

# ADA Rights of Deaf, Hard-of-hearing, and Deaf-blind Citizens

## WHAT IS THE ADA?

The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits discrimination against people with disabilities. Deaf, hard-of-hearing, and deaf-blind people are also included. There are five Titles (sections) in the law:

- Title I - Employment,
- Title II - Public Entities (state and local government entities),
- Title III - Public Accommodations,
- Title IV- Telecommunications, and
- Title V –Miscellaneous Provisions.

Each Title of the ADA includes a list of services that should be provided for deaf, hard-of-hearing, and deaf-blind individuals by businesses and other entities. The ADA includes:

- Equal access to all aspects of society,
- Protection against discrimination,
- Agencies, businesses, service providers, and employers remove communication barriers that prevent a deaf, hard-of-hearing, or deaf-blind person from full and equal participation,
- Employers with fifteen or more employees are required to eliminate discriminatory practices that would prohibit equal employment opportunity,
- Private businesses, medical professionals, and nonprofit organizations must make their facilities and services accessible to people with disabilities,
- All state and local government activities and programs need to be accessible.

An agency or organization must provide and publicize information about how to request auxiliary aids and services. The law requires people who are deaf, hard-of-hearing, or deaf-blind to disclose their non-hearing status to providers or employers when requesting an auxiliary aid or service. Auxiliary services or aids include:

- Qualified interpreters,
- Communication Access Real-time Translation (CART),
- Telecommunications-equipment for the deaf, hard-of-hearing and deaf-blind. This includes:
  - ✓ Videophones,
  - ✓ TV captioning/subtitles and/or transcriptions,
  - ✓ CapTel phones, amplified phones, and assistive listening systems (i.e. loop, FM, infrared system).

Providers or employers need to be informed about providing effective communication for persons who are deaf, hard-of-hearing, or deaf-blind.

## WHAT IS EFFECTIVE COMMUNICATION?

Title II and III entities are required to make their communications with people who are deaf, hard-of-hearing, or deaf-blind equivalent to such communication afforded to others. To be effective, auxiliary services and aids must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual whose civil rights are protected by ADA regulations.

Effective communication is achieved through the provision of auxiliary services and aids. These services include qualified interpreters, CART, written notes, etc. When communication is essential, all parties involved in the interaction benefit from auxiliary services and aids.

The key to communicating effectively is to consider the nature, length, complexity, and context of the communication and the person's normal method(s) of communication. A private business should consult with the individual requesting accommodations whenever possible to determine what type of auxiliary service or aid is needed to ensure effective communication. However, public entities must give primary consideration to the requested auxiliary service or aid made by the protected individual.

## Sign Language Interpreters

The U.S. Department of Justice (DOJ) defines a *qualified interpreter* as one who can “interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary” (<http://www.ada.gov/effective-comm.htm>).

Title 6-1-707 The Colorado Consumers Act requires practitioners who provide interpreter services to show proof of current membership and RID certification. Any consumer or agent of the state of Colorado may request proof of certification to be available for immediate inspection. Not all certified interpreters are qualified to interpret for any situation. The setting and the interpreter's level of training and knowledge of the topic will be important for determining the qualifications of the interpreter for a specific assignment. Entities that provide interpreters have the responsibility to vet their interpreters to make sure they can provide the most effective method of communication.

## TITLE I - EMPLOYMENT

Employers with more than 15 employees not discriminate against an individual with a disability in a way that would create a barrier or create disadvantage in the following situations:

- The job application process,
- Hiring,
- Firing,
- Salary/pay,
- Promotion,
- Any other benefit of employment.

The deaf, hard-of-hearing, or deaf-blind person should have the skills, knowledge, and qualifications to do the essential job duties whether reasonable accommodations are provided or not. Employers should provide reasonable accommodations whenever possible to allow a deaf, hard-of-hearing, or deaf-blind applicant/employee the opportunity to compete for the job or to maintain employment.

## Title II – Government Entities

State and local government are considered public entities. This includes (not an all-inclusive list):

- Government offices and courts,
- Social service agencies,

- Jails,
- Police and fire departments,
- School systems,
- Public swimming pools and recreation centers,
- Municipal golf courses,
- Civic arenas,
- etc.

Deaf, hard-of-hearing, and deaf-blind persons should be able to access and to participate in all the services, programs and activities provided by these public entities.

Government entities may need to provide auxiliary services or aids when requested by a deaf, hard-of-hearing, or deaf-blind consumer. The consumer must request communication accessibility prior to an appointment or the date of an event. The agency must cover the cost of the auxiliary service or aid unless it can prove the modification would result in an undue burden.

For court settings, if an interpreter is needed, the court must be contacted to request a legally qualified interpreter and/or CART provider. The cost of interpreting services cannot be added to court costs or fees nor can family members or friends interpret for the consumer. (See Title 6-1-707 under the Colorado Consumer Protection Act *Use of title or degree – deceptive trade practice*). The court is also required to provide auxiliary services or aids at no cost to a deaf, hard-of-hearing, or deaf-blind person serving for jury duty. Legally qualified interpreters are required when working with the Justice System (the Legal Auxiliary Service of CCDHH has a listing of legally qualified court interpreters).

If the administration determines that auxiliary services or aid results in an undue burden, alternate and effective auxiliary services or aids should be provided. However, public entities must give primary consideration to the specific accommodation requested by the deaf, hard-of-hearing, or deaf-blind individual.

### **TITLE III – BUSINESSES**

Hospitals, doctor's offices, retail stores, businesses, hotels, theaters, restaurants, banks, and private schools should all provide auxiliary services and aids for communication with deaf, hard-of-hearing, and deaf-blind people. Depending on the situation, sometimes written notes are sufficient to communicate information. The type of auxiliary service or aid necessary to ensure effective communication will vary in accordance with the method of communication used by the individual, the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. A private business should consult with individuals protected by ADA whenever possible to determine what type of auxiliary service or aid is needed to ensure effective communication.

Public accommodations or businesses, like hotels, must provide accessible communications equipment where telephones are available for the general public. Any place that presents information on film or TV should caption the presentation; provide an interpreter, or some other auxiliary service or aid.

The ADA requires medical providers and hospitals to provide equal and effective communication access. They must be sure deaf, hard-of-hearing, and deaf-blind persons can communicate with doctors, nurses, and other personnel when discussing important medical issues including medical history/information, the patient's illness or injury, and what kinds of treatment options are advised. Auxiliary services or equipment is also necessary when registering at a hospital or any time important papers or forms are filled out. The deaf, hard-of-hearing, or deaf-blind patient must request his/her preferred accommodation.

### **TITLE IV – TELECOMMUNICATIONS**

Telephone companies must provide telecommunication relay services (TRS) that operate within each state as well as between states and these services must be available 24 hours per day. This includes closed-captioned public service announcements. The system must also be able to connect hearing callers (through a voice telephone) to a caller with a hearing and/or speech disability (using a TTY or teletypewriter) through a live communications assistant. The Federal Communications Commission (FCC) sets standards and regulates TRS services.

### **TITLE V – MISCELLANEOUS**

According to Title I, employers who have 15 or more employees cannot discriminate against qualified applicants or employees with disabilities. In addition, the provisions included in Title V apply to the Equal Employment Opportunity Commission's enforcement of Title I.

### **FILING COMPLAINTS**

If your employer has discriminated against you, you can file a complaint with the **U.S. Equal Employment Opportunity Commission** within 180 days of the incident. Call the Denver office at 1-800-669-4000 (voice) or 1-800-669-6820 (TTY) for more information or visit the website: [www.eeoc.gov/employees/charge.cfm](http://www.eeoc.gov/employees/charge.cfm). The address is: U.S. Equal Employment Opportunity Commission, 303 E. 17<sup>th</sup> Avenue, Suite 410, Denver, CO 80203. They are open Monday-Friday, 8am-4:30pm.

If you have experienced discrimination in housing, employment, or public accommodations, you can file a complaint with the **Department of Regulatory Agencies (DORA), Civil Rights Division**. Call 303-894-7855 or 1-800-886-7675 for more information or visit the website: <https://www.colorado.gov/pacific/dora>. The address is: Department of Regulatory Agencies, Colorado Civil Rights Division, 1560 Broadway, Suite 1050, Denver, CO 80202.

The Colorado Commission for the Deaf and Hard-of-hearing (CCDHH) Outreach and Consultative Services Consultants are available to provide more information or respond to inquiries. See contact information for CCDHH below.

*A portion of the information represented here came from the Michigan Association for Deaf, Hearing, and Speech Services as well as from the book "Legal Rights: The Guide for Deaf, hard-of-hearing, and deaf-blind People" by the National Association of the Deaf, 5<sup>th</sup> Edition.*

## **COLORADO COMMISSION FOR THE DEAF AND HARD-OF-HEARING**

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