
The ADA and Reasonable Accommodations

by Beth Schoenberg, January 1999

The Americans with Disabilities Act (ADA) is a federal law that Congress enacted in 1990. This is a civil rights law that ensures that people with many types of disabilities have equal access to many aspects of our society. The following article attempts to describe in lay terms the different aspects of the ADA and how those relate specifically to the provision of sign language interpreters. The author of this article is not a lawyer, so as always, if you have questions about your legal rights or responsibilities, consult your attorney.

ADA Requirements

The ADA requires that situations and services that are accessible to people without disabilities must also be accessible to people with disabilities. The ADA is divided into four titles which relate to different areas of service.

The Specifics:

Title I: relating to accessibility in the workplace; covers employees, job applicants, and workplace situations.

Title II: relating to government services and activities at the local, city, state, and national level.

Title III: relating to services which are available to the general public, for hire or for free.

Title IV: relating to provision of telecommunication relay services.

Titles I and III are the sections of the ADA which are most commonly encountered when providing interpreting services, so these titles will be discussed in more detail.

Title I is designed to provide access in all aspects of employment. It requires that employers make reasonable accommodations in order to perform essential functions of a job. Title I of the ADA applies to employers with 15 or more employees; however, in Washington State, this title is largely superseded by RCW 49.60, which makes similar provisions for employers with eight or more employees.

Reasonable accommodations are products or services that allow a person with a disability to be integrated into a workplace. For deaf employees (or job applicants), such accommodations could include providing a TTY, allowing the use of email instead of voice mail, and hiring interpreters for communication with hearing coworkers or supervisors. These accommodations must be provided without cost to the employee or applicant. The law is not specific on what types of accommodations are required, but it is best for companies to take a collaborative approach in determining which accommodations would be best. Each workplace and each employee will be best served by different solutions. Employers cannot assume that one blanket accommodation will meet the needs of all employees. For example, an interpreter may be required for one deaf employee for 1:1 training, whereas another deaf employee may function well in the same environment with self-paced training modules, written instructions, or through speechreading.

The ADA does allow exemptions to the requirement for reasonable accommodations in cases of undue burden. However, the standard that has been set by the courts for

undue burden is fairly stringent. Generally, the cost of the accommodation must be a significant proportion of the gross proceeds of the business in order for undue burden to be invoked.

In some cases, there may be alternate sources of funding for accommodations. Some deaf job applicants are being assisted by the state Department of Vocational Rehabilitation (DVR), which may be able to assist in determining and accessing accommodations in order to help the deaf person obtain employment. If employees are sent to training which is provided by outside organizations, those organizations may be required to provide accommodations (under Title III of the ADA). SignOn can assist you in navigating your obligations and resources.

Title III requires that people with disabilities be allowed equal access to services that are available to the public. This title covers a variety of businesses: banks, restaurants, medical facilities, recreational activities, stores, private businesses and service providers, voluntary organizations, and almost any other organization that may need to communicate with its members, consumers, customers, or the general public.

Once again, accommodations can take many forms, depending on the nature, content, and importance of the communication. Agencies can be exempted from this title, though in section of the ADA uses the term 'undue hardship', rather than 'undue burden'. The underlying concept is still the same: an accommodation would have to be a significant proportion of the yearly gross income of the business to be considered an undue hardship. Cost of accommodations cannot be considered on a per contact basis. For example, a doctor cannot claim undue hardship because the cost of an interpreter is equal to her fee for an office visit, resulting in no net profit for the appointment. The cost of providing accommodations is considered an overhead cost for the business on a yearly basis.