

[Home](#) / [Private Business](#) / [Technical Assistance Manual](#)

Chapter 4: Specific Requirements

Italicized text was added to the original Title III Technical Assistance Manual through supplements issued in 1993 and 1994.

Regulatory references: 28 CFR 36.301-36.310.

III-4.3000 Auxiliary aids

III-4.3100 General.

A public accommodation is required to provide auxiliary aids and services that are necessary to ensure equal access to the goods, services, facilities, privileges, or accommodations that it offers, unless an undue burden or a fundamental alteration would result.

Who is entitled to auxiliary aids? This obligation extends only to individuals with disabilities who have physical or mental impairments, such as vision, hearing, or speech impairments, that substantially limit the ability to communicate. Measures taken to accommodate individuals with other types of disabilities are covered by other title III requirements such as "reasonable modifications" and "alternatives to barrier removal."

ILLUSTRATION: W, an individual who is blind, needs assistance in locating and removing an item from a grocery store shelf. A store employee who locates the desired item for W would be providing an "auxiliary aid or service."

BUT: If G, who uses a wheelchair, receives the same retrieval service, not because of a disability related to communication, but rather because of his inability to physically reach the desired item, the store would be making a required "reasonable modification" in its practices, as discussed in III-4.2000 of this manual.

III-4.3200 Effective communication.

In order to provide equal access, a public accommodation is required to make available appropriate auxiliary aids and services where necessary to ensure effective communication. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved.

ILLUSTRATION 1: *H, an individual who is deaf, uses sign language as his primary means of communication and also communicates by writing. He is shopping for film at a camera store. Exchanging notes with the sales clerk would be adequate to ensure effective communication.*

ILLUSTRATION 2: H then stops by a new car showroom to look at the latest models. The car dealer would be able to communicate effectively general information about the models available by providing brochures and exchanging notes by pen and notepad, or perhaps by means of taking turns at a computer terminal keyboard. If H becomes serious about making a purchase, the services of a qualified interpreter may be necessary because of the complicated nature of the communication involved in buying a car.

ILLUSTRATION 2a: *H goes to his doctor for a bi-weekly check-up, during which the nurse records H's blood pressure and weight. Exchanging notes and using gestures are likely to provide an effective means of communication at this type of check-up.*

BUT: *Upon experiencing symptoms of a mild stroke, H returns to his doctor for a thorough examination and battery of tests and requests that an interpreter be provided. H's doctor should arrange for the services of a qualified interpreter, as an interpreter is likely to be necessary for effective communication with H, given the length and complexity of the communication involved.*

ILLUSTRATION 3: S, an individual who is blind, visits an electronics store to purchase a clock radio and wishes to inspect the merchandise information cards next to the floor models in order to decide which one to buy. Reading the model information to S should be adequate to ensure effective communication. Of course, if S is unreasonably demanding or is shopping when the store is extremely busy, it may be an undue burden to spend extended periods of time reading price and product information.

ILLUSTRATION 4: *S also has tickets to a play. When S arrives at the theater, the usher notices that S is an individual who is blind and guides S to her seat. An usher is also available to guide S to her seat following intermission. With the provision of these services, a Brailled ticket is not necessary for effective communication in seating S.*

ILLUSTRATION 5: *The same theater provides S with a tape-recorded version of its printed program for the evening's*

performance. A Brailled program is not necessary to effectively communicate the contents of the program to S, if an audio cassette and tape player are provided.

Who decides what type of auxiliary aid should be provided? Public accommodations should consult with individuals with disabilities wherever possible to determine what type of auxiliary aid is needed to ensure effective communication. In many cases, more than one type of auxiliary aid or service may make effective communication possible. While consultation is strongly encouraged, the ultimate decision as to what measures to take to ensure effective communication rests in the hands of the public accommodation, provided that the method chosen results in effective communication.

ILLUSTRATION: *A patient who is deaf brings his own sign language interpreter for an office visit without prior consultation and bills the physician for the cost of the interpreter. The physician is not obligated to comply with the unilateral determination by the patient that an interpreter is necessary. The physician must be given an opportunity to consult with the patient and make an independent assessment of what type of auxiliary aid, if any, is necessary to ensure effective communication. If the patient believes that the physician's decision will not lead to effective communication, then the patient may challenge that decision under title III by initiating litigation or filing a complaint with the Department of Justice (see III-8.0000).*

ILLUSTRATION 2: *S, who is blind, goes to the corner laundromat. Displayed on the laundry machine controls are written instructions for operating the machines. The company that owns and operates the laundromat could make the machines accessible to S by Brailleing the instructions onto adhesive labels and placing the labels (or a Brailled template) on the machines. Alternatively, the laundromat company could arrange for a laundry room attendant to read the instructions printed on the machines to S. Any one particular method is not required, so long as effective communication is provided.*

Who is a qualified interpreter? There are a number of sign language systems in use by persons who use sign language. (The most common systems of sign language are American Sign Language and signed English.) Individuals who use a particular system may not communicate effectively through an interpreter who uses another system. When an interpreter is required, the public accommodation should provide a qualified interpreter, that is, an interpreter who is able to sign to the individual who is deaf what is being said by the hearing person and who can voice to the hearing person what is being signed by the individual who is deaf. This communication must be conveyed effectively, accurately, and impartially, through the use of any necessary specialized vocabulary.

Can a public accommodation use a staff member who signs "pretty well" as an interpreter for meetings with individuals who use sign language to communicate? Signing and interpreting are not the same thing. Being able to sign does not mean that a person can process spoken communication into the proper signs, nor does it mean that he or she possesses the proper skills to observe someone signing and change their signed or fingerspelled communication into spoken words. The interpreter must be able to interpret both receptively and expressively.

If a sign language interpreter is required for effective communication, must only a certified interpreter be provided? No. The key question in determining whether effective communication will result is whether the interpreter is "qualified," not whether he or she has been actually certified by an official licensing body. A qualified interpreter is one "who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary." An individual does not have to be certified in order to meet this standard. A certified interpreter may not meet this standard in all situations, e.g., where the interpreter is not familiar with the specialized vocabulary involved in the communication at issue.

III-4.3300 Examples of auxiliary aids and services.

Auxiliary aids and services include a wide range of services and devices that promote effective communication. Examples of auxiliary aids and services for individuals who are deaf or hard of hearing include qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, and exchange of written notes.

Examples for individuals with vision impairments include qualified readers, taped texts, audio recordings, Brailled materials, large print materials, and assistance in locating items.

Examples for individuals with speech impairments include TDD's, computer terminals, speech synthesizers, and communication boards.

III-4.3400 Telecommunication devices for the deaf (TDD's).

In order to ensure effective communication by telephone, a public accommodation is required to provide TDD's in certain circumstances. Because TDD relay systems required by title IV of the ADA (which must be operational by July 26, 1993) will eliminate many telephone system barriers to TDD users, the auxiliary aids requirements relating to TDD's are limited in nature.

III-4.3410 Calls incident to business operations.

A public accommodation is not required to have a TDD available for receiving or making telephone calls that are part of its business operations. Even during the interim period between the effective date of title III and the date the TDD relay service becomes available, there is no requirement that public accommodations have TDD's. Of course, the ADA does not prevent a public accommodation from obtaining a TDD if, for business or other reasons, it chooses to do so.

III-4.3420 Outgoing calls by customers, clients, patients, or participants.

On the other hand, TDD's must be provided when customers, clients, patients, or participants are permitted to make outgoing calls on "more than an incidental convenience basis." For example, TDD's must be made available on request to hospital patients or hotel guests where in-room phone service is provided. A hospital or hotel front desk should also be equipped with a TDD so that patients or guests using TDD's in their rooms have the same access to in-house services as other patients or guests.

It is the hotel's or hospital's responsibility to monitor requests for TDD's to ensure that it has a sufficient supply of such devices. The facility should acquire what it reasonably predicts will be an adequate number of TDD's, and then acquire additional TDD's if experience shows that an increase is necessary to meet actual demand.

Newly constructed hotels must have a certain number of rooms that are accessible to persons who are deaf or hard of hearing (the exact number is dependent on the number of rooms in the hotel). This number of rooms is a useful reference point for a facility attempting to gauge the number of TDD's necessary for effective communication.

III-4.3500 Closed caption decoders.

Hospitals that provide televisions for use by patients, and hotels, motels, and other places of lodging that provide televisions in five or more guest rooms, must provide closed caption decoder service upon request.

III-4.3600 Limitations and alternatives.

A public accommodation is not required to provide any auxiliary aid or service that would fundamentally alter the nature of the goods or services offered or that would result in an undue burden.

However, the fact that providing a particular auxiliary aid or service would result in a fundamental alteration or undue burden does not necessarily relieve a public accommodation from its obligation to ensure effective communication. The public accommodation must still provide an alternative auxiliary aid or service that would not result in an undue burden or fundamental alteration but that would ensure effective communication to the maximum extent possible, if one is available.

ILLUSTRATION: It may be an undue burden for a small private historic house museum on a shoestring budget to provide a sign language interpreter for a deaf individual wishing to participate in a tour. Providing a written script of the tour, however, would be an alternative that would be unlikely to result in an undue burden.

What is a fundamental alteration? A fundamental alteration is a modification that is so significant that it alters the essential nature of the goods, services, facilities, privileges, advantages, or accommodations offered.

What is an undue burden? "Undue burden" is defined as "significant difficulty or expense." Among the factors to be considered in determining whether an action would result in an undue burden are the following --

1. The nature and cost of the action;
2. The overall financial resources of the site or sites involved; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements necessary for safe operation, including crime prevention measures; or any other impact of the action on the operation of the site;
3. The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;
4. If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and
5. If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.

Does a public accommodation have to do more or less under the "undue burden" standard than under other ADA limitations such as "undue hardship" and "readily achievable"? The definition of undue burden is identical to the definition of undue hardship used in title I of the ADA as the limitation on an employer's obligation to reasonably accommodate an applicant or employee. Under both limitations, an action is not required if it results in "significant difficulty or expense." The undue burden standard, however, requires a greater level of effort by a public accommodation in providing auxiliary aids and services than does the "readily achievable" standard for removing barriers in existing facilities (see III-4.4200). Although "readily achievable" is therefore a "lesser" standard, the factors to be considered in determining what is readily achievable are identical to those listed above for determining undue burden.

[Top](#)

[Virginia Commonwealth University](http://www.vcu.edu) | www.dbtac.vcu.edu
 National Institute on Disability and Rehabilitation Research (#H133A060087-01)
 VCU DBTAC Coordination, Outreach and Research Center
 1112 East Clay Street | P.O. Box 980330 | Richmond, Virginia 23298-0330
 Phone: (804)827-0917 | Fax: (804) 828- 828-1321
 This website is maintained by the VCU DBTAC Coordination, Outreach and Research Center.

The VCU DBTAC Coordination, Outreach and Research Center does not provide ADA technical assistance.
For ADA technical assistance, [contact your local Center](#) at 800-949-4232.
[About this site.](#)