



12.0 Introduction

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination in the services, programs, and activities of all state and local governments on the basis of disability. The Act also establishes requirements for making programs accessible to individuals with disabilities and provides equally effective communications for individuals with disabilities.

For programs, services, and activities administered directly by the County of San Bernardino Public Defender subject to the ADA, 42 U.S.C. §§ 12131-12134, and the regulation implementing Title II, 28 C.F.R. pt 35, it is the policy of the Public Defender to provide free of charge appropriate auxiliary aids and service whenever necessary to ensure that clients with disabilities, and others with disabilities who qualify for the programs, services, and activities of the Public Defender, have an equal opportunity to participate in and benefit from such programs, activities, and services. The Public Defender is not responsible for the ADA compliance of the courts, treatment providers, San Bernardino County Probation, California State Parole, Conflict Panel, the Sheriff's Department, or other outside agencies.

12.1 Definitions

12.1.1 Qualified Interpreter

A qualified interpreter is one who, via an onsite appearance or a video remote interpreting service (VRI), can:

- Accurately and effectively interpret information in an impartial manner.
- Receptively and expressively interpret information.
- Interpret specialized terminology.

Qualified interpreters include but are not limited to:

- Sign language interpreters
- Oral transliterators
- Cued-language transliterators

Not all interpreters are qualified for all situations. A certified interpreter is not equivalent to a qualified interpreter. For example, an interpreter who is qualified to interpret using American Sign Language is not necessarily qualified to interpret orally. 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 his or her signed or finger-spelled communication into spoken words is not a qualified sign language interpreter. An interpreter who knows tactile interpreting may be the only interpreter who is qualified to interpret for someone who is both deaf and blind.



A qualified interpreter need not be certified to assist clients in court proceedings. Deputy Public Defenders (DPD), via a qualified interpreter, shall explain all legal concepts, defenses, and consequences to individuals with disabilities.

12.1.2 Qualified Reader

A qualified reader is a person who can in an impartial manner effectively and accurately read information that includes the use of specialized vocabulary. DPD's may use a qualified reader to assist a client who is blind or has low vision in reading and completing forms. As such communications are confidential, the reader shall assist the client in a private area. However, a DPD retains the obligation to explain all legal concepts and consequences of criminal convictions to clients with disabilities.

12.1.3 Video Remote Interpreting (VRI) Service

VRI is a service that uses video conference technology over dedicated phone lines or wireless technology, offering high-speed wide-bandwidth video connections. The video images must meet the following requirements:

- Real-time, full-motion video and audio that delivers high-quality images that do not produce lags; choppy, blurry, or grainy images; or irregular pauses in communication.
- 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.
- A clear audible transmission of voices.

The Public Defender shall ensure that personnel who operate the VRI are trained to use the technology.

12.2 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 individuals with disabilities. (28 C.F.R. § 35.104 and § 35.160)

12.2.1 Vision Impairment

For individuals who are blind or have low vision, appropriate auxiliary aids and services include but are not limited to the following:

- Qualified readers
- Printed information provided in Braille
- Printed information provided in large print or in an electronic format
- Printed information provided through audio recordings



- Oral descriptions of action and visual information to ensure the accessibility of proceedings and presentations
- Note-takers
- Assistance in completing forms
- Screen-reader software or magnification software
- Personnel assistance in guiding a person to an unfamiliar location or along an unfamiliar route

12.2.2 Hearing and Speech Impairment

For individuals who are hard of hearing or have speech impairment, appropriate auxiliary aids include but are not limited to:

- Qualified interpreters, including onsite and VRI services
- Written notes
- Note-takers
- Written materials
- Computer-assisted, real-time transcription services
- Video text displays
- Amplified and hearing aid-compatible telephones
- Assistive listening devices and systems
- Open or closed captioning and caption decoders
- Teletypewriters (TTY)

12.3 Requests for Auxiliary Services and Aids

12.3.1 Request at Court

If the need arises in Court, a client with a disability may orally or in writing request his or her Deputy Public Defender (DPD) to accommodate his or her disability. The DPD on behalf of the client shall orally make the request for accommodation to the judge in his or her chambers or the DPD can submit the request to the Court's ADA coordinator on the court form, MC-410, *Request for Accommodations by Persons with Disability Request and Response*. The DPD shall annotate the client file to indicate the date when the request for accommodation was made to the Court and the dates when the Court provided the accommodation to the client. The Public Defender shall preserve the confidentiality of such information to the extent required by law. Client files are not public records and are only accessed by authorized Public Defender employees. The DPD shall ensure the Court provides the accommodation at all subsequent court hearings. If the DPD becomes aware that the accommodation is not effective, the DPD shall in the judge's chambers explain why the accommodation provided is not effective. The DPD shall request from the Court additional accommodation needed to assist the client.



12.3.2 Request at Office, Community Event, or Jail

For a request for accommodation made at an office of the Public Defender, at a community event, or at the jail, the appropriate DPD or other Public Defender employee shall complete an *ADA Authorization for Expenses* form. The completed form must include the date of the request for accommodation, a brief description of the need for accommodation, and a description of the type of aid or services requested. At no time shall the client be asked to document his or her disability. The Public Defender employee shall route the form to his or her divisional Chief Deputy Public Defender (CDPD) or his or her assigned delegate. A copy of the completed form shall be placed in the appropriate client file. The Public Defender shall preserve the confidentiality of such information to the extent required by law. Client files are not public records and are only accessed by authorized Public Defender employees.

If an accommodation is needed in order to effectively interview a witness outside a court setting, the investigator shall complete the *ADA Authorization for Expenses* form and route it to the Public Defender's ADA coordinator who will arrange for the accommodation. The investigator shall also note in the witness interview report the accommodation necessary to complete the interview. If the witness is called to testify at a court hearing, the DPD shall either notify the judge in his or her chambers or the Court's ADA coordinator of the need to accommodate the witness. The DPD shall not proceed with the witness testimony until the Court provides the appropriate accommodation. If the individual is a witness, in addition to the *ADA Authorization for Expenses* form, the investigator shall note the requested accommodation in the witness' interview report. The Public Defender shall preserve the confidentiality of such information to the extent required by law.

12.4 Contact Information for the Public Defender ADA Coordinator

Requests for accommodation may be made to:

Diana Lovelace
Chief of Administration, ADA
Coordinator
Public Defender's Office
County of San Bernardino
303 W. Third St., Ground Floor
San Bernardino, CA 92415
DLovelace@pd.sbcounty.gov
(909) 382-7650

OR

Eileen Eglund
Public Access ADA Coordinator

Department of Risk Management
County of San Bernardino
222 West Hospitality Lane, 3rd Fl.
San Bernardino, CA 92415
eeglund@rm.sbcounty.gov
(909) 386-8682
California Relay Services 7-1-1 (for TTY
users)



12.5 Response to Request for Accommodation

All requests for accommodation will be addressed promptly and in accordance with ADA requirements. The Public Defender will provide auxiliary aids or services free of charge to the client. At no time shall a Public Defender employee require an individual with a disability to bring another person to interpret for him or her or to rely on any person accompanying an individual with a disability to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public and no qualified interpreter is immediately available. Nor shall a Public Defender employee request that the client or his or her family members provide other auxiliary aids or services necessary to ensure effective communication for the client with a disability.

12.6 Type of Auxiliary Aid or Service Authorized

The type of auxiliary aid or service authorized will vary, depending on the method of communication used by the individual; the nature, length, and complexity of the communication; and the context in which the communication will take place. The CDPD or his or her delegate shall give primary consideration to the type of aid or services requested by the individual.

However, the CDPD can consider an alternative if the individual's request:

- Creates undue financial and administrative burdens on the department, or
- Fundamentally alters the nature of the service, programs, or activity provided.

If the CDPD chooses an alternative that differs from the client's preference, the CDPD shall summarize his or her reason for doing so on the *ADA Authorization for Expenses* form. In choosing an effective alternative, the CDPD can seek assistance from either the Public Defender's or the County's ADA coordinator. The CDPD shall route the form to the Public Defender's ADA coordinator who shall arrange for the accommodation. If the individual is a client, the CDPD, in addition to routing the form to the Public Defender's ADA coordinator, shall also place a copy of this form in the client's confidential file. Public Defender employees shall use the auxiliary aid or service for the individual with disabilities in all subsequent contacts occurring in non-court settings.

12.7 Public Complaints

San Bernardino County has an established formal complaint procedure for individuals with disability who are alleging a violation to the ADA. If an individual has a complaint that a program, service, or activity is not accessible because of his or her disability, the individual shall direct his or her complaint to:



Eileen Eglan
Public Access ADA Coordinator
Department of Risk Management
County of San Bernardino
222 West Hospitality Lane, 3rd Floor
San Bernardino, CA 92415
eeglan@rm.sbcounty.gov
(909) 386-8682
California Relay Services 7-1-1 (for TTY users)

Individuals are not required by federal regulations to use this complaint procedure. Individuals may file a complaint directly with the appropriate federal enforcement agency (<http://www.ada.gov/t3compfm.htm>).

12.7 Department ADA Coordinator's Responsibilities

All requests for monitoring forms shall be routed to the Public Defender ADA coordinator. The ADA coordinator shall review all requests for completeness of the form and shall ensure that the auxiliary aid or service is provided to the individual with a disability in an expedient fashion in accordance with the procedures set forth in this policy. The ADA coordinator shall also assist Public Defender employees with locating the appropriate auxiliary aid or services. The ADA coordinator shall attend all trainings provided by the County's ADA coordinator. The Public Defender ADA coordinator shall train new and existing employees on the Public Defender and County's policy regarding the ADA requirements.

NOTICE TO DEFENDANTS WITH DISABILITIES

If you are represented by the San Bernardino County Public Defender and believe you have a hearing or other disability, please contact your Deputy Public Defender (if you are currently represented) or one of the following:

Diana Lovelace
ADA Coordinator
Public Defender's Office
(909) 382-7650
dlovelace@pd.sbcounty.gov

Eileen Eglan
Public Access ADA Coordinator
Department of Risk Management
(909) 386-8682
eeglan@rm.sbcounty.gov

The Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities. Under 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 1-800-514-0301 (voice) or 1-800-514-0383 (TTY) or visit the ADA home page at www.ada.gov.