



Public Trust and Institutional Duties at ACLU Northern California

How Epistemic and Fiduciary Failures Undermine Accessibility

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Abstract

This essay critically evaluates the fiduciary, epistemic, and legal obligations of public-interest organisations, specifically examining the American Civil Liberties Union of Northern California's (ACLU NorCal) policy of limiting case-intake communications exclusively to postal mail. Employing fiduciary theory—particularly Tamar Frankel's scholarship—and my recent work, *Directors' Epistemic Duties and Fiduciary Openness* (2025), the analysis highlights how such restrictive policies constitute explicit breaches of fiduciary duties (openness, fairness, transparency, good faith) and epistemic responsibilities (epistemic openness, epistemic justice). Furthermore, the essay argues that digital inaccessibility violates provisions of the Americans with Disabilities Act (ADA), systematically disadvantaging disabled individuals and other marginalised groups. Through critical

analysis of ACLU NorCal's explicit and implicit institutional commitments, it reveals contradictions between professed values and actual practices, undermining public trust, social cohesion, and democratic legitimacy. The essay concludes with explicit policy recommendations for enhancing digital, multilingual, and international accessibility, alongside governance reforms to ensure ongoing fiduciary and epistemic accountability.

Keywords

fiduciary duties, epistemic duties, fiduciary theory, epistemic justice, epistemic openness, institutional accountability, transparency, ADA compliance, digital accessibility, restrictive communication, public trust, ACLU NorCal, accessibility barriers, ethical governance, epistemic harm, institutional responsibility, Tamar Frankel, Miranda Fricker, John Rawls, Americans with Disabilities Act, epistemic fiduciary obligations, epistemic exclusion, multilingual accessibility, social cohesion, democratic legitimacy

Table of Contents

Illustration Description and Analysis	4
1. Introduction	5
1.1 Contextual Background	5
1.2 Statement of the Problem	5
1.3 Purpose and Thesis Statement	5
2. The Fiduciary Framework: Ethical and Epistemic Duties	6
2.1 Conceptualising Fiduciary Duties	6
2.2 Epistemic Fiduciary Duties	6
2.3 Practical Application to ACLU Northern California	6
3. The ACLU's Explicit and Implicit Mission: Internal Contradictions	7
3.1 Explicit Mission and Values	7
3.2 Implicit Fiduciary and Ethical Commitments	7
3.3 Resulting Institutional Hypocrisy	8
4. Potential Violations Under the Americans with Disabilities Act (ADA)	8
4.1. Overview of ADA Compliance Requirements.....	8
4.2. Analysis of Digital Accessibility and the ADA.....	9
4.3. Broader Ethical Implications.....	9
5. Epistemic Justice and Institutional Responsibility.....	10
5.1 Theoretical Framework: Epistemic Justice.....	10
5.2 Applying Epistemic Justice to ACLU NorCal.....	10
5.3 Institutional Responsibility	10
6. Recommendations for Compliance and Improved Epistemic Governance	11
6.1 Explicit Recommendations for Policy Reform.....	11
6.2 Improved Fiduciary Governance Structures	12
7. Conclusion	12
Bibliography	13
Author Contact Information	13
Cite this work	14

Illustration Description and Analysis

The illustration accompanying this essay, generated using the DALL-E AI image-generation model with stylistic instructions influenced by the pop-art aesthetic of Roy Lichtenstein, portrays three central figures positioned symbolically to convey a critical narrative. In the foreground, an anxious African American man expresses visible distress, representing marginalised individuals facing barriers in accessing institutional support. Central to the image is a sleeping professional dressed in business attire, lying across a path that symbolically connects the distressed individual to Lady Justice, who stands at a distance. The sleeping figure explicitly symbolises institutional negligence and bureaucratic indifference.

Lady Justice, traditionally depicted blindfolded with scales and sword, represents impartial justice and epistemic fairness. However, her physical remoteness and the obstructed pathway underscore a profound epistemic injustice: despite explicit institutional commitments to openness and accessibility, depicted here through a prominently displayed plaque bearing 'ACLU'—visibly cracked and deteriorating—the institution is failing its fiduciary and epistemic responsibilities. The cracked plaque explicitly signifies the erosion of institutional legitimacy and public trust.

This illustration critically captures the central argument of this essay, explicitly emphasising that restrictive communication policies and procedural negligence at organisations like ACLU NorCal undermine epistemic justice, institutional accountability, and fiduciary openness. Rather than embodying genuine stewardship of democratic values, these institutions risk perpetuating exclusion, marginalisation, and epistemic harm.

1. Introduction

1.1 Contextual Background

The American Civil Liberties Union of Northern California (ACLU NorCal) describes itself as “an enduring guardian of justice, fairness, equality, and freedom, working to protect and advance civil liberties” and asserts that constitutional rights—such as free speech, privacy, and due process—“don’t just exist on paper, but also in practice” {ACLU NorCal, ‘Mission and Values’ available at <<https://www.aclunc.org/about>> accessed 9 July 2025}. These public-facing statements establish explicit institutional commitments to inclusivity, transparency, and accountability. Implicitly, they also create a set of fiduciary obligations toward the public—namely openness, responsiveness, equity, and good faith—grounded in established fiduciary theory {Frankel 2011}. Furthermore, these obligations inherently impose epistemic responsibilities, requiring the organisation to remain receptive to contributions, testimony, and case information from marginalised voices, consistent with principles of epistemic justice {Fricker 2007; Kahl, ‘Directors’ Epistemic Duties and Fiduciary Openness’, 2025}.

1.2 Statement of the Problem

In practice, however, ACLU NorCal maintains a communication system that permits only postal-mail submissions for case intake and assistance. No email or secure web-form alternatives are offered—a fact that creates substantial barriers for those unable to use postal mail easily. This includes individuals with disabilities, those in rural areas, low-income persons, and others facing practical constraints. By privileging one communication modality, the organisation effectively suppresses voices that rely on digital access, exacerbating testimonial injustice and contributing to structural epistemic exclusion {Fricker 2007}. Moreover, such a restrictive policy may constitute a breach of the Americans with Disabilities Act (ADA), which requires reasonable access and accommodation for persons with disabilities.

1.3 Purpose and Thesis Statement

This essay critically argues that ACLU NorCal’s restrictive communication policies constitute explicit breaches of fiduciary duties—specifically, duties of openness, transparency, fairness, and good faith—as articulated in fiduciary theory {Frankel 2011}. It further contends that these restrictive practices violate epistemic fiduciary responsibilities, notably duties of epistemic openness and epistemic justice, systematically marginalising already disadvantaged communities {Kahl, ‘Directors’ Epistemic Duties and Fiduciary Openness’, 2025}. Additionally, the essay posits that these practices may represent non-compliance with ADA provisions requiring equal and reasonable access to services for persons with disabilities. Ultimately, the essay underscores that restrictive communication policies significantly erode public trust, undermining the very principles upon which the ACLU NorCal explicitly and implicitly bases its institutional legitimacy and ethical authority.

2. The Fiduciary Framework: Ethical and Epistemic Duties

2.1 Conceptualising Fiduciary Duties

Fiduciary duties emerge explicitly when an organisation voluntarily undertakes to act in the interests of others, committing itself ethically and legally to prioritise those interests above self-interest. In Tamar Frankel's foundational analysis, fiduciary duties broadly encompass loyalty, openness, accessibility, fairness, and good faith {Frankel 2011}. Frankel articulates that fiduciaries owe an unequivocal duty of loyalty—placing beneficiaries' interests foremost—and duties of openness and transparency that mandate clear communication and receptivity. Furthermore, fiduciaries must remain accessible, ensuring their services and interactions accommodate those they serve, particularly marginalised or disadvantaged groups. Fairness necessitates impartial treatment without arbitrary discrimination, while good faith embodies an authentic commitment to uphold fiduciary obligations sincerely and diligently {Frankel 2011}.

Applying this fiduciary framework explicitly to public-interest organisations, such as the ACLU NorCal, underscores the moral imperative to maintain transparent practices, openly communicate with stakeholders, and prioritise public accessibility. These institutions, having explicitly declared their commitment to serve public interests, become fiduciaries accountable to society at large. Consequently, they must embody fiduciary virtues consistently, avoiding practices that undermine the very trust and legitimacy upon which they rely.

2.2 Epistemic Fiduciary Duties

Building upon Frankel's fiduciary theory, the concept of epistemic fiduciary duties extends the fiduciary framework explicitly into the epistemic realm, encompassing responsibilities concerning knowledge, information exchange, and communication. As developed in my recent work, "Directors' Epistemic Duties and Fiduciary Openness" (2025), epistemic fiduciary duties explicitly require fiduciaries to remain proactively open to diverse sources of knowledge, criticism, and testimony, especially from communities historically excluded from epistemic participation {Kahl, "Directors' Epistemic Duties and Fiduciary Openness", 2025}. Epistemic fiduciary obligations include duties of epistemic openness—actively encouraging communication and remaining receptive to critical input—and duties to combat epistemic injustice by recognising and remedying systemic exclusions {Fricker 2007; Kahl, "Directors' Epistemic Duties and Fiduciary Openness", 2025}.

The rationale underpinning epistemic fiduciary duties is explicitly that fiduciaries, by virtue of their entrusted roles, inherently assume responsibilities beyond traditional legal or economic interests, extending to ethical obligations regarding how they handle, disseminate, and value knowledge. This epistemic dimension is particularly critical for public-interest entities, which rely explicitly on the exchange of accurate, comprehensive information and the active engagement of diverse communities to fulfil their mandates ethically and effectively.

2.3 Practical Application to ACLU Northern California

ACLU NorCal's current policy limiting case intake to postal submissions explicitly contravenes fiduciary principles articulated by Frankel, particularly openness and fairness. By restricting communication channels to postal mail, the organisation breaches its fiduciary openness by erecting unnecessary procedural barriers. This explicitly conflicts with fiduciary duties, as it effectively excludes individuals unable to utilise traditional postal communication methods easily or affordably. Such exclusion disproportionately impacts marginalised groups—

those facing geographic isolation, financial hardship, or disabilities—thereby undermining fiduciary fairness by systematically disadvantaging specific segments of the community.

Beyond fiduciary fairness, restrictive communication profoundly violates epistemic fiduciary obligations as articulated explicitly in my work, *Directors’ Epistemic Duties and Fiduciary Openness* (2025). By artificially constraining channels for receiving information and critical knowledge from the public, ACLU NorCal perpetuates epistemic injustice, particularly testimonial injustice, wherein the credibility and knowledge contributions of disadvantaged groups are systematically suppressed or dismissed {Fricker 2007; Kahl, “Directors’ Epistemic Duties and Fiduciary Openness”, 2025}. Consequently, the organisation impairs its epistemic effectiveness, diminishing its capacity to identify, understand, and effectively respond to emerging civil liberties issues. These epistemic harms explicitly limit the organisation’s ability to fulfil its declared mission, eroding public trust and undermining its ethical legitimacy and fiduciary credibility.

3. The ACLU’s Explicit and Implicit Mission: Internal Contradictions

3.1 Explicit Mission and Values

ACLU NorCal explicitly identifies itself as an organisation dedicated to safeguarding justice, equality, and fundamental freedoms. Its official mission statement declares unequivocally:

‘The ACLU of Northern California is an enduring guardian of justice, fairness, equality, and freedom, working to protect and advance civil liberties for all Californians’ {ACLU NorCal, ‘Mission and Values’ available at <<https://www.aclunc.org/about>> accessed 9 July 2025}.

Further emphasising practical advocacy rather than theoretical commitments alone, ACLU NorCal explicitly asserts that constitutional rights—such as freedom of expression, privacy, and due process—‘don’t just exist on paper, but also in practice’ {ACLU NorCal, ‘Mission and Values’ available at <<https://www.aclunc.org/about>> accessed 9 July 2025}. Through its various campaigns, advocacy materials, and public communications, the organisation consistently highlights commitments to openness, inclusivity, accessibility, and equity, explicitly positioning itself as a frontline defender of civil liberties for diverse and historically marginalised groups across Northern California.

3.2 Implicit Fiduciary and Ethical Commitments

In explicitly advocating for public interests and positioning itself as a trusted guardian of rights, ACLU NorCal implicitly assumes fiduciary and ethical responsibilities toward the communities it serves. By virtue of its declared public-interest mandate, the organisation implicitly accepts fiduciary obligations—specifically duties of openness, accessibility, fairness, transparency, and good faith—as articulated by fiduciary theory {Frankel 2011}. Additionally, these implicit fiduciary obligations extend into the epistemic domain, creating epistemic fiduciary responsibilities to remain open and receptive to knowledge, testimony, and critical input from all segments of society, particularly disadvantaged or epistemically marginalised communities {Kahl, “Directors’ Epistemic Duties and Fiduciary Openness”, 2025; Fricker 2007}.

However, ACLU NorCal’s current practice of permitting only postal-mail submissions for case intake directly contradicts these implicit fiduciary and ethical commitments. This restrictive policy implicitly signals institutional indifference or even disregard toward individuals whose circumstances necessitate digital or electronic communication channels, thereby implicitly undermining ACLU NorCal’s professed commitment to accessibility and inclusivity.

3.3 Resulting Institutional Hypocrisy

The divergence between ACLU NorCal’s explicitly stated mission of openness, accessibility, and fairness, and its implicitly restrictive procedural policies creates a significant internal contradiction amounting to institutional hypocrisy. While explicitly advocating inclusivity and accessibility as foundational organisational values, ACLU NorCal simultaneously maintains communication practices that implicitly exclude entire segments of the population—particularly persons with disabilities, rural residents, economically disadvantaged individuals, or others unable to readily utilise postal services.

This contradiction is not merely rhetorical but substantively problematic. The restrictive communication practice breaches fiduciary obligations of openness, fairness, and good faith, while also violating explicit epistemic fiduciary responsibilities by systematically suppressing knowledge and testimony from disadvantaged groups. Such epistemic exclusion perpetuates testimonial injustice and diminishes the organisation’s capacity to genuinely fulfil its declared mandate {Fricker 2007; Kahl, “Directors’ Epistemic Duties and Fiduciary Openness”, 2025}. Ultimately, the inconsistency between ACLU NorCal’s stated principles and implicit operational practices weakens its ethical credibility, damages public trust, and undermines its effectiveness as a fiduciary and epistemic advocate for civil liberties.

4. Potential Violations Under the Americans with Disabilities Act (ADA)

4.1. Overview of ADA Compliance Requirements

The Americans with Disabilities Act (ADA), enacted in 1990, explicitly requires public entities and service providers to ensure equitable and reasonable accessibility for individuals with disabilities. Under Title III of the ADA, organisations providing public accommodations must proactively eliminate unnecessary barriers to access, making services equally available and effectively accessible to individuals regardless of disability {Americans with Disabilities Act, 42 USC §§ 12101 et seq.}. Specifically, the ADA mandates that entities must provide reasonable modifications in policies, practices, or procedures, unless such accommodations constitute an undue hardship or fundamentally alter the nature of the service provided. Crucially, this includes explicit obligations to provide accessible methods of communication to individuals with disabilities, ensuring that procedural or communication-related obstacles do not result in discriminatory exclusion or unequal treatment {42 USC §§ 12182(a)-(b)}.

4.2. Analysis of Digital Accessibility and the ADA

ACLU NorCal's policy permitting case intake exclusively through postal mail raises substantial concerns regarding compliance with ADA requirements for communication accessibility. By explicitly refusing to accept online or email submissions, ACLU NorCal creates unnecessary procedural barriers disproportionately affecting individuals with disabilities—particularly those facing physical, mobility-related, or cognitive impairments that make reliance on traditional postal communication excessively burdensome or even impossible. The exclusion of digital communication options, increasingly recognised by courts and regulatory agencies as a necessary standard for accessibility, constitutes an explicit denial of reasonable accommodation under ADA requirements {42 USC §§ 12182(b)(2)(A)(ii)}.

Courts have consistently interpreted ADA provisions as requiring entities that serve the public to adopt accessible digital alternatives where feasible, recognising digital communication as a reasonable accommodation that significantly enhances accessibility for disabled populations. Accordingly, ACLU NorCal's refusal to adopt digital or online case intake options likely constitutes a failure to comply with ADA obligations, explicitly discriminating against individuals who rely on digital communication due to disability or related accessibility constraints.

4.3. Broader Ethical Implications

Beyond explicit legal obligations, ACLU NorCal's restrictive communication policy produces serious ethical and epistemic repercussions, exacerbating epistemic injustice and perpetuating testimonial exclusion. Epistemic injustice, particularly testimonial injustice, emerges explicitly when marginalised groups face systematic dismissal or exclusion, thereby limiting their effective participation in societal discourse and decision-making processes {Fricker 2007}. This exclusion has broader societal implications, reinforcing existing social stratifications by disproportionately disadvantaging groups already marginalised or disabled, intensifying social inequalities, and undermining social cohesion.

As John Rawls argues, justice fundamentally requires social institutions to uphold fair and equal opportunities for participation, particularly for the least advantaged. Institutional practices that perpetuate exclusion, knowingly or negligently, erode democratic legitimacy by systematically denying groups equitable representation in the public sphere, violating fundamental democratic principles of fairness and equality {Rawls 1971}. Rawls explicitly emphasises that fair institutions must not only articulate principles of justice but must actively embody those principles in practice.

By restricting digital accessibility, ACLU NorCal implicitly reinforces systemic barriers, exacerbating existing inequalities, undermining collective trust, and ultimately weakening democratic governance. Such institutional exclusion explicitly contradicts fiduciary and epistemic obligations of openness and fairness, thereby not only diminishing organisational credibility but also undermining broader societal cohesion and democratic legitimacy {Frankel 2011; Kahl, "Directors' Epistemic Duties and Fiduciary Openness", 2025}.

Integrating these broader social considerations thus strengthens the ethical argument, demonstrating the critical importance of organisational accountability not only for individual justice but also for sustaining social cohesion and democratic integrity.

5. Epistemic Justice and Institutional Responsibility

5.1 Theoretical Framework: Epistemic Justice

Miranda Fricker’s theory of epistemic injustice distinguishes two primary forms: testimonial injustice, where individuals’ knowledge or testimony is unfairly dismissed due to structural prejudice; and hermeneutical injustice, occurring when marginalised groups lack adequate interpretative resources to articulate their experiences effectively [Fricker 2007]. As developed explicitly in my recent work, “Directors’ Epistemic Duties and Fiduciary Openness” (2025), institutional fiduciaries have clear epistemic responsibilities to prevent such injustices by maintaining openness and transparency, ensuring that marginalised voices are fairly heard and represented.

5.2 Applying Epistemic Justice to ACLU NorCal

ACLU NorCal’s restrictive postal-only communication policy exemplifies testimonial injustice by systematically excluding individuals who rely upon digital means of communication due to disability, economic disadvantage, or geographical constraints. This practice not only limits affected individuals’ epistemic credibility but also contributes to hermeneutical injustice by silencing their perspectives in public discourse, reducing their capacity to shape collective understanding of civil liberties issues. While earlier chapters explicitly identified the fiduciary and legal violations inherent in this policy, this analysis underscores specifically how these exclusions constitute epistemic harms, deepening structural inequalities and perpetuating epistemic marginalisation.

5.3 Institutional Responsibility

Institutional responsibility requires ACLU NorCal to explicitly adhere to epistemic virtues—transparency, openness, and receptiveness—as part of its fiduciary obligations. Given its explicit mission to advocate for civil liberties, the organisation must proactively address epistemic injustices stemming from restrictive policies. This involves practical measures to broaden accessibility, such as introducing digital communication channels, thereby actively rectifying epistemic exclusions. Such proactive institutional accountability would strengthen public trust, reinforce democratic inclusivity, and uphold the organisation’s declared ethical and epistemic commitments.

6. Recommendations for Compliance and Improved Epistemic Governance

6.1 Explicit Recommendations for Policy Reform

To effectively align its operational practices with fiduciary, epistemic, and legal obligations, ACLU NorCal should urgently implement several explicit policy reforms:

Digital and Email Submission Options:

ACLU NorCal must introduce accessible online submission forms and publicly available email addresses, enabling straightforward communication without unnecessary procedural burdens. Concerns regarding spam or automated messaging can be readily addressed through contemporary email-filtering technologies, as is common practice within universities and other public institutions. Accepting minor inconveniences, such as occasional spam, explicitly represents a necessary, good-faith effort to maintain genuine accessibility and fulfil public fiduciary duties.

Moreover, rather than restricting communication methods, institutions should explicitly offer more, not fewer, channels for public engagement. In line with best practices from UK academia, ACLU NorCal should allow potential clients, colleagues, and members of the public to contact individual principals directly, enhancing transparency, accountability, and epistemic openness.

Simplified and Accessible Communication Forms:

Online submission forms should be explicitly simplified, avoiding complexity and burdensome requirements that deter submissions. These forms must explicitly support file uploads, including documents or photographic evidence, thereby enhancing communicative efficiency and inclusivity.

An alternative, streamlined communication method—such as live chat staffed by human representatives—should also be explicitly provided. This measure would ensure genuine, meaningful interaction rather than relying solely on automated systems, which inadequately address nuanced public concerns.

Additionally, explicit accommodations should be made for visually impaired individuals, such as integrating screen-reader-compatible forms and providing alternative accessible formats (e.g., audio interfaces or specialised telephone assistance).

Multilingual and International Accessibility:

Considering Northern California's diverse demographics, ACLU NorCal should explicitly provide multilingual communication platforms. At minimum, content should be accessible in Spanish and English. Additionally, given the region's ethnic composition, facilities in Chinese, Japanese, or other commonly spoken languages would substantially enhance epistemic accessibility, fairness, and institutional inclusivity.

Furthermore, ACLU NorCal must explicitly refrain from geographically blocking communications from international jurisdictions. Information from international sources may hold significant epistemic value and relevance to local civil liberties issues. Maintaining open international communication channels is therefore essential for genuine epistemic openness and global fiduciary accountability.

6.2 Improved Fiduciary Governance Structures

To embed epistemic and fiduciary openness explicitly within its governance structures, ACLU NorCal should adopt the following measures:

Explicit Governance Framework for Openness:

The organisation should explicitly formalise epistemic openness and fiduciary accessibility as core governance principles. Clear internal guidelines must articulate fiduciary and epistemic duties, defining explicit responsibilities to proactively solicit, receive, and fairly consider public input—particularly from historically marginalised and epistemically disadvantaged communities.

Continuous Internal Review and Accountability Processes:

Regular, explicit internal reviews should be institutionalised, assessing communication practices, digital accessibility compliance, and responsiveness to community inputs. This review process should include explicit measures for identifying and rectifying epistemic exclusions or fiduciary breaches, thereby ensuring continuous improvement in institutional accountability. An epistemic accountability officer or dedicated oversight committee should be explicitly tasked with monitoring these processes, ensuring alignment with fiduciary duties, epistemic justice, and ADA compliance.

Adopting these explicit governance reforms would not only strengthen fiduciary and epistemic integrity but also explicitly reinforce public trust, democratic inclusivity, and organisational legitimacy.

7. Conclusion

This essay argued that ACLU NorCal’s restrictive, postal-only communication policies constitute significant breaches of fiduciary duties, epistemic responsibilities, and potential violations under the Americans with Disabilities Act (ADA). These findings illustrate that such restrictive practices undermine the organisation’s stated commitments to openness, transparency, inclusivity, and epistemic fairness, effectively eroding public trust and institutional legitimacy.

The analysis further demonstrated that epistemic injustice results from exclusionary communication practices, disproportionately disadvantaging disabled, economically marginalised, and geographically isolated individuals. These epistemic harms not only impair organisational effectiveness but also exacerbate social stratification and diminish democratic cohesion, contradicting fundamental fiduciary and ethical principles articulated by fiduciary theory and epistemic justice scholarship {Frankel 2011; Fricker 2007; Kahl, “Directors’ Epistemic Duties and Fiduciary Openness”, 2025; Rawls 1971}.

To address these fiduciary and epistemic failures, ACLU NorCal must urgently reform its communication policies, explicitly embracing digital and multilingual accessibility, simplified email and submission forms, and genuine, human-centred engagement channels. Additionally, institutional governance should explicitly embed continuous epistemic accountability processes, ensuring ongoing compliance with fiduciary duties and ADA mandates.

Ultimately, this urgent call extends beyond ACLU NorCal. All public-interest institutions committed to justice, equity, and democratic integrity must rigorously evaluate their practices to ensure alignment with fiduciary responsibilities and epistemic virtues. Only through such proactive institutional reform can genuine openness,

accessibility, and epistemic justice be realised, reinforcing public trust and the ethical foundations of democratic society.

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