



## **Office for Civil Rights and Civil Liberties**

### **Readout of DHS 50<sup>th</sup> Anniversary Disability Stakeholder Listening Session**

**September 21, 2023**

On September 21, 2023, the U.S. Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL) held a national disability stakeholder listening session. The goals of this event were to provide an opportunity for members of the public to provide feedback to CRCL and DHS Components on disability access with respect to the Department's programs and activities; to highlight recent disability access achievements across DHS; and to open or deepen communication among disability stakeholders, other stakeholders and allies, and DHS Component representatives that will have a lasting impact on programs across DHS.

The listening session took place via Zoom with Communication Access Realtime Translation (CART) and Sign Language Interpretation available.

Eighty-six individuals participated in the listening session, including representatives from non-governmental disability advocacy organizations, [Centers for Independent Living](#), state emergency management agencies, and [Protection & Advocacy organizations](#). Representatives from across DHS and its Components were also in attendance.

In announcing the session, CRCL noted that it was being held in commemoration of the 50th anniversary of the Rehabilitation Act and the 10th anniversary of the [DHS Disability Access Directive](#). CRCL suggested the following topics to guide the discussion:

- General comments about disability access and Section 504 compliance
- Disasters and emergencies
- Immigration
- Other aspects of homeland security
- Effective communication

The listening session began with remarks provided by CRCL Officer Shoba Sivaprasad Wadhia. Officer Wadhia welcomed participants and noted DHS's commitment to ensure nondiscrimination and equal opportunity for individuals in all DHS programs and activities. She provided several examples of how CRCL implements this commitment, such as CRCL's

oversight of Component Section 504 self-evaluations, required by the DHS Disability Access Directive; monitoring to ensure that the thousands of recipients of DHS grants and other types of financial assistance are also meeting their obligations to provide disability access under the Rehabilitation Act; provision of training and technical assistance through the Civil Rights Evaluation Tool to hundreds of recipients on their civil rights obligations including their obligations to provide equal access and reasonable modification of policies, programs, and procedures under the Rehabilitation Act; and investigation of allegations of Section 504 violations across the Department. Officer Wadhia also relayed that CRCL expects to complete a groundbreaking DHS 504 federally assisted regulation.

CRCL Director for Programs Victoria Porto said that one of the key CRCL responsibilities is to work hand-in-hand with our DHS Component colleagues to implement the DHS Disability Access Directive to ensure that our DHS programs and activities are accessible to people with disabilities. She highlighted one other area related to the obligation recipients of DHS financial assistance have to comply with Section 504 and other civil rights laws -- the Civil Rights Evaluation Tool, a data collection and technical assistance tool used to monitor DHS recipients' compliance with their civil rights obligations.

Following opening remarks, the CRCL Disability Access Team facilitated Component-centered briefings followed by the opportunity to hear from disability stakeholders about disability access concerns related to both DHS conducted and DHS assisted programs and activities.

### **Federal Emergency Management Agency (FEMA)**

FEMA's Office of Disability Integration and Coordination (ODIC) provided the following updates on recent improvements in disability access:

- ❖ Publication of the Director's Intent, FEMA ODIC's description of fourteen points of inequity within the emergency response landscape and recommendations for addressing these.
- ❖ Deployment of disability integration advisors to support field leaders by providing the technical assistance and subject matter expertise to avert inequities along the disaster cycle.
- ❖ Conducting inspections to ensure the disaster recovery centers (DRCs) have accessible parking, ramps, and restrooms.
- ❖ Publication of a revised Individual Assistance program and policy guide to facilitate the acquisition of assistive aids and technology such as accessible communication support, text telephones, and other Section 504 compliant equipment.

### **Transportation Security Administration (TSA)**

TSA's Multicultural Branch provided the following updates on recent improvements in disability access:

- ❖ Adoption of policies to ensure consideration of the intersectionality across nationalities, societies, languages, and disabilities.
- ❖ Establishment of a persons with disabilities working group as part of the Aviation Security Advisory Committee (ASAC) to work on a host of recommendations specific to improving screening for individuals with disabilities and medical conditions.
- ❖ Revitalization of the Passenger Support Specialist program with a continuing focus on the experience of individuals with medical conditions and disabilities going through TSA checkpoints.

## **Customs and Border Protection (CBP)**

CBP provided the following updates on recent improvements in disability access:

- ❖ Implementation of mandatory disability access training for the Agency's law enforcement professionals, which includes a focus on communicating effectively with individuals with disabilities, recognizing possible indicators of disabilities, and addressing reasonable modification requests.
- ❖ Consideration of a 2024 update of the disability access training course with some scenario-based training that addresses interactions with individuals with mental health conditions.

## **Immigration and Customs Enforcement (ICE)**

ICE provided the following updates on recent improvements in disability access:

- ❖ Renovations to offices and facilities to provide greater accessibility, including marked accessible parking, ramps, railings, wider entrance doors, and doorbell cameras to assist entry into buildings.
- ❖ Provision of asylum and attorney visitation booths that can accommodate wheelchair access.
- ❖ Provision of reasonable accommodation training for the ICE Health Services Corps employees who are responsible for conducting health screenings for noncitizens in detention.
- ❖ Institution of a dedicated contract to provide nationwide sign language interpretation and certified deaf interpretation in a range of languages, which also includes video remote interpretation and in-person interpretation. ICE has maintained a nation-wide dedicated contract for these services for over 5-years.
- ❖ Updated internal intranet disability resource pages to provide employees with technical assistance materials and information on how to access available resources.
- ❖ Planning for future improvements and updates to internal program office disability access directives and development of an ICE-wide disability access directive.

## **U.S. Citizenship and Immigration Services (USCIS)**

USCIS provided the following updates on recent improvements in disability access:

- ❖ Revision of the way public accommodation requests are vetted and responded to by assigning these requests to accommodation subject matter experts from the Office of Equal Opportunity and Inclusion resulting in requests being more consistently and timely tracked and handled.
- ❖ Equipping all offices with wheelchairs for use by members of the public.
- ❖ Equipping all offices with devices called Pocket Talkers for use by members of the public who are hard of hearing.

### **U.S. Secret Service (USSS)**

USSS provided the following updates on recent improvements in disability access:

- ❖ Provision of training on screening individuals with disabilities who use mobility devices.
- ❖ Provision of training on screening of individuals with medical devices, implants, and service animals.

### **Office of Partnership and Engagement (OPE)**

OPE provided the following update on recent improvements in disability access:

- ❖ Provision of accessible meeting guidance and training the OPE work force on this guidance.
- ❖ Provision of job aids that outline specific steps that OPE staff will take to provide accessible communications and other reasonable modifications for individuals with disabilities who interact with OPE.
- ❖ Posted information on how to request a reasonable modification when visiting OPE offices or attending OPE meetings.

### **Participants' Comments and Feedback**

The purpose of the listening session was to hear from individuals with disabilities and their advocates about their concerns and experiences related to DHS-conducted and DHS-assisted programs and activities. By better understanding their perspectives and experiences and in partnership with DHS recipients, as appropriate, DHS can work to improve disability access and inclusion of individuals with disabilities throughout its varied missions.

### **General comments and concerns about disability access, Section 504 compliance, and emergencies:**

- ❖ One participant expressed these concerns:
  - ❖ The government-wide focus on a “commitment to equity” could further dilute the implementation and enforcement of the Rehabilitation Act and other disability-related civil rights obligations.

- ❖ Rules are only as good as the monitoring and enforcement mechanisms and the enforcement of disability civil rights laws should be prioritized across all DHS Components.
- ❖ It is difficult to explain to constituents what their rights are under the Rehabilitation Act when this is undermined by federal, state, and local organizations or partners which may not follow or define the laws in a similar way.
- ❖ A disability stakeholder made the point that there is consistent and pervasive non-compliance with the ADA and Section 504 of the Rehabilitation Act throughout DHS Components.
- ❖ A participant offered that there needs to be a person in DHS who can provide stakeholders information on what the law says and what the protections are to ensure constituents have a clear and consistent understanding of their rights.
- ❖ Another participant noted that there is an unwillingness to put funding into civil rights enforcement activities, but there is no chance of compliance if people perceive no consequences for noncompliance.
- ❖ A stakeholder stated that there is no need for new laws when there is no enforcement of the ones currently in place.
- ❖ A participant indicated that TSA agents need more information and training on disability access and procedures regarding modifications to programs, policies, and procedures during encounters with persons with intellectual and mental disabilities.
- ❖ Another participant noted that there is a need to engage with Native American entities regarding disability access.

## **Disasters and Emergencies**

- ❖ One disability stakeholder stated that:
  - ❖ DHS funds are frequently used in ways that discriminate against people with disabilities. For example, according to this stakeholder, hundreds of thousands of people with disabilities died in institutions during COVID and were denied equitable access to life saving resources.
  - ❖ There is a need for an immediate investigation into civil rights enforcement related to all funding provided under the Stafford Act because of concerns that the rights of individuals with disabilities to live in the most appropriate integrated settings, per the Supreme Court *Olmstead v. LC* decision, are being violated.
  - ❖ There needs to be equally effective communication access before, during, and after disasters.
  - ❖ During the heat wave of the summer of 2023, people with disabilities were completely left out of consideration in thinking about the accessibility of emergency communications.
  - ❖ Following the recent fires in Maui, there is not a process for fire survivors with disabilities to receive personal assistance services in shelters. FEMA states the responsibility for providing these services lies with the state. Due to the lack of

action and finger pointing, the health maintenance needs of persons with disabilities are not being addressed.

- ❖ A participant noted the need to focus civil rights enforcement efforts on emergency and disaster situations.
- ❖ One stakeholder said there is an interest in hearing about FEMA's efforts to look into technology in emergency and community alert systems which would better response efforts for navigating disasters.
- ❖ Another participant noted that there is a need for more education on disaster preparedness prior to a disaster.
- ❖ A disability stakeholder stated there is a need to address and reduce emergency response failures for persons with disabilities.
- ❖ Another participant indicated that there has been an increase in deaths and diseases of despair since Hurricane Katrina, and we are seeing that communities are never fully healing after disasters.
  - ❖ This participant elaborated that disasters have the greatest effect on the most marginalized communities and mental health care for these individuals needs to be prioritized.
- ❖ One disability stakeholder stated there is a need to assess the accessibility of shelters proactively.
  - ❖ According to this stakeholder, in Maui the Red Cross stated they had no access to shelters until they were opened, and it was too late to safeguard the civil rights of disabled persons and provide equal access to response infrastructure.
- ❖ Another participant offered that every state should be required to have an Access and Functional Needs Coordinator, who is not a state employee, to make sure people with disabilities are being included and served before, during, and after disasters in all planning, preparation, and recovery processes.
- ❖ A stakeholder pointed out that children with disabilities cannot be provided services and support unless there is awareness of what their needs are and that currently, there is not a successful and implementable mechanism to document the needs of these individuals in an intentional and strategic way.
  - ❖ Support was expressed for an inquiry into this issue and for the implementation of a structure and mechanism to support children with disabilities in disasters.
- ❖ A stakeholder noted that Washington state has started providing ASL interpretation to accompany emergency alerts and asked if other states are doing the same.

## **Immigration**

- ❖ One participant asked, why does ERO require that there be a final removal order before adjudicating a medical action request?
  - ❖ What is the intention behind this policy and is there any hope for revising this policy?

- ❖ Another stakeholder asked, what sorts of training do ICE Office of Principal Legal Advisor attorneys get with respect to providing Section 504 accommodations for non-citizens in removal proceedings?
- ❖ A participant expressed concern regarding the experience of people and children with disabilities at the border. This individual added:
  - ❖ The CBP One app remains inaccessible to people with visual disabilities and people whose disabilities make it difficult for them to hold a cellphone and added that to assert these individuals should get help from others is not a sufficient solution.
  - ❖ When individuals are not able to use the CBP One app, especially when they are critically ill or disabled, they have no way to make an appointment through the app to access the border and seek asylum.
  - ❖ Many critically ill children and adults, as well as people with mental health issues, are left in critical conditions with no safe access to the border to seek asylum.
  - ❖ It is unclear what protections are in place for persons with disabilities in immigration proceedings and how these protections are enforced.
  - ❖ There should be no expedited removal proceedings used for children, especially children with disabilities and health issues who rely on parents and caregivers to express their rights.
- ❖ A stakeholder suggested there should be a better process to determine whether unaccompanied children have disabilities and what those disability-related access or functional needs are. This individual pointed out that these unaccompanied children with disabilities have civil rights and rights related to their status as unaccompanied children. The stakeholder also noted the need for disability-related training for DHS staff who will be making these determinations, including how to identify potential sponsors with the appropriate capacity and competency to care for these unaccompanied children with disabilities.

## **Next Steps**

DHS CRCL is committed to a continued partnership with the disability community. CRCL will be following up with the relevant Components to discuss ways to address the concerns raised by the disability stakeholders and how CRCL can foster more regular engagement among DHS Components and disability stakeholders.