

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

NATIONAL ASSOCIATION OF THE DEAF, *et al.*,

*Plaintiffs,*

v.

DONALD J. TRUMP, *et al.*,

*Defendants.*

Civil Action No. 20-cv-2107

**PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION  
AND REQUEST FOR HEARING**

Pursuant to Rule 65 of the Federal Rules of Civil Procedure and Local Rule 65.1, Plaintiffs National Association of the Deaf, Carlton Strail, Graham Forsey, Debra Fleetwood, John Rivera, Jr., and Corey Axelrod, by and through their attorneys, respectfully move for a preliminary injunction requiring Defendants Donald J. Trump, in his official capacity as President of the United States, Executive Office of the President, White House Office, Office of the Vice President, and Kayleigh McEnany, in her official capacity as Press Secretary, to immediately begin providing live televised in-frame ASL interpretations for all public briefings conducted by any Defendant that address issues concerning the COVID-19 pandemic, including all such briefings involving President Trump, Vice President Pence, Press Secretary McEnany, and/or any members of the White House Coronavirus Task Force.

Pursuant to Local Rule 65.1, Plaintiffs respectfully request that the Court set a briefing schedule as follows: Defendants' response to Plaintiff's Motion for Preliminary Injunction shall be due on August 10, 2020, and Plaintiffs' Reply shall be due on August 14, 2020. Plaintiffs further request that the Court set a hearing on this motion at the Court's earliest convenience

after Plaintiffs submit their reply, but in any event no later than August 24, 2020. *See* Local Rule 65.1(c).

As explained in the accompanying Memorandum of Law in Support of Plaintiffs' Motion for a Preliminary Injunction, expedited treatment is appropriate to ensure that Plaintiffs have access to critical, potentially life-saving information conveyed by our nation's political and public health leaders during the COVID-19 pandemic. Absent a preliminary injunction requiring live televised in-frame ASL interpretations for all public briefings concerning the COVID-19 pandemic, Plaintiffs will be "denied timely access to this critical information, leaving them less able to comply with current orders and advice, less able to prepare for the future, and more anxious about current conditions and the future." *Martinez v. Cuomo*, No. 20-CV-3338 (VEC), 2020 WL 2393285, at \*6 (S.D.N.Y. May 12, 2020) (granting motion or preliminary injunction and ordering Governor Cuomo to immediately implement in-frame ASL interpretation during his daily briefings). Accordingly, Plaintiffs respectfully request expedited treatment of this Motion.

Dated: August 3, 2020

/s/ Ian S. Hoffman

---

Ian S. Hoffman (D.C. Bar No. 983419)

ARNOLD & PORTER

KAYE SCHOLER LLP

601 Massachusetts Avenue NW

Washington, DC 20001-3743

Telephone: (202) 942-5000

Fax: (202) 942-5999

/s/ Marc Charmatz

Marc Charmatz\*\*

NAD Law and Advocacy Center

86 30 Fenton Street, Suite 820

Silver Spring, MD 20910

Telephone: (301) 587-1788

Fax: (301) 587-1791

*\*\*pro hac vice motion pending*

*Counsel for Plaintiffs*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

NATIONAL ASSOCIATION OF THE DEAF, *et al.*,  
*Plaintiffs,*

v.

DONALD J. TRUMP, *et al.*,

*Defendants.*

Civil Action No. 20-cv-2107

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PRELIMINARY INJUNCTION**

## TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION .....	1
BACKGROUND .....	3
A.    The White House’s COVID-19 Briefings.....	3
B.    Deaf Americans’ Inability to Access the White House’s COVID-19 Briefings.....	5
C.    Plaintiffs’ Inability to Access the White House’s COVID-19 Briefings .....	8
ARGUMENT .....	10
I.    PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS .....	11
A.    Plaintiffs Are Likely to Succeed on Their Rehabilitation Act Claim .....	11
B.    Alternatively, Plaintiffs Are Likely to Succeed on Their Claim for Mandamus .....	15
II.    PLAINTIFFS ARE LIKELY TO SUFFER IRREPARABLE HARM IF A PRELIMINARY INJUNCTION IS NOT GRANTED.....	17
III.    THE BALANCE OF HARDSHIPS AND PUBLIC INTEREST WEIGH HEAVILY IN FAVOR OF PLAINTIFFS.....	19
CONCLUSION.....	20
REQUEST FOR EXPEDITED TREATMENT.....	20

**TABLE OF AUTHORITIES**

	<b><u>Page(s)</u></b>
<b><u>Cases</u></b>	
<i>Aamer v. Obama</i> , 742 F.3d 1023 (D.C. Cir. 2014) .....	10
<i>Alexander v. Choate</i> , 469 U.S. 287 (1985) .....	11
<i>Am. Council of Blind v. Paulson</i> , 463 F. Supp. 2d 51 (D.D.C. 2006) .....	11
<i>Am. Council of Blind v. Paulson</i> , 525 F.3d 1256 (D.C. Cir. 2008) .....	12
<i>Brooklyn Center for Independence of the Disabled v. Bloomberg</i> , 980 F. Supp. 2d 588 (S.D.N.Y. 2013) .....	14
<i>Carpet, Linoleum &amp; Resilient Tile Layers, Local Union No. 419, Bhd. of Painters &amp; Allied Trades, AFL-CIO v. Brown</i> , 656 F.2d 564 (10th Cir. 1981) .....	16
<i>Davis v. Billington</i> , 76 F. Supp. 3d 59 (D.D.C. 2014) .....	10, 11
<i>Davis v. Pension Benefit Guar. Corp.</i> , 571 F.3d 1288 (D.C. Cir. 2009) .....	10
<i>Elec. Privacy Info. Ctr. v. Presidential Advisory Comm’n on Election Integrity</i> , 266 F. Supp. 3d 297 (D.D.C. 2017) .....	18
<i>Fornaro v. James</i> , 416 F.3d 63 (D.C. Cir. 2005) .....	15
<i>Friends of the Earth, Inc. v. Laidlaw Env’tl. Servs. (TOC), Inc.</i> , 528 U.S. 167 (2000) .....	9
<i>Greater L.A. Council on Deafness, Inc. v. Baldrige</i> , 827 F.2d 1353 (9th Cir. 1987) .....	16
<i>Henrietta D. Bloomberg</i> , 331 F.3d 261 (2d Cir. 2003) .....	14
<i>In re Aiken Cty.</i> , 725 F.3d 255 (D.C. Cir. 2013) .....	16

<i>Judicial Watch, Inc. v. U.S. Dep’t of Commerce</i> , 736 F. Supp. 2d 24 (D.D.C. 2010) .....	16
<i>Kirwa v. U.S. Dep’t of Def.</i> , 285 F. Supp. 3d 21 (D.D.C. 2017) .....	17
* <i>Martinez v. Cuomo</i> , No. 20-CV-3338, 2020 WL 2393285 (S.D.N.Y. May 12, 2020) .....	<i>passim</i>
<i>Payne Enters., Inc. v. United States</i> , 837 F.2d 486 (D.C. Cir. 1988) .....	19
<i>Pierce v. District of Columbia</i> , 128 F. Supp. 3d 250 (D.D.C. 2015) .....	12
<i>Sherley v. Sebelius</i> , 644 F.3d 388 (D.C. Cir. 2011) .....	10
<i>Traynor v. Turnage</i> , 485 U.S. 535 (1988) .....	11
<i>United Gov’t Sec. Officers of Am., Local 52 v. Chertoff</i> , 587 F. Supp. 2d 209 (D.D.C. 2008) .....	16
<i>Winter v. Natural Res. Def. Council, Inc.</i> , 555 U.S. 7 (2008) .....	10
<i>Young v. D.C. Hous. Auth.</i> , 31 F. Supp. 3d 90 (D.D.C. 2014) .....	12

### **Statutes & Regulations**

3 C.F.R. § 102.103 .....	12, 14
3 C.F.R. § 102.160(a) .....	<i>passim</i>
53 Fed. Reg. 25872 (July 8, 1988) .....	14
28 U.S.C. § 1361 .....	15
29 U.S.C. § 701 .....	11
29 U.S.C. § 705 .....	12
29 U.S.C. § 794 .....	14
29 U.S.C. § 794 .....	2, 11

**Other Authorities**

7 Op. O.L.C. 110 (1983) .....	15
Jeremy W. Peters, Elaina Plott & Maggie Haberman, <i>260,000 Words, Full of Self-Praise From Trump on the Virus</i> , N.Y. TIMES (Apr. 27, 2020) .....	3
John P. Burke, <i>Administration of the White House</i> , Miller Ctr. of Pub. Affairs, Univ. of Va., <a href="https://tinyurl.com/ydy5cq52">https://tinyurl.com/ydy5cq52</a> .....	4
Julie Bosman & Mitch Smith, <i>Coronavirus Cases Spike Across Sun Belt as Economy Lurches into Motion</i> , N.Y. TIMES (June 14, 2020) .....	8
Lisa Shumaker, <i>U.S. Records 2,600 New Coronavirus Cases Every Hour as Total Surpasses 4 Million</i> , N.Y. TIMES (July 23, 2020) .....	8
Morgan Gstalter, <i>DeSantis Sued for Not Having ASL Interpreter at Coronavirus Briefings</i> , THE HILL (July 14, 2020) .....	8
<i>Remarks by President Trump in Press Briefing</i> , July 21, 2020, <a href="https://www.whitehouse.gov/briefings-statements/remarks-president-trump-press-briefing-072120">https://www.whitehouse.gov/briefings-statements/remarks-president-trump-press-briefing-072120</a> .....	5
<i>Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing</i> , Apr. 16, 2020, <a href="https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-27/">https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-27/</a> .....	4
<i>Remarks</i> , THE WHITE HOUSE, <a href="https://www.whitehouse.gov/remarks/">https://www.whitehouse.gov/remarks/</a> .....	4
U.S. Dep’t of Health and Human Services, <i>White House Coronavirus Task Force Press Briefing: June 26, 2020</i> , YOUTUBE (June 26, 2020), <a href="https://www.youtube.com/watch?v=FxEOxuZYwc0">https://www.youtube.com/watch?v=FxEOxuZYwc0</a> .....	5
<i>US Coronavirus Cases, Hospitalizations Rise, Crisis May Worsen</i> , AL JAZEERA (July 22, 2020), <a href="https://www.aljazeera.com/news/2020/07/200722170516674.html">https://www.aljazeera.com/news/2020/07/200722170516674.html</a> .....	8



## INTRODUCTION

This is an action to ensure that hundreds of thousands of deaf and hard of hearing (“DHH”) Americans have access to critical, potentially life-saving information conveyed by our nation’s political and public health leaders during the COVID-19 pandemic. All 50 states’ governors have provided in-frame American Sign Language (“ASL”) interpretation during public briefings regarding the pandemic, and all but a small handful continue to do so consistently. So have many mayors of America’s largest cities. Leaders from around the world have also provided sign language interpretation for public briefings during the pandemic. This is done in recognition of the importance of meaningful access to up-to-date information regarding the crisis for DHH people.

President Trump, however, does not. He now stands alone in holding televised briefings regarding the COVID-19 pandemic without ever having provided any ASL interpretation. This means that not only are DHH Americans being denied the opportunity to understand any communication from the President of the United States during this critical time, they are also being denied the opportunity to access information, analysis, and updates from Dr. Anthony Fauci and Dr. Deborah Birx—two renowned public health experts.

Various organizations and entities, including the National Association for the Deaf (“NAD”), have requested that the White House provide ASL interpretation during its COVID-19 related briefings. Additionally, 34 United States Senators have requested the same. The White House has ignored these requests and continues to conduct public briefings without any ASL interpretation.

The White House’s failure to provide ASL interpreters during COVID-19 related briefings, including press briefings, is against the law. Federal law unequivocally prohibits

discrimination against individuals with disabilities, which includes failing to provide meaningful access to public benefits, programs, or services. As the U.S. District Court for the Southern District of New York recently held, the Rehabilitation Act unequivocally requires government officials to provide in-frame ASL interpreters during public briefings regarding the COVID-19 pandemic. *See Martinez v. Cuomo*, No. 20-CV-3338, 2020 WL 2393285, at \*5–7 (S.D.N.Y. May 12, 2020) (granting preliminary injunction on behalf of individual deaf New Yorkers and ordering Gov. Cuomo to “immediately implement in-frame ASL interpretation during his daily press briefings”).

Plaintiffs’ motion for a preliminary injunction is narrow and precise. Plaintiffs seek preliminary relief on only two counts—violation of the Rehabilitation Act and mandamus relief—with the second being in alternative to the first. The Court should grant the motion for preliminary injunction for three reasons:

*First*, Plaintiffs are likely to succeed on the merits of their claims. As the *Martinez* court held, the Rehabilitation Act requires in-frame ASL interpreters to ensure meaningful access to the information conveyed in public briefings regarding the COVID-19 pandemic. *Id.* at \*5-6. The Rehabilitation Act applies to the EOP , White House Office, and Office of the Vice President. *See* 29 U.S.C. § 794(a); 3 C.F.R. Part 102. Thus, Plaintiffs are likely to succeed on their claim that these agencies have violated the Rehabilitation Act or, in the alternative, that they are entitled to relief through a writ of mandamus.

*Second*, Plaintiffs are likely to suffer irreparable harm absent a preliminary injunction. Plaintiffs seek vital and continually changing information regarding their health and safety, as well as the federal government’s response to the pandemic. As the *Martinez* court recently held, without an ASL interpreter in public briefings, deaf citizens would be “denied timely access to

this critical information, leaving them less able to comply with current orders and advice, less able to prepare for the future, and more anxious about current conditions and the future.”

*Martinez*, 2020 WL 2393285, at \*6.

*Third*, the balance of hardships and public interest decisively favor a preliminary injunction. There would be no hardship on Defendants to provide ASL interpretation during White House briefings, just as all 50 states’ governors have provided ASL interpretation for at least certain of their briefings, and just as other federal agencies (like FEMA) have provided for public health briefings in the past. “By contrast, Plaintiffs . . . experience hardship on a daily basis as a result of their inability to access [White House] briefings.” *Id.* Finally, it is manifestly in the public’s interest that *all* members of the American public—including the deaf community—have access to up-to-date information from the White House.

## **BACKGROUND**

For the past five months, the COVID-19 pandemic has devastated the United States. By late July, more than four and a half million cases had been reported nationwide. More than 150,000 Americans have died from COVID-19, the highest death toll of any nation. Businesses have closed, schools have closed, and social distancing requirements have been instituted. In the face of such an unprecedented crisis, Americans have looked to the White House for leadership and guidance.

### **A. THE WHITE HOUSE’S COVID-19 BRIEFINGS**

Beginning in March 2020, the White House began holding regular, televised briefings regarding the COVID-19 outbreak.<sup>1</sup> To date, the White House has conducted more than 50

---

<sup>1</sup> See Jeremy W. Peters, Elaina Plott & Maggie Haberman, *260,000 Words, Full of Self-Praise From Trump on the Virus*, N.Y. TIMES (Apr. 27, 2020),

televised COVID-19 briefings. The White House Office, and in particular the Press Secretary, is responsible for the public communications of the White House, including the White House's COVID-19 related public briefings. *See* John P. Burke, *Administration of the White House*, Miller Ctr. of Pub. Affairs, Univ. of Va., (Nov. 27, 2010), <https://tinyurl.com/ydy5cq52>. These briefings have addressed critical issues regarding the health crisis, including information regarding the number of confirmed COVID-19 cases, the availability of testing, information about social distancing and other personal safety measures, the coordination of local, state, and federal emergency response systems, and other information about how Americans can stay safe and help limit the spread of the virus.<sup>2</sup> The briefings have also at times featured government officials from the White House Coronavirus Task Force, including public health experts Dr. Anthony Fauci, the director of the National Institute of Allergy and Disease, and Dr. Deborah Birx, the coordinator of the United States Government Activities to Combat HIV/AIDS.<sup>3</sup>

For example, on June 26, 2020, the White House Coronavirus Task Force held a televised briefing in response to the recent increase in coronavirus cases across the United States. During the briefing, the Task Force members delivered important information to the American public. After Dr. Birx “unpack[ed] the specific outbreaks in Texas, Florida, Arizona, and California,” Vice President Pence spoke, “about what every American can do to play their part in reducing

---

<https://www.nytimes.com/interactive/2020/04/26/us/politics/trump-coronavirus-briefings-analyzed.html>; *Remarks*, THE WHITE HOUSE, <https://www.whitehouse.gov/remarks/>.

<sup>2</sup> *See, e.g., Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing*, Apr. 16, 2020, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-27/>.

<sup>3</sup> *Id.*

the spread and the impacts of the coronavirus pandemic.”<sup>4</sup> In addition, Dr. Fauci implored young Americans to recognize that they are “part of a process” and have a “societal responsibility” to comply with social distancing requirements, in light of the alarming number of growing cases.<sup>5</sup> But hundreds of thousands of DHH Americans were unable to receive this important information due to the lack of ASL interpreters.

On July 20, 2020, President Trump announced plans to revive his administration’s COVID-19 briefings. Since then, the President has given regular briefings at the White House, providing updates on COVID-19 economic relief packages, vaccine development, and outbreaks across the country.<sup>6</sup> On several occasions he has asked Americans to wear masks and socially distance.<sup>7</sup> Although health experts have not been present at these latest briefings, President Trump has stated that he is relaying information from both Dr. Birx and Dr. Fauci to the public.<sup>8</sup>

#### **B. Deaf Americans’ Inability to Access the White House’s COVID-19 Briefings**

Unfortunately, the White House’s COVID-19 briefings are not accessible to hundreds of thousands of DHH Americans. The NAD has received numerous complaints from DHH citizens who are unable to understand President Trumps’ televised briefings due to the lack of in frame

---

<sup>4</sup> U.S. Dep’t of Health and Human Services, *White House Coronavirus Task Force Press Briefing: June 26, 2020*, YOUTUBE (June 26, 2020), <https://www.youtube.com/watch?v=FxEOxuZYwc0>.

<sup>5</sup> *Id.*

<sup>6</sup> *See, e.g., Remarks by President Trump in Press Briefing*, July 21, 2020, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-press-briefing-072120>.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

televised American Sign Language (ASL) interpretation.<sup>9</sup> *See* Rosenblum Decl. ¶ 2. For many such persons, English is, at best, a second language. *Id.* ¶ 3. Indeed, many DHH persons know virtually no English. *Id.*

Most DHH Americans who use ASL require qualified ASL interpreters to communicate with hearing persons who can only communicate in a spoken language such as English. *Id.* ¶ 5. ASL is a complete and complex language distinct from English, with its own vocabulary and rules for grammar and syntax—it is not simply English in hand signals. *Id.* ASL has no written component. *Id.* For several reasons, including early language deprivation, many deaf people have a very limited ability to read and write in English. *Id.*

Written English is not an effective means of communication for the many deaf individuals who have limited English capabilities, particularly for complex and important topics such as COVID-19 and related issues of public health. *Id.* ¶ 6. Therefore, even when closed-captioning is provided, those DHH individuals cannot effectively receive the communications being given at White House briefings. *Id.* Furthermore, the closed captioning for live television broadcasts frequently contains errors and omissions that make it difficult or impossible for DHH individuals to understand the information being provided in the briefings, particularly if they are not fluent in English. *Id.* ¶ 7. Tone is also often lost in written captions. *Id.* By contrast, an interpreter is able to convey tone and context of a message through facial expressions, sign choice, and demeanor. *Id.*

---

<sup>9</sup> Our request for “in frame” ASL means simultaneous sign language interpreting where the sign language interpreter is visible on the screen beside the President, Vice President, or other speaker. This may be accomplished by placing the interpreter physically near the speaker, or by superimposing a live video feed of the interpreter into a frame that appears alongside the speaker, with the frame sized appropriately to allow DHH viewers to see and understand the interpretation. Under either approach, the in frame, on screen interpreter would be visible on televised broadcast and on streamed mobile devices.

In response to the White House’s failures, elected officials, advocacy groups, and even other federal agencies have implored the White House to provide ASL interpretation for all COVID-19 related briefings. For example:

- On March 12, 2020, 34 U.S. Senators wrote to Vice President Mike Pence, copying Dr. Birx, urging “the President and his Cabinet officials [to] be models of accessibility by *having American Sign Language (ASL) interpreters at every news conference about COVID-19,*” and noting that it “guarantees that members of the deaf and hard of hearing community are able to receive information in real time.” *See* Ex. A (emphasis added). On information and belief, the White House did not respond to this letter.
- On March 18, 2020, the National Council on Disability—an “independent federal agency charged with providing advice and recommendations regarding disability policy *to the President, Congress, and other federal agencies*” (Ex. B (emphasis added))—wrote to the White House, requesting that it provide in frame ASL interpretation for all COVID-19 briefings and citing the ADA and RA, *id.*; Rosenblum Decl. ¶ 9. That same day, the NAD sent a similar request to President Trump and the White House. Rosenblum Decl. ¶ 10 & Ex. C. The White House did not respond to either of these letters. Rosenblum Decl. ¶¶ 9-10.
- On March 27, 2020, the Linguistic Society of America (LSA)—an organization founded in 1924 to advance the scientific study of language<sup>10</sup>—sent a letter to the White House Press Staff, requesting that all White House briefings addressing COVID-19 include an ASL interpreter who is visible to any viewer. *See* Ex. D. The LSA explained that “solely relying on closed-captioning is not an option for all ASL users, and that a certified sign language interpreter (who must remain visible during the entirety of each briefing) is necessary. . . . This is not only the right thing to do but is also required by federal law, pursuant to the Americans with Disabilities Act and the Rehabilitation Act of 1973.” *Id.*
- On April 21, 2020, Senators Sherrod Brown and Robert P. Casey, Jr., as well as Congresswoman Donna Shalala, wrote to Vice President Pence, copying Dr. Birx, as a follow up to the Senators’ March 12 letter. *See* Ex. E. These elected officials again “request[ed] that the White House Coronavirus Task Force use qualified, fully-visible American Sign Language (ASL) interpreters during public briefings on the coronavirus.” *Id.* On information and belief, the White House did not respond to this letter either.

These are not extraordinary requests. Governors of all 50 states—along with mayors of America’s largest cities and leaders from around the world—have provided sign language

---

<sup>10</sup> *See* LINGUISTIC SOCIETY OF AMERICA, <https://www.linguisticsociety.org/about>.

interpretation of their COVID-19 briefings, and all but a small handful continue to do so consistently. *See* Rosenblum Decl. ¶ 13; *Martinez*, 2020 WL 2393285, at \*6 (S.D.N.Y. May 12, 2020).<sup>11</sup> In the past, U.S. federal agencies, including the Federal Emergency Management Agency (FEMA) before and in the aftermath of Hurricanes Irma and Harvey, have also used onscreen ASL interpreters during public briefings.<sup>12</sup> As a result, deaf Americans who rely on ASL remain unable to access the White House’s briefings. Rosenblum Decl. ¶ 14.

While the number of COVID-19 cases are currently declining in some of the early hardest hit states such as New York and New Jersey, 32 states reported record increases in COVID-19 cases in July.<sup>13</sup> On July 23, 2020, the number of COVID-19 cases nationwide surged past four million.<sup>14</sup> All estimates show that the virus will continue to affect the country throughout the remainder of 2020, and possibly beyond. Thus, it remains as important as ever that all Americans have access to timely information from the White House.

### **C. Plaintiffs’ Inability to Access the White House’s COVID-19 Briefings**

Plaintiffs in this action consist of the National Association of the Deaf and several individual deaf persons.

---

<sup>11</sup> To be sure, a few state’s governors have been inconsistent in their provision of ASL interpretation during COVID-19 briefings, which has become the subject of further litigation. *See* Morgan Gstalter, *DeSantis Sued for Not Having ASL Interpreter at Coronavirus Briefings*, THE HILL (July 14, 2020), <https://thehill.com/homenews/state-watch/507252-desantis-sued-for-not-having-asl-interpreter-at-coronavirus-briefings>.

<sup>12</sup> *See* Julie Bosman & Mitch Smith, *Coronavirus Cases Spike Across Sun Belt as Economy Lurches into Motion*, N.Y. TIMES (June 14, 2020), <https://www.nytimes.com/2020/06/14/us/coronavirus-united-states.html>.

<sup>13</sup> *See* *US Coronavirus Cases, Hospitalizations Rise, Crisis May Worsen*, AL JAZEERA (July 22, 2020), <https://www.aljazeera.com/news/2020/07/200722170516674.html>.

<sup>14</sup> *See* Lisa Shumaker, *U.S. Records 2,600 New Coronavirus Cases Every Hour as Total Surpasses 4 Million*, N.Y. TIMES (July 23, 2020), <https://www.nytimes.com/reuters/2020/07/23/us/23reuters-health-coronavirus-usa-cases.html>.



The NAD is the nation's premier civil rights organization of, by, and for deaf and hard of hearing individuals in the United States. Established in 1880 by deaf and hard of hearing leaders, the NAD is dedicated to its mission of preserving, protecting, and promoting the civil, human, and linguistic rights for 48 million deaf and hard of hearing people in this country. The NAD has associational standing to bring this suit on behalf of its DHH members because (i) the NAD's members have standing to sue in their own right, (ii) advocating on behalf of its members on this issue is germane to the NAD's mission of advocating for its members' civil, human, and linguistic right, and (iii) none of the NAD's members is required to participate in this action because the NAD is seeking declaratory and injunctive relief and not an individualized remedy for its members. *See Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81 (2000).

Individual plaintiffs Carlton Strail, Graham Forsey, Debra Fleetwood, John Rivera, Jr., and Corey Axelrod are deaf individuals who are fluent in ASL, which is their primary and preferred language. *See* Strail Decl. ¶ 2; Forsey Decl. ¶ 2; Fleetwood Decl. ¶ 2; Rivera Decl. ¶ 2, Axelrod Decl. ¶ 2. Several of these individual plaintiffs have difficulty understanding rapid and unreliable live captioning on television, especially when the content is complex, such as when there is information about a health pandemic. *See* Strail Decl. ¶ 3; Fleetwood Decl. ¶ 3; Rivera Decl. ¶ 3. All of the individuals watched the White House Coronavirus briefings during March and April 2020, and saw the briefings again in July 2020, but could not understand the briefings because there was no ASL interpreter. *See* Strail Decl. ¶ 4; Forsey Decl. ¶ 3; Fleetwood Decl. ¶ 4; Rivera Decl. ¶ 4, Axelrod Decl. ¶ 3. These plaintiffs want to understand the White House briefings because they want information on how to stay safe during the coronavirus pandemic, as well as how to take care of family, friends, and loved ones. *See* Strail Decl. ¶ 5; Forsey Decl. ¶

5; Fleetwood Decl. ¶ 5; Rivera Decl. ¶ 5, Axelrod Decl. ¶ 5. They also want information about other pandemic-related issues, such as the progress in developing a potential vaccine and the impact of the pandemic on the economy and country as a whole. *Id.* Additionally, Plaintiffs Graham Forsey and Corey Axelrod are Presidents of the District of Columbia Association of the Deaf and the Illinois Association of the Deaf, respectively, but are unable to answer questions from members of these associations about the White House briefings because they do not have access to the information themselves. *See* Forsey Decl. ¶¶ 1, 5; Axelrod Decl. ¶¶ 1, 5.

### ARGUMENT

To obtain a preliminary injunction, Plaintiffs must show (1) a substantial likelihood of success on the merits; (2) a substantial threat that they will suffer irreparable injury if the injunction is not granted; (3) that the threatened irreparable injury outweighs the threatened harm that the injunction would cause Defendants and third parties; and (4) that granting the preliminary injunction would be in the public interest. *See Aamer v. Obama*, 742 F.3d 1023, 1038 (D.C. Cir. 2014). “The District of Columbia Circuit has applied a ‘sliding-scale approach’ in evaluating the preliminary injunction factors.”<sup>15</sup> *Davis v. Billington*, 76 F. Supp. 3d 59, 63 (D.D.C. 2014) (quoting *Sherley v. Sebelius*, 644 F.3d 388, 392–93 (D.C. Cir. 2011)). Under this analysis, “if the movant makes an unusually strong showing on one of the factors, then it does not necessarily have to make as strong a showing on another factor.” *Id.* (alterations omitted) (quoting *Davis v. Pension Benefit Guar. Corp.*, 571 F.3d 1288, 1291–92 (D.C. Cir. 2009)). “For example, if the movant makes a very strong showing of irreparable harm and there is no

---

<sup>15</sup> Following the Supreme Court’s decision in *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7 (2008), some members of the D.C. Circuit have questioned the continued viability of the sliding-scale approach. *See Davis*, 76 F. Supp. 3d at 63 n.5. But because the Circuit “has had no occasion to decide this question,” the sliding-scale approach “remains the law of this Circuit.” *Id.* (concluding that the court “must employ the sliding-scale analysis”).

substantial harm to the non-movant, then a correspondingly lower standard can be applied for likelihood of success.” *Id.* at 63–64 (quoting *Davis*, 571 F.3d at 1291–92). Here, all four factors decisively favor a preliminary injunction.

## **I. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS**

### **A. Plaintiffs Are Likely to Succeed on Their Rehabilitation Act Claim**

Section 504 of the Rehabilitation Act, 29 U.S.C. § 794(a), makes it unlawful for federal agencies, including the EOP, White House Office, and Office of the Vice President, to discriminate on the basis of disability in their programs or activities. Section 504 states that:

No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any . . . program or activity conducted by any Executive agency . . . .

29 U.S.C. § 794(a). The purpose of Section 504 “is to assure that handicapped individuals receive ‘evenhanded treatment’ in relation to nonhandicapped individuals.” *Traynor v. Turnage*, 485 U.S. 535, 548 (1988); *see also Am. Council of Blind v. Paulson*, 463 F. Supp. 2d 51, 59 (D.D.C. 2006) (stated purpose of the Rehabilitation Act is “to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through . . . the guarantee of equal opportunity.”) (quoting 29 U.S.C. § 701(b)(1)). Section 504 thus requires that persons be “provided with meaningful access” to the benefit at issue through reasonable accommodation. *Alexander v. Choate*, 469 U.S. 287, 301 (1985).

The EOP’s regulations implementing the Rehabilitation Act provide that agencies within the EOP—including the White House Office and Office of the Vice President—“shall take appropriate steps to ensure effective communication with . . . members of the public.” 3 C.F.R. § 102.160(a). The agencies “shall furnish appropriate auxiliary aids where necessary to afford a

[handicapped person] an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency [*i.e.*, the White House Office].” 3 C.F.R. § 102.160(a)(1); *see also Young v. D.C. Hous. Auth.*, 31 F. Supp. 3d 90, 100 (D.D.C. 2014) (plaintiff stated a claim under Rehabilitation Act for failing to provide ASL interpreters or other essential auxiliary aids required for effective communication). These regulations additionally mandate that “[i]n determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the [handicapped person].” 3 C.F.R. § 102.160(a)(1)(i). Auxiliary aids include, but are not limited to, qualified interpreters for deaf persons. 3 C.F.R. § 102.103.

To prove a violation of section 504, plaintiffs must show that “[1] they are disabled within the meaning of the Rehabilitation Act [and] are otherwise qualified, [2] they were excluded from, denied the benefit of, or subject to discrimination under a program or activity, and [3] the program or activity is carried out by a federal executive agency or with federal funds.” *Am. Council of Blind v. Paulson*, 525 F.3d 1256, 1266 (D.C. Cir. 2008). Here, Plaintiffs have demonstrated each of these elements.

*First*, because Plaintiffs are deaf, they are individuals with disabilities. *See* 29 U.S.C. § 705(9). Plaintiffs are also qualified individuals with disabilities under EOP regulations, which define the term qualified individual with a disability as an individual with a disability who “meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.” 3 C.F.R. § 102.103. NAD’s members and the Individual Plaintiffs are individuals with disabilities who, with the reasonable accommodation of an interpreter, would be able to equally participate in and benefit from White House public briefings. *See Martinez*, 2020 WL 2393285, at \*3 (noting that there was “no dispute” that deaf plaintiffs were “qualified individuals with a disability”); *Pierce v. District of Columbia*, 128 F. Supp. 3d 250, 257 n.4, 267

(D.D.C. 2015) (no dispute that deaf inmate requesting ASL interpreter was qualified individual with a disability under Rehabilitation Act).

*Second*, Defendants’ failure to provide live ASL interpreters during COVID-19 briefings has excluded Plaintiffs from, denied Plaintiffs the benefit of, and subjected Plaintiffs to discrimination under a program or activity conducted by the EOP and agencies within the EOP. Plaintiffs require an ASL interpreter in order to effectively understand and participate in public White House briefings because they are deaf. Without this reasonable accommodation, Plaintiffs are not receiving effective communication, and therefore cannot access the briefings because they cannot understand the critical information covered. As noted, ASL is the primary language of many of the NAD’s members and the Individual Plaintiffs. Rosenblum Decl. ¶ 4. The Individual Plaintiffs rely on ASL as their primary language to understand fast-paced information that is complex and critical for staying safe and healthy, as opposed to error-prone captioning in English. *Id.* Plaintiffs cannot effectively use alternative means of receiving information such as closed captioning.

Based on these same facts, the *Martinez* court concluded that plaintiffs had established that they “cannot access Governor Cuomo’s briefings without an in-frame ASL interpreter and have therefore demonstrated a likelihood of success on the merits.” 2020 WL 2393285, at \*6. Although Governor Cuomo argued that existing accommodations, such as closed captioning, ensured meaningful access, the court “disagree[d],” noting that such accommodations, “while perhaps accommodating deaf New Yorkers who are fully literate in English, do not accommodate Plaintiffs and other similar deaf New Yorker who cannot read English.” *Id.* at \*5. “Without in-frame ASL interpretation, Plaintiffs are, ‘as a practical matter, unable to access

benefits to which they are legally entitled.’” *Id.* (alterations omitted) (quoting *Henrietta D. Bloomberg*, 331 F.3d 261, 273 (2d Cir. 2003)). The same analysis applies here.

*Third*, the White House COVID-19 public briefings are programs or activities conducted by the EOP, White House Office, and Office of the Vice President, which are “Executive agencies” under the Rehabilitation Act. While the Act does not define “Executive agencies,” and it appears no Court has addressed this precise issue, there is ample authority demonstrating that these Defendants are “Executive agencies”—including the EOP’s *own* regulations.

The EOP considers itself, as well as the White House Office and Office of the Vice President, to be Executive agencies. The Rehabilitation Act provides that the “head of each such [Executive] agency shall promulgate such regulations as may be necessary to carry out” the statute. 29 U.S.C. § 794. And the EOP has issued such regulations and has defined “agency” therein as “the following entities in the Executive Office of the President: the White House Office, the Office of the Vice President . . . and any committee, board, commission, or similar group established in the Executive Office of the President.” 3 C.F.R. § 102.103. Further, the EOP’s regulations state that “a federally conducted program or activity is, in simple terms, anything a Federal agency does.” 53 Fed. Reg. 25872, 25873 (July 8, 1988). Accordingly, the White House’s COVID-19 briefings are “programs or activities” under the Rehabilitation Act. *See also Martinez*, 2020 WL 2393285, at \*5–6 (applying Rehabilitation Act’s prohibition on discrimination in programs and activities to Gov. Cuomo’s briefings); *Brooklyn Center for Independence of the Disabled v. Bloomberg*, 980 F. Supp. 2d 588, 640 (S.D.N.Y. 2013) (noting that there was “no dispute” that New York City’s emergency preparedness program, which included city press conferences, was a “program” or “activity” within the meaning of the Rehabilitation Act).

That the EOP, White House Office, and Office of the Vice President are “Executive agencies” under the Rehabilitation Act is also confirmed by a memorandum of the Office of Legal Counsel authored by Ted Olson shortly after the 1978 amendments to the Rehabilitation Act. That memorandum concludes: “It is clear from the legislative history of the 1978 Amendments [to the Rehabilitation Act] that Congress intended the amended § 504 to have *the broadest possible coverage within the Executive Branch.*” *See* 7 Op. O.L.C. 110, 110, 114 (1983) (emphasis added). Thus, “the legislative history . . . makes clear that Congress intended § 504 to apply . . . to all ‘agencies and instrumentalities’ in ‘the Executive Branch’ of government.” *Id.* at 114. “Those ‘agencies and instrumentalities’ were understood by Congress to include independent regulatory agencies performing functions constitutionally committed to the Executive Branch, as well as entities more closely subject to the President’s day-to-day supervisory authority.” *Id.*

**B. Alternatively, Plaintiffs Are Likely to Succeed on Their Claim for Mandamus**

In addition to their claim under the Rehabilitation Act, Plaintiffs also seek relief in the form of a writ of mandamus. Even if the Rehabilitation Act could not provide Plaintiffs with adequate remedies—it does—Plaintiffs are likely to succeed on their claim for mandamus relief.

District courts “have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or an agency thereof to perform a duty owed to the plaintiff.” 28 U.S.C. § 1361. A plaintiff establishes mandamus relief where “(1) the plaintiff has a clear right to relief; (2) the defendant has a clear duty to act; and (3) there is no other adequate remedy available to plaintiff.” *Fornaro v. James*, 416 F.3d 63, 69 (D.C. Cir. 2005).

Courts have held that mandamus relief is particularly appropriate where a government agency or official has violated a clear statutory command or the agency's own regulations. *See, e.g., In re Aiken Cty.*, 725 F.3d 255, 259 (D.C. Cir. 2013) (granting mandamus relief where agency was “defying a law enacted by Congress . . . without any legal basis”); *Greater L.A. Council on Deafness, Inc. v. Baldrige*, 827 F.2d 1353, 1362 (9th Cir. 1987) (holding that mandamus was available to compel Department of Commerce to act based on clear Department regulations implementing Section 504 of the Rehabilitation Act); *Carpet, Linoleum & Resilient Tile Layers, Local Union No. 419, Bhd. of Painters & Allied Trades, AFL-CIO v. Brown*, 656 F.2d 564, 568 (10th Cir. 1981) (holding that mandamus relief was appropriate where plaintiffs demonstrated a “complete failure of federal officials to comply with mandatory statutory and regulatory directives”); *Judicial Watch, Inc. v. U.S. Dep’t of Commerce*, 736 F. Supp. 2d 24, 31 (D.D.C. 2010) (holding that plaintiffs could bring claim for alleged violations of clear mandatory duties under the Federal Advisory Committee Act); *United Gov’t Sec. Officers of Am., Local 52 v. Chertoff*, 587 F. Supp. 2d 209, 217, 221 (D.D.C. 2008) (holding mandamus relief appropriate where plaintiff relied on “regulations that clearly dictate the actions that must be taken”).

Here, for the reasons explained above, Plaintiffs have a “clear right to relief”: the Rehabilitation Act and EOP’s own implementing regulations provide Plaintiffs with a clear right not to be discriminated against under any program or activity conducted by any executive agency, which entails a right to meaningful access to information conveyed at the White House’s public briefings related to COVID-19. *See Martinez*, 2020 WL 2393285, at \*5-6. Defendants’ “duty to act” is equally clear—the Rehabilitation Act and the EOP’s own regulations require that the Defendant agencies “take appropriate steps to ensure effective communication with . . . members of the public,” and “furnish appropriate auxiliary aids”—including ASL interpreters—



“where necessary to afford an individual with [disabilities] an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.” 3 C.F.R.

§ 102.160(a), (a)(1). To the extent the Court concludes that the Rehabilitation Act does not provide adequate remedies to Plaintiffs, relief would be available under the doctrine of mandamus. Thus, Plaintiffs are likely to succeed on at least one of their claims seeking an order compelling Defendants to provide ASL interpretation at all briefings related to the COVID-19 pandemic.<sup>16</sup>

## **II. PLAINTIFFS ARE LIKELY TO SUFFER IRREPARABLE HARM IF A PRELIMINARY INJUNCTION IS NOT GRANTED**

Absent a preliminary injunction requiring ASL interpretation, Plaintiffs are likely to suffer imminent and irreparable harm. The White House’s decision to hold regular emergency public briefings reflects the reality that information regarding the COVID-19 pandemic is constantly evolving, and the President’s assessment is that it is important for the public to have ready access to the latest information. In his briefings, President Trump not only updates the public about the toll COVID-19 has taken and is taking on the nation, but he also shares information regarding plans relative to reopening businesses and returning to school, as well as information about face coverings, social distancing restrictions, and development of vaccines and therapeutics. The White House’s briefings have also, at times, included important information from public health experts such as Dr. Fauci and Dr. Birx. Given the nature of the pandemic and

---

<sup>16</sup> Plaintiffs are also likely to succeed on their additional claims—namely, the claim that Defendants’ failure to provide ASL interpreters violates the First Amendment, and the claim for nonstatutory review. *See* Compl. ¶¶ 59-73. The Court need not reach those issues, however, because at the preliminary injunction stage, Plaintiffs need only show a likelihood of success on the merits of on one of their claims. *Kirwa v. U.S. Dep’t of Def.*, 285 F. Supp. 3d 21, 35 (D.D.C. 2017) (“Where multiple causes of action are alleged, plaintiff need only show likelihood of success on one claim to justify injunctive relief.”).

its lingering effects, it appears likely the White House will continue to give public briefings at least throughout the remainder of 2020.

Plaintiffs need access to this vital and continually changing information, which could have a direct impact on their health and safety. Plaintiffs not only need information on how to stay safe and keep their family, friends, and loved ones safe during this pandemic, they also need information on related issues, such as the progress in developing a potential vaccine and the impact of the pandemic on the economy and country as a whole. *See* Strail Decl. ¶ 5; Forsey Decl. ¶ 5; Fleetwood Decl. ¶ 5; Rivera Decl. ¶ 5, Axelrod Decl. ¶ 5. For Plaintiff Strail, who does not own a computer and gets his news exclusive from television, the need is especially acute. *See* Strail Decl. ¶ 3. Finally, Plaintiffs Forsey and Axelrod are Presidents of the District of Columbia Association of the Deaf and the Illinois Association of the Deaf, respectively, but are unable to answer questions from members of these associations about the White House briefings because they do not have access to the information themselves. *See* Forsey Decl. ¶¶ 1, 5; Axelrod Decl. ¶¶ 1, 5..

Thus, Plaintiffs have demonstrated a time sensitive need for this information and a substantial risk of irreparable harm if they are unable to access it immediately. As the court recognized in *Martinez*, without an in-frame ASL interpreter in COVID-19 briefings, DHH persons are “denied timely access to this critical information, leaving them less able to comply with current orders and advice, less able to prepare for the future, and more anxious about current conditions and the future.” 2020 WL 2393285, at \*6.

In addition to those concerns, courts in this circuit have repeatedly held that “the non-disclosure of information to which a plaintiff is entitled, under certain circumstances itself constitutes an irreparable harm; specifically, where the information is highly relevant to an

ongoing and highly public matter.” *Elec. Privacy Info. Ctr. v. Presidential Advisory Comm'n on Election Integrity*, 266 F. Supp. 3d 297, 319 (D.D.C.), *aff'd on other grounds*, 878 F.3d 371 (D.C. Cir. 2017). The federal government’s response to COVID-19 is also a daily topic of vigorous national debate. And, as the D.C. Circuit has recognized, “stale information is of little value.” *Payne Enters., Inc. v. United States*, 837 F.2d 486, 494 (D.C. Cir. 1988).

### **III. THE BALANCE OF HARDSHIPS AND PUBLIC INTEREST WEIGH HEAVILY IN FAVOR OF PLAINTIFFS**

The balance of hardships also decisively favors a preliminary injunction. *See Martinez*, 2020 WL 2393285, at \*6 (“[T]he Court finds that the balance of hardships tips decidedly in favor of the Plaintiffs.”). Retaining qualified and effective sign language interpreters is relatively inexpensive and administratively feasible. Rosenblum Decl. ¶ 13; *see also Martinez*, 2020 WL 2393285, at \*6 (“Nor is there any evidence that this proposed accommodation would ‘fundamentally alter the nature’ of Governor Cuomo’s press briefings or ‘impose an undue financial or administrative burden.’”). There would thus be no hardship on Defendants to provide ASL interpretation during White House public briefings, just as every other governor and many other mayors have done during their briefings. “By contrast, Plaintiffs have demonstrated that they experience hardship on a daily basis as a result of their inability to access [White House] briefings.” *Id.* As explained above, Plaintiffs face serious and irreparable harm as the lack of access to critical information during the current public health crisis could be life-threatening.

Finally, the public interest strongly favors a preliminary injunction. It is in the public’s interest that all members of the public have access to up-to-date information from government officials during a public health crisis. Without access to information through an ASL interpreter, an entire segment of the population will be without the necessary knowledge to act in a way that

further the public interest. *See Martinez*, 2020 WL 2393285, at \*6 (“Plaintiffs and members of the deaf community who are similarly situated to Plaintiffs cannot ensure that they act in the public’s interest [without being aware of government orders or recommendations] and may unknowingly endanger themselves or others.”). Nor would there be any “disservice to the public by providing Plaintiffs’ proposed accommodation.” *Id.* To the contrary, it is manifestly in the public interest to ensure that *all* Americans, including DHH Americans, have timely and meaningful access to the White House’s communications regarding the ongoing COVID-19 pandemic.

### **CONCLUSION**

For the foregoing reasons, the Court should grant Plaintiffs’ motion and issue a preliminary injunction requiring Defendants to immediately begin providing live televised in-frame ASL interpretations at all public briefings conducted by any Defendant that address issues concerning COVID-19, including all such briefings involving President Trump, Vice President Pence, Press Secretary McEnany, or any members of the White House Coronavirus Task Force.

### **REQUEST FOR EXPEDITED TREATMENT**

Plaintiffs respectfully request expedited treatment of this motion. As explained above, absent a preliminary injunction, Plaintiffs will suffer irreparable harm by being denied timely access to critical, potentially life-saving information conveyed by political and public health leaders during the COVID-19 pandemic. Pursuant to Local Rule 65.1, Plaintiffs request that the Court set a briefing schedule as follows: Defendants’ response to Plaintiff’s Motion for Preliminary Injunction shall be due on August 10, 2020, and Plaintiffs’ Reply shall be due on August 14, 2020. Plaintiffs further request that the Court set a hearing on this motion at the Court’s earliest convenience after Plaintiffs submit their reply, but in any event no later than August 24, 2020. *See* Local Rule 65.1(c).

Dated: August 3, 2020

/s/ Ian S. Hoffman

Ian S. Hoffman (D.C. Bar No. 983419)

ARNOLD & PORTER

KAYE SCHOLER LLP

601 Massachusetts Avenue NW

Washington, DC 20001-3743

Telephone: (202) 942-5000

Fax: (202) 942-5999

ian.hoffman@arnoldporter.com

/s/ Marc P. Charmatz

Marc P. Charmatz\*\*

NAD Law and Advocacy Center

86 30 Fenton Street, Suite 820

Silver Spring, MD 20910

Telephone: (301) 587-1788

Fax: (301) 587-1791

marc.charmatz@nad.org

*\*\*pro hac vice motion pending*

*Counsel for Plaintiffs*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

NATIONAL ASSOCIATION OF THE DEAF, *et al.*,  
*Plaintiffs,*

v.

DONALD J. TRUMP, *et al.*,

*Defendants.*

Civil Action No. 20-cv-2107

**[PROPOSED] ORDER**

UPON CONSIDERATION of Plaintiffs' Motion for a Preliminary Injunction and the parties' briefing submitted in connection with that motion, it is hereby ORDERED that the motion is GRANTED. Defendants are ordered to immediately begin providing live televised in-frame ASL interpretations at all public briefings conducted by any Defendant that address issues concerning COVID-19, including all such briefings involving President Trump, Vice President Pence, Press Secretary McEnany, or any members of the White House Coronavirus Task Force.

Dated: \_\_\_\_\_

\_\_\_\_\_  
United States District Judge

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

NATIONAL ASSOCIATION OF THE DEAF, *et al.*,

*Plaintiffs,*

v.

DONALD J. TRUMP, *et al.*,

*Defendants.*

Civil Action No.

**DECLARATION OF JOHN RIVERA, JR. IN SUPPORT OF PLAINTIFFS’  
MOTION FOR PRELIMINARY INJUNCTION**

I, John Rivera, Jr., hereby state under penalty of perjury that the following statements are true and accurate to the best of my knowledge, information, and belief:

1. I am a 66-year-old deaf resident of Old Bridge, New Jersey. Growing up, I attended Public School 47, a deaf school in New York City. I have an Associate of Applied Science degree from the National Technical Institute of the Deaf in Data Processing. I have been employed in data processing since 1982.

2. I am fluent in American Sign Language (“ASL”), which is my preferred and primary language.

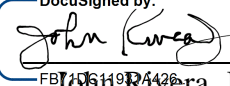
3. I receive most of my news from television. However, I am not able to understand captioning on television when the content is complex, such as when there is information about a health pandemic.

4. I watched a number of the White House’s Coronavirus press briefings during March and April 2020 and saw the briefings again in July of 2020, but I cannot understand the briefings because there is no ASL interpreter during the briefings.

5. I want to understand the White House briefings because I want information on how to stay safe during the Coronavirus pandemic, as well as how to take care of family, friends, and loved ones. I also want information about other pandemic-related issues, such as the progress in developing a potential vaccine and the impact of the pandemic on the economy and country as a whole.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Date: July 31, 2020

DocuSigned by:  
  
John Rivera, Jr.



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

NATIONAL ASSOCIATION OF THE DEAF, *et al.*,

*Plaintiffs,*

v.

DONALD J. TRUMP, *et al.*,

*Defendants.*

Civil Action No.

**DECLARATION OF DEBRA FLEETWOOD IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PRELIMINARY INJUNCTION**

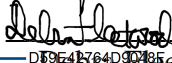
I, Debra Fleetwood, hereby state under penalty of perjury that the following statements are true and accurate to the best of my knowledge, information, and belief:

1. I am a 68-year-old deaf resident of Plainfield, New Jersey. Growing up, I attended the New Jersey School for the Deaf. I did not attend college. I am currently retired.
2. I am fluent in American Sign Language (“ASL”), which is my preferred and primary language.
3. I receive most of my news from television. However, I am not able to understand captioning on television when the content is complex, such as when there is information about a health pandemic.
4. I watched a number of the White House’s Coronavirus press briefings during March and April 2020 and saw the briefings again in July of 2020, but I cannot understand the briefings because there is no ASL interpreter during the briefings.
5. I want to understand the White House briefings because I want information on how to stay safe during the Coronavirus pandemic, as well as how to take care of family, friends,

and loved ones. I also want information about other pandemic-related issues, such as the progress in developing a potential vaccine and the impact of the pandemic on the economy and country as a whole.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Date: July 31, 2020

DocuSigned by:  
  
D19541764D9D385  
Debra Fleetwood

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

NATIONAL ASSOCIATION OF THE DEAF, *et al.*,

*Plaintiffs,*

v.

DONALD J. TRUMP, *et al.*,

*Defendants.*

Civil Action No.

**DECLARATION OF COREY AXELROD IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PRELIMINARY INJUNCTION**

I, Corey Axelrod, hereby state under penalty of perjury that the following statements are true and accurate to the best of my knowledge, information, and belief:

1. I am a 34-year-old deaf resident of Arlington Heights, Illinois. I am currently the President of the Illinois Association of the Deaf.
2. As a fourth-generation deaf person born to deaf parents, grandparents, and great-grandparents, I am fluent in American Sign Language ("ASL"), which is my preferred and primary language.
3. I watched a number of the White House's Coronavirus press briefings during March and April 2020 and saw the briefings again in July of 2020, but I cannot understand the briefings because there is no ASL interpreter during the briefings.
4. I have attempted to understand the White House's briefings on television, on the internet, and on social media, but I am often unable to do so because there is no ASL interpreter. The captioning is often delayed and inaccurate on television or not available on the internet or social media.

5. I want to understand the White House briefings because I want information on how to stay safe during the Coronavirus pandemic, as well as how to take care of family, friends, and loved ones. I also want information about other pandemic-related issues, such as the progress in developing a potential vaccine and the impact of the pandemic on the economy and country as a whole. I further want to be able to answer questions from members of the Illinois Association of the Deaf about the White House briefings, but I am unable to do so because I do not have access to the information myself.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Date: July 31, 2020

  
Corey Axelrod

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

NATIONAL ASSOCIATION OF THE DEAF, *et al.*,

*Plaintiffs,*

v.

DONALD J. TRUMP, *et al.*,

*Defendants.*

Civil Action No.

**DECLARATION OF CARLTON STRAIL IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PRELIMINARY INJUNCTION**

I, Carlton Strail, hereby state under penalty of perjury that the following statements are true and accurate to the best of my knowledge, information, and belief:

1. I am a 92-year-old deaf resident of Syracuse, New York. I have a high school diploma, and never attended college. Since 1995, I have been retired from working in a department store.
2. I am fluent in American Sign Language ("ASL"), which is my preferred and primary language.
3. I do not own a computer and receive my news from television. However, I have difficulty understanding rapid and unreliable live captioning on television, especially when the content is complex such as when there is information about a health pandemic.
4. I watched a number of the White House's Coronavirus press briefings during March and April 2020 and saw the briefings again in July of 2020, but I cannot understand the briefings because there is no ASL interpreter during the briefings.

5. I want to understand the White House briefings because I want information on how to stay safe during the Coronavirus pandemic, as well as how to take care of family, friends, and loved ones. I also want information about other pandemic-related issues, such as the progress in developing a potential vaccine and the impact of the pandemic on the economy and country as a whole.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Date: July 31, 2020

A handwritten signature in black ink, appearing to read 'Carlton Strail', written over a horizontal line.

Carlton Strail



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

NATIONAL ASSOCIATION OF THE DEAF, *et al.*,

*Plaintiffs.*

v.

DONALD J. TRUMP, *et al.*,

*Defendants.*

Civil Action No.

**DECLARATION OF GRAHAM FORSEY IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PRELIMINARY INJUNCTION**

I, Graham Forsey, hereby state under penalty of perjury that the following statements are true and accurate to the best of my knowledge, information, and belief:


1. I am a 27-year-old deaf resident of Washington, D.C. I am a graduate of the Ernest C. Drury School for the Deaf in Milton, Canada. I am currently the President of the District of Columbia Association of the Deaf.
2. American Sign Language ("ASL") is my preferred and primary language.
3. I watched a number of the White House's Coronavirus press briefings during March and April 2020 and saw the briefings again in July of 2020, but I cannot understand the briefings because there is no ASL interpreter during the briefings.
4. I have attempted to understand President Trump's briefings on television, on the internet, and on social media, but I am often unable to do so because there is no ASL interpreter. The captioning is often inaccurate on television or not available on the internet or social media.
5. I want to understand the White House briefings because I want information on how to stay safe during the Coronavirus pandemic, as well as how to take care of family, friends,

GF

and loved ones. I also want information about other pandemic-related issues, such as the progress in developing a potential vaccine and the impact of the pandemic on the economy and country as a whole. I further want to be able to answer questions from members of the District of Columbia Association of the Deaf about the White House briefings, but I am unable to do so because I do not have access to the information myself.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Date: July 31, 2020

  
Graham Forsey



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

NATIONAL ASSOCIATION OF THE DEAF, *et al.*,

*Plaintiffs,*

v.

DONALD J. TRUMP, *et al.*,

*Defendants.*

Civil Action No. 20-cv-2107

**DECLARATION OF HOWARD A. ROSENBLUM IN SUPPORT OF PLAINTIFFS’  
MOTION FOR PRELIMINARY INJUNCTION**

I, Howard A. Rosenblum, hereby state under penalty of perjury that the following statements are true and accurate to the best of my knowledge, information, and belief:

1. I am an attorney and the Chief Executive Officer of the National Association of the Deaf (“NAD”). I also serve as an ex officio member of the NAD Board of Directors. I have practiced law for twenty-eight years, focusing my practice on disability rights and special education law. I hold a Bachelor of Science degree in computer engineering from the University of Arizona and a Juris Doctor degree from the Illinois Institute of Technology Chicago-Kent College of Law.

2. Since the White House began holding televised briefings regarding the COVID-19 outbreak, NAD has received hundreds of complaints from deaf and hard of hearing (“DHH”) Americans who are unable to understand the briefings due to the lack of in-frame televised American Sign Language (“ASL”) interpretation.

3. For many DHH individuals, English is, at best, a second language. Indeed, many DHH persons know virtually no English.

4. ASL is the primary language of many of the NAD's members and the Individual Plaintiffs. The Individual Plaintiffs rely on ASL as their primary language to understand fast-paced information that is complex and critical for staying safe and healthy, as opposed to error-prone captioning in English.

5. ASL is a complete and complex language distinct from English, with its own vocabulary and rules for grammar and syntax. It is not simply English in hand signals. ASL has no written component. For several reasons, including early language deprivation, many deaf people have a very limited ability to read and write in English. Most DHH Americans who use ASL require qualified interpreters to communicate with hearing persons who can only communicate in a spoken language such as English.

6. Written English is not an effective means of communication for many deaf individuals who have limited English capabilities, particularly for complex and important topics such as COVID-19 and related issue of public health. Therefore, even when closed-captioning is provided, those DHH individuals cannot effectively receive the messages conveyed at the White House press briefings.

7. Furthermore, closed captioning for live television broadcasts frequently contains errors and omissions that make it difficult or impossible for DHH individuals to understand the information being provided in the briefings, particularly if they are not fluent in English. Tone is also frequently lost in written captions. By contrast, an interpreter is able to convey tone and context of a message through facial expressions, sign choice, and demeanor.

8. On March 12, 2020, 34 U.S. Senators wrote to Vice President Mike Pence, copying Dr. Deborah Birx, urging “the President and his Cabinet officials [to] be models of accessibility by having American Sign Language (ASL) interpreters at every news conference about COVID-19,” and noting that it “guarantees that members of the deaf and hard of hearing community are able to receive information in real time.” A true and correct copy of the letter is attached hereto as Exhibit A.

9. On March 18, 2020, the National Council on Disability (“NCD”), a federal agency, requested that President Trump and the White House provide in-frame ASL interpretation of all the COVID-19 briefings. A true and correct copy of NCD’s letter is attached hereto as Exhibit B. To the best of my knowledge, the White House did not respond to this letter.

10. That same day, on behalf of the NAD, in my capacity as CEO, I wrote to Stephanie Grisham, White House Director of Communications, requesting that President Trump and the White House provide in-frame ASL interpretation on television broadcasts of all his COVID-19 briefings. A true and correct copy of NAD’s letter is attached hereto as Exhibit C. The White House did not respond to this letter.

11. On March 27, 2020, the Linguistic Society of America (LSA)—an organization founded in 1924 to advance the scientific study of language—sent a letter to the White House Press Staff, requesting that all White House press briefings addressing COVID-19 include an ASL interpreter who is visible to any viewer. The LSA explained that “solely relying on closed-captioning is not an option for all ASL users, and that a certified sign language interpreter (who must remain visible during the entirety of each briefing) is necessary . . . . This is not only the right thing to do but is also required by federal law, pursuant to the Americans with Disabilities

Act and the Rehabilitation Act of 1973. A true and correct copy of NAD's letter is attached hereto as Exhibit D.

12. On April 1, 2020, Senators Sherrod Brown and Robert P. Casey, Jr., as well as Congresswoman Donna Shalala, wrote to Vice President Pence, copying Dr. Birx, as a follow up to the Senators' March 12 letter. These elected officials again "request[ed] that the White House Coronavirus Task Force use qualified, fully-visible American Sign Language (ASL) interpreters during public briefings on the coronavirus." A true and correct copy of the letter is attached hereto as Exhibit E.

13. Based on research done by NAD, I understand that Governors of all 50 states have at times provided in-frame ASL interpretation of their COVID-19 briefings. In the past, U.S. federal agencies, including the Federal Emergency Management Agency (FEMA) before and in the aftermath of Hurricanes Irma and Harvey, have also used onscreen ASL interpreters during televised briefings. Retaining qualified sign language interpreters for such briefings is relatively inexpensive.

14. As a result of the White House's refusal to provide in frame televised ASL interpretation, deaf people who rely on ASL and live in the U.S. remain unable to access the White House's briefings.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Date: August 3, 2020

  
Howard A. Rosenblum

# **Exhibit A**

# United States Senate

WASHINGTON, DC 20510

March 12, 2020

The Honorable Mike Pence  
Vice President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Vice President Pence:

We write to urge the Administration to ensure all Americans, including older adults, individuals with disabilities and those with limited English proficiency (LEP), have access to accurate, up-to-date and clear information about the 2019 novel coronavirus (COVID-19). In order to slow the spread of the virus and provide state and local health departments the time to prepare and respond to the outbreak, all people need the best possible and most current information. We strongly urge all departments and agencies to require that announcements (live televised, videotaped and posted to the internet), documents, press releases, guidance and all other forms of communication regarding COVID-19 are created and distributed in an accessible format and manner.

Working to ensure all communities in America have access to COVID-19 information starts at the top. For example, the President and his Cabinet officials can be models of accessibility by having American Sign Language (ASL) interpreters at every news conference about COVID-19. This type of action not only guarantees that members of the deaf and hard of hearing community are able to receive information in real time, but it also highlights the importance of tailoring communication modes to meet the needs of all communities. Similarly, according to the U.S. Census Bureau, there are over 25.6 million individuals who speak English less than “very well”.<sup>1</sup> It is critical to keep people with LEP well informed, especially in times of a public health crisis.

In order to understand what actions the federal government is taking, or planning to take, to ensure accessibility to information about COVID-19:

1. During public health emergencies, updated information is often available on government websites, which many seniors may not use or be able to access. What efforts have you taken to ensure that seniors regularly receive the most up-to-date information about the outbreak?
2. In what ways are you making information on government websites accessible to all populations? Specifically, how are you working to:

---

<sup>1</sup> United States Census Bureau, “Selected Social Characteristics in the United States” *American Community Survey* <https://data.census.gov/cedsci/table?q=dp02&tid=ACSDP1Y2018.DP02&vintage=2018>.

- a. Ensure all information posted on government websites about COVID-19 is screen readable?
  - b. Include audio descriptions and alt-text of photographs, charts, tables and other graphics?
  - c. Guarantee all information can be accessed using a keyboard instead of a mouse?
  - d. Ensure information is available and regularly updated in languages other than English?
3. The President and agency officials have held news conferences to update the public on the Administration's efforts to combat the outbreak and provide safety recommendations. To what extent are you working to ensure that all future press conferences and public live or videotaped statements include an American Sign Language interpreter and CART (communication access real-time translation) services?
4. How will you ensure that published materials are understandable by individuals with intellectual disabilities? Do you plan to produce plain language announcements and guidance, made available at the same time as source documents?
5. Will you continue to fund resources for the distribution of information in languages other than English, specifically in languages spoken in each geographic region around the country?
6. Have you consulted or do you plan to consult with stakeholders from disability, senior and LEP communities on how best to disseminate COVID-19 information and guidance to these populations? If such discussions have already occurred, how have your communications and outreach efforts changed in response to their recommendations?
7. As you advise states on their responsibilities in the midst of this outbreak, are you offering them suggested practices to adequately communicate with seniors, individuals with disabilities and LEP individuals? If so, please share those instructions.

Please respond to the following questions no later than April 3, 2020. We look forward to your response detailing how the federal government plans to make information available to these communities and to your immediate action on any further action needed to make this request a reality.

Sincerely,



Robert P. Casey, Jr.  
United States Senator



Jack Reed  
United States Senator





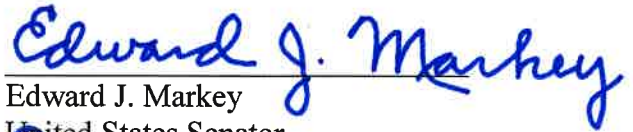
Sherrod Brown  
United States Senator



Tammy Baldwin  
United States Senator



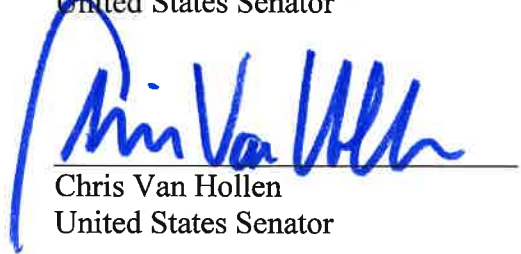
Sheldon Whitehouse  
United States Senator



Edward J. Markey  
United States Senator



Catherine Cortez Masto  
United States Senator



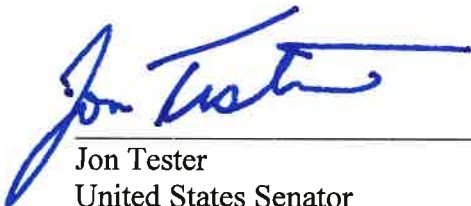
Chris Van Hollen  
United States Senator



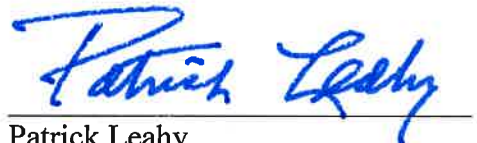
Bernard Sanders  
United States Senator



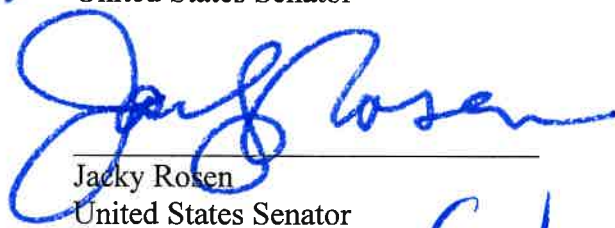
Richard Blumenthal  
United States Senator



Jon Tester  
United States Senator



Patrick Leahy  
United States Senator



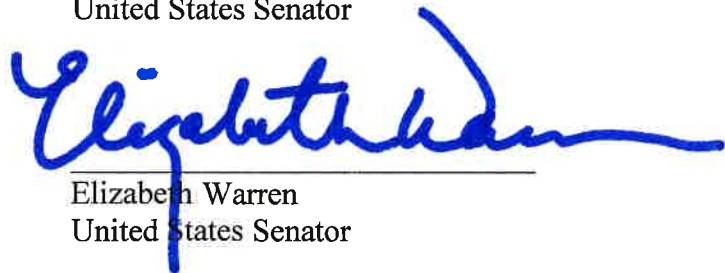
Jacky Rosen  
United States Senator



Kirsten Gillibrand  
United States Senator



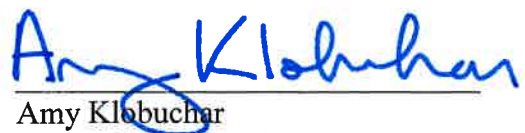
Tina Smith  
United States Senator



Elizabeth Warren  
United States Senator



Tim Kaine  
United States Senator

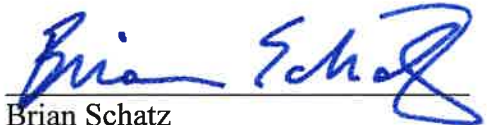


Amy Klobuchar  
United States Senator





Jeffrey A. Merkley  
United States Senator



Brian Schatz  
United States Senator



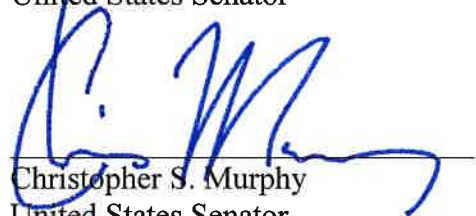
Gary C. Peters  
United States Senator



Cory A. Booker  
United States Senator



Ron Wyden  
United States Senator



Christopher S. Murphy  
United States Senator



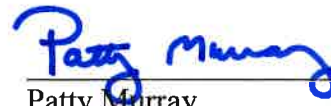
Kamala D. Harris  
United States Senator



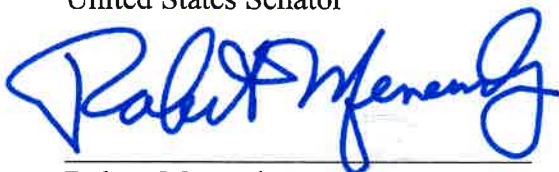
Margaret Wood Hassan  
United States Senator



Debbie Stabenow  
United States Senator



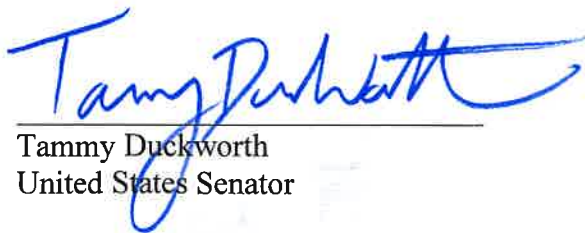
Patty Murray  
United States Senator



Robert Menendez  
United States Senator



Thomas R. Carper  
United States Senator



Tammy Duckworth  
United States Senator



Mark R. Warner  
United States Senator



Christopher A. Coons  
United States Senator



Richard J. Durbin  
United States Senator

cc:

Dr. Deborah L. Birx  
Coronavirus Response Coordinator  
White House Coronavirus Task Force

# **Exhibit B**



# National Council on Disability

*An independent federal agency committed to  
disability policy leadership since 1978*

- [Follow us on Facebook](#)
- [Follow us on Twitter](#)

[About Us](#)   [Newsroom](#)   [Progress Reports](#)   [Publications](#)   [Resources](#)   [Meeting & Events](#)  
[Accountability](#)   [FOIA](#)   [COVID-19](#)

---

## NCD letter to White House regarding Taskforce interpreters

March 18, 2020

Stephanie Grisham

Director of Communications  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Ms. Grisham,

I write to you today on behalf of the National Council on Disability (NCD), an independent federal agency charged with providing advice and recommendations regarding disability policy to the President, Congress, and other federal agencies, to request that the White House Coronavirus Taskforce use sign language interpreters during its public briefings. Millions of people in the US who are Deaf or hard of hearing use American Sign Language to obtain the vital information the Taskforce provides.<sup>[1]</sup>

These are no doubt challenging times and while some considerations might be easily overlooked, rest assured that the National Council on Disability is ready and willing to fulfill its duty to the President and Congress by highlighting the needs and concerns of the disability community as our government responds to the public health crisis at hand. There is no doubt that the Coronavirus brings with it significant added concerns for people with disabilities.

Please feel free to contact me should you have any questions or concerns regarding this, or any other matter related to disability policy and law. If a member of your team would like to discuss this with a member of my team please have them contact Lisa Grubb, Executive Director and CEO at [lgrubb@ncd.gov](mailto:lgrubb@ncd.gov).

Sincerely,

Neil Romano  
Chairman

CC: Alex Azar, Secretary of Health and Human Services, and Chairman of the President's Task Force on the Novel Coronavirus

---

[1] The Americans with Disabilities Act, 42 U.S.C. § 12101 (1990); The Rehabilitation Act, 29 U.S.C. § 701 (1973).

## NCD Policy Areas

CRPD

Civil Rights

Cultural Diversity

Education

Emergency Management

Employment

Financial Assistance & Incentives

Health Care

Housing

International

Long Term Services & Support

Technology

Transportation

Youth Perspectives

## Contact Us

If you have a question or comment, please let us know.

202-272-2004 (voice)

202-272-2022 (Fax)

[Email NCD](#)

[Language Access Needs?](#)

## Stay Connected with NCD

[Subscribe to NCD Updates](#)

[Newsroom](#)

[Join us on Facebook](#)

[Follow us on Twitter](#)

[Follow us on Instagram](#)

[Meetings and Events](#)

[Link to Us](#)

[NCD Council & Staff](#)

[Employment Opportunities](#)

- [Site Map](#)
- [Privacy Statement](#)
- [Accessibility Statement](#)
- [Accountability](#)
- [Need help opening a PDF or DOC file?](#)

**National Council on Disability** 1331 F Street, NW, Suite 850 Washington, DC 20004

# **Exhibit C**



**National Association of the Deaf**

[www.nad.org](http://www.nad.org)

March 18, 2020

Stephanie Grisham  
Director of Communications  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Ms. Grisham:

With thanks to the National Council on Disability for their letter today on this issue, the National Association of the Deaf (NAD) also asks that the White House implement immediate action to ensure that all public briefings regarding the coronavirus pandemic by President Donald Trump or the White House Coronavirus Taskforce is fully accessible to all deaf and hard of hearing people in the United States. For this to happen, every such public briefing must have a qualified American Sign Language (ASL) interpreter present and visible on the screen of the broadcast.

From the first White House press conference on this coronavirus, the NAD has received daily complaints from deaf and hard of hearing citizens across the country asking why their President is not ensuring they are getting the same access to emergency information as everyone else. We have been directing their complaints to your office, and join in their concern for the lack of information for our community. Nearly all 50 states' Governors have had qualified ASL interpreters next to them at their coronavirus public briefings, and we ask the same for the White House.

Further, we ask that you direct the Department of Health and Human Services, as well as their Centers for Disease Control to immediately make all information relating to coronavirus on their websites available in ASL. We have been asking them to create such videos with ASL content for at least two weeks and have yet to see any such videos. Your assistance in this matter is appreciated.

Should you require assistance in securing appropriately qualified ASL interpreters for the White House public briefings, please do not hesitate to contact us at [nad.info@nad.org](mailto:nad.info@nad.org)

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Rosenblum', with a stylized flourish at the end.

Howard A. Rosenblum  
NAD Chief Executive Officer

CC: Alex Azar – Secretary, Health and Human Services; Chairman, the President's Task Force on the Novel Coronavirus  
Neil Romano – Chairman, National Council on Disability



# **Exhibit D**



March 27, 2020

The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear White House Press Staff:

It has come to the attention of the Linguistic Society of America (LSA), that the requirements of equal language accessibility for all deaf and hard of hearing viewers, during crucial COVID-19 press briefings, are failing to be met. There is a large population of Americans that rely on American Sign Language (ASL) as their primary mode of communication. Please note that solely relying on closed-captioning is not an option for all ASL users, and that a certified sign language interpreter (who must remain visible during the entirety of each briefing) is necessary. Failing to provide this method of communication leaves many deaf and hard of hearing Americans vulnerable due to the inevitability of a communication breakdown.

Please review [best practices](#) for effective communication at emergency press briefings. Information shared about this serious disease outbreak must be made accessible at the time of the release, not afterwards. Failing to make this information available in ASL means that deaf people are not getting the same important information about health and safety.

We are requesting that The White House staff provide a certified and qualified sign language interpreter for ALL news and announcements involving COVID-19 messaging. This is not only the right thing to do but is also required by federal law, pursuant to the Americans with Disabilities Act and the Rehabilitation Act of 1973.

Like everyone else, the deaf community is concerned about this outbreak but is often the last to know about vital updates, due to lack of equal and rightful communication access.

Sincerely,

A handwritten signature in cursive script that reads 'Alyson Reed'.

Alyson Reed  
Executive Director

CC: SUBMIT@NAD.ORG

# **Exhibit E**

# Congress of the United States

## Washington, DC 20510

April 21, 2020

The Honorable Mike Pence  
Vice President of the United States  
White House Coronavirus Task Force  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

Dear Vice President Pence:

We write to request that the White House Coronavirus Task Force use qualified, fully-visible American Sign Language (ASL) interpreters during public briefings on the coronavirus.

Deaf and hard of hearing Americans across the country have expressed their frustration about inaccessible information due to the lack of interpreters on screen. They are not receiving access to public health information from Task Force briefings as they broadcast live. Closed captioning is accessible to many deaf and hard of hearing people, but many other deaf or hard of hearing people use ASL as their primary language and it is a language of its own distinct from English. Many of them are not able to understand anything released by the White House. During this public health crisis, if any group is at risk, we are all at risk.

The National Council on Disability, the independent federal agency tasked with making recommendations on federal disability policy, and many organizations and advocacy groups, including the National Association of the Deaf, have also called upon the White House to include ASL interpreters at daily briefings. While all 50 Governors across the country include ASL interpreters during their coronavirus briefings, the White House has yet to incorporate this important accessibility in their coronavirus updates during this public health crisis.

Over a month ago, on March 12, 34 Senators sent you a letter (attached) and asked you and the Task Force to ensure that American Sign Language interpreters are available during all public briefings and communications. The Senators have not received a response from you or the Task Force, and ASL interpreters have not been present at the briefings.

The coronavirus poses increased threats and barriers to individuals with disabilities – receiving vital public health information from the federal government should not be one of them. We must

ensure that every group has equal access to public health information to help our communities across the country prevent any further spread of this virus.

We look forward to your response.

Sincerely,

/s/Sherrod Brown

---

Sherrod Brown  
United States Senator

/s/Bob Casey

---

Robert P. Casey Jr.  
United States Senator

/s/Donna Shalala

---

Donna Shalala  
United States Representative

cc:

Dr. Deborah L. Birx  
Coronavirus Response Coordinator  
White House Coronavirus Task Force