



Fact Sheet
Communications Access Provisions
Title II of the Americans with Disabilities Act
for
STATE & LOCAL AGENCIES

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 in program and services.

How are state and local governments affected by the ADA?

Title II of the Americans with Disabilities Act (ADA) relates to state and local governments and their programs and services. Title II asserts that no person with a disability shall be denied participation in the programs and activities of a state or city government agency (also referred to as “a public entity”).

What are auxiliary aids and services?

Title II stipulates that state and local government agencies shall furnish appropriate auxiliary aids and services as necessary to provide the person with a disability equal opportunity to participate in its program or activity, such as public meetings. The provision of auxiliary aids and services is the key to the issue of communication access services to persons who are deaf, hard-of-hearing, deaf-blind, or speech-impaired.

Examples of auxiliary aids and services which may be utilized by persons who are deaf, hard-of-hearing, or deaf-blind:

“Qualified interpreters, notetakers, computer-aided transcription services, written materials, ...assistive listening systems ...”

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 specialized vocabulary.”

What are the responsibilities of state and local governments in regards to communication access services?

After determining that auxiliary services are necessary, the state or local government agency must ensure that they are provided. A public entity may choose among the various alternative auxiliary aids and services (such as interpreter services or real-time captioning services) as long as the result is effective communication. However, the public entity should give primary consideration to the preference of the deaf, hard-of-hearing or deaf-blind person.

If effective communication cannot be accomplished by one type of auxiliary aid or service, another auxiliary aid or service must be selected. For example, if the individual has limited functional reading and writing skills, but communicates effectively in American Sign Language, then hiring a qualified sign language interpreter or using an interpreted videotape would be appropriate. However, with another person who is deaf, hard-of-hearing, or deaf-blind, it may be just as appropriate and effective to use captioning or computer-aided-realtime translation (CART).

What else should the state or local governments take into consideration when hiring communication access service providers?

The services of a qualified interpreter or real-time captioner must be secured by the public entity unless provision of those services would result in an undue financial or administrative burden. The cost of an interpreter or other communication access services cannot be shifted to the program participant who is deaf, hard-of-hearing, or deaf-blind, but may be incorporated into a program fee which is charged to all participants.

The state agency is cautioned not to use family members as interpreters (volunteered or hired), particularly in sensitive situations. If a person who is deaf, hard-of-hearing, or deaf-blind shows up at a public entity with his/her own interpreter without first checking with the agency, the public entity is not obligated to pay for that specific interpreter or service.

SPECIAL NOTE

What state laws provide for communication access?

The Hawai'i Revised Statutes (HRS), Chapter 348F requires the Disability and Communication Access Board (DCAB) to establish guidelines for the use of communication access services for persons who are deaf, hard-of-hearing, or deaf-blind in state programs and activities. Administrative Rules entitled "Utilization of Sign Language/English and Oral Interpreter Services", HAR Chapter 11, Title 218 are the standards for state agencies hiring sign language interpreters. A fact sheet on those rules is also available.

DCAB considers qualified interpreters to be those who possess current valid national certification from either the Registry of Interpreters for the Deaf or from the National Association of the Deaf or who possess current state credentials from the Hawai'i Quality Assurance System issued by the DCAB. Real-time captioners should possess current certification from the National Court Reporters Association. DCAB does not recommend hiring a provider who does not possess such credentials. Appendix A of the Rules outlines a fee schedule which sets ranges for hourly fees for interpreters and captioners. The fee schedule recommended in Appendix A is reviewed annually or as needed by the DCAB.

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