


VIRGINIA DEPARTMENT OF TRANSPORTATION

*TRAFFIC ENGINEERING DIVISION*

MEMORANDUM

<b>GENERAL SUBJECT:</b> Warning Signs		<b>NUMBER:</b> TE-353
<b>SPECIFIC SUBJECT:</b> Pedestrians With Disabilities Signs		<b>DATE:</b> September 6, 2007
<b>DIRECTED TO:</b> District Administrators/ Regional Operations Directors		<b>SUPERSEDES:</b> TE-204
		<b>SIGNATURE:</b> 

This memorandum establishes that VDOT will no longer post signs for warning the motoring public that persons with disabilities might be present in or near the roadway. Any signs now in place that were placed in accordance with TE-204 may remain until the child in question reaches the age of thirteen, moves from the community, or the sign must be removed due to maintenance/re-construction needs/efforts.

This directive shall not be interpreted to mean VDOT is opposed to warning sign that warn of potential juvenile pedestrian activity in or near the roadway. Instead, VDOT will install a "Watch for Children" sign (or signs) as prescribed by TE-280.

Background:

VDOT is frequently asked to post signs warning that people (particularly children) with disabilities might be expected to be in or near the roadway.

To date, VDOT, through written directive, has sanctioned only one sign for warning of people with a disability for children with the disability of deafness. Among other restrictions, it has been clearly stated that signing for children with a deafness disability may be considered for a hearing impaired child up to and including the age of twelve years old and that letter of certification from a licensed physician, audiologist, or speech and language pathologist must be provided stating the extent of hearing loss.

In evaluating whether similar directives should be drafted for signs addressing blindness/vision impairments, Autism, Down's syndrome, etc., VDOT has concluded that it can not meet the obligations of the Federal and State codes developed in recent times and enacted to protect a citizen privacy. In part, our decision was based on input from the Virginia Board for People with Disabilities (VBPD). In a statement from that Board, there are references that support this conclusion. A copy of that Board's statement is attached.

In a further effort to evaluate the most suited position that could be taken in particular regarding the disabilities of deafness/hearing impairments and blindness/vision impairments, VDOT also solicited comments from the Virginia Department of the Deaf and Hard of Hearing (VDDHH) and the Virginia Department of the Blind and Visually Impaired (VDBVI). Both of these agencies representatives agreed with the statements provided by VBPD. Documents are attached for reference.

cc: Regional Traffic Engineers  
Resident Administrators  
Division Administrators  
Ms. Constance S. Sorrell  
Mr. Greg Whirley  
Dr. Gary Allen  
Mr. Malcolm T. Kerley, P.E.  
Mr. Robert Fonseca  
Mr. E. D. Arnold

**A letter from Ms Heidi Lawyer, Director of  
the Virginia Board for People with  
Disabilities.**



**08 30 06 summary  
of meeting on...**

**E-mail sent to Elaine Ziehl of VDDHH  
(similar E-mail sent to Robert Burton of  
DBVI)**



**VDOT Highway  
Signs**

**Reply from Ms Ziehl**



**RE: VDOT Highway  
Signs**

**Documentation of a telephone discussion  
with Robert Burton of DBVI**



**=W: VDOT Highway  
Signs**

(RE-FORMATTED COPY)

August 15, 2006

Raymond J. Khoury  
Traffic Engineering Division  
Virginia Department of Transportation  
1221 East Broad Street  
Richmond, Virginia 23219

Dear Mr. Khoury:

On Wednesday, August 9, 2006, VDOT traffic engineer Mark Hodges invited Tom Driscoll, the Virginia Board's Strategic Planning and Marketing Manager, and me to meet with him and VDOT staff, Pamela Brookes and Tom Lee regarding requests which VDOT has received for special signs to be placed in neighborhoods of families with children who have autism. These signs would be in addition to or in place of VDOT's current "Watch for Children" signs and similar to the "Deaf Child Area" signs also in its inventory. Mr. Hodges and his team had already identified a number of issues needing consideration regarding this matter and requested our input.

At the close of the meeting, Mr. Hodges asked if we would forward a summary of our concerns and discussions to you. A list of those issues follows:

- **Inclusion vs. Exclusion:** The Virginia Board believes strongly that individuals with disabilities should not be defined by their disabilities and that attention should be called to a disability only when it is required to appropriately accommodate the unique needs of the individual with that disability. With that in mind, we questioned whether calling motorists' attention to the vicinity of a child with autism would be any more useful than simply calling attention to children in general using your current "Watch for Children" sign. Actively playing children are frequently oblivious to their surroundings and to the danger of darting into neighborhood traffic, irrespective of whether they have disabilities. Based upon their age and abilities, all children need to be adequately cautioned and supervised to keep this from occurring. In general, children with autism are as likely to be well supervised as children without it, if not more so. Without some clear indication and experience that children with autism are at greater risk, special signage singling them out seems questionable.
- **Safety & Security:** We have a concern that rather than improving safety for children with autism and their families, special signs calling attention to the nearby residence of a child with autism might instead make them—and their families and neighbors—less secure. Posting such signs might attract individuals wishing to take advantage of child or family whom they perceive as a vulnerable. It might also result in stigmatization and

discrimination by those who do not have a clear understanding of autism or disabilities in general.

- **Certification & Privacy:** The term “autism” covers a range of disabilities with varying cognitive, sensory, and behavioral effects and degrees of severity. Further, these effects and their severity vary based on the age of a child and on the type and frequency of services, supports, and therapies to which the child and his or her family have access. Availability of these services and supports also varies considerably from one locality in Virginia to another. Determining an appropriate threshold for when to post a sign and for periodic re-evaluation of its need would require some type of clearly defined, objective criteria and certification by an appropriate health or disability services professional. For VDOT to require and maintain such certifications would be a complicated and potentially litigious process and require VDOT to comply with stringent federal privacy regulations covering personal health records.
- **Other Disabilities:** Autism is only one of many disabilities that effect children’s (and adults’) behavior, mobility, senses, and cognitive abilities. These disabilities are identified by multiple terms, in some cases clearly delineated, in other cases overlapping in name and effect, particularly to the layman. For VDOT to create only a sign for children with autism, without considerable well-substantiated justification, could be discriminatory. It would also likely result in similar, disability-specific requests from parents of children with a wide range of other disabilities. For VDOT to create a separate sign for each of these possible disability categories, with its own threshold criteria and certification requirements, would be impossible.
- **All Disabilities:** Creation of a “generic” sign covering all disability categories might address some discrimination concerns, but it would still not eliminate the other inclusion, security, certification, and privacy concerns above. It would most likely just add additional complications. Prevalence charts on the Board’s website currently list over twenty different regularly tracked categories of disabilities, and these lists are not comprehensive or without controversy.
- **Diminishing Returns:** As the number and variety of signs increase, their individual and collective effectiveness declines. As that happens, a false sense of security can be engendered which makes the situation more dangerous. A “domino” effect can also ensue, causing negative consequences on adjoining streets. U.S. Census figures indicate that one in five individuals have a significant disability, and that two in seven families have a member with a significant disability. Available data indicates that these ratios apply to Virginia as well. If VDOT were to place a caution sign near the home of every Virginia family with a child having a disability who might request one, those signs’

impact on drivers would quickly become insignificant, and the danger to falsely assured families would be dramatically heightened. VDOT would also be placed in the intolerable position of placing a separate sign for every requesting family or of deciding exactly where to place signs covering multiple families. As families come and go from neighborhoods, VDOT would find itself facing constant requests to add, remove, or relocate signs.

- **People First:** Finally, we cautioned that VDOT would need to be very careful in its use of language on any new signs and in any communications regarding disabilities. References such as “handicapped”, “challenged”, “special”, and “disabled” are considered offensive by many. Some individuals with hearing or vision impairments are comfortable with the use of “deaf” and “blind” as descriptive adjectives and nouns, but not all. For the most part, it is no longer considered appropriate to define people by their disabilities. They are “individuals with a disability”, not “disabled individuals” or “the disabled”.

The above list of concerns is almost assuredly not comprehensive, but it indicates that VDOT needs to proceed carefully and with due deliberation before creating any new signs specifically for people with disabilities and their families. (VDOT may also wish to re-evaluate its current “Deaf Child Area” signs with these concerns in mind as well.) I have spoken with Leslie Prince, the Policy Manager at the Department for the Deaf and Hard of Hearing (VDDH). While their agency has not taken a position on this issue, Ms. Prince indicated that it was her understanding that very few of the Deaf Child Area signs are in use and that a review of the entire signage program might be appropriate.

The Board feels strongly that the voice of citizens should be heard and therefore is certainly not dismissing the concerns of the requesting parents. In evaluating this program and future actions, it would be important for your agency to seek input from disability and advocacy organizations and parents. Examples would be the various chapters of the Autism Society of Virginia, the ARC of Virginia, etc.

I recommend that before proceeding, you discuss this with the Assistant Attorney General that represents your agency. Following our meeting, I discussed briefly with Colleen Miller, Executive Director of the Virginia Office for Protection and Advocacy. While Ms. Miller is not in a position to offer a legal opinion to your agency, she is willing to speak, upon request to your Assistant AG about the issue if you feel it would be helpful. The concern I posed to Ms. Miller was whether you would face a potential charge of discrimination on the basis of disability by turning down the requests of parents of children with autism when you are honoring the requests for Deaf Child area signs.

**Letter to Raymond Khoury**  
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**As noted in our meeting, I am planning to consult with fellow DD Councils in other states to see if any of them have addressed this issue. We appreciate VDOT's interest in disability issues and in our counsel, and we look forward to working with VDOT in the future. If you have any further questions or if we can be of any additional assistance, please let us know.**

**Sincerely,**

**(Signed letter on file in TE Division)**

**Heidi L. Lawyer**

**Cc: Lisbet Ward**  
**Board Chair**

**Hodges, Mark T.**

**From:** Hodges, Mark T.  
**Sent:** Friday, October 06, 2006 1:23 PM  
**To:** 'elaine.ziehl@vddhh.virginia.gov'  
**Subject:** VDOT Highway Signs

Ms Ziehl, thank you for talking to me in regard to our (VDOT Traffic Engineering) concerns surrounding the issue of posting signs for children with disabilities; and thanks to Ms Prince in advance.

Below is a copy of the letter from Ms Lawyer that I spoke of which points to pitfalls and cautions that VDOT should consider. Please let us know if you concur with Ms Lawyer or if you feel that the text of her letter should be edited before we embrace it in our efforts to form a position. Also attached is our current directive regarding posting signs for children with hearing loss. We currently have a moratorium regarding the posting of these signs which was affected last spring and was placed in order to provide us with time to reevaluate this subject as a whole. However, we likely have many of these sign in field locations, as this directive is many years old.

Any help you can offer will be appreciated.

***Mark T. Hodges***

**Engineering Programs Supervisor**

**Traffic Engineering Division**

E-mail [Mark.Hodges@VDOT.Virginia.gov](mailto:Mark.Hodges@VDOT.Virginia.gov)

Phone (804) 786-2868

Fax (804) 225-4978

**Hodges, Mark T.**

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**From:** Ziehl, Elaine S. [Elaine.Ziehl@vddhh.virginia.gov]  
**Sent:** Thursday, October 12, 2006 11:57 AM  
**To:** Hodges, Mark T.  
**Cc:** Lanier, Ronald L.; Prince, Leslie H.; Malheiros, Laurie B.; Bowen, Clayton E.; Talley, Gary W.  
**Subject:** RE: VDOT Highway Signs

Mark,

Thank you for sending the documents regarding the issues surrounding posting signs for children with disabilities. After review and discussion, VDDHH is in agreement with the position stated by Ms. Lawyer in her letter. Leslie Prince, VDDHH Policy and Planning Manager, had discussed the concerns with Ms. Lawyer some time ago and provided input from the prospective of our constituency, the deaf and hard of hearing community.

Please feel free to contact us if you need further information. It was a pleasure speaking with you the other day and we look forward to any updates from VDOT on the situation and resolution.

*Elaine S. Ziehl*

VA Department for the Deaf & Hard of Hearing  
804/662-9705 V/T  
[elaine.ziehl@vddhh.virginia.gov](mailto:elaine.ziehl@vddhh.virginia.gov)

**Hodges, Mark T.**

**From:** Hodges, Mark T.  
**Sent:** Wednesday, October 25, 2006 3:33 PM  
**To:** Brookes, Pamela G.; Lee, Thomas E., Jr.  
**Cc:** Hodges, Mark T.; Khoury, Raymond J. 'Ray', P.E.; Mahbanoozadeh, Mansour  
**Subject:** FW: VDOT Highway Signs

I received a phone call from Mr. Burton at about 2:30 today relative to the below included e-mail. Mr. Burton apologized for his delay and voiced that he, his Commissioner and the other Assistant Commissioner had discussed our request and the Heidi Lawyer letter and were in general agreement with it. He went on to recapitulate many of the concerns and to state clearly that they too feel that signs along this thinking serve no purpose and might give a false sense of security.

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**From:** Hodges, Mark T.  
**Sent:** Wednesday, October 25, 2006 10:01 AM  
**To:** 'robert.burton@dbvi.virginia.gov'  
**Subject:** RE: VDOT Highway Signs

Mr. Burton, at the risk of being a pest, I am contacting you to ask when we might hope to hear from you regarding the below. I know that when we spoke back in early October, you indicated that your office was extremely busy and that it might take you a week or more to respond, so I used that information to advise those looking to me for action in this regard, that my work would have to wait awhile. I need to up-date those folks and to do so, I need to know what your project as your time line. Thanks for understanding my "doggedness" on this.

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**From:** Hodges, Mark T.  
**Sent:** Friday, October 06, 2006 1:33 PM  
**To:** 'robert.burton@dbvi.virginia.gov'  
**Subject:** VDOT Highway Signs

Mr. Burton, thank you for talking to me in regard to our (VDOT Traffic Engineering) concerns surrounding the issue of posting signs for children with disabilities.

Below is a copy of the letter from Ms Lawyer that I spoke of which points to pitfalls and cautions that VDOT should consider. Please let us know if you concur with Ms Lawyer or if you feel that the text of her letter should be edited before we embrace it in our efforts to form a position. Also attached is our current directive regarding posting signs for children with hearing loss. I provide this to you for reference as it, by the nature of the items that we record, provides a look at how we have managed this in the past. We currently have a moratorium regarding the posting of these signs which was affected last spring and was placed in order to provide us with time to reevaluate this subject as a whole. However, we likely have many of these signs in field locations, as this directive is many years old.

We have never posted signs for children with vision impairments for several reasons. It is interesting to note that this position was supported by your agency when we contacted it about fifteen years ago.

Any help you can offer will be appreciated.

***Mark T. Hodges***  
**Engineering Programs Supervisor**

**Traffic Engineering Division**  
E-mail [Mark.Hodges@VDOT.Virginia.gov](mailto:Mark.Hodges@VDOT.Virginia.gov)  
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**Letter from Hidey Lawyer:**

<< File: RE.doc >>

Existing Directive Regarding posting signs for "DEAF CHILD AREA"

<< File: 204 TE-204 Signing for Deaf Child area.doc >>