Effective Communication

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Effective Communication is an ADA Requirement for Barrier Removal

- The ADA requires Title II & III entities to provide equal access to all programs and services.
- One of the steps required to remove barriers to equal access is the provision of "effective communication".

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Definition of Effective Communication

"Effective communication" means that communication…

- must be as clear and understandable to people with communication disabilities as it is for everyone else.

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Communication Related Disabilities

- Deaf
- Hard of Hearing
- Blind
- Low Vision
- Visual Perceptual Disorder
- Difficulty in the Mechanics of Speaking (Stroke, Cerebral Palsy)
- Auditory Processing Disorders
- Cognitive Related Conditions.

Not an Exhaustive List!

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Focus of Effective Communication

The standard for achieving effective communication is on the **outcome** of the communication.

Clearly Understood Information by Both Parties

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Communication is often both receiving and sending information.

<u>Both</u> Parties Need to be Able to Clearly Understand and Communicate with each other.

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Types of Communication Covered

- Face to Face Communication
- Printed materials
- Television, Radio, Telephones, & Videos
- Websites, Electronic Communication
- Emergency Communications
- Structural Communication
- Will change as technologies change.

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What are the Effective Communication Obligations Under the ADA?

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Title II & III Obligations Under the ADA

- Both Title II & III entities are obligated to ensure effective communication is provided for **all** of their programs and services.

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Can you think of a service or program that doesn't involve effective communication?

I can't!!

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State & local governments must also:

- make information about the l**ocation of accessible services,** activities, and facilities available in a format that is accessible to people who are deaf or hard of hearing and those who are blind or have low vision.
- Highly recommended businesses do the same!

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How do Title II & III Entities Provide Effective Communication?

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Static Communication versus Accommodation Requests

Communication Accessibility Should be Built In.

- Websites
- Apps
- Emergency Notifications
- Structural Communication
- Printed Materials
- Electronic Documents
- Video Captioning

Effective Communication provided through auxiliary aids and services that meet individual needs.

- Interpreters at meetings/events.
- Braille documents.
- Modification in notification- email or text instead of telephone call.

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Auxiliary Aids and Services

- **"a device or service that enables effective communication for people with disabilities"**

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Types of Auxiliary Aides or Services

- Providing Communication in a Different Format
- Providing Direct Services/Assistance
- Using Technology or Making Communication Compatible with Assistive Technologies

Changing Technology Will Continually Affect How Communication is Provided!

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Who Initiates the Request for an Auxiliary Aid or Service?

- The requirement to provide an auxiliary aid or service is triggered when a person with a disability requests it.

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Preparation is Key to Providing Auxiliary Aids and Services as Required.

- Title II and III entities should be prepared to provide an auxiliary aid in a reasonable amount of time.
- Have a Plan in Place
- Identify Vendors
- Understand Technical Requirements & Needs
- Staff Training

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Exceptions to Effective Communication Obligation for Auxiliary Aids and Services.

- Fundamentally alter the nature of the service or program.
- Result in an undue financial and administrative burden.
- Direct threat to health and safety?

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How Does an Entity Decide What Type of Auxiliary Aid or Service to Provide?

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When a Request is Made:

When an auxiliary aid or service is needed:

- The public entity must provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice
- and must give **primary consideration** to the choice requested by the individual.

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Primary Consideration

- **"Primary consideration"** means that the public entity should makes all attempts to provide the auxiliary aid that was requested **unless:**

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Primary Consideration

- The entity can demonstrate that another **equally effective** means of communication is available;
- The chosen method would result in a **fundamental alteration** in the service, program, or activity
- The method chosen would result in an **undue financial and/or administrative burden**.

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Criteria for Your Decision

The type of aid or service necessary depends on the length and complexity of the communication as well as the format.

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Example:

A consultation with a doctor generally involves more complex communication than ordering dinner at a restaurant.

The ramifications of the communication are also different.

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Regulations and Guidelines for Providing Interpreters

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Entities are Required to Use Qualified Interpreters.

Qualified means the interpreter must be able to interpret both receptive and expressive:

- Effectively
- Accurately
- Impartially
- Be able to use necessary specialized vocabulary
- From 35.104 Definitions in Title II Regulations

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Qualified Interpreters

- **Note:** ADA regulations do **NOT** stipulate certification or licensure as part of the requirements to be considered a qualified interpreter.
- However, certification and formal training are often criteria used to determine the effectiveness, accuracy and professionalism of an interpreter.
- State and local regulations may have these requirements
- Many entities put these requirements in their own policies.

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Can Family Members Serve as Interpreters?

Family members and companions of deaf persons should not be **required** to serve as sign language interpreters.

From: Subpart E-Communications
35.160 General (c.2 ii)

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Can Family Members Serve as Interpreters?

Reason:

- Bias Issues
- Privacy Issues
- May put family member in difficult/emotional situation.

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Financial Responsibility for Interpreters

- Person with a disability requesting interpreters <u>cannot be charged</u> for the cost of an interpreter.
- The decision to deny an interpreter must be made considering <u>all funding available</u> for the operation of the program.

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How do You Decide When an Interpreter is Necessary as a Reasonable Accommodation?

Factors to be considered in determining whether an interpreter is required include:

- the context in which the communication is taking place.
- the number of people involved.
- the importance of the communication.

Remember

- Primary Consideration
- Length, Complexity, and Format

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Video Relay Services (VRS)

- VRS is a video relay service using interpreters connected to callers by video hook-up.
- Designed to provide telephone services to persons who are deaf and use American Sign Language.
- VRS is funded through the Interstate Telecommunications Relay Services Fund and overseen by the Federal Communication Commission.
- There are no fees for callers to use the VRS interpreters and the video connection.

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VRS Regulations

- The FCC has made clear that VRS functions as a telephone service and is **not** intended to be used for interpreting services where both parties are in the same room

- The Department agrees that VRS cannot be used as a substitute for in-person interpreters or for VRI in situations that would not, absent one party's disability, require use of the telephone.

In other words, VRS is for telephone calls!
Not a substitute way to provide interpreter services.

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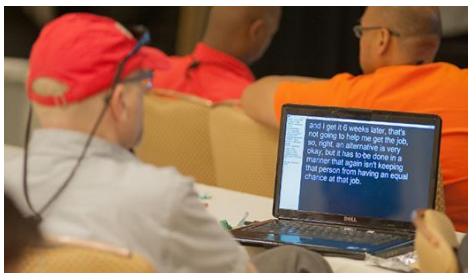
Computer-Aided Real-Time Transcription (CART)

CART is a service in which an operator types what is said into a computer that displays the typed words on a screen.



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Video Remote Interpreting (VRI)

VRI or VIS services uses high-speed internet to allow a sign language interpreter to provide interpretation service remotely.

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VRI Technical Specifications Resource Slide

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

All standards should be met!

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Video Remote Interpreting (VRI)

In other words the technical equipment and expertise must be there for it to work correctly and efficiently.

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Video Remote Interpreting vs: On-site Interpreter

Can be an effective way to provide interpreting services:

- When there is an emergency and services are needed quickly.
- Rural areas that have few or no available interpreters.
- Cost is a legitimate factor to use when deciding on method of providing interpreter services.

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VRI: Dept. of Justice Comments

- After consideration of the comments and the Department's own research and experience, the Department has determined that VRI can be an effective method of providing interpreting services in certain circumstances, but not in others.

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VRI: Dept. of Justice Comments

- For example, VRI should be effective in many situations involving routine medical care, as well as in the emergency room where urgent care is important, but no in-person interpreter is available;
- however, VRI may not be effective in situations involving surgery or other medical procedures where the patient is limited in his or her ability to see the video screen.
- Similarly, VRI may not be effective in situations where there are multiple people in a room and the information exchanged is highly complex and fast-paced.

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VRI: Dept. of Justice Comments

- The Department recognizes that in these and other situations, such as where communication is needed for persons who are deaf-blind, it may be necessary to summon an in-person interpreter to assist certain individuals.
- To ensure that VRI is effective in situations where it is appropriate, the Department has established performance standards in § 35.160(d)

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Multi-Media Captioning

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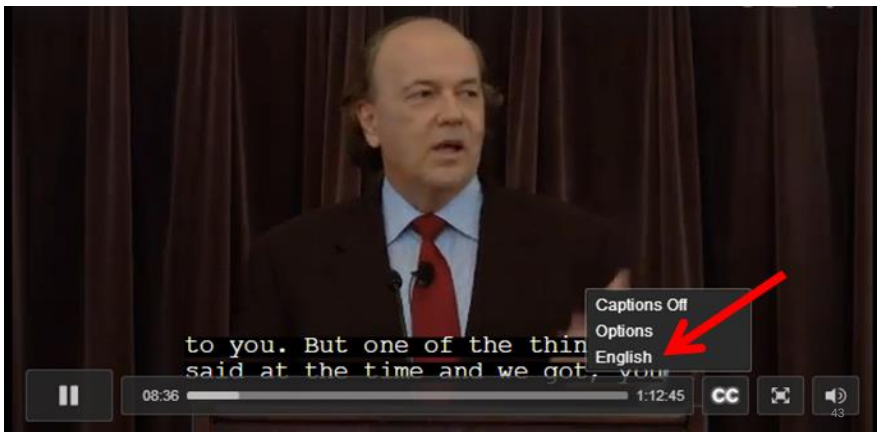
Closed Captioning vs. Open Captioning

- **Closed Captioning** can be turned off and on by user.
- **Open Captioning** is embedded into the media



Captioning Guidelines

- Should be synchronized with audio as much as possible. 90% content accuracy.
- Do not rely solely on automatic captioning programs! Use as a tool in the process.

Want to learn why automatic captioning is a bad idea?—just search “caption fails”

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Emergency Preparedness

- **Critical** that Title II entities have mechanisms in place to provide effective communication for their emergency preparedness services.

Lives may depend on it!

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Emergency Preparedness

- **Notification**: General Information, Alarms, Alerts
- **Shelters and Emergency Centers**
- **First Responders & Emergency Services**

Voluntary Registries Can Provide Useful Information on Communication Needs and How to Contact

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Effective Communication-Action Plan 1

- Get input from people in your community who have different disabilities to evaluate policies and get suggestions for improvement.

Businesses benefit from customer feedback and recommendations from the disability community.

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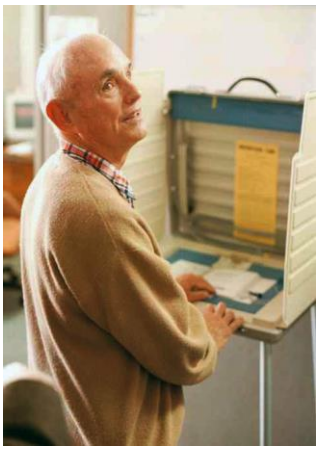
Effective Communication—Action Plan 2

- Identify local resources for auxiliary aids and services.
- Even if you do not think there is anyone with a disability in your community, you need to be prepared.



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Effective Communication-Action Plan 3

- Purchase equipment or make arrangements with vendors so that documents can be provided in alternative formats when requested.
- Make sure you have technical specifications and logistics built into your contract or agreement.

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Effective Communication—Action Plan 4

- Contract with qualified interpreter services and other providers so that interpreters and other aids and services will be available on short notice.
- Especially critical for time-sensitive situations, such as when a qualified interpreter is necessary to communicate with someone who is arrested, injured, hospitalized, or involved in some other emergency.

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Effective Communication—Action Plan 5

- **Train employees** so they know the policies and the appropriate procedures to follow when they receive a request for an interpreter or other auxiliary aide or service.
- Make arrangements with vendors or hire employees so interpreters are available when needed.
- Make effective communication part of your customer service training.

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Effective Communication—Action Plan 6

- Make videos and television programs that your community produces, distributes, or makes available to the public accessible.
- Captioning and audio description of important visual images,
- If there is a backlog of videos that need captioning, prioritize videos that should be captioned and make a policy that new videos will be captioned!

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Effective Communication—Action Plan 7

- **Train employees** who answer the telephone to handle relay service calls quickly and effectively.
- When I do customer service trainings in the business community, many front line staff say they would feel nervous about taking a Video Relay Call.

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Effective Communication—Action Plan 8

- Find out how you can produce documents in Braille or acquire other aids or services.
- Consider whether it makes sense to procure equipment or obtain services through vendors.
- Get information about how much advance notice the vendors will need to produce documents or provide services.

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Resources

State Assistive Technology Projects

ADA National Network and Regional ADA Centers

http://www.adata.org/ 1-800-949-4232

WebAim (Resource for accessible websites.)

http://www.webaim.org/

Do-IT Center-University of Washington (resource for accessible courses and other higher ed) https://www.washington.edu/doit/programs

- **Accessible Information Technology Resources for Remote Meetings, Conferences, Trainings, and Telework Resource List**

https://www.gpadacenter.org/sites/default/files/2020-05/InformationTechnologyResources.pdf

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Questions?

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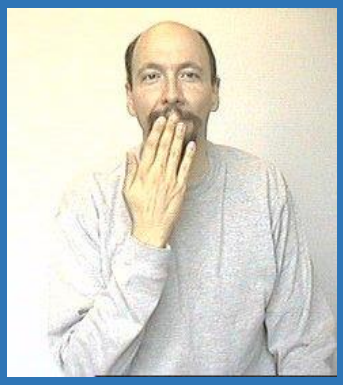
Thank You!



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