

## **Colorado Commission for the Deaf, Hard of Hearing, and DeafBlind Statutory Provisions**

Current through all Laws passed during the 2021 Legislative Session

### **26-21-101. Short title**

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The short title of this article 21 is the "Colorado Commission for the Deaf, Hard of Hearing, and Deafblind Act".

### **26-21-102. Legislative declaration**

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The general assembly hereby finds, determines, and declares that a commission for the deaf, hard of hearing, and deafblind facilitates the provision of state and local government services to the deaf, hard of hearing, and deafblind while making government more efficient. Under the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, Colorado has a duty to provide equivalent access to state government and public accommodations to the deaf, hard of hearing, and deafblind. This duty requires state departments and agencies to provide auxiliary services, communications technology equipment, and other resources to ensure access. Centralizing and unifying such resources under a Colorado commission creates cost savings for the state. In addition, the consolidation of resources facilitates quality control and increases the effectiveness of services while increasing access to services by the deaf, hard of hearing, and deafblind.

### **26-21-103. Definitions**

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(1) "Auxiliary services" means those aids and services that assist in effective communication with a person who is deaf, hard of hearing, or deafblind, including but not limited to:

- (a) The services of a qualified interpreter as defined by section 13-90-202 (8);
- (b) The provision of a qualified communication access realtime translation (CART) reporter;
- (c) The provision of an assistive listening device; or
- (d) The acquisition or modification of equipment or devices to assist in effective communication with a person who is deaf, hard of hearing, or deafblind.

(2) "Citizens council" means the Colorado deafblind citizens council appointed by the commission in accordance with section 26-21-105 (2)(f).

(3) "Commission" means the Colorado commission for the deaf, hard of hearing, and deafblind.

(4) "Communications technology" means any communication device or application utilizing radio, television, cellular phone, computer and network hardware and software, satellite, cable, broadband systems, or similar medium and the services and applications associated with those mediums, including video and teleconference services.

(5) "Late deafened" means a person whose hearing loss began in late childhood, adolescence, or adulthood, after the person acquired oral language skills.

(6) "Latent deafblind" means a person who has an existing ear and eye condition that has not yet manifested.

(7) "Low vision" means an eye condition where visual acuity is 20/70 or poorer in the better eye and the condition cannot be corrected or improved with optical corrective devices.

(8) "Orientation and mobility specialist" means a professional who focuses on instructing individuals who are deafblind on how to effectively and independently travel through their environment.

(9) "State court system" means the system of courts, or any part thereof, established pursuant to articles 1 to 9 of title 13 and article VI of the state constitution. "State court system" does not include the municipal courts or any part thereof.

(10) "Support service provider" means a person who provides visual and environmental information, acts as a sighted guide, or facilitates communication for deafblind individuals.

#### **26-21-104. Commission created - appointments**

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(1) The Colorado commission for the deaf, hard of hearing, and deafblind is created in the department of human services. The commission shall exercise its powers, duties, and functions under the department of human services as if it were transferred to the department by a type 2 transfer under the provisions of the "Administrative Organization Act of 1968", article 1 of title 24.

(2) The commission consists of seven members as follows:

(a) One member who is deaf;

(b) One member who is hard of hearing;

(c) One member who is a professional working with individuals in the deaf, hard-of-hearing, or deafblind community;

(d) One member who is a parent of a deaf, hard-of-hearing, or deafblind person;

(e) One member who is late deafened;

(f) One member who is an auxiliary services provider for the deaf, hard of hearing, or deafblind and who is qualified to use at least one of the titles listed in section 6-1-707 (1)(e); and

(g) One member who is deafblind.

(3)

(a) The governor shall appoint the commission members referenced in subsection (2) of this section. Beginning July 1, 2000, four of these commission members shall serve initial terms of four years, and three shall serve initial terms of six years. After the initial appointments of the commission members referenced in subsection (2) of this section, all subsequent appointees shall serve terms of four years; except that a member shall not serve more than two consecutive four-year terms.

(b) The governor shall appoint a qualified person to fill any vacancy on the commission for the remainder of any unexpired term.

(4) At least ninety days prior to the expiration of a member's term of office, the commission shall create a list of nominees. The nominees' names shall be submitted to the governor at least forty-five days prior to the expiration of the preceding term for which the nominees are being considered. If the governor approves the nominees, the governor shall appoint one of the nominees for each open position within ninety days after the date of each vacancy; otherwise, the governor shall appoint qualified persons in consultation with the commission.

#### **26-21-105. Appointment of commission director - commission procedures - citizens council - creation**

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(1) The executive director of the department of human services or the executive director's designee shall appoint a director of the commission. The executive director of the department shall provide comment and input to the commission on the hiring of the director.

(2)

(a) The commission shall convene its first meeting of each fiscal year no later than October 1.

(b) The commission may adopt such policies as are necessary to facilitate orderly conduct of its business.

(c) The commission shall meet at least quarterly. Meetings shall also be held on call of the chair or at the request of at least three members of the commission.

(d) The commission shall adopt no official position, recommendation, or action except by the concurrence of a majority of the members.

(e) The commission shall encourage development and coordination of public and private agencies providing assistance to deaf, hard-of-hearing, and deafblind citizens.

(f)

(I) There is hereby created the Colorado deafblind citizens council consisting of seven members.

(II) The citizens council will advise the commission, state and local governments, and other relevant entities on how to increase competitive integrated employment as defined by section 8-84-301, enlarge economic opportunities, enhance independence and self-sufficiency, and improve services for deafblind persons.

(III) The commission shall appoint initial members to the citizens council by July 1, 2019. The commission shall designate four members to serve an initial four-year term and three members to serve an initial six-year term. After the initial terms, all subsequent appointees will serve four-year terms. The commission shall appoint a qualified person to fill any vacancy on the citizens council for the remainder of any unexpired term. The citizens council must have the following appointees:

(A) One member who is deaf and blind;

(B) One member who is deaf and low vision;

(C) One member who is hard of hearing and blind;

(D) One member who is hard of hearing and low vision;

(E) One member who is latent deafblind;

(F) One member who is a professional working with the deafblind community; and

(G) One member who is a parent of a deafblind child.

(3) and (4) (Deleted by amendment, L. 2009, (SB 09-144), ch. 219, p. 987, § 4, effective August 5, 2009.)

#### **26-21-106. Powers, functions, and duties of commission - community access program - report**

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**(1)** The powers, functions, and duties of the commission include:

- (a)** Serving as a liaison between deaf, hard of hearing, and deafblind and the general assembly, governor, and Colorado departments and agencies;
- (b)** Serving as an informational resource to state and local governments, deaf, hard of hearing, deafblind, private agencies, and other entities;
- (c)** Serving as a referral agency for deaf, hard of hearing, and deafblind to state agencies and institutions, local government agencies, private agencies, and other entities;
- (d)** Assessing how communications technology has affected the needs of deaf, hard of hearing, and deafblind. The commission shall assess the type and amount of equipment needed by deaf, hard-of-hearing, and deafblind persons who qualify under the federal poverty guidelines established in accordance with the "Omnibus Budget Reconciliation Act of 1981", 42 U.S.C. 9902 (2).
- (e)** Assessing the needs of deaf, hard of hearing, and deafblind and reporting annually to the governor and the general assembly any recommendations for legislation or administrative changes that may facilitate or streamline the provision of general government services to deaf, hard of hearing, and deafblind. Notwithstanding section 24-1-136 (11)(a)(I), on or before September 1 of each year, the commission must file the report required by this subsection (1)(e). In preparing the annual report and recommendations, the commission shall consider the following:
  - (I)** Whether any existing statutory or administrative provisions impede the ability of the commission to act as a statewide coordinating agency advocating for deaf, hard-of-hearing, and deafblind individuals in Colorado;
  - (II)** Any methods, programs, or policies that may improve communication accessibility and quality of existing services, promote or deliver necessary new services, and assist state agencies in the delivery of services to deaf, hard of hearing, and deafblind;
  - (III)** Any methods, programs, or policies that may make providing access to government services more efficient; and
  - (IV)** Any methods, programs, or policies that may improve implementation of state policies affecting deaf, hard of hearing, and deafblind and their relationship with the general public, industry, health care, and educational institutions.

**(2)** The commission shall consider the findings of any study authorized under this section and may approve, disapprove, or amend the findings. After consideration of the findings, the commission shall submit a report with recommendations including proposed legislation, if necessary, to the governor and to the general assembly. The commission shall submit the report annually notwithstanding section 24-1-136 (11)(a)(I), and may combine the report with, or include the report as a part of, the annual report prepared under subsection (1)(e) of this section.

**(3)** The commission shall establish and coordinate a communications technology program that is consistent with the findings of subsection (1) of this section to obtain and distribute interactive telecommunications and other communications technology equipment needed by deaf, hard-of-hearing, and deafblind persons.

**(4)** The commission, in collaboration with the judicial department, shall arrange for auxiliary services for the state court system. Arranging auxiliary services for the state court system includes:

- (a)** Coordinating statewide and day-to-day scheduling of auxiliary services;
- (b)** Creating and managing a process by which requests for auxiliary services may be filled;

- (c)** Identifying, coordinating, and placing the appropriate auxiliary services with all concerned parties;
  - (d)** Coordinating the purchase, shipment, and receipt of assistive listening devices and systems pursuant to applicable state rules;
  - (e)** Creating and managing efficient and consistent processes through which auxiliary services providers may submit required documentation and receive payment for services;
  - (f)** Communicating with auxiliary services users, providers, and state court system agencies to resolve issues between those parties; and
  - (g)**
    - (I)** Establishing, monitoring, and publishing a list of available qualified interpreters and CART providers for deaf, hard-of-hearing, or deafblind persons.
    - (II)** For the purposes of this subsection (4)(g):
      - (A)** "CART provider" means a person providing a word-for-word speech-to-text translation service for deaf, hard of hearing, or deafblind.
      - (B)** "Qualified interpreter" means a person who has a valid certification of competency accepted by the commission and includes, but is not limited to, oral interpreters, sign language interpreters, and intermediary interpreters.
- (5)** On or before January 1, 2019, the commission shall establish a one-year pilot program to provide auxiliary services to state departments and agencies. The commission may continue the pilot program in subsequent years if the commission has adequate funding to provide auxiliary services through the pilot program. The commission shall:
- (a)** Identify at least two state departments or agencies to participate in the pilot program during calendar year 2019;
  - (b)** Create a process for participating state departments or agencies to request auxiliary services from the commission;
  - (c)** Collect data on the utilization of auxiliary services through the pilot program; and
  - (d)** Hire an independent contractor to evaluate the pilot program and make recommendations regarding whether to expand the program to additional state departments and agencies. The evaluation must be based on utilization data from the first year of the program. The evaluation must be included in the September 1, 2020, annual report required by section 26-21-106 (1)(e).
- (6)** The commission shall establish and maintain outreach and consulting services to improve and ensure effective access to auxiliary services by critical state and local government agencies, private agencies, and other entities. The commission shall also use these services to increase awareness of the programs funded by the Colorado telephone users with disabilities fund established pursuant to section 40-17-104.
- (7)** The commission's outreach and consulting services include the following duties:
- (a)** Provide resources to individuals who have encountered barriers to obtaining necessary services;
  - (b)** Assist individuals in understanding and accessing services that may be available to them;
  - (c)** Consult with state and local government agencies and private entities so that they are equipped to provide direct services or services with accommodations to deaf, hard-of-hearing, and deafblind individuals;

**(d)** Increase public awareness of the needs and issues facing deaf, hard-of-hearing, and deafblind individuals; and

**(e)** Develop and maintain a comprehensive resource directory of services and other programs that may be of use to deaf, hard-of-hearing, and deafblind individuals and to agencies that serve them.

**(8)** The commission shall maintain a community access program for one-on-one system navigating services to ensure resources are available to individuals and to protect each person's right to effective communication and access to environmental information. The community access program must include the following:

**(a)** Support service providers for deafblind individuals;

**(b)** Orientation and mobility specialists for deafblind individuals; and

**(c)** Peer system navigation for deaf, hard-of-hearing, and deafblind individuals who encounter barriers accessing programs, activities, or services.

**(9)**

**(a)** The commission shall arrange for the provision of auxiliary services in rural areas of the state by performing the following functions:

**(I)** Coordinating on a statewide basis the day-to-day scheduling for auxiliary services to be provided in rural areas;

**(II)** Creating and managing efficient and consistent processes through which an auxiliary services provider may submit required documentation and receive payment for auxiliary services provided;

**(III)** Creating and managing a process for the intake and fulfillment of requests for auxiliary services in rural areas, including the identification, coordination, and appointment of auxiliary services providers to meet the needs of all parties involved in the proceeding, event, or circumstance for which a request is made;

**(IV)** To resolve any issues that arise with regard to auxiliary services, communicating with auxiliary services users, auxiliary services providers, and appointing authorities, as defined in section 13-90-202 (1), in the rural areas in which auxiliary services are requested or are being provided pursuant to this subsection (9);

**(V)** Providing training opportunities for potential auxiliary services providers who are willing to accept assignments in rural areas;

**(VI)** Awarding scholarships for potential auxiliary services providers' education, internships, and certification testing for qualified programs;

**(VII)** Conducting outreach to rural users in need of auxiliary services and auxiliary services providers;

**(VIII)** Establishing, monitoring, and publishing on the commission's public website a list of available CART providers and qualified interpreters, as defined in subsections (4)(g)(II)(A) and (4)(g)(II)(B) of this section, respectively, who are willing to work in rural areas for persons who are deaf, hard of hearing, or deafblind;

**(IX)** Creating an advisory council to make recommendations to the commission about the provision of auxiliary services in rural areas; and

(X) Developing and implementing other strategies to increase capacity for auxiliary services in rural areas.

(b) The executive director shall promulgate rules in consultation with, or as proposed by, the commission and the deaf, hard of hearing, and deafblind community, regarding implementation of this subsection (9). the rules must define the term "rural area".

(c)

(I) On or before November 1, 2022, and on or before November 1 of each year thereafter, the commission shall submit a report to the joint budget committee summarizing the commission's implementation of the program described in this subsection (9) over the previous twelve months.

(II) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirement set forth in subsection (9)(c)(I) of this section continues indefinitely.

#### **26-21-107. Colorado commission for the deaf, hard of hearing, and deafblind cash fund - creation - gifts, grants, and donations - reimbursement**

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(1) There is hereby created in the state treasury the Colorado commission for the deaf, hard of hearing, and deafblind cash fund. All money credited to the fund must be used exclusively for the administration and discharge of this article 21. All money credited to the fund and any interest earned from the investment of money in the fund remains in the fund and does not revert to the general fund or any other fund at the end of any fiscal year.

(2) The commission, subject to spending authority granted by the general assembly, is authorized to receive and expend gifts, grants, and donations from individuals, private organizations, foundations, or any governmental unit; except that no gift, grant, or donation may be accepted by the commission if it is subject to conditions that are inconsistent with this article or any other law of this state.

(3) Commission members shall be reimbursed for actual and necessary expenses incurred in the discharge of their official duties, including an allowance for mileage as provided in section 24-9-104 (2), C.R.S. The commission may establish a standardized per diem designed to cover the actual expenses of the members pursuant to this subsection (3).

#### **26-21-107.5. Colorado commission for the deaf, hard of hearing, and deafblind grant program - creation - standards - applications - definitions**

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(1) The Colorado commission for the deaf, hard of hearing, and deafblind grant program is hereby established to provide funding for entities to address the needs of Colorado's deaf, hard-of-hearing, and deafblind individuals.

(2)

(a) The Colorado commission for the deaf, hard of hearing, and deafblind grant program committee appointed pursuant to section 26-21-107.7 shall administer the grant program as provided in section 26-21-107.7.

(b) The commission shall pay the grants awarded through the grant program from money appropriated by the general assembly.



(c) Subject to available money, the general assembly shall appropriate to the commission no more than fifty thousand dollars annually to administer the grant program.

(3) The state department shall adopt rules addressing timelines and guidelines for the grant program and establishing criteria for approving or disapproving grant applications.

(4) An entity seeking to provide services to deaf, hard-of-hearing, or deafblind persons or to enhance existing deaf, hard-of-hearing, or deafblind programs may apply for a grant through the grant program.

(5) As used in this section, "entity" means a local government, state agency, state-operated program, or private nonprofit or not-for-profit organization.

(6) Grants must be awarded as provided in section 26-21-107.7 (3) and in compliance with applicable state rules.

(7) Grantees shall comply with reporting requirements established by the commission.

#### **26-21-107.7. Colorado commission for the deaf, hard of hearing, and deafblind grant program committee - creation - members - duties - repeal**

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(1)

(a.5)

(I) There is hereby created the Colorado commission for the deaf, hard of hearing, and deafblind grant program committee, referred to in this section as the "committee", consisting of five members, for the purpose of recommending to the commission approval or disapproval of applications for the grant program.

(II) The commission shall appoint four members to the committee as follows:

(A) One person who is deaf;

(B) One person who is deafblind;

(C) One person who is hard of hearing; and

(D) One representative of the public at large.

(III) This subsection (1)(a.5) is effective September 1, 2018, and applies to appointments to the committee on or after September 1, 2018. All initial appointments in accordance with this subsection (1)(a.5) must be made by September 30, 2018.

(b) In addition to the appointed committee members, the director shall serve as an ex-officio member of the committee.

(c) In appointing members to the committee, the commission shall choose persons who have knowledge and awareness of innovative strategies that address challenges faced by the deaf, hard-of-hearing, and deafblind community.

(d) The appointed members of the committee shall serve three-year terms; except that, of the members first appointed, one of the members shall serve a two-year term and two of the members shall serve one-year terms. The commission shall choose those members who shall serve the initial shortened terms. If a vacancy arises in one of the appointed positions, the commission shall appoint a replacement to fill the vacancy for the remainder of the term.



(e) Members of the committee shall serve without compensation but are entitled to be reimbursed out of available appropriations for all actual and necessary expenses incurred in the performance of their duties.

(f) The committee may meet via electronic communication when necessary.

(2) The committee shall review all applications received pursuant to section 26-21-107.5. Based on criteria established by the commission, the committee shall recommend to the commission those applications to approve, with recommended grant amounts, and those to disapprove.

(3) The commission shall review and may follow the recommendations of the committee for approval or disapproval of applications for the grant program and for grant amounts. If the commission disagrees with the recommendations of the committee, the executive director of the department shall have final decision-making authority to approve or disapprove the applications and to set the grant amounts.

#### **26-21-108. Repeal of article - sunset review**

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(1) This article is repealed, effective September 1, 2024.

(2) Prior to the repeal, the commission shall be reviewed as provided for in section 24-34-104, C.R.S.