Episode 4: Effective Communication Questions and Answers

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1. What is meant by Effective Communication?

The Americans with Disabilities Act requires inclusion for all people with disabilities. Members of the general public often think of the ADA as meaning physical site access – like parking spaces and ramped entrances – but rarely recognize that some disabilities have nothing to do with structural barriers.

Some disabilities result in barriers to communication – disabilities that affect hearing, vision, or speech. Individuals with these types of disabilities are not prevented from inclusion by a lack of a ramp or parking space. These individuals are prevented from inclusion by the general public not knowing how to communicate with them.

The ADA requires businesses and governmental entities to ensure that methods are used to overcome these communication barriers so everyone has access to the same information. This is called “Effective Communication.”

The law states that communication with individuals with disabilities must be AS effective as communication with others.

2. Who is responsible for providing effective communication

People who have communication disabilities – disabilities that affect hearing, vision, or speech — are covered by this responsibility. A person with a communication disability has the right to enjoy equal opportunity to participate in and benefit from all programs, services, and activities, whether they are provided by a state or local government, or they are provided by a public accommodation.

Most of the time, communication happens during the presentation and exchange of information. It is done through sound, through print, through graphics, or through gestures. For the information to be communicated effectively will require some kind of aid or service. These are called “Auxiliary Aids or Services” and include a wide range of devices, techniques and procedures that enable persons with disabilities to participate fully in the exchange of information.
The type of auxiliary aid or service necessary to ensure effective communication will depend on the length and complexity of the communication involved.

3. What are some examples of effective communication?

Effective communication can include:

- Hospitals that provide televisions for use by patients and hotels, motels and places of lodging that provide televisions in five or more guest rooms must provide a closed caption decoder upon request.
- Tax bills and other print communication by a state or local government must be made available to individuals with vision impairments in a form that is usable by them.
- PowerPoint presentations at city council meetings must be described to someone who cannot see.

4. What are auxiliary aids and services?

Auxiliary aids and services are items, equipment or services that assist in effective communication between a person who has a hearing, vision or speech disability and a person who does not. There is a list of examples in the ADA, but the ADA was written in 1990. There are so many new technologies and services that have been invented and discovered since then, that the items listed in the ADA are not the only options available.

For someone who has a hearing disability, the aid/service might be qualified interpreters, note-takers, pad and pencil, closed captioning, open captioning, or assistive listening devices. It might also be video remote interpreting—or something else that the expert (the person with the disability) knows about.

For someone who has a vision disability, the aid/service might be electronic format, large print, screen readers, Braille, sighted guides, qualified readers, audio description, or recordings.

For someone who has a speech disability, the primary aid/service might be patience. The person may bring their own talking computer or communication board, and you will have to wait until they express their thoughts. Or they might call in through a Relay
Service. Those calls are handled the same way as when someone who is Deaf places a Relay Service call.

5. Who chooses the auxiliary aid or service that will be provided?
The person making the request should be clear about his/her needs; the person providing the auxiliary aid or service needs to be sure that what is provided is also effective.

If the request comes to a state or local government agency, the agency must give priority to the type of auxiliary aid or service the person identifies. If the request comes to a Title III or private entity, however, the business can decide on the specific type of auxiliary aid it provides as long as the aid provided is equally effective in ensuring accurate communication.

With a private entity, what is needed to provide effective communication depends on what, exactly, needs to be communicated. If it is a simple transaction between a customer who is deaf and a sales person at a camera store, then pen and paper may be all that is needed to discuss the sale and answer the customer’s questions. However, if it is a more complex situation—say if the customer is discussing financing a new car—then the services of a sign language interpreter might be required. And yes, the car dealer is responsible for finding and paying for the qualified sign language interpreter.

6. Are there any circumstances when a public or a private entity is not required to provide effective communication?
Yes, public and private entities do not have to provide an auxiliary aid or service if doing so would create “a fundamental alteration” in the goods or services being offered or would result in an “undue burden” which means “significant difficulty or expense.” However, they still must do their best to provide a different auxiliary aid that would ensure effective communication if at all possible. And state and local government agencies have to do a bit more explaining why not than private businesses do.
7. Does a doctor have to provide a sign language interpreter if I ask for one?
Title II and III ADA regulations specifically state that you cannot be required to bring a family member or another individual with you to interpret. Instead the doctor is required to provide auxiliary aids or services in order to ensure effective communication. This could mean hiring a qualified sign language interpreter or it might be another method, such as video remote translating—as long as the communication is equally effective for both of you to understand each other.

The interpreter must also be a qualified interpreter. Suppose the doctor hires someone who claims to be an interpreter but the patient doesn’t understand the signs. Or the interpreter does not know how to sign medical terminology. Then the communication is not effective and the patient needs to stop the appointment and reschedule when a different interpreter can be found.

8. What if the person who is Deaf wants to use a family member to interpret?
The ADA regulations also say that a public entity or private business shall not rely on an accompanying adult except: "where the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees…and reliance on that adult is appropriate under the circumstances."

So if the person who is Deaf wants to bring a family member along to interpret, that’s OK. But it might not always be a good idea. For one thing, using a family member to interpret violates the patient’s privacy and patient/doctor confidentiality.

Second, the family member may not understand medical terminology or how to interpret it.

Finally, a family member may choose not to interpret accurately what the patient or doctor is saying. They may not want to let the patient know how serious the condition is. Or they may be embarrassed by what the patient’s response and “tone it down” a bit.
9. Are the effective communication requirements different for a state or local government than for a private business?
State and local governments must give primary consideration to what the person with a disability requests. So if this same person who is Deaf plans to attend a City Council meeting and requests an interpreter, the city must provide it UNLESS doing that would somehow be impossible - maybe because the request was just made the morning of the meeting and no interpreter could be found on such short notice. However, the city must make a good faith effort to secure the services of an interpreter.

Also, although the person who is Deaf does have the right to a qualified interpreter, they do not have the right to insist on a specific interpreter. A qualified interpreter is: a) someone who understands the signs used by the individual who is Deaf and can tell the hearing people what the person is communicating; and b) understands the words being spoken by the hearing people and can convey those words and concepts into signs understood by the people who are Deaf; and c) is objective in the situation.

10. Can you give an example of when an interpreter may not be objective?
For example, suppose a school system employs an interpreter to work with a Deaf child in a classroom. Now suppose that she is asked by her Principal to interpret for a Deaf parent during an appointment where the parent is very upset about an issue. Imagine that the parent proceeds to cuss out the Principal. How difficult that scenario might be for the interpreter. She doesn’t want to jeopardize her job by saying all those things to the Principal. But if she doesn’t – if she “sugar coats it” – that is unfair to both sides.

11. Is a hospital required to provide an interpreter for someone who is not the patient?
The requirement to provide effective communication includes the obligation to provide effective communication to companions who are Deaf. So the hospital is required to find a way to communicate with someone who has a communication disability “as effectively” as they would communicate with that person if he/she did not have the disability. Most hospitals (and other service providers) think their only responsibility is to ensure communication to their specific patient. They don’t realize that, depending on the nature of what is being communicated, they have an obligation to communicate effectively with the patient’s family members. If they generally communicate with family
members without disabilities, they have to communicate with the family members who are Deaf.

12. Can I ask a theater to allow me to bring my own interpreter and request designated seats so she can sit in front of me? I would also like a copy ahead of time so my interpreter can read it.

The answer here is “yes, you can bring your own sign language interpreter.” You can bring someone with you as your companion or interpreter but you would have to buy two tickets.

BUT the requirement for effective communication does not require the theater to take any action that would cause a fundamental alteration in the goods or services being offered. Having someone sit in the seat in front of you so she could interpret would disturb the other patrons and would fundamentally alter the experience for them.

However, asking the theater to hire a sign language interpreter does fall under the effective communication requirement.

If the theater provides the interpreter, you would only pay for your own seat. The theater would cover the costs of the interpreter and would also find a seat for you where you could see the interpreter clearly.

Giving a copy of the script to non-theater employees may violate copyright and other contractual provisions agreed to when the theater obtained permission to put on the play. So that request would probably have to be denied for someone who was not employed by the theater. A colleague of mine provides audio-description of plays for patrons who are blind. She is a contract theater employee, so she is allowed to have a copy of the script while the play is still in rehearsal.

13. What is an example of “fundamental alteration” of the goods or services being offered?

The classic example which may or may not have really happened is for someone who is Deaf to ask that the lights in a planetarium be raised so that she could see her interpreter. Of course, this would fundamentally alter the experience for everyone, including the person who asked. However, even though the planetarium could - and
probably did - deny this request, the planetarium still has obligations under the ADA. One possible solution would be to offer the patron a seat off on the far right or left and position the interpreter with a dim light right in front of her. Another would be to provide her with the narrator's script and a clip on light.

14. Do restaurants have to provide Braille menus?
No. It might be an undue administrative or financial burden for a restaurant to print a new Braille menu every time they change an item or price.

However, it is not appropriate for a request for a Braille menu to be answered with simply “we don’t have any.” Restaurant staff should be trained on how to properly provide the information from the menu to guests so they can make their choices from the full menu.

15. Are there audio describers for art museums?
Yes, there are. Audio description is a relatively new service that people with vision loss are finding effective. However, many museums offer audio tours, and mistakenly think that this is the same as audio description. But it’s not. Audio tours provide a handheld receiver and the patron can input a code and hear a pre-recorded message about a particular display. Usually the information provided includes details about the item’s history or what makes it unique, but not descriptive words: what it looks like, the subject matter if it is a painting, or talk about its size, its markings, or what it’s made of. That is what audio description can do.

16. Is audio description provided by museum staff or is it a profession like sign language interpreters?
Providing effective audio description is a technical skill that is being learned by professional audio describers in many cities. It began in towns where patrons with vision loss wanted to attend live theater; but now Describers are also working in museums and on guided tours. If you want to know who provides audio description in your area, contact your local ADA Center at 1-800-949-4232.