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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington. D.C 20554

In the Matter of	)	
	)	
Telecommunications Relay Services	)	CC Docket No. 98-67
and Speech-to-Speech Services for	)	
Individuals with Hearing and Speech	)	
Disabilities	)	

COMMENTS OF
UNIVERSITY LEGAL SERVICES

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SUMMARY

University Legal Services' (ULS) comments address the Federal Communications Commission's (Commission) proposals to address ways in which Telecommunications Relay Services (TRS) can be improved for individuals who are deaf, hard of hearing, or have speech disabilities, ULS supports the Commission's proposal that Title IV of the Americans with Disabilities Act (ADA) be applicable to any wire or radio communication services that enable people who are deaf, hard of hearing or have speech disabilities to communicate with people without disabilities. Such a proposal follows the intent of Congress when Title IV was enacted and is supported by the plain language of the statute. ULS also strongly supports the Commission's proposal to require speech-to-speech relay services. The Commission clearly has the statutory authority to require such services under Title IV of the ADA and the Commission's existing rules and such services would allow people with speech disabilities to live a more independent and quality life. In addition, ULS supports the Commission's proposal to incorporate the ADA definition of "qualified interpreter" for interpreters used for VRI services and their proposal to apply the confidentiality requirements to these interpreters.

Because Title IV requires TRS providers to dispense functionally equivalent communication for people who are deaf and American Sign Language (ASL) is the primary language of deaf individuals in the United States, it is essential that TRS have communications assistants (CA) who are skilled at interpreting ASL when ASL word-order is typed by the TRS user. In addition, there must be mandatory minimum standards for CAs to better serve TRS

users. ULS supports the Commissions' proposal to revise the speed-of-answer rules, but contends abandoned calls should be calculated when determining compliance. The Commission should also revise the current rules to impose a minimum typing speed and to assure that CAs clearly articulate for TTY users to ensure that all TRS users are provided with quality communication. For that same reason, the Commission should amend the current rules to require CAs to stay with a TRS call for fifteen minutes before it is transferred to another CA

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Comments of
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University Legal Services (ULS) submits these comments to the Notice of Proposed Rulemaking released by the Federal Communications Commission (Commission) on May 20, 1998. The Commission seeks comments on ways in which Telecommunications Relay Services (TRS) can be improved for people with speech disabilities and for people who are deaf or hard of hearing. ULS is the protection and advocacy agency for the District of Columbia and is charged with the responsibility of providing advocacy on behalf of people with disabilities who reside in the District of Columbia. Due to the large number of people who are deaf, hard of hearing or have speech disabilities in the District of Columbia, ULS takes this opportunity to comment on these important issues.

1. ULS Supports the Commission's Proposal that Title IV of the ADA is Applicable to Any Wire or Radio Communication Service that Enables People Who Are Deaf, Hard of Hearing or Have Speech Disabilities to Communicate with People Without Disabilities.[1]

Title IV of the ADA never limits TRS to communication only involving TTYs. Title IV

[1] Responding to the FCC's Notice Of Proposed Rulemaking, CC Docket No. 98-67, paragraph 14.

defines TRS as services which provide individuals who are deaf, hard of hearing or have speech impairments the ability to engage in communication by wire or radio with people without such disabilities in a manner that is functionally equivalent to the ability of people without these disabilities to communicate by wire or radio.[2] The statute states that TRS includes services that use a TTY, not that TRS *only* include services that use a TTY.' The purpose of Title IV was to give people who are deaf, hard of hearing or have speech disabilities the ability to utilize the telephone network so that they could be integrated into today's society.[4] Congress realized that to fully participate in society, one must have the ability to call friends, family, businesses and employers' and did not intend to limit this communication to one involving TTYs. Title IV specifically states that the Commission shall ensure that their regulations encourage the use of existing technology and do not discourage the development of new technology." Congress' intent was to ensure that individuals who are deaf, hard of hearing, or speech disabilities benefit from advancing technology.' Therefore, Title IV must be read to apply to any wire or radio communication service that enables individuals who are deaf, hard of hearing or have speech

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[2] *47* U.S.C. § 225(a)(3).

[3] *Id.*

[4] H.R. Rep. No. 101-485(II), 101 Cong., 2nd Sess. at 129 (1990).

[5] *Id.* at 130.

[6] *47* U.S.C. § 225(d)(2).

[7] H.R. Rep. No. 101-485(II), 101 Cong., 2"" Sess. at 130 (1990).

disabilities to communicate with individuals without such disabilities

II. ULS Supports the Commission's Proposal to Require Speech-to-Speech Relay Services Within Two Years of the Publication in the Federal Register of a Report and Order.[8]

The Commission does have the statutory authority to require speech-to-speech relay services. Title IV of the Americans with Disabilities Act (ADA)[9] and the Commission's current rules" define TRS as transmission services which provide for the ability for individuals who are deaf, hard of hearing or have speech disabilities to engage in communication by wire or radio with a hearing individual in a manner which is functionally equivalent to the ability of an individual without a hearing or speech disability to communicate by wire or radio. Title IV states that the Commission must ensure that TRS are available, to the extent possible and in the most-efficient manner, to individuals who are deaf, hard of hearing or have speech disabilities." In addition, the Commission's current rules state that TRS providers are responsible for requiring that communications assistants (CA) be sufficiently trained to meet the specialized communication needs of people with speech disabilities.[12] We agree with the Commission's belief that enhanced access to the telephone network by people with speech disabilities will

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[8] Responding to the FCC's Notice of Proposed Rulemaking, CC Docket No. 98-67, paragraph 23.

[9] 47 U.S.C. § 225(a)(3)

[10] 47 C.F.R. § 64.60 l(7).

[11] 47 U.S.C. § 225(b)(1)

[12] 47 C.F.R. § 64.604(a)(1)

enhance their educational and employment opportunities. In addition, speech-to-speech relay services would reduce the frustration that people with severe speech disabilities experience when they cannot be understood on the telephone and when other individuals simply do not take the time to attempt to communicate with them. Since speech-to speech services would increase the independence of people with speech disabilities and allow such individuals to effectively communicate and because these services would offer more functionally equivalent communication, we support the Commission's requirement of speech-to-speech services.

III. ULS Supports the Commission's Proposal to Incorporate the ADA Definition of a "Qualified Interpreter" for Interpreters Used in Video Relay Interpreting (VRI).[13]

The Commission's rules state that TRS providers are responsible for requiring that CAs be sufficiently trained to effectively meet the needs of individuals who are deaf or hard of hearing. ULS supports the Commission's proposal to consider voluntarily-provided VRI a relay service and to adopt the definition of "qualified interpreter" from Title II and Title III of the ADA for interpreters involved in such services. ULS also supports the Commission's proposal to apply the confidentiality, conversation content, and "type of call" rules to the provision of VRI services.'" The confidentiality concerns of VRI are different than the concerns of traditional TRS services since there is visual contact between the consumer and the interpreter,

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[13] Responding to the FCC's Notice of Proposed Rulemaking, CC Docket No. 98-67, paragraph 34.

[14] **47** C.F.R. §64.404(a)(2)

but holding VRI interpreters to the same standard as traditional CAs will ensure confidentiality.

IV. TRS Must Include American Sign Language Translation Services.[15]

American Sign Language (ASL) is the primary language of deaf individuals in the United States. Since TRS was designed to provide deaf individuals with functionally equivalent communication as compared to hearing individuals, 4SL translation services must be provided for TRS users. The Commission's own rules state that CAs must be sufficiently trained to meet the specialized communication needs of people who are deaf and must have competent skills in interpretation of typewritten ASL and familiarity with Deaf culture, language, and etiquette.[16] Although there is no written component to ASL, there is a particular syntax and structure involved in the language." Therefore, it is possible for an individual to be able to reliably interpret ASL word order that is typed on a TTY. Since ASL is the primary language of the deaf, TRS must provide functionally equivalent communication services and it is possible to interpret typewritten ASL, the Commission must require that TRS providers offer ASL translation services to users.

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[15] Responding to the FCC's Notice of Proposed Rulemaking, CC Docket No. 98-67, paragraph 39.

[16] *47* C.F.R. 64.604(a)(1)

[17] Kathy Jankowski, *On Communicating with Deaf People,* in INTERCULTURAL COMMUNICATION: A READER 142 (Larry A. Samovar et al. Eds., 1991)

V. Mandatory Minimum Standards

A. Revision of Speed-of Answer Rules[18]

ULS supports the Commission's proposal to revise the speed-of-answer rules to require TRS providers to answer 85% of all calls within ten seconds by a CA prepared to place the TRS call at that time and that the ten second time frame be triggered when a call initially arrives at the TRS network. It is important to start the calculation from the time that the call initially arrives at the TRS provider to avoid the problem of TRS providers placing callers on hold. ULS also supports the Commission's proposal that the calculation of whether a provider is in compliance with the speed-of-answer rules must be performed on a daily basis to ensure that TRS providers truly are in compliance. ULS does not agree with the Commission's tentative conclusion that redialed or abandoned calls should not be included in speed-of-answer calculations. It is important to calculate "hang-ups" since it is possible that those callers waited for a CA to answer and hung-up after they became frustrated with the extended length of time they waited for a CA to receive their call. These calls must be calculated to determine whether TRS providers are in compliance with the speed-of-answer rules.

B. Typing Speed[19]

ULS disagrees with the Commission's tentative conclusion not to impose a minimum

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[18] Responding to the FCC's Notice of Proposed Rulemaking, CC Docket No. 98-67, paragraphs 50 and 53.

[19] Responding to the FCC's Notice of Proposed Rulemaking, CC Docket No, 98-67, paragraph 58.

typing speed for CAs. CAs often type at a slow speed and have poor typing skills which can be frustrating to all TRS users. ULS proposes that the Commission require CAs to type at a speed of 100 words per minute to make TRS functionally equivalent to the voice telephone network. It is possible that CAs with these typing skills could be found in the existing pool of court reporters.

C. CAs' Articulation of TTY Calls"'

The Commission should amend their current rules to address the need for clear and articulate voice communication by CAs. Since TTY users are at the mercy of the CA to accurately convey their message to the voice user, it is crucial that the CA be trained to effectively articulate the TTY user's text, TRS providers should ensure before hiring CAs that he/she clearly articulates his/her speech in such a way that he/she is easily understood by the general population. In addition, TRS provider should monitor their CAs to ensure they are properly articulating the TTY caller's portion of the conversation. Screening and monitoring for voice articulations would not raise questions of discriminatory employment practices if the primary skill that is being screened and monitored is whether the individual's speech is easily understood by the general population. If the individual's speech is not easily understood by the general population, then the individual would not be qualified for the position.

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[20] Responding to the FCC's Notice of Proposed Rulemaking, CC Docket No. 98-67, paragraph 5 9.

VI. In-Call Replacements of CAs[21]

ULS supports the Commission's proposal to amend the rules to require that CAs stay with a TRS call for a certain period of time before the call is transferred to another CA. It is very disruptive to both parties when there is a disruption during the TRS call due to a CA changing shifts. Clearly, CAs need breaks to prevent fatigue and injury, however, the Commission should ensure that these breaks cause the least possible disruption to TRS users. ULS, however, suggests that CAs be required to stay with each relay call for fifteen minutes, rather than the ten minute time frame proposed by the Commission. Relay calls take longer to complete than calls made through the voice telephone network and therefore, at least fifteen minutes should be required before breaks to minimize the disruption.

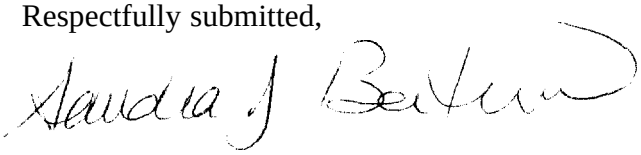
VII. Conclusion

Ensuring that TRS providers dispense quality communication access is essential to individuals who are deaf, hard of hearing or have speech disabilities. Title IV of the ADA states that TRS must provide individuals who are deaf, hard of hearing, or have speech disabilities, the ability to engage in communication by wire or by radio that is functionally equivalent to the ability of an individual without such disabilities to communicate by wire or radio. Therefore, it is essential that Title IV be read to be applicable to the advancing technology in telephone communications for people who are deaf, hard of hearing or have speech disabilities, not simply

[21] Responding to the FCC's Notice of Proposed Rulemaking, CC Docket No. 98-67, paragraph 62.

to communications involving TTYS, and that speech-to-speech services be mandated by the Commission. It is also vitally important that there be mandatory minimum standards in place by the Commission to afford people with disabilities with functionally equivalent, quality communication. ULS urges the Commission to consider our comments and improve TRS to bridge the communication gap between people who are deaf, hard of hearing or have speech impairments with the rest of the population

Respectfully submitted,



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