

**ENSURING EQUAL ACCESS FOR
PEOPLE WITH DISABILITIES:
A GUIDE FOR WASHINGTON COURTS**

August 2006

Available online at www.wsba.org/atj

Prepared by the Washington State Access to Justice Board Impediments Committee.

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The Committee owes much to the work of the Superior Court Judges' Association, whose excellent Benchbook ("Quick Reference to Disabilities in the Courtroom," 2000, 2002) has been a major source of inspiration and material. Able commentary was provided by many, including Ken Nakata, former Department of Justice attorney and drafter of many of the Access Board regulations.

The Committee extends sincerest thanks to all who made this possible — and particular thanks to Allison Durazzi of the Washington State Bar Association, who gave many hours and much expertise in publication formatting, and made it look good!

This Guide has been endorsed by the Access to Justice Board, the Board for Judicial Administration, and the Washington State Bar Association Board of Governors.

Funding for publication and distribution of this Guide was provided by the Washington State Bar Association.

This Guide will be available online at www.wsba.org/atj. (Alternative formats are under construction.) Updates will be posted to the web edition.

PREFACE



STATE AND FEDERAL LAWS require that government programs be accessible to persons with disabilities (RCW 49.60.010 et seq., Americans with Disabilities Act, 42 U.S.C. §12131 et. seq.(ADA)).

In 2004, the United States Supreme Court made the following observations in upholding application of the ADA to courts and court services:

The unequal treatment of disabled persons in the administration of judicial services has a long history, and has persisted despite several legislative efforts to remedy the problem.... Faced with considerable evidence of the shortcomings of previous legislative responses, Congress was justified in concluding that this 'difficult and intractable problem' warranted [the enactment of Title II].... Recognizing that failure to accommodate persons with disabilities will often have the same practical effect as outright exclusion, Congress required the States to take reasonable measures to remove architectural and other barriers to accessibility.... [A]s it applies to the class of cases implicating the fundamental right of access to the courts, [Title II] constitutes a valid exercise of Congress'...authority to enforce the guarantees of the Fourteenth Amendment.

Tennessee v. Lane, 124 S.Ct. 1978, 1993-4 (2004).

Washington courthouses and court services must be accessible to persons with disabilities. This Guide is intended to help.

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SCOPE AND PURPOSE

This Guide is intended as a resource for Washington judges, administrative law judges and hearing officers, court administrators, and court staff as we work to eliminate barriers presented by our buildings and our practices.¹

The Guide focuses on visual, hearing/communication, mobility, and cognitive disabilities, and aims to 1) give a basic understanding of how these disabilities may affect access, 2) clarify what the law requires of courts, and 3) help courts provide effective access. The Guide identifies common barriers for people with disabilities, discusses our obligations as judges and court personnel, identifies some approaches to solving common problems, and recommends steps for compliance.

Useful information, resources and bibliography may be found in the Appendix.

The Committee emphasizes that the Guide is a guide — within the constraints of the law, judges have wide discretion in this area. Our intent is to assist judges with information for exercising their discretion, and to assist court managers and staff with information and resources.

INTRODUCTION

THREE recent Washington sources have confirmed that persons with disabilities have great difficulty achieving access to facilities and services in Washington courts.

In 1999, the Civil and Legal Rights Subcommittee of the Governors' Committee on Disability Issues and Employment reviewed the accessibility of the Washington State's district, municipal and superior courts, using an ADA self-assessment tool. The following year, the Court Improvement Committee of the Washington State Bar Association and the Access to Justice Board's Systems Impediments Committee conducted a survey of court officers, attorneys and users of courthouses throughout the state. In 2003, the Supreme Court conducted a civil legal needs study.¹ All these reviews confirmed what we already knew: our courts and court programs are not accessible.

More than 940,000 people in Washington have disabilities.² This is a substantial proportion of our state population of six million.³ The Civil Needs Study shows that people with disabilities experience legal problems with a discrimination component at a significantly higher rate than many other low-income groups, and that low-income persons with disabilities are among the least likely to secure legal help from an attorney.

Access to the legal system is both a fundamental right and a practical necessity. Yet achieving access to our courts is a significant problem for people with disabilities.

The need to eliminate barriers preventing access to our courts is both real and immediate.

When justice is inaccessible, the simple result is injustice. The need to eliminate barriers preventing access to our courts is real and immediate.

¹ Washington State Supreme Court, 2003 Washington State Civil Legal Needs Study. Available at <http://www.courts.wa.gov/newsinfo/content/taskforce/CivilLegalNeeds.pdf> (accessed March 21, 2006.).

² Washington State Department of Health, Disability in Washington State (January 2001). Available at <http://mchneighborhood.ichp.edu/wagenetics/> (accessed May 13, 2005).

³ Estimated population in 2003. Statistics available at <http://quickfacts.census.gov/qfd/states/53000.html> (accessed May 13, 2005).



WHAT THE LAW SAYS

A. Generally

Access to the courts is a fundamental right under the state and federal constitutions. State and federal statutes require that people with disabilities be afforded equal access to courthouses, courtrooms, and court services. Their access must be just as effective as the access provided to other members of the public.

Access to the courts is a fundamental right, preservative of all other rights.

B. Sources of the Law

1. **The Americans with Disabilities Act**. Congress enacted the ADA after finding that people with disabilities encounter discrimination in access to public services, have a history of unequal treatment, and have been relegated to political powerlessness based on stereotypes that do not reflect their true ability to participate and contribute in society. 42 U.S.C. § 12101(a)(7). The ADA is intended to eliminate discrimination against individuals with disabilities, to provide clear, strong, consistent, enforceable standards, to ensure access for those individuals with disabilities, to ensure enforcement of those standards by the federal government, and to provide remedies. 42 U.S.C. § 12101(b); 42 U.S.C. § 12133.

In Title II, the ADA⁴ prohibits discrimination in public services, including courts, and mandates that persons eligible for receipt of services not, because of disability, be excluded from participation or from the benefits, services or activities of a public entity.

Administrators of public programs must take steps to accommodate persons with disabilities, unless the accommodation fundamentally alters the nature of an activity or program or constitutes an undue administrative or financial burden. 42 U.S.C. § 12182(b)(2)(A). This obligation may be enforceable by a suit for declaratory or injunctive relief, or money damages. 42 U.S.C. § 12133 (incorporating Rehabilitation Act remedies, 29 U.S.C. § 794(a)); 28 C.F.R. §§ 35.150(a)(3), 164.

2. **The Washington Law Against Discrimination**.⁵ Long before the ADA, the Washington State Legislature enacted the Washington State Law Against Discrimination (WLAD):

⁴ A Department of Justice publication, [Title II Highlights](#), provides an excellent summary of the Act. A list of useful DOJ publications may be found in the Appendix.

⁵ Many county and city ordinances also prohibit discrimination on the basis of disability.

The legislature hereby finds and declares that practices of discrimination against any of its inhabitants because of race, creed, color, national origin, families with children, sex, marital status, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person are a matter of state concern, that such discrimination threatens not only the rights and proper privileges of its inhabitants but menaces the institutions and foundation of a free democratic state. RCW 49.60.010.

“[W]ithin the limits of practicability, a State must afford to all individuals a meaningful opportunity to be heard in its courts.”

— *U.S. Supreme Court, 2004*

The WLAD declares that “full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement,” free from discrimination because of disability or the use of a trained dog guide or service animal, “is recognized as and declared to be a civil right,” enforceable by an administrative complaint or a civil action for damages. RCW 49.60.030 et seq. Places of public accommodation are broadly defined. RCW 49.60.040(10).

3. The United States Constitution. Because access to the courts is a fundamental right, the United States Supreme Court has held that Title II of the ADA is constitutionally valid. In *Tennessee v. Lane*, 124 S.Ct. 1978 (2004), the Court held that “*Title II unquestionably is valid...as it applies to the class of cases implicating the accessibility of judicial services[.]*” *Id.* at 1993. The Court observed that the “duty to accommodate is perfectly consistent with the well-established due process principle that ‘**within the limits of practicability, a State must afford to all individuals a meaningful opportunity to be heard**’ in its courts.” *Id.* at 1994 (quoting *Boddie v. Connecticut*, 401 U.S. 371, 379 (1971)).

4. The Washington Constitution. The Washington State Supreme Court has held that the right of access to the courts is fundamental and preservative of all other rights, and that denial of access on the basis of poverty violates the Washington State Constitution. *Carter v. University of Washington*, 85 Wn.2d 391, 536 P.2d 618 (1975).⁶

5. The State Supreme Court Access to Justice Technology Principles. Recognizing that technology can affect access to justice, our supreme court adopted the Access to Justice Technology Principles. The Preamble to the Principles begins by stating that:

Technologies in the justice system must protect and advance the fundamental right of equal access to justice.

—*Washington State Supreme Court, December, 2004*

⁶The following year, in *Housing Authority of King County v. Saylor*, 87 Wn. 2d 732, 557 P.2d 321 (1976), the court overruled *Carter* insofar as *Carter* located the source of the right of access to the courts in Art. 1 § 4. The *Saylor* court held Art. 1 § 4 is protective of political rights, not access to courts. But the court observed (at 742) that “[a]ccess to the courts is amply and expressly protected by other provisions” of the State Constitution.

The use of technologies in the Washington State justice system must protect and advance the fundamental right of equal access to justice...[The objective of the Principles is to] avoid creating or increasing barriers to access and to remove existing barriers for those who are or may be excluded or underserved[.]

The Principles are broad in scope and govern the use of technology in all state and local courts in Washington.⁷

C. What Is a Disability?

The definition of “disability” is broad, and now is the same under both the ADA and the WLAD.

Under the ADA, “disability” is a physical or mental impairment that substantially limits one or more major life activities. 42 U.S.C. § 12102(2). A person is also considered disabled for purposes of the ADA if she has a record of such an impairment, or is perceived as having such an impairment. 42 U.S.C. § 12102(2)(B).

Washington state statutes contain no definition of qualifying disability. WAC 162-22-020(1) provides that “disability” is a short-hand term for “the presence of any sensory, mental or physical disability” — namely “a sensory, mental, or physical condition” that is medically cognizable or diagnosable, exists as a record or history, or is perceived to exist (whether or not it actually does). In July 2006, the Washington Supreme Court rejected this definition and adopted the ADA definition.⁸

⁷ The Principles are available at www.wsba.org/principles.doc (accessed May 13, 2005).

⁸ “To provide for a single definition of ‘disability’ that can be applied consistently throughout the WLAD, we dopt the definition of disability as set forth in the federal Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101-12209. We hold that a plaintiff bringing suite under the WLAD establishes that he has a disability if he has (1) a physical or mental impairment that substantially limits one or more of his major life activities, (2) a record of such an impairment, or (3) is regarded as having such an impairment.” *McLarty v. Totem Elec.*, No. 75024-6, 2006 Wash. LEXIS 504 at *7(July 6, 2006) (motion for reconsideration pending at time of printing).



THE IMPLICATIONS FOR COURTS

A. What Is Prohibited?

Title II of the ADA prohibits exclusion or unequal treatment of qualified individuals in any program, service, or activity of state or local government. 42 U.S.C. § 12132. A qualified individual is anyone who, with or without reasonable regulatory modifications, removal of barriers or auxiliary aids and services, is eligible for public services. 42 U.S.C. § 12131(2). In the arena of the court system, this is virtually everyone.

The WLAD prohibits discrimination on the basis of disability, and requires reasonable accommodation of disabilities. RCW §§ 49.60.010, 49.60.030, 49.60.215. State implementing regulations in WAC 162-26-060, *ff*, set forth prohibitions and requirements similar to those under the ADA. There are additional provisions scattered throughout Washington statutes, which protect, *inter alia*, the constitutional rights of persons with hearing or speech impairments (RCW § 2.42.010)⁹ and the equal right of the “physically disabled” to “full and free use of...public buildings, public facilities, and other public places.” (RCW § 70.84.010).

B. What Is Required of Courts?

These laws apply to courts and to administrative agencies conducting adjudicative hearings. Both courts and agencies are public entities and places of public accommodation,¹⁰ fully subject to the ADA and the WLAD. Indeed, Congress intended to make it *difficult* for government to avoid compliance with the ADA.¹¹ State and local government services, programs and activities — including those of administrative and judicial courts — must be “readily accessible to and usable by” individuals with disabilities. 28 C.F.R. § 35.150(a). **In short, the ADA applies to all judicial programs and services, and to all participants: jurors, lawyers, parties, witnesses, and observers.**

What must courts do?

Courts must be “readily accessible to and usable by” individuals with disabilities.

⁹ RCW 2.42 governs and mandates the use of interpreters in legal proceedings for persons who are deaf. RCW 2.43 governs and mandates interpreters for those who do not speak English.

¹⁰ See RCW 4.60.040(10); *Duvall v. County of Kitsap*, 260 F.3d 1124, 1135-1136 (9th Cir. 2001) (implicitly holding courts are places of public accommodation under Washington statutes).

¹¹ Gould, And Equal Protection for All...The Americans with Disabilities Act in the Courtroom, *J. Law & Health*, 123, 138 (1993-94).

The law does not require courts to make fundamental alterations to their programs or make changes that would result in undue financial or administrative burdens,¹² and no action is required that would threaten the significance of a historic site.¹³ But the law requires reasonable efforts to remove barriers to courthouses and court services, and affirmative steps to ensure that participation in public programs is equally available to people with disabilities. This means identifying and removing barriers, or identifying and implementing accommodations. These requirements apply to court services, viewed in their entirety.

- For example, “**auxiliary aids and services**” must be furnished where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity. 28 C.F.R. § 35.160(b)(1). Courts must make “**reasonable modifications**” to rules, practices and policies if changes are necessary to avoid discrimination on the basis of disability.¹⁴ And courts must **assure that communication is as effective** for people with disabilities as it is for others. 28 C.F.R. § 35.160(a). (Accommodations are further discussed in Ch III, *infra*.)

- Courts must create a **procedure by which an accommodation can be requested**,¹⁵ and must then investigate and ascertain what accommodation is reasonable:

A public entity’s duty on receiving a request for accommodation is well settled by our case law and by the applicable regulations. It is required to undertake a fact-specific investigation to determine what constitutes a reasonable accommodation[.]... [T]he Acts create a duty to gather sufficient information from the [disabled individual] and qualified experts as needed to determine what accommodations are necessary.

Duvall v. Kitsap, 260 F.3d at 1139 (quoting *Wong v. Regents of the University of California*, 192 F.3d 807, 818 (9th Cir. 1999)).

- **Costs must be borne by the court**, and may not be passed on as a surcharge to the individuals accommodated.¹⁶

¹² 28 C.F.R. § 35.150(a)(3)

¹³ 28 C.F.R. § 35.150(a)(2).

¹⁴ 28 C.F.R. 35.130(b)(7).

¹⁵ The ATJ Impediments Committee has proposed a court rule setting forth a procedure for requesting accommodation. The rule has been endorsed by the ATJ Board and was approved in April 2006 by the WSBA Board of Governors. The rule is now pending before the Washington State Supreme Court. A copy of the proposed rule may be found in the Appendix.

¹⁶ 28 C.F.R. § 35.130(f).

- Entities that employ 50 or more people must **designate an employee** to receive ADA complaints and must **publish procedures** for handling those complaints. 28 C.F.R. § 35.107.¹⁷
- To ensure compliance where structural changes are undertaken to achieve accessibility to a program, places of public accommodation (if they employ 50 or more persons) must **develop transition plans** setting forth the steps needed to complete those changes. Plans must, at a minimum, identify physical barriers limiting access to facilities, detail the methods to be used to make the facilities accessible, set a timetable for the changes, and identify the official responsible for the plan's implementation. 28 C.F.R. § 35.150(d). The deadline for formulating transition plans was the end of June 1992; structural changes should have been completed by the end of January 1995 or "in any event as expeditiously as possible." 28 C.F.R. §§ 35.150(c), (d). Once made accessible, facilities must be maintained as such. 29 C.F.R. § 35.133.

Notwithstanding these deadlines, some courts still have not acted to remove barriers in their facilities. For example, the problems at issue in *Tennessee v. Lane* arose in 1998, three years after the deadline. The case involved two complainants who were paraplegic. One had to crawl up two flights of stairs to reach a courtroom for an appearance in a criminal case. The other, a court reporter, was unable to access "several" county courthouses. The Supreme Court noted that, with respect to access to court services,

[a] report before Congress showed that some 76% of state-owned buildings were inaccessible to and unusable by persons with disabilities, even taking into account the possibility that the services or programs might be restructured or relocated to other parts of the buildings.

Tennessee v. Lane, 124 S.Ct. 1978 at 1990-1991.

The 2000 WSBA ATJ survey showed that some Washington courthouses are similarly inaccessible.

C. Is There Immunity?

The ADA expressly abrogates state sovereign immunity.¹⁸ In *Tennessee v. Lane*, the U.S. Supreme Court upheld this abrogation, at least insofar as it

Is there immunity?
Perhaps...

¹⁷ The Rehabilitation Act of 1973 has long required recipients of federal funding to undertake many of the same responsibilities as public entities under Title II of the ADA. 29 U.S.C. § 794.

¹⁸ 42 U.S.C. § 12202.

applies to the accessibility of judicial services.¹⁹ Under both the WLAD and Title II, public entities — including courts — are subject to suits for declaratory relief, injunctive relief, and damages.

Judges performing judicial functions have generally been held absolutely immune,²⁰ although their immunity will not protect others. In one local case, a judge who denied a motion for real-time transcription as an ADA accommodation was held absolutely immune. *Duvall v. Kitsap County*, 260 F.3d 1124, 1133, 1138 (9th Cir. 2001) (“Ruling on a motion is a normal judicial function, as is exercising control over the courtroom while court is in session.”). A question of fact existed, however, as to whether the court administrator who denied the accommodation request was acting in an administrative capacity (providing no immunity) or a quasi-judicial capacity (immune). *Id.* at 1135.²¹

Whether immunity protects a judge who wrongly denies accommodation as an administrative act is doubtful. “Absolute judicial immunity does not apply to non-judicial acts, i.e. the administrative ... and executive functions that judges may on occasion be assigned to perform.” *Id.* at 1133. See also *Memmer v. Marin County Courts*, 169 F.3d 630, 634-5 (9th Cir, 1999) (litigant had visual disability; state court provided a reader, but refused to provide specific individual requested; federal district judge held judges immune; circuit court held plaintiff failed to show accommodation was unreasonable, and did not address immunity).

D. Jurors

Jury service is an important civic right, and jurors are protected by the ADA. A jury summons should solicit information about any need for accommodations, and should provide contact information so the juror can work with the court before reporting for jury duty. When empanelling a jury, the judge should ask about any need for accommodations. (A sample *voir dire* script appears in the Appendix.) A useful resource on jury issues is the

Jurors are protected by the ADA.

¹⁹ *Tennessee v. Lane*, *supra*, at 1993. See *Board of Trustees of Univ. of Ala. v. Garrett*, 531 U.S. 356, 374 (2001) (Eleventh Amendment bars private suits for money damages under Title I of the ADA governing employment).

²⁰ At least one federal circuit has held there is no judicial immunity from prospective and injunctive relief when a judge violates the ADA. See *Livingston v. Guice*, 68 F.3d 460 (4th Cir. 1995) (unpublished; see Westlaw WL 610355). (Note: Facts are reported in *Livingston v. Guice*, 855 F. Supp 834 (W.D.N.C. 1994).)

²¹ *Duvall* contains a useful discussion of the interplay between the federal and state statutes, and sets forth the tests to be applied in 9th Circuit cases analyzing Title II claims, including the test for proof of intentional discrimination to support claims for money damages (the deliberate indifference standard).

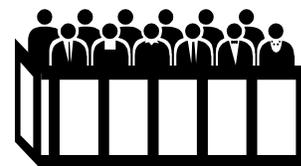
ABA publication by Kristi Bleyer et al., *Into the Jury Box: Disability Accommodation Guide for State Courts* (1994).²²

There is some tension between the right to serve and the ability to perform a juror's duties. Under RCW § 4.44.160(2), jurors may be challenged for cause on the basis of:

unsoundness of mind, or such defect in the faculties of the mind, or organs of the body, as renders him or her incapable of performing the duties of a juror in any action.

Under RCW § 4.44.170(3), jurors may be challenged for particular cause (cause specific to the case to be tried) on the basis of:

the existence of a defect in the functions or organs of the body which satisfies the court that the challenged person is incapable of performing the duties of a juror in the particular action without prejudice to the substantial rights of the party challenging.



Whether to disqualify a juror because of a disability is a matter of judicial discretion, which should be exercised in light of the juror's right to serve if otherwise qualified. It will usually be possible to fashion an accommodation so that the juror may perform his or her duties.

Application of these principles is somewhat complicated by cases holding that non-jurors may not be physically present in the room with a deliberating jury. In *State v. Cuzick*, 85 Wn.2d 146, 530 P.2d 288 (1975), the Supreme Court held that the presence and observation of the jury's deliberations by alternate jurors, "even by one sworn to secrecy and silence, violates the cardinal requirement that juries must deliberate in private." *Cuzick*, 85 Wn.2d at 149.

Jones v. Sisters of Providence, 140 Wn.2d 112, 994 P.2d 838 (2000,) involved the presence *and participation in deliberations* of a non-voting alternate juror. The Court reiterated its concerns about "the sanctity of the jury room and the participation of an unauthorized individual" in the deliberations. *Jones*, 140 Wn.2d at 118.

These cases involved alternate jurors, and their focus is the potential impact, upon deliberating jurors, of the presence of others. Where a juror must communicate through an interpreter, however, the only acting presence is that of the juror, and the concerns in *Cuzick* and *Jones* can likely be fully addressed by instructions to the interpreter and jury. In *Into the Jury Box*, the authors state at page 37: "Courts should...permit interpreters, real-time reporters, readers or personal assistants in the deliberations room[.]" Many Washington judges have proceeded exactly this way with jurors whose disabilities cannot be otherwise accommodated. But *Cuzick* and *Jones* serve as a useful reminder of the importance of:

²² This publication is available from the Administrative Office for the Courts, 1206 Quince Street SE, P.O. Box 41170, Olympia, WA 98504-1170; (360) 753-3365; Fax (360) 586-8869.

1. creating a full record,
2. instructing the jury and the interpreter or reader on the limitations of his or her role, and
3. swearing the interpreter or reader to maintain secrecy and to abstain from any participation in deliberations.

Note: Sample instructions may be found in the Scripts and Instructions section of the Appendix.

E. Pro Se Litigants with Disabilities

When a person with a disability represents him- or herself, there may be no intermediary between the court and the litigant on the subject of necessary accommodations. It is acutely important that judicial officers, clerk's staff, and courtroom staff be alert, communicate effectively and respectfully, and determine appropriate accommodation if needed.

F. What About Administrative Tribunals?

Administrative agencies are public entities and places of public accommodation, and both the ADA and the WLAD apply to administrative agencies conducting adjudicative hearings. State and local government services, programs and activities — including those of administrative and judicial courts — must be “readily accessible to and usable by” individuals with disabilities. 28 C.F.R. Sec. 35.150(a). For the most part, this Guide applies directly to administrative tribunals.

Administrative hearing procedures vary from agency to agency, but are generally informal and flexible. Many hearings are conducted by telephone, involve pro se parties, and are held in a variety of locations (for example, nursing homes, an appellant’s residence, hospital rooms, or jails) to meet special needs.

Parties should have notice of the hearing date, time, location, and procedure early enough that a party or witness with special needs can ask to be accommodated. For example, if the hearing has been set for all parties to appear in person, an immobile party might request a change to a telephone hearing. If, on the other hand, the hearing is set by telephone conference call, a hard of hearing party could request a change to an in-person hearing with an interpreter.

Along with the notice of hearing, agencies should provide information listing hearing rights and addressing the most frequently asked questions about the process, including the right to reasonable accommodation or special assistance. Contact information (including a TTY number) should be included.

G. Get Over It: Preconceptions and Stereotypes

When most of us think about disabilities, we may imagine a person who uses a wheelchair, or who is blind. We may assume that all people with disabilities have roughly identical needs. But when we stop to imagine how a disability would affect our day-to-day activities, we realize that each disability creates different challenges and different needs.

Unfortunately, our initial responses to people with disabilities often are formed by stereotypes and myths. It takes training to recognize and reject such responses. Very often, the first step is to learn a new vocabulary that conveys respect and avoids offense. (Examples may be found in the communication tips in the section on cognitive disabilities, and in the Language and Behavior section of the Appendix.)

Ensuring equal access to justice chiefly depends on understanding that **people with disabilities are people**. They are not medical diagnoses like cerebral palsy; they are not devices like wheelchairs. They adapt to their disabilities and live their lives — go to school, work, get married, have families, shop for groceries, laugh, cry, vote, pay taxes, come to court — just like everyone else. Most people with disabilities prefer to be responsible for themselves. If we believe people have a right to equal justice, and if we remember that all of us can contribute to change, things will work out.

Treating everyone exactly the same way does not ensure fairness. Truly equal treatment of people with disabilities often means treating them differently.²³

Equal access to justice depends on understanding that people with disabilities are people.

²³ See WAC 162-26-060(2).



PROVIDING ACCESS

What constitutes a reasonable accommodation depends upon the particular circumstances. Here follows an introduction to four common kinds of disabilities, and information about some effective accommodations.

A. Hearing or Other Communication Disability

Hearing loss varies greatly. A person with mild hearing loss may not be greatly affected in the activities of daily living. Once hearing loss is at a moderate level, however, it is likely that a person will misunderstand speech. Assistive technology can bridge the communication gap. Those with profound hearing loss will likely need interpreters.

Communication disabilities may have many causes, including medical, developmental or other conditions. A stroke or accident can affect speech or hearing, illness can alter speech patterns, and some conditions such as autism can prevent voiced communication.

People with hearing loss or other communication disabilities may feel especially intimidated by court proceedings. They may be distrustful and reluctant to acknowledge confusion or uncertainty. Patience and flexibility are vital.

The key to providing solutions: never assume that one solution will accommodate every person with a communication disability. In choosing among different alternatives, courts must try to abide by the preference of the person needing the accommodation. The ADA requires public entities to give “primary consideration to the requests of the individual” in deciding what auxiliary aid or service is necessary to ensure that communications with persons with disabilities are as effective as with other persons. 35 C.F.R. § 35.160(b)(2).

Most people with hearing loss or communication disorders use some type of gestural sign language or assistive technology in order to communicate effectively. Courts must provide a qualified interpreter or other effective assistive technology at every stage of a proceeding for persons who are deaf, deaf/blind or hard of hearing, and should make this capacity known to the public.²⁴ RCW 2.42.180 gives the court discretionary authority to order visual

People with hearing loss or other communication disabilities may feel especially intimidated by court proceedings.

“The law requires courts to remove barriers and/or provide reasonable accommodations. What constitutes a reasonable accommodation depends upon the particular circumstances.”

The majority of people with hearing disabilities or communication disorders need some type of gestural sign language or assistive technology.

²⁴ See 28 C.F.R. § 35.160(b)(1); RCW 2.42.130, 140 (delineating between “qualified” and “intermediary” interpreters, and stating when and from what sources they are to be appointed); GR 11.1 (setting forth a code of conduct for court interpreters in Washington). See also: RCW 26.50.55 (interpreters to be appointed as necessary in domestic violence proceedings).

recording of a proceeding involving a person with a hearing loss, and makes visual recording mandatory in capital cases.

1. Sign Language Interpreters

Washington law requires courts to provide qualified interpreters for a party or a witness “who because of a hearing or speech impairment cannot readily understand or communicate in spoken language[.]” RCW § 2.42.120(1) (which also details the appointment and pay of interpreters). An “impaired person” is defined as someone who cannot readily understand or communicate in spoken language because of a hearing or speech impairment. RCW 2.42.110(1). (Note that many persons who are deaf would consider the term “impairment” offensive.)

There are four common methods of interpreting:

1. American Sign Language (ASL). American Sign Language is a language distinct from English. Its grammatical structure and syntax is different, sometimes requiring the interpreter to hear and understand the complete spoken sentence before interpreting its meaning.²⁵ An ASL interpreter also utilizes bodily gestures and facial expressions.
2. Signed Exact English (SEE). This method involves a virtually verbatim translation of English words and phrases by signs, including the use of finger signs for letters to fingerspell words for which there are no signs.
3. Relay Interpreting. When a person is not able to communicate fully by use of ASL or signed English, a specially trained relay interpreter may be able to assist by "relaying" signs from an ASL interpreter to the deaf person. Relay interpreters are specially classified by the Registry of Interpreters for the Deaf as Certified Deaf Interpreters (CDI).
4. Oral Interpreting. This method involves the use of a combination of lipreading, interpreting body language, signs, and gestures to convey meaning, and is not literal. This is generally considered to provide the least accurate or comprehensive understanding to the deaf person.

2. Sign Language Considerations

Scheduling is often critical; interpreters usually have multiple obligations that cannot be rescheduled if a court session runs longer than expected. If interpretation is needed for more than 60 minutes, it will usually be necessary to have a team of two interpreters who can alternate with each other every 30 minutes, to avoid the fatigue that accompanies sign language interpreting. An additional interpreter may be necessary for confidential communication with counsel during a witness’s testimony, or when there are multiple deaf parties in the room.

²⁵ Only 5%-26% of what is spoken can be lip-read. Lipreading should not be considered an accommodation option unless specifically requested *after* other options have been offered. Lipreading is ineffective as an accommodation in all but specific situations when requested by the person with the disability.

The physical layout of the room should consider sightlines and lighting, and the interpreter should be located so that the person who is deaf can see both the speaker and the interpreter. Seating arrangements should allow for private interpreted communication between lawyer and client, and private bench conferences. An attorney who is deaf needs an interpreter placed so the attorney can approach the witness, approach the bench, and face the jury. The court should give standardized instructions from the bench regarding the interpreter's role, and should identify safe, private places for interpreters when court is not in session, so as to avoid inappropriate interactions during recess.

Sign Language Certification. Sign language interpreters are not regulated in Washington, and their skills vary. This makes it more difficult for courts to identify qualified interpreters.²⁶ There is, however, a professional certification system, through the Registry of Interpreters for the Deaf (RID). The RID certifies skill levels and competence for particular venues, including court, and requires continuing education and compliance with ethical standards. RID certification is granted in levels based upon experience. There is a top-level certification for legal interpreting, but to date there has been little incentive for interpreters to acquire it. Courts in Washington must use either interpreters with some level of RID certification, or an interpreter who can "readily translate statements of speech impaired persons into spoken language." RCW 2.42.110, -.150.

Hearing-loss specialist organizations can provide technical assistance in the selection process, and can assist in understanding how to hire and use interpreters, effective courtroom layout for trial, uses of technology, and can provide one-on-one communication assistance.

Ethics. It is inappropriate to have a family member, friend, student or volunteer act as a qualified interpreter in a court proceeding.²⁷ See GR 11.1; RCW 2.42.130; see also ER 604 and comment. Sign language interpreters are never a source of information, and it is a violation of their ethical canons²⁸ to disclose information gained as a result of an interpreting assignment.

Interpreter Referral Service Agencies. In many communities there are local interpreter referral services, and local service agencies may offer suggestions for effective communication. The law requires certain entities to maintain current lists of certified interpreters. RCW 2.42.130(1). The state has a registry of interpreters, and courts receive a discounted rate from vendors who contract with the state. The Washington State Office of Deaf and Hard of Hearing maintains this list and contracts with referral organizations statewide

Hearing-loss specialist organizations are important sources of technical assistance.

It is not appropriate for family or friends to act as interpreters.

²⁶ A sample script for establishing interpreter qualifications may be found in the Appendix.

²⁷ There may be exceptions to this rule. For example, Judge Patricia Aitken presided over a murder case involving a Hmong defendant who could not hear, speak or read. Only one person, a family member, was able to communicate with him. A relay of interpreters was needed.

²⁸ For information on the Code of Ethics for sign language interpreters, see www.rid.org/coe.html (accessed May 13, 2005). See also GR11.1 (reproduced in Appendix).

to provide interpreters from the list. Maintaining an accurate and current list is challenging; courts should use the Resources section of the Appendix to obtain additional information. It is best to use a vendor familiar with providing interpreters for courts.

Steps for the Court. As with any interpreter, the court and its personnel should know the appropriate role of the sign language interpreter, including the interpreter's ethical constraints and the procedures set forth in RCW 2.42.010, *et seq.* This process is facilitated if each court identifies appropriate personnel to work with sign language interpreter referral agencies and other service providers (such as assistive technology experts and ADA resource centers) to assure that appropriately screened and monitored professionals are providing services and that proper equipment is available.

Continuing education for judges and court staff regarding use of sign language interpreters is strongly encouraged.

3. Assistive Listening Systems

Many people use assistive listening devices (ALDs) to facilitate effective communication in public settings. Note that the microphones used in many assistive listening systems are very sensitive. They may pick up the rustle of papers at the clerk's station. Users of infrared (wireless) systems should consider that objects or people may inadvertently block signal transmission. Care must be taken at sidebar conferences to avoid inadvertent transmission to others!

- **FM Broadcast**

These devices utilize an FM transmitter, which can be worn by the speaker, and pocket-size receivers with earphones or neck loops connecting to personal hearing aids equipped to receive the signal. These systems can be highly portable. However, the signal is not confined to the room in which the system is located and can be picked up outside the room. Also, signals from nearby radio sources using the same or similar frequencies may cause interference in the signal transmission.

- **Infrared Light**

The transmitter in these systems utilizes infrared light waves traveling by line of sight, broadcasting to individual pendant-type receivers connected to earphones or to neck loops connected to personal hearing aids. These systems are also available in portable form. In large rooms, the sound system must have an output port that can be connected to a portable infrared transmitter, which can then be placed in a location that permits transmission to the receiving units. For jury rooms and other small rooms, an omnidirectional microphone connects to the portable transmitter. This system does not transmit through walls or solid surfaces and thus does not broadcast beyond the room in which the transmitter is located. The two principal potential disadvantages are that the system requires a direct line of sight between the transmitter and the receiver, and it is ineffective in direct sunlight.

- **Audio Induction Loop**

In these systems, the transmitter sends an electromagnetic signal directly to personal hearing aids equipped with telecoils or to pocket size receivers connected to earphones. Portable systems are available. This technology requires installation of a loop in the ceiling or floor of the room, and the receiving units must be within the loop to receive the signal. Adjacent rooms next to or directly above or below the loop system cannot use the same system because there is some "spill over" of the signal into those rooms.

- **CART: Computer-Assisted Real-Time Transcription; Note-Takers**

For deaf persons who do not use sign language, those who are hard of hearing, and others with a communication disorder who can read printed English words moving on a screen, CART is the most effective aid. A CART transcriber in the courtroom, or a remote transcriber using an internet connection, types a record of the activity in the room in real-time, which is then displayed on a large screen visible to everyone in the room. It is not an official transcript, nor is it usually retained for further use.²⁹ The literacy level of the user may require regular pauses to clarify the language on the screen. The court will also need a dedicated high-speed Internet access line, as most CART service providers operate from a remote location through the Internet. Two screens may be needed if the court is also using electronic presentation materials such as Power Point. CART transcribers' charges are similar to those for court reporter services but may have longer minimums and may not accommodate short proceedings. (Some Internet based providers do one-hour proceedings.) Additionally, professional note takers may sit next to a person with a communication disorder and provide individual written support using specialized software and equipment.

- **Other Communication Options**

Teletypewriters (TTYs — also known as TDDs). These small keyboard devices enable the parties to a telephonic "conversation" to communicate by typing out the words rather than speaking them. A TTY user types a message that either appears on the screen of a TTY at the other end of the line or is received by a relay service (see below) in which a relay operator reads the typed message to the other party. Current technology allows outgoing TTY calls to be made over the Internet, through various providers such as Sprint and AT&T. Each court should have a TTY, and all court personnel who make or receive phone calls as part of their work should be trained in recognizing TTY calls, using a TTY, and in the etiquette of using TTYs. *The court should advertise this capability in appropriate venues.*

Telecommunications Relay Service. This is a 24-hour, free service that provides relay operators to facilitate telephone communication between two parties, only one of whom has a TTY. The operators translate written text received from a TTY into speech or vice versa. Toll free numbers for this

*Dial 711
for a relay
operator.*

²⁹ The official court reporter ordinarily cannot undertake this dual role because of conflict of interest concerns, the use of different software, and/or lack of CART training.

service are provided in local phone directories. Dialing 711 (not 911!) will reach an operator nationwide. Court staff should know how to use the relay service.

Videophones. Courthouses are beginning to install the latest and best technology: Videophones. Videophones offer the ability to connect either point-to-point with another Videophone user, or by video relay to a remote sign language interpreter who can see the sign language and voice it to a hearing person (and vice versa) using the Videophone. This self-contained and portable technology allows faster and more accurate communication, and may be a resource to court systems in remote areas. Interpreter services are available for assignment through Internet-based providers, and can be contracted to perform interpreting through the Videophone. Internet based interpreting may be an option in rural areas or for short proceedings, but is less useful in a courtroom setting with limited high-speed Internet capacity, or in complex proceedings involving multiple parties or many documents.

Whenever a court provides pay telephones, a pay TTY that includes Braille capability and an ordinary telephone with volume control should be installed. Guidelines for provision of TTY phones can be found in the ADA Accessibility Guidelines for Buildings and Facilities (ADAAG).³⁰ The ADAAG has a specific section devoted to judicial facilities.³¹ Both TTY telephone numbers and Videophone addresses should appear on all official court communications, including jury summonses, along with instructions for requesting communication accommodation.

- **Hearing Aids**

Use of personal hearing aids may be sufficient for some persons with hearing loss (there may be a need to change batteries in extended proceedings).

- **Training for Court Staff**

Court personnel should be trained in the use of commonly-used assistive aids, and should know how to offer assistive technology in an effective way. A good approach is to have a laminated card showing pictures of various technology options, together with a “Resources to Contact” sheet, available in each courtroom and at all public court offices. This allows easy identification of the accommodation needed, and permits staff to learn what has worked for the person in the past.

Court personnel should be trained in the use of assistive aids, and to know how to offer assistive technology in an effective way.

³⁰ 28 C.F.R. Pt. 36, App. A §4.31.

³¹This section has yet to be adopted by the Department of Justice, however, and is not currently enforceable. See the main heading of the provisions, as published in the Federal Register on January 13, 1998. Cites to ADAAG may be found in the Appendix. In July 2004, the U.S. Access Board amended ADAAG to include new provisions, some of which directly pertain to courtrooms. These guidelines can be found at <http://www.access-board.gov>. As of April 2006, these amendments have not been incorporated by the Department of Justice into the ADA regulations. Thus, courts are advised to consult this resource before making architectural changes.

4. Writing

Written communication should be used sparingly as a form of accommodation. Information that would be conveyed orally is often left out of written notes, and there are significant differences in grammar and syntax between English and other languages such as ASL. Written notes should be used only for simple communications such as requesting or giving a telephone number or address.

5. Direct Communication

When communicating with a person with a hearing loss, it is vital to interact directly with the person, not with the interpreter. Keep your face within view, and do not cover your mouth while speaking. Many deaf or hard of hearing people use visual lip and facial cues even when an interpreter is present; objects in or near the mouth of the speaker may interfere with understanding. A person may need to sit close to the speaker and interpreter to receive the visual cues. A person with a hearing disability may be reluctant to interrupt to say that he or she cannot hear, so frequent but respectful checks should be made, and some signal should be established to indicate a need to slow down or have something repeated or explained.

Interact directly and slow down.

6. Voice Volume

A person who is hard of hearing may not realize how loudly he or she is talking. Speech volume should not be taken for anger, nor trigger an angry reaction, until it is ascertained whether the speaker is hard of hearing. Conversely, it is not necessary to raise your voice to a hard of hearing or deaf person. Speak slowly and distinctly .

7. Other Considerations

Confidential communications. It is important to ensure that attorney-client discussions and sidebar conferences remain confidential.

Extended time. Bridging communication barriers will likely increase the total time of a proceeding by a third to half.

B. Vision Disabilities

Vision limitations also vary greatly, and may range from mild to moderate losses of visual acuity to tunnel vision, night blindness or color blindness, to total lack of sight. Appropriate accommodations will be similarly varied, depending upon the specific nature and level of impairment. Only 10 to 15 percent 'see' total darkness. The majority can distinguish light, color, and/or form.³²

Vision Impairments range from mild to moderate losses of visual acuity to tunnel vision, night blindness or color blindness, to total lack of vision.

³² Washington State Dept. of Services for the Blind, <http://www.dsb.wa.gov/> (accessed October 3, 2005).

Enabling access for those with visual disabilities requires consideration of both communication and physical barriers.³³

1. Assistive Devices

For those who have some vision but have significant losses of visual acuity, assistive devices such as screen-reading software, specialized magnifying glasses or overhead projectors may be necessary for viewing documents and other exhibits. Such limitations may also require seating accommodations that place the person closer to witnesses or other evidence. For those with more substantial disabilities, accommodations may include providing documents in Braille or on audio tape, removing barriers to movement, or readers to read documents aloud. Useful new technology includes screen-reading software, which allows a blind person to “read” computer text by hearing it, and software that enlarges screen text. These programs are now inexpensive, and all websites should be made compatible.

2. Navigation

People must be able to navigate safely, locate offices and courtrooms, and obtain public information in a format they can use. They may need assistance traveling through crowded hallways or unfamiliar courthouses. Court personnel should be prepared to offer help, because the person with a vision disability will not likely know help is at hand. Not everyone will want assistance, so it is important to ask first.

Common types of navigation assistance include walking beside the person, offering your arm (it is not appropriate to take the arm of a person with a visual disability without permission), and giving verbal guidance, such as “There is a chair to your left.” Unless there is imminent danger, never push or pull a person with a vision loss. In settings where more than one person is present, it is good practice for each speaker to identify herself at the beginning of each statement. If you leave a blind person alone, let him or her know you are leaving. Respect boundaries, including those of guide dogs.

3. Noise

People with visual disabilities may depend upon auditory cues to identify nearby barriers, particularly when relying on the assistance of a sighted guide. Noisy environments or excessive background noise may make these important signals less effective.

4. Documents and Forms

People with visual disabilities often need help reading documents. Options include readers, taped texts, audio recordings, Braille, large print, or other

³³The ADA Accessibility Guidelines for Buildings and Facilities (ADAAG) provide standards for assuring that corridors and public areas can be used safely by people with visual disabilities. ADAAG 4.4 addresses objects that protrude into walkways. ADAAG 4.30.4 deals with raised and Brailled characters and pictorial symbol signs (pictograms). ADAAG 4.30.5 deals with the finish and contrast for word signs. Location and mounting of signs is covered by ADAAG 4.30.6.

Enabling access for those with visual disabilities requires consideration of both communication and physical barriers.

methods of making visually delivered materials available to individuals with visual impairments. See 28 C.F.R. 35.104(2). Braille is read by only a minority of people, but offers tremendous ease of use. Electronic media are likely to accommodate a broad group, because most people with visual loss will benefit from software that voices the written word or enlarges printed text (see “Assistive Devices” above).

Bold printing on white paper helps some people focus and read faster with less effort, while colored paper may benefit others. There is no single format for printing, because each individual has unique needs. Avoid background images, wrapping text, or shading. Use sans-serif fonts like Arial or Tahoma. Good color contrast is important, and a matte or dull paper finish is preferred.³⁴

Alternate formats for standard forms and notices should be available on request. For individually prepared documents such as court orders, alternate formats should be made timely available. Court staff should be able to provide appropriate auxiliary aids and services, such as using a larger font, reading a document aloud, or completing forms for people who cannot see the blank spaces.

C. Mobility Limitations

People with mobility limitations may encounter obstacles getting to and entering the courthouse, or getting around once inside. The ADA mandates the “readily achievable” removal of architectural and structural barriers unless programs can be made accessible in some other way. 42 U.S.C. §§ 12182(2)(A)(iv), (v). Whether or not barriers exist, courts should ensure a continuous, unobstructed route from accessible public transportation and parking through an accessible public entrance into the areas where court services are conducted. See 76 Judicature 250, 252.³⁵

The ADA does not necessarily require that each courtroom, office, or restroom be barrier-free. Rather, the services and accommodations of the courthouse, *viewed as a whole*, must be readily accessible and usable by people with disabilities. 28 C.F.R. §§ 35.130(a), 35.150(a). When it is not feasible to serve a person in the same place others are served, the person must be served in the most appropriate integrated setting. 18 C.F.R. § 35.130(d).

³⁴ King County Office of Civil Rights, *See* www.metrokc.gov/dias/ocre/checklist.htm (accessed May 13, 2005). *See also* ADAAG 40.3.5.

³⁵ Structural changes to make facilities accessible must follow either the Uniform Federal Accessibility Standards (UFAS) or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG). *See* Common Questions About Title II of the ADA, published by the Department of Justice and *available at* <http://www.usdoj.gov/crt/ada/pubs/t2qa.txt> (accessed May 13, 2005).

There are many ways to remove barriers.

1. Navigation

Identifying physical barriers is fairly easy using the ADAAG standards. Of particular concern are well-marked elevators, counter heights, the width of doorways, the force needed to open doors, the height of chairs and podiums, and clearance under tables. In courtrooms there must be a clear, accessible route of travel to all areas, including the jury box, witness stand, bench, and counsel tables. Jury boxes and restrooms should be accessible. Courtroom officials must know the location of accessible restrooms!

2. Removing Barriers

There are many ways to remove barriers. Blocks can be used to raise the height of tables. Litigants or attorneys may be permitted to address the court without standing. Attorneys using wheelchairs may participate in sidebar conferences by means of a ramp, or conferences may be moved to an accessible location. Jury boxes may be equipped with removable seats or ramps, or an open space beside the jury box may be provided for a juror in a wheelchair. Whenever possible, changes should be made when court is not in session, to avoid calling undue attention to a disability.

3. Extending time

When persons move slowly, need assistance, or must travel to an accessible restroom, time for recesses should be extended, and more recesses may be necessary. People with mobility limitations may tire easily and may need more frequent breaks.

4. Wheelchairs

Just as one would not suddenly or without permission touch another's body, one should not touch a wheelchair without permission, and one should never push a wheelchair without permission. Ask if the person wants help, offer to push, and then go carefully, minding your passenger's feet and the chair's turning radius, and keeping a safe distance from the vulnerable ankles ahead. Do not lean on a wheelchair.

Whenever possible, sit at the same level as a person using a wheelchair, and never loom over people using wheelchairs. Turning takes time in a wheelchair; do not suddenly or unexpectedly "appear" from behind.

5. Other Assistance

Wheelchair users vary in flexibility and strength. Doors can be a nightmare for anyone with a mobility limitation. Persons who are walking may need time to pass through crowded points, and may need the physical support of a railing or a cane. Carrying loose papers may be impossible. The key is to be watchful and offer help.

6. Planning for Emergencies: Do You Have an Exit Strategy for Everyone?

Courts must plan for disasters or other emergencies. Remember to plan for evacuation of people with disabilities. Access to justice should include surviving the experience.



D. Cognitive and Other Mental Disabilities

People with cognitive and other mental disabilities often encounter paternalistic attitudes and condescending responses. They may therefore be unwilling to acknowledge a need for help, and may be suspicious or skeptical about offers of help. At other times, the presence of a mental disability may go unrecognized, and behavior may be misinterpreted.

A history of paternalistic attitudes, or condescending responses...

Many conditions can affect learning and decision-making: cerebral palsy, autism and Down's syndrome; traumatic brain injuries; epilepsy or other seizure disorders; or mental illness, to name just a few. Individuals with these disabilities may be of normal intelligence or may have cognitive limitations.

The major barriers to access for persons with cognitive disabilities are unnecessary complexity and ineffective communication.

1. Recognizing the Presence of a Disability

The clues indicating cognitive limitations may be subtle, and persons with this disability are often very good at masking it because of the stigma that comes with such disabilities. Be sensitive to behavior, and don't make assumptions. Respond to indications that assistance is needed, ask before intervening, and respect a "no" response.

The major barriers are unnecessary complexity and ineffective communication.

2. Independence

Most persons with cognitive disabilities are capable of making (and are entitled to make) their own choices and decisions. Very few have guardians who act for them. A person who has a guardian will still have preferences and want to make choices, and often the authority of a guardian is limited.

Family members, friends and service providers may play a major supportive role. Court personnel can look to these individuals for help, so long as care is taken to preserve confidentiality and avoid conflicts of interest between the person with the disability and his or her helpers. Court staff should consult the person with the disability before asking others for information or decisions.

3. The Importance of Respectful Language

Many people with cognitive disabilities have been teased and exploited throughout their lives. Court staff should be careful about language. The term "retarded" persists in legal documents and medical practice, but it is a common taunt and is often a slur. Labels can usually be avoided. Where a descriptive term is necessary, "developmental disability," "cognitive disability," "intellectual disability," or "learning disability" are fine. Staff may ask for and use the term the person uses when referring to his or her disability. (Further discussion of communication issues follows below.)

4. Navigating

Courthouse interiors are confusing to anyone who is unfamiliar with the justice system, and for those with cognitive disabilities, these mysterious places may be wholly intimidating.

Courthouse interiors are just plain confusing.

The key is to eliminate complexity wherever possible and to communicate clearly in signs and other materials.

If possible, court services should be located in close proximity to public transportation, and court personnel who have contact with the public should have bus schedules available. Clear signage should identify the courthouse, and indicate entrances.

Provide simple and understandable directions. The courthouse directory should be clear, should use symbols where possible, and should use consistent language (i.e., the words in the directory should match those on the wall signs). Signs with well-known symbols are preferable to signs with words only. Signs should be clear and uncluttered, and should use simple, common language or obvious symbols. Signs for the clerk's office, for example, could include a graphic symbol of a paper file or a cash register; signs for courtrooms could show a gavel and the judge's name.

5. Documents and Forms

For those with cognitive disabilities, legal language is a particular challenge. A few steps will make a big difference:

- **Content:** Again, eliminate unnecessary complexity. Most laypeople have trouble understanding court notices, or completing court forms — those who have disabilities are truly at a disadvantage. Get rid of unnecessary jargon and legalese.
- **Simplicity:** Shorten forms — ask only for information that is needed.
- **Font:** Small print (less than 12 point) is especially hard for slow readers to follow.
- **Assistance:** Assistance with the completion of documents can make all the difference to a person with limited literacy who is trying to navigate an unfamiliar system. Information is always appropriate (“this form is for people who have children.”). Remember to avoid giving advice as to what the person should choose when there are options.³⁶ In such cases, have referrals to legal services or the local bar association available.

6. The Role of Court Staff

The single most important means of ensuring access for people with cognitive disabilities is to educate and motivate court staff so they can provide effective assistance. Local advocacy organizations can be a resource for training in effective communication. Completing a program for all staff may take time, but the first and most important step is to include such training in the court's ADA compliance plan.

Training should include the following:

Recognizing cognitive disabilities. Some people have physical characteristics associated with a well-known cognitive disability. Usually, however, you cannot tell by looking. Recognizing the presence of these disabilities is

Assistance with the completion of documents can make all the difference.

Training is crucial.

³⁶ The Committee consulted with the Practice of Law Board in drafting this section.

particularly challenging because many people try to conceal difficulties with writing, reading, or other skills. Staff should learn to look for signs of decreased ability to reason and/or think independently, and how to offer help.

Communicating. Courthouses are busy places, and staff is often rushed. When assisting a person with a cognitive disability, however, it is imperative to be calm, speak slowly and clearly, and use concrete, simple language. Staff should be taught how to show respect and patience while using their time well, how to communicate effectively in non-technical and jargon-free language, how to notice signs of frustration or loss of focus that may indicate a need for a break, and how to get other assistance when it is needed.

*Tips for
Communicating.*

Some suggestions about what to do:

- Use short sentences and basic, concrete vocabulary. Speak slowly. Break it down. Use pictures or actions to convey meaning.
- Speak directly to the person, in a neutral manner.
- Recognize “false positive” answers. Many people with cognitive disabilities have learned that it is easiest to just say yes, and so may indicate they understand or agree when really they are completely lost or confused. A question like, “Do you understand?” often will get a false “yes” response, whereas “Would you like me to show you the way?” may produce a truly grateful response.
- Open-ended questions are usually better.
- Repeat instructions or questions using different phrasing.
- Be discreet. A person who is confused and lost may try to hide the fact, or be too embarrassed to say she cannot read the form she must fill out. Usually, however, there are signs of difficulty for those who are alert. Staff should not wait to be asked, but should offer help if it appears to be needed.

What not to do. Some responses encountered by people with cognitive disabilities are ineffective or counter-productive.

- Don’t ignore the person with the disability and instead address a personal assistant, family member, or other accompanying person. This can be offensive and demeaning. Respond to the person involved. If a question is asked by an assistant on behalf of another, both individuals should be addressed.
- Don’t use labels such as “retarded.”
- Don’t be indiscreet. For many people it is profoundly humiliating to admit illiteracy.

*Well-intentioned people
can sometimes make
things worse...*

Education and guidance for court personnel may be available from groups such as The Arc of Washington State and People First. The National Arc

Training is available!

offers numerous publications, including a brochure titled “When People with Mental Retardation Go to Court.”³⁷

The Language and Behavior section of the Appendix contains further tips for effective communication.

7. Psychiatric disabilities

Mental illness can in some cases affect learning, judgment, and communication, but many people with mental illness have no cognitive limitations, and, when they are not experiencing symptoms, are fully capable of understanding the court system.

People with mental illness are often wrongly stigmatized as dangerous, and sometimes it is assumed that there is no recovery from a mental illness. In fact, the causes and symptoms of mental illness vary greatly. Many people experience symptoms episodically, and are able to work and actively participate in the community most of the time. There are effective treatments for most mental illnesses. Unfortunately, many people with psychiatric disabilities come in contact with the justice system while symptomatic. Behaviors associated with their symptoms may lead to misunderstanding and prejudice.

Staff will benefit from learning how to recognize and respond to individuals exhibiting the symptoms or effects of a mental illness, including techniques for de-escalation of volatile situations.

8. Other considerations

Court customs. Like our courthouses, our complex rules are mysterious to all laypersons, and the vocabulary, etiquette, dress, and schedule of courts have no parallel anywhere else in life. People with cognitive disabilities who are represented by a lawyer will have a personal guide to the etiquette of the courtroom, but others will depend on the judge and court staff for guidance. Support persons can provide an effective adjunct to the lawyer. (See Specialized Accommodation Issues, below.)

Courtroom communication. Judges, lawyers, and court staff should ensure that communication is effective by requiring parties and witnesses to speak clearly and use straightforward vocabulary, by giving additional time for responses, and by allowing additional recesses if needed.

Guardian *ad litem*. Where the disabled person is a party and is unable to comprehend the proceedings, appointment of a guardian *ad litem* is required.³⁸ On such occasions, however, court staff should continue to treat

The vocabulary, etiquette, dress, and schedule of courts have no parallel anywhere else in life.

³⁷ These may be found at <http://www.thearc.org/publications> (accessed September 18, 2005).

³⁸ See *Graham v. Graham*, 40 Wn.2d 64, 66-67, 240 P.2d 564 (1952)(court should appoint GAL “when reasonably convinced that a party litigant is not competent, understandingly and intelligently, to comprehend the significance of legal proceedings and the effect and relationship of such proceedings in terms of the best interests of such party litigant”); *Vo v. Pham*, 81 Wn. App. 781, 784-785 (Wash. Ct. App. 1996)(same).

the person involved with dignity and respect, and address him or her directly on matters other than those at issue in the proceeding.

Appointment of counsel. Some lawyers are especially skilled, experienced and motivated in representing people with cognitive limitations, especially in criminal cases, and where possible those attorneys should be appointed for indigent defendants. It is at least arguable that in cases where an indigent pro se civil litigant is unable to participate effectively in the proceedings because of a cognitive disability, the reasonable accommodation is appointment of counsel at public expense.³⁹

E. Special Accommodation Issues

1. Guide Dogs and Service Animals

Guide dogs are the most widely recognized kind of service animal, but people with many types of disabilities use animals for assistance. A service animal must be allowed in any area open to the public, including courtrooms.⁴⁰

A service animal is “an animal that is trained for the purpose of assisting or accommodating a disabled person’s sensory, mental or physical disability.” RCW 49.60.040(23). Service animals may alert a person to sound, pull a wheelchair, carry or fetch things, alert its owner to a seizure or other health issue before the owner is aware of symptoms, or alleviate anxiety by engaging in specific behaviors.⁴¹

Both the ADA and the WLAD forbid discrimination based on use of a guide dog or service animal.

A service animal is not required to wear a cape, special harness, or other equipment, and there is no requirement that a service animal be licensed or certified as such by any government agency. Where the purpose of the animal is unclear, it is permissible to ask whether the animal is needed because of a disability, and what tasks the animal has been trained to perform. In most cases, court personnel should accept a person’s statement that the animal is a service animal. The person using the animal is responsible for supervising the animal, and a service animal can be excluded if it poses a threat to property or to other people.

Valuable guidance may be found in the Department of Justice publication *Commonly Asked Questions About Service Animals in Places of Business*.⁴²

³⁹ This point is argued by the authors of a recent law review article. See Brodoff, L., McClellan, S. and Anderson, E., The ADA: One Avenue to Appointed Counsel Before a Full Civil Gideon, 2 Seattle Journal for Social Justice 609 (Spring/Summer, 2004).

⁴⁰ The Seattle Office for Civil Rights recently awarded a \$21,222 judgment to a woman who was required to leave her dog outside while patronizing a convenience store. *Seattle Times*, May 3, 2005 “*Woman wins bias case over service dog*,” Jennifer Sullivan.

⁴¹ See *Storms v. Fred Meyer Stores*, 129 Wn. App. 820, ___ P.3d. ___ (Div. I, Sept. 26, 2005)(dog trained to alleviate anxiety disorder met definition of service animal).

⁴² Available on the Department of Justice website at www.usdoj.gov/crt/ada/qasrvc.htm (accessed May 13, 2005).

2. Companion Animals

Individuals with disabilities are sometimes accompanied by a pet that has no specialized training but may provide relief from anxiety. For example, a companion animal may help persons with extreme fear of crowds avoid panic attacks in public places. Although untrained animals are not entitled to the protection mandated by the service animals statute, treating untrained animals as service animals may constitute a reasonable accommodation in some circumstances.⁴³

3. Support persons

Many people with disabilities, especially those with cognitive disabilities, are intimidated or confused by court proceedings. When such individuals are involved in court proceedings without representation, the assistance of someone they know well, or who is skilled at explaining court proceedings in simple terms, may constitute a very effective accommodation. Support persons may explain paperwork or follow-up obligations, or identify signs of confusion or misunderstanding, or may simply reduce the anxiety of court proceedings.

Cautions: It is the prerogative of the individual to accept or refuse such assistance. Further, the presence of a support person during attorney-client communications may have an impact on privilege in certain circumstances. See 14 A.L.R. 4th 594. Applicability of Attorney-Client Privilege to Communications Made In Presence Of Or Solely To Or By Third Person.

NOTE: 2005 Statute. The Washington legislature recently passed House Bill (HB) 2126,⁴⁴ which formally recognizes the role of support persons in criminal proceedings where “dependent persons” are involved as victims or witnesses. A “dependent person” is any “person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life[.]”⁴⁵ For those dependent persons, the new statutes establish certain rights in criminal and juvenile court proceedings, including :explanation of all legal proceedings and police investigations in which the person may be involved, in language easily understood by the dependent person; the presence of an advocate during court testimony, to provide emotional support; and for victims of sex or violent crimes, assistance of an advocate during interviews and to provide information to the prosecutor and court concerning the ability of the person to cooperate with the prosecution, the effect of the prosecution on the person, and the person's ability to understand the nature of the proceedings.

⁴³ Another category is therapy animals, which are specially trained to go into healthcare facilities to provide therapeutic contact with patients. Information about therapy animals is available from the Delta Society, www.deltasociety.org. See also, *Service Dog Tasks for Psychiatric Disabilities*, Joan Froling, www.iaadp.org/psd_tasks.html.

⁴⁴ CH 381, 2005 Laws, Effective July 24, 2005, codified at RCW 7.69B.

⁴⁵ See HB 2126 § 1, 2(2) and RCW 9A.42.010.

4. Multiple Challenges Compound

Many who are entitled to ADA accommodation also face other barriers and obstacles to the justice system, so that their difficulties compound. Such barriers or disparate treatment may result from age, religion, ethnicity or race, social class, sexual orientation, nationality, gender or language. The findings of the *Washington State Civil Legal Needs Study* tell us that people who have disabilities experience discrimination more than other groups, and that many will be without financial resources as well. When disability is compounded by other factors the situation will be more complex and difficult, and the accommodations needed may be affected. How we respond in such complex situations will likely have lasting consequences.



ACCOMMODATION PLANS FOR WASHINGTON COURTS

What steps should courts take?

There is much courts can do to ensure they provide the necessary access for people with disabilities. We recommend the following steps:

First, read this Guide. Even the brief treatment of disabilities contained in this Guide may help alert court staff to the problems that may arise, and to the all-important fact that ignoring an access impediment is illegal.

Second, review current practices throughout the courthouse and courtrooms in an objective, self-aware and critical manner.

Third, training is critical: provide education about understanding and accommodating disabilities, and train everyone working in the court system to be ready to help all people achieve effective access to the court.

Finally, adopt an Accommodation Plan, which should include the following steps:

Adopt an Accommodation Plan!

- Ensure that persons with disabilities and/or the organizations representing them have the opportunity to participate in formulating the plan;
- Identify an ADA coordinator;
- Identify physical barriers, and identify solutions, and provide for emergencies;
- Educate judicial officers and staff, as described above;
- Identify assistive technology aids, acquire and install them and train staff in their use;
- Disseminate information about available accommodations;
- Establish and publicize a procedure by which accommodation may be requested and swiftly investigated;
- Identify accommodations frequently requested, and ensure they are ready at hand;
- Identify someone to be the assistive technology expert;
- Identify someone to be the link to outside disability organizations;
- Prepare and maintain a directory of current local services available to assist the court in providing accommodations;
- Review court forms and procedures, and amend as needed;
- Establish a procedure for receiving and acting upon complaints;

- Regularly review and update the plan; and
- Assign one individual with overall responsibility for the plan.

The details of your accommodation plan will depend on the specific barriers of your courthouse and programs, but it may help to think about providing access in different stages:

Short-Term Goals: Consider how to provide immediate access by relocating services and informally consulting with disability groups on how to meet needs on a case-by-case basis. Review policies and procedures to identify easily made changes to enhance access. Consult with community experts to develop “fast fixes.”

Medium- and Long-Term Goals: Perform a full architectural survey of barriers and make a careful assessment of barriers posed for different disabilities. Develop a budget and schedule for implementing changes. Ensure that future structural changes incorporate the needs of people with disabilities. Evaluate technology and assistive devices, and maintain relationships with the local community for regular advice and feedback.



CONCLUSION

First, a reminder: This Guide has addressed only the most common disabilities. Many other disabilities — some of them invisible — affect persons in our courts. These may include seizure disorders, AIDS or other serious illness, multiple sclerosis, and so on and on. Be alert.

We will succeed if we work together. Share your ideas and experiences!

All of us in the justice system are in this together. We must and we can make our courts accessible to those with disabilities. If we share our ideas and experiences, and if we are creative — perhaps by starting “banks” of assistive devices to be shared among courts, or publishing bibliographies, or building websites for exchanging suggestions and successes — we will get it done. *Help is at hand* — please see the resources, scripts and other materials in the Appendix. It is possible that soon, a statewide coordinator will be on staff at AOC (stay tuned!).

Finally, remember to consult those of us living with disabilities as you work to ensure our access!

The vibrancy of our Democracy depends upon our willingness to ensure that the fullest range of voices and interests is represented and heard. This is what the fight for equal justice is all about.

— Justice Robert F. Utter, Washington State Supreme Court (retired)

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I. LANGUAGE AND BEHAVIOR GUIDELINES



Guide to Etiquette and Behavior for Working with People with Disabilities

It is important to remember that you are not working with disabilities; you are working with **people** who have disabilities. Please consider the following general guidelines as a starting point when working with people with disabilities.

- **Use common sense.** People with disabilities want to be treated with respect, as does everyone. Remember, a person is a person first, the disability comes second.
- **Don't be patronizing.** Show the person the same respect that you expect to receive from others. Treat adults as adults.
- **Be considerate and patient.** Be patient if the person requires more time to communicate, to walk, or to accomplish various tasks.
- **Don't be afraid to offer assistance.** If the person looks as if he or she needs assistance, ask if there is something you can do. Wait until the offer is accepted, then listen or ask for instructions.
- **Communicate directly with the person.** Do not communicate directly to the person's interpreter, companion or assistant. If the person wishes, the companion or assistant can offer suggestions to help you communicate effectively.
- **Listen.** Listen attentively and wait for the person to finish speaking. If you have difficulty understanding, ask short questions that require short answers, or nod of the head. Never pretend to understand; instead repeat what you understood and allow the person to respond.
- **Simplify.** Use plain language in explanations and questions. Avoid jargon, terms of art and acronyms. If you must use these terms, provide explanation each time you use them.
- **Relax.** Be patient with yourself in learning the specific needs of each person. Don't be embarrassed if you find yourself doing or saying the wrong thing. Just apologize and continue with good intentions to learn what to do in the situation.
- **Don't make assumptions based on appearance.** An individual's abilities – and disabilities – aren't always obvious. Many disabilities are hidden, such as epilepsy.
- **Respect the person's adaptive aids and equipment.** A wheelchair is part of an individual's personal space – don't lean on it! A service animal is doing a job — don't treat it as a pet!
- **Individualize.** Use these guidelines unless someone with a disability tells you they want something done a different way.

Information compiled by Washington Protection & Advocacy System

People First Language Guidelines

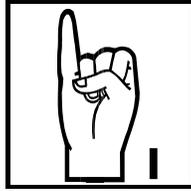
When referring to a person's disability, use People First language.

PEOPLE FIRST LANGUAGE	LABELS NOT TO USE
People with disabilities	The handicapped; the disabled
A person with a cognitive disability	The mentally retarded; retarded; Mental Retardation
He has autism	Autistic
She has Down Syndrome	Down's kid; mongoloid
He has a learning disability	Learning disabled; slow learner
I am Deaf, hard of hearing	Hearing impairment
She has a physical disability She has a mobility disability	Crippled; invalid; victim of; stricken with; suffers from; afflicted with; impaired
He has low vision; he is blind	Visual impairment
She has an emotional disability; psychiatric disability	Emotionally disturbed; crazy; psychotic
He uses a wheelchair	Wheelchair bound; confined to a wheelchair
A person without a disability	Normal person; whole person
He receives special education services	Special education kid
Congenital disability	Birth defect
Accessible parking, bathrooms, etc.	Handicapped parking, bathrooms, etc.
She needs support for...	She has a problem with...

- Do not refer to a person's disability unless it is relevant.
- Use **disability** rather than handicap or impairment to refer to a person's disability.
- Avoid negative or sensational descriptions of a person's disability.
- Don't use "normal" to describe people without disabilities; instead say people without disabilities, if comparisons are necessary.
- People with disabilities have very diverse abilities and characteristics. Avoid making assumptions or generalizations about their level of functioning.
- Don't describe people with disabilities who excel as overly courageous, brave, special, or super human.
- Specific disability-related information may be confidential.

Information compiled by Washington Protection & Advocacy System

II. INTERPRETER STATUTES AND RULES



RCW 2.42: Interpreters in legal proceedings

- 2.42.010 Legislative declaration — Intent.
- 2.42.050 Oath.
- 2.42.110 Definitions.
- 2.42.120 Appointment, pay.
- 2.42.130 Source of interpreters, qualifications.
- 2.42.140 Intermediary interpreter, when.
- 2.42.150 Waiver of right to interpreter.
- 2.42.160 Privileged communication.
- 2.42.170 Fee.
- 2.42.180 Visual recording of testimony.

2.42.010: Legislative declaration — Intent.

It is hereby declared to be the policy of this state to secure the constitutional rights of deaf persons and of other persons who, because of impairment of hearing or speech, are unable to readily understand or communicate the spoken English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the appointment of such interpreters.

2.42.050: Oath.

Every qualified interpreter appointed under this chapter in a judicial or administrative proceeding shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or other agency conducting the proceedings, to the best of the interpreter's skill and judgment.

2.42.110: Definitions.

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

- (1) "Impaired person" means a person who, because of a hearing or speech impairment, cannot readily understand or communicate in spoken language; and includes persons who are deaf, deaf and blind, speech impaired, or hard of hearing.
- (2) "Qualified interpreter" means a visual language interpreter who is certified by the state or is certified by the registry of interpreters for the deaf to hold the comprehensive skills certificate or both certificates of interpretation and transliteration, or an interpreter who can readily translate statements of speech impaired persons into spoken language.
- (3) "Intermediary interpreter" means a hearing impaired interpreter who holds a reverse skills certificate by the state or is certified by the registry of interpreters for the deaf with a reverse skills certificate, who meets the requirements of RCW 2.42.130, and who is able to assist in providing an accurate interpretation between spoken and sign language or between variants of sign language by acting as an intermediary between a hearing impaired person and a qualified hearing interpreter.
- (4) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision.

2.42.120: Appointment, pay.

- (1) If a hearing impaired person is a party or witness at any stage of a judicial or quasi-judicial proceeding in the state or in a political subdivision, including but not limited to civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a hearing impaired person may be subject to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.
- (2) If the parent, guardian, or custodian of a juvenile brought before a court is hearing impaired, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.
- (3) If a hearing impaired person participates in a program or activity ordered by a court as part of the sentence or order of disposition, required as part of a diversion agreement or deferred prosecution program, or required as a condition of probation or parole, the appointing authority shall appoint and pay for a qualified interpreter to interpret exchange of information during the program or activity.
- (4) If a law enforcement agency conducts a criminal investigation involving the interviewing of a hearing impaired person, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. Whenever a law enforcement agency conducts a criminal investigation

involving the interviewing of a minor child whose parent, guardian, or custodian is hearing impaired, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(5) If a hearing impaired person is arrested for an alleged violation of a criminal law the arresting officer or the officer's supervisor shall, at the earliest possible time, procure and arrange payment for a qualified interpreter for any notification of rights, warning, interrogation, or taking of a statement. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(6) Where it is the policy and practice of a court of this state or of a political subdivision to appoint and pay counsel for persons who are indigent, the appointing authority shall appoint and pay for a qualified interpreter for hearing impaired persons to facilitate communication with counsel in all phases of the preparation and presentation of the case.

2.42.130: Source of interpreters, qualifications.

(1) If a qualified interpreter for a hearing impaired person is required, the appointing authority shall request a qualified interpreter and/or an intermediary interpreter through the department of social and health services, office of deaf services, or through any community center for hearing impaired persons which operates an interpreter referral service. The office of deaf services and these community centers shall maintain an up-to-date list or lists of interpreters that are certified by the state and/or by the registry of interpreters for the deaf.

(2) The appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the hearing impaired person, that the interpreter is able in that particular proceeding, program, or activity to interpret accurately all communication to and from the hearing impaired person. If at any time during the proceeding, program, or activity, in the opinion of the hearing impaired person or a qualified observer, the interpreter does not provide accurate, impartial, and effective communication with the hearing impaired person the appointing authority shall appoint another qualified interpreter. No otherwise qualified interpreter who is a relative of any participant in the proceeding may be appointed.

2.42.140: Intermediary interpreter, when.

If the communication mode or language of the hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the appointing authority who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

2.42.150: Waiver of right to interpreter.

(1) The right to a qualified interpreter may not be waived except when:

- (a) A hearing impaired person requests a waiver through the use of a qualified interpreter;
- (b) The counsel, if any, of the hearing impaired person consents; and
- (c) The appointing authority determines that the waiver has been made knowingly, voluntarily, and intelligently.

(2) Waiver of a qualified interpreter shall not preclude the hearing impaired person from claiming his or her right to a qualified interpreter at a later time during the proceeding, program, or activity.

2.42.160: Privileged communication.

(1) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law.

(2) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending.

2.42.170: Fee.

A qualified and/or intermediary interpreter appointed under this chapter is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The fee for services for interpreters for hearing impaired persons shall be in accordance with standards established by the department of social and health services, office of deaf services.

2.42.180: Visual recording of testimony.

At the request of any party to the proceeding or on the appointing authority's initiative, the appointing authority may order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding.

In any judicial proceeding involving a capital offense, the appointing authority shall order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding.

GR 11: Court Interpreters

**Note proposed amendments, following pages.*

GR 11.1 — The use of qualified interpreters is authorized in judicial proceedings involving hearing impaired or non-English speaking individuals.

GR 11.2 — CODE OF CONDUCT FOR COURT INTERPRETERS

PREAMBLE. All language interpreters serving in a legal proceeding, whether certified or uncertified, shall abide by the following Code of Conduct:

A language interpreter who violates any of the provisions of this code is subject to a citation for contempt, disciplinary action or any other sanction that may be imposed by law. The purpose of this Code of Conduct is to establish and maintain high standards of conduct to preserve the integrity and independence of the adjudicative system.

(a) A language interpreter, like an officer of the court, shall maintain high standards of personal and professional conduct that promote public confidence in the administration of justice.

(b) A language interpreter shall interpret or translate the material thoroughly and precisely, adding or omitting nothing, and stating as nearly as possible what has been stated in the language of the speaker, giving consideration to variations in grammar and syntax for both languages involved. A language interpreter shall use the level of communication that best conveys the meaning of the source, and shall not interject the interpreters personal moods or attitudes.

(c) When a language interpreter has any reservation about ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the parties and to the court. If the communication mode or language of the non-English speaking person cannot be readily interpreted, the interpreter shall notify the appointing authority or the court.

(d) No language interpreter shall render services in any matter in which the interpreter is a potential witness, associate, friend, or relative of a contending party, unless a specific exception is allowed by the appointing authority for good cause noted on the record. Neither shall the interpreter serve in any matter in which the interpreter has an interest, financial or otherwise, in the outcome. Nor shall any language interpreter serve in a matter where the interpreter has participated in the choice of counsel.

(e) Except in the interpreters official capacity, no language interpreter shall discuss, report, or comment upon a matter in which the person serves as interpreter. Interpreters shall not disclose any communication that is privileged by law without the written consent of the parties to the communication, or pursuant to court order.

(f) A language interpreter shall report immediately to the appointing authority in the proceeding any solicitation or effort by another to induce or encourage the interpreter to violate any law, any provision of the rules which may be approved by the courts for the practice of language interpreting, or any provisions of this Code of Conduct.

(g) Language interpreters shall not give legal advice and shall refrain from the unauthorized practice of law.

GR 11.3 — TELEPHONIC INTERPRETATION

(a) Interpreters may be appointed to serve by telephone for brief, non-evidentiary proceedings, including initial appearances and arraignments, when interpreters are not readily available to the court. Telephone interpretation is not authorized for evidentiary hearings.

(b) RCW 2.43 and GR 11.2 must be followed regarding the interpreter's qualifications and other matters.

(c) Electronic equipment used during the hearing must ensure that the non-English speaking party hears all statements made by the participants. If electronic equipment is not available for simultaneous interpreting, the hearing shall be conducted to allow consecutive interpretation of each sentence.

(d) Attorney-client consultations must be interpreted confidentially.

(e) Written documents which would normally be orally translated by the interpreter must be read aloud to allow full oral translation of the material by the interpreter.

(f) An audio recording shall be made of all statements made on the record during their interpretation, and the same shall be preserved.

Proposed Amendments to GR 11

(published for public comment January 2006)

PROPOSED AMENDED RULE 11.1

COURT INTERPRETERS

(a) To Assist Witnesses and Parties. The use of qualified interpreters is authorized in judicial proceedings involving hearing sensory-impaired or non-English speaking individuals.

(b) To Assist Jurors. The use of qualified interpreters is authorized in judicial proceedings involving competent and qualified jurors whose sensory-impairment would otherwise interfere with their ability to understand testimony and evidence, participate in deliberations and render a verdict.

(1) A qualified interpreter who serves in this capacity must abide by GR 11.2, refrain from expressing a personal opinion about any matter in connected to the case by any juror, and keep confidential all juror deliberations, unless directed otherwise by the court.

(2) Upon impaneling the jury, the court shall give the interpreter the following oath:

Do you solemnly swear or affirm that you will make a true interpretation to the person serving as a juror of all the proceedings in a form or manner which the juror understands, to the best of your skill and judgment, and that you will assist the juror in communications with the court and other jurors as directed by the court, and that you will not express your personal opinion about any matter connected to this case to any juror, and that you will keep confidential all jury deliberations unless directed otherwise by the court.

PROPOSED AMENDED RULE 11.2

CODE OF CONDUCT FOR COURT INTERPRETERS

PREAMBLE. All language interpreters serving in a legal proceeding, whether certified or uncertified, shall abide by the following Code of Conduct:

An language interpreter who violates any of the provisions of this code is subject to a citation for contempt, disciplinary action or any other sanction that may be imposed by law. The purpose of this Code of Conduct is to establish and maintain high standards of conduct to preserve the integrity and independence of the adjudicative system.

(a) An language interpreter, like an officer of the court, shall maintain high standards of personal and professional conduct that promote public confidence in the administration of justice.

(b) A language interpreter shall interpret or translate the material thoroughly and precisely, adding or omitting nothing, and stating as nearly as possible what has been stated in the language of the speaker, giving consideration to variations in grammar and syntax for both

languages involved. A language interpreter shall use the level of communication that best conveys the meaning of the source, and shall not interject the interpreters personal moods or attitudes.

(c) A sensory interpreter shall describe sensory information thoroughly and precisely, adding or omitting nothing, and describing as nearly as possible sensory information, whose absence would otherwise interfere with a sensory-impaired person's ability to participate in court proceedings. A sensory interpreter shall use the level of communication that best conveys the sensory information being presented, and shall not interject the interpreter's personal moods or attitudes.

~~(ed) When an language interpreter has any reservation about their ability to satisfy fulfill an assignment competently, the interpreter shall immediately convey that reservation to the parties and to the court. The interpreter shall notify the appointing authority or the court, if sensory information or~~ if the communication mode or language of the non-English speaking person cannot be readily interpreted, the interpreter shall notify the appointing authority or the court.

~~(de) No language interpreter shall render services in any matter in which the interpreter is a potential witness, associate, friend, or relative of a contending party, unless a specific exception is allowed by the appointing authority for good cause noted on the record. Neither shall the interpreter serve in any matter in which the interpreter has an interest, financial or otherwise, in the outcome. Nor shall any language interpreter serve in a matter where the interpreter has participated in the choice of counsel.~~

~~(ef) Except in the interpreters official capacity, no language interpreter shall discuss, report, or comment upon a matter in which the person serves as interpreter. Interpreters shall not disclose any communication that is privileged by law without the written consent of the parties to the communication, or pursuant to court order.~~

~~(fg) An language interpreter shall report immediately to the appointing authority in the proceeding any solicitation or effort by another to induce or encourage the interpreter to violate any law, any provision of the rules which may be approved by the courts for the practice of language interpreting, or any provisions of this Code of Conduct.~~

~~(gh) Language interpreters shall not give legal advice and shall refrain from the unauthorized practice of law.~~

Proposed New General Court Rule 33

(approved by WSBA 4/21/06)

REQUESTS FOR ACCOMMODATION BY PERSONS WITH DISABILITIES

- (a) Definitions. The following definitions shall apply under this rule:
- (1) “Accommodation” means measures to make each court service, program, or activity, when viewed in its entirety, readily accessible to and usable by an applicant who is a qualified person with a disability, and may include but is not limited to:
 - (A) making reasonable modifications in policies, practices, and procedures;
 - (B) furnishing, at no charge, auxiliary aids and services, including but not limited to equipment, devices, materials in alternative formats, qualified interpreters, or readers; and
 - (C) as to otherwise unrepresented parties to the proceedings, representation by counsel, as appropriate or necessary to making each service, program, or activity, when viewed in its entirety, readily accessible to and usable by a qualified person with a disability.
 - (2) “Applicant” means any lawyer, party, witness, juror, or any other individual who has a specific interest in or is participating in any proceeding before any court.
 - (3) “Court” means any court or other agency or body subject to the rulemaking authority of the Supreme Court.
 - (4) “Person with a disability” means a person covered by the Americans with Disabilities Act of 1990 (§ 42 U.S.C. 12101 et seq.), RCW 49.60 et seq., or other similar local, state, or federal laws. This term includes but is not limited to an individual who has a physical or mental impairment that limits one or more major life activities, has a documented history of such an impairment, or is regarded as having such an impairment.
 - (5) “Qualified person with a disability” means a person with a disability who is otherwise entitled to participate in any program, service, or activity made available by any court.
- (b) Process for requesting accommodation.
- (1) An application requesting accommodation may be presented ex parte in writing, or orally and reduced to writing, on a form approved by the Administrative Office of the Courts, to the presiding judge or officer of the court or his or her designee.
 - (2) An application for accommodation shall include a description of the accommodation sought, along with a statement of the impairment necessitating the accommodation. The court may require the applicant to provide additional information about the qualifying impairment to help assess the appropriate accommodation. Medical and other health information shall be submitted under a cover sheet created by the Administrative Office of the Courts for use by applicants designated “SEALED MEDICAL AND HEALTH INFORMATION” and such information shall be sealed automatically. The court may order that such information be sealed if it has not previously automatically been sealed.

- (3) An application for accommodation should be made as far in advance as practical of the proceeding for which the accommodation is sought.
- (c) Consideration. A request for accommodation shall be considered and acted upon as follows:
- (1) In determining whether to grant an accommodation and what accommodation to grant, the court shall:
 - (A) consider, but not be limited by, the provisions of the Americans with Disabilities Act of 1990 (§ 42 U.S.C. 12101 et seq.), RCW 49.60 et seq., and other similar local, state, and federal laws;
 - (B) give primary consideration to the accommodation requested by the applicant; and
 - (C) make its decision on an individual- and case-specific basis with due regard to the nature of the applicant's disability and the feasibility of the requested accommodation.
 - (2) If an application for accommodation is filed five (5) or more court days prior to the scheduled date of the proceeding for which the accommodation is sought, and if the applicant otherwise is entitled under this rule to the accommodation requested, the accommodation shall be provided unless:
 - (A) it is impossible for the court to provide the requested accommodation on the date of the proceeding; and
 - (B) the proceeding cannot be continued without prejudice to a party to the proceeding.
 - (3) If an application for accommodation is filed fewer than five (5) court days prior to the scheduled date of the proceeding for which the accommodation is requested, and if the applicant otherwise is entitled under this rule to the accommodation requested, the accommodation shall be provided unless:
 - (A) it is impractical for the court to provide the requested accommodation on the date of the proceeding; and
 - (B) the proceeding cannot be continued without prejudice to a party to the proceeding.
 - (4) If a requested accommodation is not provided by the court under subsection (c)(2) or (c)(3) of this rule, the court must offer the applicant an alternative accommodation.
- (d) Denial. Except as otherwise set forth in subsection (c)(2) or (c)(3) of this rule, an application for accommodation may be denied only if the court finds that:
- (1) the applicant has failed to satisfy the substantive requirements of this rule;
 - (2) the requested accommodation would create an undue financial or administrative burden;
 - (3) the requested accommodation would fundamentally alter the nature of the court service, program, or activity; or
 - (4) permitting the applicant to participate in the proceeding with the requested accommodation would create a direct threat to the safety or well-being of the applicant or others.

(e) Order. The court shall issue an order consistent with its decision. If the court denies a requested accommodation pursuant to section (d) of this rule, the order shall specify the reasons for the denial. If a requested accommodation is not provided by the court under subsection (c)(2) or (c)(3) of this rule, the court's order shall include a description of:

- (1) the facts and/or circumstances that make the accommodation impossible under subsection (c)(2) or impractical under subsection (c)(3); and
- (2) the reasons why the proceeding cannot be continued without prejudicing a party to the proceeding.

The court shall inform the applicant and the court personnel responsible for implementing accommodations that the request for accommodation has been granted or denied, in whole or in part, and the nature of the accommodation to be provided, if any.

(f) Duration of accommodation. The accommodation ordered shall commence on the date set forth in the order granting the accommodation and shall remain in effect for the period specified in the order, which may be extended as the court deems appropriate. The court may grant an accommodation for an indefinite period or for a particular proceeding or appearance.

COMMENT

Access to justice for all persons is a fundamental right. It is the policy of the courts of this state to assure that persons with disabilities have equal and meaningful access to the judicial system. Nothing in this rule shall be construed to limit or invalidate the remedies, rights, and procedures accorded to any person with a disability under local, state, or federal law.

III. SAMPLE SCRIPTS & INSTRUCTIONS FOR THE COURTROOM*



** Caveat: The sample instructions were drafted by the Impediments Committee and have not been endorsed by the Pattern Jury Instruction Committee or any other organization.*

Establishing an Interpreter's Qualifications

Communication Needs (all interpreters, including sign language interpreters)

1. Have you had the opportunity to speak with the person in need of your services in this matter?
2. What kind of language skills does this person have?
3. Based upon the conversation, do you feel that you can communicate clearly with one another?
4. How could you determine that you understood each other?
5. Are you familiar with any dialect or idiomatic peculiarities of the language used by the person in this case?
6. Are you able to communicate despite these idiosyncrasies?
7. Are you able to interpret simultaneously without leaving out or changing anything that is said?
8. Are you able to interpret consecutively?
9. Are you able to do sight interpretation of documents?
10. For Sign Language Interpreters Only
 - a. What communication mode does this person prefer (e.g., American Sign Language, Signed English, Pidgin Sign)?
 - b. Are you fluent in that mode?
 - c. Are you certified by your professional organization (Registry of Interpreters for the Deaf)? When did you become certified? Are you certified at the level for court interpreting?
 - d. Are you assigned from an interpreter service? Name and address/phone?

Conflicts of Interest

1. What do you know about this case or about anyone involved in this case?
2. Have you ever interpreted for any of the parties, counsel or witnesses in this case?
3. Have you interpreted in any incident related to this case?
4. Do you anticipate being called as a witness?
5. Are you aware of any potential conflict of interest you may have, such as family or marital relationship?
6. Do you feel that you could remain fair and impartial in relationship to the parties and witnesses in this case?
7. Can you remain objective regarding the subject matter of this case?

Ethics

1. Have you read the Code of Professional Responsibility for Interpreters in the Washington State Court System (GR 11.1)?

2. Do you understand your duties with respect to the Court Code of Professional Responsibility?
3. Do you promise to adhere to the Code of Professional Responsibility during these proceedings?

Professional Training and Experience

1. Are you currently registered with any interpreter services or state agencies? Please name.
2. Have you interpreted in any other state? What are the requirements for interpreting in those states?
3. What languages do you interpret?
4. What language do you consider your first or strongest language?
5. How long have you been communicating in these languages?
6. What formal language training have you received?
7. Have you taken any formal interpreter training?
 - a. When did you take the training?
 - b. How long did the training last?
 - c. What did the training entail?
8. Did you graduate from a college sign language interpreter training program?
9. In what settings have you interpreted?
 - a. What form of interpretation did you use in these settings?
 - i. simultaneous
 - ii. consecutive
 - iii. sight interpretation of documents
 - b. How many times have you interpreted in these settings?

Other

1. Have you ever been disqualified from interpreting in any court or administrative proceeding or have you had any disciplinary actions initiated from your professional association? Please explain.
2. Judge to parties:
Does either party have any questions for the interpreter?
3. Judge to client/witness/defendant:
Do you understand the interpreter who has been assigned to you?

**Pretrial Jury Instruction:
Accommodating Jurors with Disabilities**

Members of the jury, [*as indicated in your jury summons*], it is the court's responsibility to make sure you receive reasonable accommodation for any physical, sensory or cognitive disabilities that may affect your ability to serve as jurors.

Please communicate to the Bailiff/Judicial Assistant about any assistance or accommodation you need. You may do so privately, and we will be discreet in our responses.

If our first effort to accommodate you is not successful, please bring this to the attention of the Bailiff/Judicial Assistant. Your feedback is important to us.

Please be assured that we will do whatever is reasonably necessary to make your jury service comfortable and pleasant.

Pretrial Jury Instruction: Role of Interpreter

Ladies and gentlemen, I would like to advise you about the role of the interpreter in these proceedings. The interpreter is here to make sure that [*party's or witness' name*] understands the proceedings. [*more detail if appropriate*]

Interpreters are professionals, and they are governed by a code of ethics. They are required to interpret accurately and completely. This is extremely taxing, and takes absolute concentration. Interpreters must therefore not be interrupted or distracted. In addition, an interpreter is not permitted to speak to members of the public or members of the jury about the case.

In essence, the interpreter is here as a tool to ensure full understanding of the proceedings by [*name*], and for no other purpose. Do not approach, speak to, or interrupt the interpreter. You will find that after a few minutes you will not even notice there is an interpreter present.

Because interpreting is a demanding task, we may change interpreters from time to time. You should not be

distracted when this occurs; your entire focus must be on the evidence and on your jobs as jurors.

**Jury Instruction:
Deliberating Jury with Interpreter**

Ladies and Gentlemen of the jury, I remind you that the interpreter for Juror X is (his/her) communication link with all of you. That is the interpreter's only role. (She/he) is involved in your decision-making process only as faithful interpreter for Juror X. (She/he) is not allowed to express views about the evidence, [*nor is (she/he) allowed to supplement your memory of the proceedings*]. Please do not expect any such involvement, and instead guard against it.

Does any juror have questions about the limitations on the interpreter's role? Are you all sure that you will be able to deliberate in the presence of the interpreter and to comply with these instructions?

(Madame/Mister) interpreter, I remind you of your oath to the court, and your limited role in the deliberations of this jury. You are prohibited from offering any expression of opinion or fact, or from participating in deliberations in any way, other than as faithful interpreter for Juror X. You are

subject to the same requirement of secrecy that binds the jurors — that is, you may not discuss the deliberations of the jury with anyone at all, until the jury’s verdict has been accepted by the court. Failure to comply with these limitations could jeopardize the integrity of the verdict.

Does the interpreter have any questions? Is the interpreter able to comply with these limitations?

Thank you. I am satisfied the jurors and interpreter understand and can comply with these limitations. [*You may now begin your deliberations.*]

Comment: Use first bracket if translator has interpreted any part of the trial. Use second bracket depending upon the order in which this instruction appears.

IV. RESOURCES

WEBSITES



● Technology Website: The University of Washington Center for Technology and Disability Studies, the Access to Justice Board's ATJ Technology Bill of Rights Committee, and the Washington Assistive Technology Alliance have developed a wonderful and very practical website designed to make it easy to identify, obtain and use technology tools to improve access to justice. It's comprehensive and excellent, and can be used by everyone, including all those who work in the courts.

Website: <http://justice-AT.uwctds.washington.edu/>

Local Government Website: The King County Office of Civil Rights has developed a website to assist courts in providing access for persons with disabilities. It contains text files regarding etiquette, communication, and formats for printed materials.

Website: <http://www.metrokc.gov/dias/ocre/courts.htm>

GUIDANCE MATERIALS

The United States Access Board

1331 F Street, NW, Suite 1000

Washington, DC 20004-1111

Phone: (202) 272-0080

Phone: (800) 872-2253

TTY: (202) 272-0082

TTY: (800) 993-2822

Fax: (202) 272-0081

Website: www.access-board.gov

The Access Board, a federal agency, offers a variety of useful publications that can help courts to identify and correct architectural barriers. These are available on their web site. The Board also provides training and technical assistance. Among the publications are reports, detailed explanations and diagrams of ADAAG, and technical bulletins covering the following:

- Accessible Information/Transaction Machines
- Assistive listening systems
- Automated Doors
- Detectable warnings
- Ground and floor surfaces
- Parking
- Standards for electronic and information technology
- Technical Requirements for Ramps
- Text telephones
- Using a TTY Electronic and Information Technology Accessibility
- Visual alarms

U.S. Department of Justice

ADA Information and Technical Assistance

Phone: (800) 514-0301

TTY: (800) 514-0383

Website: www.wsdj.gov/crt/ada

Publications web page: www.usdoj.gov/crt/ada/publicat.htm

Many DOJ documents are available by fax through the information line.

- **ADA Title II regulations**
- **ADA Questions and Answers** — This booklet gives an overview of the ADA's requirements for ensuring equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation, and requiring the establishment of TDD/telephone relay services.
- **ADA Information Services** — This 2-page list provides telephone numbers and Internet addresses of Federal agencies and other organizations that provide information and technical assistance to the public about the ADA.
- **Myths and Facts** — This 3-page fact sheet dispels some common misconceptions about the ADA's requirements and implementation, and contains basic information for businesses and State and local governments.
- **Title II Technical Assistance Manual** — This 56-page manual explains in lay terms what State and local governments must do to ensure that their services, programs, and activities are provided to the public in a nondiscriminatory manner. Many examples are provided for practical guidance.
- **ADA Guide for Small Towns** — This 21-page guide presents an informal overview of some basic ADA requirements and provides cost-effective tips on how small towns can comply with the ADA.
- **The ADA and City Governments: Common Problems** — This 9-page document contains a sampling of common problems shared by city governments of all sizes, provides examples of common deficiencies and explains how these problems affect persons with disabilities.
- **Accessibility of State and Local Government Websites to People with Disabilities** — This 5-page publication provides guidance on making state and local government websites accessible.
- **Commonly Asked Questions About Service Animals** — This 3-page publication explains the requirements of the ADA regarding animals that accompany and provide services for persons with a disability.
- **Commonly Asked Questions About Title II of the ADA** — This 6-page fact sheet explains the requirements of the ADA for state and local governments.
- **Common ADA Errors and Omissions in New Construction and Alterations** — This 13-page document lists a sampling of common accessibility errors or omissions that have been identified through the Department of Justice's ongoing enforcement efforts. The significance of the errors is discussed and references are provided to the requirements of the ADA Standards for Accessible Design.

USEFUL FEDERAL REGULATIONS:

Electronic and Information Technology Accessibility Standards, 36 CFR Part 1194

Telecommunications Act Accessibility Guidelines, 36 CFR Part 1193

Accessibility Guidelines for Buildings and Facilities — State and Local Government Facilities; 36 CFR Part 1191

AGENCIES AND ORGANIZATIONS

The following list is necessarily incomplete, and the information is subject to change. Updates will be posted periodically to the website.

National Center for State Courts

Court Services Division

707 Seventeenth Street, Suite 2900

Denver, CO 80202-3429

Phone: (800) 466-3063

Phone: (303) 293-3063

Fax: (303) 296-9007.

Provides technical assistance and consulting on ADA compliance for all levels of state courts.

National Association of the Deaf

814 Thayer Ave

Silver Spring, MD 20910-4500

Phone: (301) 587-1788

TTY: (301) 587-1789

Fax: (301) 587-1791

Website: www.nad.org

Email: NADinfo@nad.org

Provides information and answers to frequently asked questions on its web site.

The ABA Commission on Mental and Physical Disability

website: www.abanet.org

Provides a number of publications on disability-related issues, including ABA Urges Equal Access to Courts for Individuals with Disabilities, Into the Jury Box: A Disability Accommodation Guide for State Courts, and Opening the Courthouse Door: An ADA Access Guide for State Courts.

Washington Governor's Committee on Disability Issues and Employment

Olympia Office:

PO Box 9046

Olympia, WA 98507-9046

Phone: (360) 438-3168

TTY: (360) 438-3167

Fax: (360) 438-3208

Spokane Office (Mailing Address Only):

6510 North Division Street, #336

Spokane, WA 99208-3993

Phone: (509) 482-3851

TTY/Fax: (509) 482-3852

Provides advice on disability issues and concerns, and makes recommendations to address those concerns, with emphasis on increasing opportunities for independence and employment.

Northwest ADA Business and Technical Assistance Center

Phone: (800) 949-4232

Website: www.wnwada.org

Provides consultation, technical assistance and training on the Americans with Disabilities Act, other disability-related laws, or accessible information technology.

Washington State Human Rights Commission

Phone: (800) 233-3247

TTY: (800) 300-7525

Website: www.hum.wa.gov

The Commission sponsors many different free education forums, including direct training seminars, publications and brochures on the Washington State Law Against Discrimination. Information is available from the Olympia office or online. Offices are located in Olympia, Seattle, Spokane and Yakima.

Washington Protection & Advocacy System

315 Fifth Ave S, Suite 850

Seattle, WA 98104

Phone: (206) 324-1521

(800) 562-2702

TTY: (206) 957-0728

(800) 905-0209

Website: www.wpas-rights.org

Washington State Office of Administrative Hearings

PO Box 42488

Olympia, WA 98504-2488

Phone: (360) 664-8717

Phone: (800) 558-4857

Website: www.oah.wa.gov

Tacoma Area Coalition of Individuals with Disabilities

6315 S 19th St

Tacoma, WA 98466

Phone: (253) 565-9000

Fax (253) 565-5578

Email: tacid@tacid.org

National Alliance on Mental Illness

NAMI — Washington is a statewide organization with 25 local affiliates. NAMI provides advocacy, public education, training and support for people with mental illness and their families.

NAMI — Washington

500 108th Ave NE Suite 800

Bellevue WA 98004-5580

Phone: (425) 990-6404

Helpline: (800) 782-9264

ARC of Washington State.

ARC of Washington State is a statewide organization with 11 local affiliates. ARC provides advocacy and training for people with developmental disabilities and their families.

The Arc of Washington State

2600 Martin Way East, Suite B

Olympia, WA 98506

Phone: (360) 357-5596, (888) 754-8798

Fax: (360) 357-3279

Website: www.arcwa.org

People First of Washington

People First is an organization of people with developmental disabilities, with local chapters.

People First of Washington

P.O. Box 648

Clarkston, WA 99403

Phone: (800) 758-1123

Fax: (509) 758-1289

Self-Advocates of Washington

Self-Advocates of Washington is an organization of people with developmental disabilities in the Tacoma area.

Self-Advocates of Washington

P.O. Box 825

Tacoma, WA 98401

Phone: (253) 565-3091

Centers for Independent Living — can provide information about accommodations for people with disabilities:

Alliance of People with disAbilities (formerly Washington Coalition of Citizens with Disabilities)

4649 Sunnyside Ave N, Suite 100

Seattle, WA 98103

Phone: (206) 545-7055

Phone: (866) 545-7055

TTY: (206) 632-3456

Fax: (206) 535-7059

Email: info@disabilitypride.org

Website: www.disabilitypride.org

13615 NE 87th St, Suite B-3

Redmond, WA 98052

Phone: (425) 558-0993

Phone (outside King County): (800)

216-3335

TTY: (425) 861-9588

Fax: (425) 558-4773

Email: info@disabilitypride.org

Website: www.disabilitypride.org

Center for Independence

10828 Gravelly Lake Drive SW #112

Lakewood, WA 98499

Phone: (253) 582-1253

Fax: (253) 584-4374

Website: www.centerforindependence.org

Central Washington Disability Resources

422 North Pine St

Ellensburg, WA 98926

Phone/TTY: (509) 962-9260

Phone/TTY: (800) 240 5978

Fax: (509) 933-1571

Website: www.cwdrinfo.org

Coalition of Responsible Disabled

912 North Maple St

Spokane, WA 99201

Phone/TTY: (509) 326-6355

Fax: (509) 327-2420

Website: www.cord.wa.info

DisAbility Resource Connection

607 SE Everett Mall Way, Suite C
Everett, WA 98208
Phone/TTY: (425) 347-5768
Fax: (425) 710-0767
Email: drcnet@drconline.net
Website: www.drconline.net

Disability Resources of Southwest Washington
2700 NE Andersen Rd, Suite D-5
Vancouver, WA 98662
Phone: (360) 694-6790
Fax/TTY: (360) 882-1324
Email: disabilityresources@darswa.com

Disability Resources of Southwest Washington — extension office for Cowlitz and
Wahkiakum Counties
1339 Commerce Ave, Suite 302
Longview, WA 98632
Phone: (360) 425-0340

RESOURCES FOR THE BLIND AND VISUALLY IMPAIRED

National Federation for the Blind

P.O. Box 2516
Seattle, WA 98111
Phone: (425) 823-6380
Website: www.nfbw.org
Email: info@nfbw.org

Washington Council for the Blind

P.O. Box 1085
Tracyton, WA 98393-1085
Phone: (206) 283-4276
Phone: (800) 255-1147
Website: www.wcbinfo.org
Email: info@wcbinfo.org

Washington State Services for the Blind

Phone: (800) 552-7103
Email: info@dsb.wa.gov

RESOURCES FOR THE DEAF AND HARD OF HEARING

National and State Resources

National Association of the Deaf

814 Thayer Ave
Silver Spring, MD 20910-4500
Phone: (301) 587-1788
TTY: (301) 587-1789
Fax: (301) 587-1791
Website: www.nad.org
Email: NADinfo@nad.org
Provides information and answers to frequently asked questions on its website.

Department of Social and Health Services (DSHS)
Office of the Deaf and Hard of Hearing (ODHH)

PO Box 45301
Olympia, WA 98504-5301
Website: www.dshs.wa.gov/hrsa/odhh
Phone/TTY: (800) 422-7930
Phone/TTY: (360) 902-8000
Fax: (360) 902-0855
Dlink Video Phone IP Address: 209.181.93.249
Dlink Video Phone Number: (360) 902-8000
Website: <http://odhh.dshs.wa.gov>
Website: www.washingtonrelay.com
Email: odhh@dshs.wa.gov

Washington Relay Service

Dial 711
Website: www.washingtonrelay.com

Regional Resources

Deaf and Hard of Hearing Regional Service Centers (listed alphabetically by agency):

Community Service Center for the Deaf and Hard of Hearing (CSCDHH)

Serves King, Snohomish, Jefferson, and Clallam Counties.

1609 19th Ave
Seattle, WA 98122
Phone/TTY: (877) 301-0006
Phone/TTY: (206) 322-4996
Fax: (206) 720-3251
Website: www.cscdhh.org
Email: CSCDHH@cscdhh.org

Eastern Washington Center for the Deaf and Hard of Hearing (EWCDHH)

Serves Okanogan, Douglas, Lincoln, Ferry, Chelan, Pend Oreille, Stevens, Spokane, Whitman and Grant Counties.

N 1206 Howard St
Spokane, WA 99201
Phone/TTY: (509) 328-9220
Fax: (509) 3274266
Website: www.ewcdhh.org
Email: ewcdhh@ewcdhh.org

EWCDHH Interpreter Services:

Phone: (509) 328-3728
Email: Interpreter@ewcdhh.org
D-Link Video Phone Number: (509) 329-3323
D-Link Video Phone IP Address: 64.3.28.96

Hearing Speech and Deafness Center (HSDC)

Serves Whatcom, King, Island, San Juan, Skagit and Snohomish Counties.

1625 19th Ave
Seattle, WA 98122
Phone/TTY: (206) 323-5770
Fax: (206) 328-6878
D-Link Video Phone IP Address: frontdesk.hsdc.org
D-Link Video Phone Number: (206) 328-1275
Website: www.hsdc.org
Email: sburdick@hsdc.org

Hearing Speech and Deafness Center (HSDC) — Bellingham Satellite Office

114 West Magnolia Street, Suite 105
Bellingham, WA 98225
Phone/TTY: (866) 647-0910
TTY: (360) 647-8508
Phone: (360) 647-0910
Fax: (360) 647-0923
D-Link Video Phone IP Address: bham.hsdc.org
D-Link Video Phone Number: (360) 647-8508
Website: www.hsdc.org
Email: info@bellingham.hsdc.org

Southeastern Washington Service Center for the Deaf and Hard of Hearing (SEWSCDHH)

Serves Benton, Franklin, Walla Walla, Columbia, Asotin, Garfield, Yakima, Kittitas, Adams and Klickitat Counties.

124 N 5th Ave
Pasco, WA 99301
TTY: (509) 543-9649
Phone: (509) 543-9644
TTY: (800) 543-9649
Phone: (888) 543-6598
Fax: (509) 543-3329
D-Link Video Phone IP Address: 65.160.146.138
D-Link Video Phone Number: (509) 543-9644
Website: www.tcfn.org/deafcenter
E-mail: vizz@sewscdhh.org

Southeastern Washington Service Center for the Deaf and Hard of Hearing (SEWSCDHH) –

Yakima Satellite Office
505 N 4th St, Suite #5
Yakima, WA 98902
Phone/TTY: (509) 469-1845
Fax: (509) 469-3965
D-Link Video Phone IP Address: In Process of installation
D-Link Video Phone Number:
Website: www.tcfn.org/deafcenter

Southwest Washington Center for the Deaf and Hard of Hearing (SWCDHH)
Serves Clark, Skamania, Lewis, Pacific, Cowlitz and Wahkiakum Counties.

3015 E. Evergreen Blvd
Vancouver, WA 98661
TTY: (360) 695-9720
Phone: (360) 695-3364
Fax: (360) 695-2706
D-Link Video Phone IP Address: 66.92.192.245 or vp.swcdhh.org
D-Link Video Phone Number: (360) 695-0010
Website: www.swcdhh.org

Tacoma Area Coalition of Individuals with Disabilities (TACID)
Serves Pierce, Thurston, Grays Harbor, Mason and Kitsap Counties.

6315 S 19th St
Tacoma, WA 98466
Phone: (877) 538-2243
TTY: (877) 551-3323
Phone/TTY: (253) 565-9000
Fax: (253) 565-5578
D-Link Video Phone Number: (253) 565-3486
D-Link Video Phone IP Address: 131.191.59.74
Website: www.tacid.org
Email: tacid@tacid.org

SIGN LANGUAGE INTERPRETER REFERRAL AGENCIES

The following agencies have contracts with the State of Washington to provide American Sign Language services as of our publication date, April. Other agencies may also exist. To schedule an interpreter contact one of the agencies listed below, or contact the State Office of Deaf and Hard of Hearing.

ASL Professionals
3418 North Ferdinand
Tacoma, WA 98407
Phone: 253-759-7653
Fax: 253-761-8936
Email: aslprofessionals@harbornet.com

Conner, Luanne
5512 NE 159th St
Vancouver, WA 98686
Ph: 360-576-7777
Fax: 360-258-3140
Email: dljconner@comcast.com

Dynamic Language CTR, LTD.
15215 52nd Ave South, Suite 100
Seattle, WA 98188
Phone: 206-244-6709
Fax: 206-243-3795
Email: asl@dlc-usa.com

Eastern Washington Center for the Deaf and Hard of Hearing (EWCDHH)

1206 North Howard Street
Spokane, WA 99201
Phone: 509-328-3728
Email: nancy@ewcdhh.org

Northwest Interpreters, Inc.
610 NW 114th Street
Vancouver, WA 98685
Phone: 360-600-5485
Fax: 360-566-0453
Email: vm@emarcus.net

Signing Resources & Interpreters, LLC
8002 NE Highway 99 # B705 Vancouver, WA 98665
Phone: 877-512-2246
Fax: 5877-512-2246 (8)
Email: deborah@signingresources.com

SignOn: A Sign Language
Interpreter Resource
1414 Dexter Ave. N, Suite 316
Seattle, WA 98109
Phone: 206-632-7100
Fax: 206-632-0405
Email: vm@emarcus.net

Southeast Washington Service Center of the Deaf and Hard of Hearing (SEWSCDHH)
124 N 5th Ave
Pasco, WA 99301
Phone: 509-543-9644
Fax: 509-543-3329
Email: jennsewsc@abs-inet.net

Universal Language Service, Inc.
PO Box 4147, Bellevue 98009
Phone: 888-462-0500 ext 13
Fax: 877-516-4347
Email: unilang@gte.net

V. SUGGESTED READING/VIDEO MATERIALS*

- Baynton, Douglas. *Forbidden Signs: American Culture and the Campaign Against Sign Language 1847-1920*. Chicago, IL: University of Chicago Press. 1998.
- Biesold, Horst. *Crying Hands: Eugenics and Deaf People in Nazi Germany*. Washington, DC: Gallaudet University Press. 1999.
- Charlton, James I. *Nothing About As Without Us: Disability Oppression and Empowerment*. Los Angeles, CA: University of California Press. 1998.
- Condeluci, Al. *Interdependence: The Route to Community*. 2nd ed. Winter Park, FL: CRC Press. 1995.
- Gallagher, Hugh G. *By Trust Betrayed*. New York: Henry Holt and Company. 1990.
- Hidden In Plain Sight : A Disability Awareness Video*. Produced by Montana Advocacy Program. 2004. 21 minutes. Videocassette.
- Hockenberry, John. *Moving Violations: War Zones, Wheelchairs and Declarations of Independence*. Madison, WI: Turtleback Books Distributed by Demco Media. 1996.
- Liachowitz, Claire. *Disability as a Social Construct: Legislative Roots*. Philadelphia, PA: University of Pennsylvania Press. 1988.
- Longmore, Paul K. and Lauri Umansky *The New Disability History*. New York: New York University Press. 2001.
- Norden, Martin F. *The Cinema of Isolation: A History of Physical Disability in the Movies*. New Brunswick, NJ: Rutgers University Press. 1994.
- Pernick, Martin S. *The Black Stork*. New York: Oxford Press. 1996.
- Scotch, Richard. *From Good Will to Civil Rights: Transforming Federal Disability Policy*. Philadelphia, PA: Temple University Press. 1984.
- Johnson, Allan G. *Power, Privilege and Difference*. Mountain View, CA: Mayfield Publishing Company. 2001.
- Johnson, Mary. *Make Them Go Away: Clint Eastwood, Christopher Reeve and the Case Against Disability Rights*. Louisville, KY: The Advocado Press. 2003.
- Shapiro, Joseph. *No Pity*. New York: Time Books Random House. 1993.
- The Ten Commandments of Communication with People with Disabilities*. Produced by Irene M. Ward and Associates Productions. 26 minutes. Tim Harrington, 1994. Videocassette.
- Thomson, Rosemarie Garland *Extraordinary Bodies*. New York: Columbia University Press. 1997.
- Treanor, Richard. *We Overcame: History of the Civil Rights of the Disabled*. Falls Church, VA: Regal Direct Publishing. 1993.

* These suggestions are made because members of the Committee have found them useful. The list is necessarily limited. Many other sources are available.