



The Intersection of Disability Law and Human Trafficking

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NC Human Trafficking Commission

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- Part 1: What is Disability Rights NC?
- Part 2: The intersection of disability and trafficking
- Part 3: How disability laws can help victims and can combat trafficking
- Part 4: FAQs from groups supporting victims



Part 1: What is Disability Rights NC?

- Every state and territory in the US has a Protection and Advocacy Organization (P&A).
- DRNC is the P&A agency in North Carolina, dedicated to advancing the legal rights of people with all types of disabilities, of all ages, statewide.
- Our services are free.
- We have no income requirements.



How We Got Started

Media scrutiny of NY's overcrowded Willowbrook State School in the 1970s provided a window into the horrific, inhumane conditions in institutions where people with disabilities were segregated & forgotten.

As a result, Congress created the Protection and Advocacy System (P&As).



Our Responsibilities

- Ensuring that people with disabilities live in safe and humane conditions
- Ensuring that people with disabilities are not unnecessarily institutionalized
- Enforcing the rights of all North Carolinians with disabilities under federal and state law
- Informing individuals about their legal rights and how to enforce them



Who Do We Help?

- People with lifelong or acquired disabilities (Intellectual/Developmental; Mental Illness; Traumatic Brain Injury; Physical)
- Families supporting people with disabilities
- We provide technical assistance to other agencies supporting a person with disabilities



Part 2: Disability & Trafficking

- People with disabilities are more likely to become victims (opportunity, barriers to reporting / credibility, intersectionality with poverty)
- People who have experienced trafficking are likely to develop disabilities (mental illness, traumatic brain injury, etc.)



Trauma & the link to disability

- People with disabilities are more likely to experience trauma, especially sexual abuse (NIH).
- People with high ACEs scores are often diagnosed with disability.
- 36% of people with disabilities reported high ACE exposure (NIH).
- Children with I/DD are overall less likely to be resilient.



Legal Definition of Disability

- A physical or mental impairment that substantially limits one or more major life activities; or
- A record of such an impairment; or
- Being “regarded as” having such an impairment.



“Regarded As”

- ADA protections are broader than you think.
- The ADA protects people who actually have a disability & those who have a record of a disability or are perceived as having a disability. Exception: if the perceived condition is both transient (lasting six months or less) and minor, then no protections exist.



Part 3: How Disability Laws Can Help

- May opens doors to Medicaid / specialty services
- May reduce likelihood of high-risk placements
- May allow for accommodations in housing / jobs / court
- Connects child to school resources / IEP / BIP
- May subject offenders to liability for crimes / torts (NCGS § 14-112.2. Exploitation of an elder adult or disabled adult; § 14-32.3. Domestic abuse, neglect, and exploitation of disabled or elder adults.)



Example of Medicaid Services for People with Disabilities

- Medicaid (1915(i) Home and Community Based Services):
 - **Community Living and Support** focuses on skill practice/acquisition and provides supervision/assistance for activities. For members with an I/DD or TBI.
 - **Community Transition** provides funds for adult members moving from an institutional setting into their own private residence. For members with an I/DD, serious mental illness (SMI), severe substance use disorder (SUD), or TBI.
 - **Individual and Transitional Support** service supports in acquiring, retaining and improving self-help, social and adapting skills to reside successfully in the community. For some members with a serious emotional disturbance (SED), SMI or severe SUD.
 - **Respite** provides periodic or scheduled support and relief to the primary caregiver(s) from the responsibility and stress of caring for beneficiaries. For some members with I/DD, SED, severe SUD, and TBI.
 - **Supported Employment** provides initial job development, training, etc.



Examples of School Services for People with Disabilities

- Individualized Education Plans (IEPs)
- 504 plans
- Behavior Intervention Plans (BIPs)
- Pre-Employment Transition Services (age 14-21: Job exploration counseling, work-based learning experiences, job counseling, training to develop social and independent living skills, and training in self-advocacy)



Other Common Resources

- [Disability Access Coordinators](#) (courts)
- [NC Centers for Independent Living](#)
- [National Alliance of Mental Illness – NC Chapter \(NAMI-NC\)](#)
- [The Arc of NC](#) (intellectual / developmental disabilities)
- [Autism Society of NC](#)



Take-Away

Look for possible disability link in victims with trauma histories and challenging behaviors.

Remember commonly missed conditions – FASD, TBI, anxiety and phobias. A diagnosis can help the victim connect with resources.



Part 4

Frequently Asked Questions



FAQ – Psych Eval

Q: Is a housing program allowed to require a full psychological prior to agreeing to admit someone?

A: No, most likely this would be deemed discriminatory (screening people based on disability), unless a qualifying mental health diagnosis is a prerequisite to receive services. In some cases, the info could be requested during an evaluation of a request for accommodation, but only if it relates to the request.

(Per 24 CFR 100.202, housing providers may make some inquiries, provided that they make those inquiries off ALL applicants (not just disabled applicants), and only if the inquiry is to see if an applicant 1. qualifies for some priority available to persons with disabilities, 2, is a current user of a controlled substance, or 3. qualifies for a dwelling that's only available to persons with disabilities/with a particular type of disability.)



FAQ – history of substance use

Q: Is a shelter / housing program allowed to dismiss or turn away applicants that are using illegal substances?

A: It depends. If they have a history of substance use but are not currently using, then they are fully protected under the ADA. But if they are currently using illegal substances, then the ADA would likely not apply to this type of shelter program. In that case, the shelters can refer them to a SUD treatment and residential program for assistance.



FAQ – drug testing

Q: Is a housing program allowed to drug test participants in their programs or being admitted to their programs?

A: It depends, and the rules are a bit unclear in the housing context. If a person has a history of using illegal drugs, then the ADA suggests that a person can be drug tested for housing when doing so is a reasonable policy. *See* 42 U.S.C. § 12210(b). But if a shelter is drug testing everyone as part of admission (or testing randomly) then it's unclear when the practice may constitute discrimination. We recommend having a clear written policy in place, and applying that policy consistently.



FAQ – top bunk

Q: Is a shelter / housing provider allowed to refuse entry to someone who is unable to get onto a top bunk?

A: No. If the inability to climb is due to a mobility-related disability, the housing provider must accommodate the disability by finding them accessible sleeping arrangements, as long as the request does not pose an undue hardship on the provider.



More Information

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Toll-Free: (877) 235-4210 Phone: (919) 856-2195

www.disabilityrightsnc.org – apply for help

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