

## I. Summary of Proposal

The Virginia Department for the Deaf and Hard of Hearing proposes to revise 22VAC20-30 Regulations Governing Interpreter Services for the Deaf and Hard of Hearing. Several changes are proposed, based on consumer input during an earlier NOIRA period and issues identified during the agency's on-going review of regulations.

## II. Legal Authority

Virginia *Code* §63.1-85.4.9 provides VDDHH with the authority to make, adopt, and promulgate regulations in order to carry out the agency's purpose and intent. Virginia *Code* §63.1-85.4:1 authorizes the agency to maintain a directory of qualified interpreters and to operate and charge fees for participation in a program of quality assurance screening.

## III. Purpose of the Regulation

The Department proposes the following revisions:

1. General language changes to improve clarity and reduce redundancy with *Code language*. This was identified as a need during regulatory review. Specifically, the agency is considering separating the current Skills Assessment, which requires candidates to participate in both interpreting and transliterating assessments, into two distinct assessments, allowing candidates to participate in any single Skills Assessment.
2. Inclusion of a clear statement of fees. Current regulations indicate that candidates will be notified of fees. The Department proposes including the fee structure in the regulations. The fee for the Code of Ethics Assessment will remain at \$20. The fee for each Skills Assessment will be \$60. Currently, the fee for the Code of Ethics is \$20 and the fee for the Performance Assessment, which includes both interpreting and transliterating, is \$80 to take both the Interpreting and the Transliterating Assessment or the Cued Speech Assessment.

3. Clarification of confidentiality provisions. While candidate scores will remain confidential, VQAS levels and designations awarded will be clearly noted as public information.
4. Replacement of VQAS Level 1 with a “Novice Interpreter Designation”. This is in response to consumer concerns about the inclusion of interpreters with VQAS Level 1 in the Directory of Qualified Interpreters. *Code* language defines a qualified interpreter as one who has a current screening level awarded by VQAS. Current regulations define the minimum requirement for a VQAS Level 1 as a score of 50%
5. Addition of provisions for a consumer input and grievance procedure. This is necessary to ensure that consumers who depend upon the services of VQAS interpreters have a formal mechanism for addressing complaints (based on violations of the Code of Ethics) against those interpreters. It will allow the agency to remove VQAS credentials from interpreters upon a finding of cause.

Because of the nature of services provided by interpreters in serious, and often life-threatening, legal, medical and financial situations, these regulations and the proposed revisions are essential to the health, safety and welfare of Virginians who are deaf or hard of hearing.

#### IV. Less Burdensome and Intrusive Alternatives Considered

The proposed revisions are intended to make the regulations less burdensome and intrusive on interpreters while providing greater protection to the rights of consumers.

By stipulating that a candidate may participate in a single Skills Assessment, the Department is, in fact, lessening the burden on many candidates and responding to public input during the earlier NOIRA period. The majority of past participants in VQAS have achieved either a level in only one of the two areas tested (Interpreting or Transliterating) or a higher level in one area than in another. Allowing a candidate to participate in only one Skills Assessment will reduce the burden on the candidate and will reduce the burden on the program, resulting in a shorter waiting period for a candidate to participate in and receive results from an assessment. This action has the added benefit of potentially lowering costs to candidates, as a single assessment under the proposed fee schedule will be less expensive than the current fee for the combined assessment.

The agency has considered providing the grievance procedures through agency policy and procedures as opposed to regulation. This alternative was rejected because of the nature of the program. Many interpreters depend upon the VQAS screening level as

professional credentials and their income depends upon those credentials. In order to avoid any appearance of arbitrary and capricious disciplinary action, the agency believes that regulation is needed.

#### V. Family Impact Statement

The impact of the proposed revisions on families is positive and minimal.

- The addition of a formal grievance procedure will ensure that families have recourse when a VQAS screened interpreter violates the Code of Ethics.
- The opportunity to take only one skills assessment will enhance program efficiency and, potentially, reduce the costs to participants.
- In addition, the overall clarification of language will provide more clear information to families who are impacted by or interested in the regulation in general.