



**STATE OF NEW MEXICO
COMMISSION FOR DEAF AND HARD OF HEARING PERSONS**



**Susana Martinez
Governor**

**Shannon E. Smith, MBA
Interim Executive Director**

Albuquerque | 2500 Louisiana NE, Suite 400 | Albuquerque, NM 87110
V/TTY: 505.881.8824 | VP: 505.435.9319 | Fax: 505.881.8831

Las Cruces | 304 W. Griggs, Suite 4 | Las Cruces, NM 88005
V: 575.525.1037 | TTY: 575.525.1027 | VP: 575.541.3403

Toll-Free: 1.800.489.8536 | **Website:** www.cdhh.state.nm.us

To: Agency Heads and ADA Coordinators
From: Shannon E. Smith, Interim Executive Director
Date: November 8th, 2011
Re: Requirements for Effective Communication Access for Deaf, Hard of Hearing, and Deaf-Blind Individuals in State Government

Under New Mexico law, Statute §28-11B-1 NMSA 1978, the New Mexico Commission for Deaf and Hard of Hearing (NMCDHH), serves as the principal agency of the State to assure communication access is provided for all deaf, hard of hearing, and deaf-blind individuals.

NMCDHH works to ensure that people who are deaf, hard of hearing, and deaf-blind are afforded their right to “effective communication” in all programs and services offered by State Government Agencies.

NMCDHH has received complaints that certain State Government Agencies have not met their legal obligation to provide effective communication. A failure to provide effective communication can have significant adverse effects on the emotional and physical well-being of constituents who are deaf, hard of hearing, and deaf-blind.

This letter has a four-fold purpose:

1. to clarify the obligation of your State Government Agency to afford effective communication to constituents who are deaf, hard of hearing, and deaf-blind;
2. to set forth the recommended components of your Agency’s effective communication compliance efforts;
3. to describe NMCDHH quality assurance efforts on behalf of its constituents;
4. And to let you know about resources available from the Commission to help educate your staff about those obligations.

1. Obligation to provide effective communication to constituents who are Deaf or hard of hearing

The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq. (ADA) and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 prohibit discrimination against individuals with disabilities, including depriving them of the full and equal enjoyment of the goods, services, facilities, or accommodations of any place of public accommodation, including State and Local Government programs and services. To ensure an equal opportunity to use their services, State Government

Agencies must provide “effective communication” to individuals who are deaf, hard of hearing, and deaf-blind by providing appropriate “auxiliary aids and services,” including the provision of licensed and qualified signed language interpreting services and assistive listening devices (ALDs). All of the Agency’s programs and services must be accessible, including those provided by sub-contractors or grant recipients.

2. Recommended components of your Agency’s effective communication efforts

As set out more specifically below, the key elements of an Agency’s effective communication access strategy are: a) notice, b) the coordination and provision of interpreter services, and c) the provision, where appropriate, of assistive listening devices or other accommodations.

a. *Notifying constituents of the Agency’s communication access efforts:*

- i. Agencies are advised to post information at the point of intake indicating it will provide effective communication accommodations, including signed language interpreting services upon request and informing constituents how they should request such services.

b. *Coordination and provision of communication access:*

- i. Signed Language Interpreter Services:
 - a. Agencies are advised to designate a Communication Access Coordinator responsible for obtaining reasonable accommodations such as signed language interpreting services for deaf, hard of hearing, and deaf-blind persons who receive services. The State of New Mexico has two Statewide Price Agreements in place for the provision of signed language interpreters. Copies of the Statewide Price Agreements can be found under “Interpreter Services” at www.generalservices.state.nm.us/spd/swpa.html.
 - b. Licensure:

New Mexico requires all signed language interpreters to be licensed in order to protect deaf and hard of hearing consumers. Practicing without a license is a misdemeanor punishable by up to 364 days in jail and/or up to a \$1000 fine. Interpreting is defined as any form of facilitating communication in a visual form, regardless of the individual’s job title or position description. The statute, rules, forms and a searchable database of licensed interpreters can be found at the Signed Language Interpreting Practice Board website: www.rld.state.nm.us/SignedLanguage.

There are three types of licenses issued by the SLIPB:

 - Community - for interpreters who are nationally certified by the Registry of Interpreters for the Deaf (RID). These interpreters may work in almost any setting (court work requires further credentialing).
 - Educational - for interpreters who hold a nationally-recognized educational interpreting credential. This license is valid only for K-12 interpreting; never for any community or post-secondary settings.

- Provisional - for interpreters who are working toward certification. This license may be held for up to five years and qualifies the interpreter to work in simple educational and community settings.

c. *Provision of Assistive Listening Devices:*

Assistive Listening Devices (ALDs) may be requested by some individuals who are hard of hearing. ALDs enhance a person's ability to hear a conversation on a one-to-one basis or in a group setting. It is recommended that an Agency have ALDs available upon request as a reasonable accommodation for appointments, meetings, and presentations.

d. *Provision of Communication Access Real-time Translation (CART) Services:*

Communication Access Real-time Translation (CART) may be requested by some individuals who are hard of hearing or late-deafened. CART enables a person to read a real time transcript of a conversation on a one-to-one basis or in a group setting. It is recommended that an Agency have CART available upon request as a reasonable accommodation for meetings and presentations.

3. NMCDHH quality assurance efforts on behalf of its constituents

NMCDHH will work towards ensuring quality assurance in the following ways:

- a. Whenever a complaint is received from constituents, the Commission will investigate the complaint and monitor for patterns of non-compliance.
- b. The Commission will provide information and referral to complainants about where complaints may be appropriately filed.
- c. In response to complaints received, the Commission may offer expertise and assistance to Agencies in meeting their communication access obligations.

4. Resources available from the Commission to help educate you and your staff about your effective communication obligations:

NMCDHH maintains a team of staff members to provide Training and Technical Assistance. Agencies seeking technical assistance in providing communication access accommodations are encouraged to contact us at 505.881.8824 to request information or free training. Please contact us for assistance and further information as needed. Our goal is to ensure that deaf, hard of hearing, and deaf-blind persons have full access to the full range of State Government services. We look forward to working with you.

About NMCDHH

The State of New Mexico Commission for Deaf and Hard of Hearing provides effective leadership, education, advocacy and programs to reduce barriers to the social, economic, educational, cultural and intellectual well-being of Deaf and Hard of Hearing New Mexicans and their families, friends and colleagues. For more information, call 1.800.489.8536 or visit www.cdhh.state.nm.us.