



OUR MISSION

The Center for Independence of the Disabled, New York's (CIDNY) goal is to ensure *full integration, independence and equal opportunity* for all people with disabilities by removing barriers to the social, economic, cultural and civic life of the community.



Memorandums of Understanding with the City of New York

- ✓ Civil rights violations found in NYC's emergency planning and disaster response;
- ✓ Overview of agreements negotiated by the parties to remedy those violations;
- ✓ Key components in emergency planning that promote and support inclusion, integration and equal access;
- ✓ Explore local application; solutions that are cross-disability; describe crafting agreements;
- ✓ Making the case for inclusion.



Why is this case different from predecessors?

Trial in federal court on Emergency Preparedness resulting in specific and detailed findings and provisions for correction in settlement agreements.

- ✓ 25,000 pages of exhibits
- ✓ 20 City disaster plans
- ✓ 35 witnesses
- ✓ 31 page analysis by Department of Justice.

Judge's Decision in November 2013 provided 119 pages of detailed description of ADA violations and identifies specific remedies.

Settlement agreements approved March 6, 2015.



Why is this case different from its predecessors?

Judge's 119 page decision identified gaps in planning and response" based on evidence from the disability community.

- ✓ Judge does not stop with ordering a process for remedying violations of the ADA;
- ✓ Pursuant to decision--parties negotiated 60 pages of detailed Settlement Agreements to give effect to the decision;
- ✓ Settlement Agreements approved by the Court and to be monitored by the Court which has promised to be active.



Who are people with disabilities in New York?

In New York City, there are 806,030 non-institutionalized people with disabilities.

116,000 people with disabilities live in Hurricane “Zone A.”



Figure 1: map of NYC's five boroughs

*According to the 2010 American Community Survey (ACS)



10 Years of Work Pre- Litigation

- ✓ Wrote Lessons Learned from World Trade Center Disaster about experiences on and after September 11th;
- ✓ Delivered emergency preparedness *messages*;
- ✓ *Trained and recruited people with disabilities* for the volunteer corps;
- ✓ Prepared “go-bags;”
- ✓ City’s Special Needs Advisory Group;
- ✓ Chaired VOAD-NY committee on people with disabilities;



In 2011 – Hurricane Irene

- ✓ *Called 900 people in Hurricane Zones;*
- ✓ *Surveyed emergency shelters;*
- ✓ *Monitored communications;*
- ✓ *Collected/reported access problems;*
- ✓ *Participated in City's daily trouble-shooting calls.*



Figure 2: Inaccessible shelter entrance during Hurricane Irene NYC



In 2011 CIDNY became a plaintiff in a ADA case.

In 2011, we came together with other advocates and sued the New York City Office of Emergency Management for violating federal civil rights law by failing to include people with disabilities in emergency preparedness and response.



In 2012 -- Hurricane Sandy Arrived

In advance of Hurricane Sandy, CIDNY took action:

- ✓ Contacted our 900 + consumers by phone to offer assistance;
- ✓ Surveyed Shelters/Evacuation Centers;
- ✓ Monitored communications;

Identified repetition of access issues seen with 9/11 and Hurricane Irene.



Our Stories: High Rise Evacuation

Melba Torres, who uses a power wheelchair, prepared to evacuate. But when the order came there were no accessible buses to take her to a shelter. When power shut down she was *trapped in her 8th floor apartment for 7 days with no power, water or heat.*

Because her chair would not charge, she was forced to spend that time in bed.



Figure 3: Power outage, NYC



Our Stories: Transportation for Evacuation

Kenneth Martinez, a wheelchair user, *tried to evacuate* by bus—it was too crowded for him to get on. He went back to his home, which was then flooded by the storm surge – he spent a day in water until help came.



Our stories: Shelters

Tania Morales, a wheelchair user, was *turned away* from the shelter. The gate to the ramp was locked and no one could find the key. Shelter staff sent Tania away in the storm.



Our Stories: Power Outages

Joyce Delarosa uses a power chair and lives in public housing. She notified the City and the utility company that she uses an oxygen machine and *needs electricity to survive*. She was told that there is no plan for emergency generators, battery packs, or other supplies. She called the City to get help -- she got no response.

She was *trapped in a high rise with no oxygen for 3 days* when she was finally found and evacuated for emergency medical attention.



Our Stories: Communications

Mary Connor is blind and lives in an evacuation zone. She received a piece of paper instructing her to evacuate as Hurricane Irene hit. *She couldn't read the paper.* She called the public information line, but couldn't get through to an operator.



- ✓ Shelter locator web site inaccessible.
- ✓ Shelter staff are not trained regarding accommodations.
- ✓ Shelter materials are not in accessible formats.
- ✓ ASL interpreters are not available.
- ✓ Shelter entrances are up flights of stairs.
- ✓ Ramps, if available, dangerously steep or flimsy.



Figure 4: Steps to Evac Center During Sandy



CIDNY Evacuation Center & Shelter Surveys

- ✓ Doors heavy or locked at accessible entrances.
- ✓ Cots are not accessible and are up/down flights of stairs.
- ✓ Bathrooms inaccessible and no accessible port-a-potties.
- ✓ No refrigeration available for medications.
- ✓ Not permitted to charge equipment at outlets.
- ✓ There is no quiet space for people with cognitive or emotional disabilities to avoid overstimulation.



What Laws Apply?



Figure 5: Scales of Justice

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794 et seq.

Title II of the Americans with Disabilities Act, 42 U.S.C. Sections 12131, et seq.

New York City Human Rights Law, NYC Admin Code Section 8-101 et seq.



What do the laws require?

The laws require that:

“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.”

People with disabilities have a right to *meaningful access* to government programs, activities. This means that *reasonable accommodations* must be added to ensure that seemingly neutral rules “do not in practice discriminate.”



Conclusion of the Court

“Most significantly, the City’s plans are inadequate to ensure that people with disabilities are able to *evacuate* before or during an emergency; they fail to provide sufficiently *accessible shelters*; and they do not sufficiently *inform* people with disabilities of the availability and location of accessible emergency services.”



Decision: Shelter & Evacuation Center Physical Accessibility

“The evidence at trial demonstrated that many of the City’s shelters and evacuation centers are not fully accessible...”

“...Sheltering Plan is *silent* as to the architectural accessibility...
Nor does it provide any guidance to ensure that there are accessible pathways...or that the particular rooms set up...are themselves accessible.”

“Instructions for shelter operators *do not instruct them* on how to determine whether there are shelter areas that are accessible...”



Decision: Shelter & Evacuation Center Communications Accessibility

“the sheltering plans, however, *do not mention accessible communication*, let alone provide for accommodations, such as sign language interpreters, or common signage in Braille to ensure that people with disabilities are able to communicate and understand the information provided at shelters.”

“those who are blind or low vision might require information to be written in Braille or read aloud; those who are deaf may require a sign language interpreter or written communications; people with cognitive disabilities may require that information be presented slowly or in simple language.”



Decision: Shelter & Evacuation Center Programmatic Accessibility

“In addition to ensuring that the shelter facilities are physically accessible, there are *several other accommodations* that may be required to ensure that people with disabilities are able to access sheltering.”

“emergency planning experts emphasize the importance of *training shelter staff ...*”



Agreements Approved by the Court: Shelters & Evacuation Centers

By 2017 there will be a minimum of 60 accessible evacuation center/shelters and 8 medical needs shelters with a goal of 100% accessibility of evacuation centers/shelters;

✓ Citywide access to sheltering with capacity for 120,000 individuals;

✓ Formal survey of evacuation centers/shelters using DOJ ADA Toolkit and FEMA guidance for integration of functional needs support services in shelters;



Agreements Approved by the Court: Shelters & Evacuation Centers

- ✓ Shelters will meet these requirements:
 - Accessible entrances;
 - Capacity to store medication requiring refrigeration;
 - Charging stations for mobility and medical devices;
 - Backup power;
 - Supplies incl. raised toilet seats, accessible cots; mobility aids, medical supplies, power cords, showers, accessible medical equipment, communication boards
 - Wayfinding kits, ASL interpreters or CART;



Agreements Approved by the Court: Shelters & Evacuation Centers

- ✓ Access and Functional Needs Coordinator at each accessible shelter and training for shelter staff/volunteers;
- ✓ Signage for all amenities in Braille and pictograms;
- ✓ Accessible transportation in the event that a facility is full or unable to support an individual's needs;
- ✓ Information database on all accessible features of shelters and architectural barrier issues;
- ✓ Dissemination of information on accessibility and location of accessible shelters to the public.



Decision: Transportation

“In fact, *the City has no meaningful plan whatsoever to ensure sufficient accessible transportation to evacuate people with disabilities during an emergency.*”



Figure 6: Inaccessible School Buses used during Sandy

“There is *nothing in the City’s plans to ensure that people with disabilities can rely on paratransit in an emergency...*”

“There are *no surveys* to determine “whether sufficient accessible transportation would be available...”

“The *bus drivers were not instructed* to ensure that the buses did not get too full to allow wheelchair users to access them, and no wheelchair users were evacuated in this way.”



Agreements Approved by the Court: Transportation

- By 2017 there will be a plan for transportation. The City will:
- ✓ Create an inventory of accessible vehicles that can be used in emergencies including the number of wheelchair accessible vehicles and appropriately licensed trained drivers; a list of agencies and transportation providers including all City agencies with vehicles, public transportation, para-transit and taxis;
 - ✓ Conduct a “needs analysis” that estimates the demand for City-provided accessible evacuation transportation;



Agreements Approved by the Court: Transportation

- ✓ Solicit bids or put forth RFPs to establish any additional contracts for accessible emergency transportation;
- ✓ Train on disability literacy, communication with people with disabilities, the proper operation of lifts and handling of durable medical equipment;
- ✓ Let the public know about accessible transportation options during planned evacuations and how and where to access it;



Agreements Approved by the Court: Transportation

- ✓ Train 311 operators to identify and handle emergency requests for evacuation for people with disabilities;
- ✓ Resume transportation as soon after an emergency as is possible. There will be a mechanism to reach people with disabilities in “frozen zones” with accessible vehicles;
- ✓ Use best efforts not to separate people with disabilities from mobility devices, service animals and caregivers and if separated will reunite them as soon as possible.



Decision: Canvassing

“the plans do not provide sufficient evacuation assistance to ensure that during a power outage, people with disabilities can exit their buildings; nor do they call for canvassing after an emergency, to help ensure that the services provided to people without disabilities may reach those with disabilities who are unable to leave their buildings.”

Figure 7: Emergency Evacuation Lift Signage





Agreements Approved by the Court: Canvassing

- ✓ By 2017 there will be a canvassing plan that is tested through exercises including people with disabilities and advocates. Small scale canvassing will begin in 2015;
- ✓ Canvassing will include a rapid survey of the affected population after a disaster for critical needs, referral for resolution and to arrange for access to services for those who cannot go out to obtain services;
- ✓ A canvassing operation will be triggered when an emergency effects 5,000 people for more than 48 hours;



Agreements Approved by the Court: Canvassing

- ✓ Canvassing will target those who did not evacuate and need assistance to maintain independence;
- ✓ Canvassers will have a mobile survey tool that will track service needs related to food, water, electricity, medical care, medical supplies, prescriptions, medical equipment, relocation to cooled or heated environment, transportation to critical care or shelter, assistance from a social worker, and emergency medical services;
- ✓ Training for canvassers will include disability literacy and communications with people with disabilities.



Decision: High Rise Evacuation

“There is substantial evidence that *people with disabilities were stuck* in high-rise buildings after the storm.”

“...the City’s *emergency plans fail almost entirely* to address ...people with disabilities during evacuation of a multistory building.”

“The City *does not require* most high-rise buildings to maintain emergency evacuation devices for people with *disabilities...Nor does the City have any plan for making these devices available during an emergency...*



Agreements Approved by the Court: High Rise Building Evacuation

The City will create a “NYC/ADA High Rise Building Evacuation Task Force that will have a 3 year work plan. It will include:

- ✓ Experts in the needs of people with disabilities in high rise building evacuations chosen by the plaintiffs and by the City;
- ✓ Representatives of the Fire Department; the Office of Emergency Management; the Mayor’s Office for People with Disabilities.



Agreements Approved by the Court: High Rise Building Evacuation

This group will consult with:

- ✓ The Deputy Mayor; Department of Buildings; Department of Health and Mental Hygiene; the NYC Housing Authority; The Department of Housing Preservation and Development; The Police Department; 311; Disability “stakeholders” including CIDNY.
- ✓ NFPA; ANSI; RESNA (code standard groups); Real Estate Associations; The U.S. Access Board; NIST.



Agreements Approved by the Court: High Rise Building Evacuation

Process:

- ✓ Complete review and analysis of deficiencies related to high rise evacuation in codes, regulations, policies, etc;
- ✓ Identify practices used in other large jurisdictions that could be replicated in high rise evacuation;
- ✓ Identify gaps that require development of policy, procedural or regulatory remedies.



Agreements Approved by the Court: High Rise Building Evacuation

Recommendations will include:

- ✓ Scalability;
- ✓ Building types;
- ✓ Disability community and building owner education and engagement;
- ✓ First responder training;



Agreements Approved by the Court: High Rise Building Evacuation

- ✓ Moving people with disabilities, DME and service animals;
- ✓ Effective communication;
- ✓ Existing laws;
- ✓ Placement of evacuation devices in residential buildings (public and private);
- ✓ Elevator evacuation options;
- ✓ 311's ability to address evacuation needs of people with disabilities in large scale disasters;
- ✓ Placement of City-owned evacuation devices;



Agreements Approved by the Court: High Rise Building Evacuation

- ✓ Signaling devices;
- ✓ Drills, training, outreach and education;
- ✓ Training materials and education guidelines will include communication and will be in alternate formats;
- ✓ Procedures for marking apartments where people are left behind who need assistance.



Decision: Communications

“...although the City advises people with special needs to plan for transportation in an emergency, it *does not provide information* about whether accessible transportation will be available or how to access it.”

“Because people with disabilities have *diverse communication needs* ... reaching people with special needs often requires the use of multiple modes of communication.”



Agreements Approved by the Court: Communications—Shelter Example

- ✓ Signage will indicate accessible entrances and all shelter signage will be accessible—including Braille and pictograms.
- ✓ Communication Boards (including electronic boards) will be available.
- ✓ Wayfinding kits will be provided for those who need help getting around a shelter.
- ✓ CART (remote translation) or ASL interpreters will be provided at all accessible facilities.
- ✓ Information on shelters will include accessibility features.



Settlement Agreements Approved by the Court: Disability Coordinator Created

- ✓ Ensure City's emergency plans comply with federal civil rights law;
- ✓ Report to top rank City Official;
- ✓ Authority to coordinate across City agencies;
- ✓ Ensure deadlines met, protocols, policies and procedures are created;
- ✓ Work with DAFN (Disability Community Advisory Panel);
- ✓ Submit reports on progress made to Court and plaintiffs;
- ✓ Oversee when the Emergency Operations Center is activated.



Agreements Approved by the Court: Disability Community Advisory Panel (DAFN)

- ✓ Government and disability-serving NGOs and people with disabilities;
- ✓ Meet on a quarterly basis;
- ✓ Address emerging issues; challenges and solutions;
- ✓ Support the Coordinator and review plans and proposals;
- ✓ Make recommendations / participate in outreach;
- ✓ Provide input on emergency plans and implementation of the Settlement Agreements;



Implementation of Agreements Approved by the Court to Date March-May 2015

208 pages documenting progress submitted to the Court in April, stating in part:

- ✓ Hired contractor to survey shelters for ADA compliance;
- ✓ Hired two Disability Coordinators;
- ✓ Initiated planning for canvassing operation;
- ✓ Compiled lists of agencies with accessible vehicles;
- ✓ Convened to discuss power outage issues;
- ✓ Adding training modules.



What does the U.S. Department of Justice say?

The U.S. Department of Justice concluded in its report to the Court in *BCID v. Bloomberg*:

“Unfortunately, *despite the obvious importance* of accounting for the unique needs of individuals with disabilities in planning for emergencies, New York City’s emergency plans, *like many state and local emergency plans throughout the nation, fail to do so.*”