

§48-A. Communication services for deaf persons, hard-of-hearing persons and late-deafened persons in court and other legal settings

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Advocate" means a person who is not a lawyer and who provides to the public advice or other substantive legal work that is not prohibited by law or regulation. [PL 2003, c. 685, §2 (NEW).]
- B. "Agency" means any authority, board, bureau, commission, department or officer of State Government or of any county, municipality, school district or any other political or administrative subdivision. [PL 2003, c. 685, §2 (NEW).]
- C. "Bureau" means the Department of Labor, Bureau of Rehabilitation Services. [PL 2003, c. 685, §2 (NEW).]
- D. "CART" means computer-assisted real-time transcription using specialized equipment to transcribe real time word-for-word spoken English into written English that can be viewed on a computer screen or projected onto a large screen. [PL 2003, c. 685, §2 (NEW).]
- E. "CART provider" means a person who provides CART. [PL 2003, c. 685, §2 (NEW).]
- F. "Client" means a deaf person, a hard-of-hearing person, a late-deafened person or a hearing person who is provided interpreting services by a privileged interpreter. [PL 2009, c. 174, §1 (AMD).]
- G. "Confidential communication" means a communication that a client has a reasonable expectation is not being disclosed to persons other than a privileged interpreter and any client to whom the communication is intended to be made. [PL 2003, c. 685, §2 (NEW).]
- H. "Deaf interpreter" means a deaf person, hard-of-hearing person or late-deafened person with native or near-native fluency in American Sign Language who has training in interpreting and training or experience in the use of gesture, mime, props, drawings and other tools to enhance communication for deaf persons with minimal language skills. [PL 2009, c. 174, §1 (AMD).]
- I. "Deaf person" means a person whose sense of hearing is nonfunctional for the purpose of communication and who must depend primarily upon visual communication. [PL 2003, c. 685, §2 (NEW).]
- J. "Hard-of-hearing person" means a person who has a hearing loss resulting in a functional loss, but not to the extent that the person must depend primarily upon visual communication. [PL 2003, c. 685, §2 (NEW).]
- K. "Interpreting organization" means an organization whose function is to provide qualified legal interpreter services for a fee. [PL 2003, c. 685, §2 (NEW).]
- K-1. "Late deafened" means that the sense of hearing of an individual is nonfunctional for the purpose of communication and that the individual must depend primarily upon visual communication. The loss of the sense of hearing for a late-deafened individual occurs after the development of speech and language. [PL 2009, c. 174, §1 (NEW).]
- L. "Privileged interpreter" means a person identified by clients as necessary to facilitate accurate communication between the clients and who otherwise has no substantial personal or business interest in the communication. [PL 2003, c. 685, §2 (NEW).]
- M. "Qualified legal interpreter" means a person who is licensed under Title 32, chapter 22 as a certified interpreter or certified deaf interpreter and who:

- (1) Is a hearing person who:

- (a) Holds a current Specialist Certificate: Legal from the Registry of Interpreters for the Deaf, Inc. or its successor;
- (c) Is included on the bureau's list of qualified interpreters on the effective date of this section; or
- (d) Possesses qualifications, certifications or credentials to interpret in court proceedings as established by the Supreme Judicial Court; or
- (b)

(2) Is a deaf interpreter who holds a current Certificate of Interpretation from the Registry of Interpreters for the Deaf, Inc. or its successor or a Reverse Skills Certificate from the Registry of Interpreters for the Deaf, Inc. or its successor. A deaf person, hard-of-hearing person or late-deafened person must also satisfy the eligibility criteria for taking the exam for the Specialist Certificate: Legal or its successor. [PL 2019, c. 284, §1 (AMD); PL 2019, c. 343, Pt. PPP, §1 (AMD).]

N. "Travel expenses" means actual expenses for transportation reimbursable at the usual state mileage rate, tolls, parking fees or other fees specified in an agreement between an interpreter or an interpreting organization and an agency or court retaining the services of the interpreter at a specific date, time and place. [PL 2003, c. 685, §2 (NEW).]

[PL 2019, c. 284, §1 (AMD); PL 2019, c. 343, Pt. PPP, §1 (AMD).]

2. Interpreter services or CART required for agency or court proceedings. When any personal or property interest of a deaf person, hard-of-hearing person or late-deafened person or of a minor whose parent or guardian is a deaf person, hard-of-hearing person or late-deafened person is the subject of a proceeding before any agency or court, the presiding officer of the proceeding shall appoint a qualified legal interpreter or CART provider.

A. A qualified legal interpreter or CART provider must be appointed under this subsection after consultation with, and giving primary consideration to the request of, the deaf person, hard-of-hearing person or late-deafened person. If the appointed qualified legal interpreter does not meet the needs of the deaf person, hard-of-hearing person or late-deafened person, the presiding officer shall, with the consent of the deaf person, hard-of-hearing person or late-deafened person, appoint another qualified legal interpreter. [PL 2009, c. 174, §1 (AMD).]

B. If a qualified legal interpreter appointed under this subsection for the deaf person, hard-of-hearing person or late-deafened person states that the interpretation is not satisfactory and that a qualified legal interpreter who is a deaf person, a hard-of-hearing person or a late-deafened person will improve the quality of interpretation, the presiding officer shall appoint a qualified legal interpreter who is a deaf person, a hard-of-hearing person or a late-deafened person to assist the qualified legal interpreter. [PL 2009, c. 174, §1 (AMD).]

C. The presiding officer shall appoint as many qualified legal interpreters under this subsection as are necessary to meet the needs of the deaf person, hard-of-hearing person or late-deafened person. [PL 2009, c. 174, §1 (AMD).]

D. A qualified legal interpreter or CART provider appointed under this subsection must be reimbursed by the agency or court conducting the proceeding at a rate negotiated with the qualified legal interpreter or interpreting organization, plus travel expenses; except that employees of the State or any of its political subdivisions, public employees and public or private school, university and college teachers or administrators for interpreting services or anyone who receives a salary during regular work hours may not be reimbursed under this subsection or subsection 3 for interpreter services performed during their regular working hours. This paragraph does not prevent any agency or court from employing a qualified legal interpreter on a full-time basis or under contract at a mutually agreed-upon compensation rate. [PL 2003, c. 685, §2 (NEW).]

E. It is the responsibility of the agency or court conducting the proceeding to ensure compliance with the provisions of this subsection. [PL 2003, c. 685, §2 (NEW).]
[PL 2009, c. 174, §1 (AMD).]

3. Interpreting services or CART for consultation with appointed attorneys. When a court appoints an attorney to represent a deaf person, hard-of-hearing person or late-deafened person or to represent a juvenile whose parent or guardian is a deaf person, hard-of-hearing person or late-deafened person, the court shall provide interpreting services or CART in accordance with this subsection to allow for effective consultation between the attorney and client. Interpreting services or CART provided under this subsection must be paid for directly by the court and is not the responsibility of the attorney.
[PL 2009, c. 174, §1 (AMD).]

4. Legal interpreting fund for services of attorneys and advocates, generally.
[PL 2019, c. 343, Pt. PPP, §2 (RP).]

5. Privileged communication. Except when a court in the exercise of sound discretion determines the disclosure necessary to the proper administration of justice, a privileged interpreter may not disclose any aspect of a confidential communication facilitated by that privileged interpreter unless all clients of the privileged interpreter privy to that confidential communication consent to the disclosure.
[PL 2003, c. 685, §2 (NEW).]

6. Oath. Every qualified legal interpreter appointed under subsection 2 shall, before performing the qualified legal interpreter's duties, take an oath that the qualified legal interpreter will make a true interpretation in an understandable manner to the person for whom the qualified legal interpreter is appointed, and that the qualified legal interpreter will repeat the statements of the person in the English language to the best of the qualified legal interpreter's ability.
[PL 2003, c. 685, §2 (NEW).]

7. Provide information. With the cooperation of the Registry of Interpreters for the Deaf, Inc. or its successor, the bureau shall prepare and continually update a directory listing all qualified legal interpreters in the State. When requested by an agency or court, the bureau shall furnish the agency or court with the directory. The Division for the Deaf, Hard of Hearing and Late Deafened within the bureau shall also provide information to the public, including state agencies and individuals who work with interpreters, regarding the qualifications necessary to become a qualified legal interpreter.
[PL 2009, c. 174, §1 (AMD).]

SECTION HISTORY

PL 2003, c. 685, §2 (NEW). PL 2009, c. 174, §1 (AMD). PL 2017, c. 223, §2 (AMD). PL 2019, c. 284, §1 (AMD). PL 2019, c. 343, Pt. PPP, §§1, 2 (AMD).

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