



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
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The Honorable John Carney  
Governor

John McNeal  
SCPD Director

**MEMORANDUM**

DATE: April 29, 2020

TO: Ms. Amy Anthony, Deputy Director  
Division of Motor Vehicles

FROM: J. Todd Webb – Chairperson <sup>JTW</sup>  
State Council for Persons with Disabilities

RE: Division of Motor Vehicles Testing Procedures for Non-English Speaking and  
Deaf or Hard of Hearing Driver License Applicants

The State Council for Persons with Disabilities (SCPD) has reviewed the Delaware Division of Motor Vehicles' (DMV) current procedures to address the use of translators for driver license applicants who cannot read or speak English and the use of interpreters for people who are deaf and hard of hearing. SCPD truly appreciates that DMV shared the procedures and solicited Council's comments. SCPD has the following observations.

Under federal law, 28 C.F.R. §36.303(c), "a public accommodation shall furnish appropriate auxiliary aids and services where necessary to ensure effective communication with individuals with disabilities", which includes persons who are deaf and hard of hearing. The goal of the procedures is to outline "exactly how a translator/interpreter may assist an applicant during the Division of Motor Vehicle's... written and road tests."

The testing procedures are divided based on non-English speaking/reading driver license applicants and deaf and hard of hearing driver license applicants. The use of a translator and/or interpreter for both groups of applicants during the road test portions is largely similar and does not appear to raise issues. Along with the road tests, driver license applicants are required to successfully complete an automated written test.

The DMV policy regarding the use of interpreters for deaf and hard of hearing driver license applicants during the automated written test appears to be problematic. Non-English speaking/reading driver license applicants who need translation assistance to take an automated written test may have a translator read the questions and multiple choice answers to them as shown on the DMV automated test system. The use of an interpreter by a deaf or hard of hearing driver license applicant during the automated written test is limited.

In comparison, “Unlike a translator for a non-English speaking/reading driver license applicant, a deaf and hard of hearing interpreter shall not sign the questions and multiple choice answers for the applicant. In these situations, the applicant will be able to read the questions and answers from the automated testing system him/herself.” An interpreter can only be used during the written test if the applicant has a question or needs to communicate with the DMV employee proctoring the test. The procedures further state that “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.”

The DMV procedures are making an incorrect assumption that all people who communicate via sign language are able to read written English text. “American Sign Language (ASL) is its own unique language, complete with its own grammar and structure that is unrelated to English.” See Differences between ASL and English, <http://signaphasiatests.salk.edu/appendix/langdiff.html> (last visited Apr 13, 2020). The procedures do not offer any clear justification as to why an interpreter cannot sign the questions and multiple choice answers for the applicant on the automated written test. Perhaps, it could be argued that the DMV’s justification was to curtail cheating that could result from an interpreter providing answers to applicants; however, rationale does not make sense since translators/interpreters are allowed to be used by non-English speaking applicants on the automated written test and present an equal risk of cheating.

The DMV has also put procedures in place to monitor and punish cheating by translators/interpreters. The procedures allow the division to use video and audio devices to monitor translators/interpreters during the written and road tests to ensure translators/interpreters are not providing answers to the applicant. The procedures address non-compliance by stating “Any applicant whose translator/interpreter is found speaking or signing during a written or road test at any time other than when permissible under these written procedures will automatically fail the test. Translators/interpreters who assist applicants by providing answers to questions or by pointing out the correct answers will be prohibited from providing future translation/interpretation services in division facilities.”

The National Association of the Deaf (NAD) and the Registry of Interpreters for the Deaf, Inc. (RID) have their own Code of Professional Conduct that must be followed. If interpreters violate this Code, they are subject to the RID Ethical Practices System (EPS), whose goal is to uphold the integrity of ethical standards among interpreters. “In keeping with that goal, the system includes a comprehensive process whereby complaints of ethical violations can be thoroughly reviewed and resolved through complaint review or mediation.” See Enforcement Procedures, <https://rid.org/ethics/enforcement-procedures/> (last visited Apr 13, 2020).

Many other states allow for a deaf and hard of hearing interpreter to sign the questions and multiple choice answers for the applicant during a written test portion. Some states, like Virginia, implemented ASL into their actual testing system for the written exam portion. The Virginia DMV created a testing system called SecuriTest, which allows customers the option to complete knowledge exams in 16 different languages, including ASL. This system was created because “For many individuals who are deaf or hard of hearing, ASL is their first language, so offering DMV tests in ASL, as opposed to just reading the questions, allows them to receive the information in the language they prefer.” See Virginia DMV Offering ASL Version of Written Tests for Driver Licenses, <https://nvrc.org/vddhh-dmv-offering-asl-version-of-written-tests-for-licenses-press-release/> (last visited Apr 13, 2020).

SCPD certainly appreciates the opportunity to comment and believes that the current DMV procedures need revisions, especially in the context of allowing deaf and hard of hearing applicants to have the option of an interpreter to sign the questions and multiple choice answers during the automated written test.

SCPD welcomes the opportunity to collaborate on this issue. Please contact the Council to determine the most appropriate path forward.

cc: Jana Simpler, DMV Director  
Laura Waterland, Esq.  
Delaware Office for the Deaf and Hard of Hearing  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

s:/p&l/policyletters/DMV testing procedures for non-english speaking and dhh driver license applicants 4-29-20