comparable to the general population. This applies to emergency preparedness, notification, evacuation, transportation, communication, shelter, food and supplies distribution, housing and application for benefits.
- **Equal Opportunity:** People with disabilities must have the same opportunity to benefit from emergency programs and services as the general population. This means that services should

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<sup>20</sup> *Reimagining Preparedness, Response and Recovery*, NATIONAL DISABILITY RIGHTS NETWORK, <https://www.ndrn.org/issues/fires-disasters-emergencies/>.

<sup>21</sup> *Accommodating Individuals with Disabilities in the Provision of Disaster Mass Care, Housing, and Human Services*, *supra* note 12, at 7.

<sup>22</sup> Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No.111-260, 124 Stat. 2751 (2010).



be designed to offer equivalent choices for people with disabilities. For example, a program for short term housing must include accessible housing options for people with disabilities.

- **Inclusion:** People with disabilities have the right to participate in and receive the benefits of emergency programs, services, and activities provided by public and private entities. Thus, including consideration of stakeholders for the disabled population in the planning, training and evaluation of programs and services is necessary.
- **Integration:** Disaster programs, services, and activities must be provided in the most integrated setting possible. People with disabilities should be connected to their support system and caregivers throughout all services, and proper planning and consideration should be undertaken to ensure integrated facilities.
- **No Charge:** Disaster programs may not charge people with disabilities to cover the costs of measures necessary to ensure equal access and nondiscriminatory treatment. This means that all accommodations provided to the individual, like additional space for medical equipment or modified cots, must be provided without charge.
- **No “One Size Fits All”:** People with disabilities have different needs and do not require identical assistance. Many different types of disabilities affect people in different ways. Planning for emergencies should include considerations for those with different physical, sensory, psychological, and emotional needs.
- **Physical Access:** Disaster programs and services must be provided at locations that people with disabilities can access. People with disabilities must be able to enter and use all facilities, including but not limited to parking, dining, bathing, sleeping and medical areas.
- **Program Modifications:** Facilitating equal access for people with disabilities may entail modifications to rules, policies, and practices of disaster programs and activities. This means staff should be trained on identifying the needs of people with disabilities and providing assistance.
- **Self-Determination:** Finally, people with disabilities are the most knowledgeable about their own needs. When choices are offered, they have the right to choose their shelter location, required services, and who provides them.

### III. Successful Implementation Techniques and Modifications for Disaster Preparedness Plans

Failing to adequately prepare disaster preparedness plans for people with disabilities, or failing to modify those plans when challenges arise, can cause devastating effects. As recently as 2018, children and adults with disabilities reported denials of equal access to emergency response programs and services.<sup>23</sup> To satisfy the extensive legal protection for people with disabilities, state and local governments and relief providers are encouraged to follow best practices, and improve them as needed. This section contains recommended practices for all aspects of disaster response and recovery. Further recommendations from the Department of Justice Civil Rights Division can be found at [https://www.ada.gov/emerg\\_prep.html](https://www.ada.gov/emerg_prep.html)

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<sup>23</sup>THE PARTNERSHIP FOR INCLUSIVE DISASTER STRATEGIES, *supra* note 13, at 8.



## 1. Alerts, Warnings and Notifications

- **Demographic Knowledge:** Emergency managers and disaster preparedness workers should know the demographic profile of their community, and understand the type of assistance that may be required by people with disabilities or functional needs during an emergency or disaster. Workers should familiarize themselves with the multiple types of disabilities that can affect a person's access to programs and services. This includes not only physical and cognitive disabilities, but also psychological and mental health issues. Disaster preparedness officials can access data from the U.S. Census Bureau, including the American Housing Survey, at <https://www.census.gov/data.html>. Also, the Center for Disease Control and Prevention offers the Disability and Health Data System, which provides access to state-level health and demographic data about adults with disabilities: <https://www.cdc.gov/ncbddd/disabilityandhealth/dhds/index.html>
- **Education:** Disaster preparedness workers should establish public education programs with an emphasis on personal preparedness. Each of these programs must be available in accessible formats and languages to reach the entire disability community. Many national programs already offer comprehensive community education and preparedness guides, which help people with disabilities plan their own strategies for receiving aid. For example, the American Red Cross provides a guide for preparedness that includes how to access emergency management and where to find federal services: <https://www.redcross.org/content/dam/redcross/get-help/pdfs/disasters-and-financial-planning-guide.PDF>. Additionally, the Center for Disease Control provides health literacy resources that can help disaster preparedness officials communicate with the public in plain language: <https://www.cdc.gov/healthliteracy/developmaterials/plainlanguage.html>
- **FEMA's Warning System:** Disaster preparedness officials must be able to communicate effectively, and must include the needs of people with disabilities in their plans. Managers should familiarize themselves with FEMA's Integrated Public Alert Warning System (IPAWS). IPAWS created the Common Alerting Protocol (CAP) standard to integrate the needs of people with disabilities into emergency alert information delivery. It allows for multimedia attachments and links which enable industry partners to include special content and/or devices ideal for the disabled/functional needs community. Further, IPAWS has developed 48 symbols depicting FEMA event codes that aid in making alerts and warnings more accessible. IPAWS continually meets with industry leaders to integrate the most useful technology into their alerts and test for accessibility for the disabled community.<sup>24</sup>

## 2. Information and Instructions

- **FEMA Applications:** FEMA applications must be accessible to people with disabilities. Many barriers exist to people with disabilities in the application process, like inaccessible and complex forms, inability to use a computer due to their disability, or long lines and wait times. Thus, Disaster Recovery Centers must be staffed with interpreters, guides, and helpers capable of reading materials to and completing forms as instructed by a person with a disability.

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<sup>24</sup> *Access and Functional Needs organizations*, FEMA (Jun. 30, 2020), <https://www.fema.gov/americans-disabilities-and-others-access-and-functional-needs-organizations>.





- **FEMA Appeals:** It is also quite common for these barriers to result in clerical errors or incorrectly reported information on the initial application, which in turn creates a need for accessibility to an adequate appeal process.<sup>25</sup> FEMA must ensure well-staffed applicant services to help people with disabilities locate and provide documents which may be required for an appeal. They should also create clear and accessible descriptions of the appeal process and widely disseminate them to the public.<sup>26</sup> Legal advocates for people with disabilities must understand that FEMA shifts the burden to the applicant during the appeal process. The applicant is responsible for explaining why FEMA's denial is wrong without any type of guidance by FEMA.<sup>27</sup>
- **Communication Devices:** Federal laws require shelter planners to provide effective communication to people with disabilities, unless doing so would result in a fundamental alteration or would impose undue financial and administrative burdens.<sup>28</sup> Preparedness officials should equip Disaster Recovery Centers with communication devices that allow people who are blind or have low vision, are deaf or hard of hearing, or have other communication access needs to receive disaster info firsthand. Such devices and services include but are not limited to:<sup>29</sup>
  - Braille, large print, or audio recording versions of documents and brochures for people who are blind or have low vision.
  - Auxiliary aids and services like sign language or oral interpreters, telephones equipped with TTYs, and written versions of messages and announcements in a central location for people who are deaf or hard of hearing.
  - Captioning in video products and webinars, and providing screen magnification programs.
- **Housing Strategy:** Following a disaster, finding adequate housing is often a top concern for survivors. Housing strategies and guidance should be made accessible in the ways discussed above to ensure that people with disabilities are able to stay with their families and retain as much of their functional assistance as possible.

### 3. Evacuation

- **Transportation Services:** Evacuations create many challenges for the general population, but drastically more so for people with disabilities. Managers should ensure that their preplanning includes accessible transportation for people using wheelchairs and other mobility devices. Wheelchair-accessible vehicles, individualized assistance, and the transportation of equipment should be considered.<sup>30</sup>

<sup>25</sup> 42 U.S.C. § 5149 (2018), 44 C.F.R. 206.115 (2002).

<sup>26</sup> THE PARTNERSHIP FOR INCLUSIVE DISASTER STRATEGIES, *supra* note 13, at 53-56.

<sup>27</sup> *How to Appeal a FEMA Disaster Assistance Decision*, FEMA (Sep. 7, 2017), <https://www.fema.gov/news-release/2017/09/07/how-appeal-fema-disaster-assistance-decision>.

<sup>28</sup> Plain Writing Act of 2010, Pub. L. No. 111-274, 124 Stat. 2861 (2010).

<sup>29</sup> *The ADA and Emergency Shelters: Access for All in Emergencies and Disasters*, ADA BEST PRACTICES TOOL KIT FOR STATE AND LOCAL GOVERNMENTS (2016), <https://www.ada.gov/pcatoolkit/chap7shelterprog.htm>.

<sup>30</sup> *Guidance on Planning for Integration of Functional Needs Support Services in General Population Shelters*, FEMA, 8 (Nov. 2010), [https://www.fema.gov/pdf/about/odc/fnss\\_guidance.pdf](https://www.fema.gov/pdf/about/odc/fnss_guidance.pdf).



- **Evacuation Instructions:** Successful evacuations require clear and widely circulated evacuation instructions. As noted above, these instructions should be accessible to people with disabilities and provided in multiple formats.
- **Power-Dependent Individuals:** Many people with disabilities rely on electric and/or battery powered devices to maintain their functional independence. For instance, people may rely on a ventilator, communication devices or a powered wheelchair. A disaster can present unique challenges to a person who needs access to an uninterrupted power source. Emergency managers and disaster preparedness officials should ensure that their first responders, public safety officials, and volunteers throughout the evacuation process understand these needs and have been trained on adequately meeting them.<sup>31</sup>

#### 4. Sheltering

- **Applicable Standards:** The concepts of equal opportunity and access to disaster response programs are often most relevant in shelter planning. Newly constructed or recently altered facilities should meet the requirements of 28 CFR Part 36, the Standards for Accessible Design. <https://www.ada.gov/regs2010/2010ADAStandards/2010ADASTandards.htm>
- **General Requirements:** The above ADA Standards document should be thoroughly reviewed. It provides instructions on specific alterations to and measurements of shelter areas. Generally, shelters need accessible:
  - Entrances
  - Routes to all services/activity areas
  - Maneuverability in and use of restrooms and bathrooms
  - Passenger drop-off and pick-up areas
  - Parking
  - Sidewalks and walkways
  - Shelter entrances, hallways and corridors
  - Check-in/information areas
  - Sleeping areas
  - Public telephones
  - Drinking fountains
  - Eating areas

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<sup>31</sup> THE PARTNERSHIP FOR INCLUSIVE DISASTER STRATEGIES, *supra* note 13, at 101.



- Medical and first aid areas
- Recreation areas
- **Additional Resources:** Public and private organizations offer in-depth planning documents to ensure a shelter meets all requirements and adequately serves the needs of people with disabilities. For example, The American Red Cross offers a sheltering handbook with best practices and requirements for their shelters, and includes links to specific measures and checklists. Chapter 14 focuses on clients with disabilities and/or functional or access needs: <https://crcog.org/wp-content/uploads/2017/12/American-Red-Cross-Sheltering-Handbook.pdf>
- **Utilize Demographics:** Disaster relief workers should utilize the information on people with disabilities in their area when planning for shelter operations. Accurately predicting what people need is vital to providing adequate assistance and collaborating with local stakeholders and organizations.

## 5. Health Maintenance

- **Providing Health Services:** People with disabilities are disproportionately more susceptible to certain health conditions in emergencies and disaster environments.<sup>32</sup> Disaster preparedness officials should make sure to provide suitable health and medical services for disaster survivors with disabilities. Adequate services and support can include oxygen, durable medical equipment, medication and dietary needs. A comprehensive list of emergency medical services in the area should be maintained at all times.<sup>33</sup>
- **Mental Health Services:** Mental health services are just as important for people with disabilities. Plans should include a directive to pre-identify licensed mental health professionals who will be present in (or at least on call to) a shelter at all times.<sup>34</sup> The Substance Abuse and Mental Health Services Administration has a contract to provide mental health counseling in emergency situations and helps local governments deliver an effective mental health and substance abuse response to disasters: <https://www.samhsa.gov/dtac>
- **Information Sharing:** The health needs of people with disabilities can become an issue throughout the recovery process. Emergency managers and disaster preparedness officials should coordinate any memorandums of understanding with local Centers for Independent Living and local Developmental Disabilities Councils so that all involved parties adequately cater to the needs of people with disabilities.

## 6. Goods and Services

- **Distribution of Goods:** Efficient shipment and distribution of goods is vital to a successful emergency response for all affected people. Some individuals with disabilities may rely on goods like medication, medical supplies, and life-sustaining equipment requiring uninterrupted power.

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<sup>32</sup> Id. at 66.

<sup>33</sup> *Guidance on Planning for Integration of Functional Needs Support Services in General Population Shelters*, *supra* note 30, at 33.

<sup>34</sup> Id. at 32.



Emergency managers and disaster preparedness officials should plan for locating, purchasing, and stockpiling equipment to meet the needs of children and adults with disabilities.

- **Types of Providers:** Service providers that should be considered in planning operations include but are not limited to: alternate power generation, medical treatment, communication and interpreters, food service and caterers, public and private transportation, and shelter maintenance.<sup>35</sup> Emergency managers and disaster preparedness officials should develop provider agreements with the private sector to ensure that additional equipment and supplies will be available during an emergency or disaster. Non-profit organizations across the country help develop emergency operations plans to ensure that goods and services are adequately provided and can be accessed for training and consultation: <https://bcfsemd.org/services/consultation-project-management/functional-needs-support-services-fnss>
- **Service Animals:** Service animals perform a variety of functions for people with disabilities. Examples include alerting people who are deaf or hard of hearing to sounds, guiding people who are blind or have low vision, assisting people to maintain balance or stability, or orienting individuals with psychological disabilities to their environment. Shelter officials must make exceptions to “no animals” rules to allow people with disabilities to be accompanied by their service animals. The ADA does not permit shelter staff to question a person’s need for a service animal or exclude a service animal on the grounds that the shelter can provide the assistance normally provided by the animal. Areas in shelters where animals can be housed, exercised, and toileted should be identified and communicated in alternative accessible formats. Further, reliable sources of food and supplies for the animals should be considered in planning and agreements with stakeholders.<sup>36</sup>

## 7. Food and Water

- **Line Management:** Long lines for food and water services again disproportionately impact people with disabilities who are not able to stand in or tolerate them. Further, people with disabilities are more susceptible to the health effects of dehydration and improper nutrition. Shelter officials should ensure that strategies to ensure people with disabilities can still get food and water, without having to wait in long lines.<sup>37</sup>
- **Dietary Restrictions:** Plans should ensure meals are provided to people with disabilities that have specific dietary needs and restrictions. Shelter officials must obtain information about dietary needs and communicate the information to the entity responsible for meal and snack preparation immediately. Partner organizations should anticipate and be prepared to provide meals for people with dietary restrictions.<sup>38</sup>

## 8. Temporary Housing

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<sup>35</sup> Id. at 21.

<sup>36</sup> Id. at 29.

<sup>37</sup> THE PARTNERSHIP FOR INCLUSIVE DISASTER STRATEGIES, *supra* note 13, at 110.

<sup>38</sup> *Guidance on Planning for Integration of Functional Needs Support Services in General Population Shelters*, *supra* note 30, at 28.



- **Metrics of Availability:** Disaster recovery has the ultimate goal of reestablishing the full function of communities, and finding temporary housing for people with disabilities is a fundamental and vital step in that direction. People with disabilities often require alternative housing options such as housing with wheelchair accessible areas, adequate space to accommodate medical equipment, or housing that is close to medical providers and/or public transportation. Even before a disaster, there is a scarcity of these housing resources in a community. Therefore, it is extremely important that emergency managers and disaster preparedness officials have metrics of availability of accessible housing included in their plans.<sup>39</sup>
- **Assistance:** FEMA offers transitional housing to eligible individuals under their Individuals and Households program. Individuals may receive multiple types of housing assistance, including a combination of financial assistance and direct services for disaster-caused damage to a survivor's home. Eligibility and application information can be found at <https://www.disasterassistance.gov/get-assistance/forms-of-assistance/4471>.
- **Re-entry Strategy:** In planning, emergency managers and disaster preparedness officials should locate and document all available hotel and motel rooms in the community. Contracts/agreements should be developed with these entities in order to ensure resources for people with disabilities. Additionally, many non-profit organizations offer temporary and transitional housing options to people recovering from disasters. For instance, the American Red Cross offers shelter access and transitional housing if people are not able to access their homes.
- **Timing:** Importantly, some individuals with disabilities are likely to have a harder time finding appropriate accommodations in temporary housing and will need extra time to find housing that gives them the same level of functional independence. Housing providers should help avoid unnecessary institutionalization of people with disabilities by extending time requirements for finding new homes.<sup>40</sup> If FEMA's Individual and Household program is still providing individuals assistance, it is required by law that the individuals with disabilities be afforded the same opportunity to benefit from these programs.

## 9. Return, Rehabilitation and Recovery

- **Shelter Closing and Discharging Residents:** Emergency managers and shelter officials should include plan for disaster survivors transitioning back to the community. Special considerations for people with disabilities include transportation plans from a shelter, appropriate modifications to trigger points for returning residents, and identifying the impacts of an interruption in medical and utility services. Further, many people with disabilities may be employed by businesses that will be reopening after disaster recovery. Emergency planners should address whether these people will be able to get back to work with the services necessary for their functional independence.<sup>41</sup>
- **Additional Housing Assistance:** At the end of FEMA's transitional sheltering assistance, local housing authorities may be able to utilize the Community Development Block Grant Disaster Recovery program. The Department of Housing and Urban Development provides these grants

<sup>39</sup> THE PARTNERSHIP FOR INCLUSIVE DISASTER STRATEGIES, *supra* note 13, at 113.

<sup>40</sup> ADA BEST PRACTICES TOOL KIT FOR STATE AND LOCAL GOVERNMENTS, *supra* note 29.

<sup>41</sup> *Guidance on Planning for Integration of Functional Needs Support Services in General Population Shelters*, *supra* note 30, at 39.



to help rebuild affected areas. The program is dedicated to rebuilding homes and infrastructure damaged by a disaster, and can be extremely helpful in returning individuals with disabilities to their communities.<sup>42</sup>

- **Planning for Improvement:** Emergency managers should involve representatives of the disability community in planning, mitigation, and performance reviews. This will allow the managers to record the impact their planning had on people with disabilities and improve plans in the future.

#### IV. Stakeholder Coordination

Each of the above mentioned aspects of disaster recovery and response planning relies heavily on collaboration with public and private organizations. Emergency managers and disaster preparedness officials should coordinate with relevant stakeholders in disaster recovery, such as agencies and organizations that provide functional needs support services, medical equipment, personal assistance services, and other goods and services as needed. The following sources present ideas and practices that can be adapted to fit a specific emergency's need and utilized to locate applicable stakeholders.

- Many states provide Functional Needs and Support Services guidance with partner organizations at the state, local, and private level. Disaster preparedness officials should begin with these established partnerships when planning for disaster recovery.
- The Partnership for Inclusive Disaster Strategies lists all partner organizations that help with disability inclusion in emergency programs. The list includes partners at the national, state and community level and is continually expanding: <https://disasterstrategies.org/members/>
- Many organizations provide statewide registries that allow people to connect with emergency managers and shelter officials for services and resources. For example, Texas Division of Emergency Management offers the State of Texas Emergency Assistance Registry (STEAR), which assists emergency managers and local governments with obtaining information on the needs of citizens during an emergency or disaster. Importantly, this is not a mandatory service and is up to the discretion of each local jurisdiction on how to use: <https://tdem.texas.gov/stear/#1574107638472-52d97c57-8945>
- FEMA works with multiple partners to support people with disabilities during emergencies. Some of these partners include: The Health and Human Services Preparedness and Response (Personnel/Disaster Medical Assistance Teams/Emergency Prescription Assistance Program), the Department of Veteran Affairs, the American Red Cross, the National Council on Independent Living, the National Disability Rights Network, Pass It On Center, Friends of Disabled Adults and Children, The Salvation Army, and the Department of Defense.<sup>43</sup>

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<sup>42</sup> *Community Development Block Grant Disaster Recovery*, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (Mar. 5, 2020), <https://files.hudexchange.info/resources/documents/CDBG-Disaster-Recovery-Overview.pdf>.

<sup>43</sup> *Individual Assistance Program and Policy Guide (IAAPPG)*, FEMA, 28 (Mar. 2009), <https://www.fema.gov/media-library-data/1551713430046-1abf12182d2d5e622d16accb37c4d163/IAAPPG.pdf>.

