

threat, a recipient must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

(c) In determining whether an individual poses a direct threat in employment, the recipient must make an individualized assessment according to the Equal Employment Opportunity Commission's regulation implementing title I of the Americans with Disabilities Act of 1990, at 29 CFR 1630.2(r).

§ 84.76 Integration.

(a) *Application.* This section applies to programs or activities that receive Federal financial assistance from the Department and to recipients that operate such programs or activities.

(b) *Discriminatory action prohibited.* A recipient shall administer a program or activity in the most integrated setting appropriate to the needs of a qualified person with a disability.

(c) *Segregated setting.* Segregated settings include but are not limited to congregate settings that are populated exclusively or primarily with individuals with disabilities and may be characterized by regimentation in daily activities; lack of privacy or autonomy; or policies or practices limiting visitors or limiting individuals' ability to engage freely in community activities and to manage their own activities of daily living.

(d) *Specific prohibitions.* The general prohibition in paragraph (b) of this section includes but is not limited to the following specific prohibitions, to the extent that such action results in unnecessary segregation, or serious risk of such segregation, of persons with disabilities.

(1) Establishing or applying policies or practices that limit or condition individuals with disabilities' access to the most integrated setting appropriate to their needs;

(2) Providing greater benefits or benefits under more favorable terms in

segregated settings than in integrated settings;

(3) Establishing or applying more restrictive rules and requirements for qualified individuals with disabilities in integrated settings than for individuals with disabilities in segregated settings; or

(4) Failure to provide community-based services that results in institutionalization or serious risk of institutionalization. This paragraph (d)(4) includes, but is not limited to planning, service system design, funding, or service implementation practices that result in institutionalization or serious risk of institutionalization. Qualified individuals with disabilities need not wait until the harm of institutionalization or segregation occurs to assert their right to avoid unnecessary segregation.

(e) *Fundamental alteration.* A recipient may establish a defense to the application of this section if it can demonstrate that a requested modification would fundamentally alter the nature of its program or activity.

Subpart H—Communications

SOURCE: 89 FR 40192, May 9, 2024, unless otherwise noted.

§ 84.77 General.

(a)(1) A recipient shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.

(2) For purposes of this section, *companion* means a family member, friend, or associate of an individual seeking access to a program or activity of a recipient, who, along with such individual, is an appropriate person with whom the recipient should communicate.

(b)(1) The recipient shall furnish appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities, including applicants, participants, beneficiaries, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a program or activity of a recipient.

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(2) The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a recipient shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.

(c)(1) A recipient shall not require an individual with a disability to bring another individual to interpret for him or her.

(2) A recipient shall not rely on an adult accompanying an individual with a disability to interpret or facilitate communication except—

(i) In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or

(ii) When the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.

(3) A recipient shall not rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public when there is no interpreter available.

(d) When the recipient chooses to provide qualified interpreters via video remote interpreting services (VRI), it shall ensure that it provides—

(1) Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication;

(2) A sharply delineated image that is large enough to display the inter-

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preter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of their body position;

(3) A clear, audible transmission of voices; and

(4) Adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI.

§ 84.78 Telecommunications.

(a) Where a recipient communicates by telephone with applicants and beneficiaries, text telephones (TTYs) or equally effective telecommunications systems shall be used to communicate with individuals who are deaf or hard of hearing or have speech impairments.

(b) When a recipient uses an automated-attendant system, including, but not limited to, voice mail and messaging, or an interactive voice response system, for receiving and directing incoming telephone calls, that system must provide effective real-time communication with individuals using auxiliary aids and services, including TTYs and all forms of Federal Communications Commission (FCC)-approved telecommunications relay systems, including internet-based relay systems.

(c) A recipient shall respond to telephone calls from a telecommunications relay service established under title IV of the ADA in the same manner that it responds to other telephone calls.

§ 84.79 Telephone emergency services.

Telephone emergency services, including 911 services, shall provide direct access to individuals who use TTYs and computer modems.

§ 84.80 Information and signage.

(a) A recipient shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(b) A recipient shall provide signage at all inaccessible entrances to each of its facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall