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Volume of Colorado Commission for the Deaf and Hard of Hearing (12 CCR 2516-1)

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.

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.

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.

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 attain 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.

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.

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.

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.

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.

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 or 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 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 the 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.

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

280 TRAINING AND TECHNICAL ASSISTANCE [Eff. 11/1/07]

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.

290 AUXILIARY AIDS AND DEVICES [Eff. 11/1/07]

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.

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.