



THE EMPLOYMENT RIGHTS OF PEOPLE WHO ARE DEAF, HARD-OF-HEARING OR DEAF-BLIND

**A GUIDE FOR SELF-ADVOCACY
For
Job Applicants or Employees**

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COLORADO
Department of Human Services

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DISCLAIMER

This overview of the civil rights applies to individuals who are deaf, hard-of-hearing or deaf-blind when applying for employment and/or as an employee. The information contained within this manual for self-advocacy is not intended to be a substitute for legal counsel from an attorney. For specific questions or legal advice, please contact the Colorado Commission for the Deaf and Hard of Hearing (contact information on first page) for a referral to appropriate legal counsel. Contact the Rocky Mountain ADA Center at 1-800-949-4232 for answers to ADA questions.

Employment (Title I)

Title I of the Americans with Disabilities Act of 1990 prohibits private employers, State and local governments, employment agencies and labor unions from discriminating against qualified individuals in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. The ADA covers employers with 15 or more employees, including State and local governments. It also applies to employment agencies and to labor organizations.

The ADA protects qualified individuals from discrimination in all employment practices, including: job application procedures, hiring, firing, training, pay, promotion, benefits, and leave. Qualified individuals also have a right to be free from harassment, and an employer may not fire or discipline these individuals for asserting their rights under the ADA. Most importantly, qualified individuals have a right to request a reasonable accommodation for the hiring process and on the job.

A reasonable accommodation is any change or adjustment to a job, the work environment, or the way things usually are done that would allow you to apply for a job, perform job functions, or enjoy equal access to benefits available to other individuals in the workplace. There are many types of things that

may help people who are deaf, hard-of-hearing, or deaf-blind work successfully. Some of the most common types of accommodations for this population of individuals may include:

- physical changes, such as modifying a workspace;
- qualified sign language interpreters for people who are deaf in person or through video remote interpreting (VRI) services;
- note takers;
- real-time computer-aided transcription services;
- written materials;
- exchange of written notes;
- telephone handset amplifiers;
- assistive listening devices and systems;
- telephones compatible with hearing aids;
- closed caption decoders;

- open and closed captioning, including real-time captioning, voice, text, and video-based telecommunications products and
- systems, including text telephones (TTYs),
- videophones, and
- captioned telephones or
- equally effective telecommunications devices;
- videotext displays;
- qualified readers;
- taped texts;
- audio recordings;
- Brailled materials and displays;
- screen reader software;
- magnification software;
- optical readers;
- secondary auditory programs (SAP);
- large print materials;

- accessible electronic and information technology;
- readers for people who are blind;
- training and other written materials in an accessible format, such as in Braille, on audio tape, or on computer disk;
- hardware and software that make computers accessible to people who have low vision.

Note:

- **The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the deaf, hard- of-hearing, or deaf-blind individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place.**

If you think you might need an accommodation for the application process or on the job, you have to request one. You may request a reasonable accommodation at any time during the application process or any time before or after you start working.

Once you have made a request for a reasonable accommodation, the employer should discuss available options with you. If the need for accommodations is not obvious, the employer may request documentation from the qualified individual demonstrating as to why a reasonable accommodation is necessary for access to effective communication. The applicant/employee and the employer should work together to determine an appropriate accommodation.

If the employer does not provide the requested reasonable accommodation and it is perceived that rights have been violated, then contact the nearest office of the Equal Employment Opportunity Commission (EEOC). Someone will help determine whether or not charges of discrimination should be filed. Charges may be filed with the EEOC in person, by mail, or by telephone.

There are strict time frames for filing charges of employment discrimination. In most states, there is a limit of 300 days from the time the alleged discrimination occurred to file a charge, but in some states the complainant may have only 180 days. The EEOC field office will provide information on which time period applies to the complainant. However, the filing of a charge should be done as soon as possible after the discrimination has occurred.

To contact the EEOC:

Denver Field Office

Location: 303 E. 17th Avenue
Suite 410
Denver, Colorado 80203

Phone: 1-800-669-4000

Fax: 303-866-1085

TTY: 1-800-669-6820

Intake Supervisor: Teneeshia Marshall
teneeshia.marshall2eoc.gov

Office Hours: The Denver Field Office is open Monday - Friday from 8:00 a.m. - 4:30 p.m. Please call first to obtain information. Although walk-ins are always accepted, scheduling an interview is strongly recommended, and individuals with appointments will be given priority. Charge receipt interviews must begin prior to 3:00 p.m.

After Charges have been filed, EEOC's process:

- First, the EEOC notifies your employer that a charge has been filed.
- In some instances, the EEOC will suggest mediation as a way of resolving the charge. Mediation is a process by which an impartial party tries to help people resolve a dispute. Mediation is voluntary, free, and completely confidential.
- If a charge is not referred to mediation or if mediation is unsuccessful, and the EEOC determines that a violation has not occurred, your charge will be dismissed and you will be sent a letter telling you that you may file your own lawsuit.
- If mediation is not closed or successful, it will go to investigation.
- If the EEOC concludes that you were discriminated against, it will attempt to settle the claim informally. If this is unsuccessful, the EEOC will decide whether to bring a lawsuit or issue you a letter giving you the right to file a lawsuit on your own.

Appendix I: Example of a request for a reasonable accommodation request

Dear [Employer]:

I am an applicant who is _____ and the Americans with Disabilities Act requires that employers with 15 or more employees may not discriminate against qualified individuals. Employers must reasonably accommodate qualified applicants or employees, unless an undue hardship would result.

You and I need the following accommodation[s]: [List one or more specific reasonable accommodations.]

Please let me know when you can facilitate my accommodation request. Also, let me know if you are in need of additional information.

Sincerely,
[applicant]

Appendix 2 Applicable Civil Rights Laws

Access & Rights Laws	Employment	State Government	Federal Government	Private Business	Post Secondary Education	Website Accessibility
ADA Title I	X	X		X	X	X
ADA Title II		X			X	X
ADA Title III				X	X	X
Rehab Act Section 501	X		X			
Rehab Act Section 503	X		X	X		
Rehab Act Section 504	X	X	X	X	X	
Rehab Act Section 508			X			X
WIA	X	X	X	X		

Americans with Disabilities Act Title I (Employment)

Private employers with 15 or more employees are responsible for providing auxiliary aids or other accommodations for persons who are deaf, hard-of-hearing or deaf-blind unless undue hardship would result from a significant difficulty or expense. State governments, regardless of size, are also required to provide reasonable accommodations to qualified applicants and their

employees. For profit and non-profit business have responsibilities under Title I to provide equal employment opportunity for all. If the company's website has job related information, or if a person has to apply online, a person who is deaf, hard-of-hearing or deaf-blind could request a reasonable accommodation (large print, interpreter, alternate format) under the law.

Americans with Disabilities Act Title II (State & Local Governments)

State and local government entities are responsible for making their programs, services, or activities accessible by providing equal and effective communication for persons who are deaf, hard-of-hearing or deaf-blind. State and local governments include courts, police, fire, emergency management, town hall, libraries, state buildings, etc. Title II also applies to state colleges and universities as well as community colleges. Websites can be considered a "service" under Title II and should be accessible to persons who use accessible information technology. Videos provided on state or local government websites that are available to the general public should be open-captioned or closed-captioned, and should be audio described. Religious entities are typically exempt.

Americans with Disabilities Act Title III (Private Business)

Private businesses that are open to the public, and affect commerce, are responsible for making their goods and services accessible to the public. The ADA does not factor in number of employees or size of the business when determining whether a business has responsibilities under the law. Businesses are required to remove communication barriers by providing auxiliary aids or services to deaf, hard-of-hearing patrons and their companions. Some examples of private entities include banks, doctor's offices, theaters, stores, event centers, hotels, attorneys, etc. Private colleges and universities are covered under Title III and have responsibilities to arrange and provide auxiliary aids and services. Private businesses that are open to the public and are a place of public accommodation have requirements to remove communication barriers by making their web content accessible. Provisions of Title III do not apply to religious organizations or entities controlled by religious organizations including places of worship. Although religious schools may be exempt from Title III of the ADA, they may be covered as "employers" under Title I of the ADA, which governs employers with 15 or more employees.

Several Laws & Titles Apply

In several situations more than one disability rights law or title/section will apply.

For example: A deaf student at a local university is taking a course where an internship is required. If the internship is paid, the business and the university could be held responsible for paying for the sign language interpreter because both entities would have responsibilities under the act to provide communication access. If a student that attends a local university was interning at a bank, and the internship was paid, ADA Titles I, II and III would apply, and both entities would be accountable for providing access.

Rehabilitation Act of 1973 Section 501

The Rehabilitation Act prohibits discrimination in programs conducted by Federal agencies and in Federal employment. Section 501 requires Federal agencies to provide affirmative job action when hiring qualified candidates. The standards under the rehabilitation act for employment accessibility are the same as the ADA Title I regulations.

Rehabilitation Act of 1973 Section 503

Section 503 requires Federal government contractors/subcontractors with government contracts in excess of \$10,000 to take affirmative action to employ and promote qualified individuals.

Rehabilitation Act of 1973 Section 504

Any government or private business recipient of Federal funding or federal financial assistance has requirements under section 504 to make their programs and activities

accessible. Requirements under 504 include reasonable accommodation for employees and effective communication. Any college that participates in the Federal student aid program, including religiously affiliated schools and/or hospitals, trade schools, state schools and private schools, have requirements under 504 to provide effective access to communication.

Rehabilitation Act of 1973 Section 508

Any website of the Federal government is required under section 508 to be accessible to the public. Section 508 has specific standards and requirements for websites including color contrast, alt tags, and video captioning. Many web developers for state governments or private businesses use the 508 standards as a best practice standard for designing accessible websites.

Workforce Investment Act

This act is Federally funded to provide greater job opportunity. Colorado's workforce centers are funded to provide job leads and market information, resume assistance, education and career assessments, and career planning counseling. Workforce centers also provide intense job search assistance, and short-term training programs to help persons find jobs that are in demand. To be eligible, job seekers must have lost their job through no fault of their own and must demonstrate a hardship with competing for job openings. A spouse that loses their

primary source of income may also be covered under this act. Workforce centers are required to provide accommodations and communication access during their vocational counseling and training services.