

Memorandum for President Joe Biden

From: Janice Lintz

Subject: Requesting an Executive Order directing the US Department of Justice's Civil Rights Division to Initiate a Rulemaking Procedure to define Effective Communication for People who are Deaf and Hard of Hearing.

Executive Summary

Thirty-plus years after the passage of the Americans with Disabilities Act (ADA) of 1990, people who are deaf and hard (PDHOH) hearing are still not receiving the services they need. Unfortunately, "places of public accommodation" (POPA) define "effective communication," a key legislative term, differently based on misperceptions of the deaf and hard of hearing community. This leads them to delay or fail to provide the access PDHOH need.

President Biden should issue an Executive Order directing the US Department of Justice's Civil Rights Division to initiate a Rulemaking Procedure to define Effective Communication for People who are Deaf and Hard of Hearing. I propose a three-prong approach to reach the full spectrum of PDHOH. These are:

1-Auditory-Bringing sound to a person's ear, hearing aid, or cochlear implant with a prioritization of using the least stigmatizing system for assistive listening in sound, talking, or recording settings.

2-Visual-Converting sound into synchronized words, with the type of access varying depending on the situation. CART upon request with advance notice.

3-Qualified Interpretation-Providing American Sign Language (ASL) or other qualified interpretation upon request with advance notice.

The DOJ also should make hearing access a standard practice rather than relying on individual requests and set a clear timeline to implement the necessary tools to meet this need.

Only by doing so and making the needed changes will PDHOH have effective communication and the opportunity to participate fully in society.

The Problem

Policies and attitudes within the government and PDHOH community have for 30+ years fragmented efforts to remove barriers facing people with different degrees of hearing loss. The problems have multiple causes: a significant schism between the perceptions and realities of disabilities in the hearing loss community, a fragmentation of federal agency oversight, and inconsistent definitions and application within different federal agencies of the legislative term "effective communication."

The effective communication term has become little more than jargon, with no one really knowing what it means. In Kerr v. Heather Gardens Ass'n, 2010 US Dist. LEXIS 99020, the court noted that the ADA does not "specifically" define effective communication. Clarifying effective communication to align with the multiple and varied needs of those across the hearing loss spectrum would end decades of misunderstanding. It also would close service gaps, including the failure to provide induction loops essential for those who wear hearing aids or have

a cochlear implant. In addition, the interpretation would pave the way for consistent and meaningful regulation.

1-The Misperceptions about Disabilities and Hearing Loss

The first step is for legislators and regulators to understand some common misperceptions. Too often, they impact the accommodation provided for PDHOH. The misperceptions are:

a. That disability and access mean wheelchair access.

The terms disability and access have become interchangeable with wheelchair access. The official ADA symbol uses a wheelchair to indicate the presence of access, reinforcing the misperception. Further, as a result, POA provides access for people who use wheelchairs but disregards the kinds of access that people who are hard of hearing (PHOH) need. Under these conditions, PHOH's needs are often "forgotten"¹ since they are frequently viewed as having a less important and non-severe disability.

For instance, New York City's ferries provide wheelchair access but omit visual and hearing access.²

b. That access coordinators know the needs of all disabilities.

It is not uncommon for access coordinators to be unaware of the range of accommodations available beyond their own personal needs. During my presentation before the US Access Board, I was surprised to learn that some individuals appointed by the President for their disability expertise were unfamiliar with how to use hearing aids and were unaware of the existence of induction loops.

Managing a disability is difficult, and no universal guidebook is available. As a result, many people rely on their own experiences, which are sometimes limited in scope and inadequate to meet the needs of other disabilities.

c. That anyone with a hearing loss is deaf and uses ASL.

People tend to lump individuals who are deaf and hard of hearing together despite their different needs. The population covers a wide spectrum, ranging from mild to profoundly deaf.

In the United States, "[a]pproximately 48 million Americans have some degree of hearing loss, and"³ less than two million use ASL.⁴ However, the data is 50 years old and does not include approximately 736,900 people who received cochlear implant devices worldwide since December 2019.⁵ Despite this, most POPAs often provide ASL, incorrectly assuming that all PHOH are proficient in ASL; they are not. The perception is that hearing access is interchangeable, and that "advanced technology" is an undue burden despite different degrees of hearing loss needing different access. Dobard v. San Francisco Bay Area Rapid Transit Dist., 1993 US Dist. LEXIS 13677

Furthermore, the deaf community refers to themselves with an uppercase "D" to reflect political activism and cultural differences; a lowercase "d" is only used for a medical diagnosis. Those in the Deaf community with an uppercase "D" do not define themselves by their hearing loss but as

a culture. ASL is a distinct language, syntax and structure; not as many people believe English that uses hand signals.

Each segment of the deaf and hearing loss community requires different services, and the access required depends on various factors, including the degree of hearing loss, use of hearing aids or cochlear implants, age of onset hearing loss, auditory training received, current age, and the nature of the listening situation.⁶

d. That the Deaf community can advocate for the broader hearing loss community. PHOH weren't actively involved in the ADA's passage. One of the reasons is a lack of significant American PHOH advocacy organizations. Further, the Hearing Loss Association of America (HLAA) is a community-based organization that organizes walks and conventions. It does not engage in lobbying, significant advocacy, or filing lawsuits, according to its 990 documents.⁷ Despite supporting their inclusion, it has not filed lawsuits for failure to provide induction loops. It provides support as a nonprofit organization when individuals take the lead in advocacy efforts.

Additionally, there is an absence of advocacy organizations representing children who are hard of hearing.

While two Deaf organizations, the National Association of the Deaf⁸ and Telecommunications for the Deaf and Hard of Hearing (TDI),⁹ promote themselves as organizations advocating for the full 48 million PDHOH on their websites,¹⁰ they primarily focus on advocating for ASL and captions. As a result, most case law focuses on the Deaf community lacking informed consent in medical, legal, or prison settings and failing to provide ASL since, as I describe below, the Deaf community is more litigious. This is why it's essential to understand the hearing loss spectrum and distinguish those differences in defining "effective communication."

This can be misleading to those unfamiliar with the distinctions within the communities of deaf and hard of hearing populations, especially since HLAA is absent and silent in advocating for PHOH. This perpetuates misconceptions and leads to unaddressed access issues for PHOH.

e. That visible disabilities are more important than invisible ones. Some members of the more visible disability community hold a bias against those who might "pass" for non-disabled. This bias is evident in the tendency of POPAs to hire access coordinators with visible disabilities as a way of demonstrating their commitment to people with disabilities (PWD). When POPAs do hire access coordinators who wear hearing aids, they typically require them to know ASL, which is an unreasonable expectation because the overwhelming majority of PHOHs do not use ASL. A lack of diverse voices can lead to limited perspectives and experiences being represented. As a result, few access coordinators are knowledgeable about hearing loss, leading to gaps in providing access to PHOH.

f. That captions alone are effective communication. Captions alone do not provide non-verbal cues and nuance. Further, many Deaf people do not read English well since ASL is not English. Similarly, for people who wear hearing aids or use a cochlear implant, hearing sound via an assistive listening system is critical to understanding

nuance. For example, perceiving the passion in Martin Luther King Jr.'s speeches would be challenging for someone relying solely on captions instead of relying on an assistive listening system or ASL.

The 11th Circuit Court of Appeals in Silva v. Baptist Health S. Fla., Inc., 856 F.3d 824 (11th Cir. 2017), determined that "the standard for effective communication is that a person with a disability should be afforded a level of communication that is substantially equal to that afforded to a non-disabled person."¹¹ Thus, the experiences are unequal when nonverbal cues are missing, since PDHOH receives a compromised experience. However, many museums, like the the Smithsonian Institution (Smithsonian), only provide captions for video content, since no court decision specifically states that captions alone aren't effective communication. There is no clarity in the ADA.

g. That people with disabilities have time to advocate for what they need.

The burden of receiving services falls on PDHOH when definitions are unclear. PWD have neither the time nor the desire to spend their lives¹² submitting comments, attending meetings, and testifying.

For example, one International Code Council committee meets weekly for over a year to address only signage issues. There are few people who can devote that kind of time to these issues. If PWDs fail to attend, testify, or submit comments, they will not receive the necessary access under the ADA. Currently, the Federal Communications Commission (FCC) has two requests for comments on cell phone hearing aid access. PWD failing to submit comments should not result in cellphones losing telecoil compatibility.

h. That PDHOH don't need to "hear" everything.

PDHOH should have access to make decisions about what they should be able to hear. However, in Johnson v. Sunshine Gasoline Distribs., 2019, US Dist. LEXIS 72743, the Florida District Court determined that background music at a gas station did not constitute "good" or "service" covered by the ADA "since it was deemed an incidental convenience." Thus, the court ruled that the gas station didn't need to provide auxiliary aids for PHOH. The ruling raises concerns about what qualifies as an "incidental inconvenience" or "experience" and whether similar decisions would be made in other settings.

For instance, [airports](#) (Please scroll down) are starting to provide induction loops for airplane departure announcements and service desks. However, it is unclear whether a court would consider these services part of the "good" or "service," since the primary service is the flight itself. This ambiguity highlights the need for clearer guidelines and definitions of what qualifies as a "covered "good" or "service" under the ADA, to ensure that PDHOH have equal access in all settings.

i. That POPAs will implement access on their own accord.

Though, POPAs are responsible under the ADA for implementing accessibility measures, they receive no significant financial incentives or tax deductions. At the same time, there is limited governmental oversight or support. As a result, many POPAs take a reactive approach and wait

for lawsuits before moving toward compliance. This means access to PHOH comes slowly if at all.

What's more, the DOJ's approach to hearing access can lead to POPAs selecting access options that don't ensure access for the full spectrum of PHOH. This in return, requires PHOH to continuously request "additional" access, which can be time-consuming and burdensome. The ADA suggests that POPAs "consult with the person with a disability [hearing loss] to discuss what aid or service is appropriate." This reactive approach gives the impression that PDHOH's needs are a mystery.¹³ They are not.

Moreover, without induction loop procurement codes, POPAs may rely on vendors to determine the access needed; vendors may prioritize installation ease and revenue generation over PHOH benefits, neglecting PHOH's needs.

For example, the Louisville Slugger Museum in Kentucky refused to provide induction loops for its tour and believed captions alone were sufficient, despite the company's own assertion that people need to hear the "crack of the [wooden] bat" compared to the metal version. Apparently, this assertion didn't apply to PHOH.

Furthermore, in New York City, the Taxi of Tomorrow has induction loops, but as the city phased these taxis out, it also phased out induction loops. Medallion owners have no plans to add induction loops to newer taxis since the Taxi & Limousine Commission required induction loops only in the specific taxi brand. As a result, the city is leaving PHOH without accessible taxis.

However, POPAs can predetermine accessibility measures like induction loops for service counters and videos in the same way POPAs are able to predetermine adding curb cuts or wheelchair-accessible bathrooms before the visitor arrives without a person who uses a wheelchair needing to request a wheelchair-accessible bathroom.

To address this issue, DOJ should prioritize developing effective communication definitions and ensure that induction loops are installed as standard practice in all relevant settings. Further, the ADA should provide better guidance to POPAs on providing access to the full spectrum of PDHOH, including developing induction loop procurement codes.

2-Different agencies define effective communication differently.

Multiple federal agencies oversee disability access, including hearing access. These include the Access Board, DOJ, US Department of Transportation, Federal Aviation Administration, and US Department of Labor. This overlap in roles and responsibilities has led to a logistical nightmare as multiple agencies with different perceptions overseeing access to the same people. One reason for this is that disability rights evolved through piecemeal legislation. It was not until the ADA that disability discrimination was prohibited in everyday activities.

Here is a brief look at these different agencies and their role:

a. The US Access Board

The Access Board oversees built-in hearing access, such as assistive listening systems in auditoriums or theaters. It has no definition of effective communication according to Dr. Sachin Dev Pavithran.

The Access Board relied on the Rehabilitation Engineering Research Center at the Lexington School for the Deaf¹⁴ to determine access needs. In short, it relied on those representing the two million in the ASL community instead of the 46 million in the PHOH community. As a result, the Access Board's website omits induction loops and focuses on FM and infrared (IR) assistive listening systems that primarily provide headsets for people who don't wear hearing aids or have a cochlear implant. The regulations require a limited number of neck loops for people who wear hearing aids and cochlear implants.¹⁵ The amount of neck loops POPAs need to provide don't correspond with data, but the Access Board seems to pull the numbers from thin air.

Further, people who wear telecoil-equipped hearing aids or cochlear implants prefer induction loops, which are less stigmatizing since people don't want to use a device that draws attention to their disability. Many people won't use a stigmatizing device. Access that isn't used isn't effective communication. Further, induction loops are easy to use by switching to the telecoil setting, thus avoiding the need to pick up and return a receiver and possibly find it is broken or the battery is dead.

Although the Access Board mentions induction loops on its website page, titled "Large Assistive Listening Systems,"¹⁶ it dismisses their use based on three outdated and unreliable studies that rely on anecdotal evidence and use small data sets. One, a 1984 study includes nine people. A second 1986 study relies on ten hearing aid users. The third, a 1997 study, had a sample size of 18 listeners with hearing loss and 10 with normal hearing. Furthermore, the websites use non-first-person language, indicating outdated information.

The [Access Board](#) installed an induction loop (Please scroll down and see Conference Rooms/Classes, Second Row, #3) in its office conference room in 2011 after inviting me to present Induction Loops Around the World. This action contradicts the Access Board's own dismissal of the importance of induction loops on its website. The Access Board should update its website to reflect current research and induction loop benefits.

b. The DOJ

The DOJ oversees programmatic access or non-stationary tools and aids, from captioning to interpreters for PDHOH. The long list is haphazard and provides no explanations as to when POPAS should use one service over the other than to say, "People with certain disabilities might communicate in 'different ways.'"¹⁷ The DOJ's examples are:

- American Sign Language interpreters
- Video remote interpreting
- Notetakers
- Large print materials
- Captioning
- Accessible electronic and information technology
- Other similar services and actions."¹⁸

Further, another area of the DOJ website, "auxiliary aids" and services" "[f]or people who are deaf, have hearing loss or are deaf-blind, includes providing a qualified notetaker or qualified interpreters, someone who can interpret effectively, accurately, and impartially, both receptively (i.e., understanding what the person with the disability is saying) and expressively (i.e., having the skill needed to convey information back to that person) using any necessary specialized vocabulary."¹⁹ Interpreters run the gambit: sign language interpreter, oral interpreter, cued-speech interpreter, or tactile interpreter. It also includes providing real-time captioning; written materials; or a printed script of a stock speech (such as given on a museum or historic "house tour."

Though the services are numerous, DOJ's lists of examples appear as an access laundry list. It nowhere explains why one particular type of access should be used over another. For example, providing a qualified sign language interpreter may be suitable for people who know ASL but not for the vast majority of those who use hearing aids. This creates confusion among laypeople.

The lists also have gaps. The DOJ's website provides situational examples that emphasize ASL, but does not mention assistive listening systems, including induction loops compatible with a telecoil on hearing aids and cochlear implants. The induction loop technology has existed since 1937,²⁰ well before the ADA's 1990 passage.

For instance, one scenario discusses "a person who is deaf or has hearing loss is attending a town or council meeting."²¹ The DOJ solution is, "Effective communication could require a sign language interpreter or real-time captioning." The DOJ fails to mention using an induction loop for PHOHs who use hearing aids or a cochlear implant.

Another example is: "A patient who uses sign language has a doctor's appointment to discuss a serious diagnosis and its treatment options."²² However, the DOJ doesn't mention looping the examination room or reception desk. Instead, the website states, "You may not require a person with a disability to bring their own interpreter."²³ This again focuses on ASL, although less than two million of the 48 million PDHOH use ASL. The DOJ should provide more information and guidance on induction loops as part of effective communication to ensure equal access for all individuals with hearing loss.

c. Other Agencies

While the DOJ omits induction loops as part of effective communication, other agencies view them as part of their effective communication solutions. This causes further confusion, especially since their approaches aren't uniform. Some agencies offer them, and some do not, and when they do, they don't always offer them in the same manner.

For example, the Department of Interior/National Park Service (NPS), a federal agency, recommends the three-prong approach in its Programmatic Accessibility Guidelines for National Park Service Interpretive Media²⁴ to ensure full spectrum hearing access in its parks.

The Pentagon, a federal agency, required the [Intrepid Sea, Air & Space Museum](#) (Please scroll down to Museums) to adopt the three-prong approach to the space shuttle exhibit to receive the

space shuttle. The museum complied, however there is no assurance that the museum will comply for other exhibits in the future.

The United States Holocaust Memorial Museum, a quasi-federal museum, implemented the three-prong approach in its museum.

The Veterans Affairs (VA), as per the Office of the Secretary, mandates "contracted vendors to provide at least two (2) hearing aid models that include telecoil capabilities 'where possible.'" Though it doesn't say so directly, the VA thus implies that it supports telecoil usage via an induction loop.

The FCC "require[s] new devices to meet the ANSI 2019 standard starting in June 2023,"²⁵ with a specific "T" rating for telecoil. Again, the agency supports the telecoil.

The US Supreme Court and, reportedly the Vice President's residence also have induction loops.

However, the Smithsonian, a quasi-federal agency, refuses to provide induction loops for its videos but does at its service desks. As I discuss in my HuffPost article, "Shame on the Smithsonian Institution,"²⁶ the museum thinks that video captions are sufficient despite the United States Holocaust Memorial Museum and the NPS, which offers services like a museum, providing video induction loops.

The key point: Different agencies should not have different definitions of what constitutes effective communication for PDHOH. To address the schism, the House Committee on Appropriations asked the Smithsonian in 2021 to provide a report on how it "meets the goal of making its facilities accessible for individuals that are hard of hearing and to collaborate" with the NPS." However, the report provided was reportedly unclear. As a result, in 2022, the Committee then urged the Smithsonian to focus on incorporating induction loops in exhibits, which they did not do. So, in the 2023 Appropriations budget, the Committee will require the Smithsonian "to add induction loops to a display in a Smithsonian Museum" if the Committee accepts the language. Subsequently, the Committee will reportedly mandate that the Smithsonian to include induction loops in all its exhibits.

These gaps extend to POPAs nationwide. For example, the New York City Tenement Museum implemented a three-prong approach to ensure hearing access, including induction loops for multimedia presentations. However, despite a considerably larger budget, the Metropolitan Museum of Art won't provide video induction loops and has an induction loop only at its information desk, and not at other service counters. The different agencies' definitions of effective communication for PDHOH cause confusion and inconsistency.

d. Membership Groups' Perspective

The American Alliance of Museums endorses the three-prong approach. It includes my document on effective access²⁷ on its website as a recommended resource, highlighting the importance of providing the full spectrum of hearing access to visitors.

The Association of National Advertisers recommends captioning on television commercials and provides suggested standards for captioning.²⁸

The International Code Council mandates that ticket windows at stadiums and arenas have "at least one window at each location shall have an assistive listening system" in accordance with ICC#1108.2.7.2.²⁹ The New York Yankees and Mets implemented an induction loop system at their ticket windows in compliance with this requirement, ensuring PHOH can access the information they need to enjoy the game.

e. Other Countries

In contrast to the United States, where defining and providing effective communication has been challenging and remains haphazard, other countries are successfully providing the three-prong approach I recommended. [Countries](#) (Please scroll down.) like Israel and the United Kingdom lead the way. The photo montage documents the widespread use of induction loops in various settings globally, including airports, banks, conference rooms/classes, entertainment/stadiums, elevators, ferries, hotels, museums, pharmacies, rail/trams, and taxis, among others.

f. States

Progress in the states has been slower, and each state defines effective communication differently. For example, in 2015, New York State reached a settlement agreement with Kinney Pharmacy essentially for failing to implement, essentially, the three-prong approach for hearing access in its pharmacies.

In 2020, the state of New Jersey introduced A5464/S3660, now A1487, in 2022-2023 proposing to "require [] induction loop listening system installation in certain buildings open to public upon new construction or substantial renovation."³⁰

In 2022, Senator William N. Brownsberger and I cosponsored Bill S.1969³¹ in the Massachusetts Senate, aiming to add induction loops to POPA's service counters.

In 2023, New York State introduced A06432³² to mandate induction loops at service counters in buildings.

The Los Angeles Commission on Disability sent a letter to Mayor Garcetti in 2021, recommending that:

"City vendor contracts and agreements contain language requiring accessible communication for programs and facilities, and that public facilities and transportation projects (whether new developments or refurbishing), include Induction Loop Technology (ILT) wherever a public announcement system or other audio system will be used regularly to communicate information to the public."³³

However, despite these recommendations, the newly renovated Hammer Museum in Los Angeles omitted induction loops at service counters and other areas.

In 2006, the Cincinnati Museum Center at Union Terminal wrote to me that it would not add induction loops for effective communication “unless you have a large sum to endow us.” The museum’s website does not indicate that 17 years later it added induction loops to its videos and service desks. Sadly, this is not an isolated case. Museums such as the Henry Ford Museum of American Innovation in Michigan, the Kimbell Art Museum in Texas, and the Oklahoma History Center in Oklahoma refuse to provide induction loops for videos and service counters but do offer ASL upon request.

A prime example of the problem is the new International African American Museum in Charleston advised me upon inquiring if the museum will offer induction loops for its videos and “soundscape that explores diverse African languages”:

“Thank you for your message! At this time, we do know have an induction loop system. All of our audio visual media will have closed captioning. We are currently looking into more options for our visitor prior to our opening in June. I would recommend reaching out to us again closer to June 27th for the most up to date information regarding our accessibility options.”

Unfortunately, due to museums not adding induction loops proactively, the burden falls on individuals and their parents to advocate. This is exhausting and frustrating, which goes against the ADA’s intended purpose to provide equal access to all individuals.

Solving the Problem

This proposal aims to provide a clear legal definition of "effective communication" for the spectrum of PDHOH and ensure that PHOH have the authority to determine what constitutes "effective communication." PHOH need an explicit definition, using a [three-prong approach](#) (Please scroll down.), to bridge the gap between the vague legislative term and what PDHOH need.

a. Overview of Types of Access Available for People with Hearing Loss³⁴

Access for PDHOH is broadly categorized into auditory, visual, and qualified interpretations, as noted in my document, *Effective Access for People who are Deaf or Hard of Hearing*:³⁵

1. Auditory-The proposed approach advocates for the use of induction loops, as they are more accessible and do not require people with telecoil-equipped hearing aids and cochlear implants to wear visible headsets or neck loops that may be stigmatizing. Induction loops transmit sound electromagnetically to a person’s hearing aid or cochlear implant through the telecoil setting.³⁶ There are other types of assistive listening systems, such as IR, which works via a beam of light, and a radio frequency (FM) system, which transmits via radio waves. Both systems require users to wear a headset, or a neck loop receiver known as an assistive listening device.
2. Visual- This assists people who may be unaware of their hearing loss, are in denial about it, or have a hearing loss too severe to benefit from an assistive listening device and do not know ASL. However, visual access is not a substitute for auditory access. Further, the visual access offered depends on various communication factors, including a transitory

nature, a need to respond, a need to look at a particular place at a particular time, and the communication duration.³⁷ Examples include captions, transcripts, and paper and pen.³⁸ However, paper and pen are unsuitable for lengthy or complex communication, and visual access needs to be synchronized with sound.

3. Qualified Interpretation- such as ASL, oral, transliteration, or cued speech is a separate form of access. While ASL is a critical access component for those who use it, it is not an access solution for PHOH³⁹ as discussed above.

Telecoil technology⁴⁰ is recommended over Bluetooth technology. Telecoil connects electromagnetically, making it more reliable, and it doesn't burn through expensive batteries like Bluetooth.

Further, companies like Apple use proprietary Bluetooth technology. Changing phones or hearing aids may require replacing the other due to pairing issues. Telecoil technology is consistent across devices and does not require changes or updates. Bluetooth technology isn't available in public places or globally. While there are potential future options, such as Auracast, which uses the Bluetooth standard, works with all devices, and doesn't reportedly consume significant battery life, currently, no company supports it. However, it is something to watch.⁴¹

Bluetooth is also not allowed in secure areas like the State Department. Telecoil technology does not have such restrictions. The US Supreme Court and, Vice President's residence have induction loops.

b. Why is this important?

A three-prong approach, including induction loops, ensures that PDHOH have access to critical information, including medical instructions at pharmacies and important conversations through Plexiglass barriers. Communication without induction loops can lead to serious medical misunderstandings and a lack of informed consent.

However, despite the induction loop's proven effectiveness, some banks, including Bank of America, Capital One, Citigroup, and JP Morgan Chase & Co, refuse to install them. For example, Capital One discontinued its induction loop program despite a successful pilot when the person leading the project changed positions. Hearing access shouldn't be dependent on a person's passion project.

In another situation, Bank of America responded as follows to the communication difficulties caused by Plexiglass and staff wearing masks: "The Bank does use various forms of effective communication from, e.g., sign language to exchanging written notes." However, in 2022, the director of the movie Black Panther, who didn't have a hearing loss, was falsely arrested at a Bank of America in Georgia when he passed a note to the teller asking to withdraw money discreetly.⁴² The incident illustrates the challenges faced by PDHOH, who may not be able to respond to verbal communication. The consequences can be severe, particularly for minority groups. POPA will not add the three-prong approach or induction loops unless mandated.

Therefore, it is important that the full spectrum of PDHOH have the authority to determine what constitutes “effective communication.”

Summary

President Biden should issue an Executive Order directing the US Department of Justice’s Civil Rights Division to Initiate a Rulemaking Procedure to define Effective Communication for People who are Deaf and Hard of Hearing. The DOJ should take the following actions to promote inclusivity and equal access for the full spectrum of people who are deaf and hard of hearing:

- 1- Develop a comprehensive “effective communication” definition that adopts the three-prong approach to accommodate the full spectrum of people who are deaf and hard of hearing, including auditory, visual, and qualified interpretation.
- 2- Prioritize induction loops as the least stigmatizing assistive listening system for sound, talking, or recording settings.
- 3- Make induction loops standard practice rather than relying on individual requests.
- 4- Establish a consistent and clear timeline for installing induction loops and enforce it to ensure prompt installation and compliance.

Once codified into law, these actions will take significant steps toward guaranteeing effective communication for people who are deaf or hard of hearing to communicate and participate fully in society, in align with the ADA’s intent. President Biden can direct the DOJ to implement these changes.

Words: 5,557

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² Janice Lintz 1, “Why Are People With Disabilities Still Fighting for Equal Access?,” Thrive Global, August 21, 2020, <https://community.thriveglobal.com/why-are-people-with-disabilities-still-fighting-for-equal-access/>.

³ “HLAA_HearingLoss_Facts_Statistics.Pdf,” accessed February 3, 2023, https://www.hearingloss.org/wp-content/uploads/HLAA_HearingLoss_Facts_Statistics.pdf.

⁴ “ASL_Users.Pdf,” accessed April 8, 2023, https://storage.googleapis.com/gal-media/documents/Research-Support-and-International-Affairs/ASL_Users.pdf.

⁵ “What Are Cochlear Implants for Hearing? | NIDCD,” March 24, 2021, <https://www.nidcd.nih.gov/health/cochlear-implants>.

⁶ Janice Schacter, “EffectiveAccess,” n.d.

⁷ Appendix B: I prepared my analysis for HLAA’s 1099 for Professor King’s class.

⁸ “National Association of the Deaf - NAD,” accessed April 9, 2023, <https://www.nad.org/>.

⁹ “About TDI - TDI,” June 27, 2017, <https://tdiforaccess.org/about-tdi/>, <https://tdiforaccess.org/about-tdi/>.

¹⁰ “National Association of the Deaf - NAD.”

¹¹ “‘What We Got Here Is Failure to Communicate’: The Legal, Ethical, and Monetary Considerations of Effective Communication – The Florida Bar,” accessed April 8, 2023, <https://www.floridabar.org/the-florida-bar-journal/legal-ethical-and-monetary-considerations-of-effective-communication%EF%BB%BF/>.

¹² Janice Schacter, “17 Misconceptions About People with Hearing Loss,” n.d.

¹³ “ADA Requirements: Effective Communication,” ADA.gov, March 28, 2023, <https://www.ada.gov/resources/effective-communication/>.

¹⁴ “U.S. Access Board - Executive Summary,” accessed April 9, 2023, <https://www.access-board.gov/research/communication/assistive-listening-systems/>.

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