

Serving Survivors with Disabilities

Laws Regarding Services to Survivors with Disabilities

VAWA:

The Violence Against Women Reauthorization Act of 2013, which President Obama signed on March 7, 2013, amends the Violence Against Women Act (VAWA) of 1994 by adding a grant condition that prohibits discrimination by recipients of certain Department of Justice funds against people with disabilities.



FVPSA:

To be in compliance with the federal Family Violence Prevention and Services Act (FVPSA) Reauthorization Legislation, 2010, programs that receive FVPSA funding must be accessible to all victims. Accessible services will ensure that effective interventions are in place to build skills and capacities that contribute to the healthy, positive, and productive functioning of victims, children, youth, and families. This means services have to be delivered without discrimination on the basis of age, disability, gender, race, color, national origin, or religion. Barriers to accessing shelter, such as requiring participation in supportive services and maintaining rigid program rules, are not allowed. Accessibility is a broad requirement that includes offering shelter and all core services to victims regardless of disability.

The VAWA grant condition reads as follows:



No person in the United States shall, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity (as defined in paragraph 249(c)(4) of title 18, United States Code), sexual orientation, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under [VAWA], and any other program or activity funded in whole or in part with funds appropriated for grants, cooperative agreements, and other assistance administered by the Office on Violence Against Women.

VOCA:

Section 1407 of the Victims of Crime Act (VOCA) of 1984 prohibits discrimination on the basis of race, color, national origin, religion, sex, or disability in VOCA funded programs or activities (42 U.S.C. § 10604). No person shall on the grounds of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination

under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under VOCA.

Rules of Department of Finance and Administration, Chapter 0620-3-6, Tennessee Family Violence Shelter Standards:

People who meet the individual eligibility requirements for family violence shelter and/or shelter services set down in section 0620-3-6-.02 should receive services regardless of disability. The eight core services as listed in the Shelter Standards must be provided for victims of family violence in a family violence program regardless of the victim's disability status. Those eight core services are: shelter, telephone crisis hotline, referral, counseling for family violence victims, advocacy for family violence victims, transportation arrangements, follow-up, and community education.

Multiple federal laws also govern the rights of individuals with disabilities apply to shelter housing services.


Title III of the Americans With Disabilities Act (ADA):

The ADA applies to all businesses and non-profit service providers (referred to in the law as "places of public accommodation").

According to the ADA, public accommodations must:

- Provide goods and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.
- Eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy the goods and services of a place of public accommodation.
- Make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration would result in the nature of the goods and services provided.

- Furnish auxiliary aids when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result.
- Remove architectural and structural communication barriers in existing facilities where readily achievable.
- Provide readily achievable alternative measures when removal of barriers is not readily achievable.
- Provide equivalent transportation services and purchase accessible vehicles in certain circumstances.
- Maintain accessible features of facilities and equipment.
- Design and construct new facilities and, when undertaking alterations, alter existing facilities in accordance with the Americans with Disabilities Act Accessibility Guidelines.



All organizations who procure grants through the Tennessee Coalition to End Domestic and Sexual Violence or the Tennessee Office of Criminal Justice Programs (OCJP) are required to uphold these non-discrimination conditions. Faithfully upholding these conditions includes offering services to survivors with disabilities that are equal to those services provided for all others.

(Learn More- <http://www.ada.gov/t3highlight.htm>)

Section 504 of the Rehabilitation Act:

Section 504 states that "no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under" any program or activity that receives Federal financial. This covers all programs who receive state funding through grants or programs such as VOCA, FVPSA, VAWA, and DOH.

(Learn More- <http://www.ada.gov/cguide.htm#anchor65610>)

Fair Housing Amendments Act:

This applies to most housing providers including shelter and transitional living programs.

The Fair Housing Act, as amended in 1988, prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status, and national origin.

The Fair Housing Act requires owners of housing facilities to make reasonable exceptions in their policies and operations to afford people with disabilities equal housing opportunities. For example, a landlord with a "no pets" policy may be required to grant an exception to this rule and allow an individual who is blind to keep a guide dog in the residence.

(Learn More- <http://www.ada.gov/cguide.htm#anchor63409>)

If you don't know where to begin Wisconsin's Violence against Women With Disabilities and Deaf Women Project has created *A Practical Guide for Creating Trauma-Informed Disability, Domestic Violence and Sexual Assault Organizations* which can be viewed here-

<http://www.disabilityrightswi.org/wp-content/uploads/2012/05/Trauma-Informed-Guide.pdf>

Dynamics and Risk Factors of Abuse in Survivors with Disabilities

Individuals with disabilities are at an increased risk for experiencing sexual and domestic violence and other forms of abuse. This is due in part to the increased vulnerability to and dependence on caregivers and intimate partners experienced by many people with disabilities. It may take longer for people with disabilities to reach out for help than the average person, and many with disabilities experience multiple instances of abuse across their lifetime. "Abuse survivors with disabilities may also encounter additional problems with self-protection, alienation, dissociation and overly compliant and acquiescent behavior." (Abramson, 2001)

Other factors that increase the likelihood that an individual with a disability will experience abuse:

- People with disabilities may rely on others to meet basic needs, and the use of multiple caregivers increases opportunities for sexual abuse.



- Social isolation results in limited exposure and lack of information about personal relationships and opportunity to disclose if abuse occurs.
 - People with cognitive disabilities may have a strong desire for friendship and connection and may be more easily convinced to forgive or ignore abuse.
 - Lack of social credibility for people with disabilities who report or disclose sexual violence.
 - Sexual assault survivors that are Deaf, have speech difficulties or a limited vocabulary may need communication devices or interpreters to assist with disclosing or reporting abuse. Access to these types of services can be rare, and often abusers will position themselves as their victim's primary means of interpretation/communication.
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- People who have developmental disabilities may lack information about sexuality, sexual abuse and personal safety strategies. This information may not have been taught in special education classes or institutions. Parents and care providers may not be providing this information in efforts to protect their loved ones or clients.
 - Generally, society is not comfortable with people with disabilities having intimate relationships, feelings and needs. Those same members of society are also likely to deny that people with disabilities can be abused or victimized by an intimate partner, especially sexually.
 - The large number of people with disabilities in institutional settings and the physical and emotional contact of caregivers results in power imbalances between the staff and residents. This imbalance of power increases risks for sexual assault, abuse and exploitation.
 - Survivors with mental health disabilities may experience harmful or dismissive psychiatric or medical responses when they disclose abuse.

(Abramson, 2001)

Considerations for Serving Survivors with Disabilities

First Contact/ Intake. Use this time to learn about survivors' primary needs. As with any other survivor, immediate safety is the first priority when advocates make initial contact with a survivor. Advocates should determine if the client is eligible for services based on their abuse history, and communicate this eligibility to the client, before questioning the survivor about accessibility needs.

“Our culture has historically considered people with disabilities as broken or abnormal in some way. People with disabilities have often been relegated to institutions, special education classrooms, day programs, sheltered work programs and habilitation programs: outside of the typical experiences in life that most people take for granted.”

(Abramson, 2001)

It is mandatory that if any questions about disability-related needs are asked, they must be asked of all clients. This allows programs to avoid discrimination in their services. The laws are very clear on this matter- the presence of a disability cannot determine a survivor's access to services.

Advocates should also note that probing for more information about, or asking for proof of a disability, is prohibited. It is a violation of the Americans with Disabilities Act to require documentation or medical information to confirm a person's disability status. *If one client is required to bring a medical history to access services, then all clients must be required to do so.*

A good practice is to use any question about disability as a guide to make sure that survivors with disabilities receive accessible services. To this end, advocates should make it a practice to gather this information from all clients in order to improve accessibility for everyone. Advocates should also inform all clients that their agency is willing to provide accommodations as needed so that all survivors may access services.



SafePlace Austin has created an excellent guide to help answer many frequently asked questions and concerns regarding working with people with disabilities as well as substance use and mental health concerns.

<http://safeaustin.org/wp-content/uploads/2013/12/Frequently-Asked-Questions-DS.pdf>

If an agency decides they do want to develop intake questions about disability-related needs, consider developing questions that:

- Help identify barriers to services
- Help identify survivors' strengths and resources
- Identify survivors' understanding of how disability affects the violence they have experienced
- Help determine resources available to support and assist with a survivors' disability
- Addresses issues related to the survivors' support systems (e.g., will family members align with a care provider who is the survivor's perpetrator?)
- Maintains survivors' privacy, confidentiality, and autonomy

(Abramson, 2001)



Ableism –the practices and dominant attitudes in society that devalue and limit the potential of persons with disabilities. A set of practices and beliefs that assign inferior value (worth) to people who have developmental, emotional, physical or psychiatric disabilities.

(<http://www.stopableism.org/what.asp>)

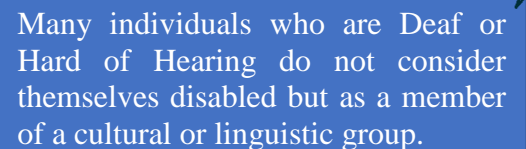
When making a plan to bring clients with disabilities into shelter, advocates should help clients plan for disability-related needs, such as:

- Adaptive equipment (wheelchair, shower bench, crutches, communicative devices, etc.)
- Medications/prescriptions/doctor's orders
- Urological supplies
- Service animal and needed supplies for their care
- Names and phone numbers of home health agencies, caseworkers and other disability service providers to assist in coordinating services
- Phone numbers of supportive loved ones or past attendants who might be willing to help with personal care tasks
- Medical records

(*Disability Services ASAP (A Safety Awareness Program) of SafePlace, 2000*)

Disability etiquette and sensitivity

- Make no assumptions based on appearance or communication. A person's disability may be more or less severe than it appears.
- Talk directly to the abuse survivor- not the care provider, family members, case manager, social worker or interpreter.
- Involve parents, caregivers, spouses, partners, service providers and other family members only if a survivor gives full consent.
- The Survivor may be guarded by family members or service providers and support staff may be walking a fine line between the wishes of a client, their guardian, family members, and agency policies and practices.
- Take special notice of any person who answers for and does not ever leave the survivor. This person may be working with, or actually be, the abuser. (For information on screening for abusers see page 38.)
- People with cognitive disabilities and/or mental illness may take longer to process feelings and information. Take additional time if needed for intake, advocacy, and counseling services.



Many individuals who are Deaf or Hard of Hearing do not consider themselves disabled but as a member of a cultural or linguistic group.

- Go slowly and take your cues from the survivor.
- Support the survivor in making decisions and choices as you would any other survivor.
- Keep in mind that living a “normal” life does not make a person with a disability extraordinary or heroic or special.

Confidentiality

- The survivor is the client, but often family members, care providers and staff from various disability agencies expect that you will automatically give them all information about the circumstances of the survivor. If a client is not cognitively disabled, then advocates should defer to the client’s wishes about confidentiality as they do all other clients.
- All standard rules of confidentiality apply when serving a person with a disability. Extend the same respect for client confidentiality to a person with a disability as you would for any other survivor. Staff must get signed releases before talking about the case with family members, service providers, or others.
- Tennessee Adult Protective Services staff investigate reports of abuse, neglect (including self-neglect) or financial exploitation of adults who are unable to protect themselves due to a physical or mental limitation. Advocates have a responsibility to report the abuse of an adult who cannot care for themselves to APS. (Learn more- <http://tennessee.gov/humanservices/article/adult-protective-services#sthash.4Gai7P3l.dpuf>)

(Abramson, 2001)

Service Animals

All of the laws reviewed in Section I of this chapter require shelters to allow service animals.

Shelters must modify any “No Animals” policies and practices as needed to allow equal access to shelter for any person with a disability using a service animal.

Shelters are required to make reasonable physical modifications to the premises to allow persons with disabilities access to their programs and resources. Believing survivors when they tell you that an animal is a service animal complies with federal and state law and is a best practice. You do not need documentation. In fact, it is against the law to require an individual to present you with documentation as proof of their disability or for their service animal.

Invisible Disabilities

Invisible Disabilities refer to symptoms such as debilitating pain, fatigue, dizziness, cognitive dysfunctions, brain injuries, learning differences and mental health disorders, as well as hearing and vision impairments. These are not always obvious to the onlooker but can limit daily activities, range from mild challenges to severe limitations, and vary from person to person.

Someone who has a visible impairment or uses an assistive device such as a wheelchair, walker, or cane can also have invisible disabilities.

Unfortunately, people often judge others by what they see and often conclude a person can or cannot do something by the way they look. This can be equally frustrating for those who may appear unable, but are perfectly capable, as well as those who appear able but are not.

(Learn more- <https://invisible disabilities.org/what-is-an-invisible-disability/>)



Questions that are okay to ask regarding service animals-

‘Is this a service animal?’

‘What tasks is this animal trained to perform?’

Frequently asked questions regarding service animals:

Can we keep service animals out of common areas?

No. When service animals are working, they must always accompany their owners. When you limit where the animal can go, you are also limiting where the survivor can go.

Can staff or other residents interact with the service animal (i.e, petting, feeding, talking to)?

No. When the service animal is working, it needs its entire focus to do its job. This means no staff or other residents should ever touch, speak to, feed, or otherwise interact with the animal while it is working. If you are not sure if the animal is working, ask its owner. Always ask the animal’s owner before interacting with the animal, even if it is not working.



Is the shelter responsible for providing the animal’s food or care?

Generally, the animal’s owner is responsible for all feeding, care, clean up (unless prohibited by their disability), and associated costs. If the survivor is unable to pay for food and other supplies, the shelter should help when able or assist the survivor in seeking help from community agencies.

What if another resident is allergic to or afraid of the service animal?

Legally, allergies or aversions are not acceptable reasons for limiting shelter access to a survivor with disabilities and their service animal. Shelters should work to provide reasonable accommodations to all survivors. Per the ADA, that may mean advocates working to find accommodations in another shelter program for those survivors who are allergic or afraid.

(Learn more- https://www.ada.gov/regs2010/service_animal_qa.html)

A Note on Profoundly Disabled Survivors

An individual with a profound disability is someone who has one or more severe physical or mental impairments, which seriously limit their functional capacities (such as mobility,

communication, self-care, self-direction, and interpersonal skills) to the extent that they cannot reasonably care for themselves without trained assistance.

Agencies may interact with a survivor who is profoundly mentally or physically disabled and is in need of home-health resources in many or all areas of their lives, including bathing, eating, and caring for bodily functions and routine medical needs. In the event that the survivor has insurance, the shelter should work with the survivor’s insurance to help them secure a home-health aide during shelter and moving forward. However, agencies and advocates cannot and should not put themselves in the position of becoming medical caregivers to profoundly disabled survivors for multiple reasons, including-

- Advocates are not trained home-health aides. Profoundly disabled survivors deserve trained medical professionals caring for their needs.
- Advocates can easily put themselves in danger of crossing the bounds of practicing medicine without a license or dispensing medication, which would make them liable for any harm that comes to a profoundly disabled survivor under their care.

Agencies should seek trained medical professionals and licensed partner organizations to provide the care that profoundly disabled survivors need.

Creating an inclusive agency for survivors with disabilities- Agency Assessment



The following tool is a list of standards that programs should work to meet in order to respectfully, faithfully, and equitably serve survivors with disabilities. It is by no means an exhaustive list, and agencies will find additional resources for serving survivors with disabilities at the end of this chapter.

	Yes	No
The agency specifically mentions people with disabilities and Deaf people in the agency’s public outreach, including website, brochures, and social media.		
The agency’s strategic plan includes ways to increase accessibility to people with disabilities.		
The agency’s client non-discrimination policy specifically includes disability status.		

The agency conducts a yearly review to assess its physical accessibility to survivors with disabilities in order to identify issues and develop solutions. This includes a review of accessibility using the ADA for guidance (of the physical space, written material, communication practices and staff/volunteer ability) with a resulting action plan.		
The agency actively collaborates with local disability and/or deaf organizations to assure survivors with disabilities have access to a complete range of services.		
The agency provides auxiliary aids and accommodations to people with disabilities when requested.		
The agency has undergone any physical modifications necessary to make it accessible to wheelchair bound survivors.		
The agency provides sign language interpretation and/or tty service along with its other language services.		
The agency collects data on the number of people receiving shelter who identify as having a disability and uses this data to identify and address gaps in service.		
The agency invites disability organizations, specifically people with disabilities, to train agency staff.		
The agency supports people with disabilities to create and operate educational/empowerment groups, such as support groups.		
The agency recruits and employs people with disabilities as staff, volunteers, and board members.		
The agency asks all individuals at intake whether they need any accommodations to ensure full participation in service.		
The agency secures reasonable accommodations upon request within an established timeframe.		
The agency has a service animal policy that: Establishes the definition of a service animal. Allows service animals into their facility. Addresses concerns emerging from the presence of service animals, including allergies and phobias.		
All of the agency's facilities where services are provided meet the minimum standards of access set by the ADA, including: Bathrooms Approach and entrance Fire alarm system Resident sleeping rooms and communal spaces		

The agency explicitly names people with disability in its statement about the importance of respecting the diversity of the other residents in a communal living environment.		
<p>The agency’s public outreach is inclusive of disability and Deaf people by:</p> <p>Including disability access symbols.</p> <p>Using people-first language (e.g ‘person with disabilities’, ‘person in a wheelchair’ instead of ‘disabled’ or ‘wheelchair-bound’.)</p> <p>Recognizing the cultural identity of Deaf people by referring to them as a separate group.</p> <p>Including examples of abuse tactics that perpetrators use against people with disabilities and Deaf people.</p>		
The agency provides all routine materials in simple language and large print (16 or 18 point font).		
<p>The agency’s staff training includes:</p> <p>Power and control tactics perpetrators use against people with disabilities and Deaf people.</p> <p>Safety planning for survivors with disabilities.</p> <p>The potential negative consequences domestic violence survivors with disabilities experience when reaching out for assistance.</p>		

(Measuring Capacity to Serve Domestic Violence Survivors with Disabilities, VERA, 2015)

(Serving Sexual Violence Survivors with Disabilities; A Guide for Rural Dual/Multi-Service Advocacy Agencies, Pacey et.al)

Resources:

The Arc, People with Intellectual Disabilities and Sexual Violence,
<http://www.thearc.org/document.doc?id=3657>

National Center on Criminal Justice and Disability, The Arc,
<http://www.thearc.org/NCCJD/resources/by-audience/victim-advocates>

OVC Fact Sheet on working with victims of crime who have disabilities-
https://www.ncjrs.gov/ovc_archives/factsheets/disable.htm

OVC Multidisciplinary Response to Crime Vicims with Disabilities Community Guide,
<https://www.ovc.gov/pubs/victimswithdisabilities/communityguide/comm-print.html>

Measuring Capacity to Serve Domestic Violence Survivors with Disabilities, VERA, 2015

Serving Sexual Violence Survivors with Disabilities; A Guide for Rural Dual/Multi-Service Advocacy Agencies, Pacey et.al, Resource Sharing Project

Disability Services ASAP (A Safety Awareness Program) of SafePlace, 2000

ADA Best Practices Tool Kit for State and Local Governments, Chapter 7 Addendum 2: The ADA and Emergency Shelters, <https://www.ada.gov/pcatoolkit/chap7shelterprog.htm>

Case Management for Clients With Special Needs,
<https://www.ncbi.nlm.nih.gov/books/NBK64853/>

Invisible Disabilities Association, <https://invisibledisabilities.org/what-is-an-invisible-disability/>

Tennessee Adult Protective Services, <http://tennessee.gov/humanservices/article/adult-protective-services>

Stop Ableism Inc., <http://www.stopableism.org/what.asp>

Americans with Disabilities Act, <https://www.ada.gov/>

Safety Planning for Clients with Disabilities, Washington Coalition Against Domestic Violence,
<https://wscadv.org/resources/safety-planning-for-domestic-violence-victims-with-disabilities/>

Accessibility & Responsiveness for Survivors with Disabilities, Safety First Initiative, University of Missouri, 2006

