

# 2556

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**From:** Marc D. Holmes [marc@holmes-asl.com]  
**Sent:** Monday, August 21, 2006 11:00 AM  
**To:** cwojciecho@state.pa.us  
**Subject:** Comments Regarding Act 57/92 Regulations

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

Ms. Wojciechowski,

Attached please find two letters and some recommended modifications to the Act 57/92 Regulations. Please feel free to contact me if you have any questions or need further information.

Thank you,

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August 20, 2006

Catherine N. Wojciechowski  
Deputy Chief Counsel  
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cwojciecho@state.pa.us

Dear Ms. Wojciechowski;

As the former President of the Pennsylvania Registry of Interpreters for the Deaf, I feel it is my duty to caution you. The current Board of Directors of (PARID) may be representing their comments as indicative of their entire membership's opinion, however I attended one of their hastily conducted forums and know that only a couple of members were in attendance. My impression was that this slight attendance was true at all of their forums and that the total count might be less than 10% of their total membership. Additionally, the members were not made privy to the compilation of comments prior to their submission to you. Please take this perspective into consideration as you read, and include their comments in your revisions of the regulations pertaining to the Act 57/92.

I am attaching my comments, some of which are similar to those presented by the PARID Board. However I believe several of their proposals go significantly beyond the intent of Act 57/92 in restricting the ability of non-registered interpreters to work within Pennsylvania. It is interesting to note that many of these restrictions would apply only to individuals not holding national certification and not all non-registered interpreters, i.e. interpreters living outside of Pennsylvania.

Please take great care to look at each of the modifications you are being asked to consider. Some of them might do significant harm to individuals who are acting within the law, but not necessarily within a small group's interpretation of that law.

Although it is not your concern at this time, restricting the practice of non-registered interpreters will eventually reduce the numbers of interpreters available in the community in the future. In the early 1990's the Conference of Interpreter Trainers stated that there was a "Readiness to Work Gap." This is a period between two and ten years that it takes an interpreter to become ready to achieve certification after their completion of an interpreter training program. Without adequate provisions which enable these individuals to become proficient, the pool of qualified interpreters in Pennsylvania will shrink rather than grow. It is for this reason, that I urge your office to consider not adding language that would be more punitive than the law already is, but rather to focus on times such as the inclusion of state affiliates of RID as mentoring programs.

Of all the potential changes, I think this is of the most importance for a couple of reasons. The Registry of Interpreters for the Deaf, Inc. does not sanction or approve mentoring programs. So the addition of language that allows their affiliates that have programs, or those who don't to sanction other groups programs, makes the presumed intent of the original language possible. Also, many interpreters do not enter the field through interpreter training programs. The other provision in this section, allows for students in practicum placements to perform work, however if an interpreter is entering the field in an alternative way, they do not have access to an accredited college's program and therefore need the other opportunity provided by RID affiliate approved mentorship.

I know that your time is limited by the Rulemaking process, but please take the time and energy necessary to ensure that these regulations stick to the consumer protection intent of the original law and limit the additions that a select few members of an organization might make.

I appreciate your time and your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc D. Holmes". The signature is fluid and cursive, with the first name "Marc" and last name "Holmes" clearly distinguishable.

Marc D. Holmes, CI/CT, ASLTA-Q, Master  
Mentor  
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Past President of PARID  
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August 20, 2006

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Dear Ms. Wojciechowski;

As the current treasurer of the Pennsylvania Registry of Interpreters for the Deaf, I feel it is my responsibility to inform you about my dissenting opinion from that of my board. To help you understand my perspective, I will explain my background. I have been interpreting since 1998, I received my Master's Degree in Deaf Education in 2000. I continued to interpret after graduation, when I stopped searching for a teaching job. I left the workforce after I had a baby in September of 2001. I took and passed the RID written exam in 2002. At that time, I was working approximately 30 hours per year. In 2003, I took the performance certification test unsuccessfully. I have not achieved certification because of choosing to stay at home with my son, and not continuing to work. It is very difficult to be able to maintain or improve one's skill without the ability or opportunity to work.

The current Board of Directors of (PARID) may be representing their comments as indicative of the opinion of the entire membership. However, in the comment-gathering forums only 10% of the membership was in attendance. Additionally, the membership was not made privy to the compilation of comments prior to their submission to you. Please take this perspective into consideration as you read, and include the comments in your revisions of the regulations pertaining to the Act 57/92.

Act 57 provides for non-registered interpreters the ability to work within the confines of the law. PARID wants to further limit the opportunities of this group. The Conference of Interpreter Trainers identified a "readiness to work" gap in our profession. This means that upon completion of an Interpreter Training Program or other course of study, students need to work from between 2-10 years before they are ready to achieve national certification. They have further said that having limited opportunities to work in the profession actually interpreting, lengthens this process.

Thank you for your time and your consideration.

Sincerely,  
Melanie Holmes



Text highlighted in red is proposed to be deleted

Text highlighted in yellow is proposed to be added

Text highlighted in blue is rationale

## **Annex A**

### **TITLE 34. LABOR AND INDUSTRY**

#### **PART IX. OFFICE OF THE DEAF AND HARD OF HEARING**

#### **CHAPTER 501. REGISTRATION OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS**

Sec.

501.1. Definitions.

501.2. Fees.

501.3. Examination

501.4. Registration

501.5. Exemptions.

501.6. Complaints

501.7. Hearings/appeals.

501.8. Request for reconsideration of registration.

501.9. Biennial registration renewal.

501.10. Reactivation of registration.

501.11. Change of address/name/information.

Note: the section numbers above were incorrect

#### **§ 501.1. Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Act*--The Sign Language Interpreter and Transliterator State Registration Act (63 P. S. §§ 1725.1--1725.12).

*Department*--The Department of Labor and Industry of the Commonwealth.

*NAD*--National Association of the Deaf, 814 Thayer Avenue, 8630 Fenton Street, Suite 820, Silver Spring, MD 20910. ~~A Nationally-recognized certification~~ An national organization that previously offered a nationally recognized certification test for sign language interpreters and transliterators.

*NAD National Interpreter Certification Test*--The ~~written~~ and performance examinations previously conducted by the NAD for Level IV or V certification as a sign language interpreter or transliterator.

There was no written test for this examination and the test is no longer offered.

~~NAD-RID NIC~~ The National Interpreter Certification test which is the knowledge, interview and performance examination conducted for National certification as a sign language interpreter or transliterator.

The NAD-RID NIC is a test and not an organization. It should not be listed in this section unless we are going to list all of the certification tests.

*Office*--The Office for the Deaf and Hard of Hearing within the Department, 1521 North 6th Street, Harrisburg, PA 17102.

*RID*--Registry of Interpreters of the Deaf, Inc. 333 Commerce Street, Alexandria, VA 22314. A Nationally recognized certification organization for interpreters and transliterators. The correct name of the organization is the Registry of Interpreters for the Deaf, Inc.

RID is more than just a testing provider, they actually have a number of services pertinent to Registered and non-registered interpreters.

*RID Generalist examination*--The written and performance examination conducted by the RID for full certification as a sign language interpreter or transliterator.

The CDI, CI, CT, CSC, RSC and other future full certifications that RID may develop for sign language interpreting and any future full certifications that RID develops.

*Secretary*--The Secretary of the Department or the Secretary's designee.

*Year*--A calendar year.

*Day*--Any amount of time or number of assignments occurring during a calendar day, constitutes one day.

This is intended in the law, but not detailed in these regulations.

*Supervised internship or practicum*--The internship/practicum portion of a Sign Language interpreting program of study held by an accredited college or university; or a formal mentorship program sponsored by NAD, RID, Inc.; or its affiliate chapters.

RID and NAD do not currently have or sponsor supervised internships or practicums. Pennsylvania RID is currently working to develop a mentorship program that will meet the needs of interpreters who have not yet achieved certification, to provide them with the ability to work in limited settings with supervision to hone their skills in order to achieve a level that will permit them to pass one of the Office approved examinations listed in Section 501.3 Examination. There are a number of other affiliate chapters of RID, such as New Jersey (NJRID), North Carolina, (NCRID) and Colorado (CORID). The RID CMP program (CEUs and ACET Credits) have very limited direct oversight from RID. These programs do not provide enough support or supervision for interpreters who have not yet achieved the minimum standard to be working independently.



### § 501.2. Fees.

The Office will charge the following fees:

- |  |       |
|--|-------|
| (1) Registration   | \$100 |
| (2) Biennial renewal of existing registration            | \$100 |
| (3) Surcharge for late renewal of biennial registration. | \$50  |
| (4) Reactivation following suspension.                   | \$100 |
| (5) Registration identification card replacement.        | \$10  |

### § 501.3. Examination.

(a) The following examinations are approved as the examination which have previously, or currently test knowledge and proficiency under section 5(a)(1)(iii) of the act (63 P. S.

§ 1725.5(a)(1)(iii)):

- (1) NAD National Interpreter Certification (NAD IV and V)
- (2) RID Approved Examination.

~~(3) NAD-RID NIC.~~

The NAD no longer provides testing. RID has approved provision of a number of certification tests in the past, some of which are not Generalist examinations. The use of the word Generalist in place of Approved would exclude approximately 15-20 current residents of Pennsylvania who the RID calls certified members. This would also limit the ability to recruit some certified interpreters to move into the state. The NAD-RID NIC is considered an RID Generalist exam. To list it separately is redundant.

(b) An applicant for any of the approved examinations shall obtain applications directly from and pay the required examination fee directly to the examination provider.

### § 501.4. Registration.

(a) An applicant for registration shall submit the following to the office:

(1) Proof of receiving a passing score on any of the approved examinations. This may include proof of current certification by the NAD, or RID ~~or NAD-RID NIC.~~

(2) A completed registration application. Applications may be obtained from the office or the Department website \_\_\_\_\_. (Editor's Note: The blank refers to the website which will be placed in final-form regulation.)

(3) The required registration fee under § 501.2 (relating to fees). Checks shall be made payable to the Commonwealth of Pennsylvania.

The NAD-RID NIC is redundant as it is already included in the RID examinations. It is assumed by this writer, that certifications will be confirmed by the Office prior to awarding of registration.

(b) The Office will issue a paper or electronic registration to a registrant if the registrant complies with subsection (c) and meets the requirements of section 5(a) of the act (35 P. S.

§ 1725.5(a)).

(c) The Office may deny an application for registration if one or more of the following apply:

- (1) The applicant does not comply with this section.

- (2) The applicant fails to meet the requirements of section 5(a) of the act.
- (3) The applicant committed a violation enumerated in section 8(a) of the act 63 P. S. § 1525.8(a)(8).

(d) The Office will comply with the procedures contained in § 501.8 (relating to request for reconsideration of registration denial) if an application for registration is denied.

#### **§ 501.5. Exemptions.**

(a) An individual engaged in interpreting or transliterating services in a religious setting is exempt from registration under section 4(b)(1) of the act (63 P. S. § 1725.4(b)(1)) if the services are provided either:

- (1) During a worship service conducted by a religious entity.
- (2) Exclusively for religious-study purposes for a religious entity or religiously affiliated school.

(b) An individual who does not reside in this Commonwealth is exempt from registration under section 4(b)(4) of the act in accordance with the following:

(1) The individual possesses current certification ~~from a National certifying body noted in Section 501.3 Examination.~~

(2) The individual provides interpreting or transliterating services in this Commonwealth for no longer than 14 days each year.

(3) The individual provides the following to the Office before the interpreting or transliterating service is provided:

(i) Written notice of the time, date, nature and duration of each sign language interpreting or transliterating service that the individual intends to provide within this Commonwealth.

(ii) Proof of current certification acceptable for registration under Section 501.3 Examination.

(4) The Office will provide notice to ~~an~~ an out of state sign language interpreter or transliterator that ~~he~~ the individual has provided 14 days of services during the year and that the individual is prohibited from providing any further interpreting or transliterating services within this Commonwealth during the year, unless the individual registers with the Office in accordance with section 5 of the act (63 P. S. § 1725.5).

The requirements for those from outside the Commonwealth should be the same as for those who reside inside the Commonwealth. It might make sense to spell out a time limit for these out of state interpreters to submit their notification to the office.

(c) An individual engaged in interpreting or transliterating at the request of a client who is deaf or hard of hearing is exempt from registration under section 4(b)(5) of the act in accordance with the following:

(1) The individual notifies the client that the individual is not registered with the Office.

(2) The client signs written confirmation that the individual is not registered.

(3) The individual providing services shall maintain a copy of the client's signed statement for 2 years.

(4) The individual providing interpreting or transliterating services must abide by the RID Code of Professional Conduct.



The original intent of this exemption was to allow a deaf client to exercise their right of personal preference. However these additions clarify what is already in the law, and ensure the individuals are aware they should be acting in an ethical manner.

(d) An individual is exempt from registration under section 4(b)(7) of the act for a school-related activity if the individual meets the following conditions:

- (1) Is engaged in interpreting or transliterating services in a school-related activity for a student.
- (2) Is currently employed by a public or private elementary or secondary.
- (3) Received a score of at least 70% on the EIPA.

With the passage of Act 92, the EIPA score requirement present in Act 57 was eliminated. The added text ensures that interpreters working in educational settings are only functioning in school instructional settings and not those collateral settings which might have minimal relation to school.

(e) An individual is exempt from registration under section 4(b)(8) of the act if the individual provides sign language interpreting or transliterating services to a patient who is deaf or hard of hearing in a physician's office in accordance with the following:

- (1) The patient signs a written confirmation that the individual providing the interpreting or transliterating services is not registered and that the patient has the right to request or provide an interpreter or transliterator who is registered with the Office. This confirmation shall be completed during every office visit.
- (2) The physician's office informs the patient in writing that a request for a registered interpreter or transliterator made after the commencement of the office visit may result in a delay of physician services.
- (3) The physician's office shall maintain a copy of the patient's signed statement in the patient's health care file.

(g) An individual engaged in interpreting or transliterating during an emergency is exempt from registration under section 4(b)(2) of the act in accordance with the following:

- (1) The deaf and/or hearing client(s) is/are in an emergency situation where a delay in getting a registered interpreter or transliterator might lead to injury or loss to the individual needing the services.
- (2) Attempts to secure a replacement registered interpreter should commence as soon as possible.

Steps for use of a non-registered interpreter in emergency settings should be documented in these regulations.

(g) An individual engaged in interpreting or transliterating as part of a supervised internship or practicum is exempt from registration under section 4(b)(3) of the act in accordance with the following:

1. the mentor/supervising interpreter must be an interpreter registered with the Office.



2. The intern/mentee must complete and submit the standardized application form to the Office.
3. The intern/mentee must be in an internship or mentorship program approved by the Office.
4. The intern/mentee must follow the RID Code of Professional Conduct.

The Commonwealth should keep track of all interns/mentees providing services as they have not yet fully developed the skills to have the credentials necessary to register. Interns cannot register and pay a fee because they are exempt, but they should have to prove their exemption to the Office.

#### **§ 501.6. Complaints.**

(a) Upon the receipt of a **written** complaint or upon its own initiative, the Office may investigate allegations of violations of section 8 of the act (63 P. S. § 1725.8).

Since English is not a native language for many deaf people, they would be highly unlikely to put pen to paper to draft a complaint. However if they are allowed to submit a complaint in whatever language they choose, it is more likely they will actually file a complaint.

- (b) Complaints must contain:
- (1) The name and address of complainant.
  - (2) The name and address, if known, of the individual against whom the complaint is filed.
  - (3) A statement of the facts forming the basis of the complaint or conclusion that there has been a violation of the act.
  - (4) The name of any witnesses and other information that may be pertinent to an investigation.
- (c) Complaints shall be submitted to the Office of Deaf and Hard of Hearing which may commence an investigation.

#### **§ 501.7. Hearings/appeals.**

(a) Actions under sections 8 and 9 of the act (63 P. S. §§ 1725.8 and 1725.9) will be taken subject to the right of notice, hearing and adjudication in accordance with 2 Pa.C.S. (relating to administrative law and procedure). Hearings will be conducted under 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and this section.

(b) The Office will serve the **registrant interpreter** with an order to show cause under 1 Pa. Code § 35.14 (relating to orders to show cause). The order to show cause will contain notification that the **registration individual** may be subject to action and the grounds for the action. The order to show cause will contain notification that the respondent is to respond in writing within 30 days after the date of the service of the order or in accordance with another date designated by the Office.

(c) The **registrant individual** may respond in writing to the allegations of the order to show cause under 1 Pa. Code § 35.37 (relating to answers to orders to show cause). If made, the answer shall be filed with the Office within 30 days after the date of the order to show cause or within another time period specified by the Office.

(d) The Office will provide the opportunity for a recorded hearing on the allegations. The Office will designate a presiding officer to conduct the hearing under 1 Pa. Code §§ 35.185--35.190 (relating to presiding officers).



(e) The presiding officer will prepare and issue a proposed report and order under 1 Pa. Code §§ 35.201--35.207 (relating to proposed reports generally). The presiding officer will serve the proposed report upon counsel of record or to the parties in the hearing. The proposed report will contain the Department address where an appeal may be filed.

(f) A party may appeal the proposed report and order to the Secretary within 20 days of service of the proposed report under section 10 of the act (63 P. S. § 1725.10). Appeals are governed by the following:

(1) A party desiring to appeal to the Secretary shall file exceptions to the proposed report and order within 20 days of service in accordance with 1 Pa. Code § 35.211 (relating to procedure to except to proposed report). The party may seek the reopening of the record to present testimony or evidence by filing a request with the exceptions.

(2) A party may file a written response to the exceptions within 20 days of service of the exceptions. The party may seek the reopening of the record to present testimony or evidence by filing a request with the response.

(3) If a timely appeal is filed, the presiding officer will transmit the proposed report and order and the certified record to the Secretary.

(4) If a timely appeal is filed, the Secretary will issue the final order under 1 Pa. Code § 35.226 (relating to final orders). The Secretary may reopen the record and order additional briefs.

(5) The presiding officer's proposed report and order will be the Department's final order under section 11 of the act (63 P. S. § 1725.11) if a timely appeal is not made under this section.

(g) This section supplements 1 Pa. Code §§ 35.14, 35.37, 35.185--35.190, 35.201--35.207, 35.211 and 35.226.

An individual who is not registered may still commit a violation or be alleged to have committed a violation.

#### **§ 501.8. Request for reconsideration of registration denial.**

(a) The Office may deny an application for registration if an applicant does not meet the registration requirements of section 5(a) of the act (63 P. S. § 1725.5(a)) or for the grounds contained in section 8(a) of the act (63 P. S. § 1725.8(a)).

(b) An applicant for registration whose application was denied by the Office may file a request for reconsideration with the Office.

(c) The request for reconsideration must be in writing and include the following:

- (1) The applicant's name and address.
- (2) The facts supporting the applicant's request for reconsideration.
- (3) Supporting documentation demonstrating that the applicant meets the requirements for registration under section 5(a)(2) of the act.

(d) The Office will review the request for reconsideration and issue a written determination containing its decision. If reconsideration is denied, the Office will provide a summary of the reasons in the determination.

(e) If the request is granted, the Office will issue a registration to the applicant if the applicant pays the renewal fee and completes the application under section 5(a)(1) of the act.

(f) An applicant may seek a hearing and appeal the denial of registration under sections 10 and 11 of the act (63 P. S. §§ 1725.10 and 1725.11). The Office and Department will conduct hearings and resolve appeals under § 501.7 (relating to hearings/appeals).



**§ 501.9. Biennial registration renewal.**

(a) A registrant shall renew the registration biennially to retain the right to continue to provide interpreting or transliterating services, or offer to provide sign language interpreting or transliterating services, or hold himself out as a qualified sign language interpreter or a qualified transliterator or use similar titles or designations under the act.

(b) Registration for a biennium expires December 31 of every even-numbered year.

(c) To renew a registration, a registrant shall submit to the office before the expiration of the renewal period a completed renewal application supplied by the Office along with the required renewal fee and any late or reactivation fees under § 501.2 (relating to fees).

(d) Biennial registration forms and other forms or literature to be distributed by the Office will be forwarded to the last mailing address given to the Office by the registrant. Failure of the Office to send, or of the registrant to receive a biennial registration application does not relieve the registrant of the biennial registration responsibility.

(e) The Office will issue a nontransferable biennial registration to a registrant who renews registration under this section.

**§ 501.10. Reactivation of registration.**

An individual may reactivate a suspended registration under section 9(c) of the act (63 P. S. § 1725.9(c)) if the following conditions are met:

- (1) The suspension term certain has fully elapsed.
- (2) The individual has complied with the terms and conditions of the suspension order.
- (3) The individual has not violated the act or this chapter during the suspension term.
- (4) The individual pays the reactivation fee under § 501.2 (relating to fees).b
- (5) The individual complies with the renewal requirements of § 501.9 (relating to biennial registration renewal)

**§ 501.11. Change of address/name/information.**

A registrant shall notify the Office of any change of name, mailing address or other personal or professional information within 15 business days of making the change.

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