



TO: Chair Smith Warner, Vice-Chair Drazen, Vice-Chair Holvey, and Members of the Committee
FROM: Disability Rights Oregon
DATE: April 8, 2021
RE: Support for HB 3264 with an Amendment

Chair Smith Warner, Vice-Chair Drazen, Vice-Chair Holvey, and Members of the Committee:

Disability Rights Oregon submits this testimony supporting HB 3264 with a forthcoming amendment.

Disability Rights Oregon strongly supports language access services in general—Oregonians with disabilities reflect the full diversity of Oregon, including the diversity of languages spoken. The forthcoming amendment to HB 3264 will further improve equity for people who are Deaf, Deaf-Blind, or Hard of Hearing in Oregon by adding specific requirements related to sign language interpretation and captioning.

We thank Rep. Drazen and Rep. Alonso Leon for their interest in this work.

ABOUT DISABILITY RIGHTS OREGON

Since 1977 Disability Rights Oregon has been the State's Protection and Advocacy System.¹ As a nonprofit law firm, we are authorized by Congress to protect, advocate, and enforce the rights of people with disabilities under the U.S. Constitution and Federal and State laws, investigate abuse and neglect of people with disabilities, and “pursue administrative, legal, and other appropriate remedies”.²

BACKGROUND: FEDERAL LAW REQUIRES EFFECTIVE COMMUNICATION FOR PEOPLE WITH DISABILITIES

Many Oregonians who are Deaf, Hard of Hearing, or Deaf-Blind require captioning and/or American Sign Language interpretation to have equal access to the activities of the Oregon Legislature.

Included below is background on the legal obligation of the Legislature under Title II of the Americans with Disabilities Act, specific problems Disability Rights Oregon and others have identified, and recommended solutions.

FOOTNOTES:

¹ See ORS 192.517.

² See 42 U.S.C. § 15041 et seq; 42 U.S.C. § 10801 et seq.

Title II of the Americans with Disabilities Act applies to State and local government entities, and, in subtitle A, protects qualified individuals with disabilities from discrimination on the basis of disability in services, programs, and activities provided by State and local government entities. These protections extend to the activities of the Oregon Legislature.³ Title II of the Americans with Disabilities Act requires actual “effective communication”—it is not adequate to merely provide some form of captioning.⁴

PROBLEMS: OREGON LEGISLATURE DOES NOT PROVIDE EFFECTIVE COMMUNICATION TO PEOPLE WHO ARE DEAF, DEAF-BLIND, OR HARD OF HEARING

Deaf and Hard of Hearing Oregonians have reported to Disability Rights Oregon, and we have observed, that Deaf, Deaf-Blind, or Hard of Hearing Oregonians are not provided adequate sign language interpretation and captioning services in order to have equal access to the activities of the Legislature. There are three main problems:

1. Legislative Administration Office’s policy requires that sign language interpreters be requested 72-hours in advance. Under rules for Committee meetings, a mere 48-hour, 24-hour, 4-hour, and 1-hour notice is allowed as the Assembly nears sine die. When the requirement is requesting before a notice has been posted, the practical effect is denial of accommodation altogether.
2. Public Hearings, Committee Work Sessions, and Floor Proceedings rarely provide American Sign Language interpretation. American Sign Language is not a visual English translation, therefore relying on captioning is not sufficient as an accommodation to many people who are Deaf, Deaf-Blind, or Hard of Hearing when American Sign Language is their first-language. Even when American Sign Language interpretation is provided, the signer is often partially obscured by the Microsoft Team’s platform as the system constantly re-organizes and re-sizes presenters as Legislators and the public turn their cameras on and off.
3. On numerous occasions, caption of Committee Hearings fails to meet the basic requirements of equal access or comply with specific performance standards set out in the regulations of the Americans with Disabilities Act. For example, the captioning doesn’t identify who is speaking. This leaves a person who is Deaf, Deaf-Blind, or Hard of Hearing wondering which Legislators in a Committee have concerns, support, or are neutral about legislation. The captioning also contains such a high volume of inaccuracies that it leaves the reader with no idea what concept is being communicated or includes incorrect, false, or misleading text. See the example at the end of this testimony which includes incorrect, misleading, and incomprehensible text.

FOOTNOTES:

³ See 28 C.F.R. §35.102.

⁴ See U.S. Department of Justice, Americans with Disabilities Act, “Communicating with People Who Have Disabilities, A Primer for State and Local Governments” and “Effective Communication” available here: https://www.ada.gov/regs2010/titleII_2010/titleII_primer.pdf; and <https://www.ada.gov/effective-comm.pdf>.

Low quality transcription service and lack of availability of sign language interpretation fails to provide people who are Deaf, Deaf-Blind, or Hard of Hearing effective communication.

SOLUTIONS: REQUIRE REAL-TIME, LIVE CAPTIONING; REQUIRE SIGN LANGUAGE; PROVIDE FUNDING TO MEET THE REQUIREMENTS

This is not a complicated problem that requires a complicated solution. Clear expectation for Legislative Administration and funding for American Sign Language interpretation and real-time, live captioning will solve the problem. We recommend the Oregon Legislature:

1. Provide adequate funding to ensure sign language interpretation and real-time, live captioning is provided at all Public Hearings, Committee Work Sessions, Emergency Board Meetings, and Floor Proceedings.
2. Provide adequate funding for sign language interpretation and real-time captioning services for any meeting with a Legislator, Staff, or Legislative Workgroup conducting work of the Legislature.
3. Provide clear direction to the Legislative Administration Office to provide sign language interpretation and quality real-time, live captioning to qualified individuals with disabilities as required under Title II of the Americans with Disabilities Act.

These costs are necessary to comply or exceed the requirement to provide effective communication under Title II of the Americans with Disabilities Act for people who are Deaf, Deaf-Blind, Hard of Hearing, or have another disability that requires translation or captioning. The forthcoming amendment adopts these recommendations.

SUPPORT FOR HB 3264 WITH AN AMENDMENT

Disability Rights Oregon supports HB 3264 with an amendment to ensure effective communication for people who are Deaf, Deaf-Blind, or Hard of Hearing.

Example of Captioning Problems

The passage below is a portion of the testimony of a physician who spoke on HB 3037 regarding mental health services on February 22, 2021 in a hearing of the House Committee on Behavioral Health. Immediately prior to the testimony on HB 2585, a bill involving accessible mental health services for people who are Deaf, Hard of Hearing, and Deaf-Blind. Steven Brown, from the Oregon Association of the Deaf, was waiting to testify on HB 2585. He is visible on screen throughout the testimony from this physician. An ASL interpreter had been requested and appeared in time for Mr. Brown's the testimony on HB 2585, but was not present for this portion of the hearing.

The combination of no ASL interpreter and incomprehensible captioning denied effective communication to any Deaf participant in the hearing.

Included below is the captioning displayed on the screen⁵ and a transcript prepared by Disability Rights Oregon's staff. The physician testifying, Dr. Chandragiri, had a relatively light accent in speaking, but was certainly easily understood in his testimony for the hearing population. While a person who is not familiar with different accents might not have caught his every word, they certainly would understand the general thrust of his testimony better than the captioning provided.

<u>What the Microsoft Team/Oregon Legislature Captioning Showed of Dr. Chandragiri's Testimony</u>	<u>Accurate Transcript of Dr. Chandragiri Testimony</u>
<p>"My name is sought to a gender guinea. I live in Salem Oregon Marion County. And most of the chain of Salem by the school board. And the second largest school district in our state and I'm a medical staff at Salem hospital Salem Oregon. In addition mechanical look extends from Harney County to Douglas County. I'm here to testify in support of House bill 3027.</p> <p>"And thank you for allowing me to share this doesn't need a new to say begin the leading cause of death. In that age group we're doing accident or debts in Oregon. The natives su say government compared to 2003. We saw what appeared like to clusters of you to 7 million County we lost trying to</p>	<p>"My name is Satya Chandragiri. I live in Salem, Oregon, Marion County. I am also the chair of Salem-Keizer School Board, and we are the second largest school district in our state. And I am on medical staff at Salem Hospital, Salem Oregon. In addition, my clinical work extends from Harney County to Douglas County. I'm here to testify in support of House bill 3037. And thank you for allowing me to share this.</p> <p>"In 2018 youth suicide became the leading cause of death in that age group, and overtook accidental deaths in Oregon. The rate of suicide doubled compared to 2003. We saw what appeared like two clusters of youth suicide in Marion County. We lost 20</p>

⁵ See <https://olis.oregonlegislature.gov/liz/mediaplayer/?clientID=4879615486&eventID=2021021299> (from roughly 18:15 to 20:00).

be used in suicide at the UN initially we thought 16 in only 42% of Multnomah County's population. Why don't call in Salem I have a valued and children as young as 12 years old, what brought up to suicide by hanging. value and patients admitted falling since evidence in one we can call.

"Most of them are you what it is estimated that put every completed youth. Senate Dennis I don't 5200 suicide attempts. In 2018 October known but we saw the second cluster of youth to say that my County the last 2 youth just to cite 17 days about from Sprague high School in South Salem witches my soul. In our school district we lost nearly 7 due to suicide that and I had accompanied one of those students hasn't been in shipping own along with my son and his Jeff Lucas Seattle but just clinic."

youth to suicide that year. Initially we thought 16, in only 42% of Multnomah County's population. While on call in Salem Hospital I have evaluated children as young as 12 years old who were brought after suicide attempts by hanging. During a call in February I had to evaluate 10 patients admitted after suicide attempts in one weekend call. Most of them were youth. It is estimated that for every completed youth suicide there is around 50 to 100 suicide attempts.

"In 2018, October-November, we saw the second cluster of youth suicide in my county. We lost two youth to suicide 17 days apart from Sprague High School in South Salem, which is my zone. In our school district we lost nearly seven youth to suicide that year. And I had accompanied one of those students as a parent chaperone, along with my son and his jazz group to Seattle for a jazz clinic."