

DEAF SERVICES DIVISION[429]

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CHAPTER 1
ORGANIZATION

429—1.1(216A) Function. The division of deaf services, within the department of human rights, was created pursuant to Iowa Code section 216A.1 and is required to coordinate, implement, and provide services to deaf and hard-of-hearing citizens. The commission on the deaf is responsible for establishing policies for the division of deaf services programs to be carried out by the administrator of the division as set out in Iowa Code section 216A.114.

429—1.2(216A) Organization.

1.2(1) *Central office.* Hours of operation for the central office are 8:30 a.m. to 5:00 p.m., Monday through Friday. The central office is located in the Department of Human Rights, Second Floor, Lucas State Office Building, Des Moines, Iowa 50319-0090. The telephone number is (515)281-3164, voice and TTY.

1.2(2) *Method of contacting the division of deaf services.* Citizens may contact the division of deaf services central office by telephone, mail, fax, E-mail, or personal visits for any of the services provided unless otherwise stated under the specific service.

a. Citizens may call the central office in Des Moines from within the state, station-to-station collect.

b. Citizens who call regional offices may ask the division of deaf services staff to return the call on the division of deaf services' telephone line.

1.2(3) *Composition of staff.*

a. Administrator. The governor shall appoint the administrator, subject to confirmation by the senate. The administrator shall serve at the pleasure of the governor. The administrator is responsible for the overall administration of the program. The administrator recruits, interviews, appoints, trains, supervises, evaluates, and terminates staff; plans and oversees execution of the budget; ensures provision of adequate services in the application of policies, rules, and regulations; determines the number and type of personnel and makes staffing and budgetary recommendations to the commission; carries out policies implemented by the commission; develops, establishes, and maintains cooperative working relations with public and private agencies and organizations; identifies legislative issues; interprets program objectives and promotes public interest in and acceptance of the division of deaf services; and maintains an adequate reporting system for necessary records. The administrator of the division of deaf services shall be fluent in American sign language.

b. Interpreters. The interpreters provide sign language and oral interpreting services. Pursuant to Iowa Code chapter 622B, Supreme Court Rules on Qualifications and Compensation of Interpreters, and Iowa Code section 804.31, the division of deaf services interpreters shall hold a Comprehensive Skills Certificate (CSC) or a Certificate of Interpretation (CI) and Certificate of Transliteration (CT) from the Registry of Interpreters for the Deaf, Inc. Applicants that are hired as staff interpreters who do not possess a CSC or CI and CT shall attain this level of certification within six months of hire as a condition of employment. The interpreters plan, coordinate, and schedule requests to provide direct interpreting services. The interpreters document services provided for statistical purposes, maintain cooperative working relationships with clients served, and perform related work as required. Advocacy issues or issues requiring assistance will be referred to the consultants or administrator.

c. Consultants. The consultants provide technical services related to deafness in the areas of housing, transportation, recreation, physical access and employment practices. The consultants act as liaisons with elected officials, governmental agencies, human resource professionals, and local groups in order to clarify the program needs of deaf and hard-of-hearing persons and to establish and maintain the plans and programs dealing with deaf and hard-of-hearing persons and their disabilities. The consultants report on data obtained on programs, issues, and services relating to the deaf and hard-of-hearing. The consultants shall be fluent in American Sign Language.

d. Support staff. The support staff is responsible for carrying out the program responsibilities by providing general office duties and related services, including clerical and skilled typing tasks, processing

and maintaining the records and written materials used by the organization served. Support staff should possess sign language skills.

e. Program planners. The program planners conduct research and prepare reports, articles, news releases, and publications on demographic, economic, cultural, and social issues affecting deaf and hard-of-hearing people. The program planners reply to public requests for information on issues affecting deaf and hard-of-hearing people and develop and maintain the agency's information resource program. The program planners develop public information programs to increase public interest and understanding of issues affecting deaf and hard-of-hearing people. The program planners analyze the social impact of services and lack of services for deaf and hard-of-hearing people and prepare recommendations and guidelines on service needs. The program planners identify funding sources for program development and are responsible for applying for grants. The program planners work cooperatively with the public and private sectors to establish programs to fill service gaps and implement ongoing evaluations of successes and failures.

429—1.3(216A) Commission on the deaf.

1.3(1) Commission established. The commission on the deaf is established, pursuant to Iowa Code section 216A.112, consisting of seven members. The members of the commission shall elect the chairperson and vice-chairperson of the commission by a two-thirds vote at the annual meeting of each odd-numbered year. All members are appointed by the governor to serve a term of three years. Voting privileges are vested in those members appointed pursuant to 216A.112.

1.3(2) Meetings. The commission on the deaf meets at least four times per year. The first regular meeting of the fiscal year is the annual meeting. A majority of the members shall constitute a quorum. Notice of a meeting is published at least 24 hours prior to the meeting and will contain the specific date, time, and place of the meeting. Agenda are available to any interested persons prior to or at the meeting. All meetings are open to the public unless a closed session is voted by two-thirds of the entire membership or by all members present, pursuant to Iowa Code section 21.5. The operation of commission meetings will be governed by the following rules of procedure:

a. When a quorum is present, a position is carried by an affirmative vote of a majority of the entire membership of the commission.

b. Persons wishing to appear before the commission shall submit the request to the central office not less than 14 days prior to the meeting. Presentations may be made at the discretion of the chair and only upon matters appearing on the agenda.

c. Persons wishing to submit written materials should do so at least seven days in advance of the scheduled meeting to ensure that commission members have adequate time to receive and evaluate the material.

d. Special meetings may be called by the chair only upon finding good cause and shall be held in strict accordance with Iowa Code chapter 21.

e. Cameras and recording devices may be used at open meetings, provided they do not obstruct the meeting. The presiding officer may request a person using such a device to discontinue its use when it is obstructing the meeting. If a person fails to comply with the request, the presiding officer shall order that person excluded from the meeting.

f. The presiding officer may exclude any person from the meeting for repeated behavior that disrupts or obstructs the meeting.

g. Cases not covered by these rules shall be governed by Robert's Rules of Order Newly Revised, 1981.

h. The commission may vote on issues in the form of resolutions which will be read and recorded at the following regular meeting.

1.3(3) Minutes. Minutes of the commission meetings are prepared and sent to commission members at least two weeks before the next regular commission meeting. Approved minutes are available at the commission office for inspection during business hours. Copies may be obtained pursuant to 421—2.3(7) by contacting the central office.

1.3(4) Duties of the commission. The commission shall:

- a. Inform communities and interested persons of the needs of the deaf and hard-of-hearing and how their needs may be met through the use of service providers.
- b. Reserved.
- c. Establish service projects for deaf and hard-of-hearing persons throughout the state. Service providers shall not undertake for compensation projects which would duplicate existing services when those services are available to deaf and hard-of-hearing people through paid interpreters or other persons able to communicate with deaf and hard-of-hearing people. As used in these rules, "service project" includes interpretation services for persons who are deaf and hard-of-hearing and referral services for deaf and hard-of-hearing people in the areas of adult education, legal aid, employment, medical, finance, housing, recreation, and other personal assistance and social programs. "Service providers" are persons who, for compensation, carry out service projects.
- d. Identify agencies, both public and private, which provide community services, evaluate the extent to which they make services available to deaf and hard-of-hearing people, and cooperate with the agencies in coordinating and extending these services.
- e. Collect information concerning deafness and provide for dissemination of the information.
- f. Provide for mutual exchange of ideas and information on services for deaf and hard-of-hearing people between federal, state, and local governments, private organizations and individuals.
- g. Pursuant to Iowa Code section 216A.2, be responsible for budgeting and personnel decisions for the commission and the division.

1.3(5) *Standing committees.* The following standing committees are established: program services, legislative/division rules, and public information/outreach. Two commission members, together with the administrative officer, shall serve on each committee; and any member may serve on several committees at one time. Each member, except the chairperson, shall serve on at least one committee. The purpose of the committees is to address specific program areas of the division, perform research on those issues, and make policy recommendations to the commission. Any party wanting to comment, make suggestions, or discuss concerns may contact the administrative officer or the chairperson to refer an issue to the members serving on the specific committee. Names of members may be obtained by calling the division of deaf services, central office. The committees' functions are:

a. *Program services.* Review personnel materials and policies developed for the division and to be recommended to the commission, define programs and evaluate the services on a regular basis, evaluate effectiveness of services provided and make recommendations to the commission as appropriate, identify options and goals for growth and accomplishments for the annual report to the governor, consider expansion of current services or the development of new program components to meet the needs of the community served, develop formal program policies, make recommendations to the commission on annual budget proposals, address financial issues as they arise, attend budget presentations, develop strategies to encourage funding of the program, and research the availability of grants.

b. *Legislative/division rules.* Research and recommend legislative issues and priorities to the commission, develop strategies for citizens to encourage passage of legislation, play a direct and active role in encouraging passage of legislation, review and make recommendations to the commission regarding changes to division rules, and attend meetings related to division rules.

c. *Public information/outreach.* Strive to ensure public awareness and encourage constructive use of the services by those who need them, plan workshops, open houses, and other awareness-promoting activities, establish and maintain relationships with other agencies serving the deaf and hard-of-hearing, and develop specific measures to increase visibility throughout the state.

1.3(6) *Powers.* The commission shall have all powers necessary to carry out the functions and duties specified in this division, including but not limited to, the power to establish advisory committees on special studies, to solicit and accept gifts and grants, to adopt rules according to chapter 17A for the commission and division, and to contract with public and private groups to conduct its business. All departments, divisions, agencies, and offices of the state shall make available upon request of the commission information which is pertinent to the subject matter of the study which is not, by law, confidential.

1.3(7) Report. The commission shall make a detailed report of its activities, studies, conclusions, and recommendations to the general assembly not later than February 15 of each odd-numbered year.

1.3(8) Interpreting services fund. All fees collected by the division for provision of interpreting service by the division to obligated agencies shall be transmitted to the treasurer of the state who shall deposit the money in a separate account dedicated to and used by the division for the provision of continued and expanded interpreting services. The commission shall adopt rules which establish a fee schedule for the cost of provision of interpreting services, for collection of the fees, and for disposition of moneys received under this subrule.

These rules are intended to implement Iowa Code sections 216A.111 to 216A.117.

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CHAPTER 2
SERVICES AND PROCEDURES

429—2.1(216A) Definitions. The following definitions reflect a service-oriented approach to communication and do not reflect or imply a degree of hearing loss:

“Deaf persons” means those individuals who use sign language as their primary mode of communication. They may use interpreters to facilitate communication.

“Hard-of-hearing persons” means those individuals who are unable to hear easily within conversational range. They may use speechreading, assistive listening devices or oral interpreters to facilitate communication.

“Obligated agency” means any program or activity that receives federal financial assistance or that is conducted by any executive agency of the federal government or by the U.S. Postal Service or any covered, public or private entity defined under the Americans with Disabilities Act of 1990. Pursuant to the Civil Rights Restoration Act of 1987, Section 4, Section 504 of the Vocational Rehabilitation Act of 1973 is amended to define the term “program or activity” to obligate the following operations of:

1. A department, agency or special purpose district of a state or of a local government; or
2. The entity of such state or local government that distributes such assistance and each department or agency to which the assistance is extended; or
3. A college, university, or other postsecondary institution, or public system of higher education; or
4. A local education agency (as defined in section 198(a)(1Q) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system; or
5. An entire corporation, partnership or other private organization or an entire sole proprietorship if:

Federal financial assistance is extended to such entity; or

Principally engaged in the business of providing education, health care, housing, social services, or parks and recreation whereby federal financial assistance is extended in any part.

“Oral interpreter” means an interpreter who is fluent in:

1. Facilitating spoken communication for individuals who are deaf or hard-of-hearing and use speech and speechreading as their primary mode of communication.
2. “Voicing” for speakers who use no voice or whose voices are difficult to understand.

“Revolving account” means the separate account dedicated to and used by the division to deposit fees collected from obligated agencies for the provision of continued and expanded interpreting services, pursuant to Iowa Code section 216A.117.

“Sign language interpreter” means an interpreter who is able to interpret from sign language to English and English to sign language.

429—2.2(216A) Eligibility and residency requirements. The division of deaf services makes services available to Iowa residents and deaf or hard-of-hearing nonresidents who may be visiting or conducting business within the state of Iowa. Services provided by the division of deaf services are also provided up to 20 miles beyond the borders of this state for deaf or hard-of-hearing Iowans or for deaf or hard-of-hearing nonresidents of this state who are employed in Iowa. Granting of benefits is contingent on eligibility and availability of resources.

429—2.3(216A) Services.

2.3(1) Interpreting.

a. The division of deaf services staff interpreters provide direct interpreting services during business hours Monday through Friday and appointments occasionally extend beyond regular hours of operation. When functioning as interpreters, the division of deaf services staff will maintain professional standards set forth in the Code of Ethics of the Registry of Interpreters for the Deaf, Inc. (RID). The interpreter shall:

- (1) Keep all assignment-related information strictly confidential.

(2) Render the message faithfully, always conveying the content and spirit of the speaker, using language most readily understood by the person(s) whom they serve.

(3) Not counsel, advise, or interject personal opinions.

(4) Accept assignments using discretion with regard to skill, setting and the consumers involved.

(5) Request compensation for services in a professional and judicious manner.

(6) Function in a manner appropriate to the situation.

(7) Strive to further knowledge and skills through participation in workshops, professional meetings, interaction with professional colleagues and reading of current literature in the field.

(8) Strive to maintain high professional standards in compliance with the Code of Ethics, by virtue of membership in or certification by the RID, Inc.

b. When interpreting services are provided by staff interpreters, not to include telephone interpreting services, and any party involved is an obligated agency, the division shall submit an invoice to the obligated agency for payment.

c. Rescinded IAB 3/17/04, effective 4/21/04.

d. Rescinded IAB 3/17/04, effective 4/21/04.

e. Staff interpreters are employees of the state of Iowa and are not eligible to participate in the contractual interpreting service program.

2.3(2) Contractual interpreting services. The division of deaf services provides contractual interpreting services by using interpreters in private practice who have entered into an agreement with the agency. Contractual interpreting funding will not be used when any party is willing or obligated by state or federal law to pay for interpreting services.

a. Persons may request contractual interpreting services when the staff interpreter is not available or when the interpreting service requested occurs beyond regular hours of operation.

b. Reserved.

c. The division of deaf services will maintain a listing of interpreters and update the listing annually. Persons requesting contractual interpreting services will be asked to choose an interpreter from this list to provide services.

d. General terms and conditions are listed on the individual agreements.

2.3(3) Referral interpreting services. The division of deaf services maintains a roster of interpreters and provides an interpreter referral service to persons needing an interpreter.

a. Reserved.

b. Interpreters in private practice may contact the agency to request a sign language interpreter release of information form. Upon completion and return of this form, the interpreter's name will be added to the listing.

c. Staff interpreters are permitted to function on a private basis, beyond regular hours of operation, provided there is no conflict with employment services.

2.3(4) Assistance. The division of deaf services will provide assistance and advocacy in order to meet the service needs of deaf and hard-of-hearing citizens by providing individual clients with specific information, resources, options, and assistance pertaining to their difficulties. The objective is to achieve results desired by the clients. Under no circumstances, however, should the agency, in the absence of qualified personnel, engage in counseling or therapy of any kind.

2.3(5) Consultation. A citizen may consult with the division of deaf services consultants about various ways the citizen may obtain needed services. Consultants will provide information on federal, state, and local programs and organizations, both public and private, which are available to assist deaf and hard-of-hearing persons.

2.3(6) Information.

a. The division of deaf services provides, upon request, information on its program components.

b. The division will prepare and continually update a listing of interpreters who hold a Certificate of Interpretation and Certificate of Transliteration, Comprehensive Skills Certificate, Specialist Certificate: Legal, and Masters Comprehensive Skills Certificate, which will be provided to a court, administrative agency, law enforcement agency, or interested party to an action using the services of an interpreter.

c. The division provides, upon request, information of a general nature on various programs, services, devices, laws, or any information which may be of interest or impact the lives and social welfare of deaf and hard-of-hearing people on the local, state, and federal levels.

2.3(7) Library. Persons may borrow library materials from the division of deaf services' library located at the central office. The division maintains and distributes a bibliography of deafness-related materials which is held in its library and which is available upon request.

a. The library operates during regular hours of operation.

b. To request materials, a person may contact the division of deaf services by telephone, mail, fax, E-mail, or personal visit.

c. A library information card must be completed before a person may be eligible to borrow materials.

d. Materials are loaned for a three-week period. Exceptions may be made in special circumstances.

e. If materials are not returned at the end of the three weeks, a notice of delinquency is sent; and if materials are not returned after a second notice, a billing will be sent for the current replacement costs of all materials, including postage and handling costs imposed by the publisher. During this delinquent period, no additional materials may be borrowed.

f. Any materials damaged beyond normal wear will be the responsibility of the borrower, and a billing will be sent for the current replacement costs of all materials, including postage and handling costs imposed by the publisher.

g. Any party that borrows materials from the library on deafness shall be the responsible party in returning materials at the designated time and shall be responsible for the condition of the materials upon return.

h. A wide variety of publications and reference materials is made available for review at the central office, but is not available for loan.

i. Persons not returning materials to the library on or before the date due will be assessed a fine of \$.05 per day, per item, not to exceed a total of \$4.00 per item. The exception will be videocassette tapes which will be assessed at \$.25 per day, per item, not to exceed a total of \$4.00 per tape. A day of grace will be given if a return date falls on a holiday. No other materials may be borrowed until all outstanding fines are paid. After 45 days, the division shall implement collection procedures.

2.3(8) Newsletter. Rescinded IAB 3/17/04, effective 4/21/04.

2.3(9) Newsbreak. Rescinded IAB 8/5/92, effective 9/9/92.

2.3(10) Public speaking. The division of deaf services staff members are available on a limited basis to give presentations on deafness-related topics to groups or organizations that make a request. If the division is unable to fulfill the request, division staff will attempt to make a referral to another appropriate resource.

2.3(11) Sign language instruction. Rescinded IAB 8/5/92, effective 9/9/92.

2.3(12) TDD loaner bank program. Rescinded IAB 11/8/95, effective 12/13/95.

2.3(13) Census registry of the deaf. A census registry of deaf Iowans is maintained for the purpose of identification of persons and statistical information in order to justify the need for services within the state. Participation in the census registry of the deaf is voluntary.

a. In order to be included on the census registry, a person must complete a form by providing information including the following:

- (1) Name,
- (2) Address,
- (3) Date of birth,
- (4) Gender,
- (5) Age of onset of deafness,
- (6) Cause(s) of deafness,
- (7) Name(s) of any deaf relative(s),
- (8) Whether the person possessed a TDD, and
- (9) Whether the person is a user of sign language.

b. This form is available from any of the division offices.

- c. This information is held to be confidential and used for administrative purposes only.

429—2.4(216A) Fee for interpreting service. Pursuant to the Americans with Disabilities Act of 1990 and Section 504 of the Vocational Rehabilitation Act of 1973, as amended in 1978 and in accordance with the Civil Rights Restoration Act of 1987:

“...no otherwise covered, public or private entity shall discriminate against a qualified individual with a disability. No such person shall, solely by reason of the person’s handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity provided by any covered, public or private entity in accordance with the authority referenced above.”

Under the authority referenced in the preceding paragraph and in accordance with Iowa Code section 216A.117, the division of deaf services shall invoice obligated agencies for interpreting services provided by staff interpreters.

2.4(1) Responsibility of the division of deaf services.

a. The division shall arrange and provide interpreting services pursuant to subrule 2.3(1). The division shall submit an invoice to the obligated agency and, in addition, a claim voucher for Internal Services will be sent to those obligated agencies of the State of Iowa, on a portal-to-portal basis when services are provided by division staff and when:

- (1) The obligated agency requested the interpreting services; or
- (2) The deaf/hard-of-hearing individual(s) requested the interpreting services that were necessary for communication accessibility to the obligated agency; or
- (3) The division determined the obligated agency is required under state or federal law to provide interpreting services to deaf/hard-of-hearing individual(s).

b. The payment of the invoice shall be due 30 days after the billing date. Invoices are considered delinquent after 45 days, whereby the division shall implement collection procedures.

2.4(2) Responsibility of the obligated agency.

a. The obligated agency shall make payment within 30 days of the billing date to the division of deaf services.

b. Under no circumstances shall the obligated agency charge the deaf/hard-of-hearing person for interpreting services.

c. Rescinded IAB 3/17/04, effective 4/21/04.

2.4(3) Fee schedule.

a. The fee schedule for service is based on time spent traveling, waiting, and interpreting.

b. The fee schedule for division staff is:

Base Fee (covering up to one hour of service)	\$40
Hourly Fee (assessed for time beyond Base Fee)	\$30/hour

c. Fees shall be calculated for time spent traveling, waiting, and interpreting.

2.4(4) Disposition of fees collected.

a. All fees collected shall be transmitted to the treasurer of the state for deposit in the division revolving account, pursuant to Iowa Code section 216A.117.

b. Funds shall be used to provide continued and expanded interpreting services provided by the division.

These rules are intended to implement Iowa Code sections 216A.111 to 216A.117.

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CHAPTER 3
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

429—3.1(22) Adoption by reference. The commission adopts by reference 421—Chapter 2, Iowa Administrative Code.

429—3.2(22) Custodian of records. The custodian for the records maintained by this division is the division administrator.

429—3.14(22) Personally identifiable information.

3.14(2) Advocacy records.

e. Information necessary to coordinate contractual interpreting services shall be provided to interpreters in private practice. The information provided will be the names of the parties involved, location, date and time of assignment, billing source, and the setting.

f. The division of deaf services will violate its rule of confidentiality only in cases of clear and present danger to human life, and then only to appropriate parties, as required by law.

g. When functioning as interpreters, persons shall not disclose information obtained except pursuant to court order or subpoena.

These rules are intended to implement Iowa Code chapter 22.

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CHAPTER 4
FORMS

429—4.1(216A) Forms. All personal information provided on any form, made confidential by law, shall be held in strict confidence and maintained for three years unless otherwise defined in this rule.

4.1(1) Client intake. Rescinded IAB 8/5/92, effective 9/9/92.

4.1(2) Request form. This form is used by staff persons to document:

- a. Request date.
- b. Services provided.
- c. Parties involved.
- d. Date, time, and place of assignment.
- e. Setting number.
- f. Time spent providing the service, traveling, and waiting.
- g. Government setting number and other documentation related to the appropriate service.

Request form data is used for statistical purposes and destroyed after it is officially recorded in the annual report.

4.1(3) Authorization for release of confidential information. This form is used to receive authorization from the client to release confidential information. This form is maintained in the client file for five years.

4.1(4) Assistance/consultation release of information. This form provides for authorization from client to appropriate staff person for the purpose of providing assistance/consultation. This form is used by staff interpreters in the central and regional offices to relay information regarding issues needing assistance or consultation.

4.1(5) Newsletter mailing list form. This form is used to record mailing information or changes of address of persons requesting this service. Information from this form is transferred onto computer and is a public record.

4.1(6) Policies/procedures form. This form is used to define policies and procedures on program practices within the agency. Used primarily by the administrator with approval from the commission on the deaf, these forms will be maintained within the division and are open to the public.

4.1(7) Census registry on the deaf. This form is used to collect information voluntarily submitted by the client and used for statistical purposes only.

4.1(8) Contractual interpreting contract. This form is an agreement contract used by contractual interpreters and the division of deaf services to establish a mutual agreement regarding the special conditions set forth. Contracts are valid and maintained until the expiration date stated on the contract.

4.1(9) Library information card. This standard information card establishes eligibility to borrow materials from the library.

4.1(10) Check-out card. This form is used to record loaned materials from the library and is used to follow up on delinquent materials and for statistical purposes.

4.1(11) Sign language interpreter release of information form. This form is required to be filled out by interpreters in private practice to be listed on the division's public list of interpreters. Information requested relates to an individual's certification, education in the interpreting field, and personal data. These forms are confidential although listings derived from these forms are made public to those consumers requesting the listings.

4.1(12) TDD loaner bank application. Rescinded IAB 3/17/04, effective 4/21/04.

4.1(13) Long distance telephone applications. Rescinded IAB 3/17/04, effective 4/21/04.

4.1(14) Des Moines Metropolitan Transit Authority (MTA) forms. Rescinded IAB 8/5/92, effective 9/9/92.

4.1(15) Interpreting service invoice. This form is used to invoice obligated agencies for interpreting services provided by division staff. Information included on this form is considered confidential and shall include:

- a. Client names.
- b. Date, time, and location of assignment.

- c. Setting description and rate.
- d. Hours of service delivery.
- e. Calculated fee-for-service.
- f. Name of interpreter.
- g. Account numbers, case numbers or other necessary information to verify services were provided.

This form is maintained in the division's financial records for five years.

4.1(16) *Claim voucher for internal services.* This form is used to transfer funds between state agencies. The division will initiate and complete the sellers account distribution section, voucher and date section and submit the multicopy form with the interpreting service invoices for that month to the state obligated agency for completion. The state obligated agency will make the transaction to transfer funds into the division's revolving account. Revenue will distribute copies to the appropriate agencies. This form is kept with the division's financial records for five years.

4.1(17) *Meeting/presentation request form.* This form is used by staff to record requests for presentations and meetings handled by the division. Request form data is used for statistical purposes and destroyed after it is officially recorded in the annual report.

4.1(18) *Court proceedings waiver form.* This form is used by staff who are not certified to provide services in court proceedings only when all reasonable efforts have been made to secure a certified interpreter and the case is either urgent or routine in nature. This form is to be used only when parties have waived the right to a certified interpreter and the administrator has been consulted.

This rule is intended to implement Iowa Code sections 216A.111 to 216A.117.

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CHAPTER 5
EMPLOYMENT PRACTICES

429—5.1(216A) Hiring policy.

5.1(1) *Equal employment opportunity/affirmative action policy.* In compliance with state and federal laws, executive orders, regulations and the Iowa department of human rights, it is the policy of the division of deaf services:

a. To ensure fair and equal employment opportunity on the basis of merit and fitness for all qualified employees and applicants for employment, without regard to race, color, national origin, creed, sex, religion, age, physical or mental disability, or any other nonmerit factors;

b. To prohibit discrimination, whether intentional or unintentional, against all employees and applicants for employment because of race, color, national origin, creed, sex, religion, age, physical or mental disability, or any other nonmerit factor, except that in accordance with section 501C of the Rehabilitation Act of 1973 (as amended by Public Laws 93-516, December 7, 1974; 94-230, March 15, 1976; and 95-602, November 6, 1978), priority will be given to promotion of job opportunities (hiring, placement, and advancement in employment) of blind and deaf persons and other recipients of rehabilitation services;

c. To implement affirmative action based on the results of quantitative and qualitative analyses, which will remove artificial barriers to and otherwise ensure equal employment opportunity and the prevention of discrimination;

d. To afford remedy, based on the results of quantitative and qualitative analyses, to those individuals and classes of individuals whose treatment has resulted in an illegally discriminatory employment situation as compared to the majority class when that treatment cannot be justified on the basis of merit, business necessity or bona fide occupational requirement and to correct circumstances resulting from policies, procedures, or practices which have, or tend to have, discriminatory impact;

e. To enforce this policy and the resulting program.

5.1(2) *Procedure.* This policy is an integral part of every aspect of personnel policy, procedure, and practice including recruitment, selection, placement, salary, classification, advancement, training, and other treatment of employees and applicants for employment. It is disseminated and discussed internally and externally and is posted in conspicuous places in the agency (departmental and staff bulletin boards, for example). The division of deaf services, department of human rights, is an equal employment opportunity and affirmative action employer. The department coordinator is the agency official responsible for equal employment opportunity and affirmative action compliance. The department of human rights maintains an internal system for continuous auditing and reporting on its affirmative action program. A complete breakdown of staff by EEO-4 occupational category and protected class is maintained.

429—5.2(216A) Hiring guidelines. The division of deaf services will follow hiring guidelines and procedures set forth by the department of personnel for filling positions covered by contract or merit provisions as applicable.

5.2(1) *Job-related factors.* The administrator will document job-related factors to be used to screen applicants to interview, to prepare interview questions, and as the basis for the final hiring selection. Job-related factors will be developed, based on the following, and will become part of the permanent record of hiring for specific positions:

a. Education required to perform the job.

b. Relevant work experience.

c. The position description questionnaire for this position, updated if necessary.

d. The section A (performance plan) prepared for this position.

e. The merit job specifications for this class.

5.2(2) *Contacting/selecting applicants for interviews.* Certificates for job classes will be ranked according to test or education/experience scores. All hiring will be from the top six scores.

a. A letter shall be prepared by the administrator and sent to each applicant on the list indicating specific duties, education, experience, availability requirements, knowledge, abilities, and skills required. Interested applicants will be requested to submit within ten working days a résumé and reasons why they feel they qualify for the job.

b. Based upon previously documented job-related factors and class utilization status, the supervisor will review applicant résumés and determine whom to interview. Reasons for eliminating interested applicants from interviews shall be documented and shall become part of the permanent record of hiring for the specific position. The certificates will identify minority and protected class applicants. If the class is underutilized, the applicants who are identified as minority or protected class members and, based on their response, appear qualified for the position shall be given consideration in determining whom to interview.

c. The supervisor will be responsible for scheduling the interviews with the applicants.

5.2(3) *Conducting the interviews.* The interview will be conducted by the administrator of the division.

a. Interview questions shall be prepared by the administrator based on previously documented job-related factors.

b. Each person interviewed shall be asked the same questions and the responses shall become part of the permanent record of the hire.

c. The applicant may be required to participate in a role-playing assessment using audiovisual equipment.

d. Second interviews may be scheduled when necessary by the administrator and shall be conducted in the same manner as the initial interview. The same questions and demonstrations shall be asked of each candidate; responses and resulting hiring recommendations shall become part of the permanent record of hire.

5.2(4) *Selection.* The selection shall take into consideration the utilization status of the class and the applicants' meeting of the job-related factors previously documented.

a. If the class is underutilized, and protected class/minority applicants were interviewed, these applicants will be considered for selection if they meet the job-related requirements for the job. The reasons for nonselection(s) shall be well documented and shall become part of the permanent record.

b. If the class is not underutilized, the selection shall be based on the job-related factors previously documented. The selected candidate shall be that person most meeting the requirements. References shall always be checked before the final decision is made.

c. The administrator shall make a recommendation of the preferred applicant to the commission. Upon approval, the commission shall make a recommendation to the department of human rights coordinator, and the coordinator shall have the final decision on the recommendation.

d. The position shall be offered to the selected applicant through personal contact, at which time the salary shall be agreed upon. If the applicant accepts the position, a follow-up letter prepared by the supervisor shall be sent offering the position, stating the agreed-upon salary, and stating the beginning date of employment.

e. All applicants who were not interviewed or were interviewed but not selected shall be sent an appropriate letter thanking the applicant for the applicant's interest and stating that the position has been filled. The letter shall state that any comments or concerns be directed to the division administrator.

5.2(5) *Record keeping.* All documents pertaining to EEO and hiring decisions must be kept by the department for five years.

a. Each division will be responsible for keeping the complete record for each hiring decision for five years in a central location. The person responsible for maintaining these records will be the administrator.

b. Each record shall include the following:

- (1) A copy of the vacancy announcement.
- (2) The list of interview questions used.
- (3) The job-related factors upon which the hiring decision was made.
- (4) Documentation as to whether or not the class is underutilized.

- (5) Copies of any materials provided to the applicants.
- (6) Résumés/applications of each person interviewed.
- (7) Any interview notes.
- (8) For any protected class applicant in an underutilized class, an explanation of why the person was not hired.

c. The division of central administration shall prepare a quarterly report for the department coordinator and the division administrators that includes the following:

- (1) Number of vacancies filled by each division during that quarter and year to date.
- (2) A listing of all classifications by division within the department that are underutilized, and during which quarter the underutilization occurs.
- (3) Any change in the underutilization figures due to hiring during that quarter. The administrator shall have responsibility for monitoring compliance with these policies.

5.2(6) *Hiring complaint resolution.* Any allegations of favoritism, unfair or inappropriate hiring practices should be directed to the administrator for resolution. If the person is not satisfied with the decision, the person should contact the department of human rights coordinator. If agreement cannot be reached through the informal conciliation procedure, the complainant may invoke the formal appeal procedure by contacting the Iowa civil rights commission.

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CHAPTER 6
DECLARATORY ORDERS

429—6.1(17A) Adoption by reference. The division of deaf services hereby adopts the declaratory orders segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code, with the following amendments:

1. In lieu of the words “(designate agency)”, insert “division of deaf services”.
2. In lieu of the words “(designate office)”, insert “Division of Deaf Services, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.
3. In lieu of the words “(AGENCY NAME)”, insert “DIVISION OF DEAF SERVICES”.
4. In lieu of the words “_____ days (15 or less)”, insert “10 days”.
5. In lieu of the words “_____ days” in subrule 6.3(1), insert “20 days”.
6. In lieu of the words “(designate official by full title and address)”, insert “Administrator, Division of Deaf Services, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.
7. In lieu of the words “(specify office and address)”, insert “Division of Deaf Services, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.
8. In lieu of the words “(agency name)”, insert “division of deaf services”.
9. In lieu of the words “(designate agency head)”, insert “administrator”.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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CHAPTER 7
PETITIONS FOR RULE MAKING

429—7.1(17A) Adoption by reference. The division of deaf services hereby adopts the petitions for rule making segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code, with the following amendments:

1. In lieu of the words “(designate office)”, insert “division of deaf services, department of human rights”.
2. In lieu of the words “(AGENCY NAME)”, insert “DIVISION OF DEAF SERVICES”.
3. In lieu of the words “(designate official by full title and address)”, insert “Administrator, Division of Deaf Services, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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CHAPTER 8
AGENCY PROCEDURE FOR RULE MAKING

429—8.1(17A) Adoption by reference. The division of deaf services hereby adopts the agency procedure for rule making segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code, with the following amendments:

1. In lieu of the words “(commission, board, council, director)”, insert “administrator”.
2. In lieu of the words “(specify time period)”, insert “one year”.
3. In lieu of the words “(identify office and address)”, insert “Division of Deaf Services, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.
4. In lieu of the words “(designate office and telephone number)”, insert “the administrator at (515)281-3164 voice/tty”.
5. In lieu of the words “(designate office)”, insert “Division of Deaf Services, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.
6. In lieu of the words “(specify the office and address)”, insert “Division of Deaf Services, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.
7. In lieu of the words “(agency head)”, insert “administrator”.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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CHAPTER 9
CONTESTED CASES

429—9.1(17A) Adoption by reference. The division of deaf services hereby adopts the contested cases segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code, with the following amendments:

1. In lieu of the words “(agency name)”, insert “division of deaf services, department of human rights”.
2. In lieu of the words “(designate official)”, insert “administrator”.
3. In subrule 7.3(2) delete the words “or by (specify rule number)”.
4. In lieu of the words “(agency specifies class of contested case)”, insert “division contested cases”.
5. In lieu of the words “(specify office and address)”, insert “Division of Deaf Services, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.
6. In lieu of the words “(designate office)”, insert “division of deaf services”.
7. In lieu of the words “(agency to designate person to whom violations should be reported)”, insert “administrator”.
8. In lieu of the words “(board, commission, director)”, insert “administrator”.
9. In lieu of the words “(the agency)”, insert “division of deaf services”.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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CHAPTER 10
WAIVER RULES

429—10.1(17A) Definition. The term “waiver” as used in this chapter means a prescribed waiver or variance from a specific rule or set of rules of this division applicable only to an identified person on the basis of the particular circumstances of that person.

429—10.2(17A) Scope of chapter. This chapter creates generally applicable standards and a generally applicable process for granting individual waivers from rules adopted by the division in situations when no other more specifically applicable law provides for waivers. To the extent another more specific provision of law purports to govern the issuance of a waiver from a particular rule, the more specific waiver provision shall supersede this chapter with respect to any waiver from that rule.

429—10.3(17A) Applicability. This chapter applies only to waivers of those division rules that are within the exclusive rule-making authority of the division. This chapter shall not apply to rules that merely define the meaning of a statute, or other provisions of law or precedent, if the division does not possess statutory authority to bind a court, to any extent, with its definition.

429—10.4(17A) Compliance with law. The division may not issue a waiver under this chapter unless (1) the legislature has delegated authority sufficient to justify the action; and (2) the waiver is consistent with statute and other provisions of law. No waiver may be granted under this chapter from any mandatory requirement imposed by statute.

429—10.5(17A) Criteria for a waiver. The division may issue an order, in response to a completed petition or on its own motion, granting a waiver from a rule adopted by the division, in whole or in part, as applied to the circumstances of a specified person, if the division finds that the waiver is consistent with rules 10.3(17A) and 10.4(17A) of this chapter, that the waiver would not prejudice the substantial legal rights of any person, and either that:

1. The application of the rule to the person at issue does not advance, to any extent, any of the purposes for the rule or set of rules; or
2. The following criteria have been met:
 - The application of the rule or set of rules to the person at issue would result in an undue hardship or injustice to that person; and
 - The waiver on the basis of the particular circumstances relative to the specified person would be consistent with the overall public interest.

In determining whether a waiver would be consistent with the public interest, the division administrator shall consider whether, if a waiver is granted, the public health, safety, and welfare will be adequately protected by other means that will ensure a result that is substantially equivalent to full compliance with the rule.

429—10.6(17A) Division discretion. The final decision to grant or deny a waiver shall be vested in the division administrator. This decision shall be made at the discretion of the division upon consideration of relevant facts.

429—10.7(17A) Burden of persuasion. The burden of persuasion shall be on the petitioner to demonstrate by clear and convincing evidence that the division should exercise its discretion to grant a waiver based upon the criteria contained in rule 10.5(17A) of this chapter.

429—10.8(17A) Contents of petition. A petition for a waiver shall include the following information where applicable and known to the requester:

1. The name, address, and telephone number of the entity or person for whom a waiver is requested and the case number of any related contested case.
2. A description and citation of the specific rule or set of rules from which a waiver is requested.

3. The specific waiver requested, including a description of the precise scope and operative period for which the petitioner wants the waiver to extend.

4. The relevant facts that the petitioner believes would justify a waiver. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts represented in the petition and a statement of reasons that the petitioner believes will justify a waiver.

5. A history of any prior contacts between the petitioner and the division relating to the activity affected by the proposed waiver, including any notices of violation, contested case hearings, or investigative reports relating to the activity within the last five years.

6. Any information known to the requester relating to the division's treatment of similar cases.

7. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the granting of a waiver.

8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.

9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Signed releases of information authorizing persons with knowledge of the waiver request to furnish the division with information relevant to the waiver.

429—10.9(17A) Additional information. Prior to issuing an order granting or denying a waiver, the division may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the division may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and a representative from the division to discuss the petition and surrounding circumstances.

429—10.10(17A) Notice. The division shall acknowledge the petition upon receipt. The division shall ensure that, within 30 days of the receipt of the petition, notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law. In addition, the division may give notice to other persons. To accomplish this notice provision, the division may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the division attesting to the fact that notice has been provided.

429—10.11(17A) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver of a rule or set of rules filed within a contested case and shall otherwise apply to division proceedings for a waiver only when the division so provides by rule or order or is required to do so by statute or other binding law.

429—10.12(17A) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative time period of a waiver if one is issued.

429—10.13(17A) Conditions. The division may condition the granting of the waiver on such conditions that the division deems to be reasonable and appropriate in order to achieve the objectives of the particular rule in question through alternative means.

429—10.14(17A) Time for ruling. The division shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, then the division may grant or deny the petition at the time the final decision in that contested case is issued.

429—10.15(17A) When deemed denied. Failure of the division to grant or deny a petition within the required time period shall be deemed a denial of that petition by the division. However, the division shall remain responsible for issuing an order denying a waiver as required by rule 10.12(17A).

429—10.16(17A) Service of orders. Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of the law.

429—10.17(17A) Record keeping. Subject to the provisions of Iowa Code section 17A.3(1) “e,” the division shall maintain a record of all orders granting and denying waivers under this chapter. All final rulings in response to requests for waivers shall be indexed and copies distributed to members of the administrative rules review committee upon request. All final rulings shall also be available for inspection by the public at the division office during regular business hours.

429—10.18(17A) Cancellation of a waiver. A waiver issued by the division pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the division issues an order finding any of the following:

1. The person who was the subject of the waiver order withheld from the division or knowingly misrepresented to the division material facts relevant to the propriety or desirability of the waiver; or
2. The alternative means of ensuring that the public health, safety, and welfare will be adequately protected after issuance of the waiver order has been demonstrated to be insufficient, and no other means exists to protect the substantial legal rights of any person; or
3. The subject of the waiver order has failed to comply with all of the conditions contained in the order.

429—10.19(17A) Violations. A violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

429—10.20(17A) Defense. After the division issues an order granting a waiver, the order shall constitute a defense, within the terms and the specific facts indicated therein, for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

429—10.21(17A) Appeals. Appeals within the division from a decision granting or denying a waiver shall be in accordance with Iowa Code chapter 17A and division rules. These appeals shall be taken within 30 days of the issuance of the ruling granting or denying the waiver request, unless a different time is provided by rule or statute.

These rules are intended to implement Executive Order Number 11 and Iowa Code section 17A.9A.

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