



DISABILITY LAW CENTER

Utah's Protection and Advocacy Agency

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Americans with Disabilities Act – Effective Communication for the Deaf and People who are Hard of Hearing

The Americans with Disabilities Act (ADA) is a law that makes it illegal to discriminate against people with disabilities, including the Deaf and people who are hard of hearing (Deaf/HH).

The law covers employment, government, public accommodations, and telecommunications. Each section of the ADA explains how the law protects the right of people with disabilities and what services must be provided in specific situations. In the ADA the term “auxiliary aids and services” refers to the means for achieving effective communication.

The auxiliary aid requirement is a flexible one. The goal is to find an effective means of communication that is appropriate for the particular circumstance. For example, jotting down a grocery store’s special sales on a note pad for a deaf customer may suffice, but this means of communication might not be appropriate in complex transactions.

The removal of barriers may include furnishing auxiliary aids and services when necessary to ensure effective communication. A business is not required to provide any particular auxiliary aid or service that it can demonstrate would fundamentally alter the nature of the goods or services being provided or would result in an undue burden on the business. It must, however, provide those needed auxiliary aids and services that would not result in an undue burden. “Undue burden” is defined as significant difficulty or expense when considered in light of a variety of factors including the nature and cost of the auxiliary aid or service and the overall financial and other resources of the business. The undue burden standard is intended to be applied on a case-by-case basis. However, the ADA says that businesses must still do as much as possible to provide access.

Examples of auxiliary aids and services for the Deaf/HH include (but are not limited to):

- Open and closed captioning
- Transcription services
- Written materials
- Telephone handset amplifiers
- Assistive listening devices
- Telephone compatible with hearing aids
- Closed caption decoders

- Note takers
- Telecommunication devices for the Deaf
- Videotext displays
- Qualified interpreters
- Other effective methods of making orally delivered materials available to the Deaf and people who are hard of hearing.

A note about interpreters

One misconception held by many people is that in order to communicate effectively with a Deaf/HH person, you must use a certified American Sign Language interpreter. That is not the case. The requirement under the ADA is to provide “effective communication.” If effective communication can be provided by other means, an interpreter may not be required.

Note: Not all people who are Deaf/HH use American Sign Language.

There are many ways that the Deaf/HH communicate, such as through interpreters, by written notes, or through TTYs. Since people communicate differently, it is the responsibility of the individual who is Deaf/HH to let businesses/agencies know the specific accommodation they are requesting. Requests for accommodation should give a business/agency a reasonable amount of time to provide the accommodation. Requests for accommodations made in writing are easier to track.

Note: If a person uses American Sign Language as their primary language, writing notes is not always an effective means of communication when the situation is complicated or with some medical, financial, or legal issues.

If effective communication is provided through an interpreter, there are some things to remember. First, an interpreter must be qualified. A qualified interpreter is an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

Note: Just because a family member or friend can sign, does not make them a qualified interpreter. There also may be issues of emotional involvement and confidentiality to consider.

“Sign language” is a generic term for many forms of manual communication. Some people will need American Sign Language, others may need transliterators. Yet others might need oral interpreters, or a pair of relay or intermediary interpreters.

Note: People may need other modes of communication such as oral, speech reading and cued speech.

For more information

For more information, please contact the DLC, 1-800-662-9080 (voice) or 1-800-550-4182 (TTY) or on the web at www.disabilitylawcenter.org, 205 North 400 West, Salt Lake City, Utah 84103 between the hours of 9:00 A.M. and 4:00 P.M., Monday through Friday.

This guide is informational only and is not intended to be legal advice. Also, the laws addressed in this guide change frequently based on different courts' interpretations of them. Whenever anyone has an actual legal problem it is best to contact a lawyer to determine which laws may apply to that specific situation.

This guide was written by the Disability Law Center (DLC), a private non-profit agency that supports and protects the civil rights of persons with disabilities in Utah. We are motivated by the vision of a just society where all people are treated with equity, dignity and respect. The DLC accomplishes its mission through enforcing and strengthening laws that protect the opportunities, choices and legal rights of people with disabilities in Utah. The DLC serves a wide range of individuals with disabilities – including those with cognitive, mental, sensory and physical disabilities – by guarding against abuse, advocating for basic rights, ensuring accountability in health care, education, employment, housing, transportation and within the juvenile and criminal justice systems. All DLC services are free of charge and available statewide.

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