

ADDENDUM TO THE COMMUNICATION ACCESS COMMITTEE MEETING - FEBRUARY 13, 2018

NOTE: A total of ten (10) individuals offered comments and feedback to DCAB. To protect commenter confidentiality, DCAB summarized the comments received.

The following is a summary of the comments followed by discussion points and any decisions made at the February 13, 2018 meeting

HQAS TEST

TOPIC: Number of Times a Person May Take the HQAS Test

Many commenters stated that limiting the number of times a person can take the HQAS test to 3 was a deterrent to improve, especially to lower level interpreters. The rationale for the limit was the availability of only 3 tests. Recommendations ranged from 4/5 times to unlimited.

Discussion and Decision: The Committee agreed that a repeat of the same video would not compromise the integrity of the test, given an interval of time between using the same test again. Thus, DCAB can allow extra tests, especially to assist Level III interpreters. The staff proposal to allow each tape to be used twice, resulting in a potential 6 tests (instead of 3 tests), was agreed upon by all present. Also, the applicant would have to take all three versions of the test before they could 'cycle' back to repeating the same test. The main concern was how much time would be needed between the same test to ensure that the integrity of the test would not be compromised. After discussion, it was agreed that we would require 6 months between any test re-takes. It requires about 2 months to score a test and most applicants would not change their skill set sufficiently in 4 more months, so a total of 6 months seemed reasonable. With 3 original tests, a repeat test would be test #4 with a minimum of 18 months lapse time from the original test. Staff clarified that the test is given upon request, rather than at scheduled times.

Recommendation: Allow each tape to be used twice with the condition that using a repeat tape must be no sooner than 1 year. This is a maximum of 6 times. In theory, a person could take the test 3 times in one year with different tapes and then repeat a year later. The test taker would still have to pay the fee again because the evaluators must rate and be paid again.

TOPIC: Continued Use of the HQAS Test

A few commenters suggested that HQAS is outdated and needs to be replaced. The Committee and Board agreed that it is old.

Discussion and Decision: No change to the proposed draft. Staff has researched this and will continue to do so with other states. There is no other financially viable option

currently. Until such time, DCAB will continue to use HQAS and will continue to explore other options.

TOPIC: HQAS Test Name

All commenters agreed to not change the name of the HQAS test.

Discussion and Decision: No change to the proposed draft.

TOPIC: HQAS Levels II and I

Some commenters expressed concern that there is a place for Level I and II interpreters, especially those who currently possess that Level.

Discussion and Decision: Staff noted that for the record, there are no Level I interpreters and only one Level II currently (others have expired or have improved to a higher level). No changes to the proposed draft will be made. The decision was to keep the minimum credential as Level III and work with the current Level II person to achieve a Level III status. If the number of test tries is increased to 6, and given that there is feedback to the interpreter on his/her test, staff recommends keeping the minimum level to achieve a state credential at Level III.

TOPIC: Code of Professional Conduct (CPC)

All commenters supported using the RID CPC instead of the older QAS Code of Ethics.

Discussion and Decision: No change to the proposed draft.

TOPIC: Ethics Test

The comments are split as to whether to retain an ethics test. The rationale for deletion is that passing a test does not guarantee ethical behavior; the best way is through CEUs. The rationale for keeping a test is that basic ethics are essential to practicing as an interpreter. RID requires a written test, although it is more than ethics.

Discussion and Decision: There was a strong feeling that we should have some type of test to complement the performance test. Being able to interpret is good to assess, but we need to have something that also requires a person to have an understanding of ethics and other relevant information. The RID test is more than just ethics. Also, RID uses a video whereby a person must determine what is and is not appropriate to do. Since we are replacing the old QAS Code of Ethics with the RID CPC, we would need to re-do the test in whatever form we decide, budgeting money for a new test. RID has a video on ethics that they are updating, which has some potential for use. There was a long discussion as to whether the test should be written or video-based, and the decision was to reference a Test on Professional Conduct (since we are basing it on the Code of Professional Conduct). This would allow flexibility to incorporate more than ethics and simultaneously not specify whether the test needed to be written or video-based or a combination. DCAB would have time to develop such a test with external assistance and consultation.

TOPIC: HQAS Test Fee

Some commenters opposed raising the test fee from \$300 to \$360. Currently the \$300 is used to pay 6 raters @ \$40 each (for about 3 hours of time) plus the costs of purchasing tapes, to/from FedEx mailing, etc. The proposal would increase the rater reimbursement to \$50. One commenter stated that more tests would 'earn' DCAB more money.

Discussion and Decision: DCAB could probably absorb the cost of tapes and postage (\$60 per test) and still provide an increase to \$50, given the relatively low number of applicants per year if the differential is considered a deterrent. Although if the number of tests is increased to 6, the aggregate loss will be greater. DCAB does not earn money on the tests and, if the fee were kept at \$300 with an increase in rater reimbursement, then DCAB would lose money. After a lengthy discussion, the majority felt that the increase would not be a major deterrent to applicants but that an increase to \$50 for the raters for their time was important, since the amount is nominal. As a result, no changes were made to the draft.

TOPIC: +H Test

The current draft proposes to eliminate the +H as a test and, in its place, develop training components on the content. This is because only 5 people who are current interpreters have seen the tape and having the +H is not a factor in placement, few people have benefited from it. Comments are mixed as to whether to keep +H. Some believe it has value to expose interpreters to local language; others believe that the tape itself, while useful, is outdated. Those wanting to keep +H mentioned a need for exposing people to HSL and for local language.

Discussion and Decision: There was no discussion. To correct a misperception, +H is not about HSL. It reflects local pidgin, but not HSL. Since only 5 people who are current interpreters have seen the tape and having the +H is not a factor in placement, few people have benefited from it.

TOPIC: Grievance of the Test

A few commenters emphasized the need for a grievance procedure. One commenter stated that the re-evaluation should not cost the applicant any additional fee. However, this is not practical because DCAB must pay new raters for their time. Several commenters asked for a mechanism to file a grievance against an interpreter for his/her behavior. This would not be a grievance on the test but a grievance on the interpreter's credential status.

Discussion and Decision: There is currently a grievance procedure for the test itself. If the grievance is procedural, then the process is in place to grieve to the Director. If the grievance is about the score, then there is a process to have the performance test rescored with a new fee. To allow for a mechanism to grieve against an interpreter's behavior, further changes to the law will be required. DCAB should ask those in the community what type of 'remedy' or 'procedure' they wish to see. If it is anything other than an informal mechanism whereby the staff raises the issue to the interpreter, then

we would need to discuss with the AG how to change the law. We cannot have a grievance mechanism with punitive action without a mechanism to appoint people and have rules and due process. This would include an appeal mechanism and impartial investigator and perhaps approach more regulation. This would need some serious exploration beyond the scope of the current rules or current law. Thus, no changes were made to the proposed rules.

CEU PROGRAM

TOPIC: CEU Program Required Number of CEUs

The number of CEUs proposed is 3.0 for Level IV and V (same as current) with 3.5 for Level III (increase of .5). Most individuals did not support the increase in number of CEUs for Level III interpreters, stating that it was a burden just to meet the 3.0 CEUs due to lack of sufficient offerings. Commenters noted that this may be one reason why 10 interpreters asked for an extension of the CEU deadline. There was also note of typos (4.5 versus 3.5 – the correct number was 3.5).

Discussion and Decision: The HQAS CEU requirement of 3.0 CEUs for 2 years is less than RID's requirement of 8.0 CEUs for 4 years. Therefore, it should not be considered onerous. Also, DCAB CEUs can be earned on-line or with Independent Study, and few interpreters take advantage of those options. There was one comment that some of the workshops that DCAB offers are not relevant to Level III interpreters since they do not take medical or legal assignments. A bit of background to the 3.5 CEU requirement. At the beginning of this review process, over a year ago, the original proposal was to require Level III interpreters to be mentored to improve their skills (in addition to the 3.0 CEUs). However, it was realized that monitoring the mentoring would be very difficult and mentoring options might not be available in any given year to all those interpreters who need it (i.e., a lone interpreter on a neighbor island without a mentor nearby). Thus, mentoring was dropped as a requirement and replaced with an additional .5 CEUs. The Committee did not recommend lowering the required number to 3.0, as the additional 5 hours over 2 years did not seem excessive and was still less than what RID requires. Staff indicated that DCAB can offer an annual workshop geared toward Level III interpreters that will allow them to earn the additional .5 CEUs at no cost, thus eliminating the disincentive due to fees. There will be no change to the proposed draft.

TOPIC: CEU Monitoring

Some commenters indicated that DCAB should make the CEU monitoring system more streamlined to remind people when they need CEUs to complete. A few commenters also suggested that DCAB consider using the RID ACET on-line system whereby a non-RID credentialed interpreter can sign up and monitor their CEUs with RID.

Discussion and Decision: The CEU program is on-line for each HQAS interpreter already (non-HQAS people may not realize that because they do not have access to the system unless they are an HQAS interpreter). Staff notes that a main reason for extensions is because interpreters wait until the last minute to earn their CEUs. Monthly

updates are automatically sent via email to HQAS interpreters enrolled on HQAS.org regarding their CEU status. In addition, Kamaile prompts them several times in the second year of their cycle, so they have ample notice as to their CEU deadline. Members believe that interpreters are professionals that should monitor their own CEUs from home on-line. Also, the RID ACET system would require the interpreter to pay a higher fee than that of the DCAB system and DCAB would have no way to access or monitor the CEU status. Thus, there is no change in the proposed draft.

TOPIC: CEU Extension

Some commenters did not understand the CEU extension process, but all those that commented objected to charging a fee (\$50) for the extension. It was also not clear if the “one-time” extension referred to once in a cycle or one time at all.

Discussion and Decision: Staff noted that currently, an HQAS interpreter may request a CEU extension each cycle. If the required CEUs are not earned by March 31, the credential will not be renewed. Staff also noted that RID allows for only one lifetime extension and charges a fee (unknown amount). The decision was to change the proposed rule to allow a one time (in a lifetime) extension at no cost. Subsequent extensions will be then cost \$50 fee. Each extension is for 3 months.

STATE CREDENTIAL

TOPIC: State Credential Name

Most commenters did not like the name Hawaii State Interpreter Credential (HSIC) because of the sound of the acronym.

Discussion and Decision: It is not recommended to name it “HQAS credential” because we are distinguishing the test from the credential and providing a mechanism for the issuance of a credential to others who have not passed the HQAS (i.e., other states or EIPA). The name can be changed, but we need to find an alternative name for the credential. No alternative names were suggested.

TOPIC: Credential Level

Those that commented all recommended that the Credential use the term “Tier” or “Level” but not “Tier Level.”

Discussion and Decision: One commenter noted that the term ‘tier’ might be confused with the ‘tiers’ in the Judiciary. However, this did not seem to be an issue. Staff recommended the term “Tier” so as not to be confused with the credential test score level and this is accepted.

TOPIC: Credential Fee

There were multiple comments on the credential fee, most stating that the fee should not be an addition to the test fee. Several commenters indicated that it should not cost for a replacement credential that is just a piece of paper.

Discussion and Decision: Staff noted that there was a lot of misunderstanding of the credential fee. Currently, the credential is free but one pays \$100 to join hqas.org. The cost of the credential fee would REPLACE the cost that we currently charge to enroll in the CEU program, thus the net difference is zero. Thus, there is no change to the proposed draft.

Staff note: There was no discussion on changing the fee for the replacement credential. However, staff notes that we only issue 3-4 replacements in a two-year cycle. If the Committee wants to eliminate the fee, the impact is minimal.

TOPIC: Honoring Other States Credential

There were a couple of comments in favor of issuing a short term provisional credential to interpreters who possess a credential issued by another state. One comment stated that the such interpreters should be required to take the Hawaii (HQAS) test to receive a provisional credential.

Discussion and Decision: Although the new provisional credential section does not mention it, DCAB's intent is that when the one-time provisional credential expires, the interpreter will either take the Hawaii (HQAS) test or a nationally recognized test. There was no change to the proposed policy draft, although staff will look at the language again.

TOPIC: Honoring EIPA

Multiple comments stated that the EIPA certification should be automatically be recognized as a valid credential because it is issued at the national level. The comments differed on the EIPA level that should be recognized; one commenter said 3.0, two commenters said 3.5, and two commenters said 4.0.

Discussion and Decision: The EIPA is a national credential, but its focus is for the K-12 setting and the test is very different, according to one attendee who has taken all 3 tests (RID, HQAS, EIPA). The DCAB rules and the credential do not impact DOE hiring interpreters as staff but impact those who wish to freelance in the community. We want to recognize their skill set, which is why we would give the person a provisional credential without a test. However, to recognize the EIPA Credential indefinitely would be difficult because there is no ongoing requirement for them to earn CEUs to maintain their certification, unlike HQAS and RID interpreters who are required to earn CEUs. There is no change to the proposed draft.

RIGHTS OF CONSUMERS

TOPIC: Ensuring the Rights of Consumers to Effective Communication

All commenters supported moving the section on the rights of consumers to the very beginning of the rules. They also supported strengthening and emphasizing the purpose of the rules, which is to establish guidelines to ensure the rights of consumers to effective communication.

Recommendation: There is no need to make any changes to the proposed rule.

PROVISION OF SERVICES

TOPIC: The Obligation to Use an Interpreter with the Highest Credential Level, Unless Deferring to the Preference of the Deaf Consumer

There were a few comments indicating that this policy may result in unintended consequences. Some believe this could impact the availability and nature of work for Level III interpreters. Another comment was that, to secure work, Level III interpreters may feel compelled to approach Deaf consumers asking them to request them, which is potentially unethical. A comment suggested that, for a number of individuals within Hawaii's Deaf community, a higher-level credentialed or certified interpreter would not necessarily satisfy the definition of "qualified." Another comment stated that if the preference of a Deaf consumer is a non-credentialed interpreter, the interpreter should then be assessed to be "qualified" for the job situation.

There was also a comment about issues arising due to HQAS not offering a credential for deaf interpreters.

Discussion and Decision: Staff will look at language to use the word "qualified" and mirror the definition of "qualified" in the ADA. Due to the lack of time, there was not enough time for a full discussion on this language (to be continued). Staff also recognizes that there are complications with this proposed policy. While a credentialed interpreter is one way to indicate that they possess the skills to be qualified for a job, it does not mean they are qualified for every situation.

The QA system never had a DI tape. Staff will continue to research options but cannot create a test without a tape. While HQAS does not currently credential deaf interpreters, a Deaf consumer may still obtain a deaf interpreter – regardless of whether they are credentialed – if they indicate that this is their preferred accommodation. There will be no change in the proposed draft in this area.

OTHER CHANGES

TOPIC: Meetings of the Communication Access Committee

There were a few comments about the accessibility of CAC meetings. There were suggestions to allow individuals to participate remotely, especially from the neighbor islands. Another suggestion involved gathering community input, and that DCAB notify stakeholders about CAC activity, including items that will be voted on. There were also questions about how CAC could expand its representation.

Discussion and Decision: There was little time to discuss this. However, this does not involve a change in the rules. Currently, CAC meetings are scheduled at dates/times determined by voting members of the Committee. In the past, the CAC has held meetings at locations with the necessary technology to provide remote access for voting members from neighbor islands. Staff can explore this again. DCAB must remember that remote access is not just for the interpreters, but also the deaf community and we need to ensure video and communication access.

TOPIC: What Belongs in the Rules

There seems to be some confusion from the comments as to what needs to be in the Administrative Rules and what does not. The statute mandates that DCAB operate a test and issue a credential. Thus, everything that we do that is required to obtain a credential and all the fees relating to the credential must be in the rules. This includes procedures and the cost of the test, the retest, the issuance of the credential, and any fees associated with that. The statute mandates that DCAB issue a recommended fee schedule for the payment of interpreters. Since the recommended fee schedule is only a recommendation, and not a requirement, it does not have to be in the rules. This is why it can be removed. However, because it is a recommendation from the Board it must still be voted upon and adopted by the Board. There was a question as to why the Code of Ethics or the Code of Professional Conduct is in the rules. This is because it is linked (currently) to passing the test and obtaining a credential.