

ADA Rights of Deaf and Hard of Hearing Citizens

WHAT IS THE ADA?

The Americans with Disabilities Act (ADA) is a civil rights law that prohibits discrimination against people with disabilities, including Deaf and hard of hearing people. There are five Titles (sections) in the law: Title I - Employment, Title II - Public Entities (state and local government entities), Title III - Public Accommodations, Title IV - Telecommunications and Title V - Miscellaneous Provisions. Each Title of the ADA lists services that should be provided for Deaf and hard of hearing individuals. [CLA1] As the landmark civil rights legislation for all citizens with disabilities, the ADA requires equal access to all aspects of society and thus prohibits discrimination against people with disabilities above and beyond the protections for disabled persons in previous federal laws such as the Rehabilitation Act of 1973.

In each area, there are other rules that may apply to your situation. The Education and Training Program of the Colorado Commission for the Deaf and Hard of Hearing (CCDHH) can provide more information or answer your specific questions.

In general, the ADA requires agencies, businesses, service providers, and employers to remove communication barriers that prevent a Deaf or hard of hearing person from full and equal participation. Employers with fifteen or more employees must eliminate discriminatory practices that would prohibit equal employment opportunity. Private businesses, medical professionals [CLA 3], and nonprofit organizations must make their facilities and services accessible, to people with disabilities. Under the ADA, all state and local government activities and programs must be accessible.

An employer who is asked to make a reasonable accommodation may claim that there would be an "undue hardship," meaning a significant difficulty or expense. This will depend on the nature and net cost of the accommodation, the overall financial resources of the business, and the type of operation of the business.

An agency or organization must adopt and publicize procedures on available auxiliary aids and services and how to request them [CLA4]. The law requires people who are Deaf or hard of hearing to disclose their disability upon requesting an auxiliary aid or service. Auxiliary aids and services include qualified interpreters, Communication Access Real-time Translation (CART), and telecommunications-equipment for the deaf and hard of hearing (such as videophones, TV captioning/subtitles, transcriptions, CapTels, and amplified phones, and assistive listening systems (loop, FM, infrared system) are all available tools to communicate. Providers or employers need to be informed on which auxiliary service or equipment will be the most effective for the deaf or hard of hearing requester.

WHAT IS EFFECTIVE COMMUNICATION?

It is typically perceived that the Deaf or hard of hearing person is the one who needs auxiliary aids or services or equipment to have access to spoken information but, in reality, effective communication goes both ways. Hearing people also rely on them to communicate effectively with deaf and hard of hearing people. The usage of auxiliary services or equipment provides the means for the spoken information to

be accessible. They also make information expressed in sign language accessible for the hearing party. [CLA5]

SIGN LANGUAGE INTERPRETERS

The U.S. Department of Justice (DOJ) defines a *qualified interpreter* as one who can "interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary." [CLA6] An interpreter who is qualified for one type of interpreting assignment may not have sufficient skills for interpreting in another situation.

The Title Protection under the Colorado Consumers Act requires interpreters to disclose their credentials (qualification and certifications) so hiring parties and the deaf or hard of hearing sign language users have the rights to request credential information from interpreters.

When providing effective communication, entities should consider the auxiliary aid or service of the individual's choice. If the auxiliary aid results in an undue burden/hardship, alternate and effective auxiliary aids should be provided. [CLA7] It is always ideal that both parties work together to make necessary arrangements. E-mail or videophone correspondences are usually best for the pre-arranging of interpreters.

TELECOMMUNICATIONS

As a means of contacting Deaf people, the videophone is the primary choice of telecommunications equipment. E-mailing generally comes in as a second preference. Most videophones are set up in a way that the hearing party can reach the Deaf person via a videophone number in the same way one would normally use a telephone. Conversations or messages can be left through the use of a live video relay interpreter. As for the older teletypewriters (TTY or TDD), they are almost non-existent in the Deaf community nowadays. As for the hard of hearing people, the usage of CapTel and amplified phones are popular. These types of telecommunications equipment work with any telephone used by the other party at the end of the line.

TITLE I - EMPLOYMENT

The ADA says employers with more than 15 employees cannot discriminate in the job application process, hiring, firing, salary/pay, promotion, or any other benefit of employment. Reasonable accommodations such as providing auxiliary aids can provide equal employment opportunity. An example would be to have a qualified interpreter available for a job interview. Or if a verbal test is part of the job application process, the employer should provide an appropriate written test for a Deaf applicant.

The Deaf or hard of hearing person should be qualified for the job and should be able to do the essential job duties with or without reasonable accommodations. Employers should provide reasonable accommodations whenever possible to allow a Deaf or hard of hearing person the opportunity to do the job. Extra duties that are not essential to the position an individual was assigned can be re-assigned as long as it does not create a hardship for the employer. For example, if answering the phone is not essential for the position in which a Deaf or hard of hearing individual was hired, but occasionally people other than the receptionist

could answer the phone, a reasonable accommodation could be to assign the phone duties to someone else.

TITLE II - PUBLIC ENTITIES

STATE & LOCAL GOVERNMENT, COURTS, ATTORNEYS

State and local government includes a long list of agencies and services in addition to government offices and courts. Some of these are social service agencies, jails, police and fire departments, school systems, public swimming pools and recreation centers, municipal golf courses, civic arenas, lottery bureaus, and zoos. Deaf and hard of hearing persons should be able to participate in all these services and activities no less than their hearing counterparts.

Government agencies may need to provide a qualified interpreters, CART captioning services, or other auxiliary services or equipment when requested by the Deaf and hard of hearing consumer. It is the consumer's responsibility to request for communication accessibility in advance of an appointment or the date of an event. The agency must cover the cost of the auxiliary aid or service.

For court settings, if an interpreter is needed, the court must be reached and a legally qualified interpreter and/or CART provider must be requested. The cost of interpreting service cannot be added to court costs or fees. Family members and friends also cannot interpret for the Deaf client. (see Title Protection under the Colorado Consumer Protection Act) Legally qualified interpreters are required when working with lawyers. (The Legal Auxiliary Service of CCDHH has a listing of who is qualified to interpret in court)

As for jury duty, the court also is required to provide auxiliary services or equipment at no cost to the juror.

TITLE III - PUBLIC ACCOMMODATIONS

Hospitals, doctor's offices, retail stores, businesses, hotels, theaters, restaurants, banks, museums, parks, libraries, and private schools should all provide auxiliary aids and services for communicating with Deaf or hard of hearing people. Depending on the situation, sometimes written notes are sufficient to communicate information. If the communication becomes more complicated, a request for auxiliary aid or service is appropriate.

Public accommodations or businesses, like hotels, must provide auxiliary equipment where telephones are available for the general public. At least one of each, videophone, CapTel, amplified phone should be installed in shopping malls, hospital waiting rooms, stadiums, convention centers, airports, or any building with more than four pay telephones.

Movie theaters do not have to provide captioned films, but other places that present information on film or TV should caption the presentation, provide an interpreter or both if possible. For example, auxiliary services and equipment for Deaf and hard of hearing individuals should be provided for presentations at conventions or performances at a hotel.

MEDICAL AND HEALTH CARE TREATMENT

The ADA states that medical providers and hospitals must provide equal access. Hospitals must be sure deaf and hard of hearing persons can communicate with doctors, nurses, and other personnel. Again, the preferred kind of communication (sign language or oral interpreter, written notes, lip reading, assistive listening devices, and/or CART) by the deaf or hard of hearing person must be requested.

The ADA states that hospitals must provide effective communication access. It is highly necessary when communicating important medical issues, including providing medical history/information, discussions about your illness or injury, and what kinds of treatment are needed or available. Auxiliary services or equipment is also necessary when registering at a hospital or any time important papers or forms are filled out. If an interpreter, provided by the medical provider is not qualified for the interpreting assignment, the client must make it known so a different interpreter can be arranged. The medical provider cannot charge clients for the cost of interpreting services. Individuals should request an interpreter ahead of time when possible so the medical provider can make arrangements.

The client may not always need an interpreter. Routine medical exams, such as having temperature and/or blood pressure taken, taking medication, or ordering meals, might not warrant the need for an interpreter due to the simplicity of the communication being exchanged. If the client stays in the hospital and have a television in the room, the hospital must provide a TV with closed captions for viewing. The hospital must also provide the patient with [CLA9] telecommunications equipment.

Classes given to the general public must also be open for Deaf and hard of hearing persons to attend. When registering for a class, the medical entity will need to be informed by the patient what type of communication access services is needed.

Private doctors are also required to follow the ADA laws. Communication is just as important at the doctor's office as it is at the hospital. Ask for an interpreter or the assistive technology you need. The doctor's office should provide this at no charge.

FILING COMPLAINTS

If your employer has discriminated against you, you can file a complaint with the **U.S. Equal Employment Opportunity Commission** within 180 days of the incident. Call (202) 663-4900 (voice) or (202) 663-4494 (TTY) for more information or visit the website: www.eeoc.gov. The address is: U.S. Equal Employment Opportunity Commission, 1801 L Street, NW, Washington, DC 20507.

You can also call the **Colorado Department of Labor and Employment**: (303) 318-8000 or visit the website: www.coworkforce.com. The address is: Colorado Department of Labor and Employment, 1515 Arapahoe, Tower 2, Suite 400, Denver, CO 80202.

If you have been denied services that you are eligible for, you can file a complaint with the **Civil Rights Division, U.S. Department of Justice**. Call (202) 514-0301 (voice) or (202) 514-0381 (TTY) for more information or visit the website: www.usdoj.gov. The address is: U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

If you are not sure about which complaint to file, you can contact CCDHH for information.

WHAT CAN THE CCDHH DO TO HELP?

The Colorado Commission for the Deaf and Hard of Hearing works across the state as an advocate for Deaf, Hard of Hearing, Late Deafened, and Deaf-Blind persons. We provide information to any business or organization that works with or provides services for individuals who have a hearing loss. CCDHH also provides services, information,

and referrals to families and individuals who need special assistance.

We can provide:

- Telecommunications equipment for low income Deaf and hard of hearing consumers
- Technical assistance to service providers

- Seminars and workshops for Deaf and hard of hearing persons
- Information and training for individuals and businesses working with Deaf and hard of hearing persons

We are here to assist you. Please call or write to us.

COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING

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A portion of the information represented here came from the Michigan Association for Deaf, Hearing, and Speech Services as well as from the book "Legal Rights: The Guide for Deaf and Hard of Hearing People" by the National Association of the Deaf, 5th Edition.