

An Example of Issues Involving Self-Advocacy And What A Person Can Do...

Hello fellow leaders. A chapter member called me yesterday to talk about a hearing loss experience. He attended his niece's white coat ceremony that was held in the performing arts building at Kent State University in Ohio. The ceremony was for students accepted into the university's audiology program. My chapter member said he got there five minutes late and ended up near the back of the auditorium. He had a difficult time hearing so requested hearing assistance. He was told they did not have anything and that, in the past, they had tried to work with their administration to get something but was unsuccessful. I was shocked that an event sponsored by an audiology program would not have thought about Hearing Assistive Technology when arranging for an event. I believe that this is a violation of the ADA but our conversation did lead to several questions.

- 1) I don't think arriving 5 minutes late for the event should be an issue but would like to know if it is?
- 2) He did not inquire that he would need assistance in advance. Is this an ADA requirement?

It's important to understand the context as well as which title of the ADA applies to this situation. In this case, it's Title II (for state and local governments) but the organization putting on an infrequent event like this (especially for a relatively small group of people) could easily make the case that they are not required to address the accessibility needs of specific individuals with sensory impairments that were not made known ahead of time.

Setting up an assistive listening system (ALS) for a temporary event takes quite a bit of time to do. Even if there is an FM system available, a lot of information gathering, detective work and coordination is needed to get relevant people to obtain the FM system or to install it in a way that works with the sound system that will be used (which may change for every event). Not all sound systems are set up to work with assistive listening systems, for example. There could also be interference with any of the different kinds of assistive listening systems. Setting up an ALS is even more complicated for an infrequent event with staff who aren't familiar with assistive listening systems.

In contrast, a commercial movie theater or a motel that is always open to the public has a tremendous amount of contact with thousands of people, and *is* required by the ADA to have assistive technology on hand. The staff is trained systematically and routinely to handle the needs of all patrons, which should include people with hearing loss. Movie theaters *are* expected to have assistive listening systems available; the theaters are fixed and the transmitters for the assistive listening technology are usually set up to work well with the sound systems and to broadcast all the time. It's much easier for venues that use permanently installed sound systems every day to incorporate assistive listening systems with those systems, and to incorporate training about assistive listening systems in the mainstream training their staff require.

The organizers of an infrequent event can and should request advance notice if assistive listening technology or other kinds of effective communication provisions are needed, like CART (Communication Access Realtime Translation). (Unfortunately, a lot of event organizers can forget to announce this ahead of time, which ends up having a disparate and negative impact on potential attendees with disabilities.)

With respect to providing advance notice, however, individuals with hearing loss (and/or vision loss) can actually be quite specific about their own needs if they need more than just an assistive listening system. Someone with a hearing loss ranging from mild in the low frequencies to profound in the mid to high frequencies can anticipate needing realtime captioning, assistive listening technology *and*

lipreading, and can request access to all three for a live event. (Many other people would also benefit from the realtime captioning as well if it is effective.)

I think filing an ADA complaint (either internally or externally) is best reserved for those cases in which the person has made a good faith to work with the entity, like by making requests ahead of time.

The U.S. Department of Justice (which enforces ADA complaints) does not have the resources to investigate the vast majority of complaints submitted to it. I filed a complaint in 2015 and didn't hear back for many months; even though I had a strong case, it was entertainment-related and the DOJ declined to investigate. The DOJ seems to prioritize complaints about critical aspects of life like health, education, the justice system, etc. (and this actually makes sense).

3) I suggested to him that he should not write a letter to Kent State administration and instead file an ADA complaint. My reasoning is that Kent's administration may have gotten complaints in the past but ignored them because they did not come from a government agency. Did I give him the correct advise?

In this case, I think the complainant should have requested what he needed in advance, but maybe he didn't do so if he was never notified of his right to do that. I think filing an ADA complaint with the DOJ would not be a good use of his time, but there are other things he can do that would be more productive. He *could* ask for a meeting with the ADA coordinator at the university to discuss how to improve access to all events at the university, not just "white coat" events. I would suggest first reading up on everything that is required of entities that are covered by Title II of the ADA.

My chapter member only wishes to make it better for the next person with hearing loss.