

January 15, 2017

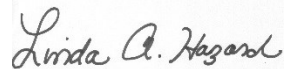
To: Governor Scott, House Committees on Government Operations and Human Services and Senate Committees on Government Operations and Health and Welfare,

Re: S-66 Section 2 Interpreters; Professional Regulation

Please find attached the Interpreters: Professional Regulation report due on January 15, 2017.

Sincerely,

Linda A. Hazard Ed.D Chair

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Bill Hudson Vice Chair

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Sec. 2. INTERPRETERS; PROFESSIONAL REGULATION

On or before January 15, 2017, the Vermont Deaf, Hard of Hearing, and DeafBlind Advisory Council shall submit a report to the House Committees on Government Operations and on Human Services and to the Senate Committees on Government Operations and on Health and Welfare regarding its findings and recommendations for legislative action pertaining to the regulation of interpreters by the Secretary of State's Office of Professional Regulation.

January 6, 2017

On behalf of the educational interpreter sub-committee of the Vermont Deaf, Hard of Hearing, and DeafBlind Advisory Council we submit this report to the House Committees on Government Operations and on Human Services and to the Senate Committees on Government Operations and on Health and Welfare regarding our findings and recommendations for legislative action pertaining to the regulation of interpreters by the Secretary of State's Office of Professional Regulation.

Advisory Council members, Keri Darling, deaf community and service provider representative, and Amy Williamson, interpreter representative, convened a group of stakeholders that includes working interpreters, deaf community members, and educators of the deaf and hard of hearing to review the current status of educational interpreters in the state of Vermont. Some members of this committee had been working prior to the establishment of the Advisory Council but was reinvigorated and a newly formed committee has been assembled and working collaboratively since December 2016.

What we know

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA 04) asserts the legal right to an interpreter for children in educational settings. All children with disabilities have the right to a "free and appropriate public education" (FAPE) in the "least restrictive environment" (LRE). *If it is determined by a deaf, hard of hearing, or deaf blind child's Individual*

Education Plan (IEP) that the most appropriate placement for them is in the classroom with an educational interpreter, then that interpreter is considered a 'related service provider' within the student's Individual Education Plan (IEP). Related service providers are individuals that help students with disabilities benefit from or access their education by providing help and support (§300.320(a)(4)). Related services may include services like counseling, speech language pathology, and occupational therapy in addition to sign language interpreting (§300.34). IDEA 04 does provide a definition for 'interpreting services'; however, it falls short at providing a qualitative definition. It states "sign language transliteration and interpreting services" (§300.34 (c)(4)(i)). Nothing more. Nothing less.

Under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 04) the standard placement for children with disabilities, including deaf, hard of hearing, and deaf-blind children, has become the public-school classroom. The U.S. Department of Education states that approximately 87% of deaf children are receiving their education in mainstreamed classrooms. This is a practice that is cost and resource driven on the part of the Local Education Agency (LEA) and based on ill-conceived beliefs about the best placement for a deaf, hard of hearing, or deaf-blind child. The National Association of the Deaf (NAD), in their position statement on inclusion, asserts that this practice of the first placement of choice as the regular classroom is in direct violation of the Individuals with Disabilities Education Act. The NAD takes the position that a deaf or hard of hearing child's most appropriate placement is one which "offers direct language and communication access to teachers and other professionals", "is staffed by certified and qualified personnel", and "provides full access" (National Association of the Deaf, 2002).

The ability to access Free and Appropriate Public Education (FAPE) in the situation where a child is mainstreamed is wholly dependent on the capabilities of the educational interpreter. The 1982, US Supreme Court decision in Board of Education of the Hendrick Hudson Central School District, Westchester County, et al., V. Amy Rowley, by her parents, Rowley et al. (458 U.S. 176) led to the understanding of the Education for All Handicapped Children Act (the precursor to IDEA) that an interpreter provides access for deaf and hard of hearing children to a FAPE. The skills and qualifications of the interpreter can have a lifelong impact on the student's educational, social, and cognitive outcomes. Despite the very important role an interpreter plays in implementing the law, the federal and state guidelines regulating quality of interpreting in mainstream settings is sorely lacking (Cogen & Cokely, 2015). States and local school districts are left to determine the qualifications of interpreters and the view that interpreters are paraprofessionals, as opposed to skilled related service providers, leads to haphazard services throughout the country. Vermont is no exception.

In addition to the requirements outlined within IDEA, Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 both are very clear in ensuring that deaf, hard of hearing, and deafblind students have rights to accessible education, regardless of their eligibility for protections under IDEA. Each of these laws are slightly different in their scope but they all work together to ensure that students are receiving equal access to their education.

Throughout the country, states have been moving toward licensure of individuals working as signed language interpreters in all areas of a deaf person's life, including education. Only two states currently have no minimum standard for individuals working as an interpreter,

Vermont and Maryland. Unqualified interpreters are not able to provide access to a free and appropriate public education (FAPE). Research has shown that interpreters who fall below a minimum standard of generalist certification from the Registry of Interpreters for the Deaf or Educational Interpreter Performance Assessment (EIPA) level 4.0 or above, omit and distort a significant amount of student and peer communication (Johnson, Schick, & Bolster, 2014).

Sign language interpreters in educational settings are one of, if not the *only* related service provider within the scope of IDEA 04 that is not mandated to meet a minimum qualification or licensure requirement in Vermont. For example, occupational therapists, speech language pathologists, school nurses, and counselors cannot practice without a license in Vermont (Vermont Secretary of State, 2016). The function of the sign language interpreter in the implementation of IDEA 04 is paramount to implementing the letter and intent of this law. To ensure students with a disability have the same opportunity for education as those students who do not have a disability.

A study by Johnson, Brown, Taylor, & Austin (2014), was conducted as part of a US Department of Education, Office of Special Education Programs grant focused on improving the services of educational interpreters in K-12 settings. That study found that many states are currently modifying and updating their interpreter requirements; however, the standards both as they exist and in their modification, remain “too low to adequately support students who are Deaf and hard of hearing in their learning and their own educational pursuits” (Johnson, et al., 2014, p. 69). Vermont has no specific requirements for interpreters in educational settings but does have a law that defines a ‘qualified interpreter’ for judicial, administrative, and legislative

findings as a person “who meets standards of competency established by the national or Vermont Registry of Interpreters for the Deaf” (1 V.S.A §331). This definition is problematic and outdated as neither the national nor Vermont Registry of Interpreters for the Deaf provide for an evaluation of competency any longer.

What can Vermont do?

Vermont is one of only two states that have *no* licensure standards in process or in place to ensure minimum standards are being met for consumer protection purposes (Library Services for the Deaf and Hard of hearing, 2016). Deaf, hard of hearing, and deaf-blind children in Vermont deserve the same protections that their peers have in other states in ensuring that they have related services providers, as required by the IDEA 04 and their IEP, that have met some minimum standard. These providers also need oversight to be providing that required service.

What next?

The educational interpreter sub-committee of the Vermont Deaf, Hard of Hearing, and DeafBlind Advisory Council will continue to meet to determine the current need of educational interpreting services here in Vermont and what qualification best meets the needs of the students using interpreters. A follow up report to the House Committees on Government Operations and on Human Services and to the Senate Committees on Government Operations and on Health and Welfare regarding its findings and recommendations for legislative action pertaining to the regulation of interpreters by the Secretary of State’s Office of Professional Regulation can be provided by March 1, 2017.

References

Cogen, C., & Cokely, D. (2015). Preparing interpreters for tomorrow: Report on a study of emerging trends in interpreting and implications for interpreter education.

Individuals with Disabilities Education Improvement Act of 2004, 20 USC §1400 et seq

Johnson, L., Schick, B., & Bolster, L. (2014). EIPA data analysis: K-12 patterns of practice. Poster presented at the Conference of Interpreter Trainers, Portland, OR

Johnson, L., Brown, S., Taylor, M., & Austin, N. (2014). Patterns of practice: Current investigations in educational interpreting. *Conference of Interpreter Trainers Proceedings*, 63-72.

Library Services for the Deaf and Hard of hearing. (2016) Interpreter licensure by state.

Retrieved from <https://tndeaflibrary.nashville.gov/directory/licensure-by-state/map>

National Association of the Deaf. (2002, January 26). Position statement on inclusion. Retrieved from <https://nad.org/issues/education/k-12/inclusion>

Vermont Secretary of State (2016, October 28). List of professions regulated from the Vermont office of professional regulation. Retrieved from

<https://www.sec.state.vt.us/professional-regulation/list-of-professions.aspx>