

Effective Communication Requirements in Medical Facilities Owned/Operated by a State or Local Governmental Entity

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What Does Federal Law Say?

Under [Title II of the Americans with Disabilities Act \(ADA\)](#) entities must ensure no qualified individual with a disability be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any of its programs, services, or activities, solely on the basis of the individual's disability. [Section 504 of the Rehabilitation Act of 1973 \(Section 504\)](#), also applies to facilities/providers who receive federal funding, such as Medicaid or Medicare.

Medical/health care facilities are considered public entities under ADA Title II if they are operated by a state or local governmental entity, such as a county or a state-run hospital. These facilities, programs, services, or activities cannot discriminate based on a person's disability and must ensure that communications with individuals with disabilities are as effective as communication with others.

What Must Public Entities Provide?

Public entities must provide auxiliary aids and services for people with disabilities. Some examples of auxiliary aids or services include: qualified interpreters, note takers, computer-aided transcription services (CART), assistive listening systems, written materials, audio recordings, computer disks, large print, and Brailled materials.

Public entities must give primary consideration to the type of auxiliary aid or service that an individual with a disability requests, but they are not required to take any action that would result in a fundamental alteration or an undue financial or administrative burden. For more information about fundamental alterations or undue financial/administrative burdens, please see the [U.S. Department of Justice guidelines](#).

The ADA and Section 504 also requires public entities provide auxiliary aids and services to the patient with the disabilities companion or person whom the patient designates to communication on their behalf with doctor's offices, clinics, or hospitals regarding the patient's condition or care or who is legally authorized to make health care decisions on behalf of the patient. This can include family members friends, or other associates of the patient.

What Does State Law Say?

the Idaho Human Rights Act [Idaho Code §67-5909(6)] provides that places of public accommodation or persons, which includes "governmental entities and agencies," may not deny an individual full and equal enjoyment of the goods, services, facilities, privilege, advantages, and accommodations they provide. According to this law, any person, including governmental entities or agencies, who own, lease, or operate a place of public accommodation must make reasonable modifications in policies, practices, or procedures when such modifications are necessary to afford access, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of the service.

Can A Reasonable Accommodation Be Made?

Public entities must also make reasonable accommodations/modifications to their policies, practices, and procedures where necessary to avoid discrimination, unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided.

How Do I Request Accommodations?

While state and federal law does not require requests be made in writing, it is best practice to make a reasonable accommodation request in writing to the public entity to ensure you can effectively communication with the public entity. Please see DRI's website for a sample reasonable modification request letter.

What Happens If The Entity Denies My Accommodation Request?

If the entity denies your request, you may first want to attempt to resolve this issue through the provider's internal grievance or complaint process. You can ask the provider or organization for information about their internal grievances, policies, and forms.

If you are unable to resolve the issue directly with the healthcare provider through their internal grievance process, you may request that the [U.S. Department of Justice's Civil Rights Division](#), the [Office for Civil Rights for the Department of Health and Human Services](#), or the [Idaho Commission on Human Rights](#) conduct an investigation into the matter by filing a complaint with one of their offices.

Please note that complaints filed with the Idaho Commission on Human Rights must be filed within 1 year of the date the discrimination occurred while complaints filed with the Department of Justice and the Office for Civil Rights for the Department of Health and Human Services must be filed within 180 days of the discrimination occurring.

Additionally, violations of Title II of the ADA, Section 504, and/or the Idaho Human Rights Act may be enforced through a private lawsuit. Please note that any court case alleging a violation of Title II of the ADA or Section 504 must be brought within 2 years of the date the discrimination occurred. Additionally, civil actions alleging violation of the Idaho Human Rights Act must be filed within 90 days of issuance of administrative dismissal or issuance of Notice of Right to Sue by the Idaho Human Rights Commission. For assistance in obtaining legal representation, contact the Idaho State Bar's Lawyer Referral Service at 208-334-4500.

Finally, if the healthcare provider you are a patient of is accredited by the Joint Commission, you may also report the incident as a Patient Safety Event to the Joint Commission. To report the incident, you may do so [here](#).

Best Practice Tips

For patients who are deaf or hard of hearing, we recommend reaching out to the Council for the Deaf & Hard of Hearing as they may be able to help you file

the complaints discussed herein. You may contact them at (208) 334-0879 or visit the Council's website [here](#).

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To Apply for Services at Disability Rights Idaho, fill out [an online intake here](#), or call us at: 866-262-3462.