



National Network

Information, Guidance and Training on the
Americans with Disabilities Act

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Effective Communication

Revised regulations under Titles II and III of the Americans with Disabilities Act affect how public entities (state and local governments) and private businesses must provide effective communication with individuals with disabilities. These regulations, issued by the Department of Justice, took effect March 15, 2011. They require public and private entities to provide appropriate auxiliary aids and services where necessary to make sure that individuals with speech, hearing and vision disabilities understand what is said or written and can communicate effectively (§35.104, §35.160, §36.104, §36.303).

Public and private entities must also provide effective communication to companions who are individuals with disabilities. The term “companion” means a family member, friend, or someone else with whom the state or local government agency or private business would usually communicate.

The type of auxiliary aid or service necessary to ensure effective communication depends on:

- the method of communication used by the individual;
- the nature, length, and difficulty of the communication taking place; and
- the complexity of what is being communicated.

Auxiliary aids and services must be provided in accessible formats, in a timely manner, and in a way that protects the privacy and independence of the individual with a disability. A public entity or private business cannot impose a surcharge on an individual with a disability to cover the costs of the auxiliary aid or service provided.

Examples of common auxiliary aids and services include:

- qualified sign language interpreters in person or through video remote interpreting (VRI) services
- note takers or exchange of written notes
- real-time computer-aided transcription services
- written materials
- telephone handset amplifiers
- assistive listening devices and systems
- telephones compatible with hearing aids
- closed caption decoders
- open and closed captioning, including real-time captioning
- voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones or equally effective telecommunications devices
- videotext displays
- qualified readers
- taped texts



- audio recordings
- Brailled materials and displays
- screen reader software
- magnification software
- optical readers
- secondary auditory programs (SAP)
- large print materials
- accessible electronic and information technology

Public entities must give primary consideration to the request of the individuals with disabilities. A private business should consult with individuals with disabilities whenever possible to determine what type of auxiliary aid is needed, but the final decision rests with the private business as long as the method chosen results in effective communication.

A public entity or private business is financially responsible for the cost of the auxiliary aid or service provided unless it can demonstrate that it would be an undue financial burden. Even if a particular auxiliary aid or service is found to be an undue financial burden, the entity must still provide effective communication using a different auxiliary aid or service.

Sign Language Interpreters

Public entities and private businesses cannot require an individual with a disability to bring someone to interpret for him or her. They also cannot rely on an adult accompanying an individual to interpret or facilitate communication except:

- In an emergency involving imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or
- When the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and relying on that adult is appropriate under the circumstances.

A private business shall not rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available.

The new regulations permit the use of video remote interpreting (VRI) services which uses video conference technology to deliver sign language interpretation over the internet. Entities using VRI must ensure that the service is always available, that the technology meets performance standards, and that someone is always available who can set up and use the VRI system.

Telecommunications

The requirement to provide effective communication applies to public entities and private businesses that use automated-attendant systems, including voicemail and messaging or interactive response systems for receiving and directing incoming telephone calls. These systems must also provide effective real-time communication with individuals using auxiliary aids and services, including text-telephones (TTYs) and relay services, including internet-based relay services.

A public entity or private business shall respond to telephone calls from a relay service in the same manner that it responds to other telephone calls. A public entity or private business may use relay



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services in place of direct telephone communication for receiving or making telephone calls to individuals with disabilities.

If a public entity or private business usually offers customers, clients, patients, or participants the opportunity to make outgoing telephone calls using their equipment, they must provide accessible public telephones, TTYs, or other telecommunications products and systems for use by individuals who are deaf or hard of hearing, or have a speech impairment.

Content was developed by the Mid-Atlantic ADA Center, and is based on professional consensus of ADA experts and the ADA National Network.



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