

Supporting Deaf or Hard-of-Hearing Individuals in the Workplace



I'm Not a Lawyer

I'm not a lawyer, so please do not take any part of this presentation as being legal advice.

Simple Statistics^{1,2}

- **36 million** – the number of people in the U.S. that have a disability.
- **10.2 million** – the number of people that have difficulty hearing.
- **4.4 million** – the number of people that have difficulty hearing that are between the ages of 16 and 65.
- **5** – Number of ADA compliance lawsuits for Deaf or Hard-of-Hearing individuals won and/or settled by the Department of Justice this past month.

1 U.S. Census Bureau, 2009 American Community Survey

2 <http://www.ada.gov/settlement.htm>

Legal Precedence for D/HH Workers and Customers

- Case: **Bates v. UPS**
- The first equal opportunity employment class action brought on behalf of Deaf workers throughout the country concerning such workplace discrimination.
- The Settlement : **\$5,800,000**
- On July 17, 2003, a class of over 1,000 deaf workers across the country announced the settlement of their class action lawsuit against UPS. The lawsuit alleged that UPS systematically denied deaf people equal rights and opportunities in the workplace.
- The class action lawsuit was brought under the American's with Disabilities Act (ADA) by five deaf UPS workers on behalf of deaf employees and applicants throughout the country.
- Plaintiffs sought to ensure that UPS provide sign language interpreters and other communication aids needed by deaf applicants and employees, as well as emergency alerts, text telephones, and equal access to equal opportunities for promotion.

Legal Precedence for D/HH Workers and Customers

- Case: **Bates v. UPS**
- Key Findings:
 - UPS failed to address **communication barriers** and to ensure **equal conditions** and **opportunities** for deaf employees.
 - Deaf employees were **routinely excluded** from workplace information, **denied opportunities** for promotion, and **exposed to unsafe** conditions due to **lack of accommodations** by UPS.
 - UPS also **lacked a system to alert these employees** as to emergencies, such as fires or chemical spills, to ensure that they would safely evacuate their facility.
 - UPS had **no policy** to ensure that deaf applicants and employees actually received effective communication in the workplace.

Legal Precedence for D/HH Workers and Customers

- Case: **Bates v. UPS**
- Outcome:
 - UPS agreed to a **comprehensive accommodations** program to be implemented throughout the country.
 - This accommodations program is designed to ensure that **Deaf applicants and employees** have **full access** to workplace information, equal workplace conditions and opportunities for promotion, and basic workplace safety.
 - UPS also agreed to pay **5.8 million dollars** in damages.
 - UPS had **no policy** to ensure that deaf applicants and employees actually received effective communication in the workplace.
 - To view the complete settlement agreement, please go to:
<http://www.schneiderwallace.com/Settlements/BatesAgree.pdf>

Active Area of Litigation

The **Department of Justice** is **active** in **ADA lawsuits**:

- Feb 2012: Henry Ford Health System
- Feb 2012: Humbolt, Kansas
- Jan 2012: Budget Saver Motels
- Jan 2011: Walls Transportation Tours
- Dec 2011: Ralphs Coach, Inc.
- Dec 2011: El Lagunero Bus Company
- Dec 2011: Tranportes Rivas
- Dec 2011: Watson Charter Services
- Nov 2011: Upshur County, Texas
- Nov 2011: Illinois State Police
- Nov 2011: Holy Spirit Tours
- Oct 2011: Cheshire Medical Center
- Sept 2011: Town of Warrenton, Virginia
- Sept 2011: Gramercy Park Hotel (RFR Hotel Group)

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- Sept 2011: Gramercy Park Hotel (RFR Hotel Group)
- Sept 2011: Law School Admission Council
- Sept 2011: Project Civic Access
(195 settlements with 181 localities in all 50 states)
- Sept 2011: CBS (The Price is Right)
- Sept 2011: Motel 6
- Sept 2011: Commonwealth of Puerto Rico
- Aug 2011: The Great Chinese Buffet
- July 2011: Marriott International
- July 2011: State of Delaware
- May 2011: Wells Fargo

The Americans with Disabilities Act (ADA)

- The ADA prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications.
- To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability.
- An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.
- Amendments of 2008 expanded the definition of disability and thereby increased the number of individuals who can seek protections under the ADA act.
 - Less emphasis on severity
 - Presumptive list of disabilities
 - Includes conditions that are episodic or in remission
 - Major life activities include bodily functions

ADA – Title I: Employment

- Title I requires **private employers with 15 or more employees** and **all public employers** to provide qualified individuals with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others.
- It prohibits discrimination in recruitment, hiring, promotions, training, pay, social activities, and other privileges of employment.
- It restricts questions that can be asked about an applicant's disability before a job offer is made, and
- It requires that employers make **reasonable accommodation** to the known physical or mental limitations of otherwise qualified individuals with disabilities, **including supporting individuals that are Deaf or Hard of Hearing**.
- Religious entities with 15 or more employees are covered under title I.
- In all cases, the employer does not need to provide **personal** services or items (e.g., a hearing aid), but **must provide equal access** (e.g., closed captioning of conversations occurring in a conference room).

Filing a Title I Discrimination Claim

- Title I complaints must be filed with the U. S. Equal Employment Opportunity Commission (EEOC) **within 180 days** of the date of discrimination, or 300 days if the charge is filed with a designated State or local fair employment practice agency.
- Individuals may file a lawsuit in Federal court **only** after they receive a “right-to-sue” letter from the EEOC.
- Charges of employment discrimination on the basis of disability may be filed at any U.S. Equal Employment Opportunity Commission field office. For the appropriate EEOC field office in your geographic area, contact:
 - (800) 669-4000 (voice)
 - (800) 669-6820 (TTY)
 - www.eeoc.gov

ADA – Title II: State and Local Gov Activities

- Covers all activities of **State and local governments** regardless of the government entity's size or receipt of Federal funding.
- Requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting, and town meetings).
- Includes access issues as well as the requirement to provide the means to communicate effectively with people who have hearing, vision, or speech disabilities.

Filing a Title II Discrimination Claim

- Title II complaints must be filed with the Department of Justice within **180 days** of the date of discrimination.
- The Department may mediate the case, bring a lawsuit or seek an out-of-court settlement.
- Contact information:
 - U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Disability Rights Section - NYAV
Washington, D.C. 20530
 - (800) 514-0301 (voice)
(800) 514-0383 (TTY)

ADA – Title III: Public Accommodations

- Covers **businesses** and **nonprofit service providers** that are public accommodations, privately operated entities offering certain types of courses and examinations, privately operated transportation, and commercial facilities.
- Public accommodations are **private entities** who own, lease, lease to, or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers, and recreation facilities including sports stadiums and fitness clubs.
- Includes access issues as well as the requirement to provide the means to **communicate effectively with people who have hearing, vision, or speech disabilities**.

Filing a Title III Discrimination Claim

- Complaints of title III violations may be filed with the Department of Justice. The Department is authorized to bring a lawsuit where there is a pattern or practice of discrimination in violation of title III, or where an act of discrimination raises an issue of general public importance.
- Title III may also be enforced through private lawsuits. It is not necessary to file a complaint with the Department of Justice, or to receive a “right-to-sue” letter, before going to court.
- Contact information:
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ADA – Many Additional Sections

- **ADA Title IV:** Telecommunications Relay Services
- **Fair Housing Act:** Cannot discriminate on the basis of a disability.
- **Air Carrier Access Act:** Covers airport and airplane operations.
- **Voting Accessibility Act:** Access to polling locations
- **National Voter Registration Act:** Requires all offices of State-funded programs to assist individuals with disabilities in voter registration.
- **Civil Rights of Institutionalized Persons Act:** Prisons, Jails, etc.
- **Individuals with Disabilities Act (IDEA):** Requires public schools to make education available to all children.

ADA – Many Additional Sections

- **Rehabilitation Act:**
 - **Section 501:** Requires affirmative action and nondiscrimination in employment by Federal agencies of the executive branch.
 - **Section 503:** Requires affirmative action and prohibits employment discrimination by Federal government contractors and subcontractors with contracts of more than \$10,000.
 - **Section 504:** Applies to any program or activity that receives Federal financial assistance.
 - **Section 508:** Requires that federal electronic and information technology be accessible to people with disabilities, including employees and members of the public.
 - **In All Acts:** This includes the requirement of providing effective communication with people who have hearing or vision disabilities. If you do not do this, you are in violation of ADA.

Assistive Technology Act

- **1988** – Grant program to states to support development and distribution of assistive technology to people with disabilities
- **1994** – Adds funding for protection and advocacy services to assist individuals with disabilities in accessing assistive technology devices and assistive technology services through legal representation and self-advocacy training.
- **2004** – Places the emphasis of the program on getting assistive technology into the hands of individuals through Alternative Financing and Device Loan Programs

21st Century Communications and Video Accessibility Act

Advanced communications services and products

- Interconnected and non-interconnected voice over Internet protocol (VoIP) service
- Electronic messaging service
- Interoperable video conferencing service
- Text messaging, e-mail, instant messaging, and video communications
- Web browsers on mobile devices
- Enhanced recordkeeping, complaint and enforcement procedures
- FCC clearinghouse on accessible technologies



Emerging Issues

- Reauthorization of IDEA in 2012 - likely to be delayed with elections.
- Reauthorization of the Rehabilitation Act of 1973 - already delayed two years.
- Tech Act authorization in jeopardy in current budget battles - not in current budget.
- Pending Changes to the ADA:
 - Accessibility of Web Based Information
 - Requirements for Movie Captioning and Video Description
 - More information on the DOJ's ADA Website www.ada.gov
- Updating of the Section 508 Standards and the Telecommunications Act (Section 255)
 - Merging the two into one -- "Information and Communication Technology (ICT) Standards and Guidelines."

Resources for Employers

- Be **proactive** versus **reactive**
- Accommodations are generally **inexpensive**.
 - Average cost to employer is **less than \$1,000**.
- For information on how to accommodate a specific individual with a disability, contact the **Job Accommodation Network**
 - JAN provides **free** consulting services for all employers, regardless of the size of an employer's workforce.
 - Services include one-on-one consultation about all aspects of job accommodations, including the accommodation process, accommodation ideas, product vendors, referral to other resources, and ADA compliance assistance.
 - (800) 526-7234 (voice/TTY)
 - www.jan.wvu.edu



Resources for Employers

Sources of ADA Information

- U.S. Dept of Justice
 - www.ada.gov
- Guide to Disability Rights Laws
 - www.speechgear.com/pdf/ADAinfo/disabilityrights.pdf
- Job Accommodation Network
 - <http://askjan.org/empl/index.htm>

Resources for Employers

- There are numerous affordable products that you can use to ensure compliance with ADA with respect to employees and/or customers that are Deaf or Hard of Hearing.
- These products enable you to differentiate your business from others:
 - Grow your business by reaching out to customers that may be Deaf or Hard of Hearing.
- And give you the ability to expand your workforce
- And you can take advantage of gov't programs to pay for the cost of these systems.

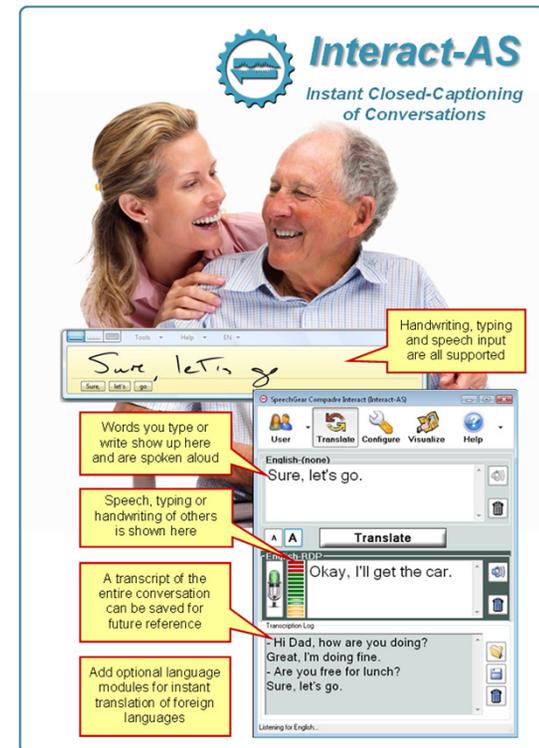
Comparison of Systems

	Interact-AS Professional Edition	Interact-AS Consumer Edition	UbiDuo	Interpretype	iCommunicator	Dragon	CART Services
Product Cost							
Retail Pricing	\$795	\$149	\$2,000	\$2,000	\$6,500	\$100 to \$600	\$80/hr \$75K/yr
Communication Barriers Addressed							
Closed Captioning of Conversations	YES	YES	NO	NO	YES	NO	YES
-- Transcription Delay	< 1 second	< 2 seconds	N/A	N/A	< 3 seconds	< 1 second	appx. 7 - 10 secs
Closed Captioning of Meetings	YES	LIMITED	NO	NO	NO	NO	YES
Closed Captioning of Lectures and Seminars	YES	YES	NO	NO	NO	NO	YES
Closed Captioning of Movies	YES	LIMITED	NO	NO	NO	NO	YES
Closed Captioning of Television Programming	YES	LIMITED	NO	NO	NO	NO	YES
Closed Captioning of Radio Broadcasts	YES	LIMITED	NO	NO	NO	NO	YES
Private Telephone Conversations	YES, via Skype	YES, via Skype	No, Req's 3rd Person	No, Req's 3rd Person	N/A	N/A	N/A
Hands-free Typing	YES	YES	NO	NO	YES	YES	NO
Text Reader	YES	YES	NO	NO	NO	NO	NO
Speech Generation	YES	YES	NO	NO	YES	YES	NO
Language Learning Tools	YES	YES	NO	NO	NO	NO	NO
Input Modes							
Typing	YES	YES	YES	YES	YES	YES	NO
Handwriting	YES	YES	NO	NO	NO	YES	NO
Speech Recognition	YES - High Quality	YES - Standard Quality	NO	NO	YES	YES	YES
Hands-free Operation	YES	YES	NO	NO	NO	NO	YES
Zero Click Term Expansion	YES	NO	NO	NO	NO	NO	NO
One Click Favorites Lists	YES	NO	NO	NO	NO	NO	NO
Phrase Building	YES	YES	NO	NO	NO	NO	NO
Ability to use Pictures in your Communications	YES	YES	NO	NO	NO	NO	NO
Built-in Sketch Pad	YES	YES	NO	NO	NO	NO	NO
Output Modes							
Displayed Text of Spoken Conversations	YES	YES	NO	NO	NO	YES	YES
Displayed Text of Typed Conversations	YES	YES	YES	YES	YES	NO	NO
Synchronized Voice Recording	YES	NO	NO	NO	NO	YES	NO
Spoken Voice Output of Text	YES	NO	NO	NO	YES	NO	NO
-- Multiple Voices (Male and Female)	YES	NO	NO	NO	NO	NO	NO
-- Multiple Dialects and Accents	YES	NO	NO	NO	NO	NO	NO
-- Adjustable Cadence	YES	YES	NO	NO	NO	NO	N/A
-- Visual Indicator of Speech being Spoken	YES	YES	N/A	NO	NO	YES	N/A
Spoken Command Confirmations	YES	YES	NO	NO	NO	NO	NO
Sociable Sounds to Support Conversations	YES	NO	NO	NO	NO	NO	NO
One Click Playback of Pre-recorded Phrases	YES	NO	NO	NO	NO	NO	NO
One-click Repeat of Phrases	YES	YES	NO	NO	NO	NO	NO
Languages Supported							
Supports English	YES	YES	YES	YES	YES	YES	YES
Number of Foreign Languages Supported	36	NONE	NONE	2	NONE	NONE	LIMITED
-- Simultaneous Captioning and Translating	YES	YES	NO	NO	< 3 seconds	< 1 second	appx. 7 - 10 secs
Live Interpreter Access	YES	NO	NO	YES	NO	NO	LIMITED
Additional Considerations							
Does not require internet access	YES	YES	YES	YES	YES	YES	NO
Mobile System, Can be used Anywhere	YES	YES	NO	NO	NO	YES	NO
Number of Personalized User Accounts	UNLIMITED	Up to Three	NONE	NONE	NONE	ONE	N/A
Immediate Generation of Transcripts	YES	YES	YES	YES	YES	YES	NO
Can save a transcript of the conversations	YES	YES	YES	YES	YES	YES	SOMETIMES
Runs on your Existing Computers	YES	YES	NO	YES	YES	YES	YES
Can move the license to a new computer	YES	YES	NO	NO	NO	NO	YES
Section 508 Compliant	YES	YES	NO	NO	NO	YES	YES

ADA Compliance Software

- Interact-AS from Auditory Sciences

- Developed in partnership with the U.S. Marine Corps.
- Supports **speech**, **typing** and **handwriting**.
- **Instantly** closed-captions classroom conversations.
- Also can generate a **synchronized voice recording**.
- Enables **hands-free typing** (voice scribing).
- **Voices aloud** what a student types or writes.
- Also **reads text** in male or female voice, in multiple languages, at desired cadence.
- **Language Modules** available for 36 languages.
- Also includes a "**Live Interpreter**" feature which supports over 200 languages.
- Runs on your PC, or you can purchase a preconfigured system:
 - \$795 for an unlimited use software license.
 - Appx. \$1.5K for a preconfigured system.

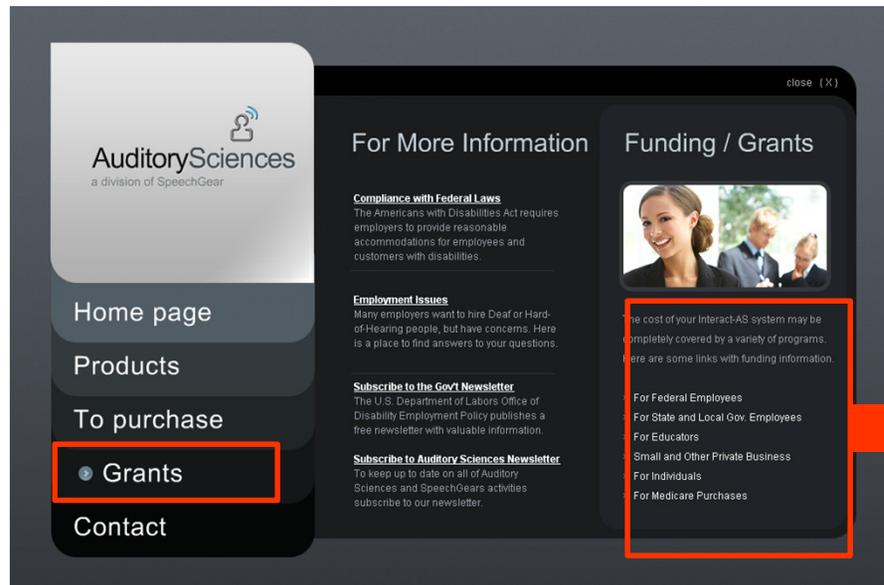


Demonstrations and “Give it a Try” Time

- Demonstration of Closed Captioning and speech generating software.
- This is new to many individuals...
... so I thought I’d let you see it in action.

Gov't Programs to Help Cover Compliance Costs

- Go to the "Grants" page of www.auditorysciences.com
- Select the area that best matches your situation



The cost of your Interact-AS system may be completely covered by a variety of programs. Here are some links with funding information.

- > For Federal Employees
- > For State and Local Gov. Employees
- > For Educators
- > Small and Other Private Business
- > For Individuals
- > For Medicare Purchases

Gov't Programs to Help Cover Compliance Costs

Two Examples

- Federal Agencies:
 - Many products are available at **no cost**.
 - http://www.cap.mil/accom_process/request.cfm
- Small and Private Business:
 - The Disabled Access Credit Program will pay **50%** of the cost up to a maximum credit of **\$5,000** per year.

Reminder that...

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Thanks for Attending

Contact Information:

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These slides are available for download by going to:

www.speechgear.com/presentations/C-SUN-2.pdf

Or by scanning:

