



ADA Audio Conference Series November 15, 2011

This session is scheduled to begin at
2:00pm Eastern Time

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DID YOU HEAR ME? ENSURING EFFECTIVE COMMUNICATION WITH YOUR CUSTOMERS



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What's Is Effective Communication?

- Simply put, “effective communication” means that **whatever is written or spoken must be as clear and understandable to people with disabilities as it is for people who do not have disabilities.**

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Effective Communication

- How is communication with individuals with disabilities different from communication with people without disabilities?

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Providing Equal Access With Auxiliary Aids and Services

- There are many ways that you can provide equal access to communications for people with disabilities.
- These different ways are provided through “auxiliary aids and services.”
- “Auxiliary aids and services” are devices or services that enable effective communication for people with disabilities

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Providing Equal Access With Auxiliary Aids and Services

- In determining what type of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of the IWDs.
 - Honor the choice of the IWD unless public entity can demonstrate that another effective means of communication exists or use of the means chosen would not be required because of fundamental alteration or undue burden.

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Auxiliary Aids and Services Definition – 35.104 and 36.303(b)

- Auxiliary Aids and services include
 - Qualified Interpreters **On-Site or through Video Remote Interpreting (VRI) Services**
 - Notetakers;
 - **Real-time Computer-Aided** Transcription Services
 - Written Materials
 - **Exchange of Written Notes**;

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Auxiliary Aids and Services Definition (cont'd)

- Auxiliary Aids and Services included
 - Telephone Handset Amplifiers;
 - Assistive Listening Devices;
 - Assistive Listening Systems;
 - Telephones Compatible with Hearing Aids;
 - Closed Caption Decoders;
 - Open and Closed Captioning , **including real-time captioning**;

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Auxiliary Aids and Services Definition (cont'd)

- Voice, text, and video-based telecommunication products and systems; including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunication devices.
 - Videotext displays

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Auxiliary Aids and Services Definition (cont'd)

- Accessible Electronic and Information Technology;
 - Or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;

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Auxiliary Aids and Services Definition (cont'd)

- Qualified Readers;
- Taped Texts;
- Audio Recordings;
- Brailled materials and displays;
- Screen reader software;
- Magnification software;

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Auxiliary Aids and Services Definition (cont'd)

- Secondary Auditory Programs (SAP);
- Large Print Materials;
- Accessible Electronic Information Technology;
- Or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;

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Auxiliary Aids and Services Definition (cont'd)

- Acquisition or modification of equipment or devices; and
- Other similar services and actions.
- List is not exhaustive.

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Pop Quiz!

Would providing a Qualified Interpreter on-site through Video Remote Interpreting (VRI) services be an acceptable form of an auxiliary aid and service?

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Pop Quiz Responses

- A. YES, BUT ONLY IF THE INDIVIDUAL SPECIFICALLY REQUESTS VIDEO REMOTE INTERPRETING.
- B. YES, IF IT IS EFFECTIVE FOR THE INDIVIDUAL WHO REQUESTED A SIGN LANGUAGE INTERPRETER.
- C. NO, A SIGN LANGUAGE INTERPRETER MUST ALWAYS BE ON-SITE WITH THE INDIVIDUAL WHO IS DEAF.
- D. NO, VIDEO REMOTE INTERPRETING IS NEVER AN ACCEPTABLE OPTION.

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Qualified Interpreter 35.104 and 36.104

- Definition of a Qualified Interpreter is new to Title II and modified in Title III
- Interpreter who, via video remote interpreting (VRI service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include sign language interpreters, oral transliterators, and cued-language transliterators.

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Qualified Interpreter cont'd

- Transliterators interpret within the same language, sign language interpreters translate from one language to another.
- Oral transliterators have a special skill and training to mouth the speaker's words silently for individuals who are deaf or hard of hearing. Could be necessary for:
 - Individuals who were raised orally and taught to read lips.
 - Individuals diagnosed with hearing loss later in life and may not know sign language.

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Qualified Interpreter cont'd

- Cued-Language transliterators have a special skill and training in the use of the Cued Speech system of handshapes and placements, along with non-manual information, such as facial expressions and body language, to show auditory information visually, including speech and environmental sounds.

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Qualified Interpreter cont'd

- Cued-Speech transliterator functions in the same way as an oral transliterator except that he or she also uses a hand code or cue to represent each speech or sound.

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Qualified Interpreter cont'd

- Not all interpreters are qualified
- Not all interpreters are qualified for ALL situations

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Qualified Reader – 35.104 and 36.104

- Qualified Reader definition is new to both Title II and Title III
- Person who is able to read
 - Effectively,
 - Accurately and,
 - Impartially.
- using any necessary specialized vocabulary.

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Video Remote Interpreting (VRI) Service – 35.104 and 36.104

- VRI definition is new to both Title II and Title III
- An interpreting service that uses video conference technology over dedicated lines or wireless technology offering high-speed, wide-bandwidth video connection that delivers high-quality video images as provided in 35-160(d) and 36-303(f).

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Video Remote Interpreting (VRI) Service – cont'd

- VRI will be effective in some situations but not all situations.
- If a covered entity uses VRI, it must result in effective communication.

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Performance Standards for Video Remote Interpreting (VRI) Service – 35.160(d) and 36.303(f)

○ COVERED ENTITY THAT CHOOSES TO PROVIDE QUALIFIED INTERPRETERS VIA VRI SHALL ENSURE VRI PROVIDES:

- (1) Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication;

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Performance Standards for Video Remote Interpreting (VRI) Service – cont'd



- o(2) A sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of his or her body position;

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Performance Standards for Video Remote Interpreting (VRI) Service – cont'd



- o(3) A clear, audible transmission of voices; and
- o(4) Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI.

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Companions – 35.160(a) and 36.303(c)(1)

- Companions are now specifically included in the list of individuals who must be provided with appropriate auxiliary aids and services necessary to provide effective communication.

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Companions – 35.160(a)(2) and 36.303(c)(1)(i)

- For the purposes of this section “companion” means a family member, friend, or associate, seeking access to a service, program, or activity for a public accommodation or public entity, who along with such individual, is an appropriate person to communicate with.

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Companions – 35.160(a) and 36.303(c)(1)

- Guiding Principle:
 - If the companion is someone with whom the covered entity normally would or should communicate, the covered entity must provide that companion with appropriate auxiliary aids and services for effective communication.

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Pop Quiz!

- In which situation is a companion entitled to appropriate auxiliary aids and services for Effective Communication?
 - A. A companion is deaf and is designated as a person with whom medical personnel should communicate with has requested a sign language interpreter.
 - B. A parent who is visually impaired and is attending back-to-school night for her child that does not have a disability and has requested a large print program.
 - C. Both A & B

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Determining What Type of Auxiliary Aids and Services are Appropriate – 35.160(b)(2) and 36.303(c)

- Will vary in accordance with the method of communication used by the IWD;
- The nature, length, and complexity of the communication involved; and
- The context in which the communication is taking place.

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Determining What Type of Auxiliary Aids and Services are Appropriate – cont'd

- It is strongly suggested that a **communication assessment** be performed --- and not necessarily just once.
- Should be performed to determine the initial appropriateness of a particular auxiliary aid or service
- Reassess, as the situation evolves, whether another or different auxiliary aid or service should be provided.

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Determining What Type of Auxiliary Aids and Services are Appropriate – cont'd

- Suggestion: Covered entities should keep IWDs informed of the status of requested auxiliary aids and services.
- Title III entities should inform an IWD of any decision not to provide a requested auxiliary aid or service.

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Determining What Type of Auxiliary Aids and Services are Appropriate – cont'd

- In order to be effective, auxiliary aids and services must be provided
 - In accessible formats,
 - In a timely manner,
 - And in such ways as to protect the privacy and independence of the IWD.

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Cannot Require IWD to Bring Someone With Them – 35.160(c)(1) and 36.303(c)(2)

- The regulation states that a covered entity “shall not require an individual with a disability to bring another individual to interpret for him or her.”
 - Obligation of the covered entity to provide the appropriate auxiliary aids and services
 - Not meant to prohibit parents, guardians, or caregivers from providing effective communication where appropriate.

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Reliance on an Accompanying Adult – the General Rule and Exceptions 35.160(c)(2) and 36.303(c)(3)

- A covered entity shall not rely on an adult accompanying an IWD to interpret or facilitate communication, except-
 - In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available

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Reliance on an Accompanying Adult – the General Rule and Exceptions cont'd

- Where the IWD **specifically requests** that the accompanying adult interpret or facilitate communication,
- The accompanying adult agrees to provide such assistance,
- And reliance on the individual is **appropriate** under the circumstances.

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POP Quiz

- John is deaf and decided he is ready to purchase a new car. John indicates to the salesman that he is comfortable with his wife interpreting for him while the salesman explains the vehicles and the financial responsibilities. John makes his decision with the help of his wife providing sign language. He then signs all the documents and purchases the vehicle. Later John decides his wife made a mistake in the way she communicated the contract to him. John wants the dealership to have the contract changed or he wants to return the vehicle. The dealership said it is a “done” deal. John said that the dealership should have given him a qualified sign language interpreter and he will sue them. Is the car dealership.....

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Pop Quiz Responses

IN THE WIFE WRONG FOR NOT INSISTING ON THE DEALERSHIP PROVIDING A SIGN LANGUAGE INTERPRETER FOR JOHN?

- A. Yes.
- B. No
- C. It depends.

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Reliance on a Minor Child – 35.160(c)(3) and 36.303(c)(4)

- The only time a covered entity can rely on a minor child to interpret or facilitate communication is an emergency involving an imminent threat to the safety or welfare of an individual or the public where there no interpreter available.
- No clause, as with the accompanying adult provision, that participants can agree.

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POP Quiz



- Maria who is blind, is accompanying her minor daughter to her first appointment for braces. The dentist allows the daughter to read the financial contract to her mother while he leaves the room to check on another patient. The daughter unknowingly leaves off some financial information and requests her mother to sign the contract.

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POP Quiz (con't)



- Maria receives the first bill for the braces and is surprised. She feels there is an error. She gives the contract to her reader and asks her to read the financial portion. She discovers it is not what her daughter read to her. Can Maria make the dentist change the agreement because he allowed a minor child to read the contract to her mother?

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POP Quiz Responses

- Can Maria make the dentist change the agreement because he allowed a minor child to read the contract to her mother?

Yes

No

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What's New in Telecommunications – 35.161 and 36.303(d)

- Title II and Title III now require that when a covered entity uses an automated-attendant system, including, but limited to voicemail and messaging, or an interactive voice response system, for receiving incoming telephone calls, that system must provide effective real-time communication with individuals using auxiliary aids and services, including TTYs and all forms of FCC-approved telecommunications relay systems, including internet-based relay systems 35.161(b) and 36.303(d)(1)

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What's New in Telecommunications – Cont'd



- Both titles also require that covered entity shall respond to telephone calls from a telecommunications relay service established under Title IV of the ADA in the same manner that it responds to other telephone calls. 35.161(c) and 36.303(d)(4)

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What's New in Telecommunications – Cont'd



- Title III also now requires that a public accommodation may use relay services in place of direct telephone communication for receiving of making telephone calls incident to its operations. 36.303(d)(3)

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What's New in Telecommunications – Cont'd

- Finally, 36.303(d)(2) has been modified to state “A public accommodation that offers a customer, client, patient, or participant the opportunity to make outgoing telephone calls using public accommodation’s equipment on more than an incidental convenience basis shall make available accessible public telephones, TTYs, **or other telecommunication products and systems for use by an individual who is deaf or hard of hearing, or has a speech impairment.**”

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Pop Quiz

- Donna is an individual with a late life severe hearing loss but has good speaking skills. She uses a specialized telephone called a CapTel and has it plugged into the hotel she is staying in. The maid told the hotel manager that she plugged another phone into their phone line. The hotel manager approached Donna and told her that she must remove the phone and use the TTY they provide for their guests who are deaf or hard of hearing. Donna said it does not cost anymore to use the phone and is most user friendly for her. Management said “no” they can’t monitor her use of the phone and have offered alternate equipment. Is management:

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Pop Quiz Responses

- A. discriminating against Donna by not allowing her to use her own choice of equipment?
- B. not discriminating against Donna because they offered an alternate form of equipment?
- C. Neither A or B

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QUESTIONS?



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DID YOU KNOW?

ALEXANDER GRAHAM BELL'S MOTHER WAS DEAF AND WAS A MUSICIAN AND A PAINTER OF PORTRAITS.

HIS FATHER, WHO TAUGHT PEOPLE WHO WERE DEAF HOW TO SPEAK, INVENTED "VISIBLE SPEECH". THIS WAS A CODE WHICH SHOWED HOW THE TONGUE, LIPS, AND THROAT WERE POSITIONED TO MAKE SPEECH SOUNDS.

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Thank you for participating in today's
ADA-Audio Conference Session

The 2011-2012 Schedule is available on-line

The next scheduled session is:
Open Dialog with the US Department of Justice

December 13, 2011

Register at: www.ada-audio.org or call 866-232-1990 V/TTY

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