



Legal Issues and Disasters: Things You Should Know

MGT - 366



**Emergency Management Forum
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Legal Preparedness

Policy Component

- **What** is going to be done?
 - Is there a statute or Executive Order which authorizes the planned action?

Operational Component

- **How** is it going to be done?
 - Are there rules, regulations, procedures or general orders which specifically describe who does what, and how they do it?

Two Additional Questions:

1. Is the existing legal authority consistent with the protection of individual rights and liberties as well as due process concerns?
2. What are the areas of potential liability and how can they be mitigated?



Course Introduction



Legal Issues and Disasters: Things You Should Know

Non-Procedure Instructor Guide

November, 2011



University of the District of Columbia
Institute for Public Safety & Justice
Homeland Security/Emergency Management Division

Course focuses on selected legal issues with their often attendant liability concerns arising as state, tribal, territorial, and local governments attempt to address the impact of an emergency event.



Course Overview

- The **goal of the course** is to enhance the ability of state, tribal, territorial, and local governments, emergency managers and planners, first responders, and VOADs to identify potential legal issues.
- Course organized into four modules
 - Module 1: Planning
 - Module 2: Evacuation
 - Module 3: Shelters
 - Module 4: Out-of-State Volunteers
 - Module 5: Federal Financial Assistance & Reimbursement



Course Structure



Scenario
Case Studies
Presentation



Type of Events and Planning

- Rapid onset events
- Isolating events
- Power failure events
- Large-scale events



Module 1: Planning



Photo Source - FEMA Photo Library (photographer – Eliud Echevarria)

- Overview of selected activities typically in place prior to a natural disaster or terrorist event.
- Planning is a continual process.
- Plans should be updated after a major event.



Issues Covered in Module 1

- National Incident Management System (NIMS).
- “Whole Community” concept
- Emergency planning and working with tribal governments
- Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act
- “Integration Mandate”
- Integrated Public Alert and Warning System (IPAWS)
- Public alert and warning for children and adults with disabilities and others with access and functional needs



Integration Mandate



- Programs and services in integrated settings
- Integration of general population and people with access and functional needs planning.
- Integration/inclusion of people with disabilities on planning team



Module 2: Evacuation

This module provides an overview of legal issues and potential liability areas that can arise as governmental units attempt to evacuate a segment of the population before an impending disaster, or as a result of one.



Photo Source - FEMA Photo Library (photographer – Patsy Lynch)



Issues Covered in Module 2

- Authority to Order Evacuation
- Voluntary vs. Mandatory Evacuation
- Transportation Issues
- Evacuation and Pets
- Refusal to Evacuate



Question

A study by FEMA's Community Preparedness Division found that of the people who indicated they would need help in evacuating, what percentage said they needed help with transportation?

- a. 40%
- b. 50%
- c. 60%
- d. 65%
- e. 70%



Reasons for Refusal

Top Reasons for Refusal to Evacuate	Percentage
Home is well-built and they would be safe	75%
Roads would be too crowded	56%
Evacuating would be dangerous	36%
Worry possessions would be stolen or damaged	33%
Do not want to leave their pets	27%



Case Study



Photo Source - FEMA Photo Library (photographer – Win Henderson)

- The bus company that was under contract to evacuate residents supplied buses that were not wheelchair accessible.
- Several people with disabilities were killed or seriously injured waiting to evacuate.



Module 3: Shelters



Photo Source - FEMA Photo Library (photographer – Greg Henshall)

This module provides an overview of legal issues and potential liability areas that can arise as governmental units or non-profit organizations attempt to provide emergency shelter following a catastrophic event or terrorist incident.



Issues Covered in Module 3

- Shelter Accessibility
- Functional Needs Support Services
- Service Animals
- Household Pets
- Discrimination in Emergency Shelters
- Infectious Diseases and Social Distancing



Question

During an infectious outbreak, what distance from others does the Centers for Disease Control and Prevention recommend?

- a. One foot
- b. Two feet
- c. Three feet
- d. Four feet
- e. Five feet



Service Animals & Shelters





Module 4: Out-of-State Volunteers

Some of the many organizations that send volunteers to assist in disasters.



CHURCH WORLD SERVICE





Overview of Module



Citizen Corps Volunteer Liability Guide

An Overview of Legal Issues and Approaches to Address
Liability for Emergency Volunteers



- FEMA's Citizen Corps Volunteer Liability Guide is an excellent resource.
- This module will cover
 - Type of Volunteer
 - Type of Liability
 - Examples of Liability Protection



Type of Liability



Storm Cloud of Legal Issues

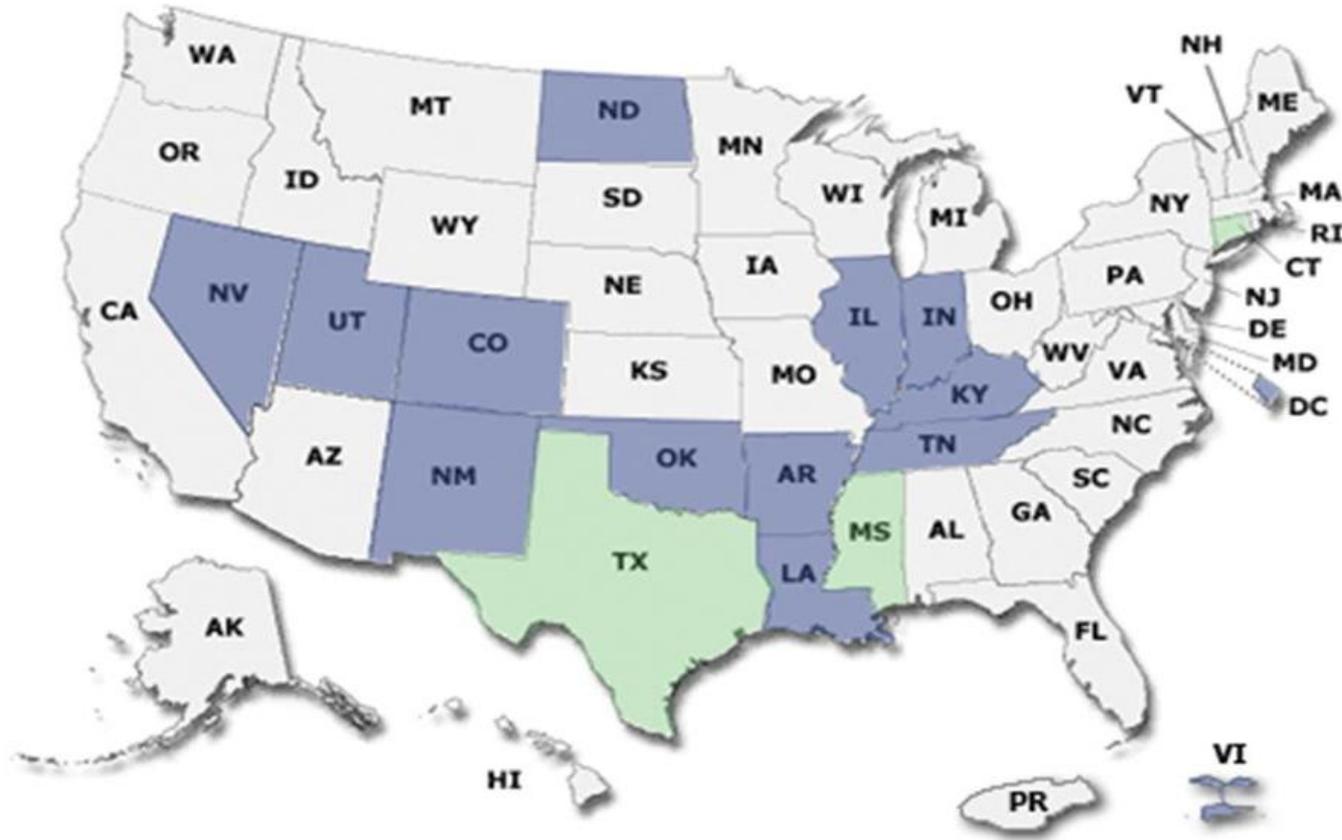
Civil Liability

Injury / Death

Licensing & Credentials



Enactment of UEVHPA



As of November 2011

■ = Enacted ■ = Introduced this Year



Issues Covered in Module 4

- Type of volunteer
- Type of liability
 - Civil liability
 - Liability related to licenses and credentials
 - Liability related to injury and death
- Examples of Liability Protections
- Protections depend on affiliation, whether one is paid, state law, and other factors



Module 5: Federal Financial Assistance and Reimbursement



- Federal assistance after declared disaster authorized under Stafford Act.
- Three categories
 - Individual Assistance
 - **Public Assistance**
 - Hazard Mitigation
- Debris as example of public assistance program



Issues Covered in Module 5

- Disaster declaration process
- Types of federal assistance
- Eligibility under Stafford Act
- Eligible and ineligible debris removal
- Debris removal on private property
- Permissible and prohibited contracts
- Common reasons for FEMA claim rejection



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