

Effective 10/1/2016

Chapter 13
Utah State Office of Rehabilitation Act

Part 1
General Provisions

35A-13-101 Title.

- (1) This chapter is known as the "Utah State Office of Rehabilitation Act."
- (2) This part is known as "General Provisions."

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-102 Definitions.

As used in this chapter:

- (1) "Blind" means an individual:
 - (a) whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses;
or
 - (b) whose visual acuity is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends to an angle of no greater than 20 degrees.
- (2) "Deaf" means an individual with a diagnosed auditory deficit that renders the individual unable to comprehend spoken language through audition only, even with medical intervention or amplification, and that results in functional limitations in one or more areas of daily living.
- (3) "Director" means the director of the Utah State Office of Rehabilitation.
- (4) "Disability" means a physical or mental condition which materially limits, contributes to limiting, or, if not corrected, will probably result in materially limiting an individual's activities or functioning.
- (5) "Eligible individual" means an individual determined to be eligible to receive services under laws or rules governing eligibility for the program in question.
- (6) "Hard of hearing" means an individual with a diagnosed auditory deficit ranging from mild to profound that results in functional limitations in one or more areas of daily living.
- (7) "Independent living rehabilitation services" means goods and services reasonably necessary to enable an individual with a severe disability to maintain or increase functional independence.
- (8) "Office" means the Utah State Office of Rehabilitation created in Section 35A-1-202.
- (9) "Visually impaired" means an individual with a diagnosed impairment of visual function that if not corrected constitutes a material limitation to normal activities or functioning.
- (10) "Vocational rehabilitation services" means goods and services reasonably necessary to enable an individual with a disability to obtain and retain employment.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-103 Office authority.

- (1) The Utah State Office of Rehabilitation created in Section 35A-1-202 is under the direction of the department and under the direction and general supervision of the executive director.
- (2) The department is the sole state agency designated to administer the state plans for vocational rehabilitation and independent living rehabilitation programs.

- (3) The office is the sole state unit designated to carry out the state plans and other duties assigned by law or the department, including the following:
 - (a) determining eligibility for vocational rehabilitation services;
 - (b) providing vocational rehabilitation services to eligible individuals;
 - (c) determining the types and scope of vocational rehabilitation services provided by the office;
 - (d) determining employment outcomes related to vocational rehabilitation services if required; and
 - (e) determining the appropriate uses of federal rehabilitation funding.
- (4) The office may not delegate the duties described in Subsection (3) to any other state government entity.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this chapter, the department in collaboration with the office may make rules related to administering the state plan for vocational rehabilitation, including determining eligibility for vocational rehabilitation services and establishing priorities in providing vocational rehabilitation services.

Amended by Chapter 223, 2017 General Session

35A-13-104 Appointment of director -- Administration of the office.

- (1) The executive director of the department shall appoint the director of the office.
- (2) The director shall administer the office in accordance with the direction of the executive director and applicable state and federal laws and regulations.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-105 Public funding of vocational rehabilitation and independent living rehabilitation services.

- (1) Public funding of vocational rehabilitation and independent living rehabilitation services provided under this chapter may only be provided to eligible individuals.
- (2) The director shall establish priorities for use in determining services to be provided to eligible individuals under this chapter if the demand for services exceeds available funds.
- (3) Rights established under this chapter are not transferable or assignable.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-106 Personally identifiable information -- Nondisclosure -- Penalty.

- (1) Personally identifiable information obtained by the office, its employees, or agents concerning individuals applying for or receiving services under this chapter may not be disclosed without the prior written consent of the individual or the individual's legal representative, except as required for administration of programs or services under this chapter, or as otherwise authorized by law.
- (2) Unauthorized disclosure of personally identifiable information obtained under this chapter, or use of such information for unauthorized purposes, is a class B misdemeanor.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-107 Acceptance and use of gifts -- Not subject to appropriation.

- (1) The director may, with the approval of the executive director, accept and use a gift to the office made unconditionally by will or otherwise for carrying out the purposes of this chapter.
- (2) A gift to the office made under conditions that the executive director finds to be consistent with this chapter may be accepted and used in accordance with the conditions of the gift.
- (3) A gift to the office as described in this section is not subject to appropriation by the Legislature.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-108 Delegation of duties and responsibilities of the office.

The director may, in accordance with applicable law and regulations and with the consent of the executive director, organize the office and assign duties and responsibilities to the office's employees to enable the office to better serve individuals with disabilities and to increase the efficiency and effectiveness of operations.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-109 Office duties to individuals with disabilities.

In administering this chapter, the office:

- (1) shall ensure that individuals with disabilities are assisted, so far as reasonably possible, to take their rightful place in open society as independent and self-supporting individuals; and
- (2) may not assist or support any activity that results in unnecessary continuation of a dependent or isolated state or unnecessarily separates individuals with disabilities from open society.

Renumbered and Amended by Chapter 271, 2016 General Session

Part 2 Office Responsibilities

35A-13-201 Title.

This part is known as "Office Responsibilities."

Enacted by Chapter 271, 2016 General Session

35A-13-202 Functions of the office.

The office may:

- (1) apply for, receive, administer, and distribute funds made available through programs of federal, state, or local governments;
- (2) cooperate with federal, state, or local governmental entities to administer programs and program funds;
- (3) contract or cooperate with public or private entities or individuals;
- (4) as designated by the responsible authority, and with the approval of the department, perform any functions or services for the federal or state government that relate to individuals with disabilities;
- (5) establish subordinate administrative units necessary to increase efficiency and improve the delivery of services to individuals with disabilities;

- (6) establish and operate community service centers, rehabilitation facilities, and workshops, and make grants to public and nonprofit organizations for those purposes;
- (7) determine eligibility for, and the nature and scope of, services to be provided under the state plan for vocational rehabilitation or other programs administered by the office;
- (8) assist individuals with severe disabilities to establish and operate vending machine services and other small businesses, and perform services authorized under Title 55, Chapter 5, Blind Persons Operating Vending Stands - Food Services, and Title 55, Chapter 5a, Blind Products Sales;
- (9) furnish materials, tools, equipment, initial stocks and supplies, and occupational licenses needed by rehabilitation facilities, workshops, and small businesses established under this chapter, and develop and execute marketing plans for materials produced by those operations;
- (10) place money received by the office through sale of products or services as authorized under this chapter into a fund managed by the office and used to support additional training, production, and sales activities;
- (11) conduct studies and investigations, give demonstrations and make reports, and provide training and instruction related to the work of the office;
- (12) establish and maintain research fellowships and traineeships, including necessary stipends and allowances for those receiving training and instruction;
- (13) institute and supervise programs to encourage the conservation of sight and hearing and assist in overcoming and preventing disabling conditions;
- (14) provide diagnostic, placement, vocational rehabilitation, training, adjustment, and independent living services; and
- (15) do all other things necessary to carry out assignments made by law or the department in assisting and rehabilitating individuals with disabilities.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-203 Employment first emphasis on the provision of services.

- (1) When providing services to an individual with a disability under this chapter, the office shall, within funds appropriated by the Legislature and in accordance with the requirements of federal and state law, give priority to providing services that assist the individual in obtaining and retaining meaningful and gainful employment that enables the individual to:
 - (a) purchase goods and services;
 - (b) establish self-sufficiency; and
 - (c) exercise economic control of the individual's life.
- (2) The office shall develop a written plan to implement the policy described in Subsection (1) that includes:
 - (a) assessing the strengths and needs of an individual with a disability;
 - (b) customizing strength-based approaches to obtaining employment;
 - (c) setting expectations, providing appropriate services toward, and recognizing success in:
 - (i) integrated employment in the workplace at competitive wages and benefits; and
 - (ii) self-employment;
 - (d) developing partnerships with potential employers;
 - (e) providing appropriate employment training opportunities;
 - (f) coordinating services with other government agencies and community resources;
 - (g) to the extent possible, eliminating practices and policies that interfere with the policy described in Subsection (1); and

- (h) arranging for alternative work experience leading to competitive, integrated employment, including work-based training, volunteer work, and internships.
- (3) The office shall, on an annual basis:
 - (a) set goals to implement the policy described in Subsection (1) and the plan described in Subsection (2);
 - (b) determine whether the goals for the previous year have been met; and
 - (c) modify the plan described in Subsection (2) as needed.

Renumbered and Amended by Chapter 271, 2016 General Session

Part 3

Governor's Committee on Employment of People with Disabilities

35A-13-303 State Rehabilitation Advisory Council.

- (1) The executive director shall appoint a state rehabilitation advisory council to advise the office and the department concerning the needs of individuals with disabilities and the provision of vocational rehabilitation services.
- (2) A majority of the membership of the advisory council shall consist of individuals with disabilities.
- (3) A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 271, 2016 General Session

Part 4

Services for the Blind and Visually Impaired

35A-13-401 General provisions.

- (1) This part is known as "Services for the Blind and Visually Impaired."
- (2) For the purposes of this part:
 - (a) "Assistant director" means the assistant director of the division.
 - (b) "Division" means the program called the Division of Services for the Blind and Visually Impaired created in Section 35A-13-402.

Enacted by Chapter 271, 2016 General Session

35A-13-402 The Division of Services for the Blind and Visually Impaired.

- (1) There is created as a program within the office the Division of Services for the Blind and Visually Impaired.
- (2) The director, with the approval of the executive director and after consultation with members of the community to be served by the division, shall appoint an assistant director to administer the services provided by the division.
- (3) The assistant director shall administer the division in accordance with:

- (a) the direction of the director and the executive director; and
- (b) applicable state and federal laws and regulations.

Enacted by Chapter 271, 2016 General Session

35A-13-403 Services provided by the division.

The division may:

- (1) provide:
 - (a) a business enterprise program;
 - (b) workshops, employment, and training; and
 - (c) vocational rehabilitation, training and adjustment, sight conservation, prevention of blindness, low vision lenses, and recreational services;
- (2) establish and operate community service centers, rehabilitation facilities, and workshops; and
- (3) perform other duties assigned by the director or the executive director.

Amended by Chapter 87, 2019 General Session

Part 5
Services for the Deaf and Hard of Hearing

35A-13-501 General provisions.

- (1) This part is known as "Services for the Deaf and Hard of Hearing."
- (2) For the purposes of this part:
 - (a) "Assistant director" means the assistant director of the division.
 - (b) "Division" means the program called the Division of Services for the Deaf and Hard of Hearing created in Section 35A-13-502.

Enacted by Chapter 271, 2016 General Session

35A-13-502 The Division of Services for the Deaf and Hard of Hearing.

- (1) There is created as a program within the office the Division of Services for the Deaf and Hard of Hearing.
- (2) The director, with the approval of the executive director and after consultation with members of the community to be served by the division, shall appoint an assistant director to administer the services provided by the division.
- (3) The assistant director shall administer the division in accordance with:
 - (a) the direction of the director and the executive director; and
 - (b) applicable state and federal laws and regulations.

Enacted by Chapter 271, 2016 General Session

35A-13-503 Services provided by the division.

The division may:

- (1) provide training and adjustment services for adults who are deaf or hard of hearing;
- (2) assist public education officials in the discharge of their duties towards children who are deaf or hard of hearing;

- (3) maintain a register of qualified interpreters;
- (4) provide training in the use of telecommunication devices for the deaf, and install and maintain those devices;
- (5) operate community centers for individuals who are deaf or hard of hearing; and
- (6) perform other duties assigned by the director or the executive director.

Renumbered and Amended by Chapter 271, 2016 General Session

Part 6

Interpreter Services for the Deaf and Hard of Hearing Act

35A-13-601 Title.

- (1) This part is known as the "Interpreter Services for the Deaf and Hard of Hearing Act."
- (2) All rules made under this part shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-602 Definitions.

As used in this part:

- (1) "Assistant director" means the assistant director who administers the program called the Division of Services for the Deaf and Hard of Hearing created in Section 35A-13-502.
- (2) "Certified interpreter" means an individual who is certified as meeting the certification requirements of this part.
- (3) "Interpreter services" means services that facilitate effective communication between a hearing individual and an individual who is deaf or hard of hearing through American Sign Language or a language system or code that is modeled after American Sign Language, in whole or in part, or is in any way derived from American Sign Language.

Amended by Chapter 507, 2024 General Session

35A-13-604 Powers and duties of the director.

The director shall:

- (1) prescribe certification qualifications;
- (2) prescribe rules governing applications for certification;
- (3) provide for a fair and impartial method for the examination of applicants;
- (4) define unprofessional conduct, by rule, to supplement the definition under this part; and
- (5) establish conditions for reinstatement and renewal of certification.

Amended by Chapter 507, 2024 General Session

35A-13-605 Certification required -- Classes of certification.

- (1) Except as specifically provided in Section 35A-13-609, an individual is required to be certified as a certified interpreter if that individual provides interpreter services and a state or federal law requires the interpreter to be certified or qualified.

- (2) The director shall issue a certification to an individual who qualifies under this chapter in classifications determined by the director.

Amended by Chapter 507, 2024 General Session

35A-13-606 Qualifications for certification.

Each applicant for certification under this part shall:

- (1) submit an application in a form prescribed by the director;
- (2) pay a fee determined by the director under Section 63J-1-504 to help offset the costs of implementing this part for the administration of examinations for certification and for the issuance of certificates;
- (3) be of good moral character; and
- (4) comply with any other qualifications for certification established by the director in accordance with Section 35A-13-604.

Amended by Chapter 507, 2024 General Session

35A-13-606.5 Certificate by endorsement.

- (1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession described in Section 35A-13-605.
- (2) Subject to Subsections (3) through (5), the director may issue a certificate described in Section 35A-13-605 to an applicant who has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:
 - (a) the director determines that the applicant's education, experience, and skills demonstrate competency in the profession for which certification is sought; or
 - (b) the director determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the certificate.
- (3) The director may refuse to issue a certificate to an applicant under this section if:
 - (a) the director determines that there is reasonable cause to believe that the applicant is not qualified to receive the certificate; or
 - (b) the applicant has a previous or pending disciplinary action related to the applicant's other license.
- (4) Before the director issues a certificate to an applicant under this section, the applicant shall:
 - (a) pay a fee determined by the director under Section 35A-13-606; and
 - (b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which certification is sought.
- (5) The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

Enacted by Chapter 222, 2023 General Session

35A-13-607 Certification term -- Expiration -- Renewal.

- (1)
 - (a) The director shall issue each certificate under this part in accordance with a three-year renewal cycle established by rule.
 - (b) The director may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.

- (2) At the time of renewal, the certified interpreter must show satisfactory evidence of compliance with renewal conditions established by the director in accordance with Subsection 35A-13-604(2).
- (3) Each certificate automatically expires on the expiration date shown on the certificate unless the certified interpreter renews it in accordance with the conditions prescribed by the director.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-608 Continuing education.

- (1) As a condition for renewal of certification, each certified interpreter shall, during each three-year certification cycle or other cycle defined by rule, complete a number of hours of qualified continuing professional education, as determined by the director, in accordance with standards defined by rule.
- (2) If the renewal cycle is extended or shortened under Section 35A-13-607, the continuing education hours determined for renewal under Subsection (1) shall be increased or decreased proportionately.

Amended by Chapter 507, 2024 General Session

35A-13-609 Exemptions from certification -- Temporary or restricted certification.

- (1) The following individuals may engage in the practice of a certified interpreter, subject to the stated circumstances and limitations, without being certified under this chapter:
 - (a) an individual serving in or employed by the Armed Forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agency and who is engaged in activities regulated under this part as a part of the individual's service or employment with that federal agency, if the individual holds a valid certificate or license to provide interpreter services issued by another state or jurisdiction recognized by the director;
 - (b) a student engaged in providing interpreter services while in training in a recognized school approved by the director to the extent the student's activities are supervised by qualified faculty, staff, or a designee, and the services are a defined part of the training program;
 - (c) an individual engaged in an internship, residency, apprenticeship, or on-the-job training program approved by the director while under the supervision of a qualified individual;
 - (d) an individual residing in another state and certified or licensed to provide interpreter services in that state, who is called in for a consultation by an individual certified to provide interpreter services in this state, and the services provided are limited to that consultation;
 - (e) an individual who is invited by a recognized school, association, or other body approved by the director to conduct a lecture, clinic, or demonstration on interpreter services, if the individual does not establish a place of business or regularly engage in the practice of providing interpreter services in this state;
 - (f) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the individual may only attend to the needs of the team or group and individuals who travel with the team or group, not including spectators; or
 - (g) an individual who is providing interpreter services for a religious entity, to the extent that the religious entity is specifically exempted from liability under federal law.
- (2)

- (a) An individual temporarily in this state who is exempted from certification under Subsection (1) shall comply with each requirement of the jurisdiction from which the individual derives authority to provide interpreter services.
 - (b) Violation of any limitation imposed by this section is grounds for removal of exempt status, denial of certification, or another disciplinary proceeding.
- (3)
- (a) Upon the declaration of a national, state, or local emergency, the director may suspend the requirements for permanent or temporary certification of individuals who are certified or licensed in another state.
 - (b) Individuals exempt under Subsection (3)(a) shall be exempt from certification for the duration of the emergency while engaged in providing interpreter services for which they are certified or licensed in the other state.
- (4) The director may adopt rules for the issuance of temporary or restricted certifications if their issuance is necessary to or justified by:
- (a) a lack of necessary available interpretive services in any area or community of the state, if the lack of services might be reasonably considered to materially jeopardize compliance with state or federal law; or
 - (b) a need to first observe an applicant for certification in a monitored or supervised practice of providing interpretive services before the director makes a decision either to grant or deny the applicant a regular certification.

Amended by Chapter 507, 2024 General Session

35A-13-610 Grounds for denial of certification -- Disciplinary proceedings.

- (1) The director shall refuse to issue a certificate to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the certificate of a certified interpreter who does not meet the qualifications for certification under this part.
- (2) The director may refuse to issue a certificate to an applicant, refuse to renew a certificate, revoke, suspend, restrict, or place on probation the certificate of a certified interpreter, issue a public or private reprimand to a certified interpreter, and issue a cease and desist order in any of the following circumstances:
 - (a) the applicant or certified interpreter has engaged in unprofessional conduct as defined in this part or by rule under this part;
 - (b) the applicant or certified interpreter has engaged in unlawful conduct as defined in this part;
 - (c) the applicant or certified interpreter has been determined to be mentally incompetent for any reason by a court of competent jurisdiction; or
 - (d) the applicant or certified interpreter is unable to provide interpretive services with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a threat or potential threat to public health, safety, or welfare.
- (3) An individual whose certificate has been suspended, revoked, or restricted under Subsection (1) may apply for reinstatement at reasonable intervals and upon compliance with conditions imposed by the director.
- (4) The director may issue cease and desist orders:
 - (a) to a certified interpreter or applicant who is subject to discipline under Subsection (1);
 - (b) to an individual who engages or represents that the individual is engaged in the profession of a certified interpreter; and

(c) to an individual who otherwise violates this part or rules adopted under this part.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-611 Unlawful conduct.

"Unlawful conduct" means conduct by an individual that is defined as unlawful under this part and includes:

- (1) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in the profession of a certified interpreter if the individual is:
 - (a) not certified to do so and is not exempted from certification under this chapter; or
 - (b) restricted from doing so by a restricted, suspended, revoked, temporary, probationary, or inactive certification;
- (2) impersonating another certified interpreter or practicing as a certified interpreter under a false or assumed name, except as permitted by law;
- (3) knowingly employing an individual to practice or engage in or attempt to practice or engage in the profession of a certified interpreter, if the employee is not certified to do so under this chapter;
- (4) knowingly permitting the individual's authority to engage in the profession of a certified interpreter to be used by another individual, except as permitted by law; or
- (5) applying for certification under this part, obtaining certification under this part, or otherwise dealing with the director through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-612 Unprofessional conduct.

"Unprofessional conduct" means conduct by a certified interpreter that is defined as unprofessional conduct under this part or under any rules adopted under this part and includes:

- (1) violating, or aiding or abetting an individual in violating, any provision of this part, rule adopted under this part, or order regulating certified interpreters;
- (2) violating, or aiding or abetting an individual in violating, any generally accepted professional or ethical standard applicable to the profession of a certified interpreter; or
- (3) physically, mentally, or sexually abusing or exploiting an individual through conduct connected with a certified interpreter's practice under this part.

Renumbered and Amended by Chapter 271, 2016 General Session

35A-13-613 Penalty for unlawful conduct.

An individual who violates Section 35A-13-611 is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 271, 2016 General Session