

Exhibit B: Consolidated Recommendations

**Adams & Knights v. Commonwealth of Kentucky
Case No. 3:14-cv-00001-GFVT (E.D. Ky.)**

Margo Schlanger, Settlement Monitor

CONSOLIDATED RECOMMENDATIONS

AS OF APRIL 19, 2017

I present, the recommendations I have made in three groups: First, those from April 2016; second, those from December 2016; third, those from April 2017. The numbering is continuous from one group to the next.

Group 1 (April 21, 2016)

Note: These are edited from their original wording; they are phrased more generally, in order to eliminate the references to KSR.

I. IDENTIFICATION OF INMATES COVERED BY THE AGREEMENT

Recommendation 1: Each facility should identify all inmates who meet the Agreement's definition of "Deaf." This is necessary both in order to report names to me and to ensure that appropriate services are provided to hard-of-hearing inmates. (Settlement Agreement I.3; III.A; III.B; XV.B.1.d)

Recommendation 2: Include additional questions in the screening questionnaire, along the lines of:

- Do you currently have and use a hearing aid?
- Have you ever been diagnosed with hearing loss?
- Have you ever used a hearing aid that you no longer use? (If yes, Why don't you use it anymore?)

A "yes" answer to any of the these three questions should be followed up by a provider visit, unless the inmate explains that he no longer uses the hearing aid because his hearing has improved so that it is no longer necessary.

- If you currently have a hearing aid, is it working ok?
A "no" answer to this question should be followed up by a provider visit.
- Note to tester: If the inmate seems unable to understand these questions due to a hearing impairment, provider follow-up is indicated.

(Settlement Agreement I.3; III.A; III.B)

Recommendation 3: Staff administering the questionnaire should be alert to (and trained on) the possibility of low literacy, and should ask questions orally when appropriate. Among illiterate inmates, a hearing impairment sufficient to undermine their ability to answer these questions ought to itself trigger referral to the appropriate provider. (Settlement Agreement I.5; III.A; III.B)

Recommendation 4: Further assessment of the inmate should include not just the medical decision

whether to send the inmate to an audiologist, but a separate, explicit, charted and electronically-tracked decision whether he is deaf or hard-of-hearing. (Settlement Agreement III.B; III.D [identification cards]; III.C [auxiliary aids and services assessment]; XV.B [reporting])

Recommendation 5: The KDOC Electronic Medical Record system should include a single electronic code that flags inmates who are deaf, hard-of-hearing, or hearing-impaired (hereinafter Deaf, in this report), to facilitate provision of services to them. (Settlement Agreement III.B)

II. PROVISION OF AUDIOLOGY SERVICES

Recommendation 6: Inmates in need of a hearing aid—both initially or because the device they have is no longer working for them—should wait no longer than two months to obtain the necessary device. That time period should begin the day the potential need is indicated by the inmate’s request for evaluation, answers on the questionnaire, etc. Each KYDOC facility should track the time from request/questionnaire to provider visit to audiology visit to hearing aid provision, and ensure that inmates do not have a longer wait. (In future quarterly reporting periods, I will request this tracking data from all facilities.) One way to accomplish less expensive and more comprehensive assessment for any backlog might be to bring in an audiologist to each applicable facility for two or three days. (Settlement Agreement V.B; VIII.B.2)

III. AUXILIARY AIDS/SERVICES

A. *Personal hearing devices: Hearing aids and amplifiers*

Recommendation 7: Full information about hearing aids and hearing evaluations, including the availability of batteries without charge, should be provided to inmates. See Exhibit D-2. (III.F)

Recommendation 8: Inmates waiting for an audiologist evaluation or for hearing aid service should be offered an amplifier while they wait. (Settlement Agreement V.B)

B. *Qualified Interpretation*

Recommendation 9: For inmates who use sign language to communicate, some kind of qualified interpretive services should be readily available for any communication between an inmate and staff when the inmate requests interpretation. The availability of interpretation should not be limited to only certain types of encounters, communications, or settings. (Settlement Agreement III; VI)

Recommendation 10: For inmates who use sign language to communicate, no special request should be needed to obtain VRI services for auxiliary aid/service assessment, emergency health care on-site, classification and transfer hearings and related meetings, grievance meetings and hearings, disciplinary hearings and all related processes, parole meetings and hearings. (Settlement Agreement VI.A; III.C [auxiliary aids and services assessment]; VI.C.4 [emergency on-site medical]; VI.H [transfer and classification]; V.A.2 [grievance hearings]; VII.A [disciplinary hearings]; VI.A.3 [parole hearings])

Recommendation 11: Interpretation services should be offered without special request to any inmate (known to prison staff to use sign language to communicate) during initial classification and orientation. These encounters are vital to the terms of each inmate’s living situation, and inmates are unlikely to know, during these early stages, that they need to request interpretation and how to do so. (Settlement Agreement III.A.1)

Recommendation 12: Both the existing VRI contract and the standing arrangement with a provider of in-person qualified interpretive services are crucial and should remain in place. In-person interpretation should be provided to inmates who communicate by signing when it is necessary for effective communication. This includes during group classes in which student participation is key, and in parole hearings. For other situations, an in-person interpreter should be provided if remote interpretation is unlikely to be, or has not been, effective. (Settlement Agreement VI.A; VI.E. VI.A.3)

Recommendation 13: More generally, more clarity and a better process for picking a qualified interpretation method—VRI or in-person—are needed. The various memos, forms, and training should be modified to support that process. The facility should give “primary consideration” to the affected inmate’s view on this question. Revised versions of all the relevant forms and memos are attached as Exhibit D. The information in Exhibit D-5—in particular, the preferred communication method—should be made available to all KYDOC staff who need it, including both medical and custody staff, including electronically. (Settlement Agreement VI.A; I.5)

Recommendation 14: Each facility should track the effectiveness of communication via VRI in other situations, in order to decide whether there are any situations in which in-person interpretation should be the first recourse. As part of this assessment process, each time a VRI is used, the inmate should be asked how effective the resulting communication was. This can be done by a scaled question:

Please check the box that best indicates your views.

The Video Remote Interpretation I just used provided fully effective communication:

Strongly agree Weakly agree Weakly disagree Strongly disagree

If there was any problem with the communication, please explain:

These responses can be collected and analyzed. This recommendation is reflected in Exhibit D. (Settlement Agreement VI.A)

Recommendation 15: Inmates who communicate via sign language should not have their hands restrained when there is a need for effective communication, absent an individualized finding of security threat even with use of substitute security procedures (if necessary). If avoiding restraint of inmates’ hands requires substitute security procedures, those should be written up and included in the documentation of the necessary processes for both VRI and in-person interpretation, and any appropriate equipment should be obtained and installed wherever it might be needed. (Settlement Agreement XI.A)

Recommendation 16 [Applies to KSR only]: For situations since June 2015 in which KSR’s procedures did not allow an inmate to communicate during a disciplinary

hearing—most importantly, in Inmate C’s October 2015 hearing—the inmate should be given an opportunity to redo the hearing. This opportunity must be effectively communicated to the inmate, which itself should be done using interpretive services. (Settlement Agreement VII)

Recommendation 17 [Applies to KSR only]: Inmate D’s 2016 Parole hearing should be redone, with an in-person Qualified Interpreter. (Settlement Agreement V.A.2)

Recommendation 18: When a Deaf inmate is seeking/receiving off-site medical care, staff at each facility should, as early as practicable, inform the relevant medical provider(s) that a Deaf Inmate requiring a Qualified Interpreter or other Auxiliary Aid or Service will be seeking medical care from those off-site medical providers at a particular date and time; in the case of an emergency, staff should provide such information as soon as possible, and should include the Deaf inmate’s estimated time of arrival. There should be policies and procedures in place, implemented by appropriate training, to ensure that these notifications occur. (Settlement Agreement VI.D)

Recommendation 19: The process/forms for inmates to request interpretive services and other auxiliary aids and services should clearly encompass religious and any other volunteer-provided programming. (Settlement Agreement VI.A.3; VI.G.1)

Recommendation 20: Significant communications by the chaplains are covered by the requirement of effective communication. Therefore the chaplains, like other staff, should be trained in the requirements of this Agreement, and should ensure that if they have occasion to minister to a Deaf inmate—or simply inform him that a family member has died—they do so effectively, including using interpreter services if the inmate communicates using sign language. (Settlement Agreement VI.J)

Recommendation 21: The process for obtaining and using the VRI laptop should be communicated to each staff member who might have occasion to need it, and also to each inmate who communicates using sign language. Each such staff member should actually do a practice run using the machine—to figure out how/where internet access and power will be obtained, and how to use the program. The laptops themselves should be checked each time they are returned to their resting area, to ensure that they have sufficient battery power. Training should ensure that staff understand that the person communicating with the Deaf inmate should sit within easy reach of the laptop’s microphone, and that the inmate must not have his hands handcuffed. (It would be useful to include a diagram or instructions on a piece of paper taped to the laptop’s cover.) (Settlement Agreement VI [qualified interpreters]; IX.E [training and technology]; XI [hand restraints])

Recommendation 22: There should be some flexibility in the timing of VRI requests and usage; where a need arises that does not allow for 48 hours notice, VRI should nonetheless be made available if possible. Each facility should work out a process for VRI availability after hours and on weekends, as well as in emergencies. (Settlement Agreement VI.J)

C. Videos

Recommendation 23: Check each existing video used to determine whether it has captioning

and obtain replacements with captioning if available. Provide captions for all orientation videos, for newly acquired entertainment and educational videos, and other videos when captioning is available. For television captioning to be a real option, training for staff about how to turn it on and periodic testing are required. This should be done on a schedule, perhaps quarterly or twice a year, and it should be logged. (Settlement Agreement X.1)

Recommendation 24: For Deaf inmates who cannot hear crucial informative videos, and whose literacy level is insufficient to allow them to readily read captions, an alternative method of effective communication is necessary. For those who communicate using sign language, the prison should provide either a sign language inset, or an in-person Qualified Interpreter. (Settlement Agreement I.5; III.E; VI.J)

D. *Speech-to-text*

Recommendation 25 [KSR only, for right now]: KSR should continue to investigate the possibility of speech-to-text software for use in classroom and other appropriate settings. I will ask for a report on this issue six months. (Settlement Agreement V.A. 2; VI.E)

E. *Assistive listening systems*

Recommendation 26 [KSR only, for right now]: Investigate assistive listening systems for use in classroom and other appropriate settings. I will ask for a report on this issue in six months. (Settlement Agreement V.A. 2; VI.E)

Recommendation 27: Each facility should inform Deaf inmates of the various ways in which educational programming can be made more accessible to them; the school should put in place a process to facilitate requests for such accommodations and assess the need for them. (Settlement Agreement III.F; V.A. 2; VI.E)

F. *Written communication*

Recommendation 28: Written communication should be relied upon only for simple communication with literate inmates. For complex communications or less literate inmates, alternative methods are required. Staff should make best efforts to communicate with each deaf or hard-of-hearing inmate using that inmate's preferred communication method (which is assessed and recorded by Exhibit D-5). (Settlement Agreement I.5)

G. *Non-auditory alerts*

Recommendation 29: Each facility should expand the availability of non-auditory alert systems, providing them to inmates who cannot hear the fire alarm and/or the alert for count. To maximize the communication effectiveness of each non-auditory alert, it should be programmed to signal, in different ways, the several predictable alerts: fire/emergency; count, chow, "report to office." Staff must also be trained to use the office switch. Whether this is occurring will need monitoring; perhaps by using a daily log or checking in periodically with affected inmates. The monitoring system should be made formal. I will ask for a description of it, and perhaps relevant records, in the next quarterly reporting period. (Settlement Agreement VIII)

Recommendation 30 [KSR only, for right now]: Investigate the costs and benefits of a TV-based visual paging system. I will ask for a report on this issue in six months. (Settlement Agreement VIII)

Recommendation 31: Each facility should train staff to be alert to the possibility that a Deaf inmate may miss the alert for count, chow, or pill call—and to ensure nondiscrimination in that event. (Settlement Agreement VIII; II.A)

H. *Miscellaneous devices*

Recommendation 32: Each facility's commissary list should include various alerting devices that inmates might wish to purchase: caption-capable TVs, vibrating alarm clocks, and the like. Inmates should be informed that if they seek to purchase adaptive equipment that is not available via the commissary, they should request assistance from the ADA Coordinator; the ADA Coordinator should then facilitate the inmate's purchase unless the requested device presents an articulable and documented security risk. (Settlement Agreement XII)

I. *Other communications aids*

Recommendation 33: Investigate all the available topics for medical EZ Boards—both word and picture versions—and buy those that are useful, making them available for use by Deaf inmates. (Settlement Agreement V.A.2; VI.C; XII)

J. *Methods of communicating with Deaf inmates*

Recommendation 34: Staff should be trained on, and should use, best practices for communicating with hard-of-hearing inmates. (Settlement Agreement XIII.B)

Recommendation 35: Each facility should continue to provide Deaf inmates with ID cards that identify them as Deaf, and to post similar identification outside their cells. The notices required by the Agreement outside each housing unit and at the entrance to the institution should also be posted. (Settlement Agreement III.D.1)

K. *Teaching sign-language*

Recommendation 36: Each facility should try to offer classes in sign language, and should give Deaf inmates who would like to learn to sign both affirmative notice and preference for these classes. (Settlement Agreement II.A)

L. *Telecommunications equipment and rules*

Recommendation 37: Videophones should be located in areas as accessible to Deaf Inmates as conventional telephones are accessible to non-Deaf Inmates. The videophone should be available during the same days and hours as conventional telephones and should require permission for use only if the facility requires inmates to seek permission to use conventional telephones. If an escort is required to use the videophone at night, on weekends, or in other circumstances, such an escort should be routinely provided. (Settlement Agreement IX.A)

Recommendation 38: Even if an escort is required, there should be no requirement that inmates seeking to use the videophone, including with VRS, schedule such use in advance. Non-Deaf inmates are not required to schedule their phone calls, and that should be true for Deaf inmates, as well. (Settlement Agreement IX.A)

Recommendation 39: Ensure all staff are trained on videophone rules, so that they know that videophone access is to be provided during the same hours as conventional phone access, without pre-scheduling, and that time in transit doesn't count. (Settlement Agreement IX.A; XIII.B)

Recommendation 40 (Edited): Deaf inmates in segregated housing must be allowed access to telecommunications services equal to that of non-Deaf inmates in the same disciplinary or administrative status. The best solution would be to work out a method for such inmates—including those on "max assault status"—to use the videophone, with VRS when needed. This could be done by escorting the prisoner to the videophone or by enabling videophone capabilities on the VRI laptop. If there are individualized reasons that an inmate cannot have his hands unshackled consistent with security, he, and others in his situation, should be allowed access to the TTY. I will request each facility to report on what method for telecommunications access is developed for Deaf inmates in segregation, and why. (Settlement Agreement IX.A)

Recommendation 41: Ensure that disciplinary oversight of videophone is no more intense than oversight of conventional phone calls. The disciplinary committee should explicitly consider and rule on this issue when it is deciding a disciplinary matter involving the videophone or TTY. (Settlement Agreement IX.B)

Recommendation 42 [New recommendation 74 substitutes for this recommendation]: KSR should review auxiliary aids that would allow hard-of-hearing inmates effective access to telecommunications, and should implement improvements—perhaps involving TTY, captioned telephones, and/or handset amplification. Asking inmates what does and doesn't work is a necessary part of this process. I will request a report on this review—both how it was conducted and the results—in six months. (Settlement Agreement IX; I.5)

IV. PROCESSES FOR ASSESSING AND REQUESTING AUXILIARY AIDS AND SERVICES

A. *Intake/Orientation*

Recommendation 43: Each facility should develop a process by which inmates whose hearing impairment substantially impedes communication are noted and assessed right away on arrival at the institution, immediate steps taken to ensure effective communication, including immediate interpretative services if necessary. (Settlement Agreement III.A; III.C)

B. *Literacy assessment*

Recommendation 44: Staff at each facility should assess each Deaf inmate's literacy prior to conducting additional assessment of necessary auxiliary aids and services. Educational staff should be able to propose and implement one of several quick assessment tools. For example, the

Slosson Oral Reading Test - Revised (SORT-R) might be suitable. If an inmate is not literate at least the 8th grade level, reliance on written communication is unlikely to succeed in providing effective communication, and alternative methods should be used. (Settlement Agreement III.C; I.5)

C. Individual assessment meetings

Recommendation 45: For each Deaf inmate, the ADA Coordinator should conduct an individual services assessment meeting, at which the inmate's available methods of communication are expressly ascertained and recorded, and the inmate is informed about the available auxiliary aids and services. For an inmate who can hear (with or without an amplifier or hearing aid) well enough to understand the coordinator, information should be conveyed orally as well as in writing. If the inmate uses sign language, VRI would be the appropriate way to communicate for a meeting of this nature. The greatest challenge is presented if the inmate is not literate, does not hear well enough to understand spoken communication, and does not sign. In that case, visual demonstrations of the various auxiliary aids and services may be required. The assessment should be updated annually, ideally at the inmate's annual classification meeting. (Settlement Agreement III.C; I.5)

D. Form and options

Recommendation 46: The various forms related to requesting and using Auxiliary Aids and Services form should be changed in a number of ways:

- To list available aids and services more comprehensively
- To more clearly explain what the various services and aids are, in what circumstances they are available, and how to request them.
- To explain how to use the various devices.
- To ask inmates, expressly, about their preferred modes of communication or needed services, and why those are useful.

To explain which items are free of charge, and which are available only at the inmate's expense. (Settlement Agreement III.C; III.F)

Recommendation 47: I recommend replacement of the existing forms with several different ones, explaining the various options available, allowing requests for various types of communications assistance, and obtaining feedback from inmates (see Recommendation 14, above). These recommended forms are attached as Exhibit D, which also includes a recommended staff memo about the various available devices and accommodations, and an assessment form. These forms should be explained/filled out during the individual assessment meetings. (Settlement Agreement III.C; III.F)

E. Additional methods for inmates to seek auxiliary aids and services

Recommendation 48: The Healthcare Request form should include boxes to check if auxiliary aids or services, including remote or in-person interpretation, are needed. My recommended additions to this form are attached as Exhibit E-2. (Settlement Agreement V.A.2; VI.C)

Recommendation 49: All the forms by which inmates apply for jobs, educational programming, etc., should have language similar to that in the recommended Healthcare Request form. So should classification and disciplinary forms that notify inmates of impending hearings or meetings. I have not provided recommended versions of these forms, but will in a future reporting period ask to see them all. (Settlement Agreement V.A.2; VI.F; VI.E; VI.H; VII.A)

Recommendation 50: When Deaf inmates and staff discuss enrollment or application for a particular activity or program, communication should be effective—which means an interpreter may be required for the discussion—and should cover potential accommodations, auxiliary aids/services that could provide equal access to the activity/program. (Settlement Agreement V.A; VI)

V. TRAINING

A. ADA Coordinator Training

Recommendation 51: KYDOC should develop training on the Settlement Agreement and make it available to ADA Coordinators. For training on the ADA, the ADA National Network training is appropriate. (Settlement Agreement XIII.B)

B. Staff Training

Recommendation 52 [Training slides have now been provided and comments offered]: Training should be developed on all topics listed in the Settlement Agreement as requiring training. Once drafted, materials should be shared with me and with the Kentucky Commission on the Deaf and Hard of Hearing, for our input. This training is already long overdue; it should be provided to me for my input no later than July 1, finalized within 30 days after my comments are returned, and delivered to staff as soon as possible thereafter. (Settlement Agreement XIII)

VI. REPORTING

Recommendation 53: Ensure that all relevant staff know about the Agreement's reporting obligations, so that I am appropriately notified when any of the reporting-triggering events takes place. (Settlement Agreement II.A; VI.F; VIII.B.1; VIII.B.3; VIII.C; IX.C; XII)

Group 2 (December 2016)

I. IDENTIFICATION OF INMATES COVERED BY THE AGREEMENT.

Recommendation 54: Identification processes (Settlement Agreement III.A.1 [initial classification]; III.B [hearing assessment]; III.D.1 [identification cards])

- a) Each facility should ask each inmate about any hearing difficulties during his or her initial medical screening, in their first day or two in the facility. Questions about hearing should be at the start of that screening, to allow accommodations, if needed, during the rest of the process.

- b) All inmates should also fill out, in writing or orally, the multiple-question hearing screening. Exhibit B-2 is the recommended form. (See also prior recommendation 2.) This form should be administered by medical staff, to facilitate necessary medical followup.
- c) If an inmate answers “yes” or “sometimes” in response to three or more of the screening questions, he should be seen in the next several days by a medical provider—a physician or nurse practitioner—for further evaluation, including a “whisper test” or other examination to assess whether there is a functional hearing problem.
- d) If an inmate fails the “whisper test” or other hearing evaluation, the following should occur:
 - The inmate should receive an identification card to carry on his person, which states that the inmate is deaf or hard-of-hearing.
 - The inmate’s name should be shared with the facility’s ADA coordinator.
 - Two different alerts should be placed in his record, one in KOMS (the Kentucky Offender Management System), to alert correctional staff to the issue whenever they retrieve his computerized file, and the other in the EMR (Electronic Medical Record), to do the same for medical staff. Both alerts should be immediately obvious when the electronic file is opened. (See Figures A and B, above).
- e) All inmates so identified should be included in the facility’s semi-annual reports to me; if a particular inmate turns out not to be deaf or hard-of-hearing, because, for example, a medical problem that was obstructing his or her hearing is solved, that can be explained. (Note: the decision to send an inmate to an audiologist for evaluation or treatment is not the same as the decision to flag the inmate as deaf or hard-of-hearing.)

Recommendation 55: In order to ensure appropriate identification of deaf and hard-of-hearing inmates, all inmates’ annual or other routine physicals should include the hearing questionnaire (Exhibit B-2). (Settlement Agreement III.B)

Recommendation 56: Each facility should ensure that the ID cards used to identify inmates as deaf or hard-of-hearing are clear, and should avoid abbreviations or other language that may not be clear. Each facility should ensure that every deaf or hard-of-hearing inmate is able to carry such a card at all times. If an inmate misplaces the card, a replacement should be promptly provided. (Settlement Agreement III.D.1)

II. ENSURING EFFECTIVE COMMUNICATION DURING INTAKE

Recommendation 57: Interpretation services should be offered without special request to any inmate (known by prison staff to use sign language to communicate) during initial medical screening or other intake medical encounters. Inmates are unlikely to know, during these early stages, that they need to request interpretation and how to do so. Medical staff should ask inmates who have difficulty hearing if they use sign language to communicate, rather than waiting for the ADA Coordinator’s assessment. (Settlement Agreement III.A.1)

Recommendation 58: Each facility's medical office should keep pocket amplifiers on hand for all intake staff—medical, mental health, and custody—to use when the need arises. (Settlement Agreement III.A.1)

III. PROVISION OF AUDIOLOGY SERVICES

Recommendation 59: The ADA Coordinator for each KYDOC facility should maintain a document that tracks each deaf or hard-of-hearing inmate's progress through the process of obtaining any needed hearing aid, including the dates and outcomes of:

- the initial request/questionnaire
- each relevant medical visit
- any audiology visit
- hearing aid provision.

In order to ensure that inmates do not wait longer than two months for a necessary hearing aid, the ADA coordinator should check for progress for each affected inmate every week or two, updating the tracking document and working with medical staff to solve any procedural hurdles that arise. A recommended sample tracking document is provided as Exhibit F.

(Settlement Agreement V.B; VIII.B.2)

IV. AUXILIARY AIDS/SERVICES

Recommendation 60: I commend KYDOC for developing a user-friendly pamphlet to cover the information needed by deaf and hard-of-hearing inmates; I recommend facilities use the edited version in Exhibit D-2; each facility should fill in the items marked with curly brackets ({ and }). (Settlement Agreement III.F)

A. *Personal hearing devices: Hearing aids and amplifiers*

Recommendation 61: Inmates with hearing aids should be able to obtain replacement batteries seven days a week, without difficulty or charge, regardless of their housing or programming assignment. (Settlement Agreement V.B)

Recommendation 62: Each facility should inform staff responsible for property moves that it is important for inmates to keep their hearing aids with them, even when they are moved into segregation or transferred. When an inmate is accidentally separated from his or her hearing aids, policy should allow the inmate to promptly obtain the hearing aids from storage or medical, or to get replacements. (Settlement Agreement V.B)

B. *Qualified Interpretation*

1. Video Relay Interpretation (VRI): Use and Procedures

Recommendation 63: Absent an emergency in which time is of the essence and VRI services are unavailable, no facility should rely on an inmate to interpret a communication that would ordinarily be private for another inmate. (Settlement Agreement VI; I.18)

Recommendation 64: Each facility should obtain and test a “splitter” for each VRI laptop, so that the laptop can be used alongside a computer. (Settlement Agreement IX.E.1)

Recommendation 65: Each facility should ensure that the VRI laptop routinely receives necessary software updates. (Settlement Agreement IX.E.1)

2. Religious and Volunteer-provided programming

Recommendation 66: For any religious programming—worship services, counseling, bible study, etc.—that is provided directly by the chaplain, each facility should provide qualified interpretation when requested by an inmate who needs it.

Prior Recommendation 20: Significant communications by the chaplains are covered by the requirement of effective communication. Therefore the chaplains, like other KSR staff, should be trained in the requirements of this Agreement, and should ensure that if they have occasion to minister to a Deaf inmate—or simply inform him that a family member has died—they do so effectively, including using interpreter services if the inmate communicates using sign language.

C. *Video captioning*

D. *Speech-to-text*

E. *Assistive listening systems*

(Settlement Agreement VI.G.3)

Recommendation 67: Each religious, educational, and programming area should have available a device to allow wireless amplification for individual hard-of-hearing inmates. (Settlement Agreement V.A.2)

Recommendation 68: KSR should inform deaf and hard-of-hearing inmates of the various ways in which religious, educational, rehabilitative, and recreational programming can be made more accessible to them; all programming providers (educational, rehabilitative, and recreational) should put in place a process to facilitate requests for such accommodations and assess the need for them. (Settlement Agreement V.A; III.F)

F. *Written communication*

G. *Non-auditory alerts*

Recommendation 69: In any unit where there are deaf or hard-of-hearing inmates, each facility should implement (and ensure use of) written announcement boards. That is, all general announcements should also be promptly displayed on a written announcement board (e.g.: “X class is cancelled this evening,” or “all inmates in X category are allowed an X privilege this afternoon”). Staff use of this announcement board must be monitored and audited. (Settlement Agreement VIII.B.1)

Recommendation 70: In order to provide effective and equal communications to deaf and hard-of-hearing inmates who are being individually paged, staff should check KOMS to see if that inmate has a deaf/hard-of-hearing alert; if a deaf or hard-of-hearing inmate does not answer the auditory page in a minute or two, he or she should be individually alerted to the page by a staff member. This could be done by in-person notification or by provision of a personal paging system. (Settlement Agreement VIII.A)

Recommendation 71: Each facility should train staff to be alert to the possibility that a deaf or hard-of-hearing inmate may be unable to hear an order or instruction issued verbally; training should cover strategies to avoid bad results. (Settlement Agreement XIII.B; II.A)

H. *Miscellaneous devices*

I. *Speech*

Recommendation 71: In each facility's settings in which staff ordinarily talk to a group of inmates—orientation, education, etc.—consideration should be given to talking to any hard-of-hearing inmate one-on-one, instead. For example, for someone who is having difficulty hearing a teacher in a group setting, even with assistive listening devices (see IV.E, above), a tutor might be a better option than a congregate GED class. (Settlement Agreement XIII.B)

J. *Teaching sign-language*

Recommendation 72: Deaf or hard-of-hearing inmates who do not have their GED should be among those allowed to enroll in any classes in sign language. Each facility should obtain resources relating to sign language—books or computer-based instruction—and make those available to deaf and hard-of-hearing inmates. (Settlement Agreement II.A)

K. *Telecommunications equipment and rules*

1. Videophone and VRS
2. TTY

Recommendation 73: Each facility should maintain its TTY and develop a facility protocol for how to make it available to inmates, covering who the inmate should request it from, where it should be connected, etc. In addition, each facility should annually test its TTY and the protocol by calling me at an agreed upon time using direct TTY and the relay service. TTY instructions should be left with the TTY at all times. (Settlement Agreement IX.D.1)

3. Hard-of-hearing inmates

Recommendation 74 (substitutes for prior recommendation 42): Each facility should improve access of hard-of-hearing inmates to telecommunications, by:

- (a) Allowing them access to TTYs.
- (b) Informing them that amplified phones are available, and ensuring that at least one such phone, whose amplification is compatible with a hearing aid but does not require one, is

available in every group of phones used by any hard-of-hearing inmate.

(c) Providing access to captioned telephones, unless on investigation such telephones are not available in the institutional setting.

I will request a report on implementation each aspect of this recommendation.

(Settlement Agreement IX.A)

V. THE INTERACTION OF COMMUNICATION NEEDS AND HOUSING ASSIGNMENT

A. *Segregated housing*

B. *Other housing needs*

Recommendation 75: Each facility should develop a method for considering how communications difficulties with deaf and hard-of-hearing inmates can be minimized by particular housing assignments, and shall make such assignments when appropriate. (Settlement Agreement II.A)

VI. PROCESSES FOR ASSESSING AND REQUESTING AUXILIARY AIDS AND SERVICES

VII. FORM AND OPTIONS

Recommendation 76: Each facility should include notice in its Inmate Handbook of the facility's basic obligation to avoid discrimination and provide effective communication, and inform inmates to contact the ADA Coordinator if needed. Something like the following would be appropriate:

Americans with Disabilities Act and Deaf and Hard-of-Hearing Inmates

An inmate with a verified disability will have the opportunity to participate in services, privileges, and programs similar to other inmates at this institution. If you are deaf or hard-of-hearing, you should contact the designated institutional ADA Coordinator; each living unit and inmate public areas has contact information posted. All {name facility here}-provided services will provide effective communication and make available qualified interpreters when needed. Qualified Interpreters and Auxiliary Aids and Services are available for an inmate with a verified disability upon request. It is the inmate's responsibility to request an interpreter from volunteer organizations or individuals that are providing activities and services. An inmate who meets criteria to be accommodated under the ADA will be provided identification to facilitate effective communication. If at any time an inmate chooses to not wear the identification, he/she shall sign a waiver document to be placed in the institutional file.

(Settlement Agreement II.A)

VIII. TRAINING

A. ADA Coordinator Training

B. Staff Training

Recommendation 77: In addition to the computer-based KYDOC training, live, in-service training should cover, at least:

- a) For all staff:
 - The identity and role of the ADA Coordinator
 - Existence of KOMS and EMR alerts for deaf and hard-of-hearing inmates, and the obligation to check for the alerts.
 - The occasions and process for obtaining access to the VRI laptop, and how to use the laptop, including where different people should sit to maximize communication effectiveness. (For medical, educational, and housing staff, this training should be done on-site, so each affected staff member can see where and how the laptop can be set up.)
 - The occasions and process for obtaining an in-person qualified interpreter.
- b) For housing area staff:
 - The use of cell/bed notices that an inmate is deaf or hard-of-hearing
 - The use of the bed shaker switch.
 - Telecommunications issues, including how to obtain and use a TTY, and the policies and procedures governing TTY and videophone usage.
 - The obligation to notify deaf and hard-of-hearing inmates of alerts, including emergency alerts and non-emergency pages.
- c) For all corrections staff:
 - The requirements to accommodate inmates who use sign language to communicate by using restraints that allow them to sign, and how to implement those requirements.
 - Strategies for dealing with inmates who may not hear directions or orders, especially when given from behind or above them.
- d) For medical staff:
 - The responsibility of running a process to provide medically necessary hearing aids within two months, and what that actually entails, in terms of adjusting ordinary processes and timing.
 - The obligation to notify off-site medical provider(s) that a Deaf Inmate requiring a Qualified Interpreter or other Auxiliary Aid or Service will be seeking medical care, and how this obligation is being assigned.

(Settlement Agreement XIII; IX.E.2; III.D.2)

IX. REPORTING

Recommendation 78: The ADA Coordinator should obtain monthly reports based on both KOMS and medical records of each inmate in the facility who is deaf or hard-of-hearing, and

should check those reports too add to the Coordinator's tracking list. (Settlement Agreement XV.B.1)

Recommendation 79: Each facility's quarterly written summary of grievances by deaf and hard-of-hearing inmates should include all such grievances, not only the ones that are deemed related to effective communication, auxiliary aids and services, or other issues raised in the Settlement Agreement. (Settlement Agreement XIV.3)

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Recommendation 80: At each institution, the ADA Coordinator should be one of the staff members who receives each routine transfer memo listing arriving inmates. The ADA Coordinator should check, in advance, to see if any arriving inmate has a disability that may need accommodation in order to provide effective communication and full information during the intake/orientation process, and should make arrangements for that accommodation to be provided. (Settlement Agreement V.A.2)

Recommendation 81: Medical staff should ensure that inmates with a need for audiology services are not charged inappropriately, and should avoid repeated charges for ongoing efforts to obtain hearing aids or other services. (Settlement Agreement V.B)

Recommendation 82: Each VRI should be the subject of a log sheet that tracks its usage, including staff member, date and purpose. In any institution that houses one or more inmates who use sign language to communicate, the ADA Coordinator should check the VRI log sheet at least once each week, and should ensure that the VRI is being used on appropriate occasions, not just for classification and disciplinary meetings, but for other important conversations between the inmate and staff. (Settlement Agreement VI.A, III.C; VI.C.4; VI.H; V.A.2; VII.A; VI.J)