

# **Effective Communication**

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# Title II Generally

- Title II entities must take appropriate steps to ensure that communications with individuals with disabilities are “as effective” as communications with others
- Includes providing appropriate auxiliary aids and services “where necessary”

# Communication with everyone

ADA requires communication with everyone, not just “primary” communicator

- Medical: deaf spouse of hearing patient
- Court: not just parties; also jurors, spectators
- Anyone who would be able or eligible to communicate or participate in the activity

# Sec. 35.160 Communication

- (a)(1) A public entity shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others...

## Sec. 35.160, Continued

- (b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity.

# Individuals with Disabilities

- Individuals who are deaf or hard of hearing
- Individuals who are blind or have low vision
- Individuals who have speech-related disabilities

# Auxiliary aids and services for individuals who are deaf or hard of hearing

- Qualified interpreters
- Notetakers
- Transcription services
- Written materials
- Telephone handset amplifiers
- Assistive listening systems

# For individuals who are deaf or hard of hearing

## (Part II)

- Telephones compatible with hearing aids
- Closed captioned decoders
- Open and closed captioning
- TDDs / TTYs
- Videotext displays
- VRS/VIS
- Other effective methods



# Auxiliary aids and services for individuals who are blind or have low vision

- Qualified readers
- Taped texts
- Audio recordings
- Brailled materials
- Large print materials
- Electronic/text formats
- Other effective methods

# Qualified Reader

“Qualified reader” defined as “a person who is able to read effectively, accurately, and impartially, using any necessary specialized vocabulary.”

# Qualified Interpreter

“Qualified interpreter” defined as “An interpreter who, via video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Includes sign language interpreters, oral transliterators and cued-language transliterators.

# Revisions to Effective Communication Requirements

- Companions with disabilities
- Discussion of types of auxiliary aids and services that are necessary to ensure effective communication
- Limitations on use of individual accompanying person with a disability as an interpreter.
- Requirements for video remote interpreting services

# Companions

- Covered entities must communicate effectively with companions with disabilities, as appropriate.
- Companion defined as “family member, friend, or associate of an individual seeking access to a service, program or activity of a public entity, who along with such individual is an appropriate person with whom the public entity should communicate.”

# Use of Adults Accompanying Individual With a Disability

- Public entities shall not require individual to bring own interpreter.
- Public entities shall not require adults accompanying individual to interpret except:
  - In emergency involving imminent threat to safety or welfare of individual or public and no interpreter available, or
  - Where specific request by person with disability, accompanying adult agrees, and reliance on that person is appropriate under circumstances.

# Use of Children as Interpreters

Only permissible in emergency involving imminent threat to safety or welfare of an individual or the public where there is no interpreter available.

# Video Remote Interpreting

## Definition:

An interpreting service that uses video conference technology over dedicated lines or wireless technology offering high-speed, wide-bandwidth video connection that delivers high-quality video images...



# Video Remote Interpreting Continued

DOJ standards require:

- Quality of video and audio that is high quality, clear, real-time, with clear uninterrupted images;
- Dedicated high-speed connection;
- Picture: Clear, sufficiently large, and sharply delineated, showing face, arms, hands and fingers;
- Voices: clear and easily understood transmission; and
- Quick set-up and training of users.

# Use of Automated Attendant Systems

- These include automated voice mail, interactive voice response systems.
- If provided, must ensure effective communication in real time with individuals using auxiliary aids and services (TTYs, TRS).

# Telecommunications Relay Services

Entity must answer telecommunications relay calls in same manner as it answers others.

# Title II: Primary consideration

- In determining what type of auxiliary aid and service is necessary, a public entity ***shall give primary consideration*** to the requests of the individual with disabilities.

# Types of Auxiliary Aids or Services: What Works and When?

- Type of auxiliary aid or service will vary in accordance with:
  - Method of communication used by individual;
  - Nature, length, and complexity of communication involved; and
  - The context in which communication is taking place.
- Provide auxiliary aids in accessible formats, in timely manner, and in manner that protects privacy and independence of individual.

# Fundamental Alteration

An entity is not required to provide an auxiliary aid or service if it would fundamentally alter the nature of the program or service.

## Fundamental Alteration: Part 2

A public entity is not required to take action if it would result in undue financial and administrative burdens.

- Look at resources of the agency as a whole.
- Still required to provide service to the maximum extent possible.

## TTYs

- Encouraged where there is extensive telephone contact with the public
- Required for emergency responders



# Surcharges Not Permitted

A covered entity may not place a surcharge on a particular individual with disabilities or a particular group of individuals with disabilities to cover the cost of providing auxiliary aids and services.