

Serving Students who are Deaf and Hard of Hearing: Legal Issues

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Introduction

The passage of the Americans with Disabilities Act (ADA) and recent case law rings the issue of disability access to the forefront at institutions of higher education. Higher education administrators, student development professionals, and disability service providers are faced with difficult decisions regarding how to provide the most efficient and cost effective access throughout the institution. All institutions of higher education, whether or not they have a specific charter to serve students who are Deaf or hard of hearing, are required to provide accommodations to meet their individualized needs.

Americans with Disabilities Act

The Americans with Disabilities Act of 1990 greatly expands the rights of persons with disabilities. Stipulating that colleges can not discriminate against individuals with disabilities, this legislation has contributed to the rapid growth of educational opportunities for students with disabilities.

Definition of disability. The ADA defines disability as a physical or mental impairment that substantially limits one or more major life activities, such as walking, seeing, breathing, working, and learning. Examples of disabilities covered by the ADA include orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, emotional illness, specific learning disabilities, and HIV disease (Office of the Attorney General, 1991).

Auxiliary aids. To assure equal opportunity to all programs and activities, institutions are required to provide what the ADA refers to as auxiliary aids. The Federal Register (Office of the Attorney General, 1991), which provides guidelines for addressing the communication needs of people with hearing impairments, defines auxiliary aids as follows:

Auxiliary aids and services include qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening devices... closed caption decoders, open and closed captioning, telecommunication devices for the deaf (TDDs), videotext displays or other effective means of making aurally delivered materials available to individuals with hearing impairments (p. 35717).

The items listed above are examples of accommodations that may assist in providing equal access to classes and campus activities. The Federal Register specifies that this is not an exhaustive list of auxiliary aids and services; new devices continue to become available through emerging technology. Federal legislation dictates that it is not only the institution's responsibility to provide equal access through appropriate auxiliary aids and services but also to demonstrate a good faith effort to provide the student's preferred accommodation (Office of the Attorney General, 1991). The regulations accentuate the importance of responding to each person with a disability on an individual basis

rather than assuming that the same auxiliary aid or service will accommodate an entire group of people who are Deaf or hard of hearing.

It is important for higher education administrators and disability service providers to stay abreast of current and relevant case law and Office for Civil Rights decisions. Listed below are current legal decisions regarding students who are deaf and hard of hearing. These findings can be utilized to help formulate institutional policies and procedures for providing services. It is recommended that service providers find a resource to obtain systematic updates that are pertinent to the provision of services to students who are Deaf and hard of hearing. See attached resource list for suggestions.

Legal Decisions

1. Southeastern Community College v. Davis (1979).
2. Camenisch v. University of Texas (1980)
3. U.S. v. Board of Trustees for the University of Alabama (1990).
4. Great Falls Vocational-Technical Center (OCR, 1990).
5. Flathead Valley Community College (OCR, 1991).
6. Southeast College of Technology (OCR, 1991)
7. Seattle Central Community College (OCR, 1991)
8. Jefferson Community College (OCR, 1992).
9. College of St. Scholastica (OCR, 1992).
10. Roosevelt University (OCR, 1992)
11. City Colleges of Chicago (OCR, 1992).
12. University of California - Davis (OCR, 1993).
13. New College of California (OCR, 1993)
14. Naropa Institute (OCR, 1993).
15. Wentworth Institute of Technology (OCR, 1993).
16. Penn Valley Community College (OCR, 1993).
17. Highline Community College (OCR, 1994).
18. University of Massachusetts - Boston (OCR, 1994).
19. University of Texas - San Antonio (OCR, 1995).
20. Clover Park Technical College (OCR, 1995).
21. York Technical College (OCR, 1995).
22. Stetson University (OCR, 1995)
23. California St. University - Chico (OCR, 1996).
24. New York University (OCR, 1996).
25. Texas A&M International University (OCR, 1996)
26. Yakima Valley Community College (OCR, 1996).
27. Arizona State University (OCR, 1997).



Resources

Kalivoda, K. S., & Higbee, J. L. (1989, Summer). Implementing the Americans with Disabilities Act. Journal of Humanistic Education and Development, 32 (3), 133-137.

Kalivoda, K. S., Higbee, J. L., & Brenner, D. C. (1997, Spring). Teaching students with hearing impairments. Journal of Developmental Education, 20 (3), 10-16.

Americans with Disabilities Act of 1990, 42 U.S.C. _ 12101 (1990).

Office of Attorney General, Department of Justice. (1991, July). Nondiscrimination on the basis of disability in state and local government services. Final rule. Federal Register, 28 CFR Part 35.

Web Sites

Office of Disability Services The University of Georgia Athens, Georgia	http://iris.dissvcs.uga.edu/~web/
ADA Document Center [containing information from ADA Statute, Regulations, ADAAG (Americans with Disabilities Act Accessibility Guidelines), Federally reviewed tech sheets, and other assistance documents]	http://janweb.icdi.wvu.edu/kinder/
ADA and Disability Information [source for disability, legal and education information]	http://www.public.iastate.edu/~sbilling/ada.html
Deaf World Web [comprehensive site for Deaf related resources]	http://dww.deafworldweb.org

Other Resources

AHEAD – The Association for Higher Education and Disability
Post Office Box 21192
Columbus, OH 43221-0192
(614) 488-4972 (V/T)
<http://www.ahead.org>

DAIS – Disability Access Information and Support
2938 Northwest Boulevard Columbus
OH 43221-2902
(614) 481-9450 (V/T)
<http://www.janejarrow.com>

LRP Publications – A leading publisher of electronic and print services for the professional and legal markets
747 Dresher Road
Post Office Box 980
Horsham, PA 19044-0980
(215) 784-0941
<http://www.lrp.com>

The Office for Civil Rights (OCR)
U.S. Department of Education, Office for Civil Rights
Mary E. Switzer Building
330 C Street, SW
Washington, DC 20202.
(202) 205-5413
<http://www.ed.gov/offices/OCR/aboutus.html>

Registry of Interpreters for the Deaf, Inc. (RID)
8630 Fenton Street, Suite 324
Silver Spring, MD, 20910-3803
(301) 608-0050 (V/T)
<http://www.rid.org>



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