



National Consortium of Interpreter Education Centers

FACT SHEET

The American with Disabilities Act (ADA)

The American Disabilities Act (ADA), signed into law on July 26, 1990, significantly changed the way courts serve individuals with qualified disabilities. The legislation is intended to protect the civil rights of people with disabilities and ensure they have the same opportunities available to persons without disabilities. Title II of the ADA specifically provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subject to discrimination by any such entity.” Accordingly, courts are required to provide reasonable accommodations to disabled individuals who seek participation in the judicial system. Hearing impairment may be one of the most common disabilities encountered in the judicial system. This document briefly notes some (but not all) of the ADA issues courts should consider when seeking to provide equity and effective communication to deaf persons in the judicial system.

- Courts must provide accessibility not only in the courtroom, but in every service provided by the court, including but not limited to the clerk’s office, mediation, and jury assembly.
- Courts must provide accessibility not only to deaf litigants, but also to deaf individuals who seek to participate as witnesses, jurors, spectators, victims, parents of a minor involved in a proceeding, and attorneys.
- Under the ADA, courts are required to provide auxiliary aids and services to ensure effective communication with deaf individuals in both civil and criminal proceedings.¹ Auxiliary aids and services may include qualified interpreters, transcription services, captioning, videotext displays, written materials, and assistive listening devices and systems. Because the appropriate auxiliary aid or service depends on many factors, a deaf individual’s request for a specific aid should be given primary consideration.
- For a **deaf individual who uses sign language to communicate**, the most effective auxiliary service is the provision of a qualified sign language interpreter. Knowledge of sign language does not qualify someone to serve as a sign language interpreter. Rather,

¹ 28 C.F.R. § 35.160.

the regulations define a qualified interpreter as one “who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.”² Courts should work to secure the services of qualified sign language interpreters that satisfy this definition. (See Fact Sheet, Securing a Qualified ASL-English Interpreter). In addition, courts should hire multiple interpreters to interpret contested proceedings. (See Fact Sheet, The Use of Interpreting Teams in the Courtroom).

- For a **deaf individual who does not rely on sign language to communicate and has a good level of reading comprehension**, the courts may provide the use of transcription services such as CART which converts spoken words instantly into text.³
- In addition to the provision of auxiliary aids and services, the ADA requires courts to make “reasonable modifications” in their policies, practices and procedures to prevent discrimination on the basis of disability.⁴ For instance, deaf individuals may require extra time to respond to a question or the court may need to provide a screen to protect the privacy of a conversation between a deaf party and his attorney during a proceeding. (See Fact Sheet, Quick Tips for Accommodating Sign Language Interpreters in the Courtroom).
- Courts should develop an easy and widely publicized system through which disabled individuals can request ADA services or accommodations.

The right to understand and participate in court proceedings is fundamental. The ADA exists to level the playing field for disabled individuals in this regard.

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² 28 C.F.R. § 35.104.

³ 28 C.F.R. § 35.104.

⁴ 28 C.F.R. § 35.130(b)(7).