Deaf and Captioning Lawsuits

# Southeastern Louisiana University 1996 Student expelled from program due to deafness

On October 23, 1996, the United States Court of Appeals for the Fifth Circuit in New Orleans affirmed a jury verdict that the Louisiana Board of Trustees for Colleges and Universities and administrators at Southeastern Louisiana University (SLU) discriminated against Nadelle Grantham when they expelled her from the SLU lower elementary education degree program because she is deaf. The appeals court also affirmed the jury's $181,000 damage award to Ms. Grantham in "the first jury trial in history under the [Americans with Disabilities Act].

# Utah State University 2007 Failure to provide adequate interpreter services

12 students filed a discrimination lawsuit against Utah State University. They claimed the school was not providing adequate interpreting services. The lawsuit was settled in 2007 with a promise by the school to have three full-time interpreters and keep deaf students involved and informed of interpretation issues.

# Creighton Medical School 2009 (re-trial Aug 2013) Failure to provide reasonable auxiliary aid and access to deaf student

A Creighton medical school student sued in 2009, after he was forced out of the school when the university refused his requests for interpreters. With the National Association of the Deaf (NAD) and the other lawyers representing the student, a lawsuit was filed against Creighton in the United States District Court for the District of Nebraska. The District Court dismissed the student’s case and ruled that he had not demonstrated that medical school was beyond his capacity without captioning or interpreting services.

The student appealed the case to the Eighth Circuit Court of Appeals and asked that the District Court’s ruling be reversed. The Eighth Circuit Court agreed with the student and his lawyers, and remanded the case back to the District Court, holding that “Section 504 of the Rehabilitation Act and Title III of the ADA each require Creighton to provide reasonable auxiliary aids and services to afford the student ‘meaningful access’ or an equal opportunity to gain the same benefit as his nondisabled peers.” The case now goes back to the District Court of Nebraska for trial in August 2013.

# Penn State University 2010 Inaccessible technology

The lawsuit filed in 2010 claimed that blind students and professors suffer “pervasive and ongoing discrimination” at Penn State University because of the widely inaccessible nature of technology used on the campus, according to a federal complaint filed by the National Federation of the Blind. The case was successful and Penn State had to take corrective action to make sure all areas of technology were accessible. As part of this solution, they adopted a comprehensive captioning program for multimedia materials.

# Ohio State University 2011 Football fan sues for lack of scoreboard captioning

The National Association of the Deaf (NAD) successfully advocated for equal access to sports stadiums through a settlement agreement on behalf of Vincent Sabino with Ohio State University. Ohio State’s athletic department agreed to undertake several steps to make its athletic events accessible to deaf and hard of hearing fans. The original complaint filed in 2009 in the U.S. District Court for the Southern District of Ohio, alleged that Ohio State’s athletic department discriminated against deaf or hard of hearing individuals by failing to provide auxiliary aids and services, such as captioning, at Ohio Stadium and Value City Arena at the Jerome Schottenstein Center. Without captions, deaf persons did not have full and equal enjoyment of and access to Ohio State’s programs and services required by the Americans with Disabilities Act (ADA) and other federal disability rights law. The settlement agreement requires Ohio State’s athletic department to undertake several steps to make its athletic events accessible to deaf and hard of hearing individuals. For example, Ohio State agreed to provide captioning for its football and basketball games. Ohio State is part of the Big Ten Conference of universities. Not all Big Ten universities provide the same level of accommodations as Ohio State now provides. To remedy this, the NAD sent a letter to all other Big Ten universities outlining the settlement agreement with Ohio State and requesting that these universities adopt similar policies and practices to ensure their stadiums provide equal access to deaf and hard of hearing fans.

# Daytona State College 2011 Failure to provide adequate auxiliary aids and services to deaf students

Two deaf students filed a lawsuit against Daytona State College and the director of the Disability Services Office alleging a consistent failure to provide deaf students full access to their education at all times. This included a complaint that lack of interpreters resulted in inadequate ability to participate in discussions, and the captioning of class as a substitute accommodation was not an equal alternative. This case also stated a lack of captioning for videos used in classes. A settlement was reached for $40,000 plus legal fees.

# Netflix 2012 Failure to caption content

A federal judge in Springfield, Massachusetts ruled that Netflix and other online providers that serve the public are subject to federal disabilities laws, a decision that could require TV shows and movies streamed over the Internet to include captions for the deaf or other accommodations. Netflix plans to have all films captioned by 2014. This case is important because it could in turn have influence in other areas such as higher education.

# University of Kentucky 2012 Football fan lawsuit for captioning of scoreboard

A University of Kentucky football season ticket holder settled a lawsuit with the university over closed captioning. Charles Mitchell sued to force UK to put captions on all game announcements on the scoreboards at Commonwealth Stadium. Captions are now required on the scoreboard during football games.

# Harvard and MIT sued for lack of captioning in violation of the ADA and Rehabilitation Act

On February 5, 2015, the National Association of the Deaf (NAD) filed a federal class action lawsuit against both Massachusetts Institute of Technology (MIT) and Harvard University. The NAD cited violations of the Americans with Disabilities Act (ADA) and the Rehabilitation Act in the universities’ failure to provide appropriately accurate and comprehensive captioning for online course materials. All colleges and universities need to thoroughly review the audio component of their online content.

# University must adopt backup plan to ensure students receive auxiliary aids

Carnegie Mellon University No. 03-14-2305 (OCR 10/14/14). Carnegie Mellon University to make sure that videos have been captioned before they are shown in class and students with disabilities are able to access the captioned video at the same time as it is shown in class. The institution must have a backup plan for providing captioning.

# University’s websites fail OCR’s compliance review

University of Cincinnati No. 15-13-6001 (OCR 12/18/14). OCR performed a compliance review of accessibility of the University of Cincinnati’s website. OCR found several compliance issues, including:

* Web accessibility policy and training – there was no formal process to ensure faculty and staff complied with the policy
* Blackboard no policy or procedures related to the creation, modification and editing of the course management system to ensure access for students with disabilities
* Website Accessibility: substantial percentage of images lacked alterative text equivalents, many documents were not posted in an accessible format, videos lacked captions, data tables weren’t properly marked up, electronic forms with elements were separated from their associated labels and titles, and pages didn’t allow users to manipulate color and font settings in their web browsers