



Ensuring Accessibility: Navigating Reasonable Accommodations in Housing

Day 3

May 9, 2024

1:15 p.m. to 2:15 p.m. CDT

2024 CDBG-DR Problem Solving Clinic
May 7-9, 2024 | St. Louis, MO

Presenters



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She/Her

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Learning Objectives

- Attendees will review applicable fair housing and civil rights requirements.
- Attendees will learn different strategies to provide accessibility and equity throughout the disaster recovery process.
- Attendees will learn about reasonable accommodations and best practices.

Agenda

- Overview of fair housing and civil rights requirements
- Understanding the needs of persons with disabilities
 - Why this matters – applying fair housing to disaster recovery
 - Defining disability
 - Reasonable accommodation policies
- Examples and best practices
 - Mobility case study – September 11, 2001, terrorist attacks on New York City
 - Deaf and hard of hearing
 - Amanda's experience
- Reaching the communities
 - Engaging disability communities
 - Website and mobile devices

Reducing Administrative Burden Takeaways

Understanding reasonable accommodation request(s) to increase comparable outcomes for persons with disabilities.

The presentation educates grantees on the necessary framework for assessing and responding to individuals' disability related needs during disaster recovery. Reasonable accommodations require coordinated communication among program staff as well as with people with disabilities to ensure an equitable distribution of resources for achieving comparable outcomes for people with and without disabilities.





Fair Housing Requirements in CDBG-DR



The Fair Housing and Civil Rights Requirements

Rights Act of 1968

The Fair Housing Act protects people from discrimination when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities. The Fair Housing Act prohibits discrimination in housing because of race, color, national origin, sex (including sexual orientation and gender identity), religion, familial status, and **disability**.

Title VI of the Civil Rights Act of 1964

- Title VI prohibits discrimination based on race, color, and national origin in programs and activities receiving federal financial assistance.

Section 109 of the Housing & Community Development Act of 1974

- Section 109 prohibits discrimination on race, color, national origin, sex (including gender identity and sexual orientation), and religion in any program or activity funded by the Act.

Disaster Recovery and Persons with Disability

While CDBG-DR grantees must comply with all fair housing and nondiscrimination obligations, this presentation focuses on how grantees can provide an equitable recovery for persons with disabilities.

Section 504 of the Rehabilitation Act of 1973

- Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

Title II of the Americans with Disabilities Act of 1990

- Title II of the ADA prohibits discrimination based on disability in programs and activities provided or made available by public entities.

Title III of the Americans with Disabilities Act of 1990

- Title III of the ADA prohibits discrimination based on disability in the goods, services, facilities, privileges, advantages, and accommodations of places of public accommodations owned, leased, or operated by private entities.

Comparing Authorities

Grantees can refer to this table to quickly identify which authority applies, where the implementing regulations are located, and how each Act defines “disability.”



Authority	Applicability	US Code	Implementin g Regulations	Definition of Disability
Fair Housing Act	All housing, with limited exceptions	42 U.S.C. §§ 3601 - 3619	24 CFR § 100	24 CFR § 100.201
Section 504	All programs or activities conducted by recipients of federal financial assistance	29 U.S.C. § 794	24 C.F.R. § 8	24 CFR 8.3
Section 508	All programs or activities conducted by recipients of federal financial assistance	29 U.S.C. § 794d	36 C.F.R. § 1194.4 ; see also Section 508 at HUD	24 CFR 8.3
Title II of the ADA	Services, programs, and activities of state and local governments ('public entities')	42 U.S.C. §§ 12131–12134	28 C.F.R. Part 35	28 CFR § 35.108
Title III of the ADA	Public accommodations	42 U.S.C. § 12182	28 C.F.R. Part 36	28 CFR § 36.105



Using CDBG-DR Funds to Support Persons with Disabilities

A note on 'Disability'

- The various Fair Housing regulations use the word *handicap*, though both terms have the same legal meaning.
- The preferred term is **person(s) or individual(s) with disabilities**.



How is Disability Defined?

Rights Act of 1968

The Fair Housing Act protects people from discrimination when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities. The Fair Housing Act prohibits discrimination in housing because of race, color, national origin, sex (including sexual orientation and gender identity, religion, familial status, and **disability**.

As defined by the federal Fair Housing Amendments Act of 1988 ([24 CFR § 100.201](#)) a disability is:

- a physical or mental impairment which substantially limits one or more major life activities;
- a record of such an impairment;
- or being regarded as having such an impairment.

Note - This term does not include current, illegal use of or addiction to a controlled substance.

What is a Disability?

- Major life activities includes but are not limited to:
 - Caring for oneself
 - Walking
 - Breathing
- Examples of Disabilities include:
 - Autism
 - HIV or AIDS status
 - COVID-19 or Long-COVID
 - See July 26, 2021, Guidance on “Long COVID” as a Disability by HHS & DOJ
 - <https://www.fairhousingnc.org/wp-content/uploads/2021/08/DOJ-HHS-Long-COVID-Joint-Guidance.pdf>
 - Recovery from alcohol and/or substance abuse

Additional Legal Definitions of Disability

Section 504 of the Rehabilitation Act of 1973

- Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

- Americans with Disabilities Act (ADA) Amendments Act of 2008 includes:
 - “The ameliorative effects of mitigating measures such as medication or hearing aids shall not be considered in assessing whether an individual has a disability substantially limits a major life activity,”
 - “An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active;”
 - https://archive.ada.gov/nprm_adaaa/adaaaa-nprm-qa.htm

Considering Needs of Persons with Disabilities During a Disaster

- Individuals with disabilities face unique barriers during and after a disaster. For example, inaccessible evacuation routes, shelters, camps, and food distribution.
- Disabilities can impact a person in a variety of ways—both physical and mental, visible and invisible. Therefore, there is not one approach to inclusion of persons with disabilities.
- To support individuals with disability, grantees can consider:
 - Reasonable accommodations.
 - Reasonable modifications.
 - Accessible housing.

Tips to Support During and After the Disaster

**Nondiscrimination
Policies**

**Physical
Accessibility**

**Reasonable
Accommodations**

**Effective
Communication**

Integrated Settings

**Program
Accessibility**

Recovery and Accessibility

- Homeowner assistance programs that limit assistance to cover accessibility features may violate the law.
- Grantees must provide exceptions to the maximum award amounts, when necessary, to comply with federal accessibility standards or to reasonably accommodate a person with disabilities.
- This is especially important when homes are located in areas that require elevation under revised floodplains. All structures that are elevated must meet federal accessibility standards.

Website and Mobile Device Accessibility

Section 508 Amendment to the Rehabilitation Act of 1973

- Section 508 requires Federal agencies to ensure individuals with disabilities have the same access to Information and Communication Technology (ICT) as persons who do not have disabilities.

- When providing CDBG-DR resources via websites:
 - Embed disability accessibility within the website and app.
 - Ensure the disability accessibility continues from the website to linked applications and other provided resources.
 - Prioritize that the website is usable on smartphones.
 - In a disaster, most individuals will access online resources via their smartphones.
- The Department of Justice is publishing its final rule for the disability accessibility of web content and mobile applications.
 - <https://www.justice.gov/opa/pr/justice-department-publish-final-rule-strengthen-web-and-mobile-app-access-people>



Using CDBG-DR to Promote Equity

Equity Requirements for the Action Plan

- The grantee must comply with its fair housing/nondiscrimination obligations and provide an assessment of:
 - Whether its planned use of CDBG-DR funds will have an unjustified discriminatory effect on or fail to benefit racial and ethnic minorities in proportion to their communities' needs.
 - How it will address the recovery needs of impacted individuals with disabilities.
- Grantees should consider the impact of their planned use of CDBG-DR funds on protected class groups, vulnerable populations, and other historically underserved communities.
- Grantees should identify the above populations (i.e., which protected classes, vulnerable populations, and historically underserved groups were considered) and how those groups can be expected to benefit from the activities set forth in the plan.

Equity Requirements for the Action Plan Continued

- Grantees must include data for the most impacted and distressed (MID) areas that identifies the following information, as it is available:
 - Racial and ethnic make-up of the population.
 - Number and percentage of the following groups:
 - Limited English proficiency (LEP) populations (for each identified group); persons with disabilities; persons belonging to federally protected classes under the Fair Housing Act and other vulnerable populations as determined by the grantee; and indigenous populations and tribal communities (for each identified group).
 - Racially and ethnically concentrated areas and concentrated areas of poverty.
 - Historically distressed and underserved communities.
- Grantees must explain how the use of funds will reduce barriers that individuals may face when enrolling in and accessing CDBG-DR assistance.

Other Actions to Promote Equity and Accessibility

- Meeting the needs of displaced persons with disabilities
- Convening public hearings in an accessible format (virtually or in-person), for example:
 - Selecting accessible locations
 - Providing information in non-English languages or other accessible formats for individuals with different types of disabilities
- Taking meaningful steps to provide access to information to persons with limited English proficiency, members of protected classes, vulnerable populations, and individuals from underserved communities

Applying A Fair Housing Lens to CDBG-DR

- Differentiate between equality and equity.
 - Equality provides the **SAME** resources to individuals.
 - Equity provides resources based on the **NEED** of individuals.

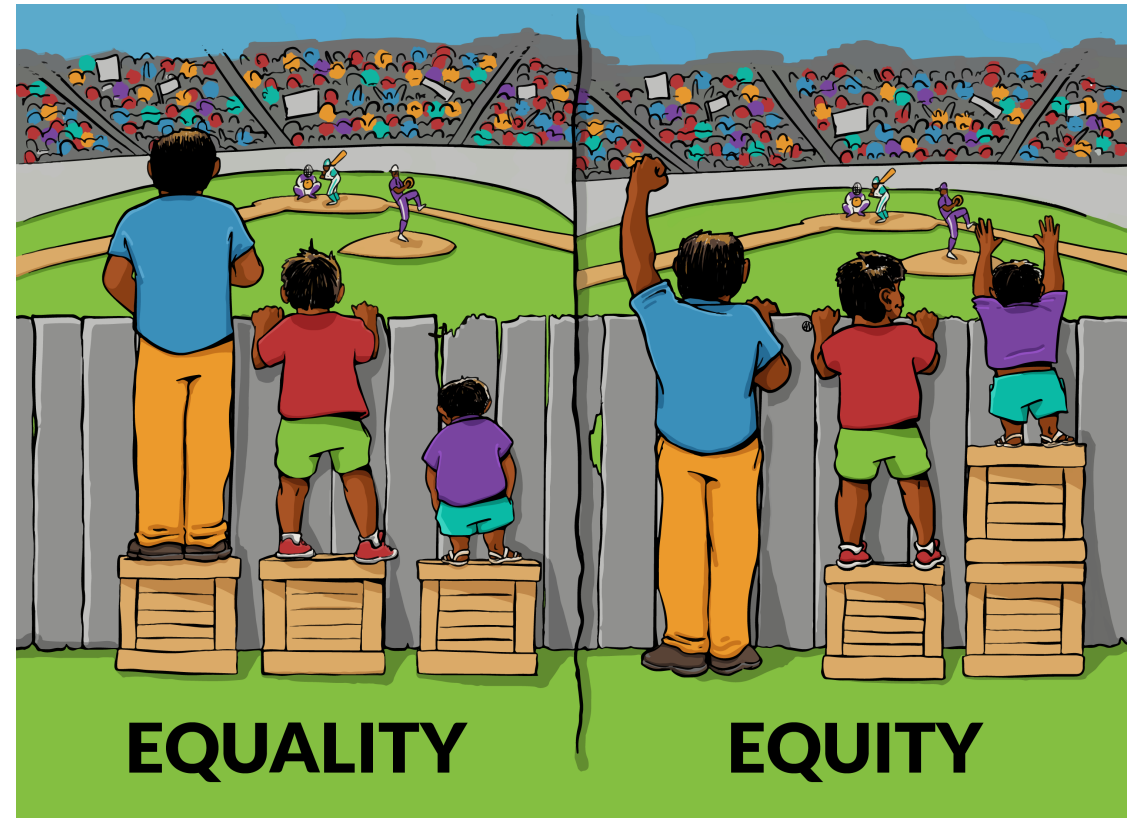


Image credit:
 Interaction Institute for Social Change Artist: Angus Maguire
 (Interactioninstitute.org) (Madewithangus.com)

Applying A Fair Housing Lens to CDBG-DR

- Disability accessibility is based on responding to the **NEED** that is a result of a person's disability symptoms.
- Identify disability barriers for accessing resources:
 - **BEFORE** a disaster
 - Disability-based resources in-place and require maintenance.
 - **DURING** a disaster
 - Disability-based resources are at risk of being lost.
 - **AFTER** a disaster
 - Disability-based resources must be reinstated.

Applying A Fair Housing Lens to CDBG-DR

- For example, an adult with autism who lives independently.
- The impact of a disaster on his disability-related resources:
 - **BEFORE** a disaster
 - His ability to regulate his emotions and to interact with others in a socially appropriate manner is maintained by a daily routine.
 - **DURING** a disaster
 - The emergency of a disaster physically destroys and emotionally overwhelms his coping mechanisms for regulating his emotions.
 - **AFTER** a disaster
 - He must reinstate his coping mechanisms for regulating his emotions and interacting with others while being in emotional distress.



Reasonable Accommodation Policies and Examples

What Is a Reasonable Accommodation?

- A "[reasonable accommodation](#)" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces.
- Under Section 504, this may also include structural modification, referred to as "reasonable modification" in the Fair Housing Act.

Analysis of Request

Verification of Issues

Financial Cost of
Accommodations

Denial of Requests

Reasonable Accommodation Policies

- An individual who qualifies as a person with a disability can request a reasonable accommodation.
 - The request does not need to include the term “reasonable accommodation.”
- Identify their disability-related symptoms that are relevant to their request.
 - A diagnosis is not required or necessary.
- Establish the nexus between their request and their disability-related symptoms.
- Be adaptive to the specific circumstances that result from the disaster.

Responding to Reasonable Accommodations

- If the reasonable accommodation threshold is met, but the request is not possible then engage in the interactive process.
 - For example, a Deaf person arrives at a shelter and requests an in-person American Sign Language (ASL) interpreter for communicating.
 - In-person ASL interpreters are not available because they are also experiencing the disaster.
 - A Video Remote Interpreter (VRI) can be provided via a tablet or smartphone.
- Include within the reasonable accommodation policy, existing documentation of the interactive process.

Responding to Reasonable Accommodations

- The basis of denying reasonable accommodation requests:
 - Undue financial and administrative burden.
 - Fundamental alteration of services.
- Denials must be substantiated.

September 11, 2001, Terrorist Attacks on New York City Case Study

- People with limited mobility evacuating multilevel buildings when the elevators are not usable.
 - Standard policy is people who use wheelchairs and who are otherwise unable to self-evacuate via the stairs to shelter in place within an “Area of Refuge” to await EMS personnel to assist with their evacuation.
- During the evacuation of the World Trade Center on September 11th individuals who used wheelchairs were sheltering in place within “Areas of Refuge.”
 - Co-workers and other peers decided to carry individuals who used wheelchairs instead of leaving them to await EMS personnel.

September 11, 2001, Terrorist Attacks on New York City Case Study

- Timely evacuation of people who used wheelchairs was partly due to the availability of the EVAC+CHAIR, an emergency evacuation chair that assists with descending stairs.
 - EVAC+CHAIR helped in the evacuation of 6 people with limited mobility from the World Trade Center on 9/11.
 - [Colleagues Use Special Chair to Save Quadriplegic on 9/11 | National September 11 Memorial & Museum \(911memorial.org\)](#)



September 11, 2001, Terrorist Attacks on New York City Case Study

- The EVAC+CHAIR was available at the World Trade Center on 9/11 due to an evacuation plan instituted after the 1993 World Trade Center bombing.
 - John Abruzzo, a quadriplegic who uses a wheelchair, was carried down 25 floors in his electric chair on February 26, 1993.
 - His evacuation took 6 hours.
 - On September 11, 2001, Mr. Abruzzo was again evacuated from the World Trade Center but from the 69th Floor and by using the EVAC+CHAIR.
 - [Disability Pride Month: Two-Time Survivor John Abruzzo | National September 11 Memorial & Museum \(911memorial.org\)](https://www.911memorial.org/programs-and-services/disability-pride-month/two-time-survivor-john-abruzzo)

Why This Matters—One Person's Story

Call to Order, Welcoming Remarks, and
Meeting Overview



Jim Brett
PCPID Chair

2

2023-08-01 12:00:40

Takeaways From Amanda's Experience

- The need for shelters and emergency housing to identify and publicly communicate the disability accessibility features provided:
 - Wheelchair accessibility of the site.
 - Hospital beds for assistance with transitioning from lying down to sitting.
 - Access to electricity for disability-related devices.
- Her loss of access to personal care attendants who were themselves experiencing a disaster.
 - Prior to disasters, have Emergency Medical Services (EMS) identify people with disabilities who require assistance in evacuating?

Citizen Participation & Equitable Engagement Toolkit

- Engage with people with disabilities throughout the disaster recovery process.
 - Determine the communication needs of people with disabilities who are impacted by the disaster.
 - Pinpoint and collect the data points necessary for assessing the disability accessibility of the grantee's CDBG-DR programs.
- Identify disability communities that existed before a disaster.
 - Assess during the disaster whether the pre-existing disability communities are being provided opportunities to return. Analyze why or why not.
- Revise CDBG-DR programs as needed based on the ongoing analysis.
- [Citizen Participation & Equitable Engagement Toolkit: Introduction - HUD Exchange](#)

Reducing Administrative Burden Takeaways

- Prioritize coordinating communication among program staff by sharing contemporaneous documentation in responding to the individual needs of people with disabilities.
- Be prepared to adapt to both the specific nature of the disaster and to the individual needs of people with disabilities by learning and sharing best practices with peers.



Resources

- [Disability Overview | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)
- [Fair Housing Accessibility First](#)
- [HUD Effective Communication information](#)
- [HUD and DOJ Joint Statement on Reasonable Accommodations under the Fair Housing Act \(2004\)](#)
- [HUD FAQ on Section 504](#)
- [Fair Housing Design Manual](#)
- [FHEO 2020-01: Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act](#)
- [HUD's Deeming Notice on Physical Accessibility Standards](#)
- [HUD Guidance on Section 508](#)
- [Web Content Accessibility Guidelines \(WCAG\) Cheat Sheets](#)
- [OMB Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act](#)



Questions and Answers

A photograph of the St. Louis Gateway Arch and the city skyline is framed within a white, irregular hexagonal shape on the left side of the slide. The arch is a large, white, catenary-shaped structure. The skyline includes several skyscrapers and the Missouri State Capitol building. An American flag is visible in the foreground.

Thank You!

If you have any questions, please feel free to send an email to the Office of Disaster Recovery's (ODR's) Policy Division at ODRPolicyDivision@hud.gov.

This material is based upon work supported, in whole or in part, by Federal award number D-22-TA-MD-006 awarded to The Cloudburst Consulting Group by the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. Neither the United States Government, nor any of its employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. Reference herein to any individuals, agencies, companies, products, process, services, service by trade name, trademark, manufacturer, or otherwise does not constitute or imply an endorsement, recommendation, or favoring by the author(s), contributor(s), the U.S. Government or any agency thereof. Opinions contained herein are those of the author(s) and do not necessarily reflect the official position of, or a position that is endorsed by, HUD or any Federal agency.

A photograph of the St. Louis skyline, including the Gateway Arch and the Old Courthouse, framed within a white hexagonal border with a drop shadow.

Next Session

The next session will begin at 2:45 p.m. CDT.

2024 CDBG-DR Problem Solving Clinic Closing
Remarks