

DEPARTMENT OF HUMAN SERVICES

Commission for the Deaf and Hard of Hearing

RULE MANUAL 27 COLORADO COMMISSION FOR THE DEAF AND HARD OF HEARING

12 CCR 2516-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

STATEMENT OF BASIS AND PURPOSE, FISCAL IMPACT, AND SPECIFIC STATUTORY AUTHORITY OF REVISIONS MADE TO STAFF MANUAL VOLUME 27 (12 CCR 2516-1)

In creating a new manual for the Colorado Commission for the Deaf and Hard of Hearing (CCDHH), sections 27.100 through 27.191 were added as adopted following publication at the 6/6/2003 State Board meeting, with an effective date of 8/1/2003 (Rule-making# 03 3 26-1). Statement of Basis and Purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections 27.120 and 27.140 were adopted following publication at the 5/7/2004 State Board meeting, with an effective date of 7/1/2004 (Rule-making# 04-3-1-1). Statement of Basis and Purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Addition of Sections 27.200-27.300 were final adoption following publication at the 9/7/2007 State Board meeting (Rule-making# 07-6-21-1), with an effective date of 11/1/2007. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revision of Sections 27.100 through 27.191 were final adoption following publication at the 2/1/2008 State Board meeting (Rule-making# 07-10-1-1), with an effective date of 4/1/2008. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Boards and Commissions Division, State Board Administration.

Revision of Sections 27.100 through 27.191 and Sections 27.200 through 27.300 were final adoption following publication at the 2/5/2010 State Board meeting (Rule-making#s 09-9-17-1 and 09-10-22-2), with an effective date of 4/1/2010. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

Addition of Sections 27.400 through 27.480 were final adoption following publication at the 3/5/2010 State Board meeting (Rule-making# 09-10-22-1), with an effective date of 5/1/2010. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

27.100 TELECOMMUNICATIONS EQUIPMENT DISTRIBUTION PROGRAM (TEDP)

27.110 INTRODUCTION [Rev. eff. 4/1/10]

The Colorado Commission for the Deaf and Hard of Hearing was established by Section 26-21-102, C.R.S., to facilitate the provision of general governmental services to the deaf and hard of hearing community while making government more efficient. Under the Federal "Americans with Disabilities Act", Colorado has a duty to provide to the deaf and hard of hearing equivalent access to governmental services. This duty requires State departments and agencies to provide communication access such as interpreters, "Communication Access Realtime Translation" (CART), telecommunications access, and other resources to enable such access.

Section 26-21-107, C.R.S., authorizes the use of funds from the Colorado Commission for the Deaf and Hard of Hearing Cash Fund for the establishment of a Telecommunications Equipment Distribution Program (TEDP).

27.120 DEFINITIONS [Rev. eff. 4/1/10]

"Accessory" means additional device which complements telecommunications equipment.

"Anniversary date" means the same date, but on subsequent years, that the applicant was approved for the Telecommunications Equipment Distribution Program.

"Applicant" means a person who applies to receive telecommunications equipment under the auspices of the Telecommunications Equipment Distribution Program.

"Application" means the official paperwork approved by the Colorado Commission for the Deaf and Hard of Hearing used for the Telecommunications Equipment Distribution Program.

"Approved date" means the date that all supporting documentation for the application is received and verified for acceptance by the Telecommunications Equipment Distribution Program.

"Certification" means professional verification of the applicant's hearing status.

"Certifying professional" means those individuals who have been officially recognized by the Telecommunications Equipment Distribution Program to verify the applicant's hearing status, as indicated in Section 27.130.

"Commission" means the Colorado Commission for the Deaf and Hard of Hearing (CCDHH), created pursuant to Section 26-21-102, C.R.S.

"Equipment" means a combination of equipment including one telecommunications device and an accessory device for the telecommunications equipment.

"Fiscal constraint" means when seventy-five percent (75%) of the appropriated program funds have been disbursed or encumbered.

"Fraud" means the intentional deception and misreporting of information in order to obtain telecommunications equipment through this program.

"Late deafened" means those individuals as defined in Section 26-21-103(6), C.R.S.

"Landline telecommunications equipment" means readily available equipment that utilizes land lines and enables deaf, hard of hearing, deaf-blind, or late-deafened individuals to access the telephone network.

"Natural disaster" means an event of nature such as tornadoes, earthquakes, blizzards, floods, forest fires, dust storms, avalanches, hailstorms, and lightning strikes.

"Resident" means an individual who lives in the State of Colorado as his/her primary residence.

"Telecommunications" means the science and technology of transmitting voice, audio, facsimile, image, video, computer data, and multimedia information over significant distances by the use of electromagnetic energy in the form of electricity, radio, or fiber optics pursuant to Section 26-21-103(8), C.R.S.

"Vendor" means a company or individual who has successfully bid with the State of Colorado for the purposes of the Telecommunications Equipment Distribution Program and has received such designation.

"Wireless telecommunications equipment" means equipment that enables deaf, hard of hearing, deaf-blind, or late-deafened individuals to access the wireless network.

27.130 ELIGIBILITY FOR THE TELECOMMUNICATIONS EQUIPMENT DISTRIBUTION PROGRAM **[Rev. eff. 4/1/10]**

To be eligible for telecommunications equipment under the Telecommunications Equipment Distribution Program, the applicant shall meet the following eligibility criteria:

- A. The applicant must be a legal resident of the state of Colorado by providing one of the following:
 1. A valid Colorado driver's license; or,
 2. A valid Colorado identification card.
- B. If the applicant is under eighteen (18) years of age, parents or guardians shall apply on behalf of child/minor and assume full responsibility for the equipment.
- C. If the applicant is over eighteen (18) years of age and has a guardian, the guardian shall apply on behalf of the applicant and assume full responsibility for the equipment.
- D. The applicant must be deaf, hard of hearing, deaf-blind, or late deafened. This determination must be made at the applicant's expense by one of the following:
 1. A licensed physician;
 2. A licensed audiologist;
 3. Public or private agencies providing direct services to deaf, hard of hearing, deaf-blind, or late-deafened.
- E. The applicant's income must be less than 300% of the Federal poverty guidelines based on family size as indicated by the United States Department of Health and Human Services (HHS). Copies of the Federal poverty guidelines may be reviewed by contacting the TEDP Coordinator during normal business hours, at the Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or at any state publications library. No amendments or later editions are incorporated.

The applicant must demonstrate proof of annual gross income by providing a copy of his/her Federal Income Tax return (front page only) or a Social Security Income award letter.

- F. The applicant must provide a copy of his/her most recent telephone statement or a bill for landline telecommunications equipment; the account must be in the applicant's name and bear the same address that is on the application.

The TEDP Coordinator and the TEDP Committee will review all eligibility criteria at least annually to ensure that the eligibility guidelines are consistent and accurate.

Applicants shall be placed on a waiting list during times of fiscal constraint.

27.140 APPLICATION PROCESS [Rev. eff. 4/1/10]

The Telecommunications Equipment Distribution Program shall provide assistance in completing forms when requested by an applicant.

- A. Information about how to obtain and submit an application, both paper and electronic, may be found through the Colorado Commission for the Deaf and Hard of Hearing office, its website, or designated public and private agencies.
- B. The Telecommunications Equipment Distribution Program shall review all applications on a non-discriminatory basis to determine whether:
 - 1. All of the information is completed on the application.
 - 2. The applicant has provided a valid street address. If a P.O. Box is used, then a physical address of the location where the applicant resides must be provided.
 - 3. The application has the applicant's original or electronic signature.
 - 4. The application includes all required documentation.

27.141 Approved Applications [Rev. eff. 4/1/10]

Applicants who meet all of the eligibility requirements will be notified by mail of their application approval.

- A. Only one equipment package may be issued per eligible applicant.
- B. Eligible applicants shall be awarded program participation on a first-come, first-served non-discriminatory basis, in accordance with the approved date.
- C. Applicants whose applications are approved will be notified in writing that the application has been approved within sixty (60) calendar days of the date the application was received by the Telecommunications Equipment Distribution Program.

27.142 Pending Approved Applications [Rev. eff. 4/1/10]

During times of fiscal constraint, applications shall be accepted and held as pending until such time as funds become available. Such applications will be pending up to twelve (12) months. If after this time period funds are still not available, then a new application must be submitted. Applicants will be notified that they need to re-apply.

27.143 Denied Applications [Rev. eff. 4/1/10]

- A. Denial

If the applicant is ineligible to participate in the program, the applicant shall be given written justification for the determination within sixty (60) calendar days of the denial determination.

B. The following are reasons for denying an application:

1. The applicant does not meet the eligibility requirements as established.
2. The applicant has received telecommunications equipment from the Telecommunications Equipment Distribution Program within the preceding four (4) years for landline telecommunications equipment and two (2) years for wireless telecommunications equipment.
3. The applicant is an active consumer of the Colorado Department of Human Services, Division of Vocational Rehabilitation, and receives telecommunications equipment as a part of an individual plan of employment.
4. The applicant has negligently or willfully damaged telecommunications equipment received from the Telecommunications Equipment Distribution Program or violated other provisions of the administrative regulations governing the Telecommunications Equipment Distribution Program.
5. The applicant fails to provide a police report of a stolen device or refuses to cooperate with the police investigation or in the prosecution of the suspect, including the refusal to testify in court when asked or subpoenaed to do so.
6. The applicant is found negligent in a police report of a stolen device, such as doors to the house or car left unlocked or unattended.
7. The applicant has lost or sold the telecommunications equipment.

C. Reapplication

Any applicant who has been denied participation may reapply if, due to a change in conditions, the eligibility criteria as delineated in this document are met.

27.144 Dispute Resolution Process

In order to resolve disputes between the Telecommunications Equipment Distribution Program and applicants/recipients, the Commission shall adopt procedures for the resolution of disputes consistent with this section. The procedures shall be designed to establish a simple non-adversarial format for the informal resolution of disputes.

27.150 EQUIPMENT SELECTION [Rev. eff. 4/1/10]

The approved applicant is responsible for selecting the appropriate telecommunications equipment. If the telecommunications equipment that is currently provided by the Telecommunications Equipment Distribution Program does not meet the recipient's needs:

- A. The recipient may make a special request for an appropriate piece of equipment that better meets his/her needs.
- B. The recipient is responsible for the maintenance and repair of the equipment selected through the Telecommunications Equipment Distribution Program. All equipment will come with a warranty.

27.151 Replacing the Equipment [Rev. eff. 4/1/10]

A recipient may apply to replace the original telecommunications equipment if:

- A. The telecommunications equipment is damaged through natural disaster;
- B. There is a change in the recipient's hearing or vision status;
- C. New telecommunications equipment has become available through the Telecommunications Equipment Distribution Program which the TEDP Coordinator determines to be more appropriate to the recipient's telecommunications needs; or,
- D. The identified anniversary date has passed and the recipient has had the landline telecommunications equipment for more than four (4) years or wireless telecommunications equipment for more than two (2) years.

27.152 Pending Replacement Applications [Rev. eff. 4/1/10]

During times of fiscal constraint, applications for replacement shall be accepted and held as pending until such time as funds become available.

27.153 Damaged Equipment Due to Natural Disasters [Rev. eff. 4/1/10]

- A. The recipient must send the device(s) directly to the equipment manufacturer or the vendor that sent the telecommunications equipment.
- B. The manufacturer or vendor will certify that the equipment can not be repaired due to a natural disaster.

27.154 Stolen Equipment [Rev. eff. 4/1/10]

If a replacement is requested due to the equipment being stolen, then the recipient shall:

- A. Notify local police within fifteen (15) calendar days of the theft.
- B. Forward a copy of the police report to the Telecommunications Equipment Distribution Program within five (5) working days of the date the theft was reported.

27.160 VENDOR REQUIREMENTS

All vendors shall follow state procurement requirements.

27.161 Vendor Registration [Rev. eff. 4/1/10]

Vendors seeking to contract with the Colorado Commission for the Deaf and Hard of Hearing for any Telecommunications Equipment Distribution Program function must register for the Bid Information and Distribution System (BIDS) with the State Purchasing Office and be in accordance with the State Procurement rules (1 CCR 101-9) and these TEDP rules. Vendors must submit all information required by these rules to the Commission in order to be reimbursed. Vendors must register with the Secretary of State as a for-profit or not-for-profit business in the State of Colorado.

The following minimum standards shall apply to vendor participation in the Telecommunications Equipment Distribution Program:

- A. Vendors shall submit documentation to the Commission that the vendor has registered with the State Purchasing Office and the Secretary of State's Office as required in Section 27.161.

- B. The Commission must receive all required registration information before a vendor will be reimbursed. Reimbursements will be made by electronic funds transfer into the vendor's registered bank account.
- C. If the submitted registration information is incomplete, the Commission will notify the vendor of any deficiency, if it is able to make contact based on the information provided.
- D. Vendors are responsible for updating registration information. The Commission is not responsible for any loss resulting from incorrectly supplied registration information.
- E. Vendors must submit vendor registration information prior to any sales transactions in order to ensure payment.
- F. In the event that a vendor is suspended or disbarred from doing business in the State of Colorado or with the Federal government, the Commission shall notify the vendor that it is no longer eligible to receive reimbursements under this program.

27.170 FRAUD [Rev. eff. 4/1/10]

If a recipient obtained telecommunications equipment under false premises or through intentional misrepresentation of facts on the Telecommunications Equipment Distribution Program application form, then the Telecommunications Equipment Distribution Program shall demand return of the equipment immediately. Upon demand, the recipient shall return the specified Telecommunications Equipment Distribution Program equipment. A determination of fraud will result in permanent disqualification from the program.

20.180 CONFIDENTIALITY

All applicant and recipient information shall be kept confidential in compliance with the Colorado Human Services Code (Section 26-1-114, C.R.S.). This is to prevent exploitation of applicants and recipients, to eliminate embarrassment to them, and is in recognition of their rights as self-determining individuals who are not limited because of their need for telecommunications equipment.

20.181 Information Not Considered to be Confidential for Data Purposes [Rev. eff. 4/1/10]

General program information not identified with any individual is not confidential and may be released for any purpose. This includes:

- A. Total expenditures;
- B. Number of applicants and/or recipients;
- C. Statistical data obtained from studies;
- D. Social data obtained from studies, reports, or surveys;
- E. Expenditures by category of equipment;
- F. Expenditures for administration;
- G. Sum of all program expenditures.

27.190 ADMINISTRATION

27.191 Annual Report [Rev. eff. 4/1/10]

The TEDP Coordinator shall provide the Commission Administrator and Commissioners an annual report on the operation of the Telecommunications Equipment Distribution Program. The report shall be due on July 15th of each year and, at a minimum, provide:

- A. The number of persons served;
- B. The number of each type of equipment distributed;
- C. The expenditures of the program activities;
- D. Discussion of any major policy or operational issues;
- E. Suggestion(s) for program changes that do not require legislative action; and,
- F. Suggestions or proposals for legislative changes in the program.

27.200 LEGAL AUXILIARY SERVICES PROGRAM [Rev. eff. 4/1/10]

These rules establish quality standards, coordination of services, and complaint procedures for the provision of auxiliary aids and services for interactions between a Deaf or Hard of Hearing individual and any state court or administrative proceeding or court ordered services.

27.210 DEFINITIONS [Rev. eff. 4/1/10]

“Appointing Authority” means the presiding officer or similar official of any court, board, commission, agency, or licensing or law enforcement authority of the state.

“Assistive Listening Device” (ALD) means a form of auxiliary aid working either with a hearing aid or cochlear implant, or alone, to improve hearing acuity for all interactions.

“Auxiliary Services” means qualified interpreters, Communication Access Realtime Translation Provider, assistive listening devices/systems, or other effective methods of making spoken or written information available to Deaf or Hard of Hearing individuals.

“Commission” means the Colorado Commission for the Deaf and Hard of Hearing (CCDHH).

“Communication Access Realtime Translation” (CART) has the same meaning as Computer Aided Realtime Translation (CART) and is the word-for-word translation from spoken English to text.

“Deaf or Hard of Hearing” means a person who has a functional hearing loss of sufficient severity to prevent aural comprehension, even with the assistance of hearing aids.

“Effective Communication” means an individualized and culturally appropriate method of communication that results in equal access to information provided to all parties.

“Good Cause” means a legitimate reason why a complaint process set forth herein should be modified due to circumstances beyond the control of the person or not reasonably foreseeable by the person as it relates to the complaint process. These circumstances include, but are not limited to, death or serious illness or incapacity of the person or representative, lack of proper notice of the availability of the complaint process, additional time is required to obtain documents which were timely requested but not delivered, or other circumstances beyond the control of the party.

“Interpreter” means a professional who facilitates effective communication between all parties. Interpreters shall fall into the following categories:

- A. "Sign Language Interpreter" means a professional who can hear and holds a valid Registry of Interpreters for the Deaf (RID) certificate and Legal Credential Authorization issued by the Commission.
- B. "Certified Deaf Interpreter" (CDI) means a professional who is Deaf and holds both a valid RID certificate and Legal Credential Authorization issued by the Commission. CDI's work with professionals who can hear, in providing an accurate interpretation between English and sign language, between variants of sign language or between American Sign Language and other foreign sign languages by acting as an intermediary between the Deaf or Hard of Hearing individual and the interpreter(s).
- C. "Deaf Interpreter" (DI) means a professional who is Deaf and holds a valid Legal Credential Authorization issued by the Commission but does not hold an RID certificate. Deaf Interpreters work with the professional interpreter(s), who can hear, in providing an accurate interpretation between English and sign language, between variants of sign language or between American Sign Language and other foreign sign languages by acting as an intermediary between the individual who is Deaf or Hard of Hearing and then interpreter(s).
- D. "Intermediary Interpreter" means an individual who has particular knowledge and/or experience relative to the unique communication needs of a Deaf or Hard of Hearing person. The intermediary will assist the Status I and/or Status II interpreter(s) in establishing effective communication on a case-by-case basis.
- E. "Oral Interpreter" means a professional who can hear and holds both a valid RID certificate and Legal Credential Authorization issued by the Commission. Oral interpreters are provided for individuals who rely on speech reading rather than sign language.

"Legal Credential Authorization" is issued by the Commission to qualified Auxiliary Service providers who have met all eligibility criteria and have submitted all required documentation.

"National Association of the Deaf" (NAD) means the national advocacy organization that promotes, protects and preserves the rights and quality of life of Deaf and Hard of Hearing individuals in the United States of America.

"National Court Reporters Association" (NCRA) means the national certifying body for CART providers who work with Deaf and Hard of Hearing individuals.

"Registry of Interpreters for the Deaf" (RID) means the national certifying body for interpreters who work with Deaf and Hard of Hearing individuals.

"State Court System" means the system of courts, or any part thereof, established pursuant to Articles 1 to 9 of Title 13, C.R.S., and Article VI of the State Constitution. "State court system" shall not include the municipal courts or any part thereof.

"Supervised Experience" means supervision by a Commission approved legally qualified service provider that occurs in a variety of legal settings.

27.220 APPOINTMENT OF APPROPRIATE AUXILIARY SERVICE PROVIDERS [Rev. eff. 4/1/10]

Subject to available appropriations, the Commission will coordinate and pay for all qualified Auxiliary Service providers when requested by the Appointing Authority.

- A. The Commission staff shall determine the combination of services needed on a case-by-case basis in order to achieve effective communication between all parties involved in a legal proceeding as requested by the Appointing Authority.

- B. The Commission shall arrange and pay for appropriate auxiliary aids and services when a person who is Deaf or Hard of Hearing is present as the principal party of interest or a witness in any of the following proceedings:
1. Civil or criminal proceedings.
 2. Court provided alternative dispute resolution, mediation, arbitration or other court provided treatment and services related to the disposition of a case.
 3. An administrative, commission, or agency hearing.
 4. A hearing of a licensing authority of the state.
 5. A grand jury or jury proceeding.
 6. When a juvenile whose parent or parents or legal guardians(s) are Deaf or Hard of Hearing is brought before a court for any reason.
 7. When a person who is Deaf or Hard of Hearing is arrested and taken into custody for an alleged violation of a criminal law of the state.
 8. Probation pre-sentence interviews and supervision.
 9. Court-ordered mediation, treatment and services in any community-based and/or private program or service related to the disposition of a court matter or case. In such case, payment by the Commission will only take place when such agencies submit evidence of undue burden on them to provide the accommodation requested.
 10. Meeting at the courthouse between an attorney and a client, when the meeting is an extension of a court appearance (i.e., immediately before or after the appearance).
- C. The Commission may coordinate and pay for qualified Auxiliary Service providers and aids for Deaf and Hard of Hearing individuals who are not a principal party of interest when practicable and given consideration of advance notice and availability of service providers.

27.230 QUALIFICATIONS OF AUXILIARY SERVICE PROVIDERS [Rev. eff. 4/1/10]

The Commission shall determine the qualifications of Auxiliary Service providers who are eligible to receive a legal credential authorization and shall maintain a referral resource list. The Commission shall renew each Auxiliary Service provider's legal credential authorization annually, based upon verification of current certification, completion and submission of all required documentation and background check clearance through the Colorado Judicial Department.

A. Interpreters

No interpreter shall receive a legal credential authorization or be placed on an interpreter referral resource list with the Commission unless (s)he has made application, and has been determined qualified under one of the statuses below.

Status I interpreters are preferred providers for all legal and court assignments; therefore, every effort shall be made to assign these interpreters before contacting interpreters in other status categories.

1. Status I

a. RID Specialist Certificate: Legal (SC:L)

- 1) Initial Legal Credential Authorization: Holders of a current SC:L not required to complete additional training and supervision to attain a Legal Credential Authorization.
- 2) Maintenance of Legal Credential Authorization: Each SC:L holder must attain twenty (20) hours Continuing Education (2.0 CEUs) specific to legal settings during each four (4) year period, and maintain current certification.

b. RID Certified Deaf Interpreter (CDI)

Holders of this certificate are recommended for a broad range of assignments where an interpreter who is Deaf or Hard of Hearing would be beneficial.

- 1) Initial Legal Credential Authorization: Holders of a CDI are required to have sixty-five (65) hours of training specific to legal interpreting, and twenty-five (25) hours of Supervised Experience to attain a Legal Credential Authorization.
- 2) Maintenance Legal Credential Authorization: Each CDI holder must attain twenty (20) hours Continuing Education (2.0 CEUs) specific to legal settings during each four (4) year period, and maintain current certification.

2. Status II

a. Interpreters with Other Certificates

Individuals having a RID Certificate of Interpretation and Certificate of Transliteration (CI/CT), RID Comprehensive Skills Certificate (CSC), Master Comprehensive Skills Certificate (MCSC), NAD-RID National Interpreter Certificate Master (NIC Master), NAD V, RID Oral Transliterating Certificate (OTC), RID Oral Interpreter Certification: Comprehensive (OIC:C) are eligible to receive a Certificate of Competency if they comply with the following:

- 1) Initial Legal Credential Authorization: Status II interpreters are required to have sixty-five (65) hours of training specific to legal interpreting, and thirty-five (35) hours of Supervised Experience to attain a Legal Credential Authorization.
- 2) Maintenance of Legal Credential Authorization: Each Status II interpreter must attain forty (40) hours Continuing Education (4.0 CEU's) specific to legal settings) during each four (4) year period, half of which must be skills training, and maintain current certification.

b. Deaf Interpreter (DI)

Deaf Interpreters, who do not hold a CDI, may be used where an interpreter who is Deaf or Hard of Hearing would be beneficial and a CDI is not available.

- 1) Initial Legal Credential Authorization: Deaf interpreters are required to have a minimum of eight (8) hours of training related to the RID Code of Professional Conduct, a minimum of eight (8) hours of general

interpreting theory, sixty-five (65) hours of training specific to legal interpreting, and thirty-five (35) hours of Supervised Experience to attain a Legal Credential Authorization.

- 2) Maintenance of Legal Credential Authorization: Each Deaf interpreter must attain forty (40) hours Continuing Education (4.0 CEUs) specific to legal settings during each four (4) year period.

3. Status III: Intermediary

Intermediary interpreters do not have formal training or certification, but have experience with the unique communication needs of the deaf or hard of hearing individual. They can only be appointed on a case-by-case basis and will work in conjunction with either a Status I or Status II interpreter who will be present.

4. Status IV

Interpreters for court-ordered treatment or therapy are interpreters who are qualified to use at least one of the titles listed in Section 6-1-707(1)(e), C.R.S., which sets forth the legal requirements to call oneself an "interpreter".

B. CART Providers

1. Status I

- a. Initial Legal Credential Authorization: individuals having a Certified CART Provider (CCP) certificate or Certified Realtime Report (CRR) designation are eligible to obtain a Legal Credential Authorization.
- b. Maintenance of Legal Credential Authorization: Each CART provider must attain twenty (20) hours of Continuing Education (2.0 CEUs) related to CART training during each four-year period, and maintain current certification.

2. Status II

CART providers for court-ordered treatment or therapy: CART providers who have a current Registered Professional Reporter (RPR) certificate.

27.240 RESPONSIBILITIES [Rev. eff. 4/1/10]

All Auxiliary Service providers shall abide by the following responsibilities:

- A. All Auxiliary Service providers shall provide effective communication.
- B. Prior to providing service in any case or proceeding, all auxiliary service providers shall prepare for the assignment by contacting the appointing authority and reviewing case files, and arriving at the assignment early to establish effective communication.
- C. Each Auxiliary Service provider must correct errors either on the record, or by notifying each party as soon as practical.
- D. An Auxiliary Service provider shall take an oath that he or she shall make a true and complete interpretation in an understandable manner to the best of his or her skills, but such oath shall only be required if the entity presiding over the proceeding has been given, by statute, the authority to administer such an oath.

- E. Auxiliary Service providers shall make all necessary disclosures, on the record, about their perceived need for disqualification or acknowledging conflict of interest as being the sole holder of relevant information.
- F. The Auxiliary Service provider shall be in full view and spatially situated to assure effective communication with each person who is Deaf or Hard of Hearing.
- G. Auxiliary Service providers may provide effective communication between Deaf or Hard of Hearing individuals and their attorneys only when attorney-client privilege has been extended for the Auxiliary Service provider.
- H. Each interpreter is duty bound to the Colorado Judicial Department Code of Professional Responsibility for Court Interpreters and the NAD-RID Code of Professional Conduct. Copies of these Codes may be reviewed by contacting the Legal Auxiliary Services Manager of the Commission during normal business hours, at the Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publications Library. No amendments or later editions are incorporated.
- I. Each CART provider is duty bound to the Colorado Judicial Department Code of Professional Responsibility for Court Interpreters and the National Court Reporters Association (NCRA) Code of Ethics and Guidelines for Professional Practice. Copies of these Codes and Guidelines may be reviewed by contacting the Legal Auxiliary Services Manager of the Commission during normal business hours, at the Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publications Library. No amendments or later editions are incorporated.
- J. The official court reporter should refrain from working in a dual capacity as a CART provider and the Official Reporter of Proceedings. When no other option exists, the role performed is that of the Official Reporter of Proceedings and, therefore, the individual who is Deaf or Hard of Hearing is not adequately served.

27.241 Responsibilities of Auxiliary Service Providers for Jurors [Rev. eff. 4/1/10]

- A. Auxiliary Service Providers shall provide effective communication during a trial for a juror who is Deaf or Hard of Hearing.
- B. Auxiliary Service Providers shall make true and complete translations/interpretations of call court proceedings.
- C. Auxiliary Service Providers shall be subject to all orders of the presiding judge or magistrate.
- D. Subject to the express order of the court, all auxiliary aids and service providers shall be allowed during jury deliberations.
- E. Auxiliary Service Providers shall not participate in any manner in the deliberation of the jury and shall not have any communications with any member of the jury regarding deliberation, except for true and complete conveyance of jurors' remarks made during deliberation.

27.250 COMPENSATION, PAYMENT, AND REIMBURSEMENT [Rev. eff. 4/1/10]

- A. The amount of compensation shall be based on a fee schedule for Auxiliary Service providers established by the Commission, subject to appropriations.
- B. Funds are available through the Commission for attorney-client communications outside of judicial settings only as set forth in Section 27.220, B, 10.

27.260 COMPLIANCE [Rev. eff. 4/1/10]

Auxiliary Service Providers must come into full compliance with these rules, by submitting all required documentation to the Commission, by January 1, 2012, to receive a Legal Credential Authorization. Any service provider without a valid Legal Credential Authorization will not be eligible to be listed on the referral resource list or receive compensation from the Commission.

27.270 COMPLAINT PROCESS [Rev. eff. 4/1/10]

All persons involved in a proceeding covered by these rules may file a complaint with the Commission within ninety (90) days of a proceeding regarding the ineffective and/or unethical service of an Auxiliary Service provider according to the NAD-RID Professional Code of Conduct or the NCRA Code of Ethics. This deadline may be extended for good cause as set forth in Section 27.210. Copies of these Codes may be reviewed by contacting the Legal Auxiliary Services Manager of the Commission during normal business hours at the Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publications Library. No amendments or later editions are incorporated.

A. Complaints may be made in writing, on videotape or in person at the Commission office.

A complaint must include:

1. The name of the person filing the complaint
2. The name of the Auxiliary Service Provider
3. Date and location of incident
4. A full description of what happened, including the perceived negative impact
5. Waiver of confidentiality as it relates to the incident involved.

B. A copy of the complaint will be reviewed by the Commission staff to determine if the complaint is within the purview of the Legal Auxiliary Services Program.

C. A copy of the complaint will be sent to the Auxiliary Service provider who will be given 14 days to respond in writing to the Commission.

D. All of the information regarding the incident will be reviewed by the Legal Auxiliary Services Advisory Council to determine if there is a basis in fact for the complaint.

E. If it is determined that there is no basis in fact, the Legal Auxiliary Services Advisory Council will send a full written explanation to both complainant and service provider.

F. If there is a basis in fact, the Legal Auxiliary Services Advisory Council will make a recommendation to a three-member Commission sub-committee in response to the complaint up to and including removal from the referral resource list.

G. The Commission sub-committee will make a decision taking into consideration the recommendation from the Legal Auxiliary Services Advisory Council.

H. The Commission sub-committee will send a full written explanation to both the complainant and service provider.

I. Either party may request a review of the Commission sub-committee decision by the full Commission within thirty (30) days, with the members of the sub-committee being recused.

- I. The Commission will make a final decision, which will be communicated in writing to all parties involved. The decision of the Commission is final.

27.280 TRAINING AND TECHNICAL ASSISTANCE

The Commission will provide training and technical assistance for identified Judiciary and law enforcement personnel and auxiliary service providers regarding compliance with relevant regulations, policies and procedures.

27.290 AUXILIARY AIDS AND DEVICES

The Commission shall make available, to the appointing authority, assistive listening devices to be used for effective communication when requested by a Deaf or Hard of Hearing individual.

27.300 AUXILIARY SERVICE ADVISORY COUNCIL [Rev. eff. 4/1/10]

- A. The Commission shall convene a nine-member advisory council. Membership shall consist of the following: two (2) Deaf members, two (2) Hard of Hearing members, three (3) Status I or Status II Legal Interpreter members (at least one shall be a CDI/DI, if possible), one (1) CART provider member, and one (1) person with Disability Law background.
- B. This council shall meet at least two times per year to review these rules and corresponding procedures, and make recommendations as requested by the Commission.
- C. Term limits of the Legal Auxiliary Service Council members shall be determined by the Commission.

27.400 GRANT PROGRAM [Eff. 5/1/10]

The Colorado Commission for the Deaf and Hard of Hearing provides funding, as appropriated by the General Assembly and after considering the recommendations made by the Grant Program Subcommittee, for local government, state agencies, state-operated programs, private nonprofit or not-for-profit community-based organizations to address the needs of the deaf and hard of hearing community.

27.410 DEFINITIONS [Eff. 5/1/10]

“Commission” means the Colorado Commission for the Deaf and Hard of Hearing (CCDHH), as referenced in Colorado Revised Statutes, Title 26, Article 21.

“Subcommittee” means the Grant Program Subcommittee authorized pursuant to Section 26-21-107.7, C.R.S.

“Deaf and hard of hearing” means individuals who would self-identify as any of or any combination of the following:

- A. “Deaf” (uppercase): A group of people, with varying hearing acuity, whose primary mode of communication is a visual language (predominantly American Sign Language (ASL) in the United States) and have a shared heritage and culture.
- B. “deaf” (lowercase): Individuals with hearing loss who may, or may not, use ASL and do not share a heritage and culture of those who use ASL as a primary communication mode. Typically, deaf individuals communicate using oral interpreting service, assistive technology, including hearing aids, cochlear implants, and captioning provided in real-time.

- C. "Hard of hearing": Individuals who have hearing loss from mild to profound, beginning at any point during life. Functionally, hard of hearing individuals depend primarily on speech and listening for communication, augmented with visual cues and may use assistive technology, including hearing aids and captioning provided in real-time. Some individuals in this group use ASL for communication.
- D. "Late-deafened": Individuals whose hearing loss begins in late childhood, adolescence, or adulthood, after they have developed oral language skills. Typically, late-deafened individuals communicate using assistive technology, including hearing aids, cochlear implants, and captioning provided in real-time. Some also learn to communicate in sign language.
- E. "Deaf-blind" and "hard-of-hearing-blind": Individuals who have varying hearing and vision acuity. Their communication modes and specific needs vary enormously according to age, onset, type of deaf-blindness or hard-of-hearing-blindness, and upbringing.

"Entity" means a local government, state agency, state-operated program, private nonprofit or not-for-profit community-based organization.

27.420 GRANT PROGRAM SUBCOMMITTEE [Eff. 5/1/10]

- A. The Commission shall convene a five-member subcommittee consisting of members who have knowledge and awareness of innovative strategies that address challenges faced by the deaf and hard of hearing community.
- B. The Commission shall provide information to the general public about the establishment of the subcommittee and the process for interested persons to apply to become a subcommittee member.
- C. The Commission Nominations Committee shall screen the candidates for the Grant Program Subcommittee positions and make recommendations to the Commissioners for approval.
- D. Membership shall consist of the following: one (1) person who has knowledge and awareness of the issues faced by deaf persons; one (1) person who has knowledge and awareness of the issues faced by hard of hearing persons; two (2) representatives from the deaf and hard of hearing community; and the Commission administrator as an ex-officio member.
 - 1. The members shall serve a three-year term, with the original members' terms staggered pursuant to Section 26-21-107.7(1)(d), C.R.S.
 - 2. The members' term limits shall be determined by the Commission.
- E. This subcommittee shall meet to review applications and make recommendations to the Commission for approval, with recommended grant amounts, or disapproval of applications.

The subcommittee member shall not perform any functions related to a grant application where appearance or the reality of a conflict of interest exists, including proposal writing.
- F. The subcommittee shall make recommendations to the Commission to determine distribution of the amount(s) up to the total amount of money appropriated for this purpose on a yearly basis.

27.430 PURPOSE OF GRANT [Eff. 5/1/10]

The purposes of the grant awards shall be to address the needs of the deaf and hard of hearing community, including, but not limited to, the following projects:

- A. Communication access where auxiliary services and aids are made available;
- B. Community planning to improve coordination and access to services (e.g., involvement of the community stakeholders to conduct an environmental scan, gap analysis, priority setting and strategic planning of any program);
- C. Start-up programs that the state lacks;
- D. Support for existing services and programs;
- E. Other projects that meet the overall purpose of the grant program as determined by the subcommittee.

27.440 GRANT APPLICATION PROCESS [Eff. 5/1/10]

Applications shall be submitted on a form provided by the Department and shall include:

- A. Letter of interest submitted by the governing body of the entity;
- B. The mission statement of the entity that reflects support of the purposes underlying the grant program;
- C. Documentation of appropriate legal status or standing as a private nonprofit or not-for-profit agency or corporation as required by Federal or Colorado law if the entity is a non-governmental agency;
- D. A list of a functioning board of directors or advisory committee, which provides oversight and governance if applicable or the organizational structure of the government agency;
- E. Concisely written grant proposal that sets forth, at a minimum, the objective(s) to be achieved in accordance with the purpose of the grant, the community need that the grant proposal addresses, the timeline for achieving the objective(s) and the measurable outcomes to be met;
- F. Letters of support from three (3) entities as defined in Section 27.410 of these rules;
- G. The proposed budget, tied to activities and outcomes and, if required by the application, fifty percent (50%) of match and source(s) committed and its narrative;
- H. A certified copy of latest fiscal audit/financial review if the applicant is an established program, and/or a plan to manage the grant if the entity is newly created; and,
- I. A copy of the entity's Equal Employment Opportunity (EEO) statement, when applicable.

27.450 TIMELINES AND SELECTION CRITERIA [Eff. 5/1/10]

- A. The grant program application timeline shall be:
 1. July 1: Distribution of the grant application;
 2. July 31: Deadline for final applications;
 3. August 31: Review and approval or disapproval of the applications by the subcommittee and submittal of the recommendations to the Commission; and,
 4. September 15: As a Type 2 transfer, the Commission shall consider the recommendation(s) of the subcommittee and shall make its recommendation(s) to the Executive Director for final approval of the grant award(s). The Commission shall also apprise the Executive Director if the Commission's recommendation is in disagreement with the subcommittee's

recommendation so the Executive Director is able to consider this information when making the final award(s).

B. Grant applications will be reviewed and selected according to the following:

1. Completion of all application requirements;
2. Assurances of matching funds readily available or committed when required;
3. Demonstration of fiscal and programmatic management capability as evidenced by operating experience, audit or financial review as appropriate, or a plan of grant management if the agency is newly created;
4. Cost of the project compared to other projects;
5. A demonstrated community need which the grant proposal addresses;
6. Demonstration of community support as evidenced by direct community contributions, a volunteer component, and letters of support from other community agencies; and,
7. The availability of grant funds for the project.

27.460 DISPUTE RESOLUTION PROCESS [Eff. 5/1/10]

In order to resolve disputes between the Commissioners and applicants/grantees, the Commission shall adopt procedures for the resolution of disputes consistent with this section. The procedures shall be designed to establish a simple and non-adversarial format for the resolution of disputes.

27.470 CONTRACTUAL AUTHORITY [Eff. 5/1/10]

All successful grant recipients must be willing to enter into a contractually binding agreement as prescribed by the Colorado Department of Human Services and the State of Colorado Fiscal Rules. Adherence to confidentiality laws and proof of insurance are required if the recipient intends to provide direct services to clients through the grant proceeds.

27.480 REPORTING [Eff. 5/1/10]

Each grantee shall be responsible for the maintenance and reporting of any required specifications as outlined in the contract.

Editor's Notes

History

Add Sections 27.200 – 27.300 eff. 11/01/2007.

Sections 27.100 – 27.191 eff. 04/01/2008.

Entire rule eff. 04/01/2010.

Sections 27.400 - 27.480 eff. 05/01/2010.