

Americans with Disability Amendment Act Fact Sheet Accommodations and Auxiliary Services for Deaf and Hard of Hearing

General Information

Passed by Congress in 1990, the Americans with Disabilities Act (ADA) is the nation's first comprehensive civil rights law addressing the needs of people with disabilities, prohibiting discrimination in employment, public services, public accommodations, and telecommunications.¹ The ADA Amendments Act of 2008 (ADAAA) was enacted on September 25, 2008, and became effective on January 1, 2009. The law made a number of significant changes to the definition of “disability” under the Americans with Disabilities Act (ADA). It also directed the U.S. Equal Employment Opportunity Commission (EEOC) to amend its ADA regulations to reflect the changes made by the ADAAA.²

The Justice Department’s ADA Rulemaking History

The Department originally published its ADA title II (state and local government) and title III (businesses, medical offices, entertainment, etc.) regulations on July 26, 1991, including the 1991 ADA Accessibility Guidelines (1991 Standards). The original law required Title II entities to provide auxiliary aides and services for people with disabilities.

On September 15, 2010 the Department published final regulations revising the Department’s ADA regulations, including the adoption of updated ADA Standards for Accessible Design (2010 Standards). The revised final rules went into effect on March 15, 2011. Compliance with the 2010 Standards was required on March 15, 2012, except that compliance with the requirements in the 2010 Standards with respect to existing swimming pools was subsequently extended to January 31, 2013. (77 FR 30174 (May 21, 2012)).

On July 15, 2016, Attorney General Loretta Lynch signed a final rule revising the ADA title II and III regulations to implement the requirements of the ADA Amendments Act of 2008. The final rule was published in the Federal Register on August 11, 2016, and took effect 60 days after publication, on October 11, 2016. Congress enacted the ADA Amendments Act to clarify the meaning and interpretation of the ADA definition of “disability” to ensure that the definition of disability would be broadly construed and applied without extensive analysis.

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The title III regulation was again revised on November 21, 2016, when Attorney General Loretta Lynch signed a final rule that further clarified a public accommodation's obligation to provide appropriate auxiliary aids and services for people with disabilities. The final rule provides that public accommodations that own, operate, or lease movie theaters are required to provide closed movie captioning and audio description whenever showing a digital movie that is produced, distributed, or otherwise made available with these features. The final rule was published in the Federal Register on December 2, 2016, and took effect 45 days after publication, on January 17, 2017.³

Technical Assistance

The Department of Justice operates a toll-free ADA Information Line to provide information and materials to the public about the requirements of the ADA. ADA Specialists, who assist callers in understanding how the ADA applies to their situation, are available on Monday, Tuesday, Wednesday, and Friday from 9:30 a.m. until 5:30 p.m. (Eastern Time) and on Thursday from 12:30 p.m. until 5:30 p.m. (Eastern Time). Calls are confidential. To get answers to technical questions, obtain general ADA information, order free ADA materials, or ask about filing a complaint, please call: 800-514-0301 (voice); 800-514-0383 (TTY).⁴

Kansas Commission for the Deaf and Hard of Hearing (KCDHH)

KCDHH maintains a listing of persons qualified in various types of interpreting, as supported by K.S.A. 75-5393(b)(11), which KCDHH through its Executive Director provides for a program of regulation and certification of interpreters for the deaf, hard of hearing and speech-impaired individuals. The KCDHH administers the statewide registration of all interpreters in place of a certification system, of which either system is made available by K.S.A. 75-4355b, et seq.⁵ KCDHH staff can answer questions about where to find other kinds of accommodations if someone asks for a service other than interpreters, like CART, audio loop. They may also be able to suggest providers in the area. Contact 785-368-8034 or VP 785-246-5077.

Better Understanding of Accessibility

While accessibility is often used to describe facilities or amenities to assist people with disabilities, as in "wheelchair accessible", the term can extend to Braille signage, website design, sign language interpreters, and so on.⁶

The ADA requires that title II entities (state and local governments) and title III entities (businesses and nonprofit organizations that serve the public) communicate effectively with people who have communication disabilities. The goal is to ensure that communication with people with these disabilities is equally effective as communication with people without disabilities.

- 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.
- The goal is to ensure that communication with people with disabilities is as effective as communication with people without disabilities.⁷
- The rules apply to communicating with the person who is receiving the covered entity's goods or services as well as with that person's parent, spouse, or companion in appropriate circumstances. ⁸
- Since people communicate differently, it is the responsibility of the individual who is Deaf/HH to let businesses/agencies know the specific accommodation they are requesting. Requests for accommodation should give a business/agency a reasonable amount of time to provide the accommodation. Requests for accommodations made in writing are easier to track.⁹

Auxiliary Aids and Services

The ADA uses the term “auxiliary aids and services” (“aids and services”) to refer to the ways to communicate with people who have communication disabilities.

- For people who are deaf, have hearing loss, or are deaf-blind, this includes providing a qualified notetaker; a qualified sign language interpreter, oral interpreter, cued-speech interpreter, or tactile interpreter; real-time captioning; written materials; or a printed script of a stock speech (such as given on a museum or historic house tour). A “qualified” interpreter means someone who is able to interpret effectively, accurately, and impartially, both receptively (i.e., understanding what the person with the disability is saying) and expressively (i.e., having the skill needed to convey information back to that person) using any necessary specialized vocabulary.
- For people who have speech disabilities, this may include providing a qualified speech-to-speech transliterator (a person trained to recognize unclear speech and repeat it clearly), especially if the person will be speaking at length, such as giving testimony in court, or communicating with someone who uses a communication board. In some situations, keeping paper and pencil on hand so the person can write out words that staff cannot understand may provide effective communication. Staff should always listen attentively and not be afraid or embarrassed to ask the person to repeat a word or phrase they do not understand.

In addition, aids and services include a wide variety of technologies including:

- assistive listening systems and devices
- open captioning, closed captioning, real-time captioning, and closed caption decoders and devices
- telephone handset amplifiers, hearing-aid compatible telephones, text telephones (TTYs), videophones, captioned telephones, and other voice, text, and video-based telecommunications products
- Real time captioning (also known as computer-assisted real-time transcription, or CART)
- Video relay service (VRS)
- Video remote interpreting (VRI)¹⁰

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For More Information:

- Kansas Commission for Deaf and Hard of Hearing (KCDHH) - For additional information and/or to make a request for appropriate forms, documents or interpreter assistance, please contact KCDHH at 785-368-8034 or VP 785-246-5077 or website at: <http://www.dcf.ks.gov/services/RS/Pages/KCDHH.aspx>
- Effective Communication; ADA requirements from the U.S. Department of Justice/Civil Rights Division: <https://www.ada.gov/effective-comm.htm> (Very informative)
- Fact Sheet from the Office for Civil Rights: Your Rights under the ADA <https://www.hhs.gov/sites/default/files/ocr/civilrights/resources/factsheets/ada.pdf>
- Deaf Rights: What you need to know: https://www.huffingtonpost.com/lydia-l-callis/deaf-rights-what-you-need-to-know_b_5688351.html

Note: This guide is informational only and is not intended to be legal advice. Also, the laws addressed in this guide change frequently based on different courts' interpretations of them.

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References

1. The ADA of 1990; U.S. Equal Employment Opportunity Commission; <https://www.eeoc.gov/eeoc/history/35th/1990s/ada.html>
2. Fact Sheet on the EEOC's Final Regulations Implementing the ADAAA; U.S. Equal Employment Opportunity Commission; https://www.eeoc.gov/laws/regulations/adaaa_fact_sheet.cfm
3. The Americans with Disabilities Act of 1990 and Revised ADA Regulations Implementing Title II and Title III; United States Department of Justice Civil Rights Division; https://www.ada.gov/2010_regs.htm
4. ADA Information Line; United States Department of Justice Civil Rights Division; <https://www.ada.gov/infoline.htm>
5. Overview of KCDHH Interpreter Registration; Kansas Department for Children and Families; <http://www.dcf.ks.gov/services/RS/Pages/KCDHH/KQAS.aspx>
6. Askdefine/extensive definition of accessible; <https://accessible.askdefine.com/>
7. Effective Communication; U.S. Department of Justice, Civil Rights Division, Disability Rights Section; <https://www.ada.gov/effective-comm.htm>
8. Effective Communication, Overview; U.S. Department of Justice, Civil Rights Division, Disability Rights Section; <https://www.ada.gov/effective-comm.htm>
9. Americans with Disabilities Act – Effective Communication for the Deaf and People who are Hard of Hearing; p.2; Disability Law Center, Utah's Protection and Advocacy Center; <http://www.ccano.org/wp-content/uploads/2015/01/ADA-Effective-Communication-for-Deaf-and-Hard-of-Hearing.pdf>
10. Effective Communication, Auxiliary Aids and Services; U.S. Department of Justice, Civil Rights Division, Disability Rights Section; <https://www.ada.gov/effective-comm.htm>