Rights of People with Disabilities in an Emergency: Access to Shelter and Temporary Housing

During disasters or other types of public emergencies, it may be necessary for people – with and without disabilities – to leave their homes for safer locations and environments. In those situations, many people must rely on shelters or temporary housing. Yet, people with disabilities may face unique challenges when they need to access shelter and temporary housing in emergencies.

This fact sheet will provide some practical information for people with disabilities to help locate shelters during an emergency and to understand the duties of shelters and temporary lodgings to people with disabilities under federal anti-discrimination laws.

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.
Locating a Shelter or Temporary Lodging During a Public Emergency

The unpredictable nature of the location, timing, and size of emergencies can make it challenging to provide advance notice of shelter locations. The Pennsylvania Department of Human Services (“DHS”) is the agency that coordinates mass care and emergency support functions, including sheltering. The American Red Cross (“Red Cross”) provides management and staffing to operate shelters in emergencies. In the event of an emergency, you can find information about the availability and location of shelters or other temporary lodging through the following means:

- Calling 211, Pennsylvania’s hotline to assist with an array of services including those related to emergencies.
- Visiting the Pennsylvania 211 website, https://www.pa211.org/, which provides resources about an array of services, including disaster services that cover emergency housing and shelter and clean up and recovery services.
- Visiting the Red Cross’s website, which allows you to look for open shelters, https://www.redcross.org/get-help/disaster-relief-and-recovery-services/find-an-open-shelter.html.
- Downloading the Red Cross’s emergency app that can provide emergency-related information, including information about shelters, https://www.redcross.org/get-help/how-to-prepare-for-emergencies/mobile-apps.html.
The Role of Anti-Discrimination Laws in Ensuring that People with Disabilities Have Equal Access to Emergency Shelter and Lodging

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). The ADA broadly defines "discrimination" to include not only actions that result in different treatment of people with disabilities (whether intentional or not), but also the failure to make reasonable modifications in policies, practices, and procedures when needed to prevent disability discrimination, the failure to ensure that public entities' programs are accessible, and the failure to ensure effective communication (including provision of auxiliary aids and services) necessary for people with disabilities. The ADA’s non-discrimination provisions apply to all services, programs, facilities, and benefits offered by a public entity, including emergency services, facilities, programs, and benefits.

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. Similar to Title II of the ADA, Title III broadly defines "discrimination" to include both actions that result in different treatment of people with disabilities (whether intentional or not), as well as the failure to make reasonable modifications in policies, practices, and procedures when needed to prevent disability discrimination, the failure to meet specified requirements for physical accessibility, and the failure to ensure effective communication (including provision of auxiliary aids and services) necessary for people with disabilities.
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. The scope of Section 504’s non-discrimination requirements is generally like those found in the ADA.

Finally, the Fair Housing Act ("FHA"), 42 U.S.C. §§ 3601-3631, may also offer protections to people with disabilities in some shelters or temporary housing. The FHA applies to “dwellings,” which some courts have interpreted to apply to certain types of shelters or transitional housing where individuals remain for some significant period of time (which can be as short as a few weeks) and which they view as a place to return. The FHA bars owners or renters of dwellings from discriminating against people with disabilities. Discrimination includes, among other things, the failure to make reasonable accommodations in policies, practices, or procedures.

These disability discrimination laws impose certain obligations to ensure that individuals with disabilities have equal, non-discriminatory access to emergency shelters. In addition to ensuring effective communication of information, which is discussed in Disability Rights Pennsylvania’s fact sheet on the Rights of People with Disabilities in an Emergency: Effective Notification and Communication For People with Disabilities, some other non-discrimination obligations include:

**Accessibility** – Some people with disabilities, including those who use wheelchairs for mobility, will need shelters or temporary housing that are accessible. Most newer buildings (built after the early 1990s) should meet the ADA’s accessibility criteria, but some older buildings may not. Governments generally should not choose inaccessible buildings for shelters or temporary housing, but at minimum they must ensure that there are sufficient accessible shelters and housing for people with disabilities.

The ADA’s accessibility criteria govern all parts of a shelter, including, but not limited to, drop-off areas, parking lots, registration areas, entrances, accessible routes to and within the facility, living spaces, dining areas, bathrooms,
drinking fountains, communication features, healthcare facilities, and recreational areas. There are very detailed requirements for accessibility – from width of doors and accessible routes to height of counters to slope of ramps to obstructions on accessible routes to turning radius and placement of grab bars in bathrooms and much more. Delineating all accessibility standards is beyond the scope of this fact sheet. The United States Department of Justice published an accessibility checklist for emergency shelters that is a useful starting point to ensure compliance, https://archive.ada.gov/pcatoolkit/chap7shelterchk.pdf.

In addition to ensuring physical accessibility, shelters and transitional housing must have a plan to ensure the provision of electricity in the event of a power failure, such as a backup power generator. Plans to ensure access to electricity are essential to make the shelters accessible to people with disabilities who rely on electricity to power mobility devices, communication devices, or life-preserving equipment, such as oxygen, breathing devices, and refrigeration for necessary medication.

**Eligibility Criteria/Integrated Settings** – Shelters are usually grouped into two categories: “mass care” (serving the general population) and “medical” (serving people with higher medical needs). The ADA and RA prohibit the imposition of eligibility criteria that screen out or tend to screen out people based on disability unless the criteria are necessary. Additionally, those statutes require that services be provided in the most integrated settings appropriate to meet the needs of individuals with disabilities. Accordingly, people with disabilities should generally be allowed to use mass care shelters so they can be housed with their families, friends, neighbors, and non-disabled people rather than forced to use medical shelters. Mass care shelters should be able to have the resources they need to meet the needs of most people with disabilities. Mass shelters must provide accommodations and resources to support people with disabilities unless they are medically fragile and need more intensive medical care.
**Service Animals and Emotional Support Animals** – The ADA and RA generally require that shelters allow people with disabilities to have service animals with them, even if they disallow pets since service animals are not pets and modification of a “no pet” policy would be a necessary reasonable modification. Service animals under the ADA are limited to dogs and, in some cases, miniature horses and they must be individually trained to help a person with a disability. While the ADA does not require that shelters allow emotional support animals, the FHA does. Emotional support animals can include animals other than dogs and miniature horses that provide comfort to the individual with a disability but, unlike service animals, are not trained to provide a specific service. If a shelter or temporary lodging constitutes a “dwelling” under the FHA, then it must make a reasonable accommodation to permit people with disabilities to be accompanied by their emotional support animals.

**Reasonable Modifications and Accommodations** – There may be other types of changes to policies, practices, or procedures at shelters that people with disabilities need. Reasonable modifications or accommodations in shelters could include, for example: access to a quiet space for individuals whose disabilities, such as autism, might be worsened by the noise and people in a shelter situation; provision of firmer and/or elevated sleeping surfaces than mats on the floor; changes in policies that restrict times for access to food for people with diabetes; and provision of assistance with completion of necessary forms and applications for individuals with cognitive or psychiatric disabilities. Individuals with disabilities should request the modifications or accommodations they need for their disabilities.

**Assistance with Evacuation from Shelters** – There may be times when an emergency situation requires evacuation of people from shelters. The shelter should have a process in place to facilitate an efficient and safe evacuation that takes into consideration the needs of people with disabilities. For instance, the process should ensure effective communication about the process to shelter residents with visual, hearing, and cognitive disabilities. Additionally,
there must be accessible transportation available to those with mobility disabilities or with special medical needs. And, of course, the new shelter location must comply with the requirements of anti-discrimination laws identified above.

**Assistance to Transition from Shelters and to Find Temporary Housing** – As an emergency subsides, many shelters will close and individuals will need to relocate. Some may be able to return safely to their homes, but those who cannot do so will need to identify temporary housing. People with disabilities may have more difficulty locating temporary housing. Again, it is important that public entities comply with the anti-discrimination laws to ensure that people with disabilities have equal access to temporary housing. This may include, for instance: helping those with visual disabilities who may not be able to independently travel to identify and visit temporary housing options; providing accessible transportation to enable individuals with mobility disabilities to visit temporary housing options; working with individuals with mobility disabilities to identify accessible temporary housing options; and assisting individuals with cognitive or psychiatric disabilities to navigate any application processes to locate temporary housing. Additionally, shelters may be required, as a reasonable modification, to allow people with disabilities to remain for a longer period while they identify temporary housing. People who can live independently should not be pressured by the shelter to go to hospitals, nursing homes or other institutions.
Enforcing Rights Under the Anti-Discrimination Laws

During an emergency or disaster, if you think that a shelter or temporary lodging has engaged in disability discrimination, 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 needs (for instance, whether the bathroom is not accessible, whether you need a sign language interpreter, whether you need assistance to complete forms, whether you need to have your service animal with you). 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. You can file a complaint for violation of the FHA with the U.S. Department of

_Filing a Judicial Lawsuit:_ You have the right to file a lawsuit in federal court if you think your rights under Titles II and III of the ADA, Section 504 of the RA, and/or the FHA 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. The two-year timeline for filing a federal ADA or RA lawsuit operates even if administrative complaints are pending. However, the two-year timeline for FHA lawsuit does not count time when an administrative complaint was 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.

**This publication is produced at U.S. taxpayer expense and with funding from the Pennsylvania Disability Advocacy Fund, A fund of the Foundation for Enhancing Communities.**