Rights of People with Disabilities in an Emergency: Effective Notification and Communication For People with Disabilities

People facing emergency situations – including natural disasters, manmade disasters, health disasters, and mass violence – depend on current and accurate information to protect their health, welfare, and safety. Yet, many people with disabilities face communication barriers that, in emergency situations, can place them in jeopardy because many traditional emergency notification methods are not accessible to people with disabilities. This fact sheet provides an overview of the obligations of public entities and places of public accommodation to ensure that they effectively communicate information in emergency situations for people with disabilities, and provides information about government alert systems.

For comprehensive information on the Rights of People with Disabilities in an Emergency, see Disability Rights Pennsylvania’s complete series on this topic: 1) Evacuation Plan Inclusion and Accessibility; 2) Effective Notification and Communication For People with Disabilities; 3) Access to Shelter and Temporary Housing; and 4) Access to Healthcare, Social Services, and Recovery Services.
I. The Role of Anti-Discrimination Laws in Ensuring Effective Notification and Communication in Emergencies

Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12131-12134, prohibits disability-based discrimination by public entities (state, county, and municipal governments). Title III of the ADA, 42 U.S.C. §§ 12181-12189, prohibits disability discrimination by places of public accommodation, which are private entities that provide certain services and businesses that are open to the public. Public accommodations can include many places and businesses that provide services, facilities, or benefits during a public emergency, such as social service providers, places of lodging, convention centers and arenas, and shelters. Section 504 of the Rehabilitation Act ("RA"), 29 U.S.C. § 794, prohibits disability-based discrimination by recipients of federal funding. That includes most public entities and many public accommodations. These federal laws broadly define prohibited “discrimination” to include the failure to ensure effective communication (including provision of auxiliary aids and services) necessary for people with disabilities.

A. Emergency Notifications

Public entities may use a variety of means to alert residents to emergency situations. The means of communication may depend on the type, location, and length of the emergency. They can include audible or visual alerts or oral pronouncements via various types of media. Yet, many people with disabilities may miss such critical notices and communications if they are not effectively communicated, which could foreclose them from taking timely and effective action to protect themselves. For instance:

- people who are deaf or hard of hearing cannot hear sirens or other audible alerts or spoken language on television, radio, or the Internet;
- people who are blind or who have low vision cannot see visual cues, such as flashing lights;
people with cognitive disabilities may have difficulty comprehending information that is not presented in plain language.

The ADA and RA thus require that public entities ensure that the emergency notification methods and systems they use are effectively communicated to people with disabilities. Public entities should use a combination of emergency notification methods and systems to ensure the most effective communication for people with a variety of disabilities. For instance, public entities should:

- combine visual and audible alerts to reach individuals with hearing and visual impairments and non-disabled people;
- use auto-dialed text telephone (“TTY”) messages to pre-registered individuals who are deaf or hard of hearing, text messaging, emails, and other innovative technologies for emergency notifications (such as the “Ready Notify” systems used in southeastern Pennsylvania that are described below);
- use qualified sign language interpreters and open captioning for announcements and communications by government officials, employees, and agents on television or other visual media to ensure that all people tuning in are able to access the information provided;
- ensure that any written or oral communications to the public are delivered in plain language so that they can be readily understood by everyone, including those with cognitive disabilities.

A public entity’s emergency management plan should identify the steps that will be taken and the resources that will be used to ensure that emergency notifications will be accessible to all.
B. Alternative, Accessible Formats for Written and Online Emergency Information

Public entities should provide an array of information about emergency situations in writing or through the Internet. This can include state and local emergency plans, information on the availability of shelters and transportation options, and information on post-emergency benefits and services. They should make sure that those written and online materials are provided in accessible formats, such as:

- providing written materials in Braille and large print or on electronic disc or other audio format for people who are blind or have limited vision;
- ensuring that all online information is presented in a way that is usable by screen readers for people who are blind;
- ensuring that all online information is presented by a qualified sign language interpreter and captioned so that it is accessible to those who are deaf or hard of hearing;
- ensuring that all written materials are available in audio formats and that all written materials and online information are presented in plain language so they can be understood by people with cognitive disabilities.

C. Effective Communication in Shelters

In some emergencies, people may be required to relocate temporarily to shelters or temporary lodging. In addition to information about accommodations, resources, and rules at those locations, while housed there individuals may also receive important updates on the status of the emergency and information about post-emergency benefits and services, transportation, and other matters. Yet, many people with disabilities may have communication difficulties. In addition to those who have visual or hearing disabilities, people with cognitive or psychiatric disabilities might have problems understanding important information provided in shelters, such as how to register or complete necessary applications for benefits or post-emergency services.
Public entities, in coordination with any public accommodations operating shelters, should establish policies and procedures to ensure effective communication with people with disabilities, including providing auxiliary aids and services needed to communicate effectively with people with disabilities, giving primary consideration to the auxiliary aids and services requested by an individual with a disability. This may include: providing any written materials in alternative formats and plain language; providing information to deaf people using a qualified sign language interpreter; and providing assistance to help people with cognitive or psychiatric disabilities understand information, complete necessary forms, and navigate service systems.

D. Limits on the Right to Effective Communication During an Emergency

There are a few narrow limits on the right to effective communication for people with disabilities. First, public entities and public accommodations are not required to provide auxiliary aids and services necessary for effective communication if they can demonstrate that the actions would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.

Second, the ADA generally prohibits public entities from requiring minors or adults who accompany individuals with disabilities to interpret or facilitate communication for individuals with disabilities. However, a very narrow exception exists in emergencies “involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available.” This should not be used to compel individuals to rely on minors or accompanying adults for interpretation in every situation related to an emergency.

Finally, public entities can choose to use video remote interpreting (“VRI”) services to provide interpretation, but only if certain standards are met. Those include ensuring that it is provided via real-time, full-motion video and audio
over a dedicated high-speed, wide bandwidth video connection or wireless connection that delivers high-quality video images and clear transmission of voices.

II. Government Emergency Alert Systems/Programs

County

In Southeastern Pennsylvania, Montgomery, Bucks, Chester, Philadelphia, and Delaware counties all have a program - “Ready Montco,” “Ready Bucks,” “Ready Chesco,” “Ready Philadelphia,” and “Delco Alert” - where county residents can sign up to receive notifications about emergencies, disasters, and community information in various formats, including text messages, emails, voice calls, and mobile app alerts, that may accommodate the needs of many people with disabilities. For more information about these notification alert systems and how to sign up, you can visit: https://www.readynotifypa.org/ or contact your County Emergency Management Coordinator ("EMC"), https://www.pema.pa.gov/County-EMC/Documents/EMC%20Website%20List.pdf

For anyone residing in other counties in PA, you should contact your specific County EMC.

State

For more information on state emergency notification systems, you can visit the state Ready PA website: https://www.ready.pa.gov/Pages/default.aspx And the Pennsylvania Emergency Management Administration ("PEMA") website on the state Emergency Alert System ("EAS"): Warnings and Communications Systems (pa.gov)
Federal

You can visit the Federal Emergency Management Administration ("FEMA") website for information on the Integrated Public Alert & Warning System ("IPAWS") which is FEMA's national system for local alerting that provides authenticated emergency and life-saving information to the public through mobile phones using Wireless Emergency Alerts, to radio and television via the Emergency Alert System, and on the National Oceanic and Atmospheric Administration's Weather Radio.
https://www.fema.gov/emergency-managers/practitioners/integrated-public-alert-warning-system

Enforcing Rights Under the Anti-Discrimination Laws

If you think you have been denied the right to effective communication (including auxiliary aids and services), you should consider the following options:

Dialogue: Speak with the program representative, informing them of your concerns about compliance with the anti-discrimination laws. Be specific about your concerns and your communication needs. If your disability is not obvious, you may be asked to provide information about it.

Document: Document in writing your interactions with providers, including any requests for a reasonable accommodation. Be sure to retain copies of correspondence, emails, or other papers relating to the issue (either a photocopy made by the facility or a picture taken from a cellphone).

Contact Advocacy/Legal Organizations: If dialogue does not resolve the issue, seek assistance from an advocacy/legal aid organization.
Filing an Administrative Complaint: You can file a complaint with governmental agencies if you think you were subject to disability discrimination. You can file a complaint relating to violation of Title II or Title III of the ADA with the U.S. Department of Justice, [https://www.ada.gov/file-a-complaint/](https://www.ada.gov/file-a-complaint/). Complaints under Title II of the ADA (relating to state and local governments) must be filed within 180 days of the discriminatory act. Efforts to resolve the dispute generally will not delay the time for filing the complaint. There is no specific timeline to file a complaint under Title III involving public accommodations.

Filing a Judicial Lawsuit: You have the right to file a complaint in federal court if you think your rights under Titles II and III of the ADA or Section 504 of the RA have been violated. You are not required to file an administrative complaint before doing so. In Pennsylvania, such complaints must be filed within two years of the discriminatory actions (even if administrative complaints are pending).
If you need more information or need help, please contact Disability Rights Pennsylvania (DRP) at 800-692-7443 (voice) or 877-375-7139 (TDD). Our email address is: intake@disabilityrightspa.org. DRP's live intake line is open Monday - Friday from 9:00 a.m. to 3:00 p.m.

The mission of Disability Rights Pennsylvania is to advance, protect, and advocate for the human, civil, and legal rights of Pennsylvanians with disabilities. Due to our limited resources, Disability Rights Pennsylvania cannot provide individual services to every person with advocacy and legal issues. Disability Rights Pennsylvania prioritizes cases that have the potential to result in widespread, systemic changes to everyone, we do seek to provide every individual with information and referral options.

IMPORTANT: This publication is for general informational purposes only. This publication is not intended, nor should be construed, to create an attorney-client relationship between Disability Rights Pennsylvania and any person. Nothing in this publication should be considered legal advice.

PLEASE NOTE: For information in alternative formats or a language other than English, contact Disability Rights Pennsylvania at 800-692-7443 (voice) or 877-375-7139 (TDD). Our email is: intake@disabilityrightspa.org.

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