

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

AGENCY: Governor's Commission on Disabilities

RULE IDENTIFIER: Chapter G

REGULATION TITLE: Effective Communications

RULEMAKING ACTION: Direct Final

Direct Final: If no formal objection is received on or before **April 27, 2018** the Governor's Commission on Disabilities will file the adoption without opportunity for public comment.

TYPE OF FILING: Repeal

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Public notice date 03/27/2018 and End of comment period 04/27/2018.

SUMMARY OF PROPOSED RULE: This regulation is being repealed and replaced by 525-RICR-10-00-02 Inclusion in State Government Employment, Programs and Activities as part of consolidation and codification of Commission regulations regarding the coordination of state government compliance with state and federal disability rights laws and regulations.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by **April 27, 2018** 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

WHERE COMMENTS MAY BE INSPECTED:

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

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
(401) 462-0100 or bob.cooper@gcd.ri.gov

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

The fiscal impact to both the state and city or town is based on the 2010 US Department of Justice: Disability Rights Section of the Civil Rights Division's Final Regulatory Impact Analysis of the Final Revised Regulations Implementing Titles II and III of the ADA, including Revised ADA Standards for Accessible Design Final Report.

The Final RIA also acknowledges that the final rules will undoubtedly confer substantial and important benefits that cannot be readily quantified or monetized. In this sense, the

regulatory assessment must be considered conservative since it almost certainly understates the overall value of the final rules to society. Few would doubt, for example, that the psychological and social impacts of the ability of persons with disabilities to fully participate in public and commercial activities without fear of discrimination, embarrassment, segregation, or unequal access have significant value. Society generally will also experience benefits from the final rules that are difficult to monetize, including: reduced administrative costs (from harmonization of the final rules with model codes); increased worker productivity (due to greater workplace accessibility); improved convenience for persons without disabilities (such as larger bathroom stalls used by parents with small children); and, heightened option and existence values. In addition to unquantifiable benefits, there may be negative consequences and costs as well, such as costs if an entity defers or foregoes alterations, potential loss of productive space during additional required modifications to an existing facility, or possible reduction in facility value and losses to some individuals without disabilities due to the new accessibility requirements.

Small Businesses must comply with this regulation. Any person or entity doing business in the state, any person or entity regulated, by the state or having received financial assistance from the state, or under any program or activity conducted by the state, its agents or any entity doing business with the state. RI Gen. Laws § 42-87-2. Discrimination prohibited.

Authority for This Rulemaking: R.I. Gen. Laws § 42-51-6(3) Governor's Commission on Disabilities - Duties.

Regulatory Findings:

In the development of the proposed adoption 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.

The Proposed Repeal:

The Governor's Commission on Disabilities proposes to repeal Chapter G:



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

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Cranston, RI 02920-3049

[voice] (401) 462-0102 [tty] via RI Relay 711 [fax] 462-0106
[e-mail] bcooper@gcd.ri.gov [website] www.disabilities.ri.gov

RULES AND REGULATIONS PERTAINING TO

Chapter G. Effective Communications

Rules proposed on December 11, 1995
Advertised on January 15, 1996 Adopted on February 26, 1996
Effective on March 12, 1996
Technical Revision 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 22, 2005
Amendments proposed on August 11, 2009
Public Hearing on September 14, 2009
Adopted on September 21, 2009
Effective on October 28, 2009

TO BE REPEALED

COMPILER'S NOTES:

Link to an endnote are ^{red super script} and web link are [blue](#) as below, move **b** to colored text and click to open.

All forms references are available on line at www.disabilities.ri.gov

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I. STATUTORY AUTHORITY

RI GL 42-51-6(3) Governor's Commission on Disabilities – Duties¹.

II. DEFINITIONS

A. “Auxiliary Aids” as defined in 28 CFR 35.104².

B. “Printed” means any form of printing and duplicating, regardless of format, except for correspondence, interoffice and intraoffice memoranda.

C. “Person who has a reading or vision impairment” means an individual who cannot read conventionally printed materials because of:

1. Blindness, visual impairment, reading disability or
2. Physical disability, which limits a person's ability to hold and turn pages of a document.

D. “Person who has a listening or hearing impairment” means an individual who, because of a hearing impairment, deafness or learning disability, requires sign language, speech reading, assistive listening systems, hearing aids, and/or other assistance as a part of his or her communication system.

E. “The Commission” shall mean the [Governor's Commission on Disabilities](#)³.

F. “State agency”⁴ is defined in RI General Law 42-51-9 (3).

G. “State information” means any publication, videotape, audio-tape, public service announcement, radio and or television program, web-site, etc which is printed, purchased or authorized for distribution by a RI state agency, except those determined by the issuing agency to be required for official use only for administrative or operational purposes.

III. EFFECTIVE COMMUNICATIONS

A. All state agencies shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications⁵ with others, including providing auxiliary aids⁶ and services.

B. State agencies shall ensure interested persons, including persons with impaired vision or hearing can obtain information as to the existence and location of accessible services, activities, and facilities⁷. (see sample wording⁸)

C. All state agencies are responsible for ensuring entities acting on their behalf in delivering a service, program or activity comply with this chapter.

D. All state agencies shall, by April 1, 2000, conduct a self-evaluation of current communication practices to determine whether any screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity.

IV. TELEPHONE SERVICE⁹

A. All state agencies that communicate by telephone with applicants and beneficiaries must utilize TTYs or the RI Relay Service¹⁰ to communicate with applicants and beneficiaries who use TTYs.

- B. State agencies that accept telephone calls from applicants, beneficiaries and / or the general public shall accept RI Relay Service calls and ensure their staff is adequately trained in effective use of the RI Relay.
- C. Automated telephone systems shall provide direct access to individuals who use TTYs and computer modems.
- D. Telephone emergency services, including 911 services, shall provide direct access to individuals who use TTYs and computer modems¹¹.

V. ELECTRONIC AND INFORMATION TECHNOLOGY

- A. When developing, procuring, maintaining, or using electronic and information technology, each state agency shall ensure, unless an undue burden would be imposed on the state agency, that the electronic and information technology allows, regardless of the type of medium of the technology —
 - 1. State employees with disabilities to have access to and use of information and data that is comparable to the access to and use of the information and data by state employees who do not have disabilities; and
 - 2. Members of the public with disabilities seeking information or services from a state agency to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who do not have disabilities.
- B. When development, procurement, maintenance, or use of electronic and information technology that meets the standards published by the US Access Board would impose an undue burden, the state agency shall provide persons with disabilities the information and data involved by an alternative means of access that allows the person to use the information and data.
- C. State agency web-sites shall be designed and maintained so a person who has a reading or vision impairment has an equal opportunity to comprehend information presented in a visual, graphic or text medium and a person who as a listening or hearing impairment has an equal opportunity to comprehend information presented in a audio or sound medium, by complying with the accessible web-site guidelines available on the World Wide Web at <http://www.w3.org/WAI/#Guidelines>.

VI. PRINTED MATERIAL

- A. Mission Of The Alternate Document Reproduction Centers
 - 1. The alternate document reproduction centers will provide any person, who has reading or vision impairments, with access to state government information in a format most appropriate to her or his needs.
 - a) State departments and agencies provide the alternate document reproduction centers with an electronic file copy (ASCII) of the text of the requested document and

b) The alternate document reproduction centers reproduce the text on diskette, Braille, large print, or audiocassette recording (DECTALK™ speech), at no additional cost to the person requesting the document.

2. The alternate document reproduction centers are:

- a) At the Department of Administration Library & Information Services¹² and
- b) In the Public Information Center of the Secretary of State Office¹³.

B. The Alternate Formats

On receipt of a citizen's request, documents received from agencies can be converted into four different formats:

1. Braille,
2. Large print,
3. Audio cassette recording, and
4. ASCII text file on a computer diskette.

C. The Role Of An State Agency In Alternate Document Reproduction

1. The work of the alternate document reproduction centers is complementary to that of state agencies. While the centers will not be filling any bulk orders for documents, they are prepared to respond to individual requests for documents. Bulk orders will be more than:

- a) 2 Braille copies
- b) 5 audio cassette copies;
- c) 5 diskette copies; or
- d) 5 large print copies

of the same document, per request. Agencies with bulk copies must arrange a contract with a private vendor.

2. When a Center receives a request, staff will then make whatever effort is necessary to obtain, at the very least, a print copy of the requested document. The Centers would like to receive documents on a DOS computer diskette in an ASCII file format (along with 1 printed copy to assist in reformatting). Any computer can generate ASCII text that can be utilized by the Center's DOS-based computer equipment. Any word processing software should be able to generate documents in ASCII (American Standard Code for Information Interchange). ASCII is a standard format for representing characters to computers and is universally recognized as a standard for exchanging information between different computer platforms and different programs. By using ASCII, the information exchanged can be understood by word processing software, Braille equipment, and other computer applications. The manner in which ASCII is generated differs from program to program and from IBM PCs to Macs. Check the software's manual index for items related to saving files in other formats; check under ASCII, DOS text, exporting text, and Save As.

3. It is much easier to plan ahead than to attempt the accommodation after the fact. Feel free to call one of the centers for assistance.

4. The alternate document reproduction center will put the text-only (no graphics or photographs, charts, etc.) into alternate formats; the centers do not guarantee the original structure will be maintained.

5. Whenever a printed copy of the original text must be converted by the center, the agency will be charged the conversion costs @

a) \$1 per page of original printed document and

b) \$20/hour for labor for text scanning, re-formatting or re-typing of a printed document (no ASCII or DOS text electronic copy provided).

6. The centers reserves the right to charge the agency for labor and materials for reproducing multiple page documents @

a) \$.30 per page--Braille document;

b) \$.10 per page—Large Print document;

c) \$1.00 per disk—ASCII Disk;

d) \$1.00 per cassette—Audio cassette; and

e) \$20.00 per hour of labor

D. Large Print Standards

1. Large print materials are produced in a 14-point type or larger; typically, 16- or 18-point type is used.

2. Other considerations in large print readability include:

a) The contrast between the paper and ink, e.g., a bold typeface on nonglare paper,

b) The simplicity of typeface, usually sans serif, and

c) Increased spacing between the lines of text or “leading”.

E. Publications Not Done In-House

1. State Agencies shall ensure that the production company/consultants provide the agency with a disk containing the content of the publication in ASCII format. At some stage in the development process, the production company will undoubtedly work with computer file(s) that could easily be converted to ASCII.

2. All publication contracts issued on or after March 1, 1996 shall require the producer to provide the agency with a disk containing the contents (text) of the publication in ASCII format.

F. Requests for Information in an Alternate Format

1. A person contacts the state agency issuing the document to request information in an alternate format.

2. The agency completes the Alternate Document Reproduction Request GCD Form G 1 and forwards it and the document in ASCII or printed copy to:

a) Secretary of State Office / Office for Public Information—for Legislation, Laws, Executive Orders, or other Public Documents created by agencies housed in the State House

b) Department of Administration / Library & Information Services—for all other state information.

3. After the center receives the request it will contact the person within 72 hours to give a sense of time constraints and to discuss further options and problems with reformatting particular documents. A maximum two-week turnaround time is expected.

4. The center and the person requesting the document will negotiate the manner of pickup. Persons are welcome to come in to either Center and pick up materials. Items will be mailed as Free Matter for the Blind when appropriate (e.g., cassettes, Braille, large print, diskette). There is a federal stipulation permitting materials to be sent without postage to individuals who cannot read or use conventionally printed materials because of a visual or physical disability. In addition, individuals with Internet access can receive ASCII text files via electronic mail.

G. All Publications Of More Than 4 Pages And On The Bottom Of The First Page All Flyers, Pamphlets And Brochures Shall Contain The Following Notice:

“Copies of this information are also available in Braille, large print, audio cassette, and electronic file on computer disk. Contact the [insert agency name and voice and tele-text [TTY] phone number and agency address].”

VII. VIDEOTAPES, PUBLIC SERVICE ANNOUNCEMENTS AND TELEVISION PROGRAMMING

A. The audio portions of television and videotape programming produced by or on behalf of a state agency shall contain closed and or open captioning.

B. The video portions of television and videotape programming produced by or on behalf of a state agency shall contain audio descriptions of visually presented information.

C. State agencies shall only purchase videotapes with captions and audio descriptions.

D. State agencies shall replace televisions and video monitors that are not closed caption compatible with televisions and video monitors that are.

VIII. FORMS

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

IX. 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 42-51-6. Governor’s Commission on Disabilities – Duties.

It shall be the duty of the commission to work in cooperation with the National Council on Disability and other interested federal, state, and local agencies, organizations, and employers in:

(1) Promoting on behalf of the people with disabilities and assuring, on behalf of the state, that people with disabilities are afforded the opportunities to exercise all of the rights and responsibilities accorded to citizens of this state;

(2) Arousing community interest in the concerns of people with disabilities through the utilization of whatever community and state resources the commission may deem necessary to accomplish the maximum in independent living and human development;

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

RIGL 42-51-9(4) Governor’s Commission on Disabilities – Definitions.

(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.

² 28 CFR 35.104 “Auxiliary aids” include but are not limited to—

1. • telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning telecommunications devices for deaf persons (TTY’s), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
2. • optical readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments; or
- acquisition or modification of equipment or devices and necessary software and peripherals
- This regulation does not require the public entity to provide to individuals with disabilities personal devices. Personal devices include wheelchairs, individually prescribed prescription eyeglasses or hearing aids; or readers for personal use or study.

³ 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 (e-mail) and

<http://www.disabilities.ri.gov> (website)

⁴ RIGL 42-51-9 (3) “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.

⁵ 28 CFR 35.160 (a) All public entities shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

⁶ 28 CFR 35.160 (b)(1) All public entities shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of a service, program or activity conducted by a state agency.

(2) In determining what type of auxiliary aid and service is necessary public entities shall give primary consideration to the requests of the individual with disabilities

⁷ 28 CFR 35.163 (a) All public notices, announcements or other means of informing the public of the public entity’s services, programs or activities must contain a clause describing how individuals could request interpreter services, readers, text material in alternative formats, or other accommodations.

(b) Signage shall be provided at all inaccessible entrances to each of its facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each accessible entrance of a facility.

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 28 CFR 35.161

¹⁰ **RI Commission on the Deaf and Hard of Hearing’s Interpreter Referral Service:**
222-5300(v) 222-5301(tty) or interpreter@cdhh.ri.gov

¹¹ 28 CFR 35.162

¹² ADRC/Department of Administration Library & Information Services:
Beth Perry, Voice/TTY (401) 222-2726 ext. 114; Fax (401) 831-1131;
e-mail: bethpy@dsl.rhinet.gov

¹³ ADRC/ Secretary Of State / State House Library:
Tom Evans, Voice (401) 222-2473; TTY (401) 222-2311; fax (401) 331-6430;
e-mail tevens@sec.state.gov

To be Repealed