

**ADOPTED REGULATION OF THE
AGING AND DISABILITY SERVICES DIVISION OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB File No. R014-12

Effective September 14, 2012

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §1, NRS 656A.090; §2, NRS 656A.090, 656A.500 and 656A.510; §3, NRS 656A.086 and 656A.090.

A REGULATION relating to interpreters; requiring each interpreter or Communication Access Realtime Translation provider who provides services in a school district to report certain information to the Aging and Disability Services Division of the Department of Health and Human Services; revising the procedures for investigating and resolving a complaint; and providing other matters properly relating thereto.

Section 1. Chapter 656A of NAC is hereby amended by adding thereto a new section to read as follows:

1. Each interpreter or Communication Access Realtime Translation provider who provides services for a school district in this State shall report to the Division:

(a) His or her name;

(b) The modality he or she uses to provide services;

(c) Each grade level he or she serves;

(d) The name, telephone number and electronic mail address of his or her direct supervisor; and

(e) Any other information requested by the Division.

2. Each interpreter or Communication Access Realtime Translation provider required to submit a report pursuant to subsection 1 shall submit the report on a form prescribed by the Division within 30 days after the date on which the interpreter or Communication Access Realtime Translation provider begins serving pupils in the school district.

3. Each interpreter or Communication Access Realtime Translation provider required to submit a report pursuant to subsection 1 shall report, on a form prescribed by the Division, any changes in the information required to be reported pursuant to subsection 1 within 30 days after the change occurs.

Sec. 2. NAC 656A.600 is hereby amended to read as follows:

656A.600 The Division may initiate disciplinary action against an interpreter or Communication Access Realtime Translation provider, or may deny the issuance or renewal of his or her registration if the Division finds, after providing notice and a hearing, that the interpreter or Communication Access Realtime Translation provider:

1. Willfully and intentionally made a false or fraudulent statement or submitted a forged or false document to the Division;
2. Performed interpreting or Communication Access Realtime Translation services which were not delivered properly according to the classification pursuant to which he or she is registered;
3. Provided interpreting or Communication Access Realtime Translation services when he or she did not have the ability to provide such services with reasonable skill and safety;
4. Provided interpreting and Communication Access Realtime Translation services in a negligent manner;

5. Failed to obey an order or regulation of the Division or an investigative committee of the Division, which related to the provision of interpreting or Communication Access Realtime Translation;

6. Is not competent to provide the services required of an interpreter or Communication Access Realtime Translation provider;

7. Has been convicted of a felony or any offense involving moral turpitude in the past 10-year period; ~~or~~

8. *Failed to submit any report required pursuant to section 1 of this regulation; or*

9. Has had disciplinary action taken against him or her in another jurisdiction or by another board that regulates the practice of interpreting or Communication Access Realtime Translation if the disciplinary action was taken against the interpreter or Communication Access Realtime Translation provider in his or her capacity as the holder of a certification which authorizes him or her to provide interpreting or Communication Access Realtime Translation services.

Sec. 3. NAC 656A.610 is hereby amended to read as follows:

656A.610 1. If the Division or a recipient of services from an interpreter or Communication Access Realtime Translation provider, who is party to and aware of any act or circumstance that constitutes grounds for disciplinary action against an interpreter or Communication Access Realtime Translation provider, desires to pursue disciplinary action against that interpreter or Communication Access Realtime Translation provider, the person must file a complaint with the Division specifying the charge against the interpreter or Communication Access Realtime Translation provider. A complaint may not be accepted from a recipient of interpreting or Communication Access Realtime Translation services who knowingly

and willingly used an unregistered interpreter or Communication Access Realtime Translation provider.

2. Unless the Division determines that a complaint is without merit, the Division will:

(a) Direct the complaint to the complainant's certifying body;

(b) Assign an investigative committee to determine whether a charge against an interpreter or Communication Access Realtime Translation provider justifies disciplinary action ; ~~[-The investigative committee will be composed of not less than three members of the Communication Access Council or its designees, at least one of whom is an interpreter or Communication Access Realtime Translation provider;]~~

(c) Utilize the services of a mediator certified by the Registry of Interpreters for the Deaf to resolve complaints between parties; or

(d) Intervene on behalf of the complainant and the interpreter or Communication Access Realtime Translation provider, as appropriate, if they agree to the intervention.

3. *The Division will assign to the investigative committee pursuant to paragraph (b) of subsection 2 one program specialist from the Division, one person who is deaf or hard of hearing and one service provider who is registered with the Division. Each member of the investigative committee will be required to sign a confidentiality agreement and must not have a conflict of interest in the outcome of the investigation.*

4. Before assigning the complaint to an investigative committee, the Division must provide the interpreter or Communication Access Realtime Translation provider, as applicable, with a copy of the complaint. If the Division determines that a complaint is without merit, the Division may provide the interpreter or Communication Access Realtime Translation provider with a copy of the complaint, including the name of the person who filed the complaint.

~~{4.}~~ 5. Following an investigation, the investigative committee will present its evaluation and recommendations to the Division. The Division will review the findings of the committee to determine whether to take further action against the interpreter or Communication Access Realtime Translation provider.

~~{5.}~~ 6. If the Division determines after investigation that an interpreter or Communication Access Realtime Translation provider has violated the provisions of this chapter or chapter 656A of NRS, and there is no certifying body to report to, the Division will notify the Attorney General of its findings and any disciplinary action taken.

~~{6.}~~ 7. A member of the Division who participates in an investigation will not participate in the review conducted or in a subsequent hearing or action which is related to the investigation.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R014-12

The Aging and Disability Services Division of the Department of Health and Human Services adopted regulations assigned LCB File No. R014-12 which pertain to chapter 656 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

1. Statement of need for and purpose of the proposed regulation.

Revisions expand on the information provided to the Division and the public on reports already required under regulation, and change the membership of the investigative committee which is convened when complaints are submitted, which improves accountability of interpreters for the deaf community.

2. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.

Notice of the public workshop was posted on February 28, 2012 and the workshop was held on March 20, 2012. Notice of public hearing was posted on May 4, 2012 and the public hearing was held on June 5, 2012. Posting included e-mailing notices to public libraries in all counties in which Aging and Disability Services Division does not have an office, to all Division offices, and to a list of other public places where interested parties would see the notice. The notice was also posted on the Division website. Summaries of the public response may be obtained at the Aging and Disability Services Division.

3. The number of persons who: (a) attended each hearing; (b) testified at each hearing; and (c) submitted to the agency written statements.

Attending the public workshop were 20 people in Carson City, five people in Las Vegas, and two people in Elko. Testimony was received from three members of the public. There were no written comments. Attending the public hearing were 14 people in Carson City, four people in Las Vegas, and three people in Elko. There was no public comment or written comments at the public hearing.

4. A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.

No businesses are affected by this regulation.

5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was changed after talks with the school districts from requiring the school districts to report interpreter information to the Aging and Disability Services Division to having the interpreters themselves be responsible for reporting the information.

6. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

- a. Both adverse and beneficial effects;**
- b. Both immediate and long-term effects;**

There will be no economic effect of the changes in the regulations on either businesses or persons.

7. The estimated cost to the agency for enforcement of the adopted regulation.

None

8. A description of any regulation of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

None

9. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

Not applicable

10. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

Not applicable