



Fact Sheet

Communication Access Provisions Title III of the Americans with Disabilities Act for PUBLIC ACCOMMODATIONS



What is communication access?

Communication access is effective communication made possible through auxiliary aids and services such as oral or sign language interpreters or real-time captioning services, so that persons who are deaf, hard-of-hearing, deaf-blind, or speech-impaired can benefit from and participate directly in programs, services, and activities.

What are public accommodations?

The definition of a public accommodation is very specific in the Americans with Disabilities Act (ADA) Title III. It covers privately owned facilities whose operations affect commerce. Among the examples listed in Title III are places of lodging, food or drink, exhibition, entertainment, public gathering, exercise or recreation, public display (including museums), education, sales or rental, service (including doctor's offices, clinics, and hospitals), transportation or social service (including senior citizens centers).

Private clubs and religious entities are not places of public accommodation and are exempt from the requirements of the ADA Title III.

What are the responsibilities of public accommodations in regards to communication access services?

Title III mandates that public accommodation shall not deny services or treat the person with a disability differently than other individuals without a disability. The public accommodation shall furnish appropriate auxiliary aids and services as necessary to ensure effective communications for a person with a disability. After determining that auxiliary services are necessary, the public accommodation must ensure that they are provided. The public accommodation may choose among the various alternatives auxiliary aids and services as long as the result is effective communication. The public accommodation is strongly encouraged to consult with the deaf, hard-of-hearing, deaf-blind or speech-impaired person for suggestions before providing the auxiliary aid or service. If effective communication cannot be achieved without the use of an interpreter or a real-time captioner, then one must be provided.

What are auxiliary aids and services?

Auxiliary aids and services are those which make the business or facility accessible for the person with a disability. The provision of auxiliary aids and services is the key to the use of effective communication for persons who are deaf, hard-of-hearing, deaf-blind, or speech-impaired. Examples of auxiliary services are "Qualified interpreters, notetakers, written materials, ...assistive listening systems...". Real-time captioning is usually performed by a trained court reporter and can also be an auxiliary service for persons who are deaf, hard-of-hearing, or deaf-blind and do not use sign language.

The term "qualified interpreter" is further defined as:

"An interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary."

Who pays for the cost of auxiliary aids or services?

When the need is indicated, the public accommodation must provide appropriate auxiliary aids and services unless doing so would result in an undue burden or would fundamentally alter the nature of the business or service. The cost of an interpreter or other auxiliary aid or service cannot be shifted to the person who is deaf, hard-of-hearing, deaf-blind, or speech-impaired, but may be incorporated in the fees charged to all persons. Federal tax credits and deductions are available which may offset the costs of the auxiliary aids and services.

What are some other factors the public accommodation should consider?

The public accommodation is cautioned not to use family members as interpreters (volunteer or hired), particularly in sensitive situations. If a person who is deaf, hard-of-hearing, or deaf-blind arrives with their own interpreter or other communication service provider without first obtaining approval, the public accommodation is not required to pay for that specific service.

Some examples of situations when communication services would be needed are:

- If a museum does not have printed copies of their lectures, an interpreter or real-time captioner would be required for an audience member who deaf, hard-of-hearing, or deaf-blind. Other appropriate aids or services might be a signed or captioned videotape or an assistive listening device.
- An interpreter would be required for a doctor to explain a surgical procedure to a patient who is deaf. Writing notes with a person whose primary language is American Sign Language (ASL) is rarely effective. An interpreter may not be needed for a laboratory test appointment, if the procedure was properly explained to the patient beforehand.
- A bank may be required to provide an interpreter for an interview with a loan applicant who is deaf, but writing notes may be sufficient for a simple transaction with a teller.

A special note:

The Hawaii Revised Statutes (HRS), Chapter 348F requires that the Disability and Communication Access Board (DCAB) established administrative rules for communication access services for persons who are deaf, hard-of-hearing, or deaf-blind in state programs and activities. Although the rules and the included recommended fee schedules apply to state agencies only, interpreters and private businesses often use the rules as a basis for hiring negotiations with interpreters and captioners who are independent contractors. The rules and fee schedules are available by contacting DCAB at the numbers below or online at:

<http://www.hawaii.gov/health/dcab/adminrules/ch11-218index.htm>

Main Office (Oahu):

Disability and Communication Access Board
919 Ala Moana Blvd., Room 101
Honolulu, Hawaii 96814
(808) 586-8121, Voice or TTY
(808) 586-8129, FAX

Communication Access Specialist (Oahu):

[Use TTY or Relay Service]
For Voice to TTY Relay Service, dial: 711 then
ask for TTY: (808) 586-8130
E-mail: accesshi@aloha.net
www.hawaii.gov/health/dcab