

Granting ADA Accommodations

Introduction

The purpose of this document is to educate bureau event staff on the basics of granting requests made for accommodations under Title II of the Americans with Disabilities Act (Title II).

Call center staff handling calls made to 311 may also benefit from having an understanding of the accommodations process and how Portland is to address requested accommodations.

To make the learning of needed information easier, and in recognizing that call center and event staff do not need the same information required of ADA coordinators, this document presents the information as simply as possible. If you desire more information, or if you have questions, please consult the resources in the last section of this document or contact: Sue Minder in outlook.

The section titled Steps for Addressing a Requested Aid or Service will present steps you can follow to effectively address a requested accommodation. Since the person's status as a qualified person with a disability is beyond the scope of this document, that issue is not discussed here. This document is designed to help you understand what is involved in the accommodation process and how to resolve requests for accommodation.

Granting Requested Accommodations

Covered Companions

As a preliminary matter, it is important to remember that companions of people participating in activities, programs, and services offered by the City of Portland have the same rights under Title II as do participants in the activities, programs, and services. Typically covered companions are parents, guardians, or spouses. But a companion is any family member, friend, associate, or in some cases a caregiver, with whom it would be appropriate to communicate with about the participation of another in the activities, programs, and services offered by Portland.

Effective Communication

When we talk about granting requested accommodations, we mean effectively communicating with people with disabilities. Simply put, effective

communication under Title II requires communication between Portland and people with disabilities must be as effective as is communication between Portland and people without disabilities. This means people with disabilities must be able to communicate with, receive information from, and convey information to the City of Portland. In many instances, ensuring effective communication means providing a person with a disability an auxiliary aid or service.

Auxiliary Aids or Services

An auxiliary aid or service is the providing of a device or a service that enables effective communication between a person with a disability and the City of Portland. Examples of auxiliary aids and services include:

- Exchanging notes
- Sign language interpreting
- Captions
- Audio Description
- Accessible electronic content
- Assistance completing forms
- Reading someone information

Portland can never charge a person with a disability for the provision of an aid or service.

Requesting Auxiliary Aids or Services

Portland must provide people with disabilities the opportunity to request auxiliary aids or services and be prepared to provide most requested auxiliary aids and services in a timely manner. The following list items do not apply equally to everyone reading this document. They have been provided here to reflect the different audiences using this material.

- Suggest people with disabilities request an aid or service at least 72 hours prior to an event.
- Whether the request was made 72 hours prior to an event or an hour prior to the event, every effort must be made to provide the requested aid or service.
- A requested aid or service can only be denied for three reasons:
 - An equally effective method of communication is provided
 - Providing the requested aid or service would result in a fundamental alteration of the activity, program, or service
 - Providing the requested aid or service would result in undue administrative and financial burdens
- Denials of a requested aid or service must be made by a department head and written justifications must be provided to the person making the request.

- Even if a requested aid or service is appropriately denied, Portland must provide an equally effective method of communication if one is available.

The next two subsections will help you understand when denying a requested aid or service is appropriate; however, you must always remember that under Title II the circumstances where Portland can legally refuse to provide a requested aid or service are extremely rare. So, you must make every effort to provide the requested aid or service or an equally effective method of communication. Since Portland is required to give “primary consideration” to the requested aid or service, what could constitute an equally effective method of communication is not very relevant. Instead, we need to focus on determining whether a requested aid or service would fundamentally alter the nature of the activity, program, or service, or if providing the requested aid or service would result in undue administrative and financial burdens.

Fundamental Alterations

- A fundamental alteration is so significant that it alters the essential nature of the activity, program, or service.
- Examples of fundamental alterations include:
 - Stopping or slowing down a live performance to describe the action
 - Raising the lights in a normally dark scene
 - Completing paperwork that is not regularly part of the activity, program, or service
- There are few situations where granting a requested aid or service would result in a fundamental alteration.

Undue Burdens

- In order to deny a requested aid or service, providing it must result in both administrative and financial burdens.
- Administrative burdens typically result in insufficient staffing resources to provide the requested aid or service.
- Undue financial burdens result when the cost of providing the requested aid or service is extreme when compared with the entire City budget.
- Again, we are not talking about the budget for your program or your bureau, the cost comparison is made against the entire City budget.
- The situations where Portland could deny a requested aid or service based on administrative and financial burdens are extremely rare.

Qualified Service Providers

The Department of Justice guidance as to what constitutes a person being qualified to provide an aid or service says: someone who is able to interpret

effectively, accurately, and impartially, both receptively and expressively. Receptive communication refers to the ability to understand what the person with a disability is saying. Expressively refers to having the skill needed to convey the information back to the person with a disability using any specialized vocabulary.

Companions as Interpreters

While the Department of Justice guidance refers to situations where accompanying adults or minor children as interpreters could be appropriate, the guidance applies to all situations where a person is providing assistance. Examples of additional situations where the rules covering using companions to provide an aid or service include but are not limited to:

- Reading information
- Completing a form
- Explaining information

Portland can rely on a companion to provide an aid or service in only two situations:

- In an emergency involving an imminent threat to the safety or welfare of an individual or the public, an accompanying adult or minor child can provide an aid or service when someone qualified to provide the aid or service is not available.
- In situations not involving an imminent threat to the safety and welfare of an individual or the public, an accompanying adult can be used if the person requesting the aid or service requests it, the accompanying adult agrees, and using the accompanying adult to provide the aid or service is appropriate under the circumstances.

When a situation does not involve an imminent threat, a minor child can never be used to provide an aid or service.

When the situation does not involve imminent threat, an accompanying adult cannot be used to provide an aid or service even if requested by the person needing the aid or service when there is reason to doubt the impartiality or effectiveness of the person who would provide the aid or service. Examples of where it would be inappropriate to use an accompanying adult to provide an aid or service include but are not limited to:

- When the person providing the aid or service has a personal stake in the outcome
- The person would be communicating bad news
- The communication involves health, safety, financial, or legal information

Receiving a Request Referral from 311







{link to full complaint process doc in final doc}

If you receive a request or complaint from 311 directly:

You will receive two email messages:


- a. **The first email** will be between you, 311, and OEHR staff who are available to help you manage the complaint should you need it.

[City of Portland] "311: ADA and Discrimination" assignment: ADA Accommodation Request

 **SpongeBob (311 Support)** <311@portlandoregon.gov>     
To: Gregor, Joshua; Cheron, Nickole; Simeone, Jonathan; Rios-Rodriguez, Alma; Wienholz, Christina +3 others Wed 1/11/2023 1:52 PM

##- Please type your reply above this line -##

This request ([#38123](#)) has been assigned to group '311: ADA and Discrimination', of which you are a member.

 **SpongeBob**
Jan 11, 2023, 1:52 PM PST

How would you like to make your request? I will continue with the online form

Confidentiality

Confidentiality Waiver I do *not* waive confidentiality.
I would like to request that the City... Provide accommodations for a City activity, event or program

Event Details

Name of activity, event or program underwater ramp program
Date of event Wed, 02/02/2033 - 00:00
Event host Office of equity in human rights disability division

Event Accommodations

What type of accommodations are you requesting? An accessible entrance to the event and routes to restrooms

Contact Information

Your Name SpongeBob
Your Email spongebob@hotmail.com
Phone (555) 555-5555
Would you prefer that we contact you by phone or email? Email
Who are you making this request or complaint for? Myself

You are an agent. Add a comment by replying to this email or [view ticket in Zendesk Support](#)

Ticket # 38123
Status Open
Requester SpongeBob
CCs -
Group 311: ADA and Discrimination
Assignee Christina Wienholz
Priority Normal
Type Incident
Channel By Web Service

This email is a service from City of Portland.

- b. **The second email** will be between you and the Community Member. It is essentially referring the complaint to you in a formal way with the Community Member copied.

ADA INTERNAL COORDINATION THREAD | Do not use for public reply

CW Christina Wienholz (311 Support) <311@portlandoregon.gov> Wed 1/11/2023 2:11 PM

To: Cheron, Nickole; Gregor, Joshua; Simeone, Jonathan

Hi Nickole,

The following submission came in through the city's ADA Accommodation Request form. After review, it has been determined that this issue would fall to The Office of Equity and human Rights and if you are still serving as the ADA Coordinator, we're passing you the baton to take over the fulfillment of this particular request.

Thank you.

Thank you! Yes, I accept. Yes, I am!

Reply Reply all Forward

From: **SpongeBob**
Date: Wed, Jan 11, 2023 at 1:52 pm
How would you like to make your request? I will continue with the online form

Confidentiality

Confidentiality Waiver I do *not* waive confidentiality.
I would like to request that the City... Provide accommodations for a City activity, event or program

Event Details

Name of activity, event or program underwater ramp program
Date of event Wed, 02/02/2033 - 00:00
Event host Office of equity in human rights disability division

Event Accommodations

What type of accommodations are you requesting? An accessible entrance to the event and routes to restrooms

Contact Information

Your Name SpongeBob
Your Email spongebob@hotmail.com
Phone (555) 555-5555
Would you prefer that we contact you by phone or email? Email
Who are you making this request or complaint for? Myself

--
Christina | PDX311

NOTE: Sending the request or complaint through 311 creates a Request which acts as a case number for the complaint. The case number attaches to Zendesk which then provides a tracking system for the entire city. This will eliminate the need for individual bureaus to provide data to OEHR for reporting back on compliance to City Council.

Steps for Addressing a Requested Aid or Service

The tips in this section assume a familiarity with the previous sections of this document.

- Ensure members of the public are notified about their right to request an aid or service, by providing one of the City's meaningful access statements in all public communications.
- Familiarize yourself with our guide on vendors that provide service related to accessibility. The vendors list can be found on our [ADA Resources Page](#).
- Establish relationships with vendors, like sign language interpreters, you are likely to regularly use.
- Provide some aids and services automatically.
 - Caption public meetings and events. Portland has a policy requiring the [captioning of video content](#).
 - Audio describe video content.
 - Ensure all electronic meeting agendas and emails are accessible.
 - Provide large print copies of handouts.
- If you feel like a requested aid or service would result in a fundamental alteration and/or undue burdens, contact Jonathan Simeone.
- If a requested aid or service must be denied, ensure written justifications are provided.
- If a requested aid or service is denied, provide an equally effective method of communication, if available.
- Provide a person, like a sign language interpreter, providing an aid or service materials related to the event or meeting ahead of time.

Additional Resources

Internal Resources

Here is a list of internal resources that may assist you in more effectively granting requests for accommodation:

- This [link goes to a team where City staff works together to improve our ability to effectively communicate](#) with people with disabilities.
- Here is a [document with information about effective communication](#), including tips for effectively communicating in different document types.
- This link goes to information on [creating ADA accessible events](#).

External Resources

The resources in this section are not provided by the City of Portland.

- Here's the [Department of Justice guidance on effective communication](#).
- The Department of Justice ADA hotline is at (800) 514-0301.
- The Access Board is at (888) 872-2253.
- The ADA National Network is at (888) 949-4232.
- The [ADA National Network](#) has [guidance on effective communication](#).