



**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF HUMAN RIGHTS**

REPORT:

**“FEDERAL AND LOCAL GOVERNMENT
INTERPRETER CERTIFICATION
PROGRAMS FOR THE WASHINGTON, D.C.
METROPOLITAN AREA”**

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BACKGROUND

The United States has a long legislative history of addressing the rights of linguistic minorities.

Title VI of the Civil Rights Act of 1964 is considered the key law governing access to public services by limited-English proficient (LEP) persons. Section 601 of Title VI specifically states that no person shall “on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” National origin has been interpreted to include discrimination on the basis of language. According to the Office for Civil Rights and the U.S. Department of Health and Human Services, the law also requires that recipients of federal financial assistance take reasonable steps to ensure meaningful access by LEP persons to their programs and services.

Executive order 13166 also addresses the requirement to an interpreter for LEP clients seeking publicly funded services. In addition to federal laws, a number of states have adopted or are now considering adopting their own laws regarding spoken interpretation to LEP clients of public services and/or the certification of interpreters. For example, Washington State and Oregon have established a certification process for health and/or human service interpreters, while groups in Indiana and Iowa are currently trying to push comparable legislation through their respective state legislatures.

Although the U.S. Constitution does not mention the right to an interpreter in court, the individual rights and liberties of residents listed under the Fourth, Fifth, Sixth, Eighth and Fourteenth amendments are, in effect, meaningless for non-English proficient (NEP) or LEP individuals unless interpretation is provided. Additionally, the Court Interpreters Act of 1978 requires of federal courts that interpreters be provided for criminal cases and civil cases where the U.S. is the plaintiff.

FEDERAL REQUIREMENTS

U.S. Federal and District Courts recognize federal certification pursuant to Title 28 USC §1827, the Court Interpreters Act of 1978. The Court Interpreters Act of 1978 and the subsequent Amendments of 1988 (18 U.S.C. §§ 1827-1828) require the Director of the Administrative Office (AO) of the U.S. Courts to define criteria for certifying interpreters qualified to interpret in federal courts.

The AO classifies three categories of interpreters who are eligible to serve as an interpreter in court:

1. *Certified interpreters.* Certified interpreters have passed the AO certification examination. To date, certification programs have *only* been developed for Spanish, Navajo and Haitian-Creole. In these languages the courts will only select from available interpreters who have met the AO's criteria for certification.

The AO's certification examination is administered in two phases and includes written and oral tests which, among other things, measure a candidate's ability to accurately perform simultaneous interpretation, consecutive interpretation, and sight translation.

In languages other than Spanish, Navajo and Haitian-Creole, interpreters are designated as "professionally qualified" or "language skilled."

2. *"Professionally qualified" interpreters.* There are two ways in which one can be designated "professionally qualified." An individual with previous employment as a conference or seminar interpreter with any United States agency or with the United Nations or a similar entity may be deemed "professionally qualified" if the condition for employment includes:

- Successfully passing an interpreter examination.
- The individual is a member in good standing in a professional interpreter association that requires a minimum of 50 hours of conference interpreting experience in the language(s) of expertise, *and* the sponsorship of three active members of the same association who have been members for at least two years and whose language(s) are the same as the applicant's, and who will attest to having witnessed the applicant's performance and to the accuracy of the statements on the application.

Individuals who can demonstrate to the local court that they are eligible in either of these two ways can be classified as "professionally qualified."

3. *Language-skilled interpreters.* Interpreters who are not certified (Spanish, Navajo, or Haitian-Creole) or considered "professionally qualified," as described above, but who can demonstrate to the satisfaction of the court their ability to effectively interpret from the foreign language into English and vice versa in court proceedings can be classified as "language skilled" interpreters.

STATE DEPARTMENT

The State department does not certify individuals in translation or interpretation. However, they administer the following three exams to individuals interested in working as a State department contract interpreter:

Escort Level: Consecutive interpretation ability required.

Seminar Level: Consecutive and Simultaneous interpretation abilities required.

Conference Level: Consecutive and Simultaneous interpretation abilities required.

As the credibility and level of difficulty of these exams are well known throughout the interpretation industry, proof of passing the seminar and/or conference level State Department examination is often sufficient for consideration and/or placement as an interpreter in both the public and private sectors. Additionally, the State Department uses a similar 3-tiered testing model for bilingual employees, which is used in-house when placing interpreters for their own purposes.

The State Department also offers an examination in translation for both in-house translators and individuals who wish to work on a contractual basis in this capacity. This examination consists of a minimum of three passages to be translated. The exam tests the translator's ability to translate both from source to target language, and target to source.

Additionally, the State Department administers a general bilingual assessment test for bilingual employees who utilize their foreign language skills as part of their day-to-day work. This examination tests both spoken and written language capacity, but does not specifically test an individual's ability to translate or interpret.

STATE REQUIREMENTS

The above-mentioned criteria utilized by the Federal government in addition to sufficient qualifications for an individual to serve as an interpreter are recognized within State and local courts. However, no uniform exam or interpreter certification process exists within the State court system. Several states have taken it upon themselves to create certification programs and/or examinations which are specific to their jurisdiction and language needs (e.g. Washington, California, New Jersey), while many states have no certification process at all.

The National Center for State Courts has organized a consortium of states that is sharing resources for establishing standards and testing for interpreters. To date, the establishment of such standards is still in progress. More than 25 state and local court systems have joined the Consortium. Maryland joined the Consortium in 1995, as did Virginia. The District of Columbia is presently not a member.

DISTRICT OF COLUMBIA

The Office of Court Interpreting Services (OCIS) is tasked with assisting persons having business with the Superior Court who are deaf or hearing-impaired or who do not understand or speak English. This office provides qualified professional interpreting services for virtually any language.

OCIS prefers that interpreters be certified by the AO of the United States Courts, but also accepts state court interpreting certification from any state where certification is available. Interpreters who have passed, at minimum, the “seminar level” interpretation exam (administered by the State Department) are eligible for placement but are first (informally) oriented to court room interpreting and required to review the code of ethics. Any non-certified individual wishing to serve as an interpreter in a D.C. court is required to pass a skills assessment.

STATE OF MARYLAND

In the state of Maryland a certified interpreter is defined as someone who is certified by one or more of the following: the Maryland AO of the courts, the federal AO of the Courts, and/or a member of the consortium for state court interpreter certification.

An interpreter who is not certified but wishes to serve as a court interpreter in the state of Maryland must meet minimum requirements. The minimum requirements for interpreters seeking assignments in the Maryland courts include:

1. Completion and submission of the *Maryland State Judiciary Information form for Spoken and Sign Language Court Interpreters* to the AO;
2. Attendance at a mandatory orientation workshop;
3. The passing of a written examination; and
4. The passing of an oral examination, if available in that language.

Additionally, interpreters must swear or affirm compliance with the Maryland Code of Conduct for Court Interpreters and must not have, in a state or federal court of record, a pending criminal charge or conviction on a charge punishable by a fine of more than \$500 or imprisonment for more than six months unless pardoned or expunged in accordance with law.

STATE OF VIRGINIA

The Judicial Council of Virginia considers presumptively eligible any person who has successfully completed the requirements for federal court certification from the U.S. AO of the Courts or certification from a state that is a member of the State Court Interpreter Certification Consortium administered by the National Center for State Courts. Eligible persons who provide required documentation may be "waived" onto Virginia's list of certified interpreters and their names will be included on the list distributed to Virginia courts.

The Judicial Council of Virginia has developed a process to certify persons serving as Spanish language interpreters in court proceedings in the Commonwealth. The certification process is voluntary for participants. Its purpose is to better ensure that language interpreters are competent to perform such services in a court environment. Certification for Spanish language interpreters is offered because Spanish is the most frequently spoken language in cases involving non-English-speaking persons in court proceedings in the Commonwealth. The end result of each certification process is the distribution of a list of Spanish language interpreters who have satisfied all certification requirements. Local state courts and others may then use this list to contact certified interpreters and to arrange for their services as needed.

The requirements for certification are as follows:

1. Agree to adhere to the *Code of Professional Responsibility for Foreign Language Interpreters Serving Virginia Courts* as established by the Judicial Council of Virginia.
2. Complete training requirements as established by the Council (a two-day orientation training session).
3. Complete a multiple-choice, written test on basic, general English language vocabulary. Current requirements stipulate a minimum of 70% correct in order to pass the written test. This requirement was effective January 1, 2001.

4. Complete the language interpreter certification oral examination. Current requirements stipulate a minimum of 70% correct on each of four sections and a minimum overall average total score of 70% in order to pass the oral examination.

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