

# ADVOCACY RESOURCE HANDBOOK FOR NEBRASKANS WHO ARE DEAF, DEAF-BLIND AND HARD OF HEARING

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Contents

**Acknowledgements** ..... 4

**Introduction** ..... 5

**Communication and Technology** ..... 6

**Community**..... 11

**Legal History** ..... 11

**Community Overview** ..... 11

**Community Concerns**..... 12

**Americans with Disabilities Act (ADA)**..... 12

**Voting**..... 14

**Air Carrier Access** ..... 14

**Interpreter Services** ..... 15

**Video Relay Services**..... 16

**Community: Exercise Your Rights!** ..... 17

**Education** ..... 20

**Legal History** ..... 20

**Education Overview**..... 20

**Early Childhood, Elementary, and Secondary (Birth to age 21)** ..... 20

**Educational Service Concerns**..... 21

**Individuals with Disabilities Act (IDEA)**..... 21

**Americans with Disabilities Act (ADA)** ..... 21

**Rehabilitation Act (Rehab Act)** ..... 22

**Effective Communication for Students**..... 23

**Postsecondary Education** ..... 23

**Postsecondary Concerns** ..... 24

**Americans with Disabilities Act (ADA)** ..... 24

**Rehabilitation Act (Rehab Act)** ..... 24

**Education-Exercise Your Rights!**..... 25

**Legal System**..... 27

**Legal History** ..... 27

**Legal System Overview** ..... 27

**Legal Systems Concerns**..... 28

**Americans with Disabilities Act (ADA)**..... 28

**Rehabilitation Act (Rehab Act)** ..... 28

**Civil Rights of Institutionalized Peoples Act (CRIPA)**..... 29

**Nebraska Statutes**..... 29

**Legal System-Exercise Your Rights!** ..... 31

**Housing**..... 33

**Legal History** ..... 33

**Housing Overview**..... 33

**Housing Concerns**..... 33

**Fair Housing Act** ..... 33

**Section 8 Housing**..... 34

**Landlord Tenant Law**..... 35

**Assisted Living**..... 35

**Housing-Exercise Your Rights!**..... 36

**Benefits**..... 38

**Legal History** ..... 38

**Benefits Overview**..... 38

**Benefits Concerns**..... 38

**Social Security Disability Insurance (SSDI)** ..... 39

**Supplemental Security Income (SSI)**..... 39

**Nebraska Medicaid Program** ..... 39

**Nebraska Department of Health and Human Services Public Assistance**..... 39

**Benefits-Exercise Your Rights!**..... 41

**Personal Protection**..... 43

**Legal History** ..... 43

**Personal Protection Overview** ..... 43

**Personal Protection Concerns**..... 43

**Healthcare Power of Attorney**..... 44

**Representative Payee** ..... 45

**Conservatorship** ..... 45

**Guardianship**..... 46

**Abuse & Neglect** ..... 48

**Adult Protective Services**..... 48

**Personal Protection-Exercise Your Rights!** ..... 49

**Employment**..... 51

**Legal History** ..... 51

**Employment Overview**..... 51

**Employment Concerns** ..... 52

**Rehabilitation Act (Rehab Act)** ..... 52

**Americans with Disabilities Act (ADA)**..... 52

**Ticket to Work**..... 55

**Employment-Exercise Your Rights!**..... 56

**Health Care/Mental Health Care** ..... 59

**Legal History** ..... 59

**Health Care Overview**..... 59

**Video Remote Interpreting in Hospitals** ..... 60

**Health Care Concerns**..... 61

**Americans with Disabilities Act (ADA)** ..... 61

**Rehabilitation Act (Rehab Act)** ..... 62

**Health Insurance Portability and Accountability Act (HIPAA)**..... 62

**Mental Health Care Overview** ..... 62

**Mental Health Concerns**..... 63

**Mental Health-Division of Behavioral Health**..... 63

**Mental Health-Medicaid** ..... 63

**Mental Health Commitment Act** ..... 64

**Health Care/Mental Health Care-Exercise Your Rights!**..... 65

**Appendix. Key Resources** ..... 69

**Nebraska Resources** ..... 69

**National Resources** ..... 70

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**Developed in cooperation with:**



**FRITZ & O'HARE ASSOCIATES**

## Foreword

*An important part of the mission for the Nebraska Commission for the Deaf and Hard of Hearing is to advocate for Nebraskans who are Deaf, Deaf-Blind or Hard of Hearing. This handbook was created as part of our duty to empower Deaf, Deaf-Blind or Hard of Hearing individuals to achieve equality and opportunity in all aspects of daily life.*

*A critical section of empowerment and self-advocacy is being aware of your rights. In this handbook, we have addressed some of the challenges that Nebraskans who are Deaf, Deaf-Blind and Hard of Hearing face related to housing, education, employment, the legal system, and more.*

*We hope this gives you a broad overview of your rights and responsibilities.*

–John Wyvill, Executive Director, Nebraska Commission for the Deaf and Hard of Hearing

## Introduction

The purpose of this publication is to provide information for people who are deaf, deaf-blind, or hard of hearing on how to advocate for their civil rights, as protected under federal and state laws. It is not the intent to offer legal advice, but rather to provide information on relevant laws and to suggest resources that may assist with advocacy efforts. Information contained within is current at the time of publication. This publication may be used as a tool to educate businesses and others on their responsibilities related to providing services for this population.

Topics within this publication are broken down into Life Areas. Each Life Area section includes a legal history chronicle, examples of consumer concerns, a brief overview of state or federal laws, and contact information on how individuals can exercise their rights (file a complaint, grievance, etc.) at the local, state, or federal level.

Underlying each of the Life Areas is the need for effective communication and technology. This is vital to achieving equality and opportunity in all aspects of daily living for people who are deaf, deaf-blind, or hard of hearing. A brief introduction of issues related to communication and technology is provided here to serve as a starting point.

## Communication and Technology

Two federal laws - The Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990 - provide the basis of civil right protections for individuals with disabilities in accessing effective communication and telecommunication technology.

- Section 504 of the Rehabilitation Act forbids public and private entities that receive financial assistance from any federal department or agency from excluding qualified individuals with disabilities or denying them an equal opportunity to receive program benefits and services.
- Section 508 of the Rehabilitation Act requires that any electronic and information technology used, maintained, developed, or procured by the federal government allow persons with disabilities comparable access to information and technology.
- The ADA provides civil rights protections to individuals with disabilities in the areas of employment, state and local government services, public accommodations (including most private offices and businesses), transportation, and telecommunications.
  - Title I applies to private employers and state or local governments as employers. This prohibits employers, employment agencies, labor unions and joint labor-management committees from discriminating against persons with disabilities. Title I applies only to employers with 15 or more employees.
  - Title II requires state and local governments to make their programs, services, and activities accessible to individuals with disabilities, including individuals who are deaf or hard of hearing.
  - Title III requires businesses open to the public to ensure that individuals with a disability have equal access to all that the businesses have to offer. Title III covers a wide range of places of public accommodation, including retail stores and businesses such as hotels, theaters, restaurants, doctors' and lawyers' offices, optometrists, dentists, banks, insurance agencies, museums, parks, libraries, day care centers, recreational programs, social service agencies, and private schools. It covers both profit and non-profit organizations and applies to all businesses, regardless of size.
  - Title IV mandates a nationwide system of telecommunications relay services to make the telephone network accessible to people who are deaf or hard of hearing or who have speech impairments.

Effective communication with a person who is deaf, deaf-blind, or hard of hearing allows the person an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity. Covered entities, as described in federal laws, must provide effective communication through auxiliary aids and services at no additional cost to the individual where necessary to afford an equal opportunity to participate in or benefit from a program.

**Americans with Disabilities Act**  
**Definition of Auxiliary Aids and Services For Persons**  
**Who Are Deaf or Hard of Hearing<sup>1</sup>**

- ✓ Qualified interpreters on-site or through video remote interpreting (VRI) services
- ✓ Note takers
- ✓ Real-time computer-aided transcription services
- ✓ Written materials
- ✓ Telephone handset amplifiers
- ✓ Assistive listening devices
- ✓ Assistive listening systems
- ✓ Telephones compatible with hearing aids
- ✓ Closed caption decoders
- ✓ Open and closed captioning, including real-time captioning
- ✓ Voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices
- ✓ Videotext displays
- ✓ Accessible electronic and information technology
- ✓ Other effective methods of making aurally delivered materials available

Auxiliary aids and services include a wide variety of rapidly emerging technologies. This includes video relay service (VRS), a free, subscriber-based service for people who use sign language and have videophones, smart phones, or computers with video communication capabilities. Video remote interpreting (VRI) is a fee-based service that uses video conferencing technology to access an off-site interpreter to provide real-time sign language or oral interpreting services.

The Communications Act of 1934, including amendments made by the Telecommunications Act of 1996, provides several mandates to require accessible telecommunications equipment and services, including television closed captioning. These mandates include:<sup>2</sup>

- Section 225: Title IV of the Americans with Disabilities Act (ADA) of 1990 mandates a nationwide system of telecommunications relay services to make the telephone network accessible to those who are deaf, hard of hearing, or have speech impairments.
- Section 255: Section 255 of the Communications Act requires telecommunications products and services to be accessible to and usable by people with disabilities, if readily achievable without much difficulty or expense. If manufacturers cannot make their products accessible, they must design products to be compatible with adaptive

<sup>1</sup> [http://www.ada.gov/regs2010/titleII\\_2010/titleII\\_2010\\_withbold.htm](http://www.ada.gov/regs2010/titleII_2010/titleII_2010_withbold.htm)

<sup>2</sup> <http://nad.org/issues/civil-rights/communications-act>



equipment, such as peripheral devices and specialized customer premises equipment that are commonly used by people with disabilities, where readily achievable. For example, this requires the ability to use TTYs with telephone equipment.

- Section 710: The Hearing Aid Compatibility Act of 1988 (the HAC Act) statute requires all essential telephones and all telephones manufactured in or imported into the United States to be hearing aid compatible. The mandates apply to all wired and cordless telephones and certain wireless digital telephones. Hearing aid compatible telephones provide inductive and acoustic connections that allow individuals with hearing aids and cochlear implants to communicate by phone. In order to be considered hearing aid compatible, telephones with digital wireless technologies must also minimize electromagnetic interference, which has the effect of creating additional noise that makes it difficult to understand speech.
- Section 713: This authorizes the Federal Communications Commission (FCC) to issue rules requiring closed captioning on television programs (video programming) and to conduct an inquiry about the provision of video description services for people who are blind. FCC rules require video programming distributors to provide closed captioning on 100 percent of new, non-exempt English video programming. Exemptions are available for certain categories of video programming, and when compliance with the rule would result in an undue burden. The FCC also requires broadcasters and cable operators to make local emergency information accessible to persons who are deaf, hard of hearing, blind, or have low vision. This rule means that televised audio emergency information must be provided in a visual format.

A more recent federal law, the Twenty-First Century Communications and Video Accessibility Act of 2010<sup>3</sup>, creates new accessibility requirements for several technology areas. The following is a brief description of the different sections within the new law.

- Section 102 requires newly manufactured/imported telephones to be compatible with hearing aids.
- Section 103 expands the obligation to pay into the Telecommunications Relay Services Fund to all providers of IP-enabled communication services. In addition, 103 clarifies that telecommunication relay services should allow people with speech or hearing disabilities to use its services to communicate with all people, not just people without a hearing or speech disability.
- Section 104 requires Internet-based communication technology to be accessible by people with disabilities.
- Section 105 authorizes the creation of programs to distribute specialized equipment to help with telecommunications/Internet-based communication. This section also

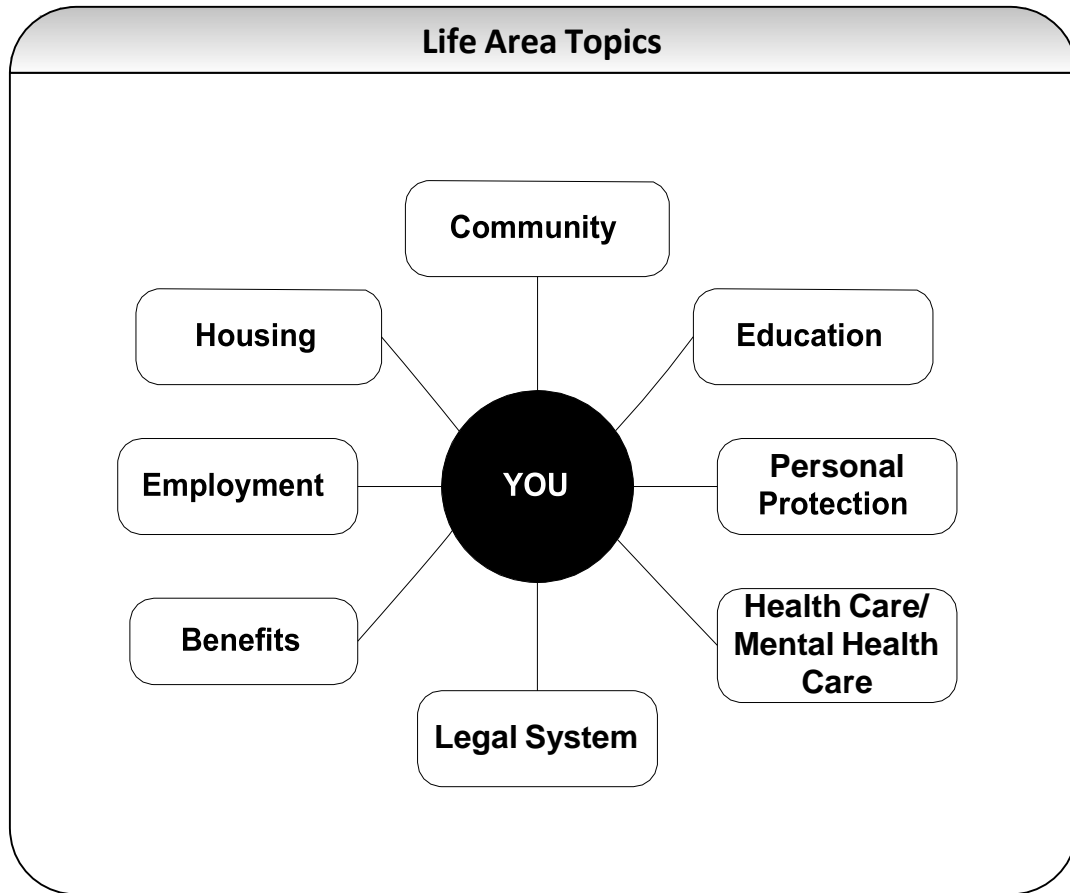
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<sup>3</sup> <https://www.fcc.gov/encyclopedia/twenty-first-century-communications-and-video-accessibility-act-0>

includes broadband services as potential services that can be covered in programs such as Lifeline and Linkup.

- Section 106 supports a committee to research and recommend technologies and methods for people with disabilities to access emergency services (i.e., text messaging).
- Section 202 requires all devices that receive or display video and sound simultaneously to have closed captioning abilities.
- Section 203 requires video programming that is distributed or re-distributed on the Internet to have closed captioning and video description services available. It also requires non-visual access to on-screen emergency warnings.

These laws protect the civil rights of persons who are deaf, deaf-blind or hard of hearing. Without these protections, access to basic living needs and services enjoyed by the hearing population would be impossible.



# Community

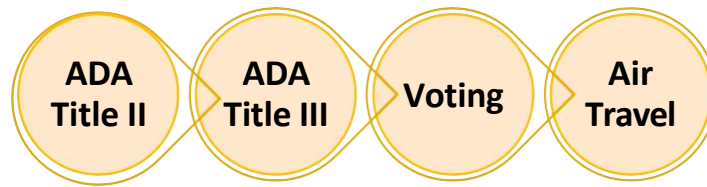
## Legal History

1973	<ul style="list-style-type: none"> <li>• Rehabilitation Act: Prohibits discrimination in all programs or services receiving federal funds.</li> </ul>
1984	
	<ul style="list-style-type: none"> <li>• Voting Accessibility for Elderly and Handicapped: Requires polling places to be physically accessible for federal elections.</li> </ul>
1986	<ul style="list-style-type: none"> <li>• Air Carrier Access Act: Prohibits discrimination in air transportation by domestic and foreign air carriers.</li> </ul>
1990	<ul style="list-style-type: none"> <li>• Americans with Disabilities Act (ADA): Mandates local, state, and federal governments and programs to be accessible; businesses with more than 15 employees to make reasonable modifications; and provide access in public transportation, communication and other areas of public life.</li> </ul>
2002	<ul style="list-style-type: none"> <li>• Help America Vote Act: Establishes reforms to the nation's voting process.</li> </ul>
2008	<ul style="list-style-type: none"> <li>• Americans with Disabilities Act Amendments Act (ADAAA): Mandates new technical specifications for speech output guidance, keypad controls, display screens, and Braille instructions.</li> </ul>

## Community Overview

Under federal law, individuals who are deaf, deaf-blind, or hard of hearing must be afforded the opportunity to fully participate in their communities. Public accommodations, such as state and local services, and most businesses and services must generally ensure that consumers with disabilities are not treated differently than other consumers. The ADA requires that Title II entities (state and local governments) and Title III entities (businesses and nonprofit organizations that serve the public) communicate effectively with people who have communication disabilities. The goal is to ensure that communication with people with these disabilities is equally effective as communication with people without disabilities.<sup>4</sup>

<sup>4</sup> U.S. Department of Justice Civil Rights Division, Disability Rights Section: Effective Communication  
<http://www.ada.gov/effective-comm.htm>



### Community Concerns

Examples of concerns related to access to community services and activities for those who are deaf, hard of hearing or deaf-blind include:

- Exclusion from community activities or being offered separate non-inclusive activities.
- Inability to communicate effectively at businesses
- Receipt of services (legal, medical, etc.) that are not understandable due to the lack of effective communication
- Lack of provision of auxiliary aids or services
- Inability to communicate effectively at polling places
- Inability to communicate effectively during air travel
- Assessment of charges for auxiliary aids or services
- Requirement of family members or friends to serve as interpreters

### Americans with Disabilities Act (ADA)

The Americans with Disabilities Act (ADA) **Title II** requires state and local governments to make their programs, services, and activities accessible to individuals with disabilities, including individuals who are deaf or hard of hearing. Public entities such as schools, courts, police departments and many others must comply with Title II regulations. Title II mandates state and local governments:

- May not refuse to allow a person with a disability to participate in or benefit from a service, program or activity simply because the person has a disability.
- Must provide programs and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity.
- Must furnish auxiliary aids and services when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result.
- Must give primary consideration to the requests of the person with a disability in regard to the type of auxiliary aid or service necessary to ensure effective communication.
- Must operate their programs so that, when viewed in their entirety, they are readily accessible to and usable by individuals with disabilities.

ADA **Title III** covers public accommodations (i.e., private entities that own, operate, lease, or lease to places of public accommodation), commercial facilities, and private entities that offer certain examinations and courses related to educational and occupational certification. Places of public accommodation include over five million private establishments, such as restaurants, hotels, theaters, convention centers, retail stores, shopping centers, dry cleaners, laundromats, pharmacies, doctors' offices, hospitals, museums, libraries, parks, zoos, amusement parks, private schools, day care centers, health spas, and bowling alleys. Commercial facilities are nonresidential facilities, including office buildings, factories, and warehouses, whose operations affect commerce.

Entities controlled by religious organizations, including places of worship, are not covered. Private clubs are not covered, except to the extent that the facilities of the private club are made available to customers or patrons of a place of public accommodation. State and local governments are not covered by the Title III regulation, but rather by the Department of Justice's Title II regulation.<sup>5</sup>

Title III requires that public businesses:

- Must give persons with disabilities an equal opportunity to participate in and benefit from their services. Businesses cannot provide unequal or separate benefits to persons with disabilities.
- Must provide auxiliary aids and services to ensure effective communication. Auxiliary aids and services for deaf and hard of hearing people includes, but is not limited to: qualified interpreters on-site or through video remote interpreting services; note takers; computer-aided transcription services; written materials; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered materials available to individuals with hearing impairments.
- May deny an auxiliary aid or service only if it can demonstrate that it would fundamentally alter the nature of the service, or would constitute an undue burden (a significant difficulty or expense). If the public accommodation is able to demonstrate that there is a fundamental alteration or an undue burden in the provision of a particular auxiliary aid or service it must, however, be prepared to provide an alternative auxiliary aid or service, where one exists.
- Remove structural communication barriers in existing facilities, and install flashing alarm systems, permanent signage, and adequate sound buffers.
- May not impose a surcharge on a particular individual with a disability to cover the cost of ensuring equal access for that person.

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<sup>5</sup><http://www.ada.gov/t3highlight.htm>

## Voting

The Voting Accessibility for the Elderly and Handicapped Act requires polling places to be physically accessible to people with disabilities for federal elections. Where no accessible location is available to serve as a polling place, a political subdivision must provide an alternative means of casting a ballot on the day of the election. This law also requires states to make available registration and voting aids for disabilities and elderly voters including:

- Instructions, printed in large type, conspicuously displayed at each permanent registration facility and each polling place; and
- Information by telecommunications devices for the deaf.

The Help Americans Vote Act (HAVA) created new mandatory minimum standards for states to follow in several key areas of election administration. The law provides funding to help states meet these new standards, replace voting systems, and improve election administration. HAVA also established the Election Assistance Commission (EAC) to assist the states regarding HAVA compliance and to distribute HAVA funds to the states.

## Air Carrier Access

The Air Carrier Access Act prohibits discrimination in air transportation by domestic and foreign air carriers against qualified individuals with physical or mental impairments. It applies only to air carriers that provide regularly scheduled services for hire to the public. Requirements address a wide range of issues including boarding assistance and certain accessibility features in newly built aircraft and new or altered airport facilities.

The Transportation Security Administration (TSA) recommends that passengers who are deaf or hard of hearing notify a security officer of any assistance needed or technology used, such as hearing aids or cochlear implants, before screening begins. It also is helpful if the passenger informs the officer of the best way to communicate during the screening process. Passengers can use TSA's Notification Card to communicate discreetly with security officers. However, showing this card or other medical documentation will not exempt a passenger from additional screening when necessary.

Passengers can be screened using imaging technology or walk-through metal detectors. If a passenger cannot or chooses not to be screened by imaging technology or a walk-through metal detector, the passenger will be screened using a thorough pat down procedure instead. If a passenger who is deaf or hard of hearing uses hearing aids or a cochlear implant, he or she can be screened without removing the device. Additional screening, including a pat down or inspection of a device, may be required if it alarms a walk-through metal detector or appears as an anomaly when screened by imaging technology. Devices may also be subject to additional screening if they are X-rayed as part of the passenger's carry-on bags.



## Interpreter Services

According to Nebraska Revised Statute 20-150<sup>6</sup>, it is the policy of the State of Nebraska to secure the rights of deaf and hard of hearing persons who cannot readily understand or communicate in spoken language and who consequently cannot equally participate in or benefit from proceedings, programs, and activities of state agencies and law enforcement personnel unless interpreters are available to assist them. State agencies and law enforcement personnel shall appoint licensed interpreters, except that courts and probation officials shall appoint interpreters; and public school districts and educational units shall appoint qualified educational interpreters.

The ADA requires that Title II entities (state and local governments) and Title III entities (businesses and nonprofit organizations that serve the public) communicate effectively with people who have communication disabilities. It also specifies that entities must give primary consideration to the requests of the person with a disability in regard to the type of auxiliary aid or service necessary to ensure effective communication. The ADA places responsibility for providing effective communication, including the use of interpreters, directly on covered entities. They cannot require a person to bring someone to interpret for him or her and can rely on a companion to interpret in only two situations:

1. In an emergency involving imminent threat to the safety or welfare of an individual or the public, an adult or minor child accompanying a person who uses sign language may be used to interpret or facilitate communication only when a qualified interpreter is not available.
2. In situations **not** involving an imminent threat, an adult accompanying someone who uses sign language may be relied upon to interpret or facilitate communication when:
  - a) The individual requests this;
  - b) The accompanying adult agrees; and
  - c) Reliance on the accompanying adult is appropriate under the circumstances.

Exception (2) does **not** apply to minor children. Additionally, even under exception (2), covered entities may **not** rely on an accompanying adult to interpret when there is reason to doubt the person's impartiality or effectiveness.

For example:

- It would be inappropriate to rely upon a companion to interpret who feels conflicted about communicating bad news to the person or has personal stake in the situation.
- When responding to a call alleging spousal abuse, police should never rely on one spouse to interpret for the other spouse.<sup>7</sup>

The Nebraska Commission for the Deaf and Hard of Hearing licenses and evaluates licensed interpreters. The 2007 State of Nebraska Rules and Regulations Relating to Sign Language Interpreters regulates the services of interpreters. Licensed interpreters must abide by the

<sup>6</sup> <http://nebraskalegislature.gov/laws/statutes.php?statute=20-150>

<sup>7</sup> <http://www.ada.gov/effective-comm.htm>

National Association of the Deaf and Registry of Interpreters for the Deaf code of professional conduct. The goal is to have interpreters provide the highest quality interpreting services that provide access to communication so people can make informed choices and be involved in all parts of society.

The code of conduct requires that:

1. Interpreters adhere to standards of confidential communication.
2. Interpreters possess the professional skills and knowledge required for the specific interpreting situation.
3. Interpreters conduct themselves in a manner appropriate to the specific interpreting situation.
4. Interpreters demonstrate respect for consumers.
5. Interpreters demonstrate respect for colleagues, interns, and students of the profession.
6. Interpreters maintain ethical business practices.
7. Interpreters engage in professional development.

Nebraska Revised Statute 20-151<sup>8</sup> provides a definition of auxiliary aids. Auxiliary aids include, but is not limited to: sign language interpreters, oral interpreters, tactile interpreters, other interpreters, note takers, transcription services, written materials, assistive listening devices, assisted listening systems, videotext displays, and other visual delivery systems.

LB287 was passed into law by the Nebraska Legislature to change provisions relating to licensure of interpreters for people who are deaf and hard of hearing, with an effective date of 1/1/2016. As of the writing of this document, regulations have not yet been developed. LB287 expands licensure requirements for community sign language interpreters. Before the passage of this bill, not all community interpreters were required to be licensed. In addition, LB 287 requires Video Remote Interpreting (VRI) providers for the State of Nebraska to be licensed. Passage of this bill guarantees that all Nebraskans receiving sign language interpreting services will obtain a higher standard of communication access.

### [Video Relay Services](#)

Video Relay Services (VRS) is a type of interpreting service provided for the purpose of communication access to a standard telephone. The Federal Communication Commission (FCC) sets rules about providing relay services. Although there is a variety of equipment to connect with different types of telecommunications relay services, the definition of a relay call is still the same: a conversation through the telephone when both parties are not in the same room. VRS companies may not always provide the desired services, in which case it is important to report a grievance.

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<sup>8</sup> <http://nebraskalegislature.gov/laws/statutes.php?statute=20-151>

[Community: Exercise Your Rights!](#)

**FOR QUESTIONS OR ASSISTANCE WITH ADVOCACY:**

- Nebraska Commission for the Deaf and Hard of Hearing  
(800)-545-6244 V/TTY  
Email: [Ncdhh@nebraska.gov](mailto:Ncdhh@nebraska.gov)  
Website: <http://www.ncdhh.ne.gov/>
- Disability Rights Nebraska  
(800) 422-6691  
Email: Fill out the form at:  
[http://www.disabilityrightsnebraska.org/resources/contact\\_us.html](http://www.disabilityrightsnebraska.org/resources/contact_us.html)  
Website: <http://www.disabilityrightsnebraska.org/>

**TO ADVOCATE ON ISSUES RELATED TO SPECIFIC LAWS OR PROGRAMS:**

**Americans with Disability Act**

- Educate Yourself:
  - The websites of government agencies such as the Department of Justice, the Equal Employment Opportunity Commission, and the Department of Education provide a wealth of information on legal rights of individuals with disabilities.
  - 'A Guide to Title II of the Americans with Disabilities Act', 'Service Dogs in Businesses', Disability Rights Nebraska  
[http://www.disabilityrightsnebraska.org/resources/legal\\_resources.html](http://www.disabilityrightsnebraska.org/resources/legal_resources.html)
  - 'How to File an ADA Complaint', U.S. Department of Justice Civil Rights Division  
[http://www.ada.gov/filing\\_complaint.htm](http://www.ada.gov/filing_complaint.htm)
  - 'Americans with Disabilities Act (ADA) Overview' video:  
<https://www.youtube.com/watch?v=tCTjRuAR1oA>
  - The National Association of the Deaf provides information and videos to assist consumers in filing discrimination complaints regarding public access areas such as: air travel, businesses, state and local government programs or services, public transportation, and federally funded programs.  
<http://nad.org/issues/about-law-and-advocacy-center/file-complaint>
- Request specific accommodations. Explain exactly what you need and provide information on where to find the services you need. Make your request for reasonable accommodation as early as possible.

- If you have problems obtaining an accommodation, get as much as you can in writing. Keep a simple record of the people you talked to, what occurred, and when it happened.
- File an Americans with Disabilities Act complaint  
[http://www.ada.gov/filing\\_complaint.htm](http://www.ada.gov/filing_complaint.htm)

### **Voting**

- Educate Yourself:
  - ‘Nebraska Voter’s Bill of Rights’, Disability Rights Nebraska  
[http://www.disabilityrightsnebraska.org/resources/legal\\_resources.html](http://www.disabilityrightsnebraska.org/resources/legal_resources.html)
  - ‘Making Polls Accessible to Deaf and Hard of Hearing’  
<http://nad.org/issues/civil-rights/help-america-vote-act/making-polls-accessible>
- Write a letter to your local polling place describing your concerns.
- File an administrative complaint with the Nebraska Secretary of State  
[http://www.sos.ne.gov/elec/hava/pdf/acp\\_form.pdf](http://www.sos.ne.gov/elec/hava/pdf/acp_form.pdf)
- File a complaint with the US Department of Justice  
<http://www.justice.gov/crt/complaint/votintake/index.php>

### **Air Carriers**

- Educate Yourself:
  - The Transportation Security Administration (TSA) has created a Notification Card that passengers can use for discreet communication. Locate the card at:  
[http://www.tsa.gov/sites/default/files/publications/disability\\_notification\\_cards.pdf](http://www.tsa.gov/sites/default/files/publications/disability_notification_cards.pdf)
- If you have a complaint, follow up with the appropriate entity such as the airport, specific airline, or the TSA. Follow the entity’s complaint process or write a letter to the appropriate contact.
- File a complaint with the US Department of Transportation Aviation Consumer Protection Division at: <http://www.dot.gov/airconsumer/file-consumer-complaint>

### **Interpreters**

- Educate Yourself:
  - Nebraska state rules and regulations relating to sign language interpreters  
[http://www.ncdhh.ne.gov/SL Interpreters/interpreter rules regs.pdf](http://www.ncdhh.ne.gov/SL%20Interpreters/interpreter_rules_regs.pdf)

- Request an interpreter. You may wish to provide a list of interpreters or Video Remote Interpreter (VRI) providers to the business. See the Nebraska Commission for the Deaf and Hard of Hearing website regarding interpreter services:  
[http://www.ncdhh.ne.gov/SL\\_Interpreter/sl\\_interpreters.html](http://www.ncdhh.ne.gov/SL_Interpreter/sl_interpreters.html)
- If you do not understand why an interpreter did something or you disagree with something an interpreter did, discuss this with the interpreter. If you do not agree with or accept the reason, you can talk with the agency that provided the interpreter.
- File a complaint with the Registry of Interpreters for the Deaf  
<http://www.rid.org/ethics/file-a-complaint/>
- File a grievance with the Nebraska Commission for the Deaf and Hard of Hearing  
[http://www.ncdhh.ne.gov/Referral\\_service/grievance.html](http://www.ncdhh.ne.gov/Referral_service/grievance.html)
- Register a complaint with the Nebraska Ombudsman's Office  
<http://nebraskalegislature.gov/divisions/ombud-filing.php>
- If you are not afforded a licensed interpreter by a state agency, follow the complaint process of the offending state agency.

#### **Video Relay Services**

- When there are temporary problems with the quality of VRS, make a report with the customer service department of the VRS provider. For example, the problem may be a blurry video stream, or an issue with an interpreter's clothes, background or attitude.
- If you feel that a VRS provider has not resolved your concern quickly, file a report with the Federal Communications Commission (FCC)  
<https://consumercomplaints.fcc.gov/hc/en-us>

# Education

## Legal History

1973	<ul style="list-style-type: none"> <li>• Rehabilitation Act (Rehab Act) Section 504: Prohibits discrimination in all programs or services receiving federal funds.</li> </ul>
1975	<ul style="list-style-type: none"> <li>• Individuals with Disabilities Education Act (IDEA): Ensures children with disabilities receive a free public education.</li> </ul>
1990	<ul style="list-style-type: none"> <li>• Americans with Disability Act (ADA): Mandates individuals with disabilities are not excluded from or denied the benefits of services, programs, or activities of a public entity including elementary, secondary, and postsecondary education.</li> </ul>

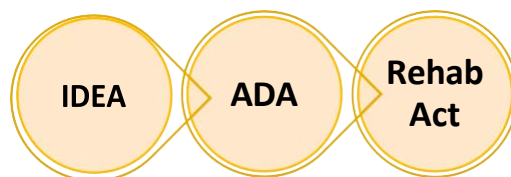
## Education Overview

The Rehab Act, IDEA, and ADA have created significant changes in available services and educational opportunities for students with disabilities. For purposes of this guide, the discussion related to educational services is broken into two categories:

- Early Childhood, Elementary, and Secondary programs for students birth to age 21
- Postsecondary Education.

## Early Childhood, Elementary, and Secondary (Birth to age 21)

The Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act (ADA) apply to individuals with disabilities from birth to age 21. Deaf or hard of hearing students, parents and others are entitled to equal access and an equal opportunity to participate in public school services, programs, and activities. Although IDEA is the principal law that determines the special educational services children will receive from a school system, Section 504 and the ADA provide additional protection, especially in the context of architectural accessibility; extracurricular activities; summer programs; and services for parents, members of the public, and others with disabilities.



## Educational Service Concerns

Examples of concerns related to educational services for children, birth to age 21, who are deaf, hard of hearing, or deaf-blind may include lack or denial of:

- An evaluation to verify eligibility for services
- An appropriate Individual Education Program (IEP)
- Appropriate accommodations to allow the student to be a part of regular school activities (such as providing a sign language interpreter)
- Opportunities to participate in all educational services, including classroom activities, field trips and school-sponsored clubs
- Services provided in the least restrictive environment

## Individuals with Disabilities Act (IDEA)

The Individuals with Disabilities Education Act (IDEA) provides federal funds to state and local educational agencies to guarantee special education and related services to eligible children (birth through age 21) with disabilities. School districts are required to locate, identify, and evaluate children who are suspected of having disabilities and who need special education and related services. Services must be provided, based upon an Individual Education Program (IEP), in the Least Restrictive Environment (LRE). The Nebraska Department of Education has developed Regulations and Standards for Special Education Programs (also referred to as Rule 51) to address the provision of Special Education Services in Nebraska.

Rule 51 states that, “To qualify for special education services in the category of Deaf-Blindness, the child must have concomitant hearing and visual impairments, the combination of which causes: severe communication needs; and other developmental and educational needs. The severity of these needs is such that they cannot be accommodated in special education programs solely for children with deafness or blindness.”

Rule 51 states that, “To qualify for special education services in the category of Hearing Impairment, a child must have an impairment in hearing which is so severe that the child is impaired in processing linguistic information through hearing with or without amplification, or is permanent or fluctuating, and adversely affects the child’s educational performance.” This term combines the state definition of “deaf” contained in Neb. Rev. Stat. §79-1118.01(4), the state definition of “hard of hearing” in Neb. Rev. Stat. §79-1118.01(7), the federal definition of “deafness” in 34 CFR 300.8(c)(3), and the federal definition of “hearing impairment” in 34 CFR 300.8(c)(5).

## Americans with Disabilities Act (ADA)

**Title II** of the Americans with Disabilities Act (ADA) states that qualified individuals with disabilities, including students, parents, and other program participants, are not excluded from or denied the benefits of services, programs, or activities of a public entity, or otherwise

subjected to discrimination by a public entity, by reason of disability. This includes *public* elementary, secondary, and postsecondary schools, colleges, and universities. Title II covers public school students with disabilities, regardless of their eligibility for special education and related services under IDEA.

**Title III** of the ADA protects people with disabilities from discrimination on the basis of disability in the enjoyment of goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation provided by a *private entity* that owns, leases, or operates a place of public accommodation. This includes *private* elementary, secondary, and postsecondary schools, colleges, and universities.

Under the ADA, schools have a duty to provide auxiliary aids and services where necessary to ensure effective communication.

***Americans with Disabilities Act  
Definition of Auxiliary Aids and Services For Persons  
Who Are Deaf or Hard of Hearing<sup>9</sup>***

- ✓ Qualified interpreters on-site or through video remote interpreting (VRI) services
- ✓ Note takers
- ✓ Real-time computer-aided transcription services
- ✓ Written materials
- ✓ Telephone handset amplifiers
- ✓ Assistive listening devices
- ✓ Assistive listening systems
- ✓ Telephones compatible with hearing aids
- ✓ Closed caption decoders
- ✓ Open and closed captioning, including real-time captioning
- ✓ Voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices
- ✓ Videotext displays
- ✓ Accessible electronic and information technology
- ✓ Other effective methods of making aurally delivered materials available

## Rehabilitation Act (Rehab Act)

The Rehabilitation Act (Rehab Act) Section 504 prohibits discrimination on the basis of disability in programs or activities that receive federal financial assistance. This covers individuals of all ages who have a disability, defined as: a person who has a physical or mental impairment that substantially limits one or more major life activities. Major life activities include walking, communicating, working, reading, learning, concentrating, and thinking. Section 504 applies to every public elementary and secondary school in the country and protects students regardless of their eligibility for special education and related services under IDEA.

<sup>9</sup> [http://www.ada.gov/regs2010/titleII\\_2010/titleII\\_2010\\_withbold.htm](http://www.ada.gov/regs2010/titleII_2010/titleII_2010_withbold.htm)



Nondiscrimination includes the duty of school districts to make accommodations or modifications that enable students with disabilities to benefit from their educational programs. The provision of an assistive technology device or service (i.e., universal access features on computers, captioned videos, etc.) may be the accommodation required to assist a student with a disability to be granted access to regular education programs. Students have a legal right to reasonable accommodations, as specified in a plan that includes instructional and related services, and supplementary aids.

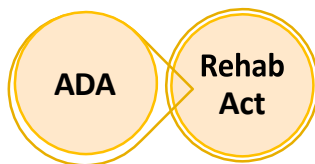
## Effective Communication for Students

While the IDEA requires that school make available a free appropriate public education (FAPE), consisting of special education and related services, to all eligible children with disabilities (including those with communication needs), the Title II regulations have a specific effective communication requirement for individuals with disabilities. As a recent Federal court decision highlighted, the Title II requirement for effective communication differs from the IDEA requirements on this point.

To clarify these requirements, the U.S. Department of Justice and the U.S. Department of Education developed a document in November 2014 regarding the obligations of public schools to meet the communication needs of students with disabilities. ‘Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools’<sup>10</sup> focuses on the different approaches of IDEA and Title II to determine what a school must do for a student with a hearing, vision or speech disability. In addition to providing questions and answers related to effective communication, the document provides hypothetical case studies that consider whether a student who is receiving special education and related services under the IDEA also needs different or additional auxiliary aids and services in order to meet the effective communication requirements of Title II. This document serves as an important tool for students and families in advocating for effective communication in the school setting.

### [Postsecondary Education](#)

The Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 apply to individuals with disabilities enrolled in postsecondary education.



<sup>10</sup> <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-faq-effective-communication-201411.pdf>

## Postsecondary Concerns

Examples of concerns related to educational services for individuals enrolled in postsecondary education who are deaf, hard of hearing, or deaf-blind may include lack or denial of:

- Computer Aided Transcription Services
- Qualified interpreter services
- Captioned videos or television broadcasts

### Americans with Disabilities Act (ADA)

The Americans with Disabilities Act (ADA) applies to students with disabilities in postsecondary settings. **Title II** of the ADA states that qualified individuals with disabilities are not excluded from or denied the benefits of services, programs, or activities of a *public* entity, or otherwise subjected to discrimination by a *public* entity, by reason of disability. This includes postsecondary schools, colleges, and universities.

**Title III** of the ADA covers those individuals with disabilities in *private* colleges and universities, including any *private* entity that offers examinations or courses relating to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes.

Although providing accommodations may result in some additional cost, a public program may not place a surcharge only on particular people with disabilities or groups of people with disabilities to cover these expenses. For example, a public college cannot place a surcharge on either a student with a disability (such as a student who is deaf and benefits from interpreter services) or on groups of students with disabilities (such as students with mobility impairments who benefit from architectural barrier removal). It may, however, adjust its tuition or fees for all students to cover the expenses.

### Rehabilitation Act (Rehab Act)

The Rehabilitation Act Section 504 prohibits discrimination on the basis of disability in programs or activities that receive federal financial assistance. This covers individuals of all ages who have a disability, defined as: a person who has a physical or mental impairment that substantially limits one or more major life activities. Major life activities include walking, communicating, working, reading, learning, concentrating, and thinking. Section 504 of the Rehabilitation Act applies to those colleges and universities that receive federal financial assistance.

Education-Exercise Your Rights!

**FOR QUESTIONS OR ASSISTANCE WITH ADVOCACY:**

- Nebraska Commission for the Deaf and Hard of Hearing  
(800)-545-6244 V/TTY  
Email: [Ncdhh@nebraska.gov](mailto:Ncdhh@nebraska.gov)  
Website: <http://www.ncdhh.ne.gov/>
- Disability Rights Nebraska  
(800) 422-6691  
Email: Fill out the form at:  
[http://www.disabilityrightsnebraska.org/resources/contact\\_us.html](http://www.disabilityrightsnebraska.org/resources/contact_us.html)  
Website: <http://www.disabilityrightsnebraska.org/>

**TO ADVOCATE ON ISSUES RELATED TO SPECIFIC LAWS OR PROGRAMS:**

**Individuals with Disabilities Education Act (IDEA)**

- Educate Yourself:
  - Law-in-Brief documents developed by Disability Rights Nebraska:
    - 'Assistive Technology & Special Education'
    - 'Filing a Complaint with the Nebraska Department of Education'
    - 'How to File a Due Process Petition with the Nebraska Department of Education'
    - 'How to File a Complaint with the Federal Department of Education Office for Civil Rights'[http://www.disabilityrightsnebraska.org/resources/legal\\_resources.html](http://www.disabilityrightsnebraska.org/resources/legal_resources.html)
  - Nebraska Department of Education Regulations and Standards for Special Education Programs (Rule 51)  
[http://www.education.ne.gov/legal/webrulespdf/CLEAN51\\_2014.pdf](http://www.education.ne.gov/legal/webrulespdf/CLEAN51_2014.pdf)
- Contact the Nebraska Department of Education (NDE) for complaints, mediation, dispute resolution and appeals:
  - Complaints:  
<http://www.education.ne.gov/sped/monitoring/StateComplaintForm.pdf>
  - Mediation:  
<http://www.education.ne.gov/sped/mediation.html>
  - Dispute Resolution:  
[http://www.education.ne.gov/legal/webrulespdf/CLEANRule55\\_2012.pdf](http://www.education.ne.gov/legal/webrulespdf/CLEANRule55_2012.pdf)
  - Appeals:  
[http://www.education.ne.gov/legal/webrulespdf/CLEANRule55\\_2012.pdf](http://www.education.ne.gov/legal/webrulespdf/CLEANRule55_2012.pdf)
- Contact Parent Training and Information (PTI) Nebraska: [www.pti-nebraska.org/](http://www.pti-nebraska.org/)

- File a complaint with the U.S. Department of Education Office for Civil Rights. A complaint may be filed by anyone who believes that a school that receives federal financial assistance has discriminated against someone on the basis of race, color, national origin, sex, disability, or age. The person or organization filing the complaint need not be a victim of the alleged discrimination, but may complain on behalf of others. <http://www.ed.gov/ocr/complaintintro.html>

### **Americans with Disabilities Act (ADA)**

- Educate Yourself:
  - Law-in-Brief information documents by Disability Rights Nebraska:
    - 'A Guide to Title II of the Americans with Disabilities Act'
    - 'A Guide to Title III of the Americans with Disabilities Act'[http://www.disabilityrightsnebraska.org/resources/legal\\_resources.html](http://www.disabilityrightsnebraska.org/resources/legal_resources.html)
  - 'How to File an ADA Complaint', U.S. Department of Justice Civil Rights Division: [http://www.ada.gov/filing\\_complaint.htm](http://www.ada.gov/filing_complaint.htm)
- File an Americans with Disabilities Act complaint <http://www.ada.gov/complaint/>
- For discrimination by a state university or a community college:
 

File an ADA Title II complaint: <http://www.ada.gov/t2cmpfrm.htm>. You do not need to use the form, but the form will help you know the kind of information you should include in your complaint. You must file an ADA Title II complaint within 180 days.
- For discrimination by a private college or university:
 

File an ADA Title III complaint: <http://www.ada.gov/t3compfm.htm>. There is no time limit for an ADA Title III complaint, but you should file as soon as possible.

### **Rehabilitation Act Section 504 (Rehab Act)**

- Educate Yourself:
  - 'What is Section 504?', Disability Rights Nebraska [http://www.disabilityrightsnebraska.org/resources/legal\\_resources.html](http://www.disabilityrightsnebraska.org/resources/legal_resources.html)
  - Section 504 Complaints <http://www.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>
- File a complaint (**within 180 days of the discrimination**) with the U.S. Department of Education Office of Civil Rights when the college or university accepts federal financial assistance (such as student loans guaranteed by the federal government) <http://www2.ed.gov/about/offices/list/ocr/complaintprocess.html>
- File a complaint with the school district's Section 504 Coordinator.

# Legal System

## Legal History

1973

- Rehabilitation Act Section 504: Prohibits discrimination in programs or activities that receive financial assistance.

1980

- Civil Rights of Institutionalized Peoples Act (CRIPA): Enables the Department of Justice to protect the rights of individuals in the care of state and local institutions.

1990

- Americans with Disabilities Act (ADA): Mandates individuals with disabilities are not excluded from or denied the benefits of services, programs, or activities of a public entity. All state and local police departments are prohibited from discrimination based on disability.

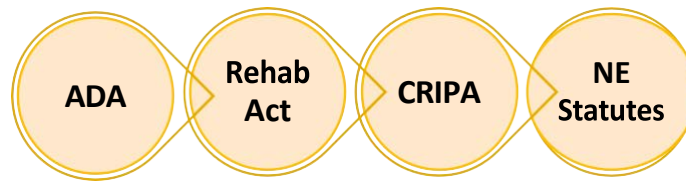
2007

- Nebraska Revised Statute §20-150: Secures the rights of deaf and hard of hearing persons who cannot readily understand or communicate in spoken language and who cannot equally participate in or benefit from proceedings, programs and activities of state agencies and law enforcement unless interpreters are available to assist them.

## Legal System Overview

Individuals who are deaf or hard of hearing often face increased challenges when they become involved with the legal system. This includes everything from routine traffic stops by the police, court appearances, or short or long-term incarceration. Those serving prison terms are frequently denied due process rights and access to rehabilitation programs because prison administrators fail to understand their communication needs.

There are three federal laws applicable to this topic. Both Section 504 and the Americans with Disabilities Act make clear that law enforcement agencies are obligated to take action to ensure effective communication with individuals who are deaf or hard of hearing. The Civil Rights of Institutionalized Peoples Act (CRIPA) enables the Department of Justice to protect the rights of those individuals who are in the care of state and local institutions. Detention and correctional facilities must insure that programs and activities are accessible. Nebraska State law outlines specific requirements related to communication within the legal system.



### Legal Systems Concerns

Examples of concerns related to legal system involvement for individuals who are deaf, hard of hearing, or deaf-blind may include lack or denial of:

- Method for effective communication with law enforcement officers, lawyers, and in the courtroom (including access to a qualified interpreter)
- Access to communication services when working with a private attorney
- Access to effective communication while incarcerated, including access and sufficient time to use the telephone
- Access to effective communication by the use of handcuffs

### Americans with Disabilities Act (ADA)

The Americans with Disabilities Act (ADA) requires attorneys, state and local police, and law enforcement agencies to provide equal access to their services by providing accommodations necessary to ensure effective communication with individuals who are deaf or hard of hearing. These accommodations include qualified interpreters, computer aided transcription services (CART), and assistive listening devices. Law enforcement agencies must consult with the individual about the choice of the auxiliary aid or service that would result in effective communication.

Public attorneys must ensure that communication with deaf or hard of hearing clients and members of the public are as effective as communications with others. The ADA recognizes that private attorneys do not have to provide a specific type of auxiliary aid or service if they can demonstrate that doing so would be an undue burden (a significant difficulty or expense).

State and local police law enforcement agencies are not required to provide accommodations that would fundamentally alter the law enforcement service or that would result in an undue financial and administrative burden. When a requested accommodation would result in a fundamental alteration or undue burden, the police or law enforcement agency must take any other action it can to ensure that communication with the individual is as effective as possible.

### Rehabilitation Act (Rehab Act)

Section 504 of the Rehabilitation Act prohibits recipients of federal financial assistance from

discriminating against individuals on the basis of disability. Many police departments in the United States receive financial assistance from one or more federal agencies and, therefore, are subject to the requirements of Section 504.

All individuals who are deaf and hard of hearing must be informed of the law enforcement agency's obligation to have a qualified interpreter, CART, assistive listening device, or other auxiliary aids or services, at no cost, during all communication with law enforcement.

### Civil Rights of Institutionalized Peoples Act (CRIPA)

The Civil Rights of Institutionalized Peoples Act (CRIPA) enables the Department of Justice to protect the rights of those individuals who are in the care of state and local institutions. CRIPA allows for the attorney general to intervene on behalf of institutionalized people whose rights may have been oppressed. Such institutions include state and locally operated jails and prisons, juvenile correctional facilities, public nursing homes, mental health facilities and institutions for individuals with intellectual disabilities. This law was enacted to ensure the safety of those individuals who may feel uncomfortable reporting issues of abuse in government run institutions. CRIPA does not create any new rights. Instead, it allows the attorney general to enforce already established rights of institutionalized persons.

### Nebraska Statutes

Nebraska State Law addresses the rights regarding use of interpreters for people who are deaf or hard of hearing when arrested or taken into custody in Nebraska Revised Statutes.<sup>11</sup>

Nebraska Revised Statute §20-152 states:

- Whenever a deaf or hard of hearing person is arrested and taken into custody for an alleged violation of state law or local ordinance, the appointing authority shall procure a licensed interpreter for any interrogation, warning, notification of rights, or taking of a statement, unless otherwise waived.
- No arrested deaf or hard of hearing person otherwise eligible for release shall be held in custody solely to await the arrival of a licensed interpreter. A licensed interpreter shall be provided as soon as possible.
- No written or oral answer, statement, or admission made by a deaf or hard of hearing person in reply to a question of any law enforcement officer or any other person having a prosecutorial function may be used against the deaf or hard of hearing person in any criminal proceeding unless: (1) the statement was made or elicited through a licensed interpreter and was made knowingly, voluntarily, and intelligently; or (2) the deaf or hard of hearing person waives his or her right to an interpreter and the waiver and statement were made knowingly, voluntarily, and intelligently.

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<sup>11</sup> <http://nebraskalegislature.gov/laws/statutes.php?statute=20-150>

- The right of a deaf or hard of hearing person to an interpreter may be waived only in writing.
- The failure to provide a licensed interpreter pursuant to this section shall not be a defense to prosecution for the violation for which the deaf or hard of hearing person was arrested.

Additional language in Statute includes:

- For any proceeding before an appointing authority including any court at which a deaf or hard of hearing person is subpoenaed or requested in writing to attend, the appointing authority shall obtain a licensed interpreter to interpret the proceedings to the deaf or hard of hearing person and to interpret his or her testimony or statements.<sup>12</sup>
- If a licensed interpreter appointed under section 20-153 is not able to provide effective communication with a deaf or hard of hearing person, the appointing authority shall obtain another licensed interpreter. An oral interpreter shall be provided upon request of a deaf or hard of hearing person who chooses not to communicate in sign language. If an interpreter is unable to render a satisfactory interpretation, the appointing authority shall then obtain an intermediary interpreter to assist the appointed interpreter. The appointing authority shall ensure that any interpreter is properly situated so as to permit effective communication with the deaf or hard of hearing person and full participation of the deaf or hard of hearing person in the proceeding.<sup>13</sup>
- When an appointing authority has reason to believe that a person is not deaf or hard of hearing or is not dependent on an interpreter to ensure receptive or expressive communication, the appointing authority may require the person to furnish reasonable proof of his or her need for an interpreter.<sup>14</sup>
- In any proceeding in which a deaf or hard of hearing person is testifying under oath or affirmation, the interpreter shall take an oath or affirmation that he or she will make a true interpretation of the proceeding in an understandable manner to the best of his or her ability.<sup>15</sup>
- Whenever a deaf or hard of hearing person communicates through an interpreter under circumstances in which the communication would otherwise be privileged, the privilege shall apply to the interpreter as well.<sup>16</sup>

<sup>12</sup> <http://nebraskalegislature.gov/laws/statutes.php?statute=20-153>

<sup>13</sup> <http://nebraskalegislature.gov/laws/statutes.php?statute=20-154>

<sup>14</sup> <http://nebraskalegislature.gov/laws/statutes.php?statute=20-155>

<sup>15</sup> <http://nebraskalegislature.gov/laws/statutes.php?statute=20-155.01>

<sup>16</sup> <http://nebraskalegislature.gov/laws/statutes.php?statute=20-158>



[Legal System-Exercise Your Rights!](#)

**FOR QUESTIONS OR ASSISTANCE WITH ADVOCACY:**

- Nebraska Commission for the Deaf and Hard of Hearing  
(800)-545-6244 V/TTY  
Email: [Ncdhh@nebraska.gov](mailto:Ncdhh@nebraska.gov)  
Website: <http://www.ncdhh.ne.gov/>
- Disability Rights Nebraska  
(800) 422-6691  
Email: Fill out the form at:  
[http://www.disabilityrightsnebraska.org/resources/contact\\_us.html](http://www.disabilityrightsnebraska.org/resources/contact_us.html)  
Website: <http://www.disabilityrightsnebraska.org/>

**TO ADVOCATE ON ISSUES RELATED TO SPECIFIC LAWS OR PROGRAMS:**

**Americans with Disabilities Act (ADA)**

- Educate Yourself:
  - The U.S. Department of Justice has prepared information for police and law enforcement agencies that is available at <http://www.ada.gov/policeinfo.htm> and includes the following:
    - ‘Communicating with People Who Are Deaf or Hard of Hearing: ADA Guide for Law Enforcement Officers’
    - ‘Model Policy for Law Enforcement on Communicating with People Who Are Deaf or Hard of Hearing’
    - ‘Commonly Asked Questions about the Americans with Disabilities Act and Law Enforcement’
    - ‘Questions and Answers: The Americans with Disabilities Act and Hiring Police Officers’
    - An eight-part video series: ‘Police Response to People with Disabilities’
- If you believe you have experienced communication discrimination by police enforcement officers, you may file a complaint with the Department of Justice (DOJ) under ADA Title II within 180 days of the discrimination.  
<http://www.ada.gov/t2cmpfrm.htm>

**Rehabilitation Act Section 504 (Rehab Act)**

- Educate Yourself:
  - View the American Civil Liberties Union (ACLU) ASL Video that covers what your rights are as a deaf and hard of hearing person dealing with the police.  
<https://www.aclu.org/know-your-rights/deaf-rights-what-do-when-dealing->

[police?redirect=know-your-deaf-rights-what-do-when-dealing-police](#)

- If you believe you have experienced discrimination by a police agency that receives federal funds, you may choose to file a complaint with the Office for Civil Rights. <http://www.hhs.gov/ocr/civilrights/complaints/index.html>

**Civil Rights of Institutionalized Peoples Act (CRIPA)**

- Call or write your State Senator [http://nebraskalegislature.gov/senators/senator\\_list.php](http://nebraskalegislature.gov/senators/senator_list.php)
- Call or write the Governor <https://governor.nebraska.gov/contact-governor>
- File an internal grievance at the institution.
- Register a complaint with the Nebraska Ombudsman’s Office <http://nebraskalegislature.gov/divisions/ombud-filing.php>
- Contact the US Department of Justice Special Litigation Section (SPL) to file a complaint. Provide as much detail as possible. If you are aware of similar incidents involving others, include that information as well. SPL does not have legal authority to represent individuals. Include your contact information. Do not send original documents as their safe return cannot be guaranteed. Send to:
  - Special Litigation Section
  - U.S. Department of Justice
  - Civil Rights Division
  - 950 Pennsylvania Avenue, NW
  - Washington, D.C. 20530
  - Call: (202) 514-6255 or toll-free at (877) 218-5228

**Nebraska Statutes**

- Call or write your State Senator [http://nebraskalegislature.gov/senators/senator\\_list.php](http://nebraskalegislature.gov/senators/senator_list.php)
- Call or write the Governor <https://governor.nebraska.gov/contact-governor>
- Register a complaint with the Nebraska Ombudsman’s Office <http://nebraskalegislature.gov/divisions/ombud-filing.php>

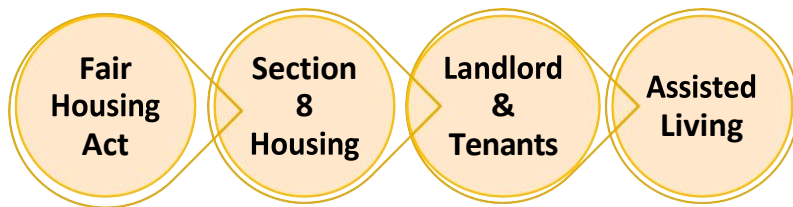
# Housing

## Legal History

1968	<ul style="list-style-type: none"> <li>• Fair Housing Act: Prohibits housing discrimination on the basis of race, color, religion, sex, and national origin.</li> </ul>
1988	<ul style="list-style-type: none"> <li>• Fair Housing Act Amendments: Expands protected groups to prohibit housing discrimination against people with disabilities and families with children.</li> </ul>

## Housing Overview

There are many laws that protect the rights of people as they relate to housing. The federal Fair Housing Act protects against discrimination. There are specific rights, depending upon the type of housing. Those who have a Section 8 Housing voucher are protected under that program. Nebraska's Landlord Tenant Act covers people who rent an apartment. Residents of assisted living facilities have specific rights, as defined in Nebraska state regulations.



## Housing Concerns

Examples of concerns related to housing for individuals who are deaf, hard of hearing, or deaf-blind may include lack or denial of:

- The ability to keep trained assistant animals
- Visible doorbells, smoke detectors, or alarm systems
- An effective method of communication when interacting with a landlord or housing management company

## Fair Housing Act

The Fair Housing Act prohibits landlords, condominium management companies, and homeowners' associations from discrimination based on disability. No one may refuse to rent or sell housing, make housing unavailable, or set different rules or conditions for the sale or

rental or use of housing, because of disability.<sup>17</sup> Additionally, the right to communication access with these entities is secured under Title III of the Americans with Disabilities Act (ADA).

Landlords are required to make reasonable accommodations for tenants with disabilities. The following examples illustrate the requirement to make reasonable accommodations:

- A building with a "no pets" policy must allow deaf or blind tenants to keep trained assistant animals.
- A building or community that has an intercom or other coded entry system must provide an equally effective alternative for visitors or tenants who are deaf or hard of hearing to enter. Tenants are permitted to install visible doorbells. The tenant must pay for the modifications, and may have to restore the property to its original condition later, but the landlord cannot forbid the tenant from installing the special equipment.
- A condominium or homeowner's association must provide interpreters to enable people who are deaf or hard of hearing to participate in the association meetings.

Housing discrimination often comes with "a smile and a handshake." While commonly experienced, discrimination can be subtle, friendly, and often difficult to pin down. Housing discrimination *could* sound like this:

"Sorry, we just rented the last apartment"  
 "No disability, we only rent to working people"  
 "We aren't set up for children"  
 "Your credit isn't good enough"  
 "A boy and a girl can't share a bedroom"  
 "We must have lost your application"  
 "You might feel more comfortable in another neighborhood"  
 "Most of the people who live in this building are professionals"  
 "You can't build a ramp for access to the building—it won't look good"

## [Section 8 Housing](#)

Section 8 Housing is funded through the US Department of Housing and Urban Development. Local Housing Authority agencies issue Section 8 housing vouchers.

Public housing projects have even greater obligations to tenants with disabilities. Residents have the right to equal and fair treatment and use of the building's services and facilities, without regard to race, color, religion, gender, disability, familial status (children under 18), national origin (ethnicity or language), or in some circumstances, age.

Landlords in housing projects that receive any funding from the Section 8 housing program or other programs of the U.S. Department of Housing and Urban Development (HUD) must pay for

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<sup>17</sup> Fair Housing Act, 42 U.S.C. § 3604(f).

the installation of flashing doorbells and visual notification systems and other modifications. Qualified interpreters must be provided, when necessary, for effective communication.<sup>18</sup> For more information on resident rights, go to: [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_12162.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_12162.pdf)

### [Landlord Tenant Law](#)

For people who rent directly from a landlord, Nebraska law defines many landlord and tenant responsibilities including lease agreements, rent and security deposits, eviction proceedings, property maintenance, ending a lease, and privacy. Learn more in the 'Landlord and Tenant Handbook', Legal Aid of Nebraska. <http://www.legalaidofnebraska.com/article/27>.

### [Assisted Living](#)

Some individuals who are deaf or hard of hearing may live in an Assisted Living facility licensed by the state. These facilities often house numerous individuals. Residents of Assisted Living facilities have many rights, including: being informed in advance about care and treatment and of any changes in care and treatment; ability to voice complaints and grievances without discrimination or reprisal and have those complaints/grievances addressed; right to refuse to perform services for the facility; right to refuse to participate in activities; and right to a telephone in your room at your own expense. To learn more, see Nebraska Health and Human Services regulations at: [http://dhhs.ne.gov/publichealth/Pages/crl\\_medfac\\_alf\\_regs.aspx](http://dhhs.ne.gov/publichealth/Pages/crl_medfac_alf_regs.aspx).

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<sup>18</sup> 24 C.F.R. § 8.6

[Housing-Exercise Your Rights!](#)

**FOR QUESTIONS OR ASSISTANCE WITH ADVOCACY:**

- Nebraska Commission for the Deaf and Hard of Hearing  
 (800)-545-6244 V/TTY  
 Email: [Ncdhh@nebraska.gov](mailto:Ncdhh@nebraska.gov)  
 Website: <http://www.ncdhh.ne.gov/>
- Disability Rights Nebraska  
 (800) 422-6691  
 Email: Fill out the form at:  
[http://www.disabilityrightsnebraska.org/resources/contact\\_us.html](http://www.disabilityrightsnebraska.org/resources/contact_us.html)  
 Website: <http://www.disabilityrightsnebraska.org/>

**TO ADVOCATE ON ISSUES RELATED TO SPECIFIC LAWS OR PROGRAMS:**

**Fair Housing**

- Educate Yourself:
  - A Guide to the Fair Housing Act', Disability Rights Nebraska  
[http://www.disabilityrightsnebraska.org/resources/legal\\_resources.html](http://www.disabilityrightsnebraska.org/resources/legal_resources.html)
  - The U.S. Department of Housing and Urban Development created 12 videos in American Sign Language (with English captioning) to provide critical legal and practical information in a format accessible to persons who are deaf and/or hard of hearing. The videos provide important information related to fair housing and fair lending rights under the Fair Housing Act. <http://nad.org/issues/fair-housing-videos-asl>
  - "LBJ Signs Fair Housing Act 1968" (History Comes to Life) Video  
<https://www.youtube.com/watch?v=IDo9mb6-su4>
  - "Accents" Video <https://www.youtube.com/watch?v=84k2iM30vbY>
- Call or write your landlord.
- Contact the US Department of Housing and Urban Development to file a housing discrimination complaint  
[http://portal.hud.gov/hudportal/HUD?src=/topics/housing\\_discrimination](http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination)
- Contact Legal Aid of Nebraska's AccessLine®: Call 1-877-250-2016 to apply for assistance.  
<http://legalaidofnebraska.com/provider/19>

### **Section 8 Housing**

- Educate Yourself:
  - 'Residents Rights and Responsibilities', US Department of Housing and Urban Development. <http://www.hud.gov/offices/hsg/mfh/gendocs/mfhrrr.pdf>
- Call or write your landlord.
- Contact Legal Aid of Nebraska's AccessLine®: Call 1-877-250-2016 to apply for assistance. <http://legalaidofnebraska.com/provider/19>

### **Landlord & Tenant**

- Educate Yourself:
  - 'Landlord and Tenant Handbook', Legal Aid of Nebraska <http://www.legalaidofnebraska.com/article/27>
- Call or write your landlord.
- Contact Legal Aid of Nebraska's AccessLine®: Call 1-877-250-2016 to apply for assistance. <http://legalaidofnebraska.com/provider/19>

### **Assisted Living**

- Educate Yourself:
  - NE Health and Human Services Regulation and Licensure 175 NAC 4-006.04 [http://dhhs.ne.gov/publichealth/Pages/crl\\_medfac\\_alf\\_regs.aspx](http://dhhs.ne.gov/publichealth/Pages/crl_medfac_alf_regs.aspx)
- File a complaint: Nebraska Department of Health and Human Services (DHHS) [http://dhhs.ne.gov/publichealth/Pages/crl\\_invest\\_invest.aspx#Overview](http://dhhs.ne.gov/publichealth/Pages/crl_invest_invest.aspx#Overview)

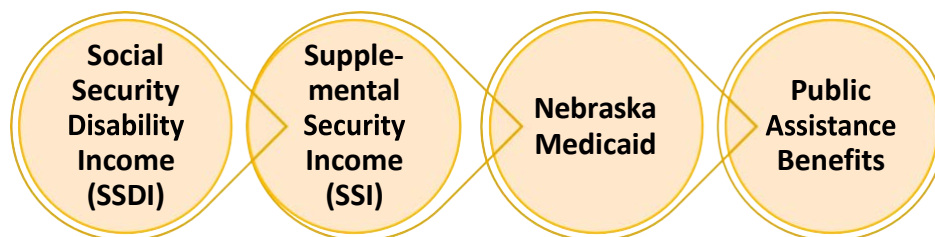
# Benefits

## Legal History

1950	<ul style="list-style-type: none"> <li>• Social Security Amendments: Aids permanently &amp; totally disabled persons.</li> </ul>
1956	<ul style="list-style-type: none"> <li>• Social Security Disability Insurance (SSDI): Aids disabled workers aged 50 to 64.</li> </ul>
1965	<ul style="list-style-type: none"> <li>• Medicaid &amp; Medicare: Provides federally subsidized health care to persons with a disability.</li> </ul>
1972	<ul style="list-style-type: none"> <li>• Supplemental Security Income (SSI): Relieves families of the financial responsibility of caring for their adult disabled children.</li> </ul>

## Benefits Overview

Some people with disabilities participate in the federal Social Security Disability Program. The Social Security Disability Income and Supplemental Security Income disability programs are the largest of several federal programs that provide assistance to people with disabilities. While these two programs are different in many ways, both are administered by the Social Security Administration and both require that individuals have a disability and meet medical criteria to qualify for benefits.



## Benefits Concerns

An example of concerns related to benefits for individuals who are deaf, hard of hearing, or deaf-blind may include:

- Denial or cancellation of benefits
- Denial or lack of provision of effective communication to assist in understanding the complex system
- Denial or lack of auxiliary aids and services when interacting with program



representatives

### Social Security Disability Insurance (SSDI)

Social Security Disability Insurance (SSDI) pays benefits to individuals and certain family members of those insured, for those who have worked long enough and paid Social Security taxes. The program is financed with Social Security taxes paid by workers, employers, and self-employed persons.

### Supplemental Security Income (SSI)

Supplemental Security Income (SSI) pays benefits based on financial need. This program is financed through general revenues from taxes, meaning benefits are not based on a person's prior work history.

- Applications for SSDI and SSI are often initially denied. Re-application may be necessary.
- Continuing Disability Review (CDR) is required by law approximately every 3 years. This review is necessary to determine if the person still qualifies as disabled.
- Income, resources, and living arrangements are also reviewed to ensure the person still meets the non-medical requirements. This is referred to as a redetermination.
- Social Security may determine that the person received an overpayment and require repayment of the money.

### Nebraska Medicaid Program

The Nebraska Department of Health and Human Services (DHHS) administers the Medicaid Program to provide health care services to eligible elderly and disabled individuals and eligible low-income pregnant women, children and parents. Nebraska Medicaid pays for covered medical services for those unable to afford medically necessary services and who meet certain eligibility requirements. Nebraska Medicaid is jointly funded by the state and federal governments. The Nebraska Medicaid Regulations provide rights to recipients, such as the right to: have interpreters available, if necessary, during appointments and in all discussions with health care providers; be treated with respect and without discrimination; understand information about illness and treatment; and receive medical care in a timely manner.

Learn more about Nebraska Medicaid Regulations at:

[http://dhhs.ne.gov/medicaid/Pages/med\\_regs.aspx](http://dhhs.ne.gov/medicaid/Pages/med_regs.aspx)

### Nebraska Department of Health and Human Services Public Assistance

**ACCESSNebraska** provides information and applications for:

- Medicaid
- Food Stamp Benefits
- Aid to Dependent Children (ADC)
- Aid to Aged, Blind and Disabled (AABD)

- Home and Community-Based Waiver Services
- Energy Assistance
- Kids Connection
- Child Care Subsidy

For more information on any of the above programs, visit the Department of Health and Human Services website at [www.dhhs.ne.gov](http://www.dhhs.ne.gov) and search for the program name. Or, visit the ACCESSNebraska website: <https://dhhs-access-neb-menu.ne.gov/start/?tl=en>

[Benefits-Exercise Your Rights!](#)

**FOR QUESTIONS OR ASSISTANCE WITH ADVOCACY:**

- Nebraska Commission for the Deaf and Hard of Hearing  
(800)-545-6244 V/TTY  
Email: [Ncdhh@nebraska.gov](mailto:Ncdhh@nebraska.gov)  
Website: <http://www.ncdhh.ne.gov/>
- Disability Rights Nebraska  
(800) 422-6691  
Email: Fill out the form at:  
[http://www.disabilityrightsnebraska.org/resources/contact\\_us.html](http://www.disabilityrightsnebraska.org/resources/contact_us.html)  
Website: <http://www.disabilityrightsnebraska.org/>

**TO ADVOCATE ON ISSUES RELATED TO SPECIFIC LAWS OR PROGRAMS:**

**Social Security Disability Income/Supplemental Security Income (SSDI/SSI)**

- Educate Yourself:
  - 'What is Supplemental Security Income (SSI) and How is it Different from Social Security Disability Income (SSDI)?' Video (Disability Advisor)  
<https://www.youtube.com/watch?v=nIRNk8xIF8g>
  - 'I Was Denied by Social Security Disability. What Can I Do?' Video (Disability Advisor)  
<https://www.youtube.com/watch?v=nvT1nPus0Ws>
- If your application has recently been denied, the Internet Appeal at: <http://www.ssa.gov/disabilityssi/appeal.html> is a starting point to request a review of the decision about your eligibility for disability benefits. If your application is denied for:
  - Medical reasons, complete and submit the Appeal Request and Appeal Disability Report online. The disability report asks for updated information about your medical condition and any treatment, tests or doctor visits since the last decision was made.
  - Non-medical reasons, contact your local Social Security Office to request the review. You also may call the toll-free number, 1-800-772-1213, to request an appeal. Toll-free TTY: 1-800-325-0778.

**Nebraska Medicaid Program**

- Educate Yourself:
  - Medicaid Regulations [http://dhhs.ne.gov/medicaid/Pages/med\\_regs.aspx](http://dhhs.ne.gov/medicaid/Pages/med_regs.aspx)
- Access client information: [http://dhhs.ne.gov/medicaid/Pages/med\\_clienthome.aspx](http://dhhs.ne.gov/medicaid/Pages/med_clienthome.aspx)

- Talk to your physician.
- Complain to Medicaid: [http://dhhs.ne.gov/medicaid/Pages/med\\_clientbook.aspx](http://dhhs.ne.gov/medicaid/Pages/med_clientbook.aspx)
- To report suspected Medicaid Provider Fraud or the possible abuse, neglect or financial exploitation of patients in Medicaid facilities, contact the Medicaid Fraud and Patient Abuse Unit of the Attorney General's Office.  
[http://dhhs.ne.gov/medicaid/Pages/med\\_pi\\_fraud.aspx](http://dhhs.ne.gov/medicaid/Pages/med_pi_fraud.aspx)

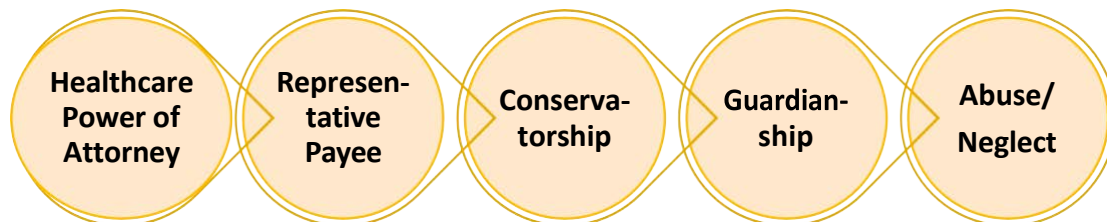
# Personal Protection

## Legal History

1984	<ul style="list-style-type: none"> <li>• Adult Protective Services Act: Establishes a program designed to meet the needs of vulnerable adults and to assure the availability of the program to all eligible persons.</li> </ul>
2014	<ul style="list-style-type: none"> <li>• Public Guardianship Act: Establishes the Office of Public Guardian.</li> </ul>

## Personal Protection Overview

This section covers ways in which the law protects people. A Healthcare Power of Attorney provides a way for individuals to direct their own physical and mental health treatment when unable to do so on their own. Representative payees, conservators, and guardians may be appointed to provide protections and make decisions for those individuals who have been determined unable to do so themselves. Protections are also in place for vulnerable adults who may be victims of abuse or neglect.



## Personal Protection Concerns

Examples of concerns related to personal protection for individuals who are deaf, hard of hearing, or deaf-blind may include:

- Assistance in understanding the need for and requirements related to appointment of someone to help protect their rights
- Appointment of a representative who can effectively communicate with and represent them fairly
- Assistance in terminating a representative who cannot effectively communicate, misuses funds, or does not represent their best interests

## Healthcare Power of Attorney

In most situations, you have the right to make decisions about your treatment. Based on the information you receive, as well as your values and beliefs, you must weigh the risks and benefits of the proposed treatment, the likelihood of success, and any alternative course of treatment. Ultimately, you decide which treatments you want and which ones to refuse.

However, at certain times during your life, you may lose the right or ability to make decisions about your health care or mental health treatment. This may occur if you are placed under a guardianship, judged incompetent to give informed consent to treatment in a psychiatric facility, or have become unconscious in a hospital setting. Even if you are unable to make the decision, a decision will be made.

The issue becomes how much control you wish to exert over those decisions. In these situations, you can use a health care power of attorney to be certain that your wishes regarding health care and mental health treatment are respected in the future.

A health care power of attorney is a legally enforceable document in which you (the principal) authorize another person (the attorney in fact), such as a family member or friend, to make health care and mental health treatment decisions for you when you cannot do so. The person you choose as your attorney in fact may make all decisions about your health care, including mental health treatment, with the exception of any limits or restrictions you state.

You may also use the document to specify in advance which types of treatment you do and do not wish to receive and any other desires regarding health care and mental health treatment to assure your wishes are followed by the person you have appointed as your attorney in fact. The document must be prepared and signed while you are competent.

### **How is a health care power of attorney created?**

To create a health care power of attorney, you must choose a person to be your attorney in fact. You must state the person's name in writing and:

- Write your name, the name of the attorney in fact, and another person you would like to be your attorney in fact if the first person cannot do it;
- Write what kinds of health care decisions the attorney in fact can make for you if you cannot make your own decisions;
- Write down the date; and
- Make sure the health care power of attorney is signed by two adult witnesses. The witnesses must see you sign the health care power of attorney or you must sign and date it in front of a notary public. Neb. Rev. Stat. §30-3404 (2006).

## Representative Payee

A representative payee is a person or organization chosen by the Social Security Administration (SSA) who will manage your Social Security benefits when you are not able to manage them yourself. The representative payee has the responsibility to manage your benefits responsibly.

### **If you feel that you do not need a representative payee or do not like who the SSA appoints:**

- You have sixty (60) days to appeal that decision by sending a letter to the SSA stating your concerns. Once you have appealed, you might have a hearing by the Commissioner of the SSA.
- You may have further review of your case if you do not agree with the Commissioner's final decision. 42 U.S.C. §1383(a)(2)(B)(xi); 42 CFR 416.630.

Information on how to make an appeal should be included in the letter from SSA that names your representative payee. Contact Disability Rights Nebraska if you are unsure how to file an appeal.

You may also ask SSA to review whether you need a representative payee at any time. If you believe that you no longer need a representative payee, the SSA will want to see evidence that you can be your own payee. Evidence you may wish to provide includes:

- Legal evidence: For example, this could be a court order showing you had a guardian, but no longer do. This could show that you can manage your own money.
- Medical evidence: For example, a letter from your doctor saying you are able to manage your own money will help show that you no longer need a payee.
- Lay evidence: This includes statements from family, friends, or other people who know you and could tell the SSA whether you are able to manage your own money.

The SSA will more likely believe that you no longer need a representative payee if you are able to provide them with both medical and lay evidence. For example, you may wish to submit letters from both your doctor and your brother saying that they think you can manage your own money. The SSA will read these together to help decide if you still need to have a representative payee manage your Social Security benefits.

### **If a representative payee misuses your benefits:**

A representative payee is held responsible for abusing your benefits and may have to pay back the money misused. If you think that a representative payee has misused, wasted, or abused your benefits, you may report it to the Social Security Administration, Office of Inspector General Fraud Hotline. <http://oig.ssa.gov/report>

## Conservatorship

A conservator is a person appointed by the court to make decisions regarding your property and assets. Conservator differs from guardian. Guardianship is “of the person” and a



conservatorship is “of the property and assets.” A conservator is appointed when it is shown you cannot manage your property because of mental illness, mental deficiency, physical illness, disability, chronic use of drugs, or chronic alcoholism. The court must find that your property will be wasted unless it is properly managed or that money is needed for your support, care, and welfare. The conservator has a duty to make sure that the decisions he or she makes are in your best interests.

### Guardianship

A guardian is a person who is appointed by the court or through a will. A guardian has the power to make decisions for the person (referred to as a “ward”). The guardian has a duty to make sure that the decisions made are in the ward’s best interests. There are three basic types of guardianships: full, limited, and temporary. The type of guardianship that is chosen depends upon your needs. Generally, courts are encouraged to favor the least restrictive option. (Neb. Rev. Stat. §§30-2209; 30-2601)

The court may appoint a temporary guardian for you in an emergency situation. You or another interested person can file a request with the court to have a hearing as soon as possible to decide whether you need this temporary guardianship. This is called an “expedited hearing”. You must request an expedited hearing at least ten (10) business days before the date of the permanent guardianship hearing. At a temporary guardianship hearing, the petitioner must show that temporary guardianship is necessary for the emergency situation. (Neb. Rev. Stat. §30-2626 (2006).

If an expedited guardianship hearing is requested, you or another interested person must be notified at least twenty-four (24) hours before the expedited hearing. At the expedited hearing, the court will list certain duties and powers of the temporary guardianship. The temporary guardianship will end after ten (10) days or before if the court finds the temporary guardianship is no longer necessary. However, if it is shown that you require a temporary guardianship for a longer period of time, the court may extend the temporary guardianship for a ninety (90) day period followed by additional ninety (90) day periods, if necessary. Neb. Rev. Stat. §30-2626 (2006)

Limited guardianship allows for you to make certain decisions for yourself, but the guardian is there to help you if you are not able to make all decisions.

Full guardianship means the guardian has the sole ability to make decisions for you about:

- Where you will live;
- Training or education you might receive;
- Your medical care;
- Your personal property;
- Consents or releases for you;
- Contracts for you;

- Legal proceedings against people who are legally responsible to support you; and
- Handling your money and property for your support.

### **Notice of the Proceedings**

Notice of a guardianship hearing must be given to you if you are fourteen (14) years or older, to any living parent, and the person who had custody of you sixty (60) days before the request for guardianship.

Notice of a hearing for the appointment of a guardian must be given to you, your spouse, parents, and adult children. You must be notified fourteen (14) days before the hearing is scheduled. The notice must include:

- The date and time of the hearing, and
- A list of your rights, such as your right to:
  - Request an attorney;
  - Present evidence on your own behalf;
  - Make a witness attend;
  - Cross examine witnesses; and
  - Appeal. Neb. Rev. Stat. §§30-2611; 30-2220 (2006).

### **Ending a Guardianship**

Guardianship may end when:

- The guardian dies, becomes incapacitated, resigns, or is removed;
- You die or you are no longer incapacitated as determined by a court hearing.

You or another interested person can file a request with the court asking it to decide whether you are no longer incapacitated. For a guardian to be removed, the ward or another interested person must file a request with the court asking it to decide whether removing the guardian will be in your best interests. If a guardian wants to resign, he/she must file their resignation with the court and it must be approved by the court. (Neb. Rev. Stat. §§30-2623; 30-2624 (2006)).

### **Office of Public Guardian**

The Nebraska Legislature established the Office of Public Guardian in 2014. The responsibilities of the Office and Advisory Council are set out in Nebr. Rev. Stat. Sections 30-4101 to 30-4118. The Office of Public Guardian provides the means of last resort as guardians or conservators for those situations where no family member or suitable individual is available. The Office provides education, training, and support for volunteer and family guardians and conservators, and recruits individuals to serve as guardians and conservators for Nebraska's vulnerable individuals.

Work began on January 1, 2015, to develop the processes, guidelines, plans and personnel policies to implement the Public Guardianship Act. The goal is to have the Office of Public Guardian available for appointments of associate public guardians by late summer 2015.

## Abuse & Neglect

Individuals age 18 or older with a substantial functional or mental impairment (a condition that impairs the person's ability to live independently or provide self-care without services) or individuals with a legal guardian are protected from abuse, neglect (including self-neglect), and exploitation by state law. By law, Nebraska citizens have the right to live free from violence, intimidation by threat of violence or intimidation by threat of destruction or vandalism of property. To learn more about abuse and neglect protection see:

<http://www.nebraskalegislature.gov/laws/statutes.php?statute=28-110&print=true>

## Adult Protective Services

Adult Protective Services (APS), within the Nebraska Department of Health and Human Services (DHHS), is a program designed to meet the needs of vulnerable adults and to assure the availability of the program to all eligible persons. APS investigates reports of vulnerable adult abuse, neglect and exploitation, including self-neglect and intervenes when maltreatment is confirmed.

Adult Protective Services cannot:

1. Become your guardian or conservator of your estate;
2. Remove you from your home without a court order;
3. Force you to accept services (if you have not been determined incompetent);
4. Place you in an alternate living arrangement without your agreement or your legal representative's agreement; or
5. Become involved if there is no abuse/neglect/exploitation, including self-neglect.

Personal Protection-Exercise Your Rights!

**FOR QUESTIONS OR ASSISTANCE WITH ADVOCACY:**

- Nebraska Commission for the Deaf and Hard of Hearing  
(800)-545-6244 V/TTY  
Email: [Ncdhh@nebraska.gov](mailto:Ncdhh@nebraska.gov)  
Website: <http://www.ncdhh.ne.gov/>
- Disability Rights Nebraska  
(800) 422-6691  
Email: Fill out the form at:  
[http://www.disabilityrightsnebraska.org/resources/contact\\_us.html](http://www.disabilityrightsnebraska.org/resources/contact_us.html)  
Website: <http://www.disabilityrightsnebraska.org/>

**TO ADVOCATE ON ISSUES RELATED TO SPECIFIC LAWS OR PROGRAMS:**

**Health Care Power of Attorney**

- Educate Yourself:
  - 'Health Care Power of Attorney' (2000), Disability Rights Nebraska  
[http://www.disabilityrightsnebraska.org/resources/legal\\_resources.html](http://www.disabilityrightsnebraska.org/resources/legal_resources.html)
- Decide how you want to be treated.
- Select someone to be your Health Care Power of Attorney and create the legal document for this.

**Representative Payee**

- Educate Yourself:
  - 'Substituted Judgment - Representative Payee', Disability Rights Nebraska  
[http://www.disabilityrightsnebraska.org/resources/legal\\_resources.html](http://www.disabilityrightsnebraska.org/resources/legal_resources.html)
  - 'Do I Have to Have a Representative Payee?' Video (Disability Advisor)  
<https://www.youtube.com/watch?v=ueMTdNmHt3U>
  - 'How Does Social Security Select a Representative Payee?' Video (Disability Advisor ' )  
<https://www.youtube.com/watch?v=Hnpv6o0Mo0k>
- Appeal SSI decisions at: <http://www.ssa.gov/payee/faqbene.htm>
- Report fraud: <http://oig.ssa.gov/report>

**Guardianship**

- Educate Yourself:
  - ‘Substituted Judgment – Guardianship’, Disability Rights Nebraska  
[http://www.disabilityrightsnebraska.org/resources/legal\\_resources.html](http://www.disabilityrightsnebraska.org/resources/legal_resources.html)

**Abuse & Neglect**

- Educate Yourself:
  - Nebraska Adult Protective Services  
[http://dhhs.ne.gov/children\\_family\\_services/Pages/nea\\_aps\\_apsindex.aspx](http://dhhs.ne.gov/children_family_services/Pages/nea_aps_apsindex.aspx)
- Call the 24 Hour Abuse and Neglect Hotline at **1-800-652-1999** if you feel you or someone you know is being abused, neglected, or exploited.
- Or, call your local law enforcement agency to report abuse, neglect, or exploitation.

# Employment

## Legal History

- |      |   |
|------|---|
| 1973 | <ul style="list-style-type: none"> <li>• Rehabilitation Act: Prohibits discrimination in all programs or services receiving federal funds.</li> </ul>   |
| 1974 | <ul style="list-style-type: none"> <li>• Client Assistance Program (CAP): Advocates for clients of state Vocational Rehabilitation agencies.</li> </ul>   |
| 1990 | <ul style="list-style-type: none"> <li>• Americans with Disabilities Act (ADA): Mandates local, state and federal governments and programs be accessible; businesses with more than 15 employees make reasonable accommodations for disabled workers; public accommodations make reasonable modifications to ensure access for people with disabilities; and access in public transportation, communication, and other areas of public life.</li> </ul> |
| 1999 | <ul style="list-style-type: none"> <li>• Works Incentives Improvement Act (Ticket to Work): Allows those who require health care benefits to work.</li> </ul>   |

## Employment Overview

Everyone deserves the right to work. People who are deaf or hard of hearing have often experience discrimination in securing employment and in the work place. There are federal laws to protect persons with disabilities much the same way that laws protect against discrimination due to race, color, sex, national origin, age and religion. This section focuses on two important federal laws - the Rehabilitation Act and the Americans with Disabilities Act, as well as an important federal program - Ticket to Work.



## Employment Concerns

Concerns related to employment for individuals who are deaf, hard of hearing, or deaf-blind may include lack or denial of:

- Effective participation in work-related meetings
- Discrimination during interviews
- Emergency signals or alarms in the workplace
- Provision of auxiliary aids and services in the workplace

## Rehabilitation Act (Rehab Act)

Section 504 of the Rehabilitation Act of 1973 is a national law that protects qualified individuals from discrimination based on their disability. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any federal department or agency, including the U.S. Department of Health and Human Services (DHHS). These organizations and employers include many hospitals, nursing homes, mental health centers, and human service programs.

For purposes of employment, qualified individuals with disabilities are persons who, with reasonable accommodation, can perform the essential functions of the job for which they have applied or have been hired to perform. Reasonable accommodation means an employer is required to take reasonable steps to accommodate a person's disability, unless it would cause the employer undue hardship.

Section 504 prohibitions against discrimination apply to service availability, accessibility, delivery, employment, and the administrative activities and responsibilities of organizations receiving federal financial assistance. These organizations may not, on the basis of disability:

- Deny qualified individuals the opportunity to participate in or benefit from federally funded programs, services, or other benefits.
- Deny access to programs, services, benefits or opportunities to participate as a result of physical barriers.
- Deny employment opportunities, including hiring, promotion, training, and fringe benefits, for which they are otherwise entitled or qualified.

## Americans with Disabilities Act (ADA)

### **What rights are protected under Title I of the ADA?**

In general, Title I of the ADA protects from discrimination in all employment practices such as applying for a job, hiring, firing, training, pay, promotion, benefits, and leave.

Title I of the ADA states that no covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

Title I also gives the person with a disability the right:

- To request a reasonable accommodation for the hiring process and on the job;
- To be free from harassment based on disability; and
- To avoid discipline or firing based on disability.

### **What is a reasonable accommodation and how is it used in the workplace?**

A reasonable accommodation is a modification or adjustment to a job, the work environment, or the way things are usually done to enable a qualified individual with a disability to have an equal employment opportunity. The ADA requires reasonable accommodations:

- To ensure equal opportunity in the application process;
- To enable an employee to perform an essential function of a job; and
- To allow an employee to enjoy equal benefits and privileges of employment.

Reasonable accommodations may include:

- TTYs, amplified telephones, captioned telephones, and videophones;
- Instant messaging and e-mail systems;
- Assistive listening systems and devices;
- Visual alerts for audible alarms and messages;
- Modifications to reduce ambient noise levels;
- Captioned audiovisual information;
- Permission to bring service animals into the workplace;
- Modification of intercom entry systems for secured areas or buildings; and
- Policies and procedures for procuring necessary qualified interpreter services and real-time captioning (CART) services.

For some individuals and for some jobs, it may be necessary to have interpreter or CART services available on a regular basis. For other employees or for job applicants, occasional interpreter or CART services on an as-needed basis may be appropriate. The ADA requires employers to make sure that communication with deaf and hard of hearing employees or job applicants is effective. This includes special occasions and meetings, training, job evaluations, and communication concerning work, discipline, or job benefits. It also includes regular work-related communication and employer-sponsored benefits and programs.

Employers should consult with deaf and hard of hearing employees about the type of accommodations that are needed in order to make its facilities and work environment accessible. The accommodation that is appropriate for one employee who is deaf or hard of



hearing may not be successful in achieving effective communication for other employees. Similarly, an accommodation that is effective in one situation may not be effective for a different activity.

The duty to provide qualified interpreters or CART, and to make other reasonable accommodations, is not limited to daily work performance activities or the ability to perform the essential functions of a job. Applicants are entitled to reasonable accommodations during the interview and application process. Employees are entitled to equal access to general information, employee benefits, and training opportunities available to other employees. Employees should have access to telephone services, recreational and social activities, emergency procedures, health programs, and the whole range of facilities, services and amenities that are available to other employees. Modifications or adjustments may be required in the work environment, in the manner or circumstances in which a job is customarily performed, and in employment policies.

Employers may deduct the cost of accommodations as a business expense and may be eligible for special tax credits to assist in the provision of reasonable accommodations. Employers should consult their tax advisors on this issue.<sup>19</sup>

### **What rights are protected when applying for a job?**

When you applying and/or interviewing for a job, Title I of the ADA restricts the employer from asking certain questions. For example, the employer may **not** ask about a person's:

- Disability
- Health
- Medications
- Hospitalizations

An employer **may** ask questions about health and require medical examinations:

- After the person has been offered the job;
- Before the person has started the job; and
- Only if it is required for all new employees.

Remember, the employer cannot use any of this information to exclude someone who can do the essential functions of the job, with or without a reasonable accommodation.

### **What rights are protected after the person is hired and starts working?**

Title I of the ADA provides the following rights:

- To request reasonable accommodations on the job;
- To be free from harassment based on disability; and
- To avoid discipline or firing because of disability.

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<sup>19</sup> <http://nad.org/issues/employment/discrimination-and-reasonable-accommodations>

**What might discrimination look like?**

Employment discrimination may take several forms. For example:

- The employer did not hire you because you are deaf or hard of hearing;
- The employer failed to provide a reasonable accommodation such as a qualified interpreter or CART services;
- You experienced harassment because you are deaf or hard of hearing;
- The employer fired you because you are deaf or hard of hearing; or
- The employer retaliated against you, perhaps because you requested a reasonable accommodation or filed an employment discrimination complaint.

Sometimes, a person may experience more than one type of discrimination. For example, a person fired for requesting an interpreter may have claims for failure to provide a reasonable accommodation, termination on the basis of disability, and retaliation. All types of discrimination that may have been experienced should be included when filing a complaint.

The Equal Employment Opportunity Commission (EEOC) is responsible for investigating charges of workplace discrimination by businesses (for-profit; non-profit; with 15 or more employees) and state and local government agencies. People who believe an employer has discriminated against them on the basis of disability may file a complaint with the EEOC. For more information, see [http://www.eeoc.gov/charge/overview\\_charge\\_filing.html](http://www.eeoc.gov/charge/overview_charge_filing.html).<sup>20</sup>

[Ticket to Work](#)

Social Security's Ticket to Work Program provides employment support services to help individuals with disabilities go to work while still providing access to Medicaid and Medicare. Ticket to Work is a free and voluntary program, available to people ages 18 through 64 who are blind or have a disability and who receive Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits. The goals of the Ticket to Work Program are to:

- Offer persons with disabilities expanded choices when seeking service and supports to enter, re-enter, and/or maintain employment;
- Increase the financial independence and self-sufficiency of persons with disabilities; and
- Reduce and, whenever possible, eliminate reliance on disability benefits.

Eligible persons who are receiving monthly cash benefit payments are entitled to participate by signing up with an approved service provider of their choice. This can be an Employment Network (EN) or a State Vocational Rehabilitation (VR) agency. The EN/State VR agency, if they accept the Ticket assignment, will coordinate and provide appropriate services to help the individual find and maintain employment. These services may be training, career counseling, vocational rehabilitation, job placement, and ongoing support services necessary to achieve a work goal.

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<sup>20</sup> <http://nad.org/issues/employment/discrimination-and-reasonable-accommodations>

[Employment-Exercise Your Rights!](#)

**FOR QUESTIONS OR ASSISTANCE WITH ADVOCACY:**

- Nebraska Commission for the Deaf and Hard of Hearing  
(800)-545-6244 V/TTY  
Email: [Ncdhh@nebraska.gov](mailto:Ncdhh@nebraska.gov)  
Website: <http://www.ncdhh.ne.gov/>
- Disability Rights Nebraska  
(800) 422-6691  
Email: Fill out the form at:  
[http://www.disabilityrightsnebraska.org/resources/contact\\_us.html](http://www.disabilityrightsnebraska.org/resources/contact_us.html)  
Website: <http://www.disabilityrightsnebraska.org/>

**TO ADVOCATE ON ISSUES RELATED TO SPECIFIC LAWS OR PROGRAMS:**

**Rehabilitation Act Section 504 (Rehab Act)**

- Educate Yourself:
  - 'U.S. Department of Health and Human Services Office for Civil Rights Fact Sheet: Your Rights Under Section 504 of the Rehabilitation Act'  
<http://www.hhs.gov/ocr/civilrights/resources/factsheets/504.pdf>
- Talk or write a letter to your employer about your complaint.
- File a complaint of discrimination with the Office for Civil Rights. <http://www.hhs.gov/ocr>
- File a complaint with the Nebraska Equal Opportunity Commission within 300 days of the date on which you were discriminated against. <http://www.neoc.ne.gov>
- Contact an attorney.

**Americans with Disabilities Act**

- Educate Yourself:
  - 'A Guide to Title I of the Americans with Disabilities Act', Disability Rights Nebraska  
[http://www.disabilityrightsnebraska.org/resources/legal\\_resources.html](http://www.disabilityrightsnebraska.org/resources/legal_resources.html)
  - U.S. Equal Employment Opportunity Commission, U.S. Department of Justice Civil Rights Division, 'Americans with Disabilities Act Questions and Answers'  
<http://www.ada.gov/qandaeng.htm>
- Talk or write a letter to your employer about your complaint.

- File a complaint of discrimination with the Office for Civil Rights  
<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>
- If you have been discriminated against, **do not wait!** In Nebraska, you must file your discrimination complaint within 300 days of the date on which you were discriminated against. You can file a discrimination complaint with the Nebraska Equal Opportunity Commission (NEOC).

Lincoln

Nebraska Equal Opportunity Commission  
State Office Building  
301 Centennial Mall South, 5<sup>th</sup> Floor  
PO Box 94934  
Lincoln, Nebraska 68509-4934  
Phone 402-471-2024 / 1-800-642-6112  
Fax 402-471-4059

Omaha

Downtown Education Center/State Office Building  
1313 Farnam Street, 3<sup>rd</sup> Floor  
Omaha, NE 68102-1836  
Phone 402-595-2028 / 1-800-382-7820

Scottsbluff

Panhandle State Office Complex  
4500 Avenue I  
P.O. Box 1500  
Scottsbluff, Nebraska 69363-1500  
Phone 308-632-1340  
Fax 308-632-1341

The phone lines are open Monday through Friday from 8:00 am until 5:00 pm (Central Time) except on state holidays.

- Contact an attorney.

**Ticket to Work**

- Educate Yourself:
  - 'A Guide to Title I of the Americans with Disabilities Act', Disability Rights Nebraska  
[http://www.disabilityrightsnebraska.org/resources/legal\\_resources.html](http://www.disabilityrightsnebraska.org/resources/legal_resources.html)
- Talk or write a letter to your employer about your complaint.

- File a complaint of discrimination with the Office for Civil Rights.  
<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>
- If you have been discriminated against, **do not wait!** In Nebraska, you must file your discrimination complaint within 300 days of the date on which you were discriminated against. You can file a discrimination complaint with the Nebraska Equal Opportunity Commission (NEOC).
- In addition, an individual, organization, or agency may file a charge on your behalf in order to protect your identity. You may wish to contact Disability Rights Nebraska for help in filing a NEOC complaint. <http://www.disabilityrightsnebraska.org/>

File a discrimination complaint with the Nebraska Equal Opportunity Commission (NEOC).  
<http://www.neoc.ne.gov>

- Contact an attorney.

## Health Care/Mental Health Care

### Legal History

1973	<ul style="list-style-type: none"> <li>• Rehabilitation Act (Rehab Act): Prohibits discrimination in all programs or services receiving federal funds.</li> </ul>
1975	<ul style="list-style-type: none"> <li>• O'Connor v. Donaldson: U.S. Supreme Court ruling that people cannot be institutionalized in a psychiatric hospital against their will unless determined a threat to self or others.</li> </ul>
1979	<ul style="list-style-type: none"> <li>• <u>Addington v. Texas</u>: U.S. Supreme Court ruling that a standard for involuntary commitment for treatment by raising the burden of proof required to commit persons from the civil burden of proof of "preponderance of the evidence" to "clear and convincing" evidence.</li> </ul>
1990	<ul style="list-style-type: none"> <li>• Americans with Disabilities Act (ADA): Mandates individuals with disabilities are not excluded from or denied the benefits of services, programs, or activities of a public entity.</li> </ul>
1996	<ul style="list-style-type: none"> <li>• Health Insurance Portability Act (HIPAA): Defines policies, procedures and guidelines for maintaining the privacy and security of individually identifiable health information.</li> </ul>
1999	<ul style="list-style-type: none"> <li>• Olmstead v. L.C. and E.W.: The Supreme Court decision that individuals with disabilities must be offered services in the most integrated setting.</li> </ul>

### Health Care Overview

Access to information and communication with health care providers is essential for everyone's health. Effective communication is critical to ensure that the patient has the information needed to make health care decisions. Doctors, nurses, dentists, specialists, therapists, and other health care providers must communicate effectively with their patients to provide appropriate, effective, quality health care services.

Federal disability discrimination laws secure the right to equal access, an equal opportunity to participate in and benefit from health care services, and effective communication with health care providers. These laws include Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA).

Each of these laws require health care providers to make their services accessible to deaf and

hard of hearing people. This obligation applies to anyone the health care provider would

communicate with – including patients, parents, guardians, companions, and the public. Health care providers must provide accommodations, such as qualified interpreters, real-time captioning (also called CART), assistive listening devices, or other auxiliary aids or services, when necessary to communicate effectively with people who are deaf or hard of hearing. Additionally, health care providers are required to provide effective communication for companions who are deaf or hard of hearing and are serving as support for a hearing patient. This includes providing interpreters for these individuals. For example, the deaf or hard of hearing parent of a hearing child must be provided with auxiliary aids and services to allow the parent to effectively participate and make decisions regarding the child’s medical care.

Health care providers do not have to provide a specific type of accommodation if they can demonstrate that doing so would be an undue burden (a significant difficulty or expense). Requests for accommodations should be made in advance, when possible, so the health care provider has enough time to obtain the necessary accommodations. To demonstrate an undue burden, health care providers must show that the cost to provide the accommodation would significantly impact their practice and financial resources. Such a showing may be difficult for most health care providers. When an undue burden can be shown, the health care provider must provide alternative communication access services that would, to the maximum extent possible, ensure effective communication.<sup>21</sup>

## Video Remote Interpreting in Hospitals

Video remote interpreting (VRI) is a fee-based service that uses video conferencing technology to access an off-site interpreter to provide real-time sign language or oral interpreting services for conversations between hearing people and people who are deaf or have hearing loss. The new regulations for the Americans with Disabilities Act Amendment Act (ADAAA) give covered entities the choice of using VRI or on-site interpreters in situations where either would be effective. VRI can be especially useful in rural areas where on-site interpreters may be difficult to obtain.

If VRI is chosen, **all** of the following specific performance standards must be met:

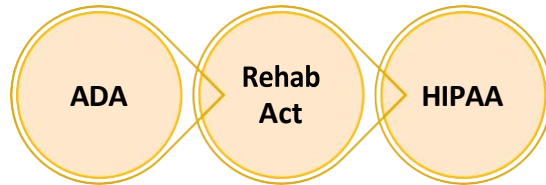
- real-time, full motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication;
- a sharply delineated image that is large enough to display the interpreter’s face, arms, hands, and fingers, and the face, arms, hands, and fingers of the person using sign language, regardless of his or her body position;
- a clear, audible transmission of voices; and
- adequate staff training to ensure quick set-up and proper operation.<sup>22</sup>

<sup>21</sup> National Association of the Deaf: Health Care Providers <http://nad.org/issues/health-care/providers>

<sup>22</sup> U.S. Department of Justice: ADA Requirements Effective Communication <http://www.ada.gov/effective-comm.htm>



An issue of concern is the refusal of hospitals to provide live interpreters vs. Video Remote Interpreting (VRI) services. The Department of Justice, Protection and Advocacy agencies, and other advocacy groups are currently litigating this issue. This is discussed in further detail in a position statement developed by the National Association of the Deaf.<sup>23</sup>



## Health Care Concerns

Concerns related to health care for individuals who are deaf, hard of hearing, or deaf-blind include:

- Effective communication with health care providers
- Effective communication with health care providers for companions serving as support for the person
- Maintaining confidentiality of health information

## Americans with Disabilities Act (ADA)

Title II of the Americans with Disabilities Act (ADA) applies to all public (state and local) health care providers. Title III of the ADA applies to all private health care providers. Health care providers have a duty to provide auxiliary aids and services when necessary to ensure that communication with people who are deaf or hard of hearing is as effective as communication with others.

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<sup>23</sup> National Association of the Deaf: Position Statement VRI Services in Hospitals  
<http://nad.org/issues/technology/vri/position-statement-hospitals>

**Americans with Disabilities Act**  
**Definition of Auxiliary Aids and Services For Persons**  
**Who Are Deaf or Hard of Hearing<sup>24</sup>**

- ✓ Qualified interpreters on-site or through video remote interpreting (VRI) services
- ✓ Note takers
- ✓ Real-time computer-aided transcription services
- ✓ Written materials
- ✓ Telephone handset amplifiers
- ✓ Assistive listening devices
- ✓ Assistive listening systems
- ✓ Telephones compatible with hearing aids
- ✓ Closed caption decoders
- ✓ Open and closed captioning, including real-time captioning
- ✓ Voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices
- ✓ Videotext displays
- ✓ Accessible electronic and information technology
- ✓ Other effective methods of making aurally delivered materials available

## Rehabilitation Act (Rehab Act)

Section 504 of the Rehabilitation Act of 1973 applies to federal health care services and facilities; and health care providers who are also recipients of federal financial assistance, usually provided by direct funding (such as federal Medicaid funds) or by grants (such as a federal research grant).

## Health Insurance Portability and Accountability Act (HIPAA)

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), gives patients rights over their health information, including the right to get a copy of their information, make sure it is correct, and know who has seen it. Learn more about HIPAA at:

[http://www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/consumer\\_rights.pdf](http://www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/consumer_rights.pdf)

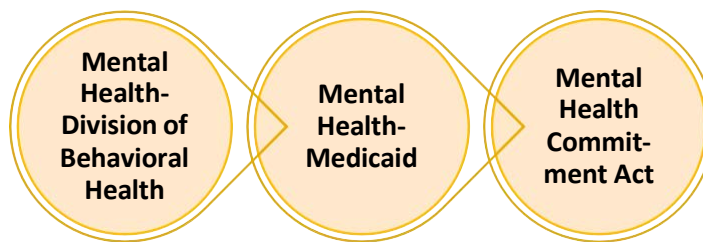
### [Mental Health Care Overview](#)

Individuals with mental illness may receive a variety of services funded by Nebraska's Division of Behavioral Health, Nebraska's Medicaid Program, or through private insurance. The Division of Behavioral Health provides services to persons who meet income guidelines and are not eligible for Nebraska's Medicaid Program. State regulations govern the delivery of mental health services funded by the Division of Behavioral Health.

<sup>24</sup> [http://www.ada.gov/regs2010/titleII\\_2010/titleII\\_2010\\_withbold.htm](http://www.ada.gov/regs2010/titleII_2010/titleII_2010_withbold.htm)

Nebraska's Medicaid Program has a contract with Magellan of Nebraska to provide Medicaid mental health services. Magellan of Nebraska has policies to protect the rights of consumers of mental health services.

Nebraska public policy encourages people to seek mental health treatment voluntarily. However, if people who are "mentally ill and dangerous" do not seek treatment voluntarily, the Mental Health Commitment Act will require them to go through a mental health board proceeding. This may result in their receiving treatment on an involuntary basis.



## Mental Health Concerns

Examples of concerns related to behavioral health for individuals who are deaf, hard of hearing, or deaf-blind may include:

- Communicating effectively with behavioral health providers
- Understanding involuntary commitment
- Filing a complaint against a behavioral health provider

## Mental Health-Division of Behavioral Health

The Division of Behavioral Health has official state regulations (Title 206 Behavioral Health Services) that must be followed by service providers as they deliver services to consumers of behavioral health services. They outline consumer rights, complaints and grievances. Behavioral Health Services regulations may be found at: [http://dhhs.ne.gov/Pages/reg\\_bhregs.aspx](http://dhhs.ne.gov/Pages/reg_bhregs.aspx)

## Mental Health-Medicaid

Magellan of Nebraska works with the Department of Health and Human Services, Division of Medicaid and Long-Term Care to manage behavioral health services for consumers of the Medicaid program. Similar to an insurance company for Medicaid-funded behavioral health services, they authorize behavioral health services for those eligible for Medicaid and work

directly with behavioral health providers. Magellan’s Rights and Responsibilities Policy outlines the rights of persons receiving Medicaid funded behavioral health services. View consumer rights at: <http://www.magellanofnebraska.com/benefits-services-ne/rights-responsibilities.aspx>

## Mental Health Commitment Act

The Mental Health Commitment Act is designed to provide treatment for people who are “mentally ill and dangerous.” Nebraska law defines this as someone who is mentally ill or substance dependent and because of this, presents a “substantial risk of serious harm” to:

- Another person or persons within the near future due to recent violent acts or threats of violence or by placing others in reasonable fear of such harm; or
- To himself or herself within the near future due to recent attempts at, or threats of, suicide or serious bodily harm or evidence of inability to provide for his or her basic human needs, including food, clothing, shelter, essential medical care, or personal safety.

To learn more, see in the ‘Nebraska Mental Health Commitment Act Reference Manual’ 2011: [http://dhhs.ne.gov/behavioral\\_health/Documents/NE\\_MentalHealthCommitmentActReferenceManual2011.pdf](http://dhhs.ne.gov/behavioral_health/Documents/NE_MentalHealthCommitmentActReferenceManual2011.pdf)

A person may be involuntarily committed to a mental health care facility under the Mental Health Commitment Act through:

- Emergency Protective Custody
- Complaint to County Attorney
- Transfer from Correctional Facility
- Voluntary Admission by Guardian

When a person is involuntarily committed, a mental health professional evaluates the person and, if that person is determined to be “mentally ill and dangerous”, the professional completes a written certificate no later than 24 hours after the completion of the evaluation.

The certificate is forwarded to the county attorney. Once the county attorney determines that a Mental Health board hearing is needed, the time and place for the hearing is set. The sheriff must personally serve the person with the summons and copies of the petition, a list of rights, and a list of the names, addresses, and telephone numbers of mental health professionals in that immediate vicinity by whom the subject may be evaluated prior to his or her hearing. The summons must fix a time for the hearing within seven calendar days after the person has been taken into emergency protective custody.

[Health Care/Mental Health Care-Exercise Your Rights!](#)

**FOR QUESTIONS OR ASSISTANCE WITH ADVOCACY:**

- Nebraska Commission for the Deaf and Hard of Hearing  
(800)-545-6244 V/TTY  
Email: [Ncdhh@nebraska.gov](mailto:Ncdhh@nebraska.gov)  
Website: <http://www.ncdhh.ne.gov/>
- Disability Rights Nebraska  
(800) 422-6691  
Email: Fill out the form at:  
[http://www.disabilityrightsnebraska.org/resources/contact\\_us.html](http://www.disabilityrightsnebraska.org/resources/contact_us.html)  
Website: <http://www.disabilityrightsnebraska.org/>

**TO ADVOCATE ON ISSUES RELATED TO SPECIFIC LAWS OR PROGRAMS:**

**Health Care**

- Educate Yourself:
  - 'Frequently Asked Questions: Health Information Privacy' (U.S. Department of Health and Human Services)  
[http://www.hhs.gov/ocr/privacy/hipaa/faq/business\\_associates/760.html](http://www.hhs.gov/ocr/privacy/hipaa/faq/business_associates/760.html)
  - 'HIPAA Videos Information, Your Rights' (US Government Health and Human Services Office of Civil Rights) <https://www.youtube.com/watch?v=FKTHncn-5Vs>
  - The National Association of the Deaf provides many helpful resources on this topic.
    - <http://www.nad.org/issues/health-care/providers>
    - <http://nad.org/issues/health-care/providers/questions-and-answers>
    - <http://www.nad.org/issues/technology/vri/advocacy-statement-medical-setting>
    - <http://nad.org/views-accordion-discrimination-health-care-and-mental-health-services>
  - 'A Health Care Provider's Guide to Communicating with People Who are Deaf or Hard of Hearing' (Nebraska Commission for the Deaf and Hard of Hearing)  
[www.ncdhh.nebraska.gov/brochures/Healthcarebooklet.pdf](http://www.ncdhh.nebraska.gov/brochures/Healthcarebooklet.pdf).
- Talk or write a letter to your physician about your concerns.

- If you think your HIPAA rights are being denied or your health information is not being protected, you have the right to file a complaint with your provider, health insurer, or the U.S. Department of Health and Human Services. You must file your complaint within 180 days of when you knew that the act or omission occurred. [www.hhs.gov/ocr/privacy/](http://www.hhs.gov/ocr/privacy/)
- If the health care provider is a **state or local government program or service**, such as a public hospital or public health clinic, you can file an ADA Title II complaint with the U.S. Department of Justice. A form for filing ADA Title II complaints is available online at <http://www.ada.gov/t2cmpfrm.htm>. You do not need to use the form, but the form will help you know the kind of information you should include in your complaint. You must file an ADA Title II complaint within 180 days of the discrimination.
- If the health care provider is a **business or is privately operated**, such as a doctor's office, you can file an ADA Title III complaint. There is no time limit for filing an ADA Title III complaint with the U.S. Department of Justice, but you should file as soon as possible. <http://www.ada.gov/t3compfrm.htm>.
- You may file a complaint with the U.S. Department of Health and Human Services if the health care provider accepts federal financial assistance (such as Medicare). Health care providers that receive federal financial assistance are covered under Section 504 of the Rehabilitation Act. You can find more information about filing a Section 504 complaint at <http://www.hhs.gov/ocr/civilrights/complaints/discrimhowtofile.pdf>. You must file a Section 504 complaint within 180 days of the discrimination.
- You may also file a complaint (lawsuit) in state or federal court. There are deadlines for filing complaints in court. These deadlines differ in each state. To locate your state civil court, go to: <http://www.ncsc.org/Information-and-Resources/Browse-by-State.aspx>. To locate your federal court, go to: [http://www.uscourts.gov/court\\_locator.aspx](http://www.uscourts.gov/court_locator.aspx).

#### **Mental Health Care-Division of Behavioral Health**

- Educate Yourself:
  - Nebraska Mental Health Program Regulations Title 206 Chapter 6-000 Standards of Care: [http://dhhs.ne.gov/Pages/reg\\_bhregs.aspx](http://dhhs.ne.gov/Pages/reg_bhregs.aspx)
  - View information from the National Association of the Deaf regarding Mental Health Services: <http://www.nad.org/issues/health-care/mental-health-services>
- Talk with a consumer representative at the Division of Behavioral Health Office of Consumer Affairs: 1-800-836-7660
- Talk to your provider.

- Register a complaint with the Nebraska Ombudsman’s Office:  
<http://nebraskalegislature.gov/divisions/ombud-filing.php>
- Contact the Behavioral Health Region for your area of the state:  
[http://dhhs.ne.gov/behavioral health/Pages/beh\\_nebhr gb.aspx](http://dhhs.ne.gov/behavioral_health/Pages/beh_nebhr gb.aspx)
- Call or write your State Senator:  
[http://nebraskalegislature.gov/senators/senator\\_list.php](http://nebraskalegislature.gov/senators/senator_list.php)
- Call or write the Governor: <https://governor.nebraska.gov/contact-governor>
- Call or write Division of Behavioral Health:  
[http://dhhs.ne.gov/behavioral health/Pages/beh\\_behindex.aspx](http://dhhs.ne.gov/behavioral_health/Pages/beh_behindex.aspx)

**Mental Health Care-Medicaid**

- Educate Yourself:
  - Magellan’s ‘Medicaid Member Handbook’  
<http://www.magellanofnebraska.com/benefits-services-ne/medicaid-member-handbook.aspx>
- Participate in Magellan’s OPEN HOURS for members to learn about the Medicaid behavioral health benefit.  
[http://www.magellanofnebraska.com/media/547429/open\\_hours\\_call.pdf](http://www.magellanofnebraska.com/media/547429/open_hours_call.pdf)
- Contact Magellan. <http://www.magellanofnebraska.com/about-us-ne/contact-us.aspx>
- Report complaints & file grievances
  - <https://www.magellanassist.com/mem/memserv/messaging/default.aspx?CatID=20&SubcatID=110&CatName=Feedback&SubcatName=Complaints>
- Request an Appeal/Fair Hearing
  - Call: 402-471-7237.
  - Send written request to the State Hearing Officer:  
Legal Services-Hearing Section  
P.O. Box 98914  
Lincoln, NE 68509-8914
- Report fraud, waste, abuse, and overpayments to Magellan's Special Investigations Unit
  - Call: 1-800-755-0850
  - E-mail: [Compliance@magellanhealth.com](mailto:Compliance@magellanhealth.com)

**Mental Health Commitment Act**

- Educate Yourself:
  - 'Nebraska Mental Health Commitment Act Reference Manual' 2011, Division of Behavioral Health  
[http://dhhs.ne.gov/behavioral\\_health/Documents/NE\\_MentalHealthCommitmentActReferenceManual2011.pdf](http://dhhs.ne.gov/behavioral_health/Documents/NE_MentalHealthCommitmentActReferenceManual2011.pdf)
  - The Mental Health Commitment Act', Disability Rights Nebraska  
[http://www.disabilityrightsnebraska.org/resources/legal\\_resources.html](http://www.disabilityrightsnebraska.org/resources/legal_resources.html)
- If you feel your 'Procedural Rights' or your 'Rights While You Are in Treatment or Custody' have been violated, talk to your Public Defender or personal attorney.



## Appendix. Key Resources

### Nebraska Resources

**Start Here!**

Your best resources in Nebraska are:  
Nebraska Commission for the Deaf and Hard of Hearing  
<http://www.ncdhh.ne.gov/>

Disability Rights Nebraska  
<http://www.disabilityrightsnebraska.org/>

Boys Town National Research Hospital  
[www.boystownhospital.org](http://www.boystownhospital.org)

Governor, State of Nebraska  
<https://governor.nebraska.gov/contact-governor>

Hands & Voices  
<http://www.handsandvoicesne.org>

Legal Aid of Nebraska  
<http://legalaidofnebraska.com/provider/19>

Magellan of Nebraska  
<http://www.magellanofnebraska.com/about-us-ne/contact-us.aspx>

Nebraska Adult Protective Services  
[http://dhhs.ne.gov/children\\_family\\_services/Pages/nea\\_aps\\_apsindex.aspx](http://dhhs.ne.gov/children_family_services/Pages/nea_aps_apsindex.aspx)

Nebraska Association of the Deaf  
[www.nead1902.org](http://www.nead1902.org)

Nebraska Behavioral Health Services  
[http://dhhs.ne.gov/Pages/reg\\_bhregs.aspx](http://dhhs.ne.gov/Pages/reg_bhregs.aspx)

Nebraska Commission for the Blind and Visually Impaired  
<http://www.ncbvi.nebraska.gov>

Nebraska Department of Education  
<http://www.education.ne.gov>

Nebraska Deaf-Blind Project  
[www.nebraskadeafblindproject.org](http://www.nebraskadeafblindproject.org)

Nebraska Department of Health and Human Services (DHHS)  
<http://dhhs.ne.gov/>

Nebraska Equal Opportunity Commission  
<http://www.neoc.ne.gov>

Nebraska Fair Housing Act  
<http://www.neoc.ne.gov/HousingLawText.html>

Nebraska Medicaid  
<http://dhhs.ne.gov/medicaid/>

Nebraska Ombudsman's Office  
<http://nebraskalegislature.gov/divisions/ombud-filing.php>

Nebraska State Senators  
[http://nebraskalegislature.gov/senators/senator\\_list.php](http://nebraskalegislature.gov/senators/senator_list.php)

Nebraska VR  
[www.vr.nebraska.gov/](http://www.vr.nebraska.gov/)

Parent Training Information (PTI) Nebraska  
<http://pti-nebraska.org>

Nebraska Regional Programs  
<http://nrpdhh.esu9.org>

NET: Hearing Loss-Related Informational Videos  
[www.netnebraska.org/hearingloss](http://www.netnebraska.org/hearingloss)

## National Resources

ADARA  
[www.adara.org](http://www.adara.org)

Alexander Graham Bell Association for the Deaf and Hard of Hearing (AGB)  
[www.listeningandspokenlanguage.org](http://www.listeningandspokenlanguage.org)

American Association of the Deaf-Blind  
[www.aadb.org](http://www.aadb.org)

American Civil Liberties Union (ACLU)  
<https://www.aclu.org/>

American Society for Deaf Children (ASDC)  
[www.deafchildren.org](http://www.deafchildren.org)

Americans with Disabilities Act  
<http://www.ada.gov>

Association of Late-Deafened Adults (ALDA)  
[www.alda.org](http://www.alda.org)

Described and Captioned Media Program  
[www.dcmp.org](http://www.dcmp.org)

Hearing Loss Association of America  
[www.hearingloss.org](http://www.hearingloss.org)

Job Accommodation Network (JAN)  
[www.askjan.org](http://www.askjan.org)

Job Accommodation Network (JAN)

[www.askjan.org](http://www.askjan.org)

Junior National Association of the Deaf (Jr. NAD)

[www.nad.org/youth-leadership-programs/JuniorNAD](http://www.nad.org/youth-leadership-programs/JuniorNAD)

Justice for Deaf Victims National Coalition

<http://whowillanswer.org/coalition>

Office for Civil Rights

<http://www.hhs.gov/ocr>

National Association of the Deaf

<http://www.nad.org>

National Black Deaf Advocates (NBDA)

[www.nbda.org](http://www.nbda.org)

National Center on Deaf-Blindness

<https://nationaldb.org>

National Resource Center on Domestic Violence

[www.nrcdv.org](http://www.nrcdv.org)

Registry of Interpreters for the Deaf, Inc.

[www.rid.org](http://www.rid.org)

Social Security Administration

<http://www.ssa.gov>

Telecommunications for the Deaf and Hard of Hearing, Inc.

[www.tdiforaccess.org](http://www.tdiforaccess.org)

U.S. Department of Education Office for Civil Rights

<http://www.ed.gov/ocr/>

U.S. Department of Housing and Urban Development

<http://portal.hud.gov/>

U.S. Department of Justice

[www.justice.gov/](http://www.justice.gov/)

