

DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 **Del.C.** §122(d))
14 **DE Admin. Code** 764

FINAL

REGULATORY IMPLEMENTING ORDER

764 Credentials for Interpreter Tutor for the Deaf and Hard of Hearing

I. Summary of the Evidence and Information Submitted

The Secretary of Education seeks the consent of the State Board of Education 14 **DE Admin. Code** 764 Credentials for Interpreter Tutor for the Deaf and Hard of Hearing. The regulation was reviewed as part of the 5 year review cycle. Amendments included, but are not limited to the requirement that Permits for Interpreter/Tutor for the Deaf/Hard of Hearing are to be renewed every five years. In addition, changes were made to the requirements for a Permit. An individual with a current Permit for an Interpreter Tutor for the Deaf and Hard of Hearing shall be grandfathered for 5 years from the effective date of the regulation.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on March 23, 2011 in the form hereto attached as *Exhibit "A"*. Comments were received from Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities as well as a member of the general public. The Department considered the comments and has incorporated several, but not all of the suggested changes. Specifically, in 1.0 the Department broadened the authority reference to assuage the concerns of the Councils. The Department did not incorporate changes related to including language that would broaden the scope of the regulation. The regulation is related to the credentialing of Interpreter/Tutors for the Deaf/Hard of Hearing and not the development of the Individual Education Program (IEP). An area of concern for the Councils was the definition of "Unfit". The definition within the regulation is consistent with the requirements of other public school personnel that are governed by state licensure, certification, and permit regulations and laws. The Department has incorporated the comments related to grammatical recommendations.

II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 764 Credentials for Interpreter Tutor for the Deaf and Hard of Hearing. Amendments included, but are not limited to the requirement that Permits for Interpreter/Tutor for the Deaf/Hard of Hearing are to be renewed every five years. In addition, changes were made to the requirements for a Permit. An individual with a current Permit for an Interpreter Tutor for the Deaf and Hard of Hearing shall be grandfathered for 5 years from the effective date of the regulation.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 764 Credentials for Interpreter Tutor for the Deaf and Hard of Hearing. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 764 Credentials for Interpreter Tutor for the Deaf and Hard of Hearing attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 764 Credentials for Interpreter Tutor for the Deaf and Hard of Hearing hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. Text and Citation

The text of 14 **DE Admin. Code** 764 Credentials for Interpreter Tutor for the Deaf and Hard of Hearing amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 764 Credentials for Interpreter Tutor for the Deaf and Hard of Hearing in the *Administrative Code of Regulations* for the Department of Education.

V. Effective Date of Order

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on April 21, 2011. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 21st day of April 2011.

Department of Education

Lillian M. Lowery, Ed.D., Secretary of Education

Approved this 21st day of April 2011

State Board of Education

Teri Quinn Gray, Ph.D., President
Jorge L. Melendez, Vice President
G. Patrick Heffernan
Barbara B. Rutt

Gregory Coverdale
Terry M. Whittaker, Ed.D.
James L. Wilson, Ed.D.

764 Credentials for an Interpreter/Tutor for the Deaf and/Hard of Hearing

1.0 ~~Content~~ Purpose

- 1.1 This regulation shall apply to the requirements for a ~~permit~~ **Permit**, pursuant to ~~[14 Del.C. §1331(b) the authority provided in Title 14 of the Delaware Code]~~, for Interpreter/Tutor for the Deaf and/Hard of Hearing in public schools.
- 1.2 No person shall be employed by a public school as an Interpreter/Tutor for the Deaf/Hard of [hearing Hearing] without obtaining a [permit Permit] under this section.

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“**Department**” means the Delaware Department of Education.

“**EIPA**” means Educational Interpreter Performance Assessment. For purposes of this regulation, EIPA includes both the Written Test and video stimulus tapes evaluation.

“**Immorality**” means conduct which is inconsistent with the rules and principles of morality expected of the interpreter tutor and may reasonably be found to impair an individual’s effectiveness by reason of his or her unfitness or otherwise.

“**Permit**” means a document issued by the Department of Education that verifies an individual’s qualifications and training to serve as an Interpreter/Tutor for the Deaf and/Hard of Hearing. ~~[Interpreter/Tutors shall renew permits every five years by meeting the minimum standards required by the RID Certification Maintenance Program. A permit shall be valid for five (5) years.]~~

“**RID**” means the National Registry of Interpreters for the Deaf.

“**Secretary**” means the Secretary of the Delaware Department of Education.

“**Unfit**” means ~~lack of good moral character~~ immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, willful and persistent insubordination or falsification of credentials.

3.0 Requirements for a Permit

- 3.1 Subject to the provisions in 6.0 below, tThe Department shall issue a Permit as an Interpreter/Tutor for the Deaf and/Hard of Hearing to an individual who has a minimum of a Bachelor’s degree in any field from a regionally accredited college or university and [either]:
- 3.2 ~~A minimum of a Bachelor’s degree in any field from a regionally accredited college or university; and maintains Holds national certification as an Interpreter for the Deaf and Hard of Hearing a Generalist by RID; or; or~~
- 3.3 ~~Maintains a current and valid license and is certified as a Teacher of the Hearing Impaired. Is a certified member of RID as an EIPA credentialed interpreter who achieved a level 4.0 or higher on the Elementary or Secondary American Sign Language video stimulus tapes evaluation.~~

4.0 Application [and Renewal] Procedures

- 4.1 Applicants for a Permit as an Interpreter/Tutor for the Deaf and/Hard of Hearing shall submit to the Department:
 - 4.1.1 Official transcripts forwarded directly from the issuing institution or by the applicant in an unopened, unaltered envelope.
 - 4.1.2 Evidence of national certification as an Interpreter for the Deaf and Hard of Hearing a Generalist from RID or evidence which documents that the applicant has met the requirements defined in Section 3.2.

[4.2 The permit holder shall be required to renew the Permit every five (5) years by submitting documentation that the minimum standards in 3.0 of the regulation have been met.]

5.0 Criminal Conviction History

An applicant shall disclose his or her criminal conviction history upon application for the Permit. Failure to disclose a criminal conviction history is grounds for denial or revocation of a Permit.

6.0 Denial of Permit

6.1 An applicant ~~may~~ shall be denied a Permit for an Interpreter/Tutor for the Deaf ~~and~~/Hard of Hearing upon a finding that the applicant ~~has~~:

6.1.1 ~~f~~Failed to meet the requirements set forth herein; or ~~is unfit to be issued a permit in this State.~~

6.1.2 Is Unfit; or

6.1.3 Had a Permit, certificate or license revoked in another jurisdiction; or

6.1.4 Is under official investigation by any state or local authority with the power to issue educator licenses, permits, or certifications, where the alleged conduct ~~[involves immorality, misconduct in office, incompetence, neglect of duty, disloyalty, willful and persistent insubordination or falsification of credentials] meets the definition of "Unfit" in 2.0 of this regulation~~, until the applicant provides evidence of the investigation's resolution.

6.2 ~~6.2~~ The Secretary shall give written notice to the applicant of the denial and the reasons therefore. The notice of denial shall be sent by certified mail and shall give notice that a full and fair hearing may be requested before the Secretary or his or her designee within 10 days of the receipt of the notice of denial. The Secretary's decision shall be final.

6.2 ~~Notwithstanding any other provision stated herein, no Permit shall be issued to an applicant if:~~

6.2.1 ~~There is legal evidence that the applicant is not of good moral character;~~

6.2.2 ~~The applicant has had an educator Permit, certificate or license revoked in another jurisdiction for immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials.~~

7.0 Revocation of Permit

7.1 A Permit issued under the provisions of this regulation may be revoked upon a finding of ~~[immorality, misconduct in office, incompetence, neglect of duty, disloyalty, willful and persistent insubordination or falsification of credentials] meets the definition of "Unfit" in 2.0 of this regulation~~ and must be revoked upon finding that the permit holder made a materially false or misleading statement in his or her permit application or upon finding that the permit holder failed to maintain the requirements for a ~~permit~~ Permit] as designated in 3.0 herein.

7.2 The Secretary shall give written notice to the permit holder of the proposed revocation and the reasons therefore. The notice of revocation shall be sent by certified mail and shall give notice that a full and fair hearing may be requested before the Secretary, or his or her designee, within 10 days of the receipt of the notice of denial. The Secretary's decision shall be final.

8.0 Effect on Current Certificate or Permit Holders

8.1 This regulation shall be effective immediately. ~~Notwithstanding this provision, the Department shall recognize a Certification Interpreter Tutor for the Hearing Impaired that is otherwise valid if issued prior to July 11, 2005, provided that the Certificate holder is employed as an interpreter tutor as of July 11, 2005. If a holder of a Certification Interpreter Tutor for the Hearing Impaired issued prior to July 11, 2005, should leave employment as an interpreter tutor, such individual shall meet the then in effect permit requirements upon reapplication.~~

8.2 Notwithstanding this provision, individuals who are employed as Interpreter/Tutors on May 11, 2011 shall be grandfathered for 5 years subsequent to May 11, 2011. After May 11, 2011, any Delaware Interpreter/Tutor shall meet the requirements of 3.0 herein.

9 DE Reg. 113 (7/1/05)

14 DE Reg. 1222 (05/01/11)