

# **RESOLUTION AGREEMENT**

Between the

U.S. Department of Health and Human Services  
Office for Civil Rights

And the

University of Utah Hospitals and Clinics

Transaction Number: 08-84043

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## **I. Introduction**

This Resolution Agreement (“Agreement”) is entered into by the United States Department of Health and Human Services, Office for Civil Rights (“OCR”), and the University of Utah Hospitals and Clinics (UUHC), including the general, specialty, and community clinics that are part of the UUHC Network.

This Agreement resolves OCR transaction number 08-84043, a compliance review that OCR initiated on June 3, 2008, pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation, 45 C.F.R. Part 84 (Section 504) and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 et seq., and its implementing regulation, 28 C.F.R. Part 35 (the ADA). OCR initiated this compliance review to address the following issues, as defined in Sections IV and V below:

Whether UUHC furnishes appropriate auxiliary aids and services, and otherwise modifies its policies, practices and procedures where necessary to ensure effective communication with individuals who have hearing, vision, or speech impairments [45 C.F.R. § 84.52 and 28 C.F.R. §§ 35.130 and 35.160];

Whether UUHC has designated a Section 504/ADA Coordinator and adopted and implemented grievance procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging disability discrimination [45 C.F.R. § 84.7 and 28 C.F.R. § 35.107]; and

Whether UUHC takes appropriate initial and continuing steps to notify participants, beneficiaries, applicants [for employment and services], and employees, including those with hearing, vision, or speech impairments, that it does not discriminate on the basis of disability under Section 504 and the ADA [45 C.F.R. § 84.8 and 28 C.F.R. § 35.106]

### **A. Parties to the Agreement**

1. United States Department of Health and Human Services, Office for Civil Rights; and
2. University of Utah Hospitals and Clinics, including the general and specialty clinics and the community clinics (UUHC), which are part of the UUHC Network.<sup>1</sup>

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<sup>1</sup> The UUHC Network is comprised of various Salt Lake City hospitals (University of Utah Hospital, Huntsman Cancer Hospital, the University Orthopedic Center, and the University Neuropsychiatric Institute); several Salt Lake City general and specialty centers (including the John A. Moran Eye Center, the Cardiovascular Center, the Clinical

## **B. Jurisdiction**

OCR initiated this compliance review pursuant to its jurisdictional authority under Section 504 and the ADA. Section 504 prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance. UUHC receives Federal financial assistance through its participation in the Medicare and Medicaid programs and is subject to Section 504. As a State-affiliated health care provider, UUHC is also subject to the ADA. The ADA prohibits discrimination on the basis of disability in State and local government programs.

## **C. Background**

OCR conducted a review of UUHC's compliance with Section 504 and the ADA. During the review, UUHC demonstrated a sincere commitment to patient care and meeting the needs of its patients. OCR's review of UUHC, however, identified some areas of improvement concerning certain Section 504 and ADA administrative requirements which include the following: (1) the availability of appropriate auxiliary aids and services; (2) the designation of a Section 504/ADA Coordinator; (3) the adoption and implementation of Section 504/ADA Grievance Procedures; and (4) the adoption and implementation of a Non-Discrimination Notice. UUHC expressed a willingness to voluntarily resolve the issues of this compliance review and OCR recognizes that UUHC has taken a number of voluntary corrective actions to modify the following policies: the "ADA Policy: Reasonable Accommodation and Access" the "Discrimination and Sexual Harassment Complaint Policy;" the "University of Utah Hospitals and Clinics Policy Manual Complaint Review Policy;" and the "PPM 2-32 Discrimination Complaint Form."

## **D. Purpose of the Agreement**

The purpose of this Agreement is to ensure UUHC's compliance with Section 504 and the ADA, and their implementing regulations. To resolve these matters without further burden or the expense of additional review or enforcement proceedings, UUHC agrees to the terms stipulated in this Agreement and affirms its assurance of compliance with all provisions of Section 504 and the ADA.

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Neurosciences Center, the Utah Diabetes Center, the University Health Care Rehabilitation Center, the Transplant Center, and the Utah Center for Reproductive Medicine); and ten community clinics (Centerville Health Center – Centerville, Greenwood Health Center – Midvale, Madsen Health Center – Salt Lake City, Parkway Health Center – Orem, Redstone Health Center – Park City, Redwood Health Center – South Salt Lake City, South Jordan Health Center – South Jordan, Stansbury Health Center – Tooele, Sugar House Health Center – Salt Lake City, and Westridge Health Center – West Valley City).

The promises, obligations or other terms and conditions set forth in this Agreement constitute the exchange of valuable consideration between UUHC and OCR.

The actions described in this Agreement fully address the issues described in the compliance review, OCR Transaction Number: 08-84043. UUHC's completion of these actions will ensure that UUHC is in compliance with Section 504 and the ADA as they pertain to the issues specifically addressed during this review. It is understood and agreed by OCR that UUHC's agreement to take the steps outlined herein was reached prior to issuance of findings by OCR. This Agreement shall not be deemed or construed to be an admission or evidence of any violation of any law or regulation or of any liability or wrongdoing on the part of UUHC or its staff.

## **II. Definitions**

For the purpose of this Agreement, the terms listed below shall have the following meaning:

- A. **Appropriate Auxiliary Aids and Services** include a wide variety of equipment, materials, and services that may be used to provide effective communication for people with visual, hearing, or speech impairments:
1. For people with visual impairments, auxiliary aids and services may include, but are not limited to: printed information provided on tape cassettes, on computer diskettes, in Braille and in large print, or read by qualified readers; verbal descriptions of action and visual information to enhance the accessibility of performances and presentations; and an assistant to guide a person with limited vision to find his or her way along an unfamiliar route.
  2. For people with hearing or speech impairments, auxiliary aids and services may include, but are not limited to: qualified oral/sign language interpreters, written notes, real-time transcription services, video text displays, amplified and hearing aid compatible telephones, assistive listening systems, open or closed captioning and caption decoders, and text telephones or Telecommunication Devices for the Deaf (TDDs).
- B. **Companion** means an individual who has a hearing, vision, or speech impairment, and is one of the following: (a) a person whom the Patient indicates should communicate with UUHC Personnel about the Patient, participate in any treatment decision, play a role in communicating the Patient's needs, condition, history, or symptoms to UUHC Personnel or help the Patient act on the

information, advice, or instructions provided by UUHC Personnel; or (b) a person legally authorized to make health care decisions on behalf of the Patient; or (c) such other person with whom the UUHC Personnel would ordinarily and regularly communicate the Patient's medical condition.

- C. **Patient** is broadly construed to mean any individual who is seeking or receiving health care services from UUHC, including such services as the opportunity to donate blood, attend health education classes related to the receipt of medical care, or to discuss billing issues.
- D. **Qualified Reader or Interpreter** means an individual who is able to read or interpret competently, accurately, and impartially, both receptively and expressively, using any specialized vocabulary necessary for effective communication in a health care setting to a Patient and/or Companion who has a hearing, vision, or speech impairment. An interpreter must be able to sign to the individual who is deaf what is being said by the hearing person, and to voice to the hearing person what is being signed by the individual who is deaf. Because a qualified reader or interpreter must be able to interpret impartially, a family member or friend of the individual who requires a communication-related auxiliary aid or service may not be qualified to render the necessary auxiliary aid or service because of factors such as professional or personal involvement. Additionally, although an interpreter may be certified, a certified interpreter is not necessarily "qualified." Similarly, certification is not required in order for an interpreter to be "qualified."

Not all interpreters are qualified for all situations. For example, an interpreter who is qualified to interpret using American Sign Language is not necessarily qualified to interpret orally. Someone who has only a rudimentary familiarity with sign language or finger spelling is not a "qualified interpreter." Also, someone who is fluent in sign language but who does not possess the ability to process spoken communication into the proper signs or to observe someone signing and translate their signed or finger-spelled communication into spoken words is not a qualified interpreter. A "qualified interpreter" may include a "relay interpreter" who has specific skill and training in acting as an intermediary between a Patient and/or Companion and a sign language interpreter in instances when the interpreter cannot otherwise independently understand the Patient's and/or Companion's primary mode of communication.

Types of Qualified Readers or Interpreters:

1. Qualified readers or interpreters on the UUHC staff;
2. Qualified readers or interpreters who are independent contractors or employees of agencies, non-profit organizations, or community organizations;
3. Qualified readers or interpreters who work through volunteer programs; and

4. Qualified interpreters who provide services remotely through a video interpreting services provider (services that use video conference technology over high-speed internet wires) (VIS), provided that such VIS interpreter is able to interpret competently, accurately, impartially and effectively, both receptively and expressively, using any specialized terminology necessary for effective communication in a hospital with a deaf or hard-of-hearing Patient and/or Companion.

- E. **Qualified Note-Taker** shall mean a note-taker who is able to transcribe voice communications competently, accurately, and impartially, using any specialized terminology necessary to effectively communicate in a health care setting to a Patient and/or Companion who has a hearing or speech impairment, given that individual's language skills and history.
- F. **Section 504/ADA Coordinator** means the individual designated to coordinate UUHC's efforts to comply with and carry out its Section 504 and ADA responsibilities.
- G. **Section 504/ADA Grievance Procedure** means UUHC's process for addressing complaints of disability discrimination from employees, applicants, Patients, Companions, and other interested parties that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints.
- H. **UUHC Personnel** means all UUHC employees, as well as independent contractors with contracts to work for UUHC, including, without limitation, nurses, physicians, social workers, technicians, admitting personnel, security staff, counselors, and therapists, and all volunteers, who have or are likely to have direct contact with Patients and/or Companions as defined herein.

### **III. General Provisions**

- A. **Facilities Covered by the Agreement.** This Agreement covers the University of Utah Hospitals and Clinics, including the general and specialty clinics and the community clinics, which are part of the UUHC Network, as defined in footnote 1 of this Agreement.
- B. **Suspension of Administrative Actions.** Subject to the continued performance by UUHC of the stated obligations and required actions contained in this Agreement and in conformity with Section III-D, Failure to Comply with the Agreement, OCR shall suspend administrative actions on OCR Transaction Number 08-84043.
- C. **Effective Date and Term of the Agreement.** This Agreement shall become effective on the date it is signed by all parties (the "Effective Date") and will remain in effect for twelve (12) months after the Effective Date (the "Term"), at

which point if OCR determines that UUHC has complied with this Agreement, OCR's review and monitoring of this Agreement shall terminate.

Notwithstanding the Term of this Agreement, UUHC acknowledges that it will comply with Section 504, the ADA, and other applicable Federal nondiscrimination statutes and their implementing regulations, for so long as it continues to receive Federal financial assistance.

- D. Failure to Comply with the Agreement.** If OCR determines that UUHC has failed to comply with any provision of this Agreement, the parties will confer and attempt to reach agreement as to what steps may be necessary to resolve the compliance issues to both parties' satisfaction. If an agreement is not reached, OCR may terminate this Agreement with thirty (30) calendar days notice and take appropriate measures to effectuate UUHC's compliance with Section 504 and the ADA. Such measures may include OCR re-opening its review of UUHC's compliance with Section 504 and the ADA. OCR may incorporate into its re-opened compliance review any relevant evidence of non-compliance with this Agreement and any relevant evidence obtained by OCR prior to the signing of this Agreement. OCR also may exercise all rights available under Section 504 and the ADA, including but not limited to issuing non-compliance findings and initiating necessary enforcement proceedings.
- E. Effect on Other Compliance Matters.** Nothing in this Agreement will be construed to limit or restrict OCR's statutory and regulatory authority to conduct future complaint investigations and compliance reviews related to UUHC and the subject matter of this Agreement. This Agreement does not address or resolve issues involved in any other complaint investigation, compliance review, or administrative action under Federal laws by other Federal Agencies, including any action or investigation under Section 504 or the ADA.
- F. Prohibition Against Retaliation and Intimidation.** UUHC shall not retaliate, intimidate, threaten, coerce or discriminate against any person who has filed a complaint or who has assisted or participated in the investigation of any matter addressed in this Agreement.
- G. OCR's Review of UUHC's Compliance with the Agreement.** OCR may review UUHC's compliance with this Agreement at any time while the Agreement is in effect. As part of such review, OCR may require written reports, access to witnesses, copies of documents, and/or inspection of UUHC's facilities. Throughout the duration of this Agreement, UUHC agrees to retain the records required by OCR to assess its compliance. OCR will maintain the confidentiality of all documents, files and records received from UUHC and will not disclose their contents except where necessary in formal enforcement proceedings or where otherwise required by law.
- H. Non-Waiver Provision.** Failure by OCR to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision shall not be



construed as a waiver of OCR's right to enforce other deadlines or any provisions of this Agreement.

- I. **Entire Agreement.** This Agreement constitutes the entire understanding between UUHC and OCR in resolution of OCR transaction number 08-84043. Any statement, promise or agreement not contained herein shall not be enforceable through this Agreement.
- J. **Modification of Agreement.** This Agreement may be modified by mutual agreement of the parties in writing.
- K. **Effect of UUHC Program Changes.** UUHC reserves the right to change or modify its programs, so long as UUHC ensures compliance with Section 504 and the ADA and other applicable Federal statutes and the provisions of this Agreement. Significant program changes that may affect compliance with this Agreement or any applicable statutes and regulations within OCR's jurisdiction must be promptly reported to OCR.
- L. **Authority of Signer.** The individual who signs this document on behalf of UUHC represents that he or she is authorized to bind UUHC to this Agreement.
- M. **Publication or Release of Agreement.** OCR places no restrictions on the publication of this Agreement or its terms. In addition, OCR may be required to release this Agreement and all related materials to any person upon request, consistent with the requirements of the Freedom of Information Act, 5 U.S.C. § 522, and its implementing regulation, 45 C.F.R. Part 5.
- N. **Third Party Rights.** This Agreement can be enforced only by the parties specified in this Agreement, their legal representatives and assigns. This Agreement shall be unenforceable by third parties and shall not be construed to create third party beneficiary rights.
- O. **Technical Assistance.** OCR will provide appropriate technical assistance to UUHC regarding compliance with this Agreement, as requested and as reasonably necessary.
- P. **Miscellaneous.** When OCR verifies that UUHC has completed all actions contained in this Agreement, OCR shall consider all matters related to this investigation resolved and so notify UUHC in writing.

#### **IV. General Obligations**

##### **A. Disability Non-discrimination**

UUHC shall provide individuals with disabilities with the full and equal enjoyment of the services, privileges, facilities, advantages, and accommodations of UUHC as required by Section 504 and the ADA.

##### **B. Non-discrimination by Association**

UUHC shall not deny equal services, accommodations, or other opportunities to any individual because of the known relationship of the individual with a person with a disability.

##### **C. Section 504/ADA Coordinator**

Within fifteen (15) calendar days after the Effective Date of this Agreement, UUHC shall designate an individual to be responsible for coordination of its efforts to comply with Section 504 and the ADA and notify OCR of its designation. The Section 504/ADA Coordinator (and/or his/her designee(s)) shall be available to answer questions and provide appropriate assistance to UUHC Personnel and the public regarding immediate access to, and proper use of, the appropriate auxiliary aids and services required by this Agreement. The Section 504/ADA Coordinator shall oversee and ensure the quality of the services provided by the readers, interpreters, and note-takers that UUHC uses.

##### **D. Section 504/ADA Grievance Procedure**

Within sixty (60) calendar days after the Effective date of this Agreement, UUHC shall adapt and submit to OCR the Section 504/ADAGrievance Procedure at Attachment A for addressing complaints of disability discrimination, including complaints regarding the failure to provide appropriate auxiliary aids and services.

OCR shall review the Section 504/ADAGrievance Procedure within fifteen (15) calendar days of receipt. The Grievance Procedure shall not be implemented by UUHC without the approval of OCR.

Within thirty (30) calendar days of approval by OCR, UUHC's Risk Management, Customer Service Department, and Office of Equal Opportunity and Affirmative Action shall assist interested persons in filing Section 504/ADA grievances and shall forward completed grievances to the Section 504/ADA Coordinator for appropriate action.

UUHC shall take steps to notify UUHC Personnel, Applicants, Patients, Companions, and interested persons of the information contained in the Section 504/ADA Grievance Procedure. This information shall be communicated as follows:

1. Within thirty (30) calendar days after approval by OCR, UUHC shall post copies of the Section 504/ADA Grievance Procedure in visible locations in its facilities and on the University Health Care website;
2. UUHC shall publish the Section 504/ADA Grievance Procedure in patient handbooks or in similar publications within sixty (60) calendar days of approval of the Grievance Procedure by OCR; and
3. UUHC shall offer additional assistance, including prominently displayed signage translated into frequently encountered languages, when limited written English proficiency may be a barrier to the Patient's and/or Companion's understanding of the Section 504/ADA Grievance Procedure.
4. UUHC's Section 504/ADA Coordinator (and his/her designee(s)) shall be responsible for maintaining and providing copies of the Section 504/ADA Grievance Procedure to interested persons, including in alternative formats such as Braille, large print, and audiotape.

**E. Notice of Nondiscrimination**

Within sixty (60) calendar days after the Effective Date of this Agreement, UUHC shall adapt and submit to OCR the Notice of Nondiscrimination at Attachment B, which states that UUHC does not discriminate on any ground prohibited by Federal law, including disability; provides the process for filing and resolving grievances about discrimination; and provides the title, telephone number, functions and office location of the UUHC Section 504/ADA Coordinator.

OCR shall review the Notice of Nondiscrimination within fifteen (15) calendar days of receipt. The Notice of Nondiscrimination shall not be implemented by UUHC without the approval of OCR.

UUHC shall take steps to notify Patients, Companions, and UUHC Personnel of the information contained in the Notice of Nondiscrimination.

This information shall be communicated by:

1. Within sixty (60) calendar days of approval by OCR, UUHC shall post signs in visible locations in UUHC facilities and on the University Health Care website;
2. Within sixty (60) calendar days of approval by OCR, include this information in UUHC patient handbooks or in similar publications; and
3. Offering additional assistance, including prominently displayed signage translated into frequently encountered languages, when limited English proficiency may be a barrier to the Patient's and/or Companion's understanding of the notice.

**F. Nondiscrimination Statement**

Within sixty (60) calendar days after the Effective Date of this Agreement, UUHC shall adapt and submit to OCR the Nondiscrimination Statement at Attachment C, for inclusion in all major publications and brochures, including its Patients Rights and Responsibilities Poster and the Patient Conditions of Admissions and Treatment Form, which identifies UUHC's Section 504/ADA Coordinator.

OCR shall review the Nondiscrimination Statement within fifteen (15) calendar days of receipt. The Nondiscrimination Statement shall not be implemented by UUHC without the approval of OCR.

Within sixty (60) calendar days of approval by OCR, UUHC shall publish the Nondiscrimination Statement in its major publications and brochures.

**V. Provision of Appropriate Auxiliary Aids and Services**

**A. Recognition**

UUHC recognizes that Patients and/or their Companions who have hearing, vision, or speech impairments may need reasonable accommodations, including appropriate auxiliary aids and services, to access and fully participate in health care services provided by UUHC. UUHC is committed to providing appropriate auxiliary aids and services in a timely manner to such Patients and/or Companions to ensure effective communication and an equal opportunity to participate fully in the benefits, activities and programs administered by UUHC. This includes ensuring effective communication between UUHC Personnel and Patients and/or Companions who have hearing, vision, or speech impairments.

## **B. Initial Assessment**

UUHC shall consult with Patients and/or their Companions who have hearing, vision, or speech impairments wherever possible to determine which appropriate auxiliary aids and services are needed to ensure effective communication. While consultation is strongly encouraged, the ultimate decision as to which auxiliary aid or service to provide to ensure effective communication rests in the hands of UUHC Personnel, provided that the method chosen results in effective communication. The assessment made by UUHC Personnel shall take into account all relevant facts and circumstances, including without limitation the following:

1. the nature, length, and importance of the communication at issue;
2. the Patient's and/or Companion's disability and communication skills and knowledge;
3. the Patient's health status or changes thereto;
4. the Patient's and/or Companion's request for or statement of the need for an auxiliary aid or service; and
5. the reasonably foreseeable health care activities of the Patient (e.g., group therapy sessions, medical tests or procedures, rehabilitation services, meetings with health care professionals or social workers, or discussions concerning billing, insurance, self-care, prognoses, diagnoses, history, and discharge).

In the event that communication is not effective, UUHC Personnel shall reassess which appropriate auxiliary aids or services are necessary, in consultation with the person with a disability, where possible.

## **C. Time for Assessment**

1. **Visits (scheduled and non-scheduled).** Beginning sixty (60) days after the Effective Date of this Agreement, UUHC will have in place a process to ensure that when a Patient arrives at a UUHC facility seeking medical services (as part of a scheduled appointment or otherwise), a trained UUHC Personnel shall perform an initial communication assessment to determine whether the Patient or Companion requires auxiliary aids or services in order to ensure effective communication. The assessment will consider the timing, duration, and frequency for which appropriate auxiliary aids and services will be provided. The Patient/Companion will be provided with an appropriate identified auxiliary aid or service. The fact of the assessment and any identified

auxiliary aids or services for the Patient and/or Companion will be documented in the Patient's registration records.

**2. Continuation of Provision of Appropriate Auxiliary Aids and Services.** After conducting an initial assessment at a UUHC facility, that facility shall continue to provide appropriate auxiliary aids and services to Patients and/or Companions who have hearing, vision, or speech impairments, during the entire period of the Patient's hospitalization and subsequent visits, without requiring subsequent requests for the appropriate auxiliary aids and services by the Patient and/or Companions. UUHC Personnel shall keep records that reflect the ongoing provision of appropriate auxiliary aids and services to Patients and/or Companions.

**3. Determination Not to Provide Requested Auxiliary Aid or Service.** If, after conducting the assessment as described in Section V of this Agreement, a UUHC facility decides not to provide a particular auxiliary aid or service requested by a Patient and/or Companion who has a hearing, vision, or speech impairment, UUHC Personnel at the facility shall so advise the person requesting the auxiliary aid or service and document the basis for the determination, including the date of the determination, the name and title of the UUHC Personnel who made the determination, and the alternative auxiliary aid or service, if any, that UUHC has decided to provide. Upon request, a copy of this documentation shall be provided to the Patient and/or Companion who has a hearing, vision, or speech impairment, and retained in the Patient's medical record.

**D. General Circumstances When Auxiliary Aids and Services Will Be Provided**

UUHC shall provide appropriate auxiliary aids and services, including but not limited to qualified interpreters, to Patients and/or Companions who have hearing, vision, or speech impairments (depending on the situation) for these general situations:

1. Obtaining the Patient's medical history or information about the Patient's ailments or condition;
2. Explaining and describing inpatient, outpatient, pre-operative, post-operative and other medical procedures or treatment;
3. Discussing diagnosis, test results, prognosis, and treatment options;
4. Obtaining informed consent or permission for procedures or treatment;

5. Communicating during treatment and testing;
6. Discussing discharge or post-operative planning or instructions;
7. Explaining the reason for, how to take, and possible side effects of medication;
8. Discussing complex financial or insurance matters; and
9. Any other circumstances in which auxiliary aids or services are necessary to ensure a Patient's and/or Companion's privacy, confidentiality, or other rights provided by Federal, state, or local law.

The foregoing list of circumstances is not exhaustive and does not imply that there are not other circumstances when it may be appropriate to provide auxiliary aids and services for effective communication.

Nothing in this Agreement shall require that an electronic device or equipment constituting an appropriate auxiliary aid or service be used when or where its use may interfere with medical or monitoring equipment or may otherwise constitute a threat to any Patient's medical condition.

**E. Provision of Appropriate Auxiliary Aids and Services**

1. **Scheduled Appointments:** UUHC shall make an appropriate auxiliary aid or service available at the time of the appointment, if necessary for effective communication.
2. **Non-scheduled Incidents:** UUHC shall make an appropriate auxiliary aid or service available when requested. UUHC shall use reasonable efforts to provide the requested auxiliary aid or service no later than two (2) hours from the time the request is made.
3. **Interim Services:** UUHC agrees that, between the time an auxiliary aid or service is requested and the time it is made available, UUHC Personnel will continue to try to communicate with the Patient and/or Companion who has a hearing, vision, or speech impairment for such purposes and to the same extent as they would have communicated with the person but for the hearing, vision, or speech impairment, using appropriate auxiliary aids and services.

**F. Restricted Use of Certain Persons to Facilitate Communication**

Due to privacy and confidentiality concerns, potential emotional involvement, and other factors that may adversely affect the ability to

facilitate communication, UUHC shall never permit a family member, advocate or friend of a Patient and/or Companion who has a hearing, vision, or speech impairment to interpret or facilitate communication between UUHC Personnel and such Patient and/or Companion unless the following four factors are present:

1. Such person wishes to provide such assistance;
2. Such use is necessary or appropriate under the circumstances, giving appropriate consideration to any privacy and confidentiality issues that may arise;
3. The Patient and/or Companion has been made aware of the full range of auxiliary aids and services options available free of charge; and
4. The Patient and/or Companion provides written confirmation that he or she was made aware of relevant auxiliary aids and services available free of charge and agrees to the use of such person to interpret or facilitate communication.

In time-sensitive, life-threatening situations, UUHC may rely upon communications through a family member, advocate or friend until a qualified interpreter or other appropriate auxiliary aid or service is obtained. In such situations, UUHC shall retain the above-required written documentation in the patient's medical record.

**G. Procedures for Obtaining Qualified Interpreters in a Timely Manner**

When a qualified interpreter is necessary for effective communication, UUHC shall take the following steps to obtain a qualified interpreter. Steps should be taken in the order in which they are listed.

1. Request a qualified interpreter from a list of qualified interpreters maintained by UUHC, from among any qualified interpreters on UUHC staff or from an agency with whom UUHC has an ongoing contract for qualified interpreter services;
2. Exert reasonable efforts to contact any qualified interpreting agencies known to UUHC or interpreters who provide services on a freelance basis; and
3. Inform the Patient and/or Companion who has a hearing, vision, or speech impairment of the efforts taken to secure a qualified interpreter and the efforts that have failed, and follow up on reasonable suggestions for alternate sources of qualified interpreters, such as a qualified interpreter known to that person.



## **H. Contract for Provision of Interpreter Services**

Within ninety (90) calendar days after the Effective Date of this Agreement, UUHC shall enter into a contract with an agency of its choice for the provision of qualified interpreter services for a period of, at a minimum, one year from the Effective Date of the contract with the agency.

## **I. Video Interpreter Services (VIS)**

If VIS technology is used as one of the resources potentially available to UUHC to meet its obligations under this Agreement, Section 504 and the ADA, UUHC shall ensure that the VIS technology meets the following performance standards:

1. High quality, clear, delay-free, motion-free video and audio over a dedicated high speed internet connection;
2. A clear, sufficiently large and sharply delineated picture of the qualified interpreter's and the Patient's and/or Companion's head, hands, and fingers, regardless of the body position of the Patient and/or Companion;
3. Clear and easily understood transmission of voices; and
4. Efficient set-up and operation by trained and competent UUHC staff members and contractors.

## **J. Telephone Communications**

UUHC shall take the following steps to ensure that Patients and/or Companions that have hearing, vision, or speech impairments can communicate effectively by telephone:

1. **Public Telephones:** Within sixty (60) calendar days after the Effective Date of this Agreement, UUHC shall provide TTY (also known as TDD) devices at public telephones serving emergency, recovery, or waiting rooms. In addition, UUHC shall provide at least one TTY device at all locations where there are four (4) or more public telephones. UUHC may install the required TTY's or make available a sufficient number of portable TTY's.

Wherever portable TTY's are made available, UUHC shall provide shelves and electrical outlets compliant with ADA accessibility standards.

Wherever public telephones are available but TTY's are not permanently installed, UUHC shall post signs indicating the location of the nearest portable or installed TTY.

Wherever TTY's are permanently installed, UUHC shall post signs, identifying them and indicating their location.

2. **Patient Rooms:** UUHC shall make a TTY device available to Patients and/or Companions who have hearing, vision, or speech impairments upon arrival in a patient room.

3. **Storage and Accessibility of Equipment:** Portable TTY devices shall be stored in places that are readily accessible at all times of the day or night to all UUHC staff that have patient contact. TTY's shall be made available to Patients and/or Companions who have hearing or speech impairments. UUHC shall make reasonable efforts to provide a TTY to a Patient and/or Companion within twenty (20) minutes from the time it is requested.

All UUHC staff shall be notified in writing of the storage location of a TTY device that is closest to their work area(s).

**VI. Policy and Procedures for Ensuring Effective Communication with Patients and/or Companions Who Have Hearing, Vision, or Speech Impairments**

Within sixty (60) calendar days after the Effective Date of this Agreement, UUHC shall adapt and submit to OCR the Policy and Procedures for Ensuring Effective Communication with Patients and/or Companions Who Have Hearing, Vision, or Speech impairments (Policy and Procedures) at Attachment D, consistent with the requirements of this Agreement, Section 504 and the ADA.

OCR shall review the Policy and Procedures within fifteen (15) calendar days of receipt. The Policy and Procedures shall not be implemented by UUHC without the approval of OCR.

Within thirty (30) calendar days of approval by OCR, UUHC shall implement the Policy and Procedures. disseminate them to UUHC Personnel, contractors, and subcontractors and publish them in an UUHC-wide communication piece for UUHC Personnel and contractors.

**VII. Training**

A. **Training of the Section 504/ADA Coordinator.** Within thirty (30) calendar days after the Effective Date of this Agreement, UUHC shall ensure that its Section 504/ADA Coordinator and his/her designee(s) receive training on their responsibilities under this Agreement and the requirements of Section 504 and the ADA, including but not limited to, Section 504 and the ADA's prohibitions on retaliation; requirements regarding the provision of appropriate auxiliary aids and services; and the proper handling of Section 504/ADA Grievances.

B. **Training of UUHC Personnel.** Within ninety (90) calendar days after the Effective Date of this Agreement, UUHC shall commence training by a qualified trainer(s) to all available UUHC Personnel that includes at least the following topics:

- Requirements of Section 504 and the ADA, including their prohibition against retaliation;
- Types of communication disabilities;
- Methods of effective communication; and
- Identification of and appropriate response to persons with disabilities.

Such training shall be sufficient in content to train UUHC Personnel to promptly identify a Patient's and/or Companion's communication needs and preferences of services, and to secure appropriate, effective auxiliary aids and services, including qualified readers, interpreters, and note-takers as quickly as possible when necessary for effective communication. Such training shall include information about: the various degrees of hearing, vision, and speech impairment; sensitivity to the needs of persons with hearing, vision, or speech impairments; dispelling myths and misconceptions about persons who have communication disabilities; the proper use of qualified readers, interpreters, and note-takers; and procedures for accessing appropriate auxiliary aids and services. Training of all available UUHC Personnel shall be completed no later than July 31, 2010.

C. **Training of UUHC Personnel with Telephone Contact.** Within one-hundred twenty (120) calendar days after the Effective Date of this Agreement, all UUHC Personnel whose duties include the handling of incoming and outgoing telephone calls from the public shall receive special training and instructions on using TTYs and the Utah Relay or similar services to make telephone calls to (and receive telephone calls from) individuals who have hearing, vision, and speech impairments.

## VIII. **Reporting**

### A. **Documentation of Initial Assessment and Requests for Auxiliary Aids or Services**

Initial Assessments, as specified in Paragraphs V(B) & (C) of this Agreement, will be documented in UUHC's electronic registration system. Pursuant to the schedule provided below, UUHC shall provide OCR with periodic reports from the electronic registration system ("Auxiliary Aid Reports"). The Auxiliary Aid Reports will identify the following information for each auxiliary aid or service determination:

- a. date and time of the Initial Assessment or request made by a Patient and/or Companion regarding the need for an auxiliary aid or service;

- b. a code that identifies the Patient and/or Companion who requests or is determined to need an auxiliary aid or service;
- c. name and title of the UUHC Personnel who receives the request or makes the determination concerning the request or need for an auxiliary aid or service;
- d. the type of auxiliary aid and/or service determined for the Patient and/or Companion.

UUHC shall submit Auxiliary Aid Reports to OCR within thirty (30) calendar days after each of the time periods listed below. The Auxiliary Aid Report shall cover all requests for auxiliary aids or services during the specified time period, as follows:

- a. 61-90 calendar days after the Effective Date of the Agreement;
- b. 91-150 calendar days after the Effective Date of the Agreement;  
and
- c. 151-210 calendar days after the Effective Date of the Agreement;
- d. 211-270 calendar days after the Effective Date of the Agreement.

**B. Documentation of Denials of Auxiliary Aids/Services**

In the event that UUHC denies a patient's and/or Companion's request for a particular auxiliary aid, UUHC shall document the decision to deny the request and the basis for that decision. UUHC shall provide its denial documentation to OCR in accordance with the same schedule set forth in Paragraph VIII(A) above,

**C. Patient Satisfaction Questionnaires**

UUHC will mail a Customer Satisfaction Questionnaire (See attachment E) to every Patient who is identified during the assessment process described in Paragraph V(C)(1) (the "Assessment) as needing an auxiliary aid or service or whose Companion is identified during the Assessment as needing and auxiliary aid or service. Questionnaires will be mailed to the Patient within one month of the Assessment. UUHC shall provide copies of the returned questionnaires to OCR in accordance with the same schedule set forth in Paragraph VIII(A) above,

**D. Compliance Reports**

UUHC shall provide OCR with the following:

1. Within one hundred eighty (180) calendar days after the Effective Date of this Agreement, documentation and a letter certifying that the communication of information required by Sections IV and VI of this Agreement has occurred. The letter shall specify the date(s) that such communication occurred, the method of communication, and the persons to whom the information was provided; and
2. Within two hundred seventy (270) calendar days after the Effective Date of this Agreement, documentation and a letter certifying that the training of UUHC Personnel described in Section VII has been completed. The letter shall specify the date(s), time(s) and location(s) of the training, the person(s) conducting the training, the content of the training, and the names and titles of those who participated in the training.
3. Within ten (10) months after the Effective Date of this Agreement, UUHC shall provide OCR with documentation and a letter certifying that UUHC has completed all the actions required by the Agreement.

**E. Summary of Section 504/ADA Grievances**

At six (6), eight (8) and ten (10) months after the Effective Date of this Agreement, UUHC shall provide OCR with letters describing the number and type of Section 504/ADA grievances filed against UUHC and the status and/or outcome of each grievance.

**F. Maintenance of Records**

UUHC shall maintain appropriate records to document the information required by this Agreement and shall make them available, upon request, to OCR and shall retain those records throughout the Term of this Agreement.

**IX. Signatures**

The individuals signing represent that they are authorized to execute this Agreement and legally bind the parties to the Agreement.

\_\_\_\_\_  
David Entwistle  
Chief Executive Officer  
University Health Care

January 8, 2010  
Date

\_\_\_\_\_  
Velveta Howell  
Regional Manager  
Office for Civil Rights, Region VIII  
U.S. Department of Health and Human Services

\_\_\_\_\_  
Date

## Attachment A

### **GRIEVANCE PROCEDURE UNDER SECTION 504 AND TITLE II OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

In accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II of the ADA), University of Utah Hospitals and Clinics (UUHC) does not discriminate on the basis of disability in admission to, participation in, or receipt of services and benefits under any UUHC program or activity. UUHC does not retaliate or discriminate against, or coerce, intimidate or threaten any individual who (1) opposes any act or practice made unlawful by Section 504 or Title II of the ADA; or (2) files a grievance and/or complaint, testifies, assists, or participates in any investigation, proceeding, or hearing under Section 504 or Title II of the ADA.

UUHC has adopted an internal grievance procedure providing for the prompt and equitable resolution of grievances alleging any action prohibited by Section 504, Title II of the ADA, or the Federal regulations implementing these laws. The applicable Federal laws and regulations may be examined by contacting the office of [Name or Title and contact information for UUHC's Section 504/ADA Coordinator], who has been designated to coordinate the efforts of UUHC to comply with Section 504 and Title II of the ADA.

Any person who believes she or he has been subjected to discrimination on the basis of disability or who believes she or he has been subjected to retaliation under Section 504 or Title II of the ADA may file a grievance under this procedure. It is against the law for UUHC to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

#### **PROCEDURE:**

- Grievances must be submitted to UUHC's Section 504/ADA Coordinator (or his/her designee) as soon as possible but no later than sixty (60) calendar days after the date the person filing the grievance becomes aware of the alleged discriminatory action.
- A grievance must be in writing, containing the name and address of the person filing it. The grievance must state the problem or action alleged to be discriminatory and the remedy or relief sought.
- UUHC's Section 504/ADA Coordinator (or his/her designee) will conduct an investigation of the grievance. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the grievance. UUHC's Section 504/ADA Coordinator will maintain the files and records of UUHC relating to such grievances.
- UUHC's Section 504/ADA Coordinator will issue a written decision to the individual on the grievance no later than thirty (30) calendar days after its filing.

- The person filing the grievance may appeal the decision of UUHC's Section 504/ADA Coordinator by writing the [administrator/Chief Executive Officer/Board of Directors/etc.] within fifteen (15) calendar days of receiving UUHC's Section 504/ADA Coordinator's decision.
- [Administrator/Chief Executive Officer/Board of Directors/etc.] will issue a written decision on the appeal no later than thirty (30) calendar days after its filing.
- Filing a grievance with UUHC's Section 504/ADA Coordinator (or his/her designee) does not prevent the applicant, patient and/or his family member or guardian from filing a complaint with the:

Office for Civil Rights, Region VIII  
U.S. Department of Health and Human Services  
1961 Stout Street, Room 1426  
Denver, Colorado 80294  
Voice Phone (303) 844-2024  
FAX (303) 844-2025  
TDD (303) 844-3439

- UUHC Personnel, including Risk Management, Customer Service Department, and the Center for Disability Services, will assist interested persons in filing grievances and will forward completed grievances to UUHC's Section 504/ADA Coordinator for investigation or other appropriate action.
- UUHC's Section 504/ADA Coordinator (and/or his/her designee) will make appropriate arrangements to ensure that individuals with disabilities are provided reasonable modifications and appropriate auxiliary aids and services where necessary to participate in this grievance process. Such arrangements may include making the grievance procedure available in alternate formats such as Braille, large print, audiotape, providing interpreters for the deaf or hard-of-hearing, or assuring a barrier-free location for proceedings.



Attachment B

**NOTICE OF NONDISCRIMINATION**

As a recipient of Federal financial assistance, University of Utah Hospitals and Clinics (UUHC) does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of race, color, or national origin, or on the basis of disability or age in admission to, participation in, or receipt of the services and benefits under any of its programs and activities, whether carried out by UUHC directly or through a contractor or any other entity with which UUHC arranges to carry out its programs and activities.

This statement is in accordance with the provisions of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and the Regulations of the U.S. Department of Health and Human Services issued pursuant to these statutes at Title 45 Code of Federal Regulations (CFR) Parts 80, 84, and 91, and 28 CFR Part 35.

UUHC has adopted an internal grievance procedure providing for the prompt and equitable resolution of grievances alleging any action prohibited by Title VI, Section 504, Title II of the ADA, the Age Act, or the Federal regulations implementing these laws. To file a grievance or in case of questions, please contact:

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[Name of UUHC Section 504/ADA Coordinator]

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[Address of UUHC Section 504/ADA Coordinator]

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[City, State and Zip Code of UUHC Section 504/ADA Coordinator]

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[Telephone Number of UUHC Section 504/ADA Coordinator]

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[Fax Number of UUHC Section 504/ADA Coordinator]

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[TDD, TTY, or State Relay Number of  
UUHC Section 504/ADA Coordinator]

Filing a grievance with UUHC's Section 504/ADA Coordinator (or his/her designee) does not prevent the applicant, patient, or his/her companion from filing a complaint with the:

Office for Civil Rights, Region VIII  
U.S. Department of Health and Human Services  
1961 Stout Street, Room 1426  
Denver, Colorado 80294  
Voice Phone (303) 844-2024  
FAX (303) 844-2025

TDD (303) 844-3439

Attachment C

**NONDISCRIMINATION STATEMENT  
FOR MAJOR PUBLICATIONS AND BROCHURES**

University of Utah Hospitals and Clinics (UUHC) does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of race, color, or national origin, or on the basis of disability or age in admission to, participation in, or receipt of the services and benefits under any of its programs and activities, whether carried out by UUHC directly or through a contractor or any other entity with which UUHC arranges to carry out its programs and activities. For further information about this policy, contact (insert name and/or job title of Section 504/ADA Coordinator, telephone number, fax number, and TDD, TTY or State Relay operator number).

Attachment D

**EFFECTIVE COMMUNICATION AND  
AUXILIARY AIDS AND SERVICES FOR PERSONS WHO  
HAVE HEARING, VISION, OR SPEECH IMPAIRMENTS**

**POLICY:**

University of Utah Hospitals and Clinics (UUHC) will take appropriate steps to ensure that persons with disabilities, including persons who have hearing, vision, or speech impairments, have an equal opportunity to participate in our services, activities, programs and other benefits. The procedures outlined below are intended to ensure effective communication with patients/clients involving their medical conditions, treatment, services and benefits. The procedures also apply to, among other types of communication, communication of information contained in important documents, including waivers of rights, consent to treatment forms, financial and insurance benefits forms, etc. (*include those documents applicable to UUHC*). All necessary auxiliary aids and services shall be provided without cost to the person being served.

All staff will be provided written notice of this policy and procedure, and staff that may have direct contact with individuals with disabilities will be trained in effective communication techniques, including the effective use of interpreters.

**PROCEDURES:**

1. Identification and Assessment of Need

UUHC provides notice of the availability of and procedure for requesting auxiliary aids and services through notices in our (*brochures, handbooks, letters, print/radio / television advertisements, etc.*) and through notices posted (*in waiting rooms, lobbies, etc.*). When an individual self-identifies as a person with a disability that affects his/her ability to communicate or to access or manipulate written materials or requests an auxiliary aid or service, staff will consult with the individual to determine what aids or services are necessary to provide effective communication in particular situations.

2. Provision of Auxiliary Aids and Services

UUHC shall provide the following services or aids to achieve effective communication with persons with disabilities:

A. For Persons Who Are Deaf or Hard-of-Hearing

(i) For persons who are deaf/hard-of-hearing and who use sign language as their primary means of communication, the (*identify responsible staff person or position with a telephone number*) is responsible for providing effective interpretation or arranging for a qualified interpreter when needed.

In the event that an interpreter is needed, the (*identify responsible staff person*) is responsible for:

Maintaining a list of qualified interpreters on staff showing their names, telephone numbers, qualifications and hours of availability (*provide the list*);

Contacting the appropriate interpreter on staff to interpret, if one is available and qualified to interpret; or

Obtaining an outside interpreter if a qualified interpreter on staff is not available. (*Insert agency's/agencies name with which UUHS has contracted or made arrangements*) has agreed to provide interpreter services. The agency's/agencies' telephone number(s) is/are (*insert number(s) and the hours of availability*). [*Note: If video interpreter services are provided via computer, the procedures for accessing the service must be included.*]

(ii) Communicating by Telephone with Persons Who Are Deaf or Hard-of-Hearing

*[Listed below are three methods for communicating by telephone with persons who are deaf or hard-of-hearing. Select the method(s) to incorporate in UUHC's policy that best applies/apply to UUHC's facilities.]*

UUHC utilizes a Telecommunication Device for the Deaf (TDD) for external communication. The telephone number for the TDD is (*insert number*). The TDD and instructions on how to operate it are located (*insert location*) in the facility; and

UUHC also utilizes relay services for external telephone communication with TDD users. We accept and make calls through a relay service. The state relay service number is (*insert telephone number for Utah State Relay*).

(iii) For the following auxiliary aids and services, staff will contact (*responsible staff person or position and telephone number*), who is responsible to provide the aids and services in a timely manner: Note-takers; computer-aided transcription services; telephone handset amplifiers; written copies of oral announcements; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning; telecommunications devices for deaf persons (TDDs); videotext displays; or other effective methods that help make aurally delivered materials available to individuals who are deaf or hard-of-hearing.

(iv) Some persons who are deaf or hard-of-hearing may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the person will not be used as interpreters unless specifically requested by that

individual and *after* an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the person's file. If the person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, competent interpreter services will be provided. ***NOTE: Children and other residents will not be used to interpret, in order to ensure confidentiality of information and accurate communication.***

B. For Persons Who are Blind or Who Have Low Vision

(i) Staff will communicate information contained in written materials concerning treatment, benefits, services, waivers of rights, and consent to treatment forms by reading out loud and explaining these forms to persons who are blind or who have low vision (*in addition to reading, this section should tell what other auxiliary aids and services are available, where they are located, and how they are used*).

The following types of large print, taped, Brailed, and electronically formatted materials are available: (***description of the materials available***). These materials may be obtained by calling (***name or position and telephone number***).

(ii) For the following auxiliary aids and services, staff will contact (***responsible staff person or position and telephone number***), who is responsible to provide the aids and services in a timely manner: Qualified readers; reformatting into large print; taping or recording of print materials not available in an alternate format; or other effective methods that help make visually delivered materials available to individuals who are blind or who have low vision. In addition, staff are available to assist persons who are blind or who have low vision in filling out forms and in otherwise providing information in a written format.

C. For Persons With Speech Impairments

To ensure effective communication with persons who cannot speak or are speech impaired, staff will contact (***responsible staff person or position and telephone number***), who is responsible to provide the auxiliary aids and services in a timely manner: Writing materials; typewriters; TDDs; computers; flashcards; alphabet boards; communication boards; (***include those auxiliary aids and services applicable to UUHC's facilities***) and other communication aids.

Attachment E

Dear \_\_\_\_\_:

According to our records you, and/or someone who is assisting you in obtaining medical services (your “companion”), have been identified as someone with a hearing or speech disability that requires an auxiliary aid or service (e.g., a sign language interpreter, a TTY phone, large print, etc.) to help communicate with the University of Utah Health Center (UUHC) about your medical health care. In order to help the University maintain and improve its level of customer service to you and to others, we would appreciate your taking a few moment to answer the short questionnaire enclosed with this letter and return it to UUHC in the enclosed addressed and stamped envelop. If the auxiliary aid or service was provided to your companion, rather than to you, please have your companion complete and return this questionnaire.

Thank you. As always, we appreciate your decision to choose UUHC as your health care center.

Very truly yours,

Rob Kistler, Director  
Customer Service

