



House Memorial 87 Task Force Report

Presented to the
Disability Concerns Subcommittee of the
Legislative Health and Human Services Committee

House Memorial 87

DISABILITY COMPLIANCE OF EMERGENCY PLAN *(short title)*

House Memorial 87 requested that the Governor's Commission on Disability (GCD) form a task force to :

- ensure that New Mexico's 2014 all hazard emergency operations plan complies with Title II of the federal Americans with Disability Act (ADA), and
- to identify barriers to compliance or deficiencies in the plan.

Task Force to be comprised of Representatives from

- the Homeland Security Emergency Management Department (HSEMD),
- the Department of Public Safety (DPS),
- the Vocational Rehabilitation Division (DVR)
- of the Public Education Department,
- the Bureau of Health Emergency Management (BHEM) of the Department of Health (DOH),
- the Aging and Long-Term Services Department (ALTSD),
- Indian Affairs Department,
- the Governor's Commission on Disability (GCD),
- the Developmental Disabilities Planning Council (DDPC),
- the Commission for Deaf and Hard of Hearing,
- the Commission for the Blind and Visually Impaired,
- the Public Regulation Commission,
- the State Fire Marshal's office,
- the Office of the State Engineer,
- at least two rural counties and one Class A county, and
- at least two tribes or pueblos.

10/9/2014

3

Preliminary Workgroup Composition

- GCD,
- DHSEM,
- DOH Health Emergency Management,
- DPS,
- the DDPC,
- GSD Risk Management Division, and
- a disability consumer advocate

10/9/2014

4

Why it's important to include the needs of people with disabilities

- It's the law
 - The Americans with Disabilities Act (1990 and 2009)
Title II of the Americans with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities in the provision of services, programs, or activities by public entities. 42 U.S.C. Section 12132. The law is intended to ensure that individuals with disabilities have meaningful access to government provided programs, services, and activities and is designed to eliminate both,
 - "outright intentional exclusion" and
 - "the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, [and] failure to make modifications to existing facilities and practices." 42 U.S.C. Section 12101(a)(5).

10/9/2014

5

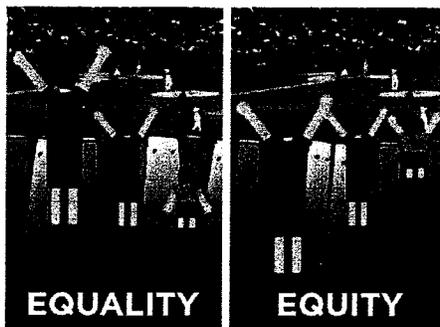
Why it's important to include the needs of people with disabilities

- A lot can go wrong if states don't do it. For example,
 - Hurricane Sandy in New York City
 - Hurricane Katrina in New Orleans
 - City of Los Angeles

10/9/2014

5

Equality and Equity



*This image was adapted by the City of Portland
Office of Equity and Human Rights from the original graphic:
<http://indianfunnpicture.com/img/2013/01/Equality-Doesnt-Means-Justice-Facebook-Pics.jpg>*

10/9/2014

7

Work Group Findings

- The EOP does mention ADA, but has no explicit language about compliance with Title II provisions.
- The work group was advised that the EOP was not the appropriate vehicle to ensure ADA compliance of all emergency management and response.
 - Prescribes the incident command structure and process to respond to an emergency
 - Is at a 10,000-50,000 foot level, not local

10/9/2014

8

Work Group Findings

- Since all disaster is local, that is where ADA compliance (including the needs of people with disabilities in planning and logistics) comes in.

10/9/2014

2

Formal Recommendations

1. The Taskforce recommends that the EOP be revised to include clear and explicit language regarding compliance. The recommendation is to include an additional planning assumption that states, *"It is assumed that the implementation of any and all emergency plans by DHSEM and/or any affiliated government agencies will be in compliance with Title II of the Americans with Disabilities Act."*
2. The Taskforce recommends incorporating an accessible (to those with sensory impairments) statewide emergency mass notification system into the EOP and emergency management. A funded position within DHSEM is also necessary in order to adequately manage and utilize the mass notification system.
3. It is highly recommended that DHSEM be given the regulatory authority through state law, as well as the appropriate number of funded positions, to provide an increased level of oversight for ADA compliance of all local jurisdictional emergency plans and to expand their repository to include the most current emergency plans of all jurisdictions.

10/9/2014

10

Additional Recommendations

In addition to the formal recommendations, this Taskforce addresses and recommends a potential vehicle to achieve what the Taskforce perceives as the motivating intent and spirit behind HM 87.

While these elements are not directly related to the ADA compliance of the State EOP, the focus of HM 87; they are necessary elements of a response that is appropriate for all people, including people with disabilities, during emergency situations.

10/9/2014

11

Additional Recommendations

- Creation of a Second Taskforce charged with performing a literature review of best practice, guidance, associated litigation, and evidence based documents, identifying common and New Mexico specific barriers through an analysis of emergency management structure and ability (i.e. implementation capacity to make sure emergency management has the ability) with potential solutions. These solutions will be solidified by this future taskforce into a strategy of explicitly how to develop an inclusive and ADA compliant emergency management program statewide and a system to manage and supervise progress as well as a system to ensure the permanency of implementation and oversight of the developed plan.

10/9/2014

12

Additional Recommendations

- The future taskforce would be charged with developing detailed implementation guidance for emergency plans that speak directly to specific actions providing meaningful access to those with disabilities. A particular focus should include the areas of:
 - needs assessment,
 - guidance,
 - technical support and training,
 - individual preparedness, and
 - the description and funding of a permanent position, within the structure of emergency management, to solidify the ADA compliance implementation once the taskforce concludes.

10/9/2014

13

Dissemination of Preliminary Findings and Recommendations

The Work Group disseminated it's preliminary findings to all the agencies specified in the memorial, asking for their input and any other recommendations.

While the response was extremely limited, the Work Group did consider the items noted.

10/9/2014

14

Conclusion

It is in the best interest of the State of New Mexico to take a proactive, thoughtful, and engaged approach to planning for and including people with disabilities in emergency management and response on a voluntary basis before actions become mandated. There exist considerable liabilities in the areas of risk management, public relations, and resultant variables, which include the potential for serious financial repercussions.

Forming the suggested taskforce would be a proactive measure that would help the actual safe evacuation of people with disabilities during times of emergency. This measure would also help abate any public outcry that could arise should the State not take these measures, and the needs of people with disabilities were not met during times of emergency.