

**RHODE ISLAND GOVERNMENT REGISTER  
PUBLIC NOTICE OF PROPOSED RULEMAKING**

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**AGENCY:** Governor's Commission on Disabilities

**RULE IDENTIFIER:** ERLID 5831 and 5797

**REGULATION TITLE: ACCESS TO OPEN MEETING**

**RULEMAKING ACTION:** Proposed Rulemaking

**TYPE OF FILINGS:** Consolidation and Repeal

**TIMETABLE FOR ACTION ON THE PROPOSED RULE:**

Public notice: 11/15/17

Hearing date: 11/27/17

End of comment period: 12/04/17

**SUMMARY OF PROPOSED RULE:** The regulation consolidates two regulations: Chapter A. Open Meeting—Accessibility for Persons with Disabilities and Chapter P. Open Meeting Telecommunication Accommodation Waiver Requests.

**COMMENTS INVITED:**

All interested parties are invited to submit written or oral comments concerning the proposed regulations by 12/04/2017 to the addresses listed below.

**ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:**

**Mailing Address:**

Governor's Commission on Disabilities  
John O. Pastore Center, 41 Cherry Dale Court  
Cranston, RI 02920-3049

**Email Address:** [bob.cooper@gcd.ri.gov](mailto:bob.cooper@gcd.ri.gov)

**WHERE COMMENTS MAY BE INSPECTED:**

Governor's Commission on Disabilities  
John O. Pastore Center, 41 Cherry Dale Court  
Cranston, RI 02920-3049

**PUBLIC HEARING INFORMATION:**

**DATE: November 27, 2017**

**TIME: 5:00 p.m. – 6:00 p.m.**

**LOCATION:** Governor's Commission on Disabilities  
John O. Pastore Center, 41 Cherry Dale Court  
Cranston, RI 02920-3049

The place of the public hearing is accessible to individuals who have a disability. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call **401-462-0100** or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

**FOR FURTHER INFORMATION CONTACT:**

ATTN: Bob Cooper, Executive Secretary  
Governor's Commission on Disabilities  
John O. Pastore Center, 41 Cherry Dale Court  
Cranston, RI 02920-3049

**SUPPLEMENTARY INFORMATION:**

**Regulatory Analysis Summary and Supporting Documentation:**

The repeal of this regulation does not impact small business or any other entity. For full regulatory analysis or supporting documentation see agency contact person above.

**Authority for This Rulemaking:** R.I. Gen. Laws 42-46-13; 42-46-5(b)(3 & 4); 42-51-6; and 42-51-6.1

**Regulatory Findings:**

In the development of the proposed repeal consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

RHODE ISLAND AND PROVIDENCE PLANTATIONS  
Executive Department  
**GOVERNOR'S COMMISSION ON  
DISABILITIES**

John O. Pastore Center, 41 Cherry Dale Court  
Cranston, RI 02920-3049  
[voice] (401) 462-0102 [tty] via RI Relay 711 [fax] 462-0106  
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[www.disabilities.ri.gov](http://www.disabilities.ri.gov)

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**RULES AND REGULATIONS PERTAINING TO**

**Chapter A. Open Meeting—Accessibility for Persons with Disabilities**

Rule proposed on August 25, 1992  
Public Hearing on September 21, 1992  
Adopted on September 26, 1992  
Effective on October 15, 1992  
Technical Revisions October 10, 1997  
Advertised October 21, 1999  
Public Hearing November 22, 1999  
Amendment adopted November 22, 1999  
Effective December 27, 1999  
Technical Amendments adopted September 13, 2003  
Technical Amendments proposed August 11, 2009  
Technical Amendments adopted on September 21, 2009  
Effective on October 28, 2009

**Compiler's Notes:**

Link to an e-note are <sup>red super script</sup> and web link are [blue](#) as below, move **⌨** to colored text and click to open. All form references are available on line at [www.disabilities.ri.gov](http://www.disabilities.ri.gov)

- [I. STATUTORY AUTHORITY](#)
- [II. DEFINITIONS](#)
- [III. REQUIREMENTS](#)
- [IV. PROCEDURES](#)
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## **I. STATUTORY AUTHORITY**

RI GL 42-46-13 Open Meetings—Accessibility for persons with disabilities<sup>[1]</sup>; RI GL 42-51-6(3) Governor’s Commission on Disabilities –Duties<sup>[2]</sup>; and RIGL 42-51-6.1 Governor’s Commission on Disabilities - Hearing Boards<sup>[3]</sup>.

## **II. DEFINITIONS**

A. The terms “meeting”, “public body”<sup>[4]</sup>, “penalties”<sup>[5]</sup> are defined in RI General Law 42-46-2 Open Meetings –“Meetings”.

B. “The Commission” shall mean the [Governor’s Commission on Disabilities](#).

C. “State agency”<sup>[6]</sup> is defined in RI General Law 42-51-9 (3).

D. “Commissioner” shall mean a member of the Governor’s Commission on Disabilities appointed by the Governor, pursuant to RIGL 42-51-6.1.

E. “Hearing Board” shall mean the board of five (5) commissioners appointed by the Commission Chairperson, pursuant to RIGL 42-51-6.1 as the hearing board for the purpose of conducting hearings and rendering decisions on matters relating to the provisions of chapter 87 of title 42 and sections 37-8-1.1 and 42-46-13 within the jurisdiction of the commission.

## **III. REQUIREMENTS**

A. All public bodies shall develop a transition plan setting forth the steps necessary to ensure that all open meetings of said public bodies are held in locations that conform to the State Building Code’s Accessibility of Meetings for Persons with Disabilities standard (attached).

B. The act does not require the public body to make each of its existing facilities accessible to and usable by persons with disabilities so long as all meetings required to be open to the public pursuant to chapter 46 of title 42 are held in accessible facilities by July 1, 1990, except that where structural changes in facilities are necessary in order to comply with this section, such changes shall be made by December 30, 1991. The public bodies may comply with the requirements of this section through such means as reassignment of meetings to accessible facilities, alteration of existing facilities or construction of new facilities. The public body is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section.

## **IV. PROCEDURES**

### **A. Transition Plan Review**

1. Each public body’s administrator (chief executive of the city or town, superintendent of schools, department director, etc.) will submit their RI Open Meeting Accessibility

for Persons with Disabilities Transition Plan, RIGCD Form A to the Commission<sup>[7]</sup> for review and approval.

2. The Hearing Board, with the assistance from the state building commission will review the transition plan at their next regularly scheduled meeting. The Committee shall:

- a. Approve the plan,
- b. Request clarification from the public body or
- c. Propose a modification to the plan to the public body.

3. The public body's administrator will review any proposed modifications and revised the transition plan and resubmit it for review and approval to the Hearing Board.

#### B. Renovations to remove barriers to accessibility

1. The public body shall comply with the obligations to move all open meetings to accessible locations and/or remove barriers in existing meeting sites as expeditiously as possible. All open meetings shall be conducted in accessible locations after December 30, 1991, unless the state building commissioner for good cause grants an extension.

2. The public body's administrator shall notify the Commission when all renovations to open meeting site(s) required by the approved transition plan have been completed.

3. The Commission or the State Building Commission shall inspect all open meeting locations identified in the public body's transition plan, to ensure compliance. The public body's administrator will be notified of any barriers to accessibility remaining at the open meeting sites.

4. The public body's administrator will ensure the removal of any barriers to accessibility located in step 3 above, and notify the Commission when those barriers have been removed.

5. Until either the Commission or the State Building Commission has issued a certification of compliance with the Open Meeting Accessibility provision, Steps 2-4 shall be repeated.

#### C. Technical Assistance or Interpreters

1. Public bodies are responsible for providing accommodations (such as interpreters for the deaf) when requested at their open meetings.

2. All meeting notices must contain a clause describing how individuals could request

interpreter services or other accommodations<sup>[8]</sup>. Most interpreter referral services<sup>[9]</sup> need:

- a. A minimum of 3 business days to determine the availability of interpreters; and
- b. Specify: name and phone number of contact person; name of party requesting the interpreter; day, time and place the interpreter is needed; brief description of the interpreting situation; consumer's and type of sign language preferred; financing party; and name of preferred interpreter (if any).

c. Technical assistance is available from the Commission or the State Building Commissioner's Office. <sup>[10]</sup>

## V. FORMS

The Commission's staff shall prepare and revise the forms referenced above, as necessary.

## VI. ENDNOTES

These endnotes are the text of several general laws and are provided for clarification and are not part of the regulation. They are subject to revision, as amended by the General Assembly.

[1]

### **RIGL 42-46-13. Open Meetings - Accessibility for persons with disabilities.**

- (a) All public bodies, to comply with the nondiscrimination on the basis of disability requirements of R.I. Const., Art. I, § 2 and applicable federal and state nondiscrimination laws (29 U.S.C. § 794, chapter 87 of this title, and chapter 24 of title 11), shall develop a transition plan setting forth the steps necessary to ensure that all open meetings of said public bodies are accessible to persons with disabilities.
- (b) The state building code standards committee shall, by September 1, 1989, adopt an accessibility of meetings for persons with disabilities standard that includes provisions ensuring that the meeting location is accessible to and usable by all persons with disabilities.
- (c) This section does not require the public body to make each of its existing facilities accessible to and usable by persons with disabilities so long as all meetings required to be open to the public pursuant to chapter 46 of this title are held in accessible facilities by the dates specified in subsection (e).
- (d) The public body may comply with the requirements of this section through such means as reassignment of meetings to accessible facilities, alteration of existing facilities, or construction of new facilities. The public body is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section.
- (e) The public body shall comply with the obligations established under this section by July 1, 1990, except that where structural changes in facilities are necessary in order to comply with this section, such changes shall be made by December 30, 1991, but in any event as expeditiously as possible unless an extension is granted by the state building commissioner for good cause.
- (f) Each municipal government and school district shall, with the assistance of the state building commission, complete a transition plan covering the location of meetings for all public bodies under their jurisdiction. Each chief executive of each city or town and the superintendent of schools will submit their transition plan to the governor's commission on disabilities for review and approval. The governor's commission on disabilities with assistance from the state building commission shall approve or modify, with the concurrence of the municipal government or school district, the transition plans.
- (g) The provisions of §§ 45-13-7 - 45-13-10, inclusive, shall not apply to this section.

### **RIGL 42-46-13. Open Meetings - Accessibility for persons with disabilities.**

- (a) All public bodies, to comply with the nondiscrimination on the basis of disability requirements of R.I. Const., Art. I, § 2 and applicable federal and state nondiscrimination laws (29 U.S.C. § 794, chapter 87 of this title, and chapter 24 of title 11), shall develop a transition plan setting forth the steps necessary to ensure that all open meetings of said public bodies are accessible to persons with disabilities.
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- (c) This section does not require the public body to make each of its existing facilities accessible to and usable by persons with disabilities so long as all meetings required to be open to the public pursuant to chapter 46 of this title are held in accessible facilities by the dates specified in subsection (e).
- (d) The public body may comply with the requirements of this section through such means as reassignment of meetings to accessible facilities, alteration of existing facilities, or construction of new facilities. The public body is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section.
- (e) The public body shall comply with the obligations established under this section by July 1, 1990, except that where structural changes in facilities are necessary in order to comply with this section, such changes shall be made by

December 30, 1991, but in any event as expeditiously as possible unless an extension is granted by the state building commissioner for good cause.

(f) Each municipal government and school district shall, with the assistance of the state building commission, complete a transition plan covering the location of meetings for all public bodies under their jurisdiction. Each chief executive of each city or town and the superintendent of schools will submit their transition plan to the governor's commission on disabilities for review and approval. The governor's commission on disabilities with assistance from the state building commission shall approve or modify, with the concurrence of the municipal government or school district, the transition plans.

(g) The provisions of §§ 45-13-7 - 45-13-10, inclusive, shall not apply to this section.

[2]

**RIGL 42-51-6(3) Governor's Commission on Disabilities – Duties**

(3) Coordinating compliance with federal and state laws protecting the rights of individuals with disabilities by state agencies;

**RIGL 42-51-9. Governor's Commission on Disabilities - Definitions.**

(2) "Federal and state laws protecting the rights of individuals with disabilities" means, but is not limited to, the Americans with Disabilities Act of 1990, 42 USC § 12101 et seq.; title V of the Rehabilitation Act of 1973, 29 USC § 794; R.I. Const., art. I, § 2; the provisions of chapter 87 of title 42 and §§ 23-6-22, 37-8-15, 37-8-15.1 and 42-46-13.

(4) "Coordinating compliance" means the authority to:

(i) Issue guidelines, directives, or instructions that are necessary to effectuate compliance with federal and state laws protecting the rights of individuals with disabilities;

(ii) Establish a grievance procedure to promptly and equitably resolve complaints of noncompliance with federal and state laws protecting the rights of individuals with disabilities involving state agencies, including the power to investigate possible discrimination and eliminate unlawful practices by informal methods of conference, conciliation, and persuasion;

(iii) Initiate complaints against any state agency that willfully fails to comply with federal and state laws protecting the rights of individuals with disabilities to the appropriate state or federal agency; and

(iv) Develop, make periodic revisions to, and oversee the implementation of a transition plan for the removal of environmental and communication barriers in state-owned facilities.

[3]

**RIGL 42-51-6.1. Governor's Commission on Disabilities - Hearing Boards.**

(1) The commission's chairperson shall appoint five (5) commissioners to the hearing board for the purpose of conducting hearings and rendering decisions on matters relating to the provisions of chapter 87 of title 42 and sections 37-8-15.1 and 42-46-13 within the jurisdiction of the commission.

(2) Three (3) commissioners shall constitute a quorum of a hearing board.

(3) The hearing board is empowered to:

(i) Receive, investigate, and act upon charges of unlawful practices within its jurisdiction; and

(ii) In connection with any investigation or hearing held on any matter within its jurisdiction to hold hearings, administer oaths, take the testimony of any person under oath, and to require the production for examination of any books and papers relating to any matter under investigation or in question before the hearing board.

[4]

**RIGL 42-46-2 Open Meeting – Definitions. -**

(a) "Meeting" means the convening of a public body to discuss and/or act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power. As used herein, the term "meeting" shall expressly include, without limiting the generality of the foregoing, so-called "workshop," "working," or "work" sessions.

(c) "Public body" means any department, agency, commission, committee, board, council, bureau, or authority or any subdivision thereof of state or municipal government. For purposes of this section, any political party, organization, or unit thereof meeting or convening for any purpose is not and should not be considered a public body.

[5]

**RIGL 42-46-8(d) Open Meetings - Remedies available to aggrieved persons**

The court shall award reasonable attorney fees and costs to a prevailing plaintiff, other than the attorney general, except where special circumstances would render such an award unjust. The court may issue injunctive relief and declare null and void any actions of a public body found to be in violation of this chapter. In addition, the court may impose a civil fine not exceeding five thousand dollars (\$5,000) against a public body or any of its members found to have committed a willful violation of this chapter.

[6]

**RIGL 42-51-9(3) Governor's Commission on Disabilities – Definitions**

"State agency" means any department, division, agency, commission, board, office, bureau, council or authority, either branch of the Rhode Island general assembly or any agency or any committee thereof, or any other agency that is in any branch of Rhode Island state government and which exercises governmental functions.

[7]

Governor's Commission on Disabilities

John O. Pastore Center - *41 Cherry Dale Court*  
Cranston, RI 02920-3049  
401-462-0100 (voice); tty via 711 and 462-0106 (fax)  
[disabilities@gcd.ri.gov](mailto:disabilities@gcd.ri.gov) (e-mail) and  
<http://www.disabilities.ri.gov> (website)

[8]

Sample meeting notice accommodation language

If accommodations (i.e. readers / interpreters / captioners) are needed to ensure equal participation, please contact the [insert name] at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting it. Call [insert phone #] (voice) or [insert tty # or "tty via RI Relay 711].

[9]

RI Commission on the Deaf and Hard of Hearing's Interpreter Referral Service: 222-5300(v) 222-5301(tty) or  
[interpreter@cdhh.ri.gov](mailto:interpreter@cdhh.ri.gov)

[10]

**State Building Commission**  
One Capitol Hill  
Providence, RI 02908  
222-3032

**TO BE REPEALED**