

## ARTICLE 46:31

### INTERPRETERS FOR THE DEAF

Chapter	
46:31:01	Certification procedures.
46:31:02	Interpreter registration and certification.
46:31:03	Provisional certification.
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#### CHAPTER 46:31:01

##### CERTIFICATION PROCEDURES

Section	
46:31:01:01 to 46:31:01:04	Repealed.
46:31:01:05	Denial, suspension, or revocation of certificate.
46:31:01:05.01	Appeal of denial, suspension, or revocation of certificate.
46:31:01:05.02	Time and place of hearing -- Time extension.
46:31:01:06 to 46:31:01:15	Repealed.

##### **46:31:01:01. Definitions.** Repealed.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:01, SL 1989, ch 21, § 5, effective July 1, 1989; 19 SDR 68, effective November 8, 1992; 20 SDR 130, effective February 14, 1994; 23 SDR 16, effective August 8, 1996; 24 SDR 190, effective July 16, 1998; 26 SDR 96, effective January 24, 2000; 28 SDR 84, effective December 20, 2001; repealed, 33 SDR 107, effective December 26, 2006.

##### **46:31:01:02. Composition of interpreter review panel.** Repealed

**Source:** 14 SDR 54, effective October 15, 1987; 15 SDR 107, effective January 26, 1989; transferred from § 71:04:01:02, SL 1989, ch 21, § 5, effective July 1, 1989; 19 SDR 68, effective November 8, 1992; 20 SDR 130, effective February 14, 1994; 23 SDR 16, effective August 8, 1996; repealed, 24 SDR 190, effective July 16, 1998.

##### **46:31:01:03. Certification of interpreters -- Conflict of interest.** Repealed.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:03, SL 1989, ch 21, § 5, effective July 1, 1989; 19 SDR 68, effective November 8, 1992; 23 SDR 16, effective August 8, 1996; 24 SDR 190, effective July 16, 1998; 26 SDR 96, effective January 24, 2000; 28 SDR 84, effective December 20, 2001; repealed, 33 SDR 107, effective December 26, 2006.

**46:31:01:03.01. Registration of interpreters.** Repealed.

**Source:** Provision on denial of level of certification transferred from § 46:31:01:05(1), 19 SDR 68, effective November 8, 1993; 23 SDR 16, effective August 8, 1996; 24 SDR 190, effective July 16, 1998; 26 SDR 96, effective January 24, 2000; 28 SDR 84, effective December 20, 2001; repealed, 33 SDR 107, effective December 26, 2006.

**46:31:01:03.02. Endorsement.** Repealed.

**Source:** 20 SDR 130, effective February 14, 1994; 23 SDR 16, effective August 8, 1996; 24 SDR 190, effective July 16, 1998; 26 SDR 96, effective January 24, 2000; 28 SDR 84, effective December 20, 2001; repealed, 33 SDR 107, effective December 26, 2006.

**46:31:01:03.03. Certificate renewal.** Repealed.

**Source:** 20 SDR 130, effective February 14, 1994; 23 SDR 16, effective August 8, 1996; 24 SDR 190, effective July 16, 1998; 26 SDR 96, effective January 24, 2000; 28 SDR 84, effective December 20, 2001; repealed, 33 SDR 107, effective December 26, 2006.

**Cross-Reference:** Department of Human Services to certify interpreters, SDCL 1-36A-10.1.

**46:31:01:03.04. Issuance of provisional certificate.** Repealed.

**Source:** 20 SDR 130, effective February 14, 1994; 23 SDR 16, effective August 8, 1996; 24 SDR 190, effective July 16, 1998; 26 SDR 96, effective January 24, 2000; repealed, 28 SDR 84, effective December 20, 2001.

**46:31:01:03.05. Fees.** Repealed.

**Source:** 20 SDR 130, effective February 14, 1994; 23 SDR 16, effective August 8, 1996; 26 SDR 96, effective January 24, 2000; 28 SDR 84, effective December 20, 2001; repealed, 33 SDR 107, effective December 26, 2006.

**46:31:01:03.06. Certification levels required for legal, medical, and educational settings.** Repealed.

**Source:** 20 SDR 130, effective February 14, 1994; 26 SDR 96, effective January 24, 2000; repealed, 33 SDR 107, effective December 26, 2006.

**46:31:01:04. Notice of right to administrative review and fair hearing.** Repealed.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:04, SL 1989, ch 21, § 5, effective July 1, 1989; repealed, 19 SDR 68, effective November 8, 1992.

**46:31:01:05. Denial, suspension, or revocation of certificate.** The department may suspend, deny, or revoke a registration or a certificate for any of the following causes:

(1) The interpreter is convicted of a felony which makes the interpreter unfit to serve the public as an interpreter;

(2) The interpreter impersonates another person holding registration or interpreter certification with the department;

(3) The interpreter allows another person to use the interpreter's registration or certificate;

(4) The interpreter uses fraud, deception, or misrepresentation in the registration or certification process;

(5) The interpreter is adjudicated mentally incompetent by a court of competent jurisdiction;

(6) The interpreter harasses, abuses, or threatens a support staff person who is administering this article;

(7) The interpreter intentionally divulges confidential information relating to the certification process, including content, topic, vocabulary, skills, or any other testing materials;

(8) The interpreter does not keep all information in any interpreting situation in strictest confidence;

(9) The interpreter knowingly does not transmit all messages accurately and convey the content and mood of the speaker;

(10) The interpreter does not provide interpreting services that are competent, impartial, and professional;

(11) The interpreter counsels, advises, or interjects personal opinions in any interpreting situation; or

(12) The interpreter does not provide to the consumer information on consumer's rights and the role and appropriate use of interpreting services when requested;

(13) The interpreter fails to meet the minimum requirements for certification or recertification as provided in this chapter.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:05, SL 1989, ch 21, § 5, effective July 1, 1989; provision on denial of level of certification transferred to § 46:31:01:03.01, 19 SDR 68, effective November 8, 1992; 23 SDR 16, effective August 8, 1996; 24 SDR 190, effective July 16, 1998; 28 SDR 84, effective December 20, 2001; 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-36A-12.

**Cross-Reference:** License proceeding treated as contested case, SDCL 1-26-27.

**46:31:01:05.01. Appeal of denial, suspension, or revocation of certificate.** An interpreter or applicant may appeal the denial, suspension, or revocation of certification to the department. An appeal shall be made in writing to the Director of the Division of Rehabilitation Services within 10 days of receipt of notice regarding denial, suspension, or revocation of the interpreter's certificate.

The division director shall provide a determination within 30 days of receipt of request for appeal. An interpreter dissatisfied with the division director's determination may request a fair hearing by notifying the department in writing within 10 days of receipt of the division director's decision. When denial, suspension, or revocation of certificate is being appealed, the interpreter's certificate will remain in effect until a final decision is reached after a hearing.

**Source:** 28 SDR 84, effective December 20, 2001.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-36A-12.

**Cross-Reference:** License proceeding treated as contested case, SDCL 1-26-27.

**46:31:01:05.02. Time and place of hearing -- Time extension.** A fair hearing by an impartial hearing officer shall be held within 90 days after receipt of such request by the interpreter or applicant. The impartial hearing officer shall set a time and place for the hearing to be held at the earliest reasonable time. Time extensions may be provided by the impartial hearing officer, or at the request of any of the parties involved and upon agreement of both parties to a specific extension of time.

**Source:** 28 SDR 84, effective December 20, 2001.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-26-27.

**46:31:01:06. Right to informal administrative review.** Repealed.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:06, SL 1989, ch 21, § 5, effective July 1, 1989; repealed, 19 SDR 68, effective November 8, 1992.

**46:31:01:07. Time and place of review.** Repealed.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:07, SL 1989, ch 21, § 5, effective July 1, 1989; repealed, 19 SDR 68, effective November 8, 1992.

**46:31:01:08. Notice of results of review.** Repealed.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:08, SL 1989, ch 21, § 5, effective July 1, 1989; repealed, 19 SDR 68, effective November 8, 1992.

**46:31:01:09. Right to fair hearing.** Repealed.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:09, SL 1989, ch 21, § 5, effective July 1, 1989; repealed, 19 SDR 68, effective November 8, 1992.

**46:31:01:10. Time of hearing.** Repealed.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:10, SL 1989, ch 21, § 5, effective July 1, 1989; repealed, 19 SDR 68, effective November 8, 1992.

**46:31:01:11. Contents of notice of hearing -- Waiver.** Repealed.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:11, SL 1989, ch 21, § 5, effective July 1, 1989; repealed, 19 SDR 68, effective November 8, 1992.

**46:31:01:12. Fair hearing procedure.** Repealed.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:12, SL 1989, ch 21, § 5, effective July 1, 1989; repealed, 23 SDR 16, effective August 8, 1996.

**46:31:01:13. Written decision required.** Repealed.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:13, SL 1989, ch 21, § 5, effective July 1, 1989; repealed, 19 SDR 68, effective November 8, 1992.

**46:31:01:14. Adjournment of hearing.** Repealed.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:14, SL 1989, ch 21, § 5, effective July 1, 1989; repealed, 19 SDR 68, effective November 8, 1992.

**46:31:01:15. Record of hearing.** Repealed.

**Source:** 14 SDR 54, effective October 15, 1987; transferred from § 71:04:01:15, SL 1989, ch 21, § 5, effective July 1, 1989; repealed, 19 SDR 68, effective November 8, 1992.

## **CHAPTER 46:31:02**

### **INTERPRETER REGISTRATION AND CERTIFICATION**

#### Section

46:31:02:01	Definitions.
46:31:02:02	Repealed.
46:31:02:03	EIPA certified interpreter initial registration.
46:31:02:04	South Dakota or EIPA certified interpreter annual registration.
46:31:02:05	NAD and RID certified interpreter registration.

**46:31:02:01. Definitions.** Terms used in this chapter mean:

(1) "Certificate," a document issued by the department or a national organization recognized by the department, which signifies that the interpreter for the deaf has met certain minimum requirements;

(2) "Certified interpreter," a person registered and certified with the department who performs interpreting as defined in SDCL 1-36A-10.2;

(3) "Contact hour," one contact hour equals one continuing education unit;

(4) "Department," the Department of Human Services;

(5) "Educational interpreter performance assessment" or "EIPA," a diagnostic tool which is language-free, designed specifically for an interpreter working with children and young adults in an educational setting;

(6) "National Association of the Deaf" or "NAD," a national organization for the deaf;

(7) "National Interpreter Certificate" or "NIC," a certificate granted to an individual who meets the minimum requirements set forth by the Registry of Interpreters for the Deaf and the National Association of the Deaf;

(8) "Nationally certified interpreter," an interpreter for the deaf holding a valid NAD certificate, RID certificate, National Interpreter Certificate, or rated by EIPA with a score of at least 3.5 on the performance test;

(9) "Registration," the process by which an interpreter's credentials and continuing education requirements, if required, are verified by the department and a South Dakota certificate is then issued;

(10) "Registry of Interpreters for the Deaf, Inc." or "RID," a national organization that certifies interpreters for the deaf.

**Source:** 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-36A-10.1, 1-36A-10.2, 1-36A-11, 1-36A-12.

#### **46:31:02:02. Repealed.**

**Source:** 33 SDR 107, effective December 26, 2006; repealed, 35 SDR 165, effective December 22, 2008.

**46:31:02:03. EIPA certified interpreter initial registration.** The department shall register any individual who has an EIPA certificate if the interpreter meets the following requirements:

(1) Submits a completed registration form provided by the department and a copy of the EIPA certificate;

(2) Submits documentation of a rating of 3.5 or higher on the EIPA performance test obtained not more than five years prior to the date of initial registration; and

(3) Submits the applicable fee.

The department shall deny registration of any individual who fails to comply with the requirements of this section.

**Source:** 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December 22, 2008.

**General Authority:** SDCL 1-36A-10.5.

**Law Implemented:** SDCL 1-36A-10.1, 1-36A-10.5.

**46:31:02:04. South Dakota or EIPA certified interpreter annual registration.** The department shall renew the registration of any individual who has a South Dakota or EIPA certificate if the interpreter meets the following requirements:

(1) Submits a completed interpreter registration form provided by the department no later than the expiration date of the current certificate;

(2) Submits documentation verifying completion during the prior year of any contact hours of continued interpreter education provided by one of the entities listed in § 46:31:04:01 by providing copies of the continuing education unit documents; and

(3) Submits the applicable fee.

The department shall send notice of renewal to the interpreter at least 60 days prior to expiration of the interpreter's current certificate.

**Source:** 33 SDR 107, effective December 26, 2006; 35 SDR 165, effective December, 22, 2008..

**General Authority:** SDCL 1-36A-10.5.

**Law Implemented:** SDCL 1-36A-10.1, 1-36A-10.5, 1-36A-12.

**46:31:02:05. NAD and RID certified interpreter registration.** The department shall register any individual who has a current NAD certificate, RID certificate, or NIC if the interpreter meets the following requirements:

(1) Submits a completed interpreter registration form provided by the department and a copy of the current national certificate during the month the current national certificate would expire without regard to the year. Thereafter, registration must be completed annually no later than the expiration date on the South Dakota certificate; and

(2) Submits the applicable fee.

The department shall send notice of renewal to the interpreter at least 60 days prior to expiration of the interpreter's current certificate.

**Source:** 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 1-36A-10.5.

**Law Implemented:** SDCL 1-36A-10.1, 1-36A-10.5.

## **CHAPTER 46:31:03**

### **PROVISIONAL CERTIFICATION**

#### Section

- 46:31:03:01 Eligibility requirements.
- 46:31:03:02 Approved plan.
- 46:31:03:03 Mentoring requirements.
- 46:31:03:04 Continuing education requirements.

46:31:03:05 Annual registration.  
46:31:03:06 Interpreter settings.

**46:31:03:01. Eligibility requirements.** Any individual applying for a provisional certificate must meet the following requirements:

- (1) Comply with the requirements of SDCL 1-36A-10.4;
- (2) Submit a completed provisional application provided by the department;
- (3) Submit a plan pursuant to § 46:31:03:02; and
- (4) Submit the applicable fee.

**Source:** 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-36A-10.4, 1-36A-12.

**46:31:03:02. Approved plan.** A self-identified professional development plan must be submitted to the department for approval prior to a provisional certificate being issued. The plan shall outline the individual plan of study and contact hours between the mentor and the interpreter applying for provisional certification. The plan shall require at a minimum eight contact hours of mentoring per month and 25 contact hours of continued interpreter education per year provided pursuant to § 46:31:04:01.

**Source:** 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-36A-10.4, 1-36A-12.

**46:31:03:03. Mentoring requirements.** Mentoring shall be provided by a certified interpreter or an individual who is deaf, approved by the department, to provide training by teaching, guiding, and advising interpreters and assisting them in achieving national certification or a higher level of certification by improving their knowledge of sign language and the interpreting process. The mentor shall assist the interpreter with completing the mentoring application, assessment of skills, and plan of study pursuant to § 46:31:03:02. Any mentoring services must be pre-approved by the department.

**Source:** 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-36A-10.4, 1-36A-12, 1-36A-18.

**46:31:03:04. Continuing education requirements.** Any individual issued a provisional certificate shall submit documentation verifying completion of 25 contact hours annually of continued interpreter education provided pursuant to § 46:31:04:01 by providing copies of the continuing education unit documents.

**Source:** 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-36A-10.4, 1-36A-12.

**46:31:03:05. Annual registration.** Any individual issued a provisional certificate shall register annually with the department by submitting a completed registration form provided by the department, continuing education requirements as outlined in § 46:31:03:04, and any applicable fee. Failure to comply may result in denial of registration and loss of provisional certification.

The department shall send notice of renewal to the interpreter at least 60 days prior to expiration of the interpreter's current certificate.

**Source:** 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-36A-10.1, 1-36A-10.4, 1-36A-12.

**46:31:03:06. Interpreter settings.** An individual issued provisional certification may interpret in any setting as outlined in § 46:31:06:01.

**Source:** 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-36A-10.4, 1-36A-12.

## **CHAPTER 46:31:04**

### **CONTINUING EDUCATION**

Section

46:31:04:01 Interpreter education training.

**46:31:04:01. Interpreter education training.** The continuing education for an interpreter shall include training in sign language interpreter skills, knowledge of the language and culture of the deaf, and professional practices of interpreting. The training shall be provided by one of the following:

- (1) Interpreter training accredited by a state or national educational accrediting agency;
- (2) Interpreter training endorsed by EIPA, NAD, or RID; or
- (3) Interpreter training approved by the department, conducted by a Level V South Dakota certified interpreter, Level V NAD certified interpreter, RID certified interpreter holding a Certificate of Interpretation and Certificate of Transliteration or NIC advanced and master level.

**Source:** 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-36A-12.

## **CHAPTER 46:31:05**

### **FEES**

Section

46:31:05:01 Fee schedule.

**46:31:05:01. Fee schedule.** The following are the fees for registration and certification:

(1) Initial and annual registration of South Dakota certified interpreter	\$ 75
(2) Initial registration of nationally certified interpreter	\$ 50
(3) Annual registration of nationally certified interpreter	\$ 35
(4) Provisional certification	\$ 250
(5) Annual registration of provisional certification	\$ 35
(6) Name change on records	\$ 10
(7) Duplicate registration	\$ 10

**Source:** 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 1-36A-15.

**Law Implemented:** SDCL 1-36A-15.

## CHAPTER 46:31:06

### MEDICAL, EDUCATIONAL, OR LEGAL SETTINGS

#### Section

- 46:31:06:01 Certification level required for medical, educational, or legal settings.  
46:31:06:02 Certification level required for criminal proceedings or serious medical procedures.  
46:31:06:03 EIPA certified interpreter.

**46:31:06:01. Certification level required for medical, educational, or legal settings.**

Any individual registered and certified in South Dakota and holding a level III South Dakota certificate, level III NAD certificate, RID certificate, NIC, or a South Dakota provisional certificate, may interpret in all settings except for criminal proceedings or serious medical procedures as defined in § 46:31:06:02.

**Source:** 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-36A-12.

**46:31:06:02. Certification level required for criminal proceedings or serious medical procedures.** Any individual registered and certified in South Dakota and holding a level IV or V South Dakota certificate, level IV or V NAD certificate, NIC advanced or master level, RID certificate of interpretation or certificate of transliteration, RID combined certificate of interpretation and transliteration, or RID special certificate - legal, may provide interpreting services in the following areas:

- (1) Any criminal proceeding, any interrogation by law enforcement which could result in a criminal charge, any arrest or booking at a police station, any meeting with a probation or parole

officer, any meeting with an attorney relating to a potential criminal charge or proceeding, any deposition relating to a potential criminal charge or proceeding, and any grand jury proceeding; or

(2) Any serious medical procedure which includes treatment of any health condition that may be life threatening or potentially life threatening, any surgical procedure, any medical examination other than routine, alcohol and drug, psychological, and psychiatric evaluation or treatment.

**Source:** 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-36A-12.

**46:31:06:03. EIPA certified interpreter.** Any interpreter registered and certified in South Dakota and holding an EIPA certificate may only interpret in elementary and secondary educational settings.

**Source:** 33 SDR 107, effective December 26, 2006.

**General Authority:** SDCL 1-36A-12.

**Law Implemented:** SDCL 1-36A-12.