

HUMAN RESOURCES CODE

TITLE 4. SERVICES FOR PERSONS WHO ARE DEAF OR HARD OF HEARING

CHAPTER 81. FUNCTIONS OF DEPARTMENT OF ASSISTIVE AND
REHABILITATIVE SERVICES RELATING TO PERSONS WHO ARE DEAF OR HARD OF
HEARING

Sec. 81.001. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 4.465(a)(67), eff. April 2, 2015.

(2) "Deaf" means a hearing impairment of such severity that an individual must depend on visual methods to communicate.

(2-a) "Department" means the Department of Assistive and Rehabilitative Services.

(3) "Hard of hearing" means a hearing impairment that results in a loss of hearing function to an individual and in which the individual:

(A) relies on residual hearing; and

(B) may depend on visual methods to communicate.

(4) "Deaf-blind" means:

(A) being legally blind and possessing a hearing impairment of such severity that a person cannot understand most speech even with the use of optimum amplification; or

(B) having a medical diagnosis of deteriorating hearing and vision expected to lead to the condition described by Paragraph (A).

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979; Acts 1987, 70th Leg., ch. 343, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 183, Sec. 1, eff. May 26, 1989; Acts 1991, 72nd Leg., ch. 353, Sec. 9, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 835, Sec. 2, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 118, Sec. 1, eff. May 23, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.320, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.465(a)(67), eff. April 2, 2015.

Sec. 81.0055. COMMISSIONER'S POWERS AND DUTIES; EFFECT OF CONFLICT WITH OTHER LAW. To the extent a power or duty given to the commissioner of assistive and rehabilitative services by this chapter, or another law relating to services for persons who are deaf or hard of hearing, conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 2.08, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.321, eff. April 2, 2015.

Sec. 81.006. DUTIES AND POWERS OF DEPARTMENT AND EXECUTIVE COMMISSIONER UNDER CHAPTER. (a) The department shall:

(1) develop and implement a statewide program of advocacy and education to ensure continuity of services to persons who are deaf, deaf-blind, or hard of hearing;

(2) provide direct services to persons who are deaf or hard of hearing, including communication access, information and referral services, advocacy services, services to elderly persons who are deaf or hard of hearing, and training in accessing basic life skills;

(3) work to ensure more effective coordination and cooperation among public and nonprofit organizations providing social and educational services to individuals who are deaf or hard of hearing;

(4) maintain a registry of available qualified interpreters for persons who are deaf or hard of hearing by updating the registry at least quarterly and making the registry available to interested persons at cost;

(5) establish a system to approve and provide courses and workshops for the instruction and continuing education of interpreters for persons who are deaf or hard of hearing;

(6) assist institutions of higher education that have

or are initiating training programs for interpreters for persons who are deaf or hard of hearing;

(6-a) develop guidelines for the curricula for the programs described by Subdivision (6) to promote uniformity of the skills taught within those programs;

(7) with the assistance of the Texas Higher Education Coordinating Board, develop standards for evaluation of the programs described by Subdivision (6); and

(8) develop guidelines to clarify the circumstances under which interpreters certified by the department are qualified to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(b) The department may:

(1) appoint one or more advisory committees to consult with and advise the department under this chapter;

(2) collect training fees and accept gifts, grants, and donations of money, personal property, or real property for use in expanding and improving services to persons of this state who are deaf or hard of hearing;

(3) contract with or provide grants to agencies, organizations, or individuals as necessary to implement this chapter;

(4) collect a reasonable fee from interpreters for training to defray the cost of conducting the training;

(5) develop guidelines for trilingual interpreter services; and

(6) provide training programs for persons who provide trilingual interpreter services.

(c) The executive commissioner shall establish the fees described by Subsections (b)(2) and (4).

(d) The executive commissioner may adopt rules necessary to implement this chapter, including rules adopting standards and guidelines under this section.

(f) The executive commissioner shall establish and the department shall collect reasonable fees for some or all department publications to cover the department's publication

costs. However, the department shall waive the fee if a person who is deaf or hard of hearing is financially unable to pay for the publication, and may waive the fees for publications provided to certain entities. The executive commissioner shall adopt rules to implement this subsection. The rules must specify the standards used for determining ability to pay for a publication and must specify the types of entities for which the fees will be waived.

Acts 1979, 66th Leg., p. 2394, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Renumbered from Sec. 81.008 and amended by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 351, ch. 140, Sec. 1, eff. May 14, 1981; Acts 1983, 68th Leg., p. 2176, ch. 403, Sec. 1, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 619, Sec. 6, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 343, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 508, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 835, Sec. 6, 28(1), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 6.62, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 122, Sec. 6, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 2, 14, eff. May 23, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. [1179](#)), Sec. 25(118), eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.322, eff. April 2, 2015.

Sec. 81.007. BOARD FOR EVALUATION OF INTERPRETERS.

(a) The department may establish a program in accordance with this section for the certification of interpreters who have reached varying levels of proficiency in communication skills necessary to facilitate communication between persons who are deaf or hard of hearing and persons who are not deaf or hard of hearing.

(b) The department shall appoint an advisory board of seven persons to assist in administering the interpreter certification program. A board member may not receive compensation, but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the board, as provided in the General Appropriations Act.

(c) The board shall develop, subject to the department's approval, and the executive commissioner shall adopt qualifications for each of several levels of certification based on proficiency. The board shall evaluate and certify interpreters using these qualifications.

(d) A qualified board member may serve as an evaluator under Subsection (c), and the department shall compensate the board member for services performed as an evaluator.

(e) The executive commissioner by rule shall set and the department shall collect fees for written and performance examinations, for annual certificate renewal, and for recertification. The fees must be in an amount sufficient to recover the costs of the certification program.

(f) The department may waive any prerequisite to obtaining a certificate for an applicant after reviewing the applicant's credentials and determining that the applicant holds a certificate issued by another jurisdiction that has certification requirements substantially equivalent to those of this state.

(g) The executive commissioner by rule may adopt a system under which certificates are valid for a five-year period, subject to the certificate holder's payment of an annual certificate renewal fee. After expiration of the five-year period, an interpreter must be recertified by the department. The department may recertify an interpreter who:

- (1) receives specified continuing education credits;
- or
- (2) achieves an adequate score on a specified examination.

(h) The executive commissioner shall adopt rules specifying the grounds for denying, suspending, or revoking an interpreter's certificate.

(i) The department shall determine the frequency for conducting the interpreter examinations. The department shall conduct the interpreter examinations:

- (1) in a space that can be obtained free of charge; or
- (2) at a facility selected in compliance with Section [2113.106](#), Government Code.

(k) The department shall compensate an evaluator based on a fee schedule as determined by department rule.

(l) The department shall recognize, prepare, or administer continuing education programs for its certificate holders. A certificate holder must participate in the programs to the extent required by the department to keep the person's certificate.

Added by Acts 1979, 66th Leg., p. 2431, ch. 842, art. 2, Sec. 3, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 352, ch. 140, Sec. 3, eff. May 14, 1981; Acts 1983, 68th Leg., p. 2177, ch. 403, Sec. 2, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 619, Sec. 7, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 343, Sec. 6, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 687, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 722, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 835, Sec. 7, 28(3), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 122, Sec. 7, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 3, eff. May 23, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 857 (S.B. [2420](#)), Sec. 1, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.323, eff. April 2, 2015.

Sec. 81.0071. EXAMINATION RESULTS. (a) Not later than the 60th day after the date on which a certification examination is administered under this chapter, the department shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the department shall notify examinees of the results of the examination not later than the 14th day after the date on which the department receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify each examinee of the reason for the delay before the 90th day.

(c) The department may require a testing service to notify a person of the results of the person's examination.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 8, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 122, Sec. 8, eff. Sept. 1,

1999; Acts 2003, 78th Leg., ch. 118, Sec. 14, eff. May 23, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.324, eff. April 2, 2015.

Sec. 81.0072. REVOCATION OR SUSPENSION OF CERTIFICATE.

(a) The department, based on the recommendation of the Board for Evaluation of Interpreters, may revoke or suspend a certificate or place a certificate holder on probation for a violation of a statute, rule, or policy of the department. If a certificate holder is placed on probation, the department may require the practitioner:

(1) to report regularly to the department on matters that are the basis of the probation;

(2) to limit practice to those areas prescribed by the department; or

(3) to continue or renew professional education until a satisfactory degree of skill has been attained in those areas that are the basis of the probation.

(b) If the department proposes to suspend or revoke a certificate or place a certificate holder on probation, the certificate holder is entitled to a hearing before the department or a hearings officer appointed by the department. All final decisions to suspend or revoke a certificate or place a certificate holder on probation shall be made by the department.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 9, eff. Sept. 1, 1985.

Amended by Acts 1995, 74th Leg., ch. 835, Sec. 8, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 118, Sec. 4, eff. May 23, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.325, eff. April 2, 2015.

Sec. 81.0073. CERTIFICATE RENEWAL. (a) A person who is otherwise eligible to renew a certificate may renew an unexpired certificate by paying the required renewal fee to the department before the expiration date of the certificate. A person whose certificate has expired may not engage in activities that require a

certificate until the certificate has been renewed.

(b) A person whose certificate has been expired for 90 days or less may renew the certificate by paying to the department a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose certificate has been expired for more than 90 days but less than one year may renew the certificate by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose certificate has been expired for one year or more may not renew the certificate. The person may obtain a new certificate by complying with the requirements and procedures, including the examination requirements, for obtaining an original certificate.

(e) A person who was certified in this state, moved to another state, and is currently certified and has been in practice in the other state for the two years preceding the date of application may obtain a new certificate without reexamination. The person must pay to the department a fee that is equal to two times the normally required renewal fee for the certificate.

(f) Not later than the 30th day before the date a person's certificate is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person's last known address according to the records of the department.

Added by Acts 1999, 76th Leg., ch. 122, Sec. 9, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.326, eff. April 2, 2015.

Sec. 81.0074. PROVISIONAL CERTIFICATE. (a) The department may issue a provisional certificate to an applicant currently certified in another jurisdiction who seeks a certificate in this state and who:

(1) has been certified in good standing as an interpreter for at least two years in another jurisdiction,

including a foreign country, that has certification requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the department relating to the practice of interpretation for people who are deaf or hard of hearing; and

(3) is sponsored by a person certified by the department under this chapter with whom the provisional certificate holder will practice during the time the person holds a provisional certificate.

(b) The department may waive the requirement of Subsection (a)(3) for an applicant if the department determines that compliance with that subdivision would be a hardship to the applicant.

(c) A provisional certificate is valid until the date the department approves or denies the provisional certificate holder's application for a certificate. The department shall issue a certificate under this chapter to the provisional certificate holder if:

(1) the provisional certificate holder is eligible to be certified under Section [81.007\(f\)](#); or

(2) the provisional certificate holder passes the part of the examination under this chapter that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of interpretation for people who are deaf or hard of hearing in this state, and:

(A) the department verifies that the provisional certificate holder meets the academic and experience requirements for a certificate under this chapter; and

(B) the provisional certificate holder satisfies any other certification requirements under this chapter.

(d) The department must approve or deny a provisional certificate holder's application for a certificate not later than the 180th day after the date the provisional certificate is issued. The department may extend the 180-day period if the results of an examination have not been received by the department before the end of that period.

(e) The executive commissioner by rule may establish a fee

for provisional certificates in an amount reasonable and necessary to cover the cost of issuing the certificate.

Added by Acts 1999, 76th Leg., ch. 122, Sec. 10, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.327, eff. April 2, 2015.

Sec. 81.013. PRIVATE OUTDOOR TRAINING PROGRAMS FOR CHILDREN WHO ARE DEAF OR HARD OF HEARING. (a) The department may contract with private entities to provide for the participation of children who are deaf or hard of hearing at outdoor recreational programs operated for the purpose of providing skill training and recreational experiences for children who are deaf or hard of hearing. Outdoor training programs under this section may also provide for participation by the parents of children who are deaf or hard of hearing.

(b) In selecting children to attend programs under this section, the department shall select qualified children from across the state that will benefit from the program.

(c) The department may request criminal history record information on any person who applies for a staff position in an outdoor training program from the Department of Public Safety in accordance with Section 411.1131, Government Code.

Added by Acts 1981, 67th Leg., p. 288, ch. 113, Sec. 1, eff. May 13, 1981. Amended by Acts 1995, 74th Leg., ch. 835, Sec. 9, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 118, Sec. 5, eff. May 23, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.328, eff. April 2, 2015.

Sec. 81.015. ADVERTISEMENT. (a) The executive commissioner may not adopt rules restricting competitive bidding or advertising by a person regulated by the department under this chapter except to prohibit false, misleading, or deceptive practices by the person.

(b) The executive commissioner may not include in department rules to prohibit false, misleading, or deceptive practices by a person regulated by the department under this

chapter a rule that:

(1) restricts the person's use of any medium for advertising;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

(c) The department may advertise to promote awareness and use of the programs, services, and activities conducted by the department under this chapter. The department may not use money derived from state tax revenue to pay for advertisements under this subsection.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 16, eff. Sept. 1, 1985.

Amended by Acts 2003, 78th Leg., ch. 118, Sec. 7, eff. May 23, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.329, eff. April 2, 2015.

Sec. 81.016. CONTRACTS FOR SERVICES. (a) Before the department contracts with or provides grant funding to an agency, organization, or individual to provide direct services to persons who are deaf or hard of hearing, the department shall make reasonable efforts to notify all potential service providers of the availability and purpose of the contract or grant.

(b) The notice shall include a request that all interested service providers submit within a specified period a contract or grant proposal for the department's consideration. The notice must also clearly state the criteria that the department will consider in determining which applicant will be awarded the contract or grant.

(c) The department shall review all proposals submitted under this section and shall award the contract or grant to the applicant that the department determines is best able to provide the needed services. The department may not award contracts or grants to a former employee of the department's Office for Deaf and

Hard of Hearing Services within two years after the person's employment with that office ceased.

(d) To ensure an equitable distribution of contract or grant funds, the department shall develop a formula, based on population and region, to allocate those funds among the agencies, organizations, or individuals that are awarded the contracts or grants.

(e) The executive commissioner shall adopt rules to implement this section.

Added by Acts 1985, 69th Leg., ch. 619, Sec. 17, eff. Sept. 1, 1985.

Amended by Acts 1987, 70th Leg., ch. 343, Sec. 8, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 835, Sec. 10, eff. Sept. 1, 1995;

Acts 2003, 78th Leg., ch. 118, Sec. 8, eff. May 23, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.330, eff. April 2, 2015.

Sec. 81.017. MEMORANDUM OF UNDERSTANDING. (a) The department and each of the following agencies shall adopt a memorandum of understanding to coordinate the delivery of services to persons who are deaf or hard of hearing and to reduce duplication of services:

- (1) the Department of Aging and Disability Services;
- (2) the Department of State Health Services;
- (3) the Texas Workforce Commission;
- (4) the Health and Human Services Commission;
- (5) the Texas Higher Education Coordinating Board;
- (6) the Texas Education Agency;
- (7) the Texas School for the Deaf;
- (8) the Texas Department of Criminal Justice; and
- (9) any other state agency that provides or is required by law to provide services to persons who are deaf or hard of hearing.

(b) If gaps in the delivery of services are identified while developing a memorandum, the involved agencies shall formulate in the memorandum methods to reduce or eliminate those gaps.

(c) Not later than the last month of each state fiscal year,

the department and the other agencies shall review their respective memorandums.

Added by Acts 1987, 70th Leg., ch. 343, Sec. 9, eff. Sept. 1, 1987.

Amended by Acts 1995, 74th Leg., ch. 835, Sec. 11, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 6.63, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 122, Sec. 13, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 9, eff. May 23, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.117, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.331, eff. April 2, 2015.

Sec. 81.019. SYMBOLS OR OTHER FORMS OF IDENTIFICATION FOR PERSONS WITH HEARING IMPAIRMENTS. (a) The department shall design and provide for the issuance of a symbol or other form of identification that may be attached to a motor vehicle regularly operated by a person who is deaf or hard of hearing.

(b) A person who is deaf or hard of hearing may apply to the department for the symbol or other form of identification. The department may require acceptable medical proof that a person is deaf or hard of hearing and may collect a fee for each symbol or other form of identification to defray the costs of administering this section. The executive commissioner shall establish the fee.

(c) The department may contract with a state or local agency for the distribution of the symbol or other form of identification.

Added by Acts 1987, 70th Leg., ch. 172, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 81.017 by Acts 1989, 71st Leg., ch. 2, Sec. 16.01(27), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 835, Sec. 12, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 122, Sec. 14, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 118, Sec. 10, eff. May 23, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.332, eff. April 2, 2015.

Sec. 81.020. ASSISTANCE REGARDING TELECOMMUNICATIONS

DEVICES. The department may not advertise, distribute, or publish the name or address or other related information received by the department about an individual who applies for assistance regarding telecommunications devices.

Added by Acts 1999, 76th Leg., ch. 122, Sec. 15, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.333, eff. April 2, 2015.

Sec. 81.021. SPECIALIZED LICENSE PLATE PROGRAM. The department shall develop and the executive commissioner shall adopt rules and guidelines for the use of funds collected from the sale of specialized license plates under Section 504.619, Transportation Code, that are deposited in accordance with Section 504.6012, Transportation Code, and appropriated to the department for direct services programs, training, and education.

Added by Acts 2003, 77th Leg., ch. 118, Sec. 11, eff. May 23, 2003;

Acts 2003, 78th Leg., ch. 118, Sec. 12, eff. May 23, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.334, eff. April 2, 2015.