

# Access to the General Curriculum is a Civil Right



Title II of the ADA by the federal Office of Civil Rights (OCR), requires that public educational institutions take appropriate steps to ensure that communications with persons with disabilities **"are as effective as communications with others"** [28 C.F.R. § 35.160(a)]. OCR has repeatedly held that the term "communication" in this context means:

"The transfer of information, including (but not limited to) the verbal presentation of a lecture, the printed text of a book, and the resources of the Internet."

Title II further states that, in determining what type of auxiliary aid and service is necessary, a public education entity shall give primary consideration to requests of the individual with a disability [28 C.F.R. § 35.106(b)(2)].

In construing the conditions under which communication is "as effective as" that provided to non-disabled persons, on several occasions OCR has held that the three basic components of effectiveness are:

1. Timeliness of delivery
2. Accuracy of the translation, and
3. Provision in a manner and medium appropriate to the significance of the message and the abilities of the individual with the disability

The courts have held that a public entity violates its obligations under the Americans with Disabilities Act when it simply responds to individual requests for accommodation on an ad-hoc basis. **A public entity has an affirmative duty to establish a comprehensive policy in compliance with Title II in advance of any request for auxiliary aids or services** [see *Tyler v. City of Manhattan*, 857 F. Supp. 800 (D. Kan. 1994)].

Additionally, it is important to note that the ADA is not the only legislation that addresses this issue. Provisions for equally effective access to the general curriculum are also present in:

§504 of the Rehabilitation Act, §300.172 of the IDEA, and Title I, Sec. 1001, (2) of the NCLB.