

MEMORANDUM

DATE: February 24, 2009

TO: Mr. Scott Vien
Chief of Driver Services
Division of Motor Vehicles

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: DMV Testing Procedures & Use of Translators

The State Council for Persons with Disabilities (SCPD) has reviewed the Division of Motor Vehicles' (DMVs) final *Testing Procedures for Non-English Speaking and Deaf or Hard of Hearing Driver License Applicants*. As background, last Spring, SCPD commented on a proposed DMV regulation covering the assessment of applicants using translators. In July, the DMV adopted a final regulation which clarified that the regulation would not apply to "individuals who are deaf or hard of hearing". [12 DE Reg. 77 (July 1, 2008) (final)]. On September 10, 2008 the DMV submitted draft procedures for testing license applicants who are Deaf or hard of hearing to the SCPD. Council then issued an October 2, 2008 memorandum to the DMV. On December 4, the DMV notified the Council that it had incorporated some Council suggestions and adopted a final set of procedures.

SCPD certainly appreciates the opportunity to comment on the draft version of the policy and thanks the Division for incorporating most of the Council's recommendations into the final version of the procedures. Council has the following observations.

First, the Council noted that the standards were silent on DMV provision of an interpreter at no cost. The final version corrects this oversight at p. 2:

Interpretation services for a deaf or hard of hearing person shall be provided by the Division. All fees associated with division provided interpretation services for the deaf or hard of hearing driver license applicant shall be the responsibility of the division and paid for in full by the division.

Second, the Council recommended allowing the interpreter to travel in the vehicle during the road test. The DMV agreed and added a reference to p. 3:

For safety purposes, the interpreter will be allowed to sit in the rear of the vehicle during the road test. When directed to do so by the division technician, the interpreter may relay instructions

from the division technician to the applicant. If the applicant has a question during the road test and sign language is required by either the applicant or the interpreter for effective communication, the applicant must safely pull the vehicle off the road and come to a complete stop.

The technician will sit in the front seat and may display hand-held signs for guidance.

Third, the Council recommended including a reference to Title VI in the "Purposes" section to highlight its application to non-English speaking applicants. No amendment was made.

Fourth, the Council recommended deletion of "and paid for in full by the applicant" from the following sentence: "All fees associated with the non-English driver license applicant using a translator shall be the responsibility of the applicant requesting the service and paid in full by the applicant." The DMV adopted the recommendation and deleted the provision.

Fifth, the Council recommended amending a categorical prohibition on translator assistance during testing of non-English speaking applicants by inserting "unless directed to do so by the Division technician." The DMV added "unless directed by the division technician" on p. 1.

Sixth, the Councils recommended inclusion of references to the availability of written tests in foreign languages. References to Spanish, Chinese, Korean, and Haitian (Creole) have been added to p. 1.

Seventh, the Councils noted that the script for the Deaf applicant referred to Georgetown. This was corrected.

Finally, via separate correspondence (January 28, 2009 email), Council requested clarification regarding the following sentence in the *Testing procedures for deaf and hard of hearing driver license applicants* section: "If a deaf or hard of hearing driver license applicant is also a non-English speaking applicant, then the interpreter may sign the questions and multiple choice answers on the automated testing system." Specifically, Council asked if the Division was referring to a "non-English speaking applicant" as someone who speaks Spanish, Chinese, etc. The reason Council asked is that some deaf individuals are non-English speaking and cannot read English well or at all. Therefore, they may need an interpreter for the questions and multiple choice answers on the automated testing system since they may not be able to effectively take the test if they are only allowed to ask questions or receive minimal assistance from a division technician. Therefore, the DMV requirement that "the use of an interpreter by a deaf or hard of hearing driver license applicant during the automated written test is limited" could be problematic. DMV clarified in a February 5, 2009 conversation that if a deaf person cannot read English, the interpreter would be allowed to sign the questions and multiple choice answers for the applicant. The deaf applicant only needs to let DMV know they cannot read the written test.

Again, thank you for consideration of Council's comments.

cc: Mr. Jack Eanes
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Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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