

TITLE 460 DIVISION OF DISABILITY AND REHABILITATIVE SERVICES**Final Rule**

LSA Document #15-253(F)

DIGEST

Amends [460 IAC 2-3-1](#) to update rules applying to educational interpreters. Amends [460 IAC 2-3-2](#) to update definitions. Amends [460 IAC 2-3-3](#) to update certification requirements. Amends [460 IAC 2-3-4](#), [460 IAC 2-3-13](#), [460 IAC 2-3-15](#), [460 IAC 2-3-16](#), [460 IAC 2-3-17](#), [460 IAC 2-3-18](#), [460 IAC 2-3-19](#), and [460 IAC 2-3-20](#) to change DHHS deputy director to DHHS director, change DDARS director to DDRS director, and clarify grievance procedure. Adds [460 IAC 2-3-21](#) to incorporate by reference the NAD-RID Code of Professional Conduct. Repeals [460 IAC 2-3-5](#), [460 IAC 2-3-6](#), [460 IAC 2-3-7](#), [460 IAC 2-3-8](#), [460 IAC 2-3-9](#), [460 IAC 2-3-10](#), [460 IAC 2-3-11](#), and [460 IAC 2-3-12](#). Effective 30 days after filing with the Publisher.

[460 IAC 2-3-1](#); [460 IAC 2-3-2](#); [460 IAC 2-3-3](#); [460 IAC 2-3-4](#); [460 IAC 2-3-5](#); [460 IAC 2-3-6](#); [460 IAC 2-3-7](#); [460 IAC 2-3-8](#); [460 IAC 2-3-9](#); [460 IAC 2-3-10](#); [460 IAC 2-3-11](#); [460 IAC 2-3-12](#); [460 IAC 2-3-13](#); [460 IAC 2-3-15](#); [460 IAC 2-3-16](#); [460 IAC 2-3-17](#); [460 IAC 2-3-18](#); [460 IAC 2-3-19](#); [460 IAC 2-3-20](#); [460 IAC 2-3-21](#)

SECTION 1. [460 IAC 2-3-1](#) IS AMENDED TO READ AS FOLLOWS:

[460 IAC 2-3-1](#) Purpose; exclusion**Authority:** [IC 12-12-7-5](#)**Affected:** [IC 12-12-7](#)

Sec. 1. (a) The purpose of this rule is to establish standards pursuant to [IC 12-12-7-5](#) that determine the necessary standards of behavior, competency, and proficiency in sign language and oral interpreting and ensure quality, professional interpreting services in order to protect the public and persons who are deaf or hard of hearing from misrepresentation.

(b) The provisions of this rule will not apply to interpreters while they are interpreting in a public or private primary or secondary school setting. Rules applying specifically to such **educational** interpreters are at [460 IAC 2-5-515 IAC 6-1](#).

(Division of Disability and Rehabilitative Services; [460 IAC 2-3-1](#); filed Jul 21, 2000, 10:01 a.m.: 23 IR 3084; filed Nov 4, 2002, 12:11 p.m.: 26 IR 747; errata filed Jun 9, 2004, 2:50 p.m.: 27 IR 3078; readopted filed Sep 30, 2008, 3:24 p.m.: [20081015-IR-460080616RFA](#); readopted filed Aug 11, 2014, 11:20 a.m.: [20140910-IR-460140241RFA](#); filed Mar 23, 2016, 1:39 p.m.: [20160420-IR-460150253FRA](#))

SECTION 2. [460 IAC 2-3-2](#) IS AMENDED TO READ AS FOLLOWS:

[460 IAC 2-3-2](#) Definitions and acronyms**Authority:** [IC 12-12-7-5](#)**Affected:** [IC 12-12-7](#)

Sec. 2. (a) The definitions and acronyms in this section apply throughout this rule unless specifically noted.

(b) "ASL" means American Sign Language.

(c) "BIS" means board of interpreter standards.

(d) "CDI" means certified deaf interpreter.

(e) "~~CDIP~~" means ~~certified deaf interpreter provisional~~.

(f) **(e)** "CEU" means continuing education unit.

~~(g)~~ **(f)** "Consumer" means the persons for and between whom the interpreter is facilitating communication, and includes both hearing and deaf consumers.

~~(h)~~ **(g)** "~~DDARS~~ **DDRS**" means the division of disability ~~aging~~, and rehabilitative services.

~~(i)~~ **(h)** "Deaf/blind interpreting" means using the special skills required to interpret for a person who uses ASL and is both deaf and blind.

~~(j)~~ **(i)** "DHHS" means deaf and hard of hearing services.

~~(k)~~ **(j)** "Identified interpreting agency" means an agency whose business is providing interpreting services, has been in business prior to July 1, 1999, and is found on a list of identified interpreting agencies with DHHS.

~~(l)~~ **(k)** "Interpreter" refers to both interpreters and transliterators.

~~(m)~~ **(l)** "ITP" means interpreter training program.

~~(n)~~ **(m)** "Minimal language skilled interpreting" means using the special skills required to interpret for a person who has no first language and minimal skills in any other language.

~~(o)~~ **(n)** "NAD" means National Association of the Deaf.

(o) "NIC" means National Interpreter Certification.

(p) "Payee" means a person who contracts with a freelance interpreter on behalf of a public or private agency, organization, or business for a particular assignment involving one (1) or more deaf clients and one (1) or more hearing consumers.

(q) "Proof of employment" means a letter from **an** approved agency, or copy of pay stub, or 1099 Form, or W-2.

(r) "RID" means Registry of Interpreters for the Deaf.

(s) "Setting" means the context within which an interpreting assignment takes place.

(t) "Team stage interpreting" means using the special skills required to interpret on stage or at a large event in tandem with a team of interpreters.

(u) "TECUnit" means Testing, Evaluation, and Certification Unit, Inc.

(Division of Disability and Rehabilitative Services; [460 IAC 2-3-2](#); filed Jul 21, 2000, 10:01 a.m.: 23 IR 3085; filed Nov 4, 2002, 12:11 p.m.: 26 IR 747; readopted filed Sep 30, 2008, 3:24 p.m.: [20081015-IR-460080616RFA](#); readopted filed Aug 11, 2014, 11:20 a.m.: [20140910-IR-460140241RFA](#); filed Mar 23, 2016, 1:39 p.m.: [20160420-IR-460150253FRA](#))

SECTION 3. [460 IAC 2-3-3](#) IS AMENDED TO READ AS FOLLOWS:

[460 IAC 2-3-3](#) Certification requirements

Authority: [IC 12-12-7-5](#)

Affected: [IC 12-12-7](#)

Sec. 3. (a) In order to receive certification as an interpreter under this rule by the state, an individual must

register with DHHS in the manner prescribed by DHHS and fulfill at least one (1) of the following criteria:

- ~~(1) Pass the RID written generalist test, hold NAD Level III, and obtain two (2) DHHS-approved CEUs per year for up to five (5) years.~~
- ~~(2) (1) Pass the RID written generalist test, NAD-RID NIC Knowledge Examination, be a graduate of an accredited ITP, and obtain two (2) DHHS-approved CEUs per year for up to five (5) years.~~
- ~~(3) Hold NAD Level IV or above.~~
- ~~(4) (2) Hold RID certification or another nationally recognized certification organization for interpreters.~~
- ~~(5) (3) Hold RID oral certification for situations requiring an oral interpreter only.~~
- ~~(6) (4) Hold certification from TECUnit and have passed the RID written generalist test NAD-RID NIC Knowledge Examination for situations requiring a cued speech transliterator.~~
- ~~(7) Hold RID, CDI, or GDIP.~~
- ~~(8) Be a deaf or hard of hearing person, produce one (1) letter of recommendation to be filed with DHHS from an identified interpreting agency which has previously hired the applicant for deaf/blind interpreting, minimal language skilled interpreting, or team stage interpreting, and obtain two (2) DHHS-approved CEUs per year for up to five (5) years.~~
- ~~(9) (5) Provide documentation of proof of employment as an interpreter prior to July 1, 1999, to be placed on file with DHHS, produce one (1) letter of recommendation from an identified interpreting agency which that hired the applicant prior to July 1, 1999, and obtain two (2) DHHS-approved CEUs per year for up to five (5) years. (This includes deaf, hard of hearing, and hearing interpreters.)~~

~~(b) Commencing July 1, 2010, in order to receive certification by the state, an individual must fulfill the requirements in subsection (a) and also hold a bachelor's degree from an accredited college or university. An interpreter who has met the requirements of subsection (a) prior to July 1, 2010, shall be exempt from the additional requirement of this subsection.~~

~~(c) (b) Interpreters holding NAD or RID certifications must maintain these certifications in good standing in order to maintain their certification by the state, including fulfilling the continuing education requirements of NAD or RID.~~

~~(d) (c) Fulfillment of the requirements of subsection ~~(a)(1), or (a)(2) or (a)(8)~~ shall allow an interpreter to be certified by the state for a maximum period of five (5) years from the date originally certified. At or before the conclusion of this period, an interpreter must fulfill the requirements of at least one (1) of subsection ~~(a)(3) (a)(2)~~ through ~~(a)(7) (a)(4)~~ to continue certification by the state.~~

~~(e) (d) An interpreter certified by the state shall renew such certification at least every two (2) years in the manner prescribed by DHHS.~~

(e) If the certification of an interpreter certified according to subsection (a)(5) lapses, the interpreter will need to be certified by RID or another nationally recognized organization certifying interpreters before he or she is able to renew his or her interpreter certification or be eligible for a new interpreter certification.

(Division of Disability and Rehabilitative Services; [460 IAC 2-3-3](#); filed Jul 21, 2000, 10:01 a.m.: 23 IR 3085; filed Nov 4, 2002, 12:11 p.m.: 26 IR 748; readopted filed Sep 30, 2008, 3:24 p.m.: [20081015-IR-460080616RFA](#); readopted filed Aug 11, 2014, 11:20 a.m.: [20140910-IR-460140241RFA](#); filed Mar 23, 2016, 1:39 p.m.: [20160420-IR-460150253FRA](#))

SECTION 4. [460 IAC 2-3-4](#) IS AMENDED TO READ AS FOLLOWS:

[460 IAC 2-3-4](#) Certificate; professional qualifications

Authority: [IC 12-12-7-5](#)

Affected: [IC 12-12-7](#)

Sec. 4. (a) After being certified by the state, an interpreter shall be issued a certificate signed by the DHHS deputy director and ~~DDARS~~ **DDRS** director evidencing such certification. An interpreter shall also be issued an identification card signed by the DHHS deputy director and ~~DDARS~~ **DDRS** director, which the interpreter shall carry with him or her during interpreting assignments as proof of certification.

(b) An interpreter shall accurately present his or her Indiana identification card, certificate, professional qualifications, and/or credentials upon request.

(Division of Disability and Rehabilitative Services; [460 IAC 2-3-4](#); filed Jul 21, 2000, 10:01 a.m.: 23 IR 3085; readopted filed Nov 21, 2006, 10:59 a.m.: [20061213-IR-460060410RFA](#); readopted filed Sep 30, 2008, 3:24 p.m.: [20081015-IR-460080616RFA](#); readopted filed Aug 11, 2014, 11:20 a.m.: [20140910-IR-460140241RFA](#); filed Mar 23, 2016, 1:39 p.m.: [20160420-IR-460150253FRA](#))

SECTION 5. [460 IAC 2-3-13](#) IS AMENDED TO READ AS FOLLOWS:

[460 IAC 2-3-13](#) Grievances; grievance committee; composition; term

Authority: [IC 12-12-7-5](#)

Affected: [IC 12-12-7](#)

Sec. 13. (a) DHHS shall create a grievance committee, of which the DHHS deputy director shall be the chair. ~~consisting~~ **The grievance committee shall consist** of a minimum of five (5) other **additional** members, ~~which must consist of at least the~~ **including the** following:

- (1) At least two (2) members who:
 - (A) are deaf or hard of hearing; and
 - (B) have experience using interpreters.
- (2) Two (2) members must hold either NAD or RID certification.
- (3) One (1) member may be a professional other than an interpreter but must be knowledgeable of the interpreter standards set forth in this rule.

(b) The term of grievance committee members shall be three (3) years. ~~However,~~ The initial committee will have three (3) members to be determined by the committee who shall serve two (2) years and the remaining members shall serve three (3) years. After the initial term of each appointment, all members shall be appointed for a term of three (3) years and may be appointed for one (1) additional term. If a member of the committee resigns, dies, or is removed, the new appointee shall serve the remainder of the unexpired term. Committee members shall not be eligible for reappointment for at least one (1) year after serving two (2) consecutive terms.

(c) DHHS shall seek training in negotiation and mediation for the committee members.

(Division of Disability and Rehabilitative Services; [460 IAC 2-3-13](#); filed Jul 21, 2000, 10:01 a.m.: 23 IR 3087; readopted filed Nov 21, 2006, 10:59 a.m.: [20061213-IR-460060410RFA](#); readopted filed Sep 30, 2008, 3:24 p.m.: [20081015-IR-460080616RFA](#); readopted filed Aug 11, 2014, 11:20 a.m.: [20140910-IR-460140241RFA](#); filed Mar 23, 2016, 1:39 p.m.: [20160420-IR-460150253FRA](#))

SECTION 6. [460 IAC 2-3-15](#) IS AMENDED TO READ AS FOLLOWS:

[460 IAC 2-3-15](#) Grievances; procedures; complaint and response

Authority: [IC 4-21.5-3-34](#); [IC 12-12-7-5](#)

Affected: [IC 12-12-7](#)

Sec. 15. (a) A complaint may be filed by either of the following:

- (1) Any person utilizing interpreting services.
- (2) Any person ~~clearly demonstrating~~ **who has** a direct or personal interest in the occurrence specified in the complaint.

(b) The complaint must be in writing and ~~filed with the grievance committee referred to in section 13 of this rule.~~ **submitted to the DHHS director.**

(c) The complaint must include the following:

- (1) The name, address, and phone number of each person against whom ~~charges are being~~ **the complaint is** filed.

(2) The date and location of the alleged violation.

(3) The specific action or actions in question making reference to a portion or portions of this rule alleged to have been violated.

(d) The complaint may be filed any time up to ninety (90) days after the date of the alleged violation or date of discovery by the complainant of the alleged violation.

(e) If a matter of extreme urgency should arise requiring immediate review by the grievance committee, the aggrieved party must attach to the complaint **include** a **written** request in writing for immediate review and the specific reasons for the urgency.

(f) Within thirty (30) days of receiving the complaint, each person against whom charges are a **complaint is** made may file a response to the allegations against him or her.

(g) The response shall address, either by admitting, denying, or further explaining, each relevant aspect of each allegation stated in the complaint.

(h) The response must be sent to the grievance committee ~~with a copy~~ **and** to the person who filed the complaint.

(Division of Disability and Rehabilitative Services; [460 IAC 2-3-15](#); filed Jul 21, 2000, 10:01 a.m.: 23 IR 3088; readopted filed Nov 21, 2006, 10:59 a.m.: [20061213-IR-460060410RFA](#); readopted filed Sep 30, 2008, 3:24 p.m.: [20081015-IR-460080616RFA](#); readopted filed Aug 11, 2014, 11:20 a.m.: [20140910-IR-460140241RFA](#); filed Mar 23, 2016, 1:39 p.m.: [20160420-IR-460150253FRA](#))

SECTION 7. [460 IAC 2-3-16](#) IS AMENDED TO READ AS FOLLOWS:

[460 IAC 2-3-16](#) Grievances; committee action

Authority: [IC 4-21.5-3-34](#); [IC 12-12-7-5](#)

Affected: [IC 12-12-7](#)

Sec. 16. (a) After a complaint has been received and a response has been filed or the thirty (30) day period has elapsed for filing a response, the DHHS ~~deputy director as grievance committee chairperson~~ shall review the documents and make an initial decision on the merits of the pleadings.

(b) If the DHHS ~~deputy~~ director finds that no violation of this rule occurred and no cause of action exists, the complaint shall be dismissed and all parties notified in writing.

(c) ~~Upon dismissal of the complaint,~~ The complainant may request a hearing by the full grievance committee within thirty (30) days of dismissal **of the complaint.**

(d) If the DHHS ~~deputy~~ director determines that an investigation is warranted, the ~~formal charges and grounds upon which they are based~~ **DHHS director** shall ~~be set forth in writing and sent to the~~ **send the written allegations to the** grievance committee and all parties involved, and the grievance committee ~~may~~ **shall** hold a hearing pursuant to section 17 of this rule.

(Division of Disability and Rehabilitative Services; [460 IAC 2-3-16](#); filed Jul 21, 2000, 10:01 a.m.: 23 IR 3088; readopted filed Nov 21, 2006, 10:59 a.m.: [20061213-IR-460060410RFA](#); readopted filed Sep 30, 2008, 3:24 p.m.: [20081015-IR-460080616RFA](#); readopted filed Aug 11, 2014, 11:20 a.m.: [20140910-IR-460140241RFA](#); filed Mar 23, 2016, 1:39 p.m.: [20160420-IR-460150253FRA](#))

SECTION 8. [460 IAC 2-3-17](#) IS AMENDED TO READ AS FOLLOWS:

[460 IAC 2-3-17](#) Grievances; hearing procedure

Authority: [IC 4-21.5-3-34](#); [IC 12-12-7-5](#)

Affected: [IC 12-12-7](#)

Sec. 17. (a) ~~The complainant and respondent, whether or not participating in person, may be advised and represented at the party's own expense by counsel or, unless prohibited by law, by another representative. Representatives may participate in all proceedings.~~ **has the right to be represented by legal counsel or any other advocate of his or her choice during the hearing.**

(b) Any party may present any affidavits, documents, or other written evidence ~~as to any relevant aspect of a charge or defense asserted.~~ **during the hearing.**

(c) Any party may present witnesses to give testimony as to any relevant aspect of the charge or defense asserted.

(d) The grievance hearing shall meet at a location most convenient to all parties involved.

(e) ~~All parties involved~~ **The DHHS director shall be given give all parties notice of the scheduled hearing date, time, and location at least two (2) weeks notice of the scheduled hearing date, time, and location. in advance.**

(f) The complainant and the respondent shall bear their own costs and expenses in connection with the grievance process.

(Division of Disability and Rehabilitative Services; [460 IAC 2-3-17](#); filed Jul 21, 2000, 10:01 a.m.: 23 IR 3088; readopted filed Nov 21, 2006, 10:59 a.m.: [20061213-IR-460060410RFA](#); readopted filed Sep 30, 2008, 3:24 p.m.: [20081015-IR-460080616RFA](#); readopted filed Aug 11, 2014, 11:20 a.m.: [20140910-IR-460140241RFA](#); filed Mar 23, 2016, 1:39 p.m.: [20160420-IR-460150253FRA](#))

SECTION 9. [460 IAC 2-3-18](#) IS AMENDED TO READ AS FOLLOWS:

[460 IAC 2-3-18](#) Grievances; decision of grievance committee; recommendation

Authority: [IC 4-21.5-3-34](#); [IC 12-12-7-5](#)

Affected: [IC 12-12-7](#)

Sec. 18. (a) The grievance committee shall carefully review all documents and evidence presented **at the grievance hearing.**

(b) **All grievance** committee members **present at the grievance hearing** other than the DHHS ~~deputy~~ director may vote on the grievance. The **grievance** committee's decision shall require a majority vote. If there is no majority following the vote of the **grievance** committee members, the DHHS ~~deputy~~ director shall cast a vote to determine the majority.

(c) ~~The committee's decision on the charges~~ **grievance committee** shall ~~become~~ **submit** a written recommendation to the DHHS ~~deputy~~ director and ~~shall identify in detail the charges~~ **that describes the complaint**, the evidence used in reaching a decision **considered**, and the relevant **applicable NAD-RID Code of Professional Conduct** standard. ~~for ethical behavior citation.~~

(d) The DHHS ~~deputy~~ director shall review the **grievance** committee's recommendation and either adopt it, modify it, or dissolve it. The DHHS ~~deputy~~ director may remand the matter, with or without instructions, to the grievance committee for further proceedings.

(e) The DHHS ~~deputy~~ director shall issue a final decision on the grievance **thirty (30) days from the date of the grievance hearing.** One (1) copy shall be kept for the **grievance** committee's records, and a copy shall be given to each party. If copies are mailed, they must be sent via certified mail, return receipt requested.

(Division of Disability and Rehabilitative Services; [460 IAC 2-3-18](#); filed Jul 21, 2000, 10:01 a.m.: 23 IR 3088; readopted filed Nov 21, 2006, 10:59 a.m.: [20061213-IR-460060410RFA](#); readopted filed Sep 30, 2008, 3:24 p.m.:

SECTION 10. [460 IAC 2-3-19](#) IS AMENDED TO READ AS FOLLOWS:

[460 IAC 2-3-19](#) Grievances; enforcement; disciplinary actions

Authority: [IC 4-21.5-3-34](#); [IC 12-12-7-5](#)

Affected: [IC 12-12-7](#)

Sec. 19. (a) When the standards of ethical behavior set forth in this rule are found by the grievance committee to have been violated, the committee may recommend to the DHHS ~~deputy~~ director that disciplinary action be taken against an interpreter based upon the severity of the interpreter's misconduct.

(b) The available disciplinary actions that the DHHS ~~deputy~~ director may take include the following:

- (1) Verbal warning, which is an oral reprimand given by the DHHS ~~deputy~~ director.
- (2) Written reprimand, which is a written notification of unsatisfactory performance.
- (3) Probation, which is a trial period of a length of time specified by the DHHS ~~deputy~~ director during which the interpreter is required to fulfill a set of conditions or to improve work performance or on-the-job behavior.
- (4) Suspension or revocation, which is suspension or revocation of Indiana interpreter certification and referral to the grievance committee of the national organization, either RID or NAD, ~~whose~~ **where the interpreter's** certification is held.

(Division of Disability and Rehabilitative Services; [460 IAC 2-3-19](#); filed Jul 21, 2000, 10:01 a.m.: 23 IR 3089; readopted filed Nov 21, 2006, 10:59 a.m.: [20061213-IR-460060410RFA](#); readopted filed Sep 30, 2008, 3:24 p.m.: [20081015-IR-460080616RFA](#); readopted filed Aug 11, 2014, 11:20 a.m.: [20140910-IR-460140241RFA](#); filed Mar 23, 2016, 1:39 p.m.: [20160420-IR-460150253FRA](#))

SECTION 11. [460 IAC 2-3-20](#) IS AMENDED TO READ AS FOLLOWS:

[460 IAC 2-3-20](#) Grievances; appeals

Authority: [IC 12-12-7-5](#)

Affected: [IC 4-21.5](#); [IC 12-12-7](#)

Sec. 20. An interpreter who has received disciplinary action from the DHHS ~~deputy~~ director may request a reconsideration of the decision to the director of ~~DDARS~~ **DDRS within ten (10) days of receiving notice of disciplinary action**. The director of ~~DDARS~~ **DDRS** shall provide a response to the request within fifteen (15) **business** days of the date the request is received, including a notice of the right to appeal the decision. An interpreter that is dissatisfied with the decision on reconsideration may **submit an appeal of** the decision, ~~The appeal shall~~ **which will** be conducted in accordance with [IC 4-21.5](#).

(Division of Disability and Rehabilitative Services; [460 IAC 2-3-20](#); filed Jul 21, 2000, 10:01 a.m.: 23 IR 3089; readopted filed Nov 21, 2006, 10:59 a.m.: [20061213-IR-460060410RFA](#); readopted filed Sep 30, 2008, 3:24 p.m.: [20081015-IR-460080616RFA](#); readopted filed Aug 11, 2014, 11:20 a.m.: [20140910-IR-460140241RFA](#); filed Mar 23, 2016, 1:39 p.m.: [20160420-IR-460150253FRA](#))

SECTION 12. [460 IAC 2-3-21](#) IS ADDED TO READ AS FOLLOWS:

[460 IAC 2-3-21](#) Incorporation by reference

Authority: [IC 12-12-7-5](#)

Affected: [IC 12-12-7](#)

Sec. 21. DHHS incorporates by reference the NAD-RID Code of Professional Conduct, as was copyrighted in 2005 by the Registry of Interpreters for the Deaf.

(Division of Disability and Rehabilitative Services; [460 IAC 2-3-21](#); filed Mar 23, 2016, 1:39 p.m.: [20160420-IR-460150253FRA](#))

SECTION 13. THE FOLLOWING ARE REPEALED: [460 IAC 2-3-5](#); [460 IAC 2-3-6](#); [460 IAC 2-3-7](#); [460 IAC 2-3-8](#); [460 IAC 2-3-9](#); [460 IAC 2-3-10](#); [460 IAC 2-3-11](#); [460 IAC 2-3-12](#).

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