

# Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL  
DISTRICT BUILDING  
WASHINGTON, D. C. 20004



IN REPLY REFER TO:

October 22, 1992

L&O:LCD:JSS:jss  
(92-390-L)

Ms. Joan Fowler Brown  
Administrator, ANC 3F  
4401 Connecticut Avenue, N.W.  
Suite 205  
Washington, D.C. 20008

Re: Should an Advisory Neighborhood Commission provide an interpreter for a deaf candidate at an ANC candidate forum?

Dear Ms. Brown:

This is in response to your letter dated October 20, 1992 asking whether the ANC 3F should provide an interpreter for a deaf candidate at your ANC candidates' forum meeting scheduled for October 26, 1992. The answer is yes.

The Americans with Disabilities Act of 1990, 42 U.S.C.A. § 12101 et seq. ("ADA") and the rules and regulations implementing the ADA, require that interpretive services be provided for the deaf candidate by the ANC3F at the upcoming meeting. No District of Columbia law prohibits expenditure of funds by the ANC for such services.

section 12132 of the ADA provides in pertinent part as follows:

[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a public entity, or be subjected to discrimination by any such entity. (40 U.S.C.A. § 12132.)

section 35.160 of the final rule implementing the ADA provides as follows: }

(a) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities

are as effective as communications with others.

(b) (1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.

(2) In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.

(Nondiscrimination on the Basis of Disability in State and Local Government Service, 56 Fed. Reg. 35,694, 35,721 (1991) (to be codified at 28 C.F.R. § 35.160.)

The clear language of the rule requires the ANC 3F to provide "appropriate auxiliary services" to afford the deaf candidate "an equal opportunity to participate" in the scheduled program being sponsored by the ANC. Because the deaf candidate requested an interpreter, pursuant to 28 C.F.R. § 35.160(b) (2) an interpreter should be provided.<sup>11</sup>

D.C. Code § 1-264 sets forth, among other things, the

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See also the section-by-Section Analysis of section 35.160 which provides in pertinent part:

Section 35.160 requires the public entity to take such steps as may be necessary to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

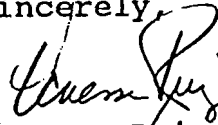
Paragraph (b) (1) requires the public entity to furnish appropriate auxiliary aids and services when necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, the public entity's service, program or activity. The public entity must provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice. This express choice shall be given primary consideration by the public entity . . . . The public entity shall honor the choice unless it can demonstrate that another effective means of communication exists. (56 Fed. Reg. at 35,711-712.)

requirements and restrictions on the expenditure and disbursement of funds by an ANC. It provides the following restriction on the expenditure of ANC funds.

Funds allocated to the commission may not be used for a purpose that involves partisan political activity, personal subsistence expenses, commissioner compensation, meals, legal expenses other than for commission representation before any agency, board, or commission of the District government, or travel outside of the Washington metropolitan area.

See also The 1991-92 Advisory Neighborhood Commissioners Manual § 612.4.} The use of funds to provide interpretive services does not fall within any of the enumerated prohibited categories. The funds are not being used to support partisan political activity. To the contrary, by allocating funds for an interpreter, the ANC is doing no more than affording the disabled candidate an equal opportunity to participate in the candidates'forum.

Sincerely,



Vanessa Ruiz  
Deputy corporation Counsel, D.C.  
Legal Counsel Division

cc: Councilmember Nathanson  
otis Troupe, D.C. Auditor  
Roslyn Powell, Office of Constituent services