



Legal Overview for the Commission of Deaf Services

Updated February 2026

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Health and
Human Services

Disclaimer

This outline provides a general overview of laws and is not intended to cover all applicable laws or the nuances of applicable laws. This document does not constitute legal advice. Specific questions should be directed to commission staff and HHS legal counsel, Jancy Nielson.

Authority

1. The Commission of Deaf Services is established in Iowa Code 216A.113. All state boards and commissions, including this commission, may only work within the authority bestowed upon it by the legislature and may not expand it.
2. A commission's mission is always serving a public purpose. While serving on this, or any, commission, you are representing Iowans. Always make decisions with that public purpose and service to Iowans in mind.

Responsibilities and Duties

The duties of the commission are found in Iowa Code chapter 216A.114:

1. Study the changing needs and opportunities for the deaf and hard-of-hearing people in this state.
2. Serve as a liaison between the department and the public, sharing information and gathering constituency input.
3. Recommend to the commission for adoption rules pursuant to chapter 17A as it deems necessary for the commission and office.
4. Recommend legislative and executive action to the governor and general assembly.
5. Establish advisory committees, work groups, or other coalitions as appropriate.
6. Advise the utilities commission on the planning, establishment, administration, and promotion of a statewide program to provide dual party relay service and to secure, finance, and distribute telecommunications devices for the deaf and hard of hearing pursuant to chapter 477C.

Membership

1. The commission is comprised of seven (7) voting members appointed by the governor, and the director of Health and Human Services, or their designee, as a nonvoting

member. At least four members who are deaf or hard of hearing and three representatives of telephone companies shall comprise the commission. Iowa residency is required for all members.

2. Members serve four-year staggered terms.

Decision Making

1. No singular member makes decisions for the commission. Decisions are made by taking votes at commission meetings.
2. A “quorum” of the commission is required to conduct business. Quorum for this commission constitutes “a majority of the voting members currently appointed.” The number for quorum may change depending on any vacancies, so it is recommended to take note of how many appointed members there are at the time of any convened meeting to determine quorum.
3. If there is a quorum, a position is carried by a majority of the present commission members.
4. There are important exceptions, however, such as commissions may only go into closed session upon a public vote by two-thirds of the members or all members present pursuant to Iowa Code 21.5.
5. The votes of all members must be public and clear during the meeting and in the minutes. Secret voting is not allowed.
6. Voting members with a conflict of interest shall not vote on any action pertaining to that conflict. A statement by the conflicted member shall be conclusive for voting purposes and any vote by the member with a conflict shall be excluded pursuant to Iowa Code 216A.113(3) and Iowa Administrative Code 421—1.7.
7. Conflicted members, while excluded from voting, may still be counted for the purpose of establishing quorum pursuant to Iowa Administrative Code 421—1.7.

Open Meetings Law

1. Iowa Code chapter 21 governs all commission meetings. Chapter 21 requires four things: (1) public notice; (2) an agenda must be posted; (3) the public must be allowed to be present; (4) minutes must be kept.

2. Commission meetings allow the opportunity of participating virtually. The General Assembly enacted a requirement in 2019 requiring that all statutorily established boards, councils, and commissions under HHS's purview have a virtual option for members. (Iowa Code § 135.12). Participating virtually or by other electronic methods constitute presence at the meeting for all legal purposes.
3. Exercise caution – the definition of “meeting” in Chapter 22 “means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body’s policy-making duties.”
 - a. If a majority of the commission is present either in person or electronically, do not discuss commission business unless you are at a commission meeting preceded by proper notice to the public and a posted agenda.
 - b. Ministerial and social gatherings are not considered meetings so long as commission business is not discussed – but exercise caution in giving the appearance of an illegal meeting being held.

Agendas

1. Agendas aren’t just an organizational tool, it is also a guiding document for public notice. You should be sure to:
 - a. Post agendas at least 24 hours in advance; and
 - b. Clearly outline all topics going to be discussed and which topics will require a vote be taken.
2. To determine whether the commission’s agendas are transparent and easy to understand for the public, it is a good rule of thumb to read the commission’s posted agendas for the previous year. If it is hard to determine what the commission discussed or voted on, the commission might look to include more detail in its agendas.
3. Follow the posted agenda. If a new idea or topic comes up at a commission meeting, it should be placed on the next meeting’s agenda, unless there is an emergency requiring immediate action.

Transparency and the Public

1. While the public does not have the right to participate, they do have the right to observe, record, and photograph open sessions unless uses of technology obstruct the meeting.
2. The Commission may provide opportunities for public input at meetings.

Keeping Minutes

1. In the spirit of transparency, keeping minutes creates a permanent record of who met, when they met, discussion and decision points, and by what votes decisions were solidified.
2. Minutes are a vital tool for conducting the public's business in a transparent way. They also:
 - a. Help the commission with organization; and
 - b. Allow Iowans to review public action taken on their behalf.
3. Mechanics of Minutes. Minutes must always include:
 - a. The date, time, and place of a meeting;
 - b. Members present; and
 - c. Actions taken, with sufficient information to reflect member's votes.
4. If a closed session is held:
 - a. The minutes of the open session must include the legal grounds for a closed session;
 - b. The vote of each member on whether to go into closed session; and
 - c. Any final action taken.
 - d. NO FINAL VOTES MAY BE TAKEN IN CLOSED SESSION.
5. Alternative meeting modalities. If a meeting has to be held telephonically, not reasonably accessible to the public, or in cases of emergency, the minutes must explain the legal basis for doing so.
 - a. Emergency meetings are those with less than 24 hours notice.

Closed Sessions

1. Closed sessions are to be taken very seriously. Never ask the public to leave a meeting so that the commission may discuss in private unless there is a sound legal basis to do so.
2. The commission cannot go into closed session unless the commission first meets in an open session with all proper notice requirements (24 hour notice and a posted agenda).
3. The commission is only allowed to close an open session if clearly given authority in statute. For example, a board, commission, or council is allowed to go into closed session to discuss:
 - a. Pending litigation with counsel;
 - b. Confidential records;
 - c. Certain personnel matters; or
 - d. The decision to be issued in a contested case.
4. To be certain that there are sound legal grounds for entering a closed session, always consult with the commission's assigned legal counsel. Be sure to get the advice in writing or ensure that the advice is reported in the meeting minutes.
5. After announcing the legal basis for a closed session, be sure to take a roll call vote.
 - a. The commission can only enter closed session with an affirmative vote of two-thirds of the members or all members present.
6. After entering a closed session, the commission must:
 - a. Record the session and retain the recording for at least a year.
 - b. Take detailed minutes.
 - c. Limit the discussion to the announced basis for the closed session.
7. Final action can only be taken in open session. When closed discussion has finished, return to open session, allow individuals back into the room, make a motion, and take a vote on any final action in open session.

Public Records Law

1. Boards and councils are subject to Iowa Code Chapter 22 – Public Records Law.
 - a. The commission's records are open to public examination unless they are specifically made confidential under law.

2. Public records can be in any form, including e-mail. Do not commingle official commission business emails with your personal email. Commission staff or assigned legal counsel can advise on methods to separate emails.
3. It is prudent to assume any record you create or receive as a commission member is a public record that may be open to the public upon request.
4. The public records contact for your commission is HHS's Open Records Compliance Officer.
 - a. Requests you receive for public records should be referred to the commission's public records contact at HHSOpenRecords@hhs.iowa.gov.
 - b. The public records contact is familiar with the law and can assure proper response to requests for public records.
5. Exercise caution in creating or receiving any records that may be confidential. It is rare for commission members to receive confidential records, however, there may be severe penalties for releasing certain types of confidential records.
6. Examples of records that may be fully or partially confidential include, but are not limited to:
 - a. Applications containing social security numbers or credit card numbers;
 - b. Mental health or other health records;
 - c. Complaints against licensees; or
 - d. Criminal history background reports.

Open Meetings Enforcement

1. Actions to enforce Iowa's Open Meetings and Public Records laws can be brought by any of the following:
 - a. A citizen of Iowa;
 - b. A person who pays taxes of any type to the state of Iowa;
 - c. A person individually aggrieved by a violation;
 - d. A county attorney; and
 - e. The Attorney General.
2. Actions can be brought either in court or before the Iowa Public Information Board (IPIB)
3. Complaints about alleged violations may be made directly to:
 - a. The commission:

- b. The commission's staff or counsel;
- c. The Ombudsman's Office;
- d. The Attorney General;
- e. The Governor's Office;
- f. The Iowa Public Information Board (IPIB); or
- g. Elected Officials.

4. Take all violations very seriously. Remedies include removal from office upon a second violation, damages up to \$2,500 for a knowing violation, expenses and attorneys fees, and injunctive relief.
5. Even honest mistakes can be violations of Iowa's open meetings laws, but commission members can avoid personal liability by relying upon the advice of counsel, formally given in writing or provided orally and memorialized in the meeting minutes.

Additional Laws Governing Commission Members

New Member Training

1. HF 706, enacted on July 1, 2025 requires any newly appointed public officials to governmental bodies to complete a short 1-2 hour training on the governmental body's responsibilities under Iowa Code Chapters 21 and 22.
2. Iowa HHS's Open Records Officer will provide additional information regarding this training offered by the Iowa Public Information Board (IPIB).

Gift Law

Commission members may not accept gifts from individuals you regulate or contract with in a professional capacity as a member of the Commission of Deaf Services.

1. This is defined as receiving something for free or for less than it is worth.
2. Ask your assigned legal counsel, commission staff, or the Ethics and Campaign Disclosure Board for guidance on gift law compliance.

Sales or Leases of Goods or Services

If you sell or lease goods or services to those regulated by your commission, ask your assigned counsel, commission staff, or the Ethics and Campaign Disclosure Board for guidance on applicable laws.

Lobbying

Iowa HHS has a designated team of registered government relations liaisons who represent the commission. Individual commission members should not lobby legislators on behalf of the commission or the Department. Engage your assigned legal counsel if you have specific lobbying questions.

Conflicts of Interest

Commission members should avoid conflicts of interest, but how and when they arise can be unique to certain boards, commissions, and councils. Iowa law often requires the appointment of at least some persons who are regulated by the Board.

Any time your objectivity may be impaired or there is an appearance of impropriety, seek advice from your assigned legal counsel.

Judicial Review

All commission action or inaction is subject to review in court on a variety of grounds including whether action is:

- a. Compliant with the United States or Iowa Constitutions, statutes, or rules.
- b. Consistent, nonarbitrary, logical, and reasonable.
- c. Supported by facts and law.

Litigation

If the commission or its individual members are sued related to commission action, members acting in good faith in their official commission capacity are generally defended by the Attorney General and indemnified by the State.