# MUNICIPAL COURTS DEPARTMENT

| | |
|---|---|
| **SUBJECT:**<br><br>**AMERICANS WITH DISABILITIES ACT (ADA)**<br><br>**TITLE:**<br><br>**ENSURING EFFECTIVE COMMUNICATIONS WITH INDIVIDUALS WITH DISABILITIES** | **Policy No.:** MCD – 1027<br><br>**Approved:** Director and Presiding Judge<br><br>**Date:** June 21,2012<br><br>**Revised:** |

It is the policy of this Court to ensure that communications with individuals with disabilities in our programs, services, and activities are as effective as communications with individuals without disabilities, consistent with the requirements of Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131 -12134, and regulations implementing Title II, 28 C.F.R. pt. 35 (and for government entities receiving federal funding, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the implementing regulation, 28 C.F.R. Part 42, Subpart G). To meet this obligation, the Court will provide, free of charge, appropriate auxiliary aids and services, whenever necessary, to ensure that individuals with disabilities have an equal opportunity to participate in, and benefit from, the Court's programs, services, and activities, 28 C.F.R. §§ 35.130(f), 35.160(b)(1). This policy applies to all members of the public who seek to participate in the Court's programs, services, and activities, including parties to legal proceedings and their companions, witnesses, jurors, and spectators.

**What Are Appropriate Auxiliary Aids and Services?**

Appropriate auxiliary aids and services include a wide variety of equipment, materials, and services that may be necessary to ensure effective communication for people with disabilities, 28 C.F.R. §§ 35.104.35.160.

**For people who are blind or have low vision,** appropriate auxiliary aids and services include, but are not limited to qualified readers; printed information and displays provided in Braille, in large print, in electronic format, or through audio recordings; taped text; oral descriptions of action and visual information to ensure the accessibility of proceedings and presentations; optical readers; secondary auditory programs (SAP); note takers; assistance in filling out forms or accessing materials in a computer database; screen reader software or text magnification software to make computer displays accessible; accessible electronic and information technology; an assistant to guide a person to find his or her way to an unfamiliar location or along an unfamiliar route; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision.

**For people who are deaf, are hard of hearing, or have speech impairments,** appropriate auxiliary aids include, but are not limited to qualified oral/sign language interpreters on-site or through video remote interpreting (VRI) services; written material; exchange of written notes; note takers; real-time computer-aided transcription services; telephone handset amplifiers; video text displays; amplified and

hearing aid compatible telephones; assistive listening devices and systems; open and closed captioning, including real time captioning and caption decoders; voice, text, and video-based telecommunications products and systems including text telephones (TTYs), videophones, and captioned telephones or equally effective communications devices; videotext displays; computer terminals equipped for video communication, accessible electronic and information technology; and other effective methods of making aurally delivered information or materials delivered using sound available to individuals who are deaf or hard of hearing.

**What does the term "qualified interpreter" mean?**

The term "qualified interpreter" includes "sign language interpreters," "oral interpreters," or other "interpreters" like oral transliterators and cued-language transliterators who, via video remote interpreting (VRI) service or an on-site appearance, are able to interpret effectively, accurately, and impartially, both receptively and expressively, using any specialized terminology necessary for effective communication with an individual who is deaf or hard of hearing or who has a speech impairment, given that individual's language skills and education. Not all interpreters are qualified for all situations. For example, an interpreter who is qualified to interpret using American Sign Language (ASL) is not necessarily qualified to interpret orally. Also, someone who has only a rudimentary familiarity with sign language or finger spelling is not a "qualified sign language interpreter." Likewise, someone who is fluent in sign language but who does not possess the ability to process spoken communication into the proper signs or to observe someone signing and translate their signed or finger-spelled communication into spoken words is not a qualified sign language interpreter, 28 C.F.R. § 35.104. An interpreter who knows tactile interpreting may be the only interpreter who is qualified to interpret for someone who is both deaf and blind. Although an interpreter may be certified, a certified interpreter is not necessarily "qualified." Similarly, certification is not required in order for an interpreter to be "qualified."

**What does the term "qualified reader" mean?**

A "qualified reader" means a person who is able to read effectively, accurately, and impartially using any necessary specialized vocabulary.

**What does the term "video remote interpreting service" mean?**

"Video remote interpreting service (VRI)" means an interpreting service that uses video conference technology over dedicated lines or wireless technology offering high-speed, wide-bandwidth video connection that delivers high-quality video images meeting the following requirements:

(a) Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry or grainy images, or irregular pauses in communication

(b) A sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands and fingers, regardless of his or her body position;
(c) A clear, audible transmission of voices; and
(d) Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI.

**Can the Court ask or require family members or friends of individuals who have disabilities to provide auxiliary aids and services for them?**

No. The Court may not ask or require friends or family members to interpret, read, or provide other auxiliary aids or services for individuals with disabilities because a family member or friend may not be qualified to render the necessary interpretation due to factors such as professional or personal involvement.

**Can the Court charge an individual with a disability for the cost of providing an auxiliary aid or service needed for effective communication?**

No. People with disabilities must not be asked to pay be charged for the cost of an auxiliary aid or service needed for effective communication, 28 C.F.R. § 35.130(f). [If the Court charges a per page fee for copies of documents, the following language may be inserted: "The Court may generally charge its standard per page fee for providing a person with a disability a copy of a document. However, the fee charged for a copy of a document provided in Braille or large print format may not exceed the charge ordinarily imposed for a standard print copy of the same document. People with disabilities may not be charged the costs of converting a print document to a different format or for the additional pages that will likely result from that format change."]

**Are there specific procedures for requesting auxiliary aids and services?**

Whenever possible, requests for auxiliary aids and services should be directed to Court's ADA Coordinator, Gilbert Crawford, 1400 Lubbock, Room 203, Houston, Texas 77002, 713.247.4771/713.247.5410, email: *gilbert.crawford@houstontx.gov*.

Requests can be made by an individual with a disability who needs the auxiliary aids or services or by someone acting on that individual's behalf. When the Court's ADA Coordinator is not available to receive a request, the request may be directed to the Court's alternate ADA Coordinator, Lilly Warden, 1400 Lubbock, Room 214, 713.247.8749/713.247.5464, *lilly.warden@houstontx.gov*]. Requests can be made either in writing or orally. Requests should be made in advance, whenever possible, in order to better enable the Court to address the communication needs of the individual. However, all requests for auxiliary aids and services will be addressed promptly and in accordance with ADA requirements.

**How will the Court determine which auxiliary aids and services to provide?**

In determining which types of auxiliary aids and services to provide, the Court will give "primary consideration" to the request of the individual with a disability. "Primary consideration" means that the Court will defer to the individual's request unless the Court can demonstrate that it has an equally effective alternative, given the nature, circumstances, length, complexity, and importance of the communication, as well as the communication skills of the person with a disability for whom auxiliary aids and services have been requested. 28 C.F.R. § 35.160(b)(2).

**How will the Court handle requests for auxiliary aids and services?**

Court personnel will confer with the individual with the disability upon notification that any auxiliary aids and services may be required to ascertain the circumstances, requirements, and preferences of the individual. The Court will respond promptly to requests for auxiliary aids and services so that delays in responding do not deny individuals with disabilities an equal opportunity to participate in, and benefit from, the Court's programs, services, and activities. Documentation of disability will generally not be requested or required.

Court personnel will maintain records of requests for auxiliary aids and services except for simple requests that can be immediately granted (*e.g.*, guiding a blind person to the correct courtroom, responding to a relay call placed by a deaf individual, or providing an assistive listening device to a person who is hard of hearing). Court personnel will ensure the confidentiality of this information and will keep it in a secure location separate from other records relating to the individual with a disability, such as court case files. The Court will not disclose information about an individual's disability or requests for auxiliary aids an services except to court personnel who have a need to know this information (*e.g.*, to make a decision on a request and/or to provide the auxiliary aids and services). Information about an individual's disability and requests for auxiliary aids and services will not be disclosed to individuals who have no legitimate need to know this information, including court personnel and participants in court proceedings.

**What records will the Court keep regarding auxiliary aids and services?**

Except for simple requests that are immediately granted, Court personnel will maintain records of requests for auxiliary aids and services and actions taken to address them. These records will include the date on which the request was made, the name of the individual making the request, the name of the individual for whom the auxiliary aids and services are sought, the auxiliary aids and services requested, the date on which a response to the request was provided, a description of the auxiliary aids and services provided, and the date on which the auxiliary aids and services were provided. When the requested auxiliary aids and services are not being provided, records must include a description of any auxiliary aids and services that were provided, the date they were provided, the date of and reasons for denying the requested auxiliary aids and services, and the name of the decision maker. When a request is denied because the provision of the requested auxiliary aids and services would result in a

fundamental alteration or undue financial and administrative burdens, additional requirements must be met.

**What should Court personnel do if they believe that provision of requested auxiliary aids and services will result in a fundamental alteration or impose undue financial and administrative burdens on the Court?**

The Court is not required to provide a requested auxiliary aid or service if the Court can demonstrate that providing it would result in a fundamental alteration to the nature of the Court's programs, services, and activities or impose undue financial and administrative burdens. However, in circumstances where the Court has determined that providing the requested auxiliary aid or service would result in a fundamental alteration or undue financial and administrative burdens, the Court must take any other actions that would not result in a fundamental alteration or undue financial and administrative burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities have an equal opportunity to participate in, and benefit from, the Court's programs, services, and activities.

**What should court personnel do if requested auxiliary aids and services are not available for a proceeding?**

A court is responsible under Title II of the ADA for ensuring effective communication with individuals with disabilities. Proceedings should not go forward if appropriate auxiliary aids and services needed for effective communication are not in place.

All decisions denying the provision of a requested auxiliary aid or service on the grounds that doing so would result in a fundamental alteration or impose undue financial and administrative burdens must be made by the Honorable Barbara E. Hartle, Director and Presiding Judge, after considering all resources available to the Court for use in the funding and operation of our services, programs, and activities and must be accompanied by a written statement of the reasons for reaching that conclusion, 28 C.F.R. § 35.164.

Any questions about this policy should be directed to the Court's ADA Coordinator, Gilbert Crawford, 1400 Lubbock, Room 203, Houston, Texas 77002, 713.247.4771/713.247.5410, email: *gilbert.crawford@houstontx.gov*

## Non-Discrimination Notice

**The City of Houston Municipal Court is committed to providing equal access to all persons with disabilities, including litigants, potential litigants, witnesses, their companions and others.**

**To ensure effective communication in connection with the provision of courtroom services, the City of Houston Municipal Court provides qualified sign language and oral interpreters and other auxiliary aids and services, including microphones in court for audio amplification, free of charge, for litigants, potential litigants, their representatives, companions, and other individuals who are deaf or hard of hearing.**

**To request auxiliary aids or services, please contact to the Court's ADA Coordinator, Gilbert Crawford, 1400 Lubbock, Room 203, Houston, Texas 77002, 713.247.4771/713.247.5410, email: *gilbert.crawford@houstontx.gov***

**The Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities. Pursuant to Title II of the ADA, persons who are deaf or hard of hearing have the right to request auxiliary aids and services to ensure effective communication. For more information about the ADA, call the U.S. Department of Justice's toll-free ADA Information Line at 800-514-0301 (voice) or 800-514-0383 (TTY) or visit the ADA Home Page at www.ada.gov.**