

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**041 OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
AMERICAN SIGN LANGUAGE INTERPRETERS**

**BASIS STATEMENT AND RESPONSE TO COMMENTS:**

**August 16, 2022**

**(Written public comments accepted through July 31, 2022)**

**Basis Statement:** The American Sign Language Interpreters is a licensure program within the Office of Professional and Occupational Regulation (“OPOR”) and is charged by the Legislature with the regulation of interpreters and deaf interpreters in the State of Maine for the sole purpose to protect the public health and welfare. The Legislature granted the Director of OPOR rulemaking authority pursuant to 32 M.R.S. § 1522(1) to fully implement rules necessary for the proper administration and enforcement of the regulated profession.

This is a comprehensive rulemaking effort to repeal and replace existing chapters to align with various statutory changes, streamline the licensure provisions, remove duplicative and/or obsolete terms, identify licensure by endorsement requirements, clarify the continuing education and renewal requirements, outline the requirements for inactive licensure status, and identify standards of professional and ethical conduct.

**Repeal and Replace Chapter 50 – “Definitions” (formerly “Definitions”)**

- ♦ Deletes definitions that are either defined in statute or not referenced in rule.
- ♦ Amends existing definitions for accuracy.
- ♦ Adds definition of “extreme hardship”.

**Repeal and Replace Chapter 51 – “Requirements for Initial Licensure and Licensure by Endorsement” (formerly “Requirements for Initial Licensure”)**

- ♦ Identifies and clarifies existing statutory qualifications for initial licensure for certified interpreter, certified deaf interpreter, conditional interpreter, and conditional deaf interpreter.
- ♦ Identifies the qualifications for licensure by endorsement.
- ♦ Clarifies the qualifying score in meeting ASL proficiency for conditional licensure.
- ♦ Identifies alternative pathways in meeting the educational qualifications for conditional licensure.

**Repeal and Replace Chapter 52 – “License Renewal, Inactive Licensure Status and Continuing Education” (formerly “Licensure Renewal and Continuing Education”)**

- ♦ Identifies general requirements for renewal, late renewal and reinstatement of licensure.
- ♦ Identifies specific renewal requirements for conditional licenses and authorizes requests for “extreme hardship”.
- ♦ Identifies the continuing education requirements for each licensure type.
- ♦ Identifies content requirements for continuing education.
- ♦ Identifies eligible and ineligible continuing education activities.
- ♦ Identifies responsibility for documentation/audit regulations.

- ♦ Includes “audit findings” language.
- ♦ Clarifies requests for waivers, extensions, expectation for first renewals and inactive status.

Repeal and Replace Chapter 54 – “Code of Ethics and Ethical Standards” (formerly “Disclosure Statement”)

- ♦ Disclosure statement language was repealed pursuant to 2019 Public Law, Chapter 284.
- ♦ Replace with NAD-RID “Code of Ethics and Ethical Standards” excluding Tenet 6 relating to business practices, and Tenet 7 relating to professional development as the continuing education requirements already address maintaining professional competency.

Repeal Chapter 55 – “Complaints and Investigations”

- ♦ Repeal

A stakeholder process was utilized in November of 2021 to discuss and obtain consensus specific to the development of minimum standards for conditional licensure in an effort to reduce barriers to otherwise qualified individuals to seeking licensure. Written public comment on the proposed rule changes were accepted through July 31, 2022. Below are public comments and response to comments as they were received from the following individuals:

**Response to Comments**

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1. Jing (Jinny) Zhang, MBA, Director of Maine Language and Culture Center, President of Bangor Chinese (Language) School, Director of BCS Interpreting Service (ASL & All Spoken Languages), Member of World Language Committee of Maine, Director of STARTALK Program in Maine (written comment provided July 26, 2022).

- A. Summary of comment:** The commenter provided a statement that the Sky standard for ASL interpreting in Maine is too high for people to pass and is unnecessary. The commenter also expressed concern regarding the wellbeing of the deaf community and identified an increased need for ASL interpreters particularly in northern Maine.
- **Response to Comment(s).** The comments provided by Jing Zhang are appreciated and over the years there has been extensive legislative initiatives and various stakeholder discussions regarding the establishment of minimum standards and the identification of alternative pathways to ensure otherwise qualified and trained individuals in interpreting services can obtain licensure. Any changes to the proposed rulemaking to either the educational and/or examination minimum standards would be contrary to the legislative changes and stakeholder input. Consequently, the comment provided will not be accepted.

2. Ruth Vigna, Co-Director, Certified Interpreting (written comment received July 27, 2022).

- A. Summary of comment.** Comment in support of the change in Chapter 51 specific to the new qualifying score of 3 or higher on an ASL proficiency interview. The prior qualifying score of 3+ created an unnecessary barrier to otherwise qualified candidates who successfully completed a rigorous program of study in interpreting as offered by the University of Southern Maine.

- **Response to Comment(s).** The comment providing positive feedback and support for the rule change is appreciated.

3. Dana McDaniel, Chair, Department of Linguistics, University of Southern Maine (“USM”) (written comment received July 30, 2022).

A. **Summary of comment.** Comment in support of the licensure changes noting the university’s challenge in recruiting students to address to the workforce shortage of interpreter services in Maine. The commenter also provided comments to reconsider the qualifications for licensure in Chapter 51 as follows:

- i. Section 3(A)(1) – American Sign Language proficiency
  - a. Reconsider the qualifying score of 3+ on the ASL proficiency interview to a qualifying score of 3.
- ii. Section 3(B)(1) – Educational requirements
  - a. Consider identifying equivalent coursework to that of an associate degree to allow students enrolled in a baccalaureate program to qualify for conditional licensure. The suggested equivalent coursework is outlined in the comment as follows:
    - Completion of university core curriculum requirements
    - Completion of at least 60 college credits
    - Completion of at least 21 credits of coursework in interpreting
    - Completion of a Deaf Studies minor
    - Completion of at least one course in academic ASL

- **Board Response to Comment(s).** These comments demonstrate a thorough and detailed analysis of academic equivalency and expressed need to recruit/retain qualified interpreters in Maine; however, the comments are not accepted for the following reason(s):

First, Section 3(A)(1) of the proposed rule repeals the former qualifying score of “3.5 or higher” and replaces it with a qualifying score of “3 or higher”. In other words, the proposed rule has identified the commenter’s recommended qualifying score.

Second, Section 3(B)(1) of the proposed rule identifies the educational requirements for licensure based on the statutory provisions found in 32 M.R.S. § 1524(C)(3) as follows:

**Proof of education and training in the interpreting process.** Documented proof of the following:

- A. At least one of the following:
  - (1) An associate degree or higher in American Sign Language, American Sign Language interpreting or deaf studies from an accredited college or university; or
  - (2) For persons holding a limited license that is current on the effective date of this section, an alternative pathway approved by the Registry of Interpreters for the Deaf, Inc. or a comparable or successor organization recognized by the director; ...

Proposing to add an equivalency determination as an alternative to meeting the educational standard for licensure would not only be inconsistent with the governing statute, it would

also exceed the licensure program's expertise. Determinations of academic equivalencies are best left to educational institutions who have degree granting authority in working with accreditation organizations. The licensure program would have to consider all applicants, not just students enrolled in USM's program, when determining educational equivalency which would likely result in creating more confusion, delays and additional barriers in entering the workforce.

4. Maura Nolin, Chair, Department of Linguistics, University of Southern Maine (written comment received July 31, 2022).

A. **Summary of comment.** Comment in support of the licensure changes noting distinctions between minimum licensure standards and higher national certification standards in the practice of interpreting. Supports the time limited conditional licensure category to ensure performance measures and competencies are met for full certification competencies by providing for opportunities for independent assessments and training in interpreting. Highlighted the unique challenges facing the deaf community when relying on interpreters and the proposed rules provide confidence that a licensed interpreter is qualified.

➤ **Board Response to Comment(s).** The comment providing positive feedback and support for the rule change is appreciated.

5. Dr. Judy Shepard-Kegl, Certified and Licensed Interpreter, Coordinator of the ASL/English Interpreting Concentration Department of Linguistics, University of Southern Maine (written comment received July 31, 2022).

A. **Summary of comment.** Comments in support of improved standards for interpreting at both the certified and pre-certified level, as well as evidence of language proficiency in ASL, requiring a knowledge-based examination and placing caps on conditional licensure. Commenter also identified the importance of improvements to licensure to ensure that interpreting services for the deaf in Maine are sustainable and meets national standards.

Comments not in support of the proposed rule were also submitted as follows:

- i. Existing statute and proposed rules are overly strict. The language requirement is restricted to ASLPI and it is set too high for pre-certified interpreters. The minimum education standards preclude other entry-level interpreters who have an academic background, but not specific to an associate or baccalaureate degree in ASL, Deaf Studies or ASL/English interpreting. Graduates of USM's interpreter training program are unable to meet the requirements and either leave the state and/or leaving the field of interpreting which is exacerbating the shortage of interpreter services in Maine.
- ii. Comment specific to Chapter 51, Section 3(A)(1) – American Sign Language proficiency
  - a. Identifying Gallaudet as the sole proprietor of the ASL proficiency test is a flagrant manipulation of the law and goes well beyond the spirit of the original intent. Commenter also identified other sources of ASL proficiency assessments such as the American Council of Teaching Foreign Languages (ACTFL).

- b. Revise the qualifying score of 3+ on the ASL proficiency interview to a qualifying score of 3.
- iii. Section 3(B)(1) – Educational requirements
  - a. Supports the comment submitted by Dana McDaniel (see Comment #3) specific to amending the rule to allow equivalent coursework to that of an associate degree to allow students enrolled in a baccalaureate program to qualify for conditional licensure.

➤ **Board Response to Comment(s).** These comments are appreciated especially as concerns USM’s efforts to recruit students into USM’s interpreter training program with the goal to retain them as licensed interpreters providing much needed services in Maine. However, comments specific to the proposed rules as being overly restrictive and contrary to existing statutory authority are not accepted as outlined below:

First, the sole purpose of OPOR and its licensure programs is to protect the public and this is accomplished in part by identifying minimum standards for licensure. OPOR and members of the interpreter stakeholders group have coordinated and collaborated on identifying those standards to ensure competency in the delivery of interpreter services in Maine. The most recently legislative changes and proposed rulemaking efforts reflect that work. Eliminating the shortage of interpreters and challenges in recruiting and retaining qualified interpreters in Maine cannot rest solely on a licensure program. More work is needed to address workforce issues and the hope is that this rulemaking effort will streamline the licensure requirements.

Second, as concerns the comment that identifying Gallaudet as the sole source of the ASL proficiency test in the proposed rule is contrary to statutory intent is not accurate. The enabling statute authorizes the Director through rulemaking to identify the way in which an applicant can demonstrate proficiency. The rule identifies not only Gallaudet but identifies “or comparable” leaving open the ability for an applicant to bring forward a proficiency examination provider by another entity.

Third, Section 3(A)(1) of the proposed rule repeals the former qualifying score of “3.5 or higher” and replaces it with a qualifying score of “3 or higher”. In other words, the proposed rule has identified the commenter’s recommended qualifying score.

Lastly, Section 3(B)(1) of the proposed rule identifies the educational requirements for licensure based on the statutory provisions found in 32 M.R.S. § 1524(C)(3) as follows:

**Proof of education and training in the interpreting process.** Documented proof of the following:

- A. At least one of the following:
  - (1) An associate degree or higher in American Sign Language, American Sign Language interpreting or deaf studies from an accredited college or university; or
  - (2) For persons holding a limited license that is current on the effective date of this section, an alternative pathway approved by the Registry of

Interpreters for the Deaf, Inc. or a comparable or successor organization recognized by the director; ...

Proposing to add an equivalency determination as an alternative to meeting the educational standard for licensure would not only be inconsistent with the governing statute, it would also exceed the licensure program's expertise. Determinations of academic equivalencies are best left to educational institutions who have degree granting authority in working with accreditation organizations. The licensure program would have to consider all applicants, not just students enrolled in USM's program, when determining educational equivalency which would likely result in creating more confusion, delays and additional barriers in entering the workforce.

6. Matt W. (written comment received July 31, 2022).

- A. **Summary of comment.** Comment in support of the rulemaking changes to address the increased demand for qualified interpreters within the deaf community. Identifies that the decline of interpreters in Maine has resulted in canceled doctor appointments, lack of interpreting in the classroom and overworked interpreters. Hopeful that the community and licensure can work together to improve interpreting licensure in Maine.
- **Board Response to Comment(s).** The comment providing positive feedback and support for the rule change is appreciated.