

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Relay Services)	CC Docket No. 98-67
and Speech-to-Speech Services for)	
Individuals with Hearing and Speech)	
Disabilities)	

ORDER ON RECONSIDERATION

Adopted: June 2, 2000

Released: June 5, 2000

By the Commission:

I. INTRODUCTION

1. On March 6, 2000, the Commission released a *Report and Order and Further Notice of Proposed Rulemaking (TRS Order)* amending its rules governing the delivery of telecommunications relay services (TRS).¹ TRS is a telephone transmission service that provides the ability for an individual with a hearing or speech disability to engage in communication by wire or radio in a manner functionally equivalent to the experience of someone without such a disability.² Section 225 of the Communications Act requires the Commission to establish regulations which govern the provision of interstate and intrastate relay services throughout the country.³ The Commission's rules set forth the minimum operational, technical, and functional standards for TRS.⁴

2. In this Order, the Commission, on its own motion, amends the effective date by which parties must comply with most of the amended rules adopted in the *TRS Order*. Additionally, we establish a fixed date for the annual submission of complaint log summaries by states and TRS providers to the Commission by July 1 of each year. We also more rigorously conform the text of the rules concerning the submission of contact

¹ Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-67, FCC No. 00-56 (rel. March 6, 2000)(*TRS Order*).

² 47 U.S.C. § 225(a)(3).

³ *Id.* at § 225(b).

⁴ See 47 C.F.R. § 64.601 *et. seq.*

information and the treatment of emergency calls to the precise language in the *TRS Order*. Further, we clarify our requirement regarding the transfer of customer profile information between outgoing and incoming TRS providers. In addition, we clarify the review process and possible disposition of informal complaints under our amended TRS rules. We also change the nomenclature in our rules from “video relay interpreting” to “video relay services.” Finally, we correct various typographical errors that would otherwise be corrected in an erratum. The specific rules that we amend in this Order are shown in Appendix A. The complete text, as amended, of sections 64.601 – 64.605 in Part 64, Subpart F of Title 47 of the Code of Federal Regulations, is in Appendix B.

II. DISCUSSION

3. First, we amend the effective date by which parties must comply with the amended rules adopted in the *TRS Order* (as modified by this Order). In the *TRS Order*, the Commission required the amendments to sections 64.601 through 64.605 of the Commission’s rules to take effect thirty days from the date of publication of the *TRS Order* in the Federal Register.⁵ Considerable concern has been voiced by relay providers that many of the changes will be difficult for them to implement within the allotted time.⁶ For example, the rule change establishing a minimum typing speed could necessitate additional training of Communications Assistants (CAs) in order to improve their typing skills, and additional equipment may need to be purchased and installed to comply with the rule change requiring the electronic capturing of recorded messages. We are persuaded that additional time will be needed to ensure that the new equipment and personnel are in place to ensure full compliance with the new requirements. We therefore require that the amendments to sections 64.601 through 64.605 of the Commission’s rules, other than sections 64.604(c)(2) and 64.604(c)(7), set forth in the *TRS Order* (as modified by this Order) shall take effect six months from the date of their publication in the Federal Register.

4. Additionally, we establish a date certain for the annual submission of complaint log summaries by states and TRS providers to the Commission by July 1 of each year. In the *TRS Order*, the Commission required state applicants for TRS certification and interstate TRS providers to maintain a log of consumer complaints that allege a violation of the federal minimum standards. The Commission also required that summaries of these logs indicating the number of complaints received be submitted at the time of certification, and annually to the Commission.⁷ The particular date by which the

⁵ *TRS Order* at para. 154. Other implementation dates were established for a few specific items; for example, March 1, 2001 is the final date by which Speech-to-Speech relay service must be made available. *Id.* at para. 17.

⁶ See, e.g., Ex Parte Comments of AT&T, filed March 31, 2000, at 1-2; Ex Parte Comments of Kansas Relay Service, Inc., filed April 5, 2000; Ex Parte Comments of the Maryland Department of Budget and Management, filed March 31, 2000, at 1-2; Ex Parte Comments of the South Carolina Public Service Commission, filed March 30, 2000 at 1-2. These or similar concerns were also expressed during the TRS Forum held by the Commission on March 10, 2000.

⁷ *TRS Order* at para. 121.

annual submission must occur was not specified in the *TRS Order*. We find that establishing a date certain in the rules for submission of this information to the Commission will enable the affected entities to comply with our rules in a consistent and non-discriminatory manner. In this Order, we amend our rule to require that complaint log summaries indicating the number of complaints received by states and TRS providers for the 12-month period ending May 31 must be submitted by the states and TRS providers to the Commission by July 1 of each year, beginning in 2001. Additionally, we amend our rule to remove the requirement that complaint logs must be submitted at the time of certification. Current TRS certifications must be renewed prior to their expiration on July 26, 2003. Updated complaint data in the annual July 1 submissions can be used to assist us in evaluating the certification applications. There is no need, therefore, to require an additional submission “at the time of certification.”

5. We also more rigorously conform the text of the rules concerning the submission of contact information and the treatment of emergency calls to the precise language in the *TRS Order*. In the *TRS Order*, the Commission required states, relay providers having state TRS contracts, and interstate relay providers to submit the name of a contact person or office for TRS consumer information and complaints to the Commission by June 30, 2000.⁸ The rule did not include the term “relay providers having state TRS contracts,” although the Commission emphasizes in the *TRS Order* that contact information is needed for all these entities.⁹ We therefore amend rule 64.604(c)(2) to include the term “relay providers having state TRS contracts” consistent with our intent in the *TRS Order*.

6. With respect to the treatment of emergency calls, the Commission required in the *TRS Order* that relay providers shall immediately connect an emergency call to the appropriate Public Safety Answering Point, or PSAP.¹⁰ The rule, however, required the relay center to provide the PSAP with the caller’s telephone number.¹¹ The *TRS Order* clearly shows the Commission’s intent for emergency TRS calls to be forwarded to the correct PSAP as quickly as possible.¹² In this Order, we amend the rule to require relay providers to forward the call to the appropriate PSAP.

7. We also clarify our requirement that customer profile information shall be transferred from the outgoing TRS vendor to the incoming vendor with any change in TRS provider.¹³ TRS users give their personal data to the provider of TRS in order to

⁸ *TRS Order* at paras. 112 – 113.

⁹ *Id.* at App. B, rule 64.604(c)(2)(“Contact persons”).

¹⁰ *Id.* at para. 100.

¹¹ *Id.* at App. B, rule 64.604(a)(4)(“Handling of emergency calls”).

¹² *Id.* at para. 100.

¹³ To deliver efficient relay service, relay providers generally develop databases of information on frequent relay customers’ preferences. Data typically included in the customer profile includes a customer’s blocking preferences, speed dial numbers, long distance carrier of choice, and specific instructions to follow on

have their calls processed more quickly by the relay center. In the *TRS Order*, we emphasized the importance of access to this data by the incoming TRS vendor in the provision of relay service, and amended the rules to require that all future TRS contracts specifically address the transfer of TRS customer profile information from the outgoing TRS vendor to the incoming TRS vendor.¹⁴ As we stated in the *TRS Order*, the actual transfer of this information is not mandated until a change in relay providers takes place pursuant to contracts adopted after the effective date of our rules.¹⁵ Because the transfer of this information is essential to fulfillment of the statutory requirement that TRS be available in the most efficient manner, the effective date for this provision shall remain at thirty days after publication of the *TRS Order* in the Federal Register, notwithstanding other changes in the effective dates of the other TRS rules. Moreover, insofar as we have determined that caller profile information is not customer proprietary network information, the sharing of which must be restricted, we strongly encourage relay providers to transfer such information beginning with the next change in TRS providers. Such transfers will eliminate the need for TRS providers to rebuild their caller profiles, thereby eliminating the risk of incurring billing and other errors.

8. In addition, we take this opportunity to clarify the staff review process and possible dispositions of informal complaints under our amended TRS rules. The revised rules incorporate an informal “consumer friendly” process designed to make it easy for consumers to file complaints. This process is intended to facilitate cooperative efforts between consumers and TRS providers so that complaints may be resolved more quickly. We recognize, however, that not all TRS complaints will be susceptible to informal resolution and that consumers and TRS providers need to understand the mechanics and possible outcomes of informal complaint proceedings at the Commission.

9. Consistent with our processes for informal complaints filed pursuant to Section 255 of the Act,¹⁶ there are three basic outcomes that may result from the staff’s handling of unresolved informal TRS complaints. First, if the staff determines from its review of a complaint and the defendant’s response that no further action by the Commission is warranted, the staff will inform the parties of its decision to close-out the complaint and further advise them of the complainant’s right to file a “formal” complaint as set forth in the amended rules.¹⁷ Second, should the staff conclude that there is an

every call. *TRS Order* at para. 77 n. 157 (citing Ex Parte Comments of the Wisconsin Department of Administration, filed November 16, 199, at 1-2).

¹⁴ *TRS Order* at para. 82 and rule 64.604(c)(7)(“Treatment of TRS customer information”). Such data must be transferred in usable form at least 60 days prior to the provider’s last day of service, in order to ensure minimum disruptions to customers’ calls. *Id.*

¹⁵ *TRS Order* at para. 82. Sprint has stated that it collects customer profile information using automated processes to provide more efficient relay service. Sprint Reply at 5 - 6.

¹⁶ See 47 U.S.C. § 255; 47 C.F.R. § 6.16.

¹⁷ Of course, parties desiring a more formal adjudication of a TRS complaint have the option of filing a “formal” complaint in the manner specified in the amended rules in the first instance.

unresolved question of compliance by the TRS provider, the staff may conduct further fact finding as needed to resolve the issue and determine what, if any, sanctions and/or remedial actions are needed.¹⁸ Third, in cases in which Commission staff determines that the defendant is not in compliance with section 225 or the Commission's rules, the staff may initiate (or recommend to the Commission) appropriate enforcement actions. Although we expect that most informal TRS complaints can be resolved by consumers and service providers without extensive involvement by the Commission, active monitoring of the process by the staff will help us ensure that underlying compliance problems do not go undetected and are promptly corrected by service providers.

10. We also take this opportunity to provide new nomenclature for relay services utilizing sign language interpreters, and further clarify our intent with respect to the provision of these services. In the TRS Order, we defined video relay interpreting (VRI) as the method by which TRS users can communicate by telephone through sign language interpreters, using video equipment installed at the user's premises and at the relay center. We have since learned that VRI has come to have a second definition. Specifically some businesses or employers use what they refer to as VRI to conduct in-person communications through sign language interpreters that are located in remote locations. For example, under this second definition, VRI could be used to enable a lawyer to communicate with a client when both lawyer and client are in the same room. In this instance, the lawyer would call a remote VRI service and communicate with the client through an interpreter who is at a remote location. The client and the interpreter would then see each other through a video connection. This alternative meaning of VRI is not reimbursable through TRS funds and does not fall within the definition of VRI that is set forth in section 64.601(11) of our rules.¹⁹ Therefore, we clarify here that while the provision of telephone relay service utilizing sign language interpreters is reimbursable through TRS funds, consistent with the *TRS Order*, charges associated with the latter type of sign language services for in-person communications are not recoverable. In order to prevent any further confusion between these two distinct types of services, we hereby change the nomenclature for the service that is reimbursable to "video relay services." We believe that this term will more accurately reflect the particular type of video TRS to which our rules apply.

11. Finally, we correct various typographical errors that would otherwise be corrected in an erratum. The corrections are listed below:

- paragraph 9, third bullet: "encourages" should be "encourage"
- paragraph 9, fourth bullet: "modifies" should be "modify"
- paragraph 26: "asses" should be "assess"

¹⁸ The Act gives the Commission, and its staff pursuant to delegated authority, broad discretion to inquire into or investigate acts or omissions by parties subject to the Act's requirements. *See, e.g.*, sections 4(i) and 403 of the Act, 47 U.S.C. § 4(i), 403.

¹⁹ 47 C.F.R. § 64.601(11).

- paragraph 90 n. 184: "... report filed b the Committee ..." should be "... report filed by the Committee ..."
- paragraph 96 n. 195: "... MCI Rely at 8. ..." should be "MCI Reply at 8"
- paragraph 98 n. 200 and paragraph 171 n. 301: "et seq." should be italicized
- paragraph 112 n. 231: "the Federation" should be "The Federation"
- paragraph 126: "say" should be "remember"
- Appendix B, rule 64.604(c)(6)(iv): "paragraph (c)(6)(ii)" should be "paragraph (c)(6)(iii)"

12. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA),²⁰ requires that an RFA analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."²¹ The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."²² In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.²³ A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).²⁴ As we described in the previous, final RFA analysis in this proceeding,²⁵ we estimate that there are fewer than 11 interstate TRS providers that might be affected by our present action.

13. In this Order on Reconsideration we have, among other things, amended certain paragraphs of Section 64.604 of our rules. These amendments: specify that the rule amendments set forth in the March 6 *TRS Order* will take effect six months from the date of their publication in the Federal Register, rather than after 30 days; set a fixed date for the annual submission of certain data to the Commission; conform the text of two

²⁰ The RFA, *see* § 5 U.S.C. S 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

²¹ 5 U.S.C. § 605(b).

²² 5 U.S.C. § 601(6).

²³ 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, 15 U.S.C. S § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

²⁴ Small Business Act, § 15 U.S.C. S 632.

²⁵ *TRS Order* at Appendix C.

rules to the Commission's stated intent in the *TRS Order*; and correct typographical errors. For the reasons described below, we certify, pursuant to the RFA, that the rules adopted in this Order on Reconsideration will not have a significant economic impact on a substantial number of small entities. The amendment to extend the date for compliance merely maintains the status quo in this context for affected entities; if this action can be said to have any affect under the RFA, it is to reduce a potential compliance burden for small entities by delaying the burden. The setting of a fixed date for the annual submission does not alter the nature or frequency of the submission, and we believe that the result will only be to facilitate planning on the part of affected entities. The amendments to make rule text conform to the *TRS Order* text²⁶ do not add or subtract from any previous requirements, and merely clarify Commission intent. And, last, the remaining changes are in the nature of errata. The Commission will send a copy of this Order on Reconsideration, including this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. § 801(a)(1)(A). In addition, the Order on Reconsideration and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the Federal Register. *See* 5 § U.S.C. § 605(b).

14. Accordingly, IT IS ORDERED that, pursuant to authority found in sections 1, 4(i), 4(j), 201 – 205, 218 and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201 – 205, 218 and 225, this Order on Reconsideration IS ADOPTED, and Part 64 of the Commission's rules ARE AMENDED as set forth in the attached Appendix A.

15. IT IS FURTHER ORDERED that the amendments to sections 64.601 through 64.605 of the Commission's rules (other than the amendments to sections 64.604(c)(2) and 64.604(c)(7)) set forth in Appendix B of the *TRS Order*, as modified by the amendment thereto adopted in this Order and as set forth in Appendix A hereto, shall be effective 180 days from the date of publication in the Federal Register. The amendments to section 64.604(c)(2) of the Commission's rules, as set forth in Appendix B of the *TRS Order*, shall be effective June 30, 2000. The amendments to section 64.604(c)(7) of the Commission's rules, as set forth in Appendix B of the *TRS Order*, shall be effective 30 days from the date of publication in the Federal Register. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and/or record keeping requirements or burdens on the public. Implementation of these new or modified reporting and/or record keeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the Act, and will go into effect upon announcement in the Federal Register of OMB approval.

²⁶ *See* paragraphs 5-8, *supra*.

16. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this Order on Reconsideration, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Magalie R. Salas
Secretary

APPENDIX A

Part 64, Subpart F of Title 47 of the Code of Federal Regulations is revised as follows:

PART 64 - MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Subpart F- Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities

1. The authority citation for Part 64 is amended to read as follows:

AUTHORITY: 47 U.S.C. Section 154, 47 U.S.C. Section 225

2. In Sections 64.601 through 64.604, we revise all references to “video relay interpreting” to read “video relay services”. We also revise all references to “VRI” to read “VRS”.

3. Section 64.604 is further amended by revising paragraphs (a)(4), (c)(1) and (c)(6)(iv) to read:

Section 64.604 Mandatory Minimum Standards

* * * * *

(a) * * *

(4) *Handling of emergency calls.* Providers must use a system for incoming emergency calls that, at a minimum, automatically and immediately transfers the caller to the nearest Public Safety Answering Point (PSAP). In addition, a CA must pass along the caller’s telephone number to the PSAP when a caller disconnects before being connected to emergency services.

(c) * * *

(1) *Consumer complaint logs.* (i) States and interstate providers must maintain a log of consumer complaints including all complaints about TRS in the state, whether filed with the TRS provider or the State, and must retain the log until the next application for certification is granted. The log shall include, at a minimum, the date the complaint was filed, the nature of the complaint, the date of resolution, and an explanation of the resolution. (ii) Beginning July 1, 2002, states and TRS providers shall submit summaries of logs indicating the number of complaints received for the 12-month period ending May 31 to the Commission by July 1 of each year. Summaries of logs submitted to the Commission on July 1, 2001 shall indicate the number of complaints received from the date of OMB approval through May 31, 2001.

(2) *Contact persons.* (i) States must submit to the Commission a contact person or office for TRS consumer information and complaints about intrastate TRS. This submission must include, at a minimum, the name and address of the state office that receives complaints, grievances, inquiries and suggestions, voice and TTY telephone numbers, fax number, e-mail address, and physical address to which correspondence should be sent. (ii) Providers of interstate TRS and relay providers having state TRS contracts must submit to the Commission a contact person or office for TRS consumer information and complaints about the provider's service. This submission must include, at a minimum, the name and address of the office that receives complaints, grievances, inquiries and suggestions, voice and TTY telephone numbers, fax number, e-mail address, and physical address to which correspondence should be sent.

* * * * *

(6)(iv) The Commission shall resolve within 180 days after the complaint is filed with the Commission any interstate TRS complaint alleging a violation of section 225 of the Act or any complaint involving intrastate relay services in states without a certified program. The Commission shall resolve intrastate complaints over which it exercises jurisdiction under paragraph (c)(6)(iii) of this section within 180 days.

APPENDIX B

Final Rules: The complete text, as amended, of sections 64.601 – 64.605 in Part 64, Subpart F of Title 47 of the Code of Federal Regulations, is printed below.

PART 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Subpart F – Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities

1. The authority citation for Part 64 is amended to read as follows:

AUTHORITY: 47 U.S.C. § 154, 47 U.S.C. § 225

2. Sections 64.601 – 64.605 are revised to read as follows:

§ 64.601 Definitions.

As used in this subpart, the following definitions apply:

(1) *American Sign Language (ASL)*. A visual language based on hand shape, position, movement, and orientation of the hands in relation to each other and the body.

(2) *ASCII*. An acronym for American Standard Code for Information Interexchange which employs an eight bit code and can operate at any standard transmission baud rate including 300, 1200, 2400, and higher.

(3) *Baudot*. A seven bit code, only five of which are information bits. Baudot is used by some text telephones to communicate with each other at a 45.5 baud rate.

(4) *Common carrier or carrier*. Any common carrier engaged in interstate communication by wire or radio as defined in section 3(h) of the Communications Act of 1934, as amended (the Act), and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b) of the Act.

(5) *Communications assistant (CA)*. A person who transliterates or interprets conversation between two end users of TRS. CA supersedes the term "TDD operator."

(6) *Hearing carry over (HCO)*. A reduced form of TRS where the person with the speech disability is able to listen to the other end user and, in reply, the CA speaks the text as typed by the person with the speech disability. The CA does not type any conversation.

(7) *Telecommunications relay services (TRS)*. Telephone transmission services that provide the ability for an individual who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a text telephone or other nonvoice terminal device and an individual who does not use such a device, speech-to-speech services, video relay services and non-English relay services. TRS supersedes the terms "dual party relay system," "message relay services," and "TDD Relay."

(8) *Text telephone (TTY)*. A machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system. TTY supersedes the term "TDD" or "telecommunications device for the deaf," and TT.

(9) *Voice carry over (VCO)*. A reduced form of TRS where the person with the hearing disability is able to speak directly to the other end user. The CA types the response back to the person with the hearing disability. The CA does not voice the conversation.

(10) *Speech-to-speech relay service (STS)*. A telecommunications relay service that allows people with speech disabilities to communicate with voice telephone users through the use of specially trained CAs who understand the speech patterns of persons with disabilities and can repeat the words spoken by that person.

(11) *Video relay service (VRS)*. A telecommunications relay service that allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users through video equipment. The video link allows the CA to view and interpret the party's signed conversation and relay the conversation back and forth with a voice caller.

(12) *Non-English language relay service*. A telecommunications relay service that allows persons with hearing or speech disabilities who use languages other than English to communicate with voice telephone users in a shared language other than English, through a CA who is fluent in that language.

(13) *Qualified interpreter*. An interpreter who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

§ 64.602 Jurisdiction.

Any violation of this subpart by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of the Act by a common carrier engaged in interstate communication.

§ 64.603 Provision of Services.

Each common carrier providing telephone voice transmission services shall provide, not later than July 26, 1993, in compliance with the regulations prescribed herein, throughout the area in which it offers services, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. Speech-to-speech relay service and interstate Spanish language relay service shall be provided by March 1, 2001. A common carrier shall be considered to be in compliance with these regulations:

(a) With respect to intrastate telecommunications relay services in any state that does not have a certified program under § 64.605 and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with § 64.604; or

(b) With respect to intrastate telecommunications relay services in any state that has a certified program under § 64.605 for such state, if such common carrier (or other entity

through which the carrier is providing such relay services) is in compliance with the program certified under § 64.605 for such state.

§ 64.604 Mandatory Minimum Standards.

(a) *Operational standards.*

(1) *Communications assistant (CA).* TRS providers are responsible for requiring that CAs be sufficiently trained to effectively meet the specialized communications needs of individuals with hearing and speech disabilities; and that CAs have competent skills in typing, grammar, spelling, interpretation of typewritten ASL, and familiarity with hearing and speech disability cultures, languages and etiquette. CAs must possess clear and articulate voice communications. CAs must provide a typing speed of a minimum of 60 words per minute. Technological aids may be used to reach the required typing speed. Providers must give oral-to-type tests of CA speed. TRS providers are responsible for requiring that VRS CAs are qualified interpreters. A “qualified interpreter” is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

(2) *Confidentiality and conversation content.* (i) Except as authorized by section 705 of the Communications Act, 47 U.S.C. § 605, CAs are prohibited from disclosing the content of any relayed conversation regardless of content, and with a limited exception for STS CAs, from keeping records of the content of any conversation beyond the duration of a call, even if to do so would be inconsistent with state or local law. STS CAs may retain information from a particular call in order to facilitate the completion of consecutive calls, at the request of the user. The caller may request the STS CA to retain such information, or the CA may ask the caller if he wants the CA to repeat the same information during subsequent calls. The CA may retain the information only for as long as it takes to complete the subsequent calls. (ii) CAs are prohibited from intentionally altering a relayed conversation and, to the extent that it is not inconsistent with federal, state or local law regarding use of telephone company facilities for illegal purposes, must relay all conversation verbatim unless the relay user specifically requests summarization, or if the user requests interpretation of an ASL call. An STS CA may facilitate the call of an STS user with a speech disability so long as the CA does not interfere with the independence of the user, the user maintains control of the conversation, and the user does not object. Appropriate measures must be taken by relay providers to ensure that confidentiality of VRS users is maintained.

(3) *Types of calls.* Consistent with the obligations of common carrier operators, CAs are prohibited from refusing single or sequential calls or limiting the length of calls utilizing relay services. TRS shall be capable of handling any type of call normally provided by common carriers and the burden of proving the infeasibility of handling any type of call will be placed on the carriers. Providers of TRS are permitted to decline to complete a call because credit authorization is denied.

(4) *Handling of emergency calls.* Providers must use a system for incoming emergency calls that, at a minimum, automatically and immediately transfers the caller to the nearest Public Safety Answering Point (PSAP). In addition, a CA must pass along the caller’s

telephone number to the PSAP when a caller disconnects before being connected to emergency services.

(5) *In-call replacement of CAs.* CAs answering and placing a TTY-based TRS or VRS call must stay with the call for a minimum of ten minutes. CAs answering and placing an STS call must stay with the call for a minimum of fifteen minutes.

(6) *CA gender preferences.* TRS providers must make best efforts to accommodate a TRS user's requested CA gender when a call is initiated and, if a transfer occurs, at the time the call is transferred to another CA.

(7) *STS called numbers.* Relay providers must offer STS users the option to maintain at the relay center a list of names and telephone numbers which the STS user calls. When the STS user requests one of these names, the CA must repeat the name and state the telephone number to the STS user. This information must be transferred to any new STS provider.

(b) *Technical standards.*

(1) *ASCII and Baudot.* TRS shall be capable of communicating with ASCII and Baudot format, at any speed generally in use.

(2) *Speed of answer.* TRS shall include adequate staffing to provide callers with efficient access under projected calling volumes, so that the probability of a busy response due to CA unavailability shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network. TRS shall, except during network failure, answer 85% of all calls within 10 seconds by any method which results in the caller's call immediately being placed, not put in a queue or on hold. The ten seconds begins at the time the call is delivered to the TRS center's network. The call is considered delivered when the relay center's equipment accepts the call from the local exchange carrier and the public switched network actually delivers the call to the TRS center. Abandoned calls shall be included in the speed-of-answer calculation. A provider's compliance with this rule shall be measured on a daily basis. The system shall be designed to a P.01 standard. A LEC shall provide the call attempt rates and the rates of calls blocked between the LEC and the relay center to relay administrators and relay centers upon request.

(3) *Equal access to interexchange carriers.* TRS users shall have access to their chosen interexchange carrier through the TRS, and to all other operator services, to the same extent that such access is provided to voice users.

(4) *TRS facilities.* TRS shall operate every day, 24 hours a day. TRS shall have redundancy features functionally equivalent to the equipment in normal central offices, including uninterruptible power for emergency use. TRS shall transmit conversations between TTY and voice callers in real time. Adequate network facilities shall be used in conjunction with TRS so that under projected calling volume the probability of a busy response due to loop trunk congestion shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network. Relay services that are not mandated by this Commission are not required to be provided every day, 24 hours a day.

(5) *Technology.* No regulation set forth in this subpart is intended to discourage or impair the development of improved technology that fosters the availability of

telecommunications to person with disabilities. VCO and HCO technology are required to be standard features of TRS.

(6) *Voice mail and interactive menus.* CAs must alert the TRS user to the presence of a recorded message and interactive menu through a hot key on the CA's terminal. The hot key will send text from the CA to the consumer's TTY indicating that a recording or interactive menu has been encountered. Relay providers shall electronically capture recorded messages and retain them for the length of the call. Relay providers may not impose any charges for additional calls which must be made by the relay user in order to complete calls involving recorded or interactive messages. Relay services shall be capable of handling pay-per-call calls.

(c) *Functional standards.*

(1) *Consumer complaint logs.* (i) States and interstate providers must maintain a log of consumer complaints including all complaints about TRS in the state, whether filed with the TRS provider or the State, and must retain the log until the next application for certification is granted. The log shall include, at a minimum, the date the complaint was filed, the nature of the complaint, the date of resolution, and an explanation of the resolution. (ii) Beginning July 1, 2002, states and TRS providers shall submit summaries of logs indicating the number of complaints received for the 12-month period ending May 31 to the Commission by July 1 of each year. Summaries of logs submitted to the Commission on July 1, 2001 shall indicate the number of complaints received from the date of OMB approval through May 31, 2001.

(2) *Contact persons.* (i) States must submit to the Commission a contact person or office for TRS consumer information and complaints about intrastate TRS. This submission must include, at a minimum, the name and address of the state office that receives complaints, grievances, inquiries and suggestions, voice and TTY telephone numbers, fax number, e-mail address, and physical address to which correspondence should be sent.

(2)(ii) Providers of interstate TRS and relay providers having state TRS contracts must submit to the Commission a contact person or office for TRS consumer information and complaints about the provider's service. This submission must include, at a minimum, the name and address of the office that receives complaints, grievances, inquiries and suggestions, voice and TTY telephone numbers, fax number, e-mail address, and physical address to which correspondence should be sent.

(3) *Public access to information.* Carriers, through publication in their directories, periodic billing inserts, placement of TRS instructions in telephone directories, through directory assistance services, and incorporation of TTY numbers in telephone directories, shall assure that callers in their service areas are aware of the availability and use of all forms of TRS. Efforts to educate the public about TRS should extend to all segments of the public, including individuals who are hard of hearing, speech disabled, and senior citizens as well as members of the general population.

(4) *Rates.* TRS users shall pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of

the call, the time of day, and the distance from the point of origination to the point of termination.

(5) *Jurisdictional separation of costs.*

(i) *General.* Where appropriate, costs of providing TRS shall be separated in accordance with the jurisdictional separation procedures and standards set forth in the Commission's regulations adopted pursuant to § 410 of the Communications Act of 1934, as amended.

(ii) *Cost recovery.* Costs caused by interstate TRS shall be recovered from all subscribers for every interstate service, utilizing a shared-funding cost recovery mechanism. Except as noted below with respect to VRS, costs caused by intrastate TRS shall be recovered from the intrastate jurisdiction. In a state that has a certified program under § 64.605, the state agency providing TRS shall, through the state's regulatory agency, permit a common carrier to recover costs incurred in providing TRS by a method consistent with the requirements of this section. Costs caused by the provision of interstate and intrastate VRS shall be recovered from all subscribers for every interstate service, utilizing a shared-funding cost recovery mechanism.

(iii) *Telecommunications Relay Services Fund.* Effective July 26, 1993, an Interstate Cost Recovery Plan, hereinafter referred to as the TRS Fund, shall be administered by an entity selected by the Commission (administrator). The initial administrator, for an interim period, will be the National Exchange Carrier Association, Inc.

(A) *Contributions.* Every carrier providing interstate telecommunications services shall contribute to the TRS Fund on the basis of interstate end-user telecommunications revenues as described herein. Contributions shall be made by all carriers who provide interstate services, including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone service (MTS), private line, telex, telegraph, video, satellite, intraLATA, international and resale services.

(B) *Contribution computations.* Contributors' contribution to the TRS fund shall be the product of their subject revenues for the prior calendar year and a contribution factor determined annually by the Commission. The contribution factor shall be based on the ratio between expected TRS Fund expenses to interstate end-user telecommunications revenues. In the event that contributions exceed TRS payments and administrative costs, the contribution factor for the following year will be adjusted by an appropriate amount, taking into consideration projected cost and usage changes. In the event that contributions are inadequate, the fund administrator may request authority from the Commission to borrow funds commercially, with such debt secured by future years' contributions. Each subject carrier must contribute at least \$25 per year. Carriers whose annual contributions total less than \$1,200 must pay the entire contribution at the beginning of the contribution period. Service providers whose contributions total \$1,200 or more may divide their contributions into equal monthly payments. Carriers shall complete and submit, and contributions shall be based on, a "Telecommunications Reporting Worksheet" (as published by the Commission in the Federal Register). The worksheet shall be certified to by an officer of the contributor, and subject to verification by the Commission or the administrator at the discretion of the Commission. Contributors' statements in the worksheet shall be subject to the provisions of § 220 of the Communications Act of

1934, as amended. The fund administrator may bill contributors a separate assessment for reasonable administrative expenses and interest resulting from improper filing or overdue contributions. The Chief of the Common Carrier Bureau may waive, reduce, modify or eliminate contributor reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of the TRS Fund.

(C) *Data collection from TRS Providers.* TRS providers shall provide the administrator with true and adequate data necessary to determine TRS fund revenue requirements and payments. TRS providers shall provide the administrator with the following: total TRS minutes of use, total interstate TRS minutes of use, total TRS operating expenses and total TRS investment in general accordance with Part 32 of the Communications Act, and other historical or projected information reasonably requested by the administrator for purposes of computing payments and revenue requirements. The administrator and the Commission shall have the authority to examine, verify and audit data received from TRS providers as necessary to assure the accuracy and integrity of fund payments.

(D) The TRS Fund will be subject to a yearly audit performed by an independent certified accounting firm or the Commission, or both.

(E) *Payments to TRS Providers.* TRS Fund payments shall be distributed to TRS providers based on formulas approved or modified by the Commission. The administrator shall file schedules of payment formulas with the Commission. Such formulas shall be designed to compensate TRS providers for reasonable costs of providing interstate TRS, and shall be subject to Commission approval. Such formulas shall be based on total monthly interstate TRS minutes of use. TRS minutes of use for purposes of interstate cost recovery under the TRS Fund are defined as the minutes of use for completed interstate TRS calls placed through the TRS center beginning after call set-up and concluding after the last message call unit. In addition to the data required under paragraph (c)(5)(iii)(C) of this section, all TRS providers, including providers who are not interexchange carriers, local exchange carriers, or certified state relay providers, must submit reports of interstate TRS minutes of use to the administrator in order to receive payments. The administrator shall establish procedures to verify payment claims, and may suspend or delay payments to a TRS provider if the TRS provider fails to provide adequate verification of payment upon reasonable request, or if directed by the Commission to do so. The TRS Fund administrator shall make payments only to eligible TRS providers operating pursuant to the mandatory minimum standards as required in § 64.604, and after disbursements to the administrator for reasonable expenses incurred by it in connection with TRS Fund administration. TRS providers receiving payments shall file a form prescribed by the administrator. The administrator shall fashion a form that is consistent with Parts 32 and 36 procedures reasonably tailored to meet the needs of TRS providers. The Commission shall have authority to audit providers and have access to all data, including carrier specific data, collected by the fund administrator. The fund administrator shall have authority to audit TRS providers reporting data to the administrator. The formulas should appropriately compensate interstate providers for the provision of VRS, whether intrastate or interstate.

(F) TRS providers eligible for receiving payments from the TRS Fund are:

(1) TRS facilities operated under contract with and/or by certified state TRS programs pursuant to § 64.605; or

(2) TRS facilities owned by or operated under contract with a common carrier providing interstate services operated pursuant to § 64.604; or

(3) Interstate common carriers offering TRS pursuant to § 64.604.

(G) Any eligible TRS provider as defined in paragraph (c)(5)(iii) (F) of this section shall notify the administrator of its intent to participate in the TRS Fund thirty (30) days prior to submitting reports of TRS interstate minutes of use in order to receive payment settlements for interstate TRS, and failure to file may exclude the TRS provider from eligibility for the year.

(H) *Administrator reporting, monitoring, and filing requirements.* The administrator shall perform all filing and reporting functions required under paragraphs (c)(5)(iii) (A) through (J) of this section. TRS payment formulas and revenue requirements shall be filed with the Commission on May 1 of each year, to be effective for a one-year period beginning the following July 1. The administrator shall report annually to the Commission an itemization of monthly administrative costs which shall consist of all expenses, receipts, and payments associated with the administration of TRS Fund. The administrator is required to keep the TRS Fund separate from all other funds administered by the administrator, shall file a cost allocation manual (CAM), and shall provide the Commission full access to all data collected pursuant to the administration of the TRS Fund. The administrator shall establish a non-paid, voluntary advisory committee of persons from the hearing and speech disability community, TRS users (voice and text telephone), interstate service providers, state representatives, and TRS providers, which will meet at reasonable intervals (at least semi-annually) in order to monitor TRS cost recovery matters. Each group shall select its own representative to the committee. The administrator's annual report shall include a discussion of advisory committee deliberations.

(I) *Information filed with the administrator.* The administrator shall keep all data obtained from contributors and TRS providers confidential and shall not disclose such data in company-specific form unless directed to do so by the Commission. Subject to any restrictions imposed by the Chief of the Common Carrier Bureau, the TRS Fund administrator may share data obtained from carriers with the administrators of the universal support mechanisms (*See* 47 C.F.R. § 54.701), the North American Numbering Plan administration cost recovery (*See* 47 C.F.R. § 52.16), and the long-term local number portability cost recovery (*See* 47 C.F.R. § 52.32). The TRS Fund administrator shall keep confidential all data obtained from other administrators. The administrator shall not use such data except for purposes of administering the TRS Fund, calculating the regulatory fees of interstate common carriers, and aggregating such fee payments for submission to the Commission. The Commission shall have access to all data reported to the administrator, and authority to audit TRS providers. Contributors may make requests for Commission nondisclosure of company-specific revenue information under § 0.459 of this Chapter by so indicating on the Telecommunications Reporting Worksheet at the time that the subject data are submitted. The Commission shall make all decisions regarding nondisclosure of company-specific information.

(J) The administrator's performance and this plan shall be reviewed by the Commission after two years.

(K) All parties providing services or contributions or receiving payments under this section are subject to the enforcement provisions specified in the Communications Act, the Americans with Disabilities Act, and the Commission's rules.

(6) *Complaints.*

(i) *Referral of complaint.* If a complaint to the Commission alleges a violation of this subpart with respect to intrastate TRS within a state and certification of the program of such state under § 64.605 is in effect, the Commission shall refer such complaint to such state expeditiously.

(ii) Intrastate complaints shall be resolved by the state within 180 days after the complaint is first filed with a state entity, regardless of whether it is filed with the state relay administrator, a state PUC, the relay provider, or with any other state entity.

(iii) *Jurisdiction of Commission.* After referring a complaint to a state entity under paragraph (c)(6)(i) of this section, or if a complaint is filed directly with a state entity, the Commission shall exercise jurisdiction over such complaint only if:

(A) Final action under such state program has not been taken within:

(1) 180 days after the complaint is filed with such state entity; or

(2) A shorter period as prescribed by the regulations of such state; or

(B) The Commission determines that such state program is no longer qualified for certification under § 64.605.

(iv) The Commission shall resolve within 180 days after the complaint is filed with the Commission any interstate TRS complaint alleging a violation of section 225 of the Act or any complaint involving intrastate relay services in states without a certified program. The Commission shall resolve intrastate complaints over which it exercises jurisdiction under paragraph (c)(6)(iii) of this section within 180 days.

(v) *Complaint Procedures.* Complaints against TRS providers for alleged violations of this subpart may be either informal or formal.

(A) *Informal Complaints.*

(1) Form. An informal complaint may be transmitted to the Consumer Information Bureau by any reasonable means, such as letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, or some other method that would best accommodate a complainant's hearing or speech disability.

(2) Content. An informal complaint shall include the name and address of the complainant; the name and address of the TRS provider against whom the complaint is made; a statement of facts supporting the complainant's allegation that the TRS provided it has violated or is violating § 225 of the Act and/or requirements under the Commission's rules; the specific relief or satisfaction sought by the complainant; and the complainant's preferred format or method of response to the complaint by the Commission and the defendant TRS provider (such as letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, or some other method that would best accommodate the complainant's hearing or speech disability).

(3) Service; designation of agents. The Commission shall promptly forward any complaint meeting the requirements of this subsection to the TRS provider named in the complaint. Such TRS provider shall be called upon to satisfy or answer the complaint within the time specified by the Commission. Every TRS provider shall file with the Commission a statement designating an agent or agents whose principal responsibility

will be to receive all complaints, inquiries, orders, decisions, and notices and other pronouncements forwarded by the Commission. Such designation shall include a name or department designation, business address, telephone number (voice and TTY), facsimile number and, if available, internet e-mail address.

(B) *Review and disposition of informal complaints.*

(1) Where it appears from the TRS provider's answer, or from other communications with the parties, that an informal complaint has been satisfied, the Commission may, in its discretion, consider the matter closed without response to the complainant or defendant. In all other cases, the Commission shall inform the parties of its review and disposition of a complaint filed under this subpart. Where practicable, this information shall be transmitted to the complainant and defendant in the manner requested by the complainant (*e.g.*, letter, facsimile transmission, telephone (voice/TRS/TTY) or Internet e-mail.

(2) A complainant unsatisfied with the defendant's response to the informal complaint and the staff's decision to terminate action on the informal complaint may file a formal complaint with the Commission pursuant to subsection (v)(C) below.

(C) *Formal Complaints.* A formal complaint shall be in writing, addressed to the Federal Communications Commission, Enforcement Bureau, Telecommunications Consumer Division, Washington, D.C. 20554 and shall contain:

- (1) The name and address of the complainant,
- (2) The name and address of the defendant against whom the complaint is made,
- (3) A complete statement of the facts, including supporting data, where available, showing that such defendant did or omitted to do anything in contravention of this subpart, and
- (4) The relief sought.

(D) *Amended complaints.* An amended complaint setting forth transactions, occurrences or events which have happened since the filing of the original complaint and which relate to the original cause of action may be filed with the Commission.

(E) *Number of copies.* An original and two copies of all pleadings shall be filed.

(F) *Service.*

(1) Except where a complaint is referred to a state pursuant to §64.604(c)(6)(i), or where a complaint is filed directly with a state entity, the Commission will serve on the named party a copy of any complaint or amended complaint filed with it, together with a notice of the filing of the complaint. Such notice shall call upon the defendant to satisfy or answer the complaint in writing within the time specified in said notice of complaint.

(2) All subsequent pleadings and briefs shall be served by the filing party on all other parties to the proceeding in accordance with the requirements of § 1.47 of this chapter. Proof of such service shall also be made in accordance with the requirements of said section.

(G) *Answers to complaints and amended complaints.* Any party upon whom a copy of a complaint or amended complaint is served under this subpart shall serve an answer within the time specified by the Commission in its notice of complaint. The answer shall advise the parties and the Commission fully and completely of the nature of the defense and shall respond specifically to all material allegations of the complaint. In cases involving allegations of harm, the answer shall indicate what action has been taken or is proposed to be taken to stop the occurrence of such harm. Collateral or immaterial issues shall be

avoided in answers and every effort should be made to narrow the issues. Matters alleged as affirmative defenses shall be separately stated and numbered. Any defendant failing to file and serve an answer within the time and in the manner prescribed may be deemed in default.

(H) *Replies to answers or amended answers.* Within 10 days after service of an answer or an amended answer, a complainant may file and serve a reply which shall be responsive to matters contained in such answer or amended answer and shall not contain new matter. Failure to reply will not be deemed an admission of any allegation contained in such answer or amended answer.

(I) *Defective pleadings.* Any pleading filed in a complaint proceeding that is not in substantial conformity with the requirements of the applicable rules in this subpart may be dismissed.

(7) *Treatment of TRS customer information.* All future contracts between the TRS administrator and the TRS vendor shall provide for the transfer of TRS customer profile data from the outgoing TRS vendor to the incoming TRS vendor. Such data must be disclosed in usable form at least 60 days prior to the provider's last day of service provision. Such data may not be used for any purpose other than to connect the TRS user with the called parties desired by that TRS user. Such information shall not be sold, distributed, shared or revealed in any other way by the relay center or its employees, unless compelled to do so by lawful order.

§ 64.605 State Certification.

(a) *State documentation.* Any state, through its office of the governor or other delegated executive office empowered to provide TRS, desiring to establish a state program under this section shall submit, not later than October 1, 1992, documentation to the Commission addressed to the Federal Communications Commission, Chief, Common Carrier Bureau, TRS Certification Program, Washington, DC 20554, and captioned "TRS State Certification Application." All documentation shall be submitted in narrative form, shall clearly describe the state program for implementing intrastate TRS, and the procedures and remedies for enforcing any requirements imposed by the state program. The Commission shall give public notice of states filing for certification including notification in the Federal Register.

(b) *Requirements for certification.* After review of state documentation, the Commission shall certify, by letter, or order, the state program if the Commission determines that the state certification documentation:

(1) Establishes that the state program meets or exceeds all operational, technical, and functional minimum standards contained in § 64.604;

(2) Establishes that the state program makes available adequate procedures and remedies for enforcing the requirements of the state program, including that it makes available to TRS users informational materials on state and Commission complaint procedures sufficient for users to know the proper procedures for filing complaints; and

(3) Where a state program exceeds the mandatory minimum standards contained in § 64.604, the state establishes that its program in no way conflicts with federal law.

(c) *Certification period.* State certification shall remain in effect for five years. One year prior to expiration of certification, a state may apply for renewal of its certification by filing documentation as prescribed by paragraphs (a) and (b) of this section.

(d) *Method of funding.* Except as provided in § 64.604, the Commission shall not refuse to certify a state program based solely on the method such state will implement for funding intrastate TRS, but funding mechanisms, if labeled, shall be labeled in a manner that promote national understanding of TRS and do not offend the public.

(e) *Suspension or revocation of certification.* The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a state whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this subpart, to ensure continuity of TRS. The Commission may, on its own motion, require a certified state program to submit documentation demonstrating ongoing compliance with the Commission's minimum standards if, for example, the Commission receives evidence that a state program may not be in compliance with the minimum standards.

(f) *Notification of substantive change.* States must notify the Commission of substantive changes in their TRS programs within 60 days of when they occur, and must certify that the state TRS program continues to meet federal minimum standards after implementing the substantive change.