

CALIFORNIA STATE PERSONNEL BOARD

Date of Issue: July 18, 1991

MEMO TO: ALL STATE AGENCIES AND EMPLOYEE ORGANIZATIONS

SUBJECT: CONCERNS OF DEAF AND HEARING IMPAIRED STATE EMPLOYEES

The purpose of this memo is to advise departments and employee organizations of the legal and policy requirements relating to the communication needs of deaf and hearing impaired State employees.

A number of deaf and hearing impaired State employees have recently expressed concerns to the State Personnel Board (SPB) regarding a lack of understanding of their communication needs. These concerns center around the provision of Telecommunication Devices for the Deaf (TDD) as well as other appropriate devices; inclusion of TDD or the California Relay Service phone numbers on job announcements, letterhead, memoranda, pamphlets and brochures, etc.; inclusion of a statement on announcements for meetings, hearings and training courses that sign language interpreters will be provided if requested; and the provision of sign language interpreters as an accommodation.

(1) Telecommunication Devices for the Deaf (TDDs)

Departments are required, under Government Code (G. C.) Section 19230, to provide "reasonable accommodation to the known physical or mental limitations of an otherwise qualified disabled applicant or employee, unless the hiring authority can demonstrate that the accommodation would impose an undue hardship on the operation of its program. A department shall not deny any employment opportunity to a qualified disabled applicant or employee if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the applicant or employee."

Departments are required, therefore, to provide a TDD or a telephone amplifier, or other appropriate devices, as a reasonable accommodation, to all deaf and hearing impaired employees who cannot hear a normal conversation on the telephone and are required to use a telephone in order to perform the essential functions of their job.

In addition to this, however, where it is customary for each employee to have a telephone at his/her work station, departments must similarly provide TDDs to all deaf and hearing impaired employees who cannot hear a

normal conversation on the telephone in order to provide equal access to a telephone. Hearing impaired employees have the same need as other employees to use a telephone to notify a spouse that they must work late; call a baby sitter to check on a child; or call a doctor's office to make an appointment, etc. To deny hearing impaired employees ready access to telephones, where it is provided to other employees, may be considered discriminatory treatment prohibited under GC 19702.

- (2) TDD numbers or the telephone number of the California Relay Service on job announcements, and other written materials.

All State departments must include their appropriate TDD number or the telephone number of the California Relay Service, 1-800-342-5966 (TDD) and 1-800-342-5833 (Voice) on examination bulletins, job announcements, letterhead, memoranda, pamphlets and brochures, etc., where the hearing ability of the reader is unknown. In dealing with the public or other State offices, you often do not know whether or not the person with whom you are dealing is deaf or hearing impaired. That person may need to call to obtain information or clarification on an important matter. Access to information via an accessible telephone number may mean the difference in a deaf or hearing impaired person's chances for a job or in the resolution of a matter. The denial of such access may be considered discriminatory treatment under GC 19702, which prohibits any discriminatory employment practices based on disability.

- (3) A statement on all written announcements for meetings, hearings or training courses that sign language interpreters are available upon request.

All announcements of events, such as meetings, hearings and training courses, should contain a statement advising that a sign language interpreter will be provided, upon reasonable advance notification of need by a deaf or hearing impaired individual. Such a statement demonstrates your policy on compliance with legal requirements to the provision of equal access as well as your sensitivity to the needs of the deaf and hearing impaired employees. The availability of an interpreter is critical to communication for deaf or hearing impaired employees whose ability to comprehend the full context of such activities depend on such an accommodation. Many individuals are not aware that most employees may not be able to read lips.

Statistics show that English is less than 35% visible on the lips. Requiring persons to provide reasonable advance notification of their need for an interpreter may also mitigate your legal responsibility if an individual attending your event requires an interpreter but fails to notify you of their need.

(4) Sign language interpreters and assistive devices.

GC 19230 requires state departments to provide reasonable accommodation to the known physical and mental limitations of otherwise qualified employees. For the deaf and hearing impaired, accommodations include providing sign language interpreters and/or assistive devices, such as TDDs, recording interpreters, computerized note takers and captioned videos.

Concerns expressed to the SPB recently indicate that some departments are not using interpreters when they should and do not fully understand how to use the class of Support Services Assistant (Interpreter) (SSA I). Departments must ensure that they fully evaluate an employee's reasonable accommodation needs. For instance, the needs of a deaf or hearing impaired employee may not be fully met through the provision of a TDD alone. Reasonable accommodation for communication access often also requires the provision of a sign language interpreter as the needs dictate. If a department has several deaf or hearing impaired employees, the need for an SSA I on staff may be necessary. Departments should carefully assess this need through discussions with their deaf and hearing impaired employees.

In addition, it is the responsibility of the department to provide sign language interpreters at examination or hiring interviews, when requested by deaf or hearing impaired applicants seeking employment.

(5) The Support Services Assistant (Interpreter) class.

The following information about the SSA I class is intended to clarify how the class should be used and to encourage departments to use the class when appropriate.

The SSA I Concept

The basic purpose of the class is to allow departments to hire qualified sign language interpreters to provide reasonable accommodation for their deaf and hearing

impaired employees to meet communication needs. Please refer to the class specification for further information.

Appointments

Appointments to the class are typically made on a permanent intermittent basis, although, if a department has several deaf or hearing impaired employees, appointments may be made on a part-time or full-time basis. Individuals may hold multiple appointments with more than one department. If departments use interpreters on an intermittent basis, it is usually advisable to hire more than one person, in order to better insure the availability of an interpreter.

Funding Positions

Since interpreters are a reasonable accommodation, funding of SSA I positions may be from blanket or temporary help funds, or from funds for regularly budgeted positions. On an hourly basis, it is much less expensive to use an SSA I (\$12.33 per hour) than it is to contract for an interpreter (typically \$30.00 to \$50.00 per hour per hour).

Eligible Lists

Open lists of qualified interpreters for the SSA I class are available to departments, either through the automated certification system or by request from the SPB. If interpreters are hired on a permanent intermittent basis by a department, their names remain on the list, so that other departments may contact them and use their services. An informational list of names of interpreters who qualified in the latest SSA I examination may be requested by calling the SPB.

Selecting an Interpreter

It is very important that, wherever possible, the selection of an interpreter from the SSA I list be made by the deaf and hearing impaired employees who will receive the accommodation. The communication skills of the interpreter must be compatible with those for whom he/she will be interpreting.

Scheduling Interpreter Hours

To most effectively accommodate deaf or hearing impaired employees, the need to set regular hours per day or week should be determined through discussions

with the employees needing accommodation. Assignment of the interpreter in the department's Affirmative Action Office for coordination of scheduling needs may be appropriate. This will enable the SSA I to perform other related services in between interpreting assignments, such as maintaining a list of interpreters for situations that call for more than one interpreter; scheduling other interpreters when needed; provision of technical consultation to departmental staff on the use of interpreters; conducting sensitivity training regarding the deaf and hearing impaired; and other similar duties.

Meetings and Training Classes of More Than One Hour Duration

If meetings or training classes extend beyond one hour, more than one interpreter must be used. Interpreting is physically and mentally demanding and fatiguing work. Interpreters need to have back up support after approximately one hour in order to maintain effective communication.

Contracting For Interpreter Services

When the need for interpreter services cannot be met through use of the SSA I class or additional interpreters are needed on an irregular basis, departments may contract out for services. Please refer to a May 17, 1984 memorandum regarding guidelines for contracting for interpreter services. A resource list of organizations and individuals who provide interpreter services is available by contacting the SPB Special Projects Unit.

We hope that this information is helpful to you in order that you may meet your legal responsibilities for providing reasonable accommodation and preventing discrimination against deaf and hearing impaired State employees. If you have any questions about this matter or we can provide any assistance, please contact Ted Edwards, Manager Special Projects Unit, or Ruth Chappell, SPB Reasonable Accommodation Coordinator, at (916) 322-2770 (ATSS 492-2770) or TDD (916) 445-0499 (ATSS 485-0499).

/s/

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