

Peroutka, Miller, Klima & Peters, P.A.

**Policy for Ensuring Effective Communication
with Individuals with Disabilities**

It is the policy of Peroutka, Miller, Klima & Peters, P.A. (PMKP) to ensure that communications with individuals with disabilities are as effective as communications with individuals without disabilities, consistent with the requirements of title III of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12181 - 12189, and the regulation implementing title III, 28 C.F.R. pt. 36. To meet this obligation, PMKP 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, PMKP's goods, services, facilities, privileges, advantages, or accommodations. 28 C.F.R. §§ 36.301(c), 36.303. This policy applies to all members of the public with disabilities contacting or attempting to contact PMKP's services, locations, and facilities.

1. 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. § 36.303.

For people who are blind or have low vision, appropriate auxiliary aids and services include, but are not limited to, qualified readers; printed information provided in Braille, in large print, in electronic format, or through audio recordings; oral descriptions of action and visual information to ensure the accessibility of proceedings and presentations; 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; or an assistant to guide a person to find his or her way to an unfamiliar location or along an unfamiliar route.

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 (including on-site and video remote interpreting (VRI) services), written notes, note takers, computer-assisted real-time transcription services, video text displays, amplified and hearing aid compatible telephones, assistive listening systems, open or closed captioning and caption decoders, teletypewriters (TTYs), computer terminals equipped for video communication, and other effective methods of making information or materials delivered using sound available to individuals who are deaf or hard of hearing.

2. What does the term “qualified interpreter” mean?

The term “qualified interpreter” includes “sign language interpreters,” “oral interpreters,” or other “interpreters” who, via video remote interpreting (VRI) service or an on-site appearance, are able to interpret competently, 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 to interpret in 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 interpret medical or legal terminology; process spoken communication into the proper signs; or 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. §§ 36.104, 36.303(b). 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.”

3. What is a “qualified reader” and when might a qualified reader be required?

A “qualified reader” is a person who is able to read effectively, accurately, and impartially using any necessary specialized vocabulary. For example, a qualified reader may assist a person who is blind or has low vision in reading and filling out forms. When assisting a person in reading documents or completing forms that involve confidential personal, medical, or financial information, the assistance must be provided in a private area in order to preserve the privacy of the individual who is being assisted.

4. 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 requirement:

- (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.

5. Can PMKP employees or contractors ask or require family members or friends of individuals who are blind or have low vision to read for them?

No. PMKP may not ask or require friends or family members to interpret, read, fill out forms, or provide other auxiliary aids or services for individuals with disabilities. A family member or friend may not be qualified to render the necessary services due to factors such as professional or personal involvement or invasion of an individual’s right to keep personal, medical, or financial information confidential from friends and family members.

6. Can PMKP 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 or be charged for the cost of an auxiliary aid or service needed for effective communication. 28 C.F.R. § 36.301(c).

7. Are there specific procedures for requesting auxiliary aids and services?

Whenever possible, requests for auxiliary aids and services should be directed to Mike Miele Compliance Officer, PMKP, 888.768.2280 X293, mmiele@peroutkalaw.com. 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 Mike Miele is not available to receive a request, the request may be directed to Sean Daly, 888.768.2280 X296, sdaly@peroutkalaw.com. Requests can be made either in writing or orally. Requests should be made in advance, whenever possible, in order to better enable PMKP to address the communication needs of the individual. However, PMKP will address all requests for auxiliary aids and services promptly and in accordance with ADA requirements.

8. How will PMKP determine which auxiliary aids and services to provide?

In determining which types of auxiliary aids and services to provide, PMKP will consult with the requesting individual with a disability to determine what type of auxiliary aid is needed to ensure effective communication.

In many cases, more than one type of auxiliary aid or service may facilitate effective communication. The provided auxiliary aid or service must result in effective communication for the individual with a disability.

9. How will PMKP handle requests for auxiliary aids and services?

Upon receipt of notification that any auxiliary aids and services will be necessary, PMKP's personnel will confer with the individual with the disability to ascertain the individual's needs. PMKP will respond promptly to all requests for auxiliary aids and services to ensure that individuals with disabilities have a full and equal opportunity to participate in, and benefit from the goods, services, facilities, privileges, advantages, or accommodations offered by PMKP. PMKP will neither request nor require documentation of disability.

PMKP will not disclose information about an individual's disability or requests for auxiliary aids and services except to PMKP 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).

10. What records will PMKP keep regarding auxiliary aids and services?

Except for simple requests that are immediately granted, PMKP personnel will maintain records of requests for auxiliary aids and services. These records should include the request date; name of the individual making the request; name of the individual for whom the request is made; auxiliary aids and services requested; date of response to the request; description of the auxiliary aids and services provided; and date the auxiliary aids and services were provided. If PMKP did not provide the requested auxiliary aids and services, the record must include a description of any auxiliary aids and services that were provided; the date they were provided; reasons for denying the requested auxiliary aids and services; and the decision maker's name and title.

11. What should PMKP 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 PMKP?

PMKP is not required to provide a requested auxiliary aid or service if it can demonstrate that doing so would fundamentally alter the nature of the goods, services, facilities, privileges, or advantages being offered or would result in an undue burden, *i.e.*, significant difficulty or expense. In such circumstances, PMKP must adopt any other feasible measures to ensure that, to the maximum extent possible, the individual with a disability receives the goods, services, facilities, privileges, advantages, or accommodations offered by PMKP.

All decisions denying a requested auxiliary aid or service on the grounds that doing so would result in a fundamental alteration or impose undue burdens must be made by Sean Daly, Attorney after considering all resources available to PMKP for use in the funding and operation of PMKP's services, and must be accompanied by a written statement of the reasons for reaching that conclusion.

Any questions about this policy should be directed to Sean Daly, Attorney, 8028 Ritchie Highway Suite 300 Pasadena MD 21122, Phone 888.768.2280 X296, email sdaly@peroutkalaw.com.