

## Overview

Effective communication affords individuals who are deaf or hard of hearing the ability to share and/or receive information in a manner that is successful for them. Effective communication creates an increased opportunity for full and equal participation in any given situation. Effective communications should be a fluid communication interaction in which all parties are able to receive and respond to information equally. This Fast Fact will examine essential components of effective communication.

## What is effective communication?

The U.S. Department of Justice defines effective communication as communication with individuals who are deaf or hard of hearing that is equitable to communication with persons without hearing loss.<sup>1</sup> This could mean utilizing a sign language interpreter, speech-to-text services, captioned media, an assistive listening device, or another accommodation requested by the individual.

## Do I need to provide the specific service requested?

Organizations which are title II organizations, such as state and local governments, are **required** under the ADA to give primary consideration to the service or device requested by the deaf or hard of hearing person, unless it can be demonstrated that another equally effective means of communication is available.<sup>1</sup> Title III organizations, such as private universities and commercial businesses, are **encouraged** to consider the specific service or device requested by the individual.<sup>1</sup> It is important to remember that even when federal law does not mandate honoring a person's specific accommodation request, an entity is still required to ensure that communication is effective between all parties.

Not all accommodations are equally effective for all deaf or hard of hearing individuals. If someone does not know sign language, for example, then a sign language interpreter would not be an effective means of communication access. In these instances, honoring a specific request for speech-to-text services, such as CART, C-Print<sup>®</sup>, or TypeWell, would be appropriate. In other situations, a deaf or hard of hearing individual may have additional hidden disabilities which makes reading the captions generated by speech-to-text providers difficult. For these individuals, the presence of a sign language interpreter would create an environment that allows effective communication to take place.

## What is a qualified provider?

In essence, under the ADA, a qualified provider is defined as someone who effectively, accurately, and impartially conveys real-time communication access, either on-site or remotely. A qualified provider will have a high level of professionalism and ethics. Interpreters should have the necessary skills to convey information both expressively and receptively. This also requires that they possess knowledge of any vocabulary specific to the setting. A speech-to-text provider should possess a high level of content comprehension and real-time accuracy.

## Do I need to honor a request for a specific provider?

The ADA does not mandate honoring a request for a specific service provider; however, there are situations in which the specific provider is also the most qualified service provider. For example, suppose a deaf student requests Ms. Smith to interpret her Calculus II course. While discussing the reasons for the specific request with the student, you learn that Ms. Smith interpreted her Calculus I course and has an extensive background interpreting high level math courses.

Another interpreter may not have these qualifications. In this case, an argument can be made that Ms. Smith is most qualified to provide effective communication access.

For speech-to-text services, CART provides a word-for-word transcription while C-Print<sup>®</sup> and TypeWell generate a meaning-for-meaning transcription. In classes where knowing the exact wording is critical a meaning-for-meaning system might not be best. And with a student who had slower reading skills, a verbatim system might not be best. By engaging in discussion on the reason for the specific request, both parties can reach a mutual understanding that leads to a successful outcome.

### What is the subjective experience?

For users of sign language, it is important to consider the subjective experience when addressing specific requests or grievances. There are several variations of sign language including American Sign Language (ASL), Pidgin Signed English (PSE), and Signed Exact English (SEE). Thus if a deaf person who is a strong user of ASL is paired with an interpreter who uses SEE, there can be incidences of misunderstanding both receptively and expressively between all parties leading to ineffective communication.

### Case Law

There are two OCR cases that shed insight on the topic of effective communication.

Argenyi vs Creighton

<https://www.justice.gov/sites/default/files/crt/legacy/2012/01/27/argenyibrief.pdf>

Santa Ana College

<https://www2.ed.gov/policy/gen/leg/foia/santa-ana-college.pdf>

Both of these cases are reviewed in the pepnet 2 publication titled *Equitable Access for Deaf or Hard of Hearing Students: Understanding Legal Responsibilities for Institutions*:

<http://www.pepnet.org/equitable-access>

### Resources

U.S Department of Justice: Effective Communication

<http://www.ada.gov/effective-comm.htm>

### References

<sup>1</sup> U.S Department of Justice: Effective Communication. Retrieved from

<http://www.ada.gov/effective-comm.htm>

**Visit [www.pepnet.org](http://www.pepnet.org) for additional information and resources**

Published by June 2016