

ADA Rights of Deaf and Hard of Hearing Citizens

WHAT IS THE ADA?

The Americans with Disabilities Act (ADA) is a law that prohibits discrimination against people with disabilities, including Deaf and hard of hearing people. There are four sections in the law: employment, government, public accommodations, and telecommunications. Each section of the ADA lists services that should be provided for Deaf and hard of hearing individuals. As the landmark civil rights legislation for all citizens with disabilities, the ADA requires equal access to all aspects of society and thus prohibits discrimination against people with disabilities above and beyond the protections for handicapped persons in previous federal laws such as the Rehabilitation Act of 1973.

In each area, there are other rules that may apply to your situation. The Colorado Commission for the Deaf and Hard of Hearing (CCDHH) can provide more information or answer your specific questions.

In general, the ADA expects agencies, businesses, service providers, and employers to remove communication barriers that prevent a Deaf or hard of hearing person from participating in all aspects of society. Virtually all employers with fifteen or more employees must eliminate discriminatory practices. Private businesses, professionals, and nonprofit organizations must make their facilities and services accessible to people with disabilities. Under the ADA, all state and local government activities must be accessible, even if the government entity does not receive federal funds.

An employer who is asked to make a reasonable accommodation may claim that there would be an "undue hardship," meaning a significant difficulty or expense. This will depend on the nature and net cost of the accommodation, the overall financial resources of the business, and the type of operation of the business.

An agency or organization must adopt and publicize procedures on available auxiliary aids and services and how to request them. The law also says people need to tell agencies and businesses what they need to communicate. Notes, interpreters, captioning, and telecommunication devices for the Deaf (such as TTYs) are all ways to communicate, but you need to let providers or employers know which auxiliary aid or service will be the most effective for you.

WHAT IS EFFECTIVE COMMUNICATION?

Auxiliary aids include any device or service that is needed to make spoken information accessible for a person who has a hearing loss. These include: qualified interpreters, assistive listening systems (loop, FM, and infrared systems), television captioning and decoders, TTYs, video text displays, and transcriptions. New types of auxiliary aids will be required under ADA standards as new technology becomes available.

The Justice Department defines a *qualified interpreter* as one who can "interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary." An interpreter who is qualified for one type of interpreting assignment may not have sufficient skills for interpreting in another situation.

Also, the public entity must provide an opportunity for individuals with disabilities (including Deaf and hard of hearing people) to request the auxiliary aids and services of

their choice. This expressed choice shall be given primary consideration by the public entity. The public entity shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under the ADA.

TELECOMMUNICATIONS

In Colorado, the company Sprint Communications, Inc., provides a telephone relay service (Relay Colorado) for Deaf and hard of hearing individuals to use the phone system with TTYs for local and long distance calls. Just call 7-1-1 to reach a trained telephone relay operator who reads what the TTY user types and types what the voice telephone user speaks.

Relay Colorado is available 24 hours a day, 7 days a week. The operator must say the exact words you type and must tell you exactly what the other person has said. All telephone relay calls are confidential. The operator can't tell anyone else what you have said. The phone company cannot charge more for TTY calls.

STATE AND LOCAL GOVERNMENT, COURTS, ATTORNEYS

State and local government includes a long list of agencies and services in addition to government offices and courts. Some of these are social service agencies, jails, police and fire departments, school systems, public swimming pools and recreation centers, municipal golf courses, civic arenas, lottery bureaus, and zoos. Deaf and hard of hearing persons should be able to participate in all these services and activities.

Government agencies may need to provide a qualified interpreter, CART (Computer Aided Real-Time Transcription) captioning service, or other auxiliary aids and services when requested by the Deaf and hard of hearing consumer. It is the consumer's responsibility to ask for communication access service before an appointment. You are not responsible to pay for the communication access service. The agency must pay these fees.

If you need to go to court and you need an interpreter, you must call the court and ask for an interpreter who is legally qualified. The cost of the interpreter cannot be added to any court costs. Family members and friends should not act as interpreters for you. They will not be paid by the court. You should also ask for a qualified legal interpreter to work with you and your lawyer. (CCDHH has a listing of who is qualified to interpret in court.)

A Deaf or hard of hearing person should not be excused from jury duty just because they cannot hear. The court will provide an interpreter or communication access at no cost to the juror.

PUBLIC ACCOMMODATIONS

Retail stores, businesses, hotels, theaters, restaurants, banks, museums, parks, libraries, and private schools should all provide auxiliary aids and services for communicating with Deaf or hard of hearing people. Depending on the situation, sometimes written notes are sufficient to communicate information. If the communication becomes more complicated, a request for auxiliary aids and services is appropriate.

Public accommodations or businesses, like hotels, must provide TTYs when telephones are available for the general public. At least one TTY should be installed in shopping malls, hospital waiting rooms, stadiums, convention centers, airports, or any building with more than four pay telephones.

Movie theaters do not have to provide captioned films, but other places that present information on film or TV should either caption the presentation or provide an interpreter. For example, auxiliary aids and services for Deaf and hard of hearing individuals should be provided for presentations at conventions or performances at a hotel.

MEDICAL AND HEALTH CARE TREATMENT

Hospitals and/or health care professionals must provide equal access for all consumers. Hospitals must be sure Deaf and hard of hearing persons can communicate with doctors, nurses, and other personnel. As a person with a hearing loss, you should choose the kind of communication you prefer: sign language or oral interpreter, written notes, lip reading, assistive listening devices, and/or captioning such as CART.

When important communication is needed, the ADA says the hospital must provide effective communication access. Important communication includes discussions about your sickness and what kinds of treatment are needed or available. It also includes registering at the hospital or any time you are asked to fill out papers, provide medical information, or when you are discharged. If you cannot understand the interpreter provided by the hospital, ask for a different interpreter. The hospital cannot charge you for the interpreter. If the hospital does not have an interpreter on staff, make an appointment so the hospital can arrange for an interpreter to be present.

You may not always need an interpreter at a hospital. In many routine situations, such as having your temperature and/or blood pressure taken, taking medication, or ordering meals, written communication can be used. If you need to stay in the hospital and have a television in your room, the hospital must provide a TV with closed captions for viewing. The hospital must also provide you with a TTY.

Classes given to the general public must also be open for Deaf and hard of hearing persons to attend. When you register for the class, let the hospital know you are Deaf or hard of hearing and tell them what type of communication access services you need.

Private doctors are also required to follow the ADA laws. Communication is just as important at the doctor's office as it is at the hospital. Ask for an interpreter or the assistive technology you need. The doctor's office should provide this at no charge.

EMPLOYMENT

The ADA says employers with more than 15 employees cannot discriminate in the job application process, hiring, firing, salary/pay, promotion, or any other benefit of being an employee. An example would be to have a qualified

interpreter available for a job interview. Or if a verbal test is part of the job application process, the employer should provide an appropriate written test for a Deaf applicant.

The Deaf or hard of hearing person should be able to do the most important parts of the job without assistance. Employers should modify a job whenever possible to allow a Deaf or hard of hearing person the opportunity to do the job. For example, if answering the phone is one small part of the job and a person can do the other parts of the job without assistance, the employer could assign the phone duties to someone else.

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 (202) 663-4900 (voice) or (202) 663-4494 (TTY) for more information or visit the website: www.eeoc.gov. The address is: U.S. Equal Employment Opportunity Commission, 1801 L Street, NW, Washington, DC 20507.

You can also call the **Colorado Department of Labor and Employment**: (303) 318-8000 or visit the website: www.coworkforce.com. The address is: Colorado Department of Labor and Employment, 1515 Arapahoe, Tower 2, Suite 400, Denver, CO 80202.

If you have been denied services that you are eligible for, you can file a complaint with the **Civil Rights Division, U.S. Department of Justice**. Call (202) 514-0301 (voice) or (202) 514-0381 (TTY) for more information or visit the website: www.usdoj.gov. The address is: U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

If you are not sure about which complaint to file, you can contact CCDHH for information.

WHAT CAN THE CCDHH DO TO HELP?

The Colorado Commission for the Deaf and Hard of Hearing works across the state as an advocate for Deaf, Hard of Hearing, Late Deafened, and Deaf-Blind persons. We provide information to any business or organization that works with or provides services for individuals who have a hearing loss. CCDHH also provides services, information, and referrals to families and individuals who need special assistance.

We can provide:

- Telecommunications equipment for low income Deaf and hard of hearing consumers
- Technical assistance to service providers
- Seminars and workshops for Deaf and hard of hearing persons
- Information and training for individuals and businesses working with Deaf and hard of hearing persons

We are here to assist you. Please call or write to us.

COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING

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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 and Hard of Hearing People" by the National Association of the Deaf, 5th Edition.