


**Washington State Supreme Court
Interpreter Commission**

December 3, 2021


Meeting Packet

**Washington State
Administrative Office of the Courts
1112 Quince Street SE
PO Box 41170
Olympia, WA 98504-1170
Phone: 360-753-3365**

 <p>WASHINGTON COURTS</p>	<p>Interpreter Commission Quarterly Meeting Friday, December 3, 2021 8:45 AM to 12 Noon PM https://wacourts.zoom.us/j/91830192863 Meeting ID: 918 3019 2863 Dial by your location: +1 253 215 8782 US (Tacoma)</p>	
AGENDA		
<ul style="list-style-type: none"> • Call to Order: • Member Introductions & Meeting Rules 	Judge Mafé Rajul	
<p>Chair's Report (<i>Order Subject to Change</i>)</p> <ul style="list-style-type: none"> • Approval of September 24, 2021 Minutes • Recognition Award to Former Commission Members • Updates Affecting Commission <ul style="list-style-type: none"> ➤ DMCJA Representative and Interim Issues Committee Chair ➤ Member Assignment to Committee(s) ➤ New Office of Court Innovation Manager and Commission Manager ➤ Introduction: Dr. Lizette Garcia, AOC Equity Researcher ➤ Legislative Session Review • LAP Approval Criteria and Funding Vote <p style="text-align: center;"><i>BREAK</i></p> <ul style="list-style-type: none"> • Approval of Ethics Manual and CEU Credits to Authors • Vaccine Mandates and Interpreters • Gender Justice Study Report Recommendations Follow-Up 	<p>Judge Rajul</p> <p>Judge Rajul</p> <p>Judge Rajul</p> <p>Judge Rajul</p> <p>Kelley Amburgey-Richardson</p> <p>Judge Rajul Kelley Amburgey-Richardson</p> <p>Judge Rajul</p> <p>Francis Adewale Judge Rajul</p> <p>Francis Adewale or AOC Staff Judge Rajul</p> <p>Judge Rajul</p> <p>Judge Rajul Gender Justice Study Team AOC Staff</p>	<p>Pg. 4</p> <p>Pg. 11</p> <p>Pg. 13</p> <p>Pg. 20</p>

<ul style="list-style-type: none"> • Recent Rules Actions Update <ul style="list-style-type: none"> ➤ <i>GR 9 Rulemaking Packet</i> ➤ <i>BJA Language Access Resolution Renewal</i> • RCW 2.42 and RCW 2.43 Revisions • Division I Translation Services Ruling 	<p>Judge Rajul AOC Staff</p> <p>Judge Rajul</p> <p>Judge Rajul</p>	<p>Pg. 22</p> <p>Pg. 42</p> <p>Pg. 46</p>
<p>Committee and Partner Reports <i>Issues Committee Meetings Report</i></p> <p>(Moved to Chair's Report Section)</p> <p><i>Education Committee Meetings Report</i></p> <ul style="list-style-type: none"> • <i>LAP Development Training</i> • <i>2022 Judicial College</i> <p><i>Disciplinary Committee Report</i></p> <ul style="list-style-type: none"> • Disciplinary Process Manual Update <p><i>Liaison Reports (placeholder)</i></p>	<p>Luisa Gracia</p> <p>Justice Helen Whitener or designee</p> <p>OAH and ODHH</p>	<p>Pg. 56</p> <p>Pg. 62</p>
<p>Commission Staff Report</p> <ul style="list-style-type: none"> • Commission Manager's Report • Court Interpreter Program Report • Reimbursement Program Update 	<p>Kelley Amburgey-Richardson</p> <p>James Wells</p> <p>Michelle Bellmer</p>	
<p>Announcements: Final 2022 Commission Meeting Schedule</p>	<p>(In packet)</p>	<p>Pg. 63</p>
<p>Next Commission Meeting</p>	<p>February 4, 2022; 8:45 AM-12 PM (Note earlier start)</p> <p>Via Zoom</p>	

Meeting Minutes

 WASHINGTON COURTS	Interpreter Commission Meeting Friday, September 24, 2021 9:00 AM – 12:00 PM Zoom Videoconference
MEETING MINUTES	

Members Present:

Judge Mafe Rajul, Chair
 Florence Adeyemi
 Anita Ahumada
 Ashley Callan
 Kristi Cruz
 Jeanne Englert
 Luisa Gracia
 Katrin Johnson
 Diana Noman
 Frankie Peters
 Fona Sugg

AOC Staff:

Kelley Amburgey-Richardson
 Michelle Bellmer
 Cynthia Delostrinos
 Moriah Freed
 Bob Lichtenberg
 James Wells

Guests Included:

Adrian Arias
 Ashleigh Clark
 Barbara R.
 Carla DN
 Carolyn Cole
 Chela Fisk
 Chris Kunej
 Dr. Dana Raigrodski
 Deborah O'Willow
 Deirdre Murano
 Desirae Jones
 Dr. Karen Johnson
 Elianita Zamora
 Ellen Attebery
 Emma Garkavi
 Greta Nenina
 Hemi Pariyani
 Iratxe Cardwell
 Irene Anulacion
 Jenny Tupper
 Justice Sheryl Gordon McCloud
 Lettie Hylarides
 machujl
 Maria Lucas
 Mario
 Michael Zheleznyak
 Natsuya Izuka
 Nicole Walker
 P. Diane Schneider
 Pablo Sepulveda
 Pinar Mertan
 Sierra Rotakhina
 Thei
 Younghee Kim

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CALL TO ORDER

- The Commission meeting was called to order at 9:03 AM
- Commission members and staff introduced themselves.

APPROVAL OF JUNE 4 MEETING MINUTES

- The minutes were adopted as presented.

CHAIR'S REPORT

Member Reappointments and Recognition

- Ashley Callan was introduced to the Commission as the new AWSCA Representative.
- Fona Sugg will be leaving the Commission. She was thanked for her work and contributions made to the Commission. A plaque was presented to her in recognition of her service.
- Three member terms expired and were reappointed: Kristi Cruz, Diana Noman, and Jeanne Englert.

Issues Committee Rules Review

GR 11.4

- The Issues Committee has decided that there should be no changes submitted for GR 11.4. They are proposing that the Commission adopt this suggestion.

MOTION: The Commission moved to keep GR 11.4 as is.

Revisions to GR 11.1

- The proposed revision would form a new Translation Committee, add 5 new Commission members (20 total), and a Co-Chair.
- A typo was noted for correction in the revision proposal.
- A question was raised about getting different perspectives from the legal field – prosecutorial, defense, etc. The Commission agreed that diversity in perspective is important, and that the attorney representative position is intentionally broad for this purpose.
- The language in the translation section was shared with AOC leadership and feedback was received about language and implementation:
 - In (a) “establishing standards” – how will people be held to these standards? What will this look like?
 - Is this for local courts, or across the board? Could this conflict with the Pattern Forms Committee process?
 - What will the Commission’s role be for sharing information, or would it be for guidance?
 - Language – ‘standards’ versus ‘guidance.’ The words ‘guidelines’ or ‘guidance’ to replace ‘standards.’

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- Language was proposed to amend section (a) in the proposed rule:
 - “The Commission shall establish and promulgate guidelines on interpreting, translation, and language access matters affecting individuals who are Limited English proficient or who use a signed language.”

MOTION: The Commission approved GR 11.1 with amendments for submission.

Commission Name Change

- Commission members proposed changing the name to something broader, such as “Language Access Commission,” or “Commission on Language Access” to reflect the expanding scope.
- Some members expressed wanting to keep the word ‘interpreter’ in the name. Others suggested that the interpreter is one participant in the process, and the Commission is really about access to the courts for people with language barriers.
- The name “Interpreter and Language Access Commission” was proposed.

MOTION: Commission members moved to change the Commission name to “Interpreter and Language Access Commission.”

Revisions to GR 11.3

- Two options were proposed for subsection (a) by the Issues Committee. They are seeking Commission feedback on selecting one of the options.
- It was suggested to remove “(or on-site)” from option 2. Commission members otherwise support option 2.

MOTION: Commission members moved to adopt option 2 as amended.

MOTION: Commission members moved to adopt GR 11.3 as revised.

Introduction to Dr. Karen Johnson, Office of Equity and Inclusion

- Judge Rajul introduced Dr. Johnson. Commission members previously met with Dr. Johnson to discuss language access issues and collaboration. The Commission expressed wanting assistance with interpreter recruitment because some languages are losing interpreters. Assistance with sign language interpreter certification was also brought up.
- Carolyn Cole will be serving on the OSPI Language Access Workgroup on behalf of the office of equity.
- AOC staff thanked Dr. Johnson for her attendance and emphasized the need for cross-agency collaboration on language access, and the moral obligation we have to provide services for the community. It was added that court interpretation is difficult to recruit for due to the high standards, and due to the cultural under-appreciation of language.

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- Dr. Johnson emphasized the importance of funding programs related to equity, including language access. It is not enough to talk about how we appreciate them. This includes expanding the staffing capacity of the Office of Equity to begin these changes.
- It was added that the interpreter career path is difficult due to the lack of college education related to the career. Many colleges and universities have cut their language education programs because they can't retain students. Training has been an ongoing issue that no one agency can solve.
- Commission members expressed hope of moving towards statewide coordination of language access across agencies. Dr. Johnson emphasized that we don't need more reports, work groups, etc. – we know the work that needs to be done and it's time to do it.

BJA Resolution Renewal Changes

- There are three options for the BJA Resolution renewal: do nothing and let it expire, resubmit the same resolution, or submit an amended resolution.
- Judge Rajul proposed updating the resolution to include not just LEP, but also deaf and hard of hearing.
 - Refer to RCW 2.42 and 2.43

MOTION: The Commission moved amend the existing resolution to include deaf and hard of hearing individuals.

ACTION: Bob Lichtenberg will begin a first draft of the revised resolution. Katrin Johnson, Kristi Cruz, Donna Walker and Judge Rajul will form an ad-hoc Committee to draft the resolution.

Gender Justice Study Report

- Justice Sheryl Gordon McCloud introduced the Gender Justice Study and thanked Bob Lichtenberg, Kristi Cruz, and Chief Justice González for their work on the language access section. The last similar report was published in 1989 – the GJC decided to do a “lookback” updated study. In addition to the study areas, 5 pilot projects were conducted.
- They would like to discuss areas for the Interpreter Commission to lead, and how the Gender and Justice Commission can collaborate. The recommendations are intended to be actionable items, not just a report.
- Kristi Cruz summarized the chapter her and others contributed to in the Study.
- Bob Lichtenberg highlighted key recommendations that are on page 102 of the meeting packet. The Interpreter Commission is interested in how they can support GJC and AOC in implementing changes and recommendations.
 - What can the Commission do to prompt AOC to further fund and staff language access programs?
- Study is at a “and what?” phase – how do we take actionable steps?

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- Commission members were hesitant to move forward on recommendations that placed additional burdens on courts without funding or support.
- Interpreter compensation was brought up in regards to retaining interpreters and making it a viable career option.
- Hesitancy was expressed about providing court funding without accountability in regards to language access. Additional funding from the reimbursement program is sometimes seen as a fiscal benefit and not as a means to provide access to justice. The Interpreter Program is hoping to change this culture. Courts are not accountable to how they are using the money to provide effective services.

ACTION: Commission members and guests were encouraged to look at the recommendations and email Kristi Cruz and Bob Lichtenberg with comments and assistance in prioritizing recommendations. The study will be on the agenda for the December Commission meeting.

Education Committee Chair

- If you are interested in chairing the Education Committee, email Bob Lichtenberg and Judge Rajul by October 1.

2022 Commission Meeting Dates

- Meetings in 2022 will be extended by 15 minutes.
- Proposed 2022 dates are included on page 105 of the meeting packet. An additional meeting during legislative session was proposed.
- The following meeting options were selected: 02/04, 03/04, 06/03, 09/16, and 12/02.

Interpreter Examinations for 2021

- James Wells created a document that he will provide via email to the Commission.
- Credentialing has been suspended due to COVID.
- Written exam has been moved to a digital format. It has been live since May 2021.
- Next step after the written exam is an orientation. The content from the in-person class has been converted to an online learning module. The first version is now available.
- The exams for registered languages will soon be available to take remotely.
- The exams for certified languages have a stricter protocol that requires in-person administration. James Wells is hoping to administer a small round of exams in November. NCSC is working on a remote exam and will provide an update this fall.
- The ethics and protocol class is the last step. An online version was created last year.

COMMITTEE AND PARTNER REPORTS

Issues Committee Report

- Translation Costs: Referral to ATJ Board

Education Committee Report

- The Commission is hoping to develop a new member training in an online format for onboarding Commission members.
- Recent Education Committee meeting minutes were included in the packet for people to review decisions.

Disciplinary Committee Report

- The Committee is hoping to have an updated Disciplinary Process manual by the December Commission meeting.
- Justice Whitener provided a written memo update detailing additional Committee business. It is on page 115 of the packet.

COMMISSION STAFF REPORT

Commission Manager's Report

- Cynthia Delostrinos has taken on a new role as the associate director of the Office of Court Innovation at AOC. She will be in charge of building two new teams related to equity in the courts.
- Kelley Amburgey-Richardson is serving as the interim manager of the Commissions until a manager is hired.
- A law student intern, Natsuya Izuka, will be providing assistance to the Commission and Program on the issue of interpreter recruitment and retention.
- An Equity Researcher is in the process of being hired at AOC. If you have ideas of research topics, please contact Bob Lichtenberg.

The meeting was adjourned at 11:57 AM

Chair's Report

Washington State Supreme Court Interpreter Commission

COMMISSION MEMBERS

November 9, 2021

Honorable Mafé Rajul, Chair
Superior Court Judges Representative

Honorable G. Helen Whitener
Appellate Court Representative

Honorable Matthew Antush
District and Municipal Court
Judges Representative

Ashley Callan
Superior Court
Administrators Representative

Frankie Peters
District and Municipal Court
Administrators Representative

Jeanne Englert
Administrative Office of the Courts
Representative

Luisa Gracia Camón
Interpreter Representative

Diana Noman
Interpreter Representative

Donna Walker
American Sign Language
Interpreter Representative

Kristi Cruz
Attorney Representative

Katrin Johnson
Attorney Representative

Francis Adewale
Public Defender Representative

Anita Ahumada
Community Member Representative

Naoko Inoue Shatz
Ethnic Organization Representative

Florence Adeyemi
Public Member Representative

The Honorable Charles Short
District and Municipal Court Judges Association
Administrative Office of the Courts
P.O. Box 41170
Olympia, WA 98504-1170

Dear Judge Short,

The District and Municipal Court Judges Association has been ably represented since October 1, 2020 by Judge Matthew Antush of Spokane Municipal Court, who has served as chair of the Commission's Issues Committee. The Commission recently received the resignation of Judge Antush from the Commission, effective yesterday, November 8, 2021.

The Washington State Court Interpreter Commission develops policies governing the Washington State Court Interpreter Program. All court interpreters who are, and seek, to become certified or registered by the Washington Administrative Office of the Courts, are subject to rules and regulations specified by policies set by the Commission. The Commission is also involved in assisting the courts and the state justice system in removing barriers to justice created as a result of a person's lack of English language proficiency or hearing loss. The Washington State Supreme Court selects members to represent various constituent groups in the court and interpreter communities, as well as those language communities who seek to access court services and programs. Each member is expected to share current information with the constituent groups they represent as well as bring current issues to the Commission for consideration.

The Interpreter Commission respectfully requests that the Association provide the name and contact information of the person the Association would like to submit for an appointment to the Commission to complete the remainder of the term of Judge Antush, which will end on September 30, 2023.

If you would please submit the name and contact information of the nominee the Association wishes to have appointed to the Commission, I will ensure that the nomination letter from the Association and the nominee's professional resume is collected and included in my letter to the Chief Justice for his consideration.

Please send the Association's nomination letter and nominee contact information to Robert Lichtenberg, Interpreter Commission Staff, at Robert.Lichtenberg@courts.wa.gov

Sincerely Yours,



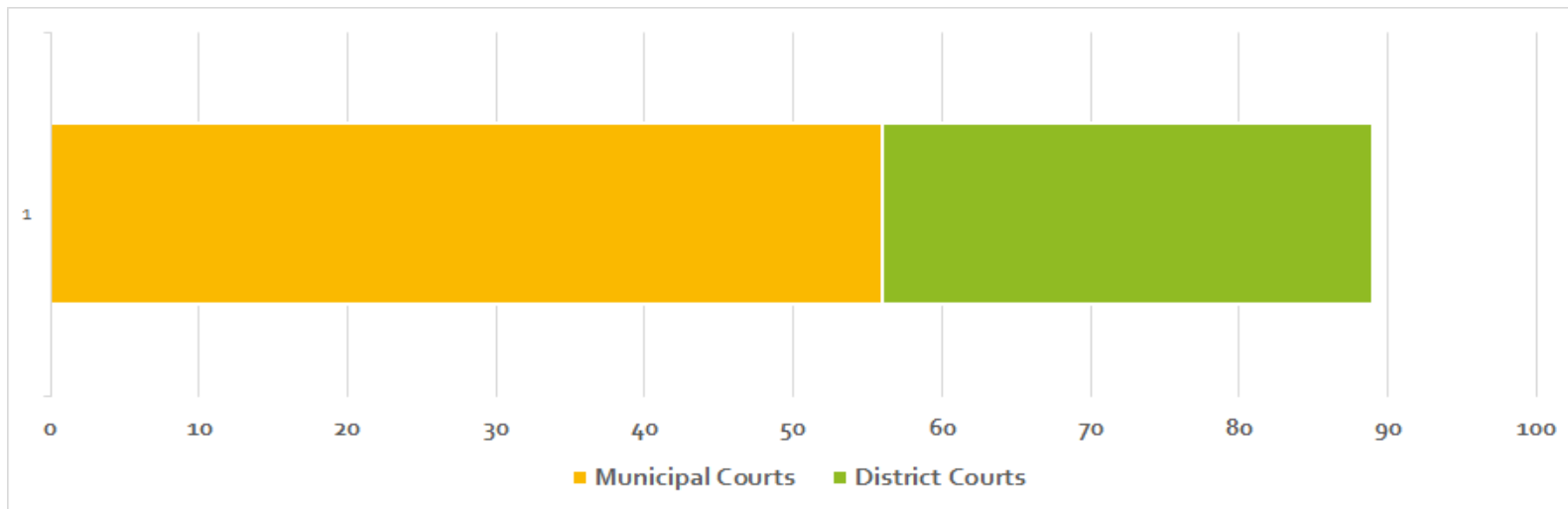
Mafé Rajul, Judge
Chair, Supreme Court Interpreter Commission



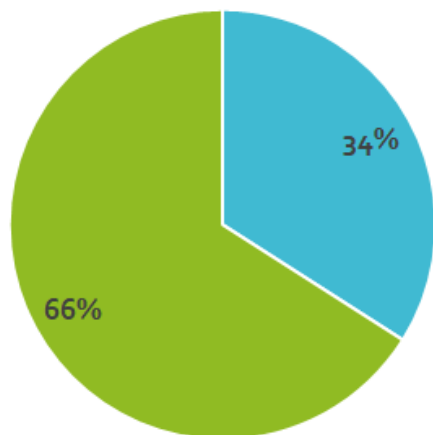
Vaccine Mandates for Employees in Courts of Limited Jurisdiction Survey Results Overview

October 5, 2021

Total Survey Responses: 89 (out of 151 total courts)

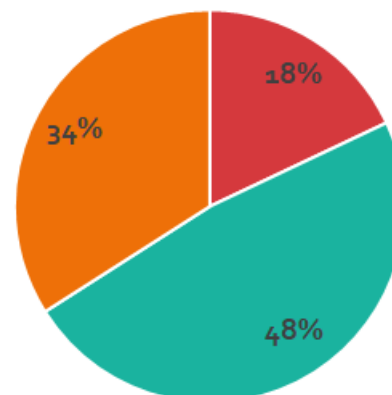


Are jury trials suspended in your court?

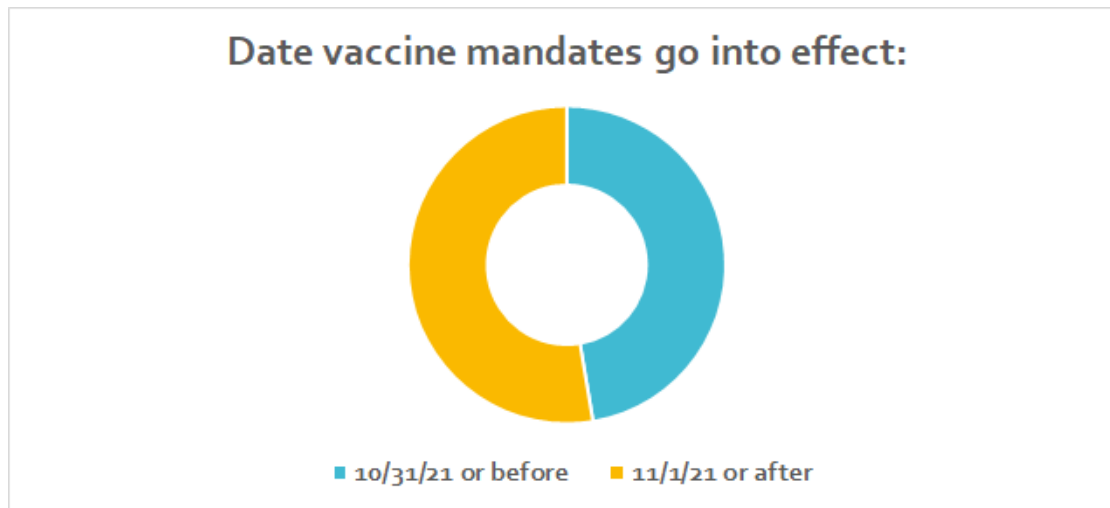
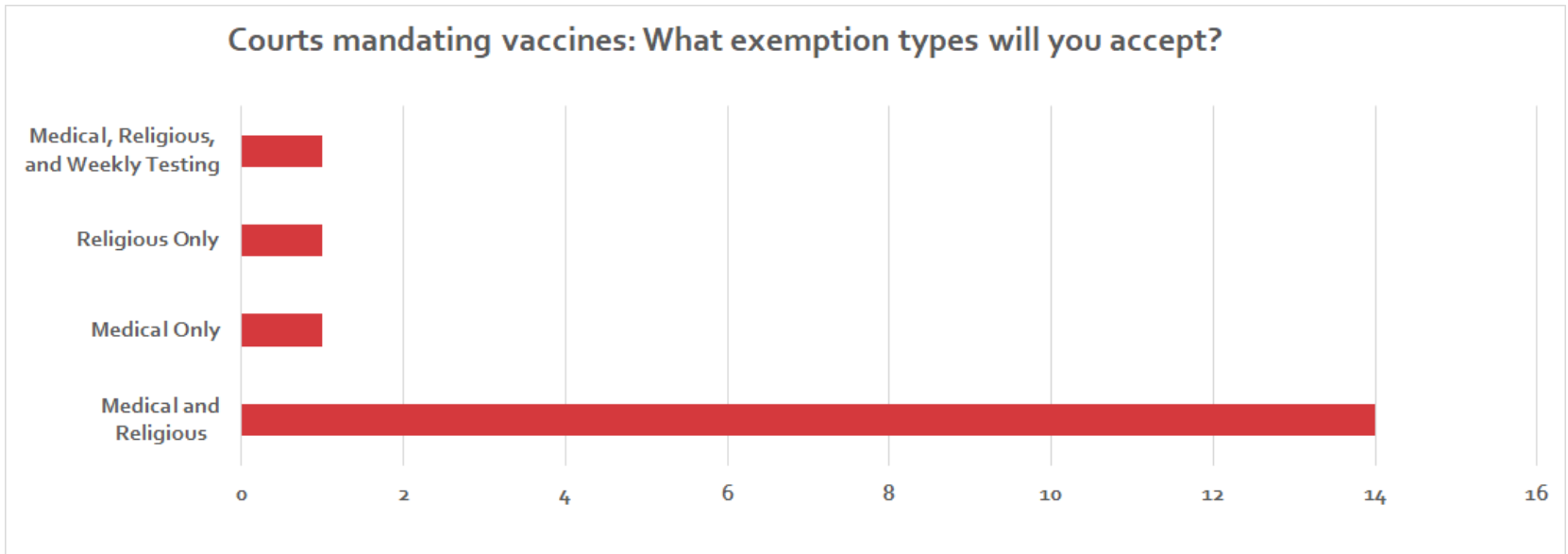


■ Yes (30) ■ No (59)

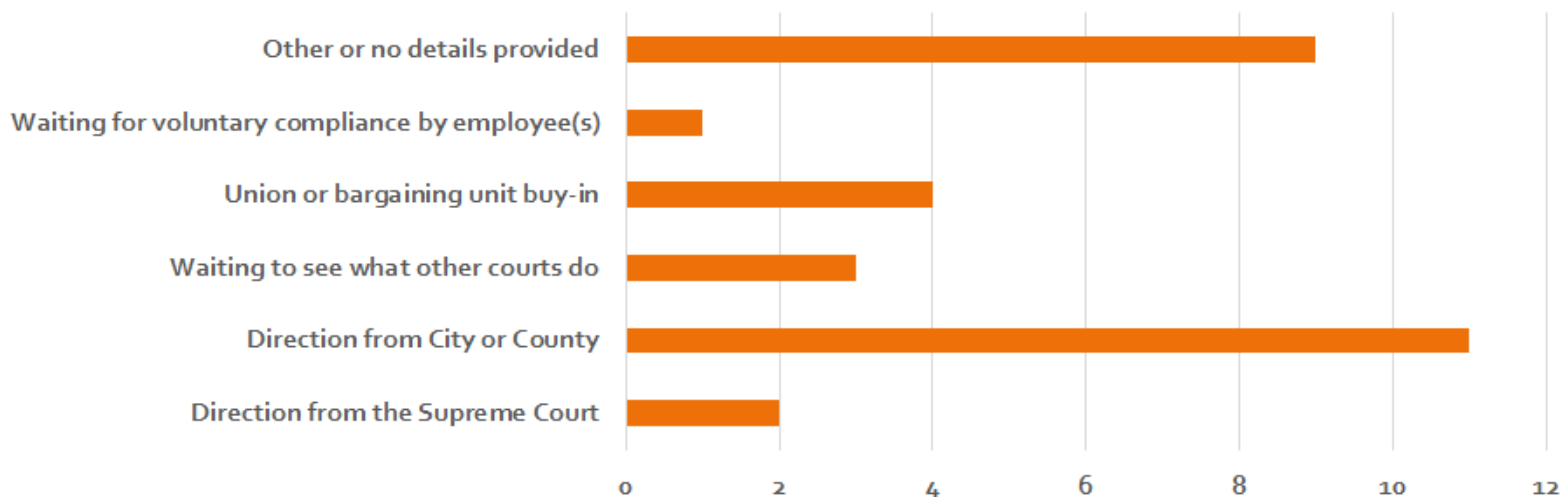
Are you adopting a vaccine mandate for employees of your court?



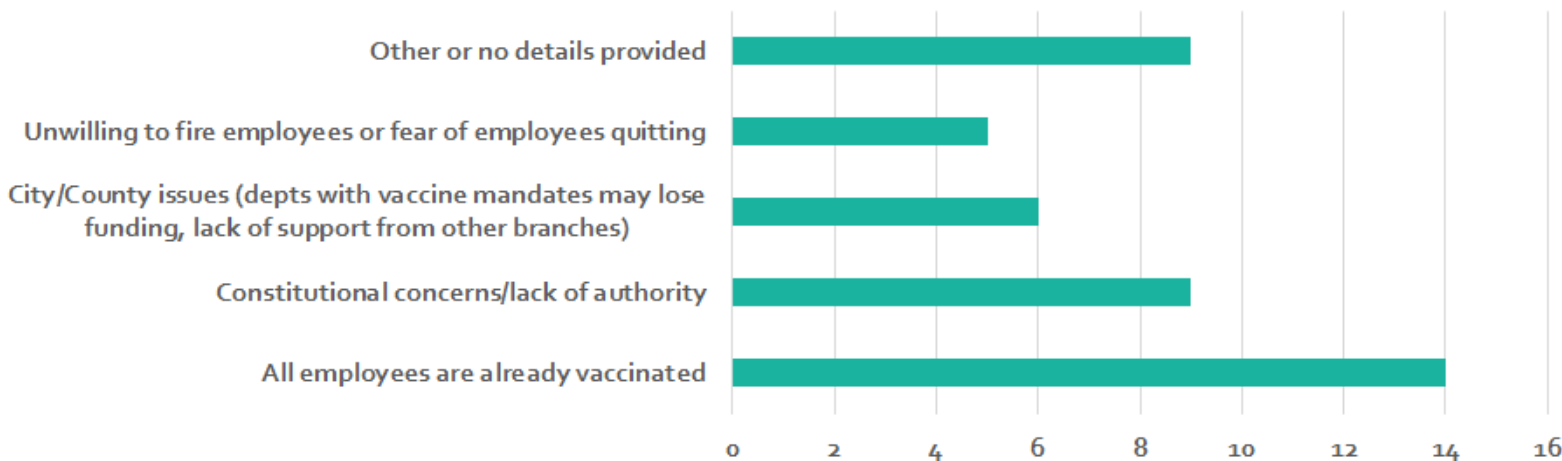
■ Yes (16) ■ No (43) ■ Waiting on decision (30)

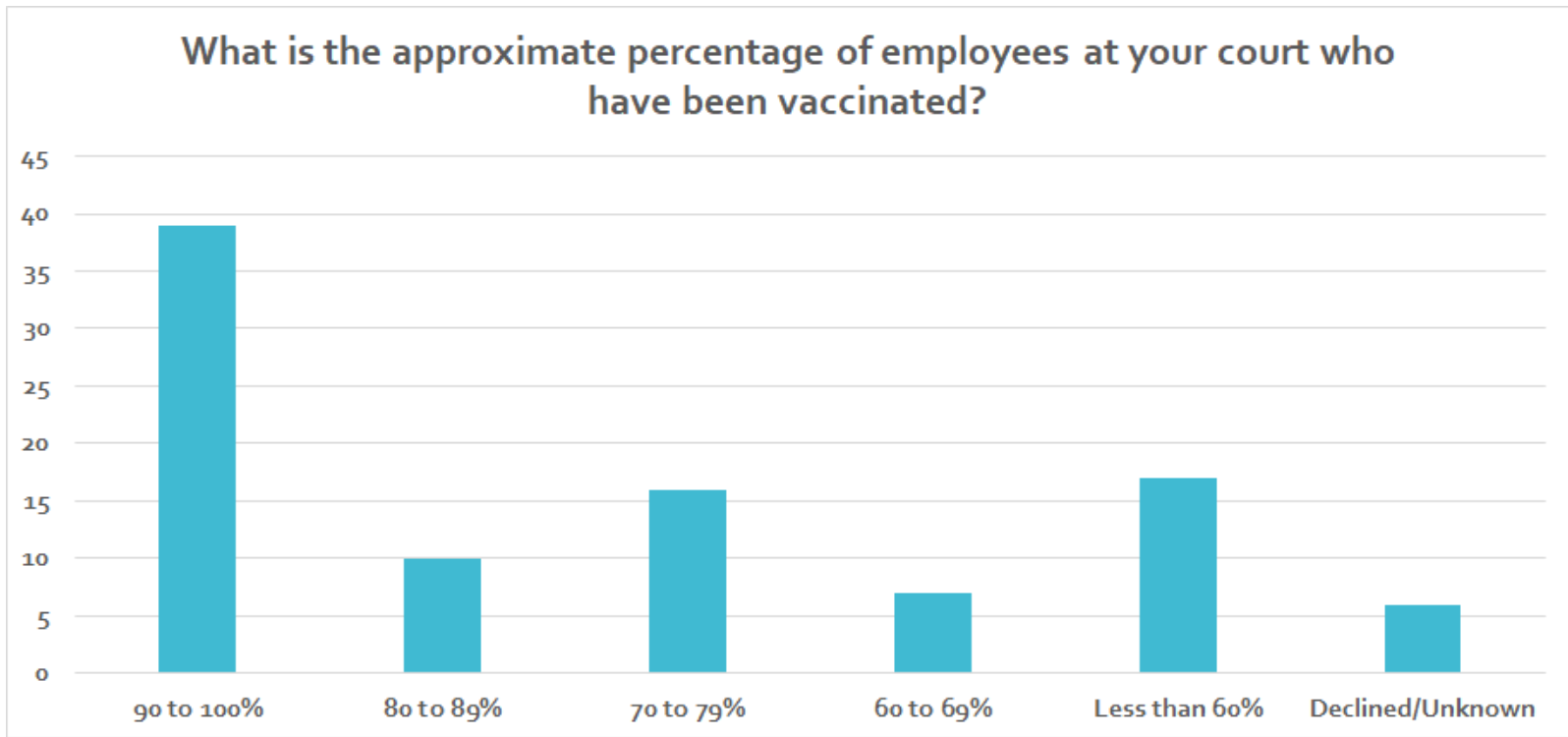


Courts waiting on a decision: What will allow you to make a decision?



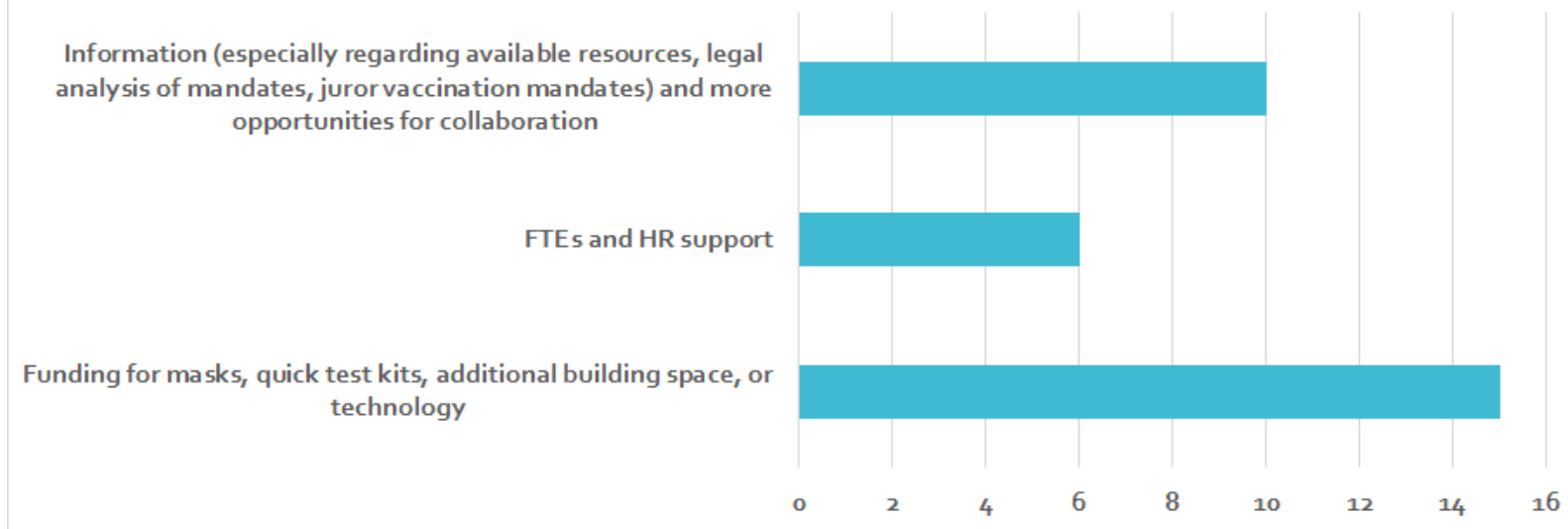
Courts not mandating vaccines: What barriers are preventing you from issuing a mandate?





Average across all respondents: 82%

What resources would be helpful to your court to meet the challenges of the pandemic?



37 responses indicating a need for more resources including:

- Training for Zoom jury trials
- Public relations assistance for communities and local governments
- Help with stress management and recognition for line staff
- Knowledge-sharing about what other courts are doing
- Experienced IT personnel and updated A/V to assist with virtual hearings
- Training for public defenders on how to effectively manage their cases/clients during the crisis

23 responses indicating no need for additional resources at this time

For more information:

Judge Charles D. Short, DMCJA President
cshort@co.okanogan.wa.us

Stephanie Oyler, DMCJA Primary Staff
Stephanie.Oyler@courts.wa.gov

Language Barrier Removal Recommendations From Gender Bias Study

The Language Barriers Section in the Gender Bias Study concluded that in order to improve access to interpreter services for people with limited English Proficiency (LEP) and d/Deaf, Hard of Hearing, and DeafBlind individuals in legal proceedings and court services and programs, stakeholders should convene to do the following:

- Review accessibility – at all levels of court – by limited English language users statewide, including people with hearing loss, to court interpreting services, and develop an action plan to address identified barriers.
- Suggest procedures to monitor and enforce the requirement that each court develop and annually maintain a language access plan pursuant to RCW 2.43.090; address whether the Washington Administrative Office of the Courts (AOC) needs to increase staffing within the Interpreter Services Program to assist courts in creating and implementing their language access plans and in making their language access plans accessible electronically.
- Address the establishment of interpreter training programs in Washington, partnering with other state agencies and community colleges, to create dedicated language interpretation programs and to provide resources to develop new interpreters in the wide variety of languages we need to meet the language interpretation needs of government programs.
- AOC should partner in the development of a certification program for American Sign Language (ASL) court interpreter certification.
- To improve access to the courts for those with limited English proficiency, the Washington Pattern Forms Committee should help translate key court information and forms into our state's top 37 languages (per the Office of Financial Management). To that end, the Committee should: (1) create a list of vital documents (including civil protection order requests and other court forms, information about language services, directions on how to access court in-person and remotely, etc.), and (2) determine how to make them most accessible to the people who need them. With regard to translating forms that trigger court action after filing (such as requests for protection orders), we suggest a pilot project in selected counties to test the feasibility of different approaches to gaining court action based on such translated documents.
- AOC should create guidance for and offer assistance to Washington courts in creating and maintaining accessible websites, including translations and disability accommodations.

- AOC should determine how best to acquire language data on LEP parties, witnesses, etc. from Superior, District, and Municipal courts, to enable AOC to identify and address gaps in language services delivery.

GR 9 COVER SHEET

Amended Rule

Washington Supreme Court
General Rule (GR) 11 Court Interpreters
Rule 11.1 Purpose and Scope of Interpreter Commission

- (A) Name of Proponent: Washington State Supreme Court Interpreter Commission
- (B) Spokespersons: Judge Mafe Rajul, Interpreter Commission Chairperson, Superior Court Judges Association Representative, Interpreter Commission; Judge Matthew Antush, District and Municipal Court Judges Association Representative, Interpreter Commission; Katrin Johnson, Public Member Representative, Interpreter Commission; and Justice G. Helen Whitener, Appellate Court Representative, Interpreter Commission.
- (C) Purpose: To expand the membership of the Commission and further the mission and authority of the Interpreter Commission by amending GR 11 (Title of General Rule) and GR 11.1 (Purpose and Scope of the Interpreter Commission) to authorize the Commission to provide our state courts with best practices guidance regarding other forms of language access services, such as translated websites, court forms, and other communications essential for access to courts, in addition to its current authority to create policies for the Administrative Office of the Courts' (AOC) Court Interpreter Program and provide best practices guidance to trial courts in the use of interpreter services. The suggested rule change(s) achieves the following:
1. It renames GR 11 to reflect that the General Rule 11 addresses language access services provided by the courts, digital or otherwise and authorizes courts to provide vital information necessary to access judicial proceedings and services in languages other than English. General Rule 11 is to be changed to "Interpreting and Language Access" and the wording "Court Interpreters" is removed.
 2. It renames the "Supreme Court Interpreter Commission" to become the "Supreme Court Interpreter and Language Access Commission" in GR 11.1 and changes the title of GR 11.1 to become "Purpose and Scope of the Interpreter and Language Access Commission".
 3. In addition to its current authority to develop policies for the AOC's Court Interpreter Program, it expands the authority of the Commission to establish and promulgate guidelines for the AOC and courts on text translation and other forms of language access means for persons who are Limited English Proficient (LEP) or who use a signed language.
 4. In addition to its current authority over individual interpreter practices and other language access directives required by law, it clarifies that the Issues Committee will also address matters affecting interpreting as a

Washington Courts
General Rule (GR) 11, Court Interpreters
Amended Rule 11.1, Purpose and Scope of the Interpreter Commission

service provided by interpreters and the courts. It also arranges the work of the Issues Committee under one sub-section.

5. It creates a fourth Committee on the Commission to be called "Translation Committee".
6. It expands the membership of the Commission from fifteen (15) members to twenty (20) members.
7. It creates the following five new positions on the Commission: a co-chair, one certified deaf interpreter representative, one deaf community representative, one translator or translation services representative, and one as-yet-to-be identified open position. The Commission requests an open position be granted to the Commission to enable the Commission to designate an additional representative position in order to enhance the subject matter expertise of the Commission in the future should that become necessary and which may be filled at the discretion of the Commission. As a result of the re-configuration, the Commission will have eighteen named positions with eighteen (18) members if the co-chair is from among the membership and nineteen (19) members if the co-chair is not a representative member from among the named representative positions. In the event the co-chair is a representative member, the Commission will have two open positions to establish at its discretion.

- (D) Hearing: Recommended. This is a new expansion of the Commission's role and membership composition and clarifying questions and comments are likely to be provided by stakeholders.
- (E) Expedited Consideration: Expedited consideration is not requested by the Commission.

Background Information and Supporting Documents

Background Information:

Pursuant to GR 11, the Commission has historically charged with developing policies governing the use of signed language and spoken language interpreters. However, as a result of the public health crisis caused by COVID-19, courts in Washington State have significantly altered the way in which hearings are conducted as well as the way in which interpreter services and court information are provided. The pivot to remote hearings, coupled with remote interpreter services, both video and telephonic, required a revision to GR 11.3, which was made effective December 29, 2020 and addressed interpreting in court proceedings and services. However, much of the information given to the public by individual courts to access the court's remote hearings through web-based platforms were

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provided in English, with very few courts making that and other types of vital information (such as court forms and notices) accessible in other languages. The Supreme Court issued the following statement in Section 18 of its *Fourth Revised and Extended Order Regarding Court Operations*, No.25700-B-646, filed October 13, 2020:

18. Courts must provide clear notice to the public of restricted court hours and operations, as well as information on how individuals seeking emergency relief may access the courts. Courts are encouraged to provide such notice in the most commonly used languages in Washington, and to make every effort to timely provide translation or interpretation into other languages upon request. The Washington State Supreme Court Interpreter Commission may assist courts in this process.

In order for the Commission to assist courts in the process of providing translation into other languages in order to access vital court services and processes, it believes that it should be granted the authority to establish and promulgate best practices and provide the guidance to our local courts and justice partners on text translation practices for individuals who are LEP and to persons who rely on signed languages. In order to fulfill that service promise, it needs to have a credentialed document translator on the Commission and to have a deaf community representative to advise the Commission on how it may assist the courts with addressing the unique language and information access needs of persons who are deaf, hard of hearing, or deaf-blind.

Previously, in the years 2007-2009, the Interpreter Commission was engaged in assisting the AOC's Pattern Forms Committee with translation of selected pattern forms and clarifying its role in the area of translation activities. As a result of its work with the Forms Committee, the Commission spoke as a whole and asserted the position that the Commission needed to be more engaged with assisting the courts in identifying vital documents for translation and assisting with translation services the courts needed by the courts to enable access to vital forms and vital information pursuant to federal Department of Justice policies on language access under Title VI of the Civil Rights Act of 1964. However, in 2009, the AOC sustained a significant budget reduction that eliminated several internal positions that supported the language access aspects of court services. What is demonstrative of these Commission activities is the view that the Commission has had a historical role in identifying best practices and assisting with forms translation priorities and needs in partnership with the AOC and the courts. If granted authority to provide policies and guidance to local courts and the AOC on best translation practices, the Commission will work to create a guidance document similar to the one created for the Courts of the State of Pennsylvania.

As a result of the expansion of the Commission's mission and role to address other forms of language access practices, if so authorized by the Supreme Court, it would be most practical to change the Title of GR 11 from "Court Interpreters" to "Interpreting and

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General Rule (GR) 11, Court Interpreters
Amended Rule 11.1, Purpose and Scope of the Interpreter Commission

Language Access” and to change the title of GR 11.1 to reflect the following Rule title, “Purpose and Scope of the Interpreter and Language Access Commission.

To support its new role in providing guidance on language access matters in general, the Commission needs to have appropriate stakeholder voices and subject-matter expertise available for its guidance and policy development activities and content. As a result of this need, the Commission recommends expanding the number of enumerated representative positions on the Commission to add a deaf community representative, a certified deaf interpreter (CDI) representative, and a co-chair position, of which may be filled by a new individual member or by a current member so designated by the Supreme Court in accordance with GR 11.1 (c). The Commission respectfully requests that the Court authorize those aforementioned positions and enable the Commission the authority to fulfill its mission and vision through the capability to identify other as-needed representatives.

Supporting Documentation:

- Washington State Supreme Court, *Fourth Revised and Extended Order Regarding Court Operations*, No. 25700-B-646, Filed October 13, 2020.
<http://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20Orders/Extended%20and%20Revised%20Supreme%20Court%20Order%20October%202020.pdf#search=fourth%20revised%20order>
- Commission Meeting Minutes Excerpts Regarding Translation Oversight: Interpreter Commission meeting minutes from: March 9, 2007; September 14, 2007; October 19, 2007; November 30, 2007; March 14, 2008; June 20, 2008; October 3, 2008; February 6, 2009; and April 22, 2011:

Minutes excerpt from March 9, 2007 meeting:

03.09.07 minutes - <https://www.courts.wa.gov/content/publicUpload/Interpreters-Attachment/03.09.07%20IC%20Minutes.pdf>

Development of Forms Committee

The budget request includes monies for forms translation. Merrie Gough, who staffs the Pattern Forms Committee (PFC), can tell us how many forms are currently being translated. It was recommended by the Committee that the Interpreter Commission be the policy-making body regarding forms translation and make decisions regarding which forms to translate. Recommendation: Interpreter Commission partner with the Pattern Forms Committee on the forms translation effort.

There is a need for standards for a uniform format, etc. Leticia stated that the Northwest Justice Project has translated forms. There was agreement on the need for standards that could be used to determine whether to post these or other forms translated by other organizations on AOC’s website. Also mentioned was

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incorporating work that King County has already done in translating forms. Ann can provide national standards for forms translation too.

There is a need for deliberate policy oversight of this effort. The role of the Commission would be to provide such policy oversight, not to manage the actual work of the forms translation. Commissioner Rockwood noted that the strength and advantage of the PFC is the development of standardized statewide forms.

The consensus of the Commission is that they strongly support the PFCs recommendation and to continue to move in this direction. Robert will begin to lay the groundwork for the collaboration with the PFC, including creating a subcommittee of the Interpreter Commission to work with the PFC.

The Commission requested this be put on the agenda for the next meeting, pending the Legislature appropriating funds for this. For the next meeting, Robert will draft a proposal describing the charge, responsibility, and purpose of the subcommittee and proposing possible membership.

Excerpt from September 14, 2007 Meeting Summary:

09.14.07 minutes - <https://www.courts.wa.gov/content/publicUpload/Interpreters-Attachment/09.14.07%20IC%20Minutes.pdf>

INTERPRETER COMMISSION/PATTERN FORMS COMMITTEE

Karina reported that the committee is close to prioritizing the languages for translation. Besides Spanish, Russian and Vietnamese, two more languages still need to be selected. Questions and concerns raised included: What is / will be the protocol for use of translated forms? Do specific steps or procedures need to be identified? How will it be decided which additional languages to select for forms translation? How do we take into account forms that have already been translated (including forms translated by King County)? How much funding should be held back from LAP funds for pattern forms translation?

Excerpt from October 19, 2007 meeting minutes:

10.19.07 minutes - <https://www.courts.wa.gov/content/publicUpload/Interpreters-Attachment/10.19.07%20IC%20Minutes.pdf>

INTERPRETER COMMISSION/PATTERN FORMS COMMITTEE

Karina reported that the pattern form languages that need translation are being identified. Chris noted that there is money set aside from the LAP funding for forms translation, and that he has given the go-ahead for translation of vulnerable

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adult pattern forms. The list of other forms to be translated has yet to be finalized depending on the cost of translating the vulnerable adult forms.

It was noted that forms translation can be very expensive; in addition, forms change often, and that can also add to the expense. Merrie Gough sends the updated translated forms to judges. A member noted that it is difficult to distribute updated forms to all parties. Whose job is it to make sure forms are updated in the courtrooms? Ron suggested adding a "revised date" on the bottom of each form.

A suggestion was also made to circulate to trial court administrators a list of which forms will be translated into which languages. This may help trial court staff avoid the cost of having local interpreters translate those forms.

[November 30, 2007 Meeting minutes excerpt](#)

11.30.07 minutes - <https://www.courts.wa.gov/content/publicUpload/Interpreters-Attachment/11.30.07%20IC%20Minutes.pdf>

Interpreter Commission/Pattern Forms Committee

The joint Interpreter Commission/Pattern Forms Committee has met a couple of times to determine which forms will be translated into which languages using Justice in Jeopardy monies. While the Committee still has to prioritize much of its work, the Commission was advised that the new Vulnerable Adult Forms are currently being translated into Spanish. A more substantial report will be provided at the Commission's January 25, 2008 conference call, including discussion of the protocol for forms and the languages to be translated.

(Not discussed at 1/25/2008 meeting but at the next one, below):

[Excerpt from March 14, 2008 Commission meeting minutes:](#)

03.14.08 minutes - <https://www.courts.wa.gov/content/publicUpload/Interpreters-Attachment/03.14.08%20IC%20Minutes.pdf>

Interpreter Commission/Pattern Forms Committee

Leticia provided a handout to the group that included "top priority" forms for translation, protocol for translators, and court forms already translated. After much discussion, members stated that it would be helpful to 1) obtain a list of current statutorily mandated forms, and 2) receive input from the SCJA and DMCJA on what forms need to be translated with AOC efforts/funds after all the mandated forms are translated into several top priority languages for Washington State. The Commission members agreed unanimously and supported AOC in its effort to conduct the final review of King County Superior Court forms (in accord with the translation protocol) and post them on AOC's website immediately after the completion of the final review.

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Excerpt from June 20, 2008 Minutes:

06.20.08 minutes - <https://www.courts.wa.gov/content/publicUpload/Interpreters-Attachment/06.20.08%20IC%20Minutes.pdf>

TRANSLATION OF STATE FORMS

Leticia provided a handout outlining the protocol for translators, editors, and reviewers of translated state forms:

- Certification by a national translation organization or academic program; or five years of legal translation work experience.
- Translators must provide five work references and five samples.
- Certification or registration as a court interpreter is preferable but not required.
- The primary translator will use an editor, qualified as a translator, to review the work product for accuracy and completeness.
- One additional reviewer, qualified as a translator, shall review the work product for accuracy and completeness. If an editor is not utilized, then two additional reviewers shall review the document for accuracy and completeness.
- A glossary of terms used must accompany each completed assignment. Translators will be required to use the master glossary that is developed.
- Translators must adhere to the NAJIT's code of ethics (www.najit.org).

These criteria apply equally to translation services contracts resulting from sole source and request for proposal procurement methods.

Steve noted that WITS is currently formulating a list of translators.

King County's forms are still missing the second review in order to put them on AOC's website.

Excerpt from October 3, 2008 Meeting Minutes:

10.03.08 minutes - <https://www.courts.wa.gov/content/publicUpload/Interpreters-Attachment/10.03.08%20IC%20Minutes.pdf>

III. Update on Translation of State Forms

State forms have been translated by the Northwest Justice Project, and the translators, editors, and reviewers met the requirements approved by the Commission. There were changes made to the English versions of those forms in July, and those changes have now been adapted to the translated versions. Those forms are currently posted on the AOC website.

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King County Superior Court has translated state forms per the Commission's protocol, but is still in the process of translating/editing/reviewing the edits made to the forms in July. Once completed, they will be posted to the AOC website.

All translated state forms are written in a bilingual format – they include both the original English text, along with the translated text. The forms also instruct the users to complete them in English.

[Excerpt from February 6, 2009 Meeting Minutes:](#)

02.06.09 minutes - <https://www.courts.wa.gov/content/publicUpload/Interpreters-Attachment/02.06.09%20IC%20Minutes.pdf>

Update on Translation of State Forms

In 2007 and 2008, an ad hoc committee on forms translation met to discuss several issues regarding translating of state forms. Based on their recommendations the Commission adopted several standards for translations such as the qualifications of translators and editors, the process of editing and reviewing translations, and the selection of languages to translate. The Commission had not previously come to a conclusion to which forms should be translated, because no funding had been available at the time for translation of additional forms. At this time, all forms which are required by statute to be translated, are either translated or in the process of being translated.

There may be \$25,000 available in LAP funding for the translation of additional forms, which must be completed by June 30, 2009. Members discussed options on how to spend the money and agreed that (1) given the tight timeline and the demand for Spanish forms, it makes sense to focus this funding on Spanish translations; (2) the forms identified by the ad hoc committee as priority forms should be translated into Spanish, and (3) the ad hoc committee should reconvene to determine which additional forms should be translated with the funding.

[Excerpt from April 20, 2011 Meeting: Interpreter Commission Translation Standard](#)

04.22.11 minutes - <https://www.courts.wa.gov/content/publicUpload/Interpreters-Attachment/04.20.11%20IC%20Minutes.pdf>

In 2008 the Interpreter Commission established a one-page translation protocol, setting standards for the qualifications of translators, and the general overall process of translating, editing and reviewing. Recently the Consortium for Language Access in the Courts released a comprehensive guide for translation of legal documents. The Commission agreed that this resource should be used to

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revisit and expand the Washington translation protocol, to promote a uniform standard for translating court documents. It was recommended that an ad hoc committee be formed to work on the project. Katrin will send an email to the full Commission soliciting volunteers for the project.

- The Unified Judicial System of Pennsylvania, *Translation Policy and Procedures Manual*. https://www.ncsc.org/_data/assets/pdf_file/0033/59388/Translation-Manual-Final.pdf

Title of Rule 11

GR 11

Court Interpreters Interpreting and Language Access

The use of qualified interpreters is authorized in judicial proceedings involving hearing impaired or non-English speaking individuals and courts are authorized to provide vital information necessary to access judicial proceedings in languages other than English.

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GR 11.1

PURPOSE AND SCOPE OF ~~INTERPRETER COMMISSION~~ INTERPRETER AND LANGUAGE ACCESS COMMISSION

(a) Purpose and Scope. This rule establishes the Interpreter and Language Access Commission (Commission) and prescribes the conditions of its activities. This rule does not modify or duplicate the statutory process directing the Court Interpreter Program as it is administered by the Administrative Office of the Courts (AOC) (chapter 2.43 RCW). The ~~Interpreter~~ Commission will develop policies for the Interpreter Program and the Program Policy Manual, published on the Washington Court's website at www.courts.wa.gov, which shall constitute the official version of policies governing the Court Interpreter Program. The Commission shall establish and promulgate guidelines on interpreting, translation, and language access matters affecting individuals who are Limited English-proficient or who use a signed language.

(b) Jurisdiction and Powers. Every interpreter serving in a legal proceeding must comply with GR 11.2, the Code of Professional Responsibility for Judiciary Interpreters, and is subject to the rules and regulations specified in the Court Interpreter Disciplinary Policy Manual. The Commission shall establish ~~three~~ four committees to fulfill ongoing functions related to language access issues, discipline, and judicial/court administration education. Each committee shall consist of at least three Commission members and one member shall be identified as the chair.

(1) The Issues Committee is assigned issues, complaints, and/or requests from or about interpreters and interpreting for review and response. If the situation cannot be resolved at the Issues Committee level, the matter will be submitted by written referral to the Disciplinary Committee.

~~(2)~~ The Issues Committee will also address issues, complaints, and/or requests regarding access to interpreter services in the courts and may communicate with individual courts in an effort to assist in complying with language access directives required by law.

~~(3)~~ (2) The Disciplinary Committee may sanction any interpreter serving in a legal proceeding for a violation of GR 11.2, the Code of Professional Responsibility for Judiciary Interpreters, and has the authority to decertify or deny credentials to interpreters based on the disciplinary procedures for: (a) violations of continuing education/court hour requirements, (b) failure to comply with Code of Professional Responsibility for Judiciary Interpreters (GR 11.2) or professional standards, or (c) violations of law that may interfere with their duties as an interpreter in a legal proceeding. The Disciplinary Committee will decide on appeal any issues submitted by the Issues Committee.

1 (3) The Judicial and Court Administration Education Committee shall provide ongoing opportunities
 2 for training and resources to judicial officers, court administrators, and court staff related to
 3 court interpretation improvement.
 4

5 ~~(5)~~ (4) The Translation Committee shall provide guidelines to courts on matters involving written
 6 documents of a legal nature or which is related to accessing the court through textual means,
 7 whether digital or otherwise.
 8

9 **(c) Establishment.** The Supreme Court shall appoint no more than ~~15~~ 20 members to the
 10 ~~Interpreter~~ Commission and shall designate the chair and co-chair of the Commission. The
 11 Commission shall include representatives from the following areas of expertise: judicial officers
 12 from the appellate and each trial court level (3), spoken language interpreter (2), sign language
 13 interpreter (1), certified deaf interpreter representative (1), court administrator (1), attorney (1),
 14 public member (2), representative from ethnic organization (1), an AOC representative (1), deaf
 15 community representative (1), translator or translation services representative (1) who shall hold a
 16 certified interpreting credential from the AOC and be a practicing professional translator, and
 17 other representatives as need. The term for a member of the Commission shall be three years.
 18 Members are eligible to serve a subsequent 3-year term. Members shall serve on at least one
 19 committee and committees may be supplemented by ad hoc professionals as designated by the
 20 chair. Ad hoc members may not serve as the chair of a committee.
 21

22 **(d) Regulations.** Policies outlining rules and regulations directing the interpreter program are
 23 specified in the Interpreter Program Manual. The Commission, through the Issues Committee and
 24 Disciplinary Committee, shall enforce the policies of the interpreter program. Interpreter program
 25 policies may be modified at any time by the Commission and AOC.
 26

27 **(e) Existing Law Unchanged.** This rule shall not expand, narrow, or otherwise affect existing law,
 28 including but not limited to chapter 2.43 RCW.
 29

30 **(f) Meetings.** The Commission shall hold meetings as determined necessary by the chair. Meetings
 31 of the Commission are open to the public except for executive sessions and disciplinary meetings
 32 related to action against an interpreter.
 33

34 **(g) Immunity from Liability.** No cause of action against the Commission, its standing members or ad
 35 hoc members appointed by the Commission, shall accrue in favor of a court interpreter or any other
 36 person arising from any act taken pursuant to this rule, provided that the Commission members or
 37 ad hoc members acted in good faith. The burden of proving that the acts were not taken in good
 38 faith shall be on the party asserting it.
 39

[Adopted effective September 1, 2005; Amended effective April 26, 2016; December 18, 2018.]

GR 9 COVER SHEET

Amended Rule

**Washington Supreme Court
General Rule (GR) 11 Court Interpreters
Rule 11.3 Remote Interpretation**

- (A) Name of Proponent: Washington State Supreme Court Interpreter Commission
- (B) Spokespersons: Judge Mafe Rajul, Chair, Interpreter Commission, Superior Court Judges Representative; Judge Matthew Antush, Interpreter Commission Issues Committee Chairperson, District and Municipal Court Judges Association Representative; Kristi Cruz, Attorney Representative, Interpreter Commission; Donna Walker, ASL Interpreter Representative, Interpreter Commission; Luisa Gracia Camón, Interpreter Representative, Interpreter Commission; and Diana Noman, Interpreter Representative, Interpreter Commission.

Purpose: To make amendments regarding the use of remote interpreting services during court proceedings to provide clarification, including the application of the rule to persons with hearing loss and to court participants. The suggested rule changes achieve the following:

1. It changes the title of the rule to reflect the use of a service, rather than the service itself.
2. It removes the requirement to conduct a preliminary determination for non-evidentiary hearings.
3. It removes the wording “fully and meaningfully participate,” because this language is not defined.
4. It clarifies that interpreter services must be provided to all limited English-proficient persons and persons with hearing loss involved in a legal proceeding, which may be litigants, but also parents, witnesses, guardians, observers etc.
5. The requirement to provide documents in advance to interpreters was edited to remove the requirement as it pertains to parties, while leaving in the option to provide time at the hearing for an interpreter to review documents when courts are not able to provide them in advance.
6. It clarifies the section on recordings to remove the first sentence referring to court records as that is stated in a different court Rule. The proposed edits then focus on allowing parties to request a recording of the simultaneous interpretation itself and allows for flexibility as to how a

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court chooses to create such a recording.

7. It inserts individual Comments to follow each rule, rather than place all the Comments at the end, which makes the intent and purpose of each individual section of the rule more closely paired to the rule language for comprehension and application.

(D) Hearing: Not recommended.

(E) Expedited Consideration: Expedited consideration is requested by the Commission.

Background Information:

Pursuant to rule GR 11.1, the Commission is charged with developing policies governing the use of signed language and spoken language interpreters. In October 2020, the Interpreter Commission submitted requested rule changes to GR 11.3, reflecting the increased use of remote interpretation due, in part, to the coronavirus pandemic. Understanding that there was an immediate need for guidance on the use of remote interpreter services, the rule changes were submitted for expedited consideration. The proposed changes were adopted by the Washington Supreme Court and went into effect on December 29, 2020. Following the adoption of changes to rule GR 11.3, the Commission received feedback from multiple sources, including comments from the District and Municipal Court Judges Association (DMCJA). The proposed changes in this packet reflect the efforts of the Commission to respond to the feedback received and to provide clarification to courts in an effort to improve access to justice.

Previously, in Section (a), the rule did not allow for the use of telephonic interpreter services in evidentiary hearings. In modernizing the rule, Section (a) allows courts to utilize remote interpreter services for evidentiary hearings but requires the court to make a preliminary determination, on the record, of the LEP person or the person with a hearing loss's ability to participate in this manner. The Commission received feedback that this preliminary determination was overly burdensome in non-evidentiary hearings. The proposed rule change modifies the rule to remove this step of the preliminary determination in non-evidentiary hearings

Additionally, the phrase, "to fully and meaningfully participate," was removed since that language is not defined and would be difficult for courts to implement. The comment acts to provide this context and rationale, without retaining the language in the rule itself.

The rule is being modified throughout to acknowledge that use of the term, "litigant," is too narrow. This change also recognizes that individuals utilizing interpreter services are not

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limited to this role, but also include witnesses, parents or guardians, and court observers. In most instances, the use of the term, “litigant,” was expanded to incorporate this broader view except for the reference to attorney and client communications, when the use of the term litigant is appropriate.

In Section (f), the Commission received feedback that providing documents to interpreters in advance of a hearing is administratively challenging and would require additional staff resources. While the Commission understands this concern, the rule already incorporates an exception allowing courts to provide interpreters with time at the hearing to review documents in instances when providing them in advance is not practical. The Commission does recommend a rule change to remove the requirement that parties provide such documents in advance, given the difficulty in facilitating the transfer of data between parties and interpreters. The Commission is mindful that providing interpreters with relevant documents and information in advance of a hearing, or allowing them time at the hearing to review documents, increases accuracy and efficiency in legal proceedings.

In Section (h), the proposed edit seeks to clarify that the recording is of the simultaneous interpretation, meaning the interpretation that the LEP person or person with hearing loss is receiving. The interpretation into English is already part of the official record. There are situations where it is appropriate for a party to request that a recording be made of the interpretation in the foreign spoken language or in the signed language, for issues of challenge or appeal. Because courts will have different approaches to making such a recording, the language in the section was edited to allow courts the flexibility in how they create such a recording.

In conclusion, the proposed changes will provide clarification and flexibility to Washington courts while ensuring that the use of remote interpretation services is done in a manner that provides meaningful access to LEP persons and persons with hearing loss.

GR 11.3

REMOTE INTERPRETATION INTERPRETING

- (a) ~~Whenever an interpreter is appointed in a legal proceeding, the interpreter shall appear in person unless the Court makes a good cause finding that an in-person interpreter is not practicable, and where it will allow the users to fully and meaningfully participate in the proceedings. The court shall make a preliminary determination on the record, on the basis of testimony of the person utilizing the interpreter services, of such ability to participate and if not, the court must provide alternative access.~~

Interpreters may be appointed to provide interpretation via audio only or audio-visual communication platforms for non-evidentiary proceedings. For evidentiary proceedings, the interpreter shall appear in person unless the Court makes a good cause finding that an in-person interpreter is not practicable. The Court shall make a preliminary determination on the record, on the basis of the testimony of the person utilizing the interpreter services, of the person's ability to participate via remote interpretation services.

Comment

1. ~~Section (a) is a significant departure from prior court rule which limited the use of telephonic interpreter services to non-evidentiary hearings.~~ While remote interpretation is permissible, in-person interpreting services are the primary and preferred way of providing interpreter services for legal proceedings. Because video remote interpreting provides ~~the participants and litigants and~~ interpreters the ability to see and hear all parties, it is more effective than telephonic interpreter services. Allowing remote interpretation for evidentiary hearings will provide flexibility to courts to create greater accessibility. However, in using this mode of delivering interpreter services, where the interpreter is remotely situated, courts must ensure that the remote interpretation is as effective and meaningful as it would be in-person and that the LEP ~~(Limited English Proficient) litigant person or person with hearing loss~~ is provided full access to the proceedings. Interpreting in courts involves more than the communications that occur during a legal proceeding and courts utilizing remote interpretation should develop measures to address how LEP and persons with hearing loss will have access to communications occurring outside the courtroom where the in-person interpreter would have facilitated this communication. Courts should make a preliminary determination on the record regarding the effectiveness of remote interpretation and the ability of the LEP litigant to meaningfully participate at each occurrence because circumstances may change over time necessitating an ongoing determination that the remote interpretation is effective and enables the parties to meaningfully participate.

Interpreting in courts involves more than the communications that occur during a legal proceeding and courts utilizing remote interpretation should develop measures to address how LEP and persons with hearing loss will have access to communications occurring outside the courtroom where the in-person interpreter would have facilitated this communication. Courts should make a preliminary determination on the record regarding the effectiveness of remote interpretation and the ability of the ~~LEP litigant~~ person utilizing the interpreter service to meaningfully participate at each occurrence, because circumstances may change over time

1 necessitating an ongoing determination that the remote interpretation is effective and enables
2 the parties to meaningfully participate.

- 3
4 (b) Chapters 2.42 and 2.43 RCW and GR 11.2 must be followed regarding the interpreter's
5 qualifications and ~~€Code of pProfessional #Responsibility for-jJudiciary iInterpreters.~~

6
7 Comment

8 Section (b) reinforces the requirement that interpreters appointed to appear remotely must
9 meet the qualification standards established in RCW 2.42 and 2.43 and they must be familiar
10 with and comply with the ~~€Code of pProfessional #Responsibility for-jJudiciary iInterpreters.~~
11 Courts are discouraged from using telephonic interpreter service providers who cannot meet
12 the qualification standards outlined in RCW 2.42 and 2.43.

- 13
14 (c) In all remote interpreting court events, both the ~~litigant~~LEP individual and the interpreter must
15 have clear audio of all participants throughout the hearing. In video remote court events, the
16 ~~litigant~~person with hearing loss and the interpreter must also have a clear video image of ~~the~~all
17 participants throughout the hearing.

18
19 Comment

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21 Section (c) discusses the importance of courts using appropriate equipment and technology
22 when providing interpretation services through remote means. Courts should ensure that the
23 technology provides clear audio and video, where applicable, to all participants. Because of the
24 different technology and arrangement within a given court, audio transmissions can be
25 interrupted by background noise or by distance from the sound equipment. This can limit the
26 ability of the interpreter to accurately interpret. Where the ~~litigant~~LEP person or person with
27 hearing loss is also appearing remotely, as is contemplated in (h), courts should also ensure
28 that the technology allows ~~litigants~~for full access to all visual and auditory information.

29 When utilizing remote video interpreting for persons with hearing loss, the following
30 performance standards must be met: real-time, full-motion video and audio over a dedicated
31 high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality
32 video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in
33 communication; a sharply delineated image that is large enough to display the ~~interpreter and~~
34 ~~person using sign language's face, arms, hands, and fingers~~ the face, arms, hands, and fingers
35 of both the interpreter and the person using sign language; and clear, audible transmission of
36 voices.

- 37 (d) If the telephonic or video technology does not allow simultaneous interpreting, the hearing
38 shall be conducted to allow consecutive interpretation of all statements.
39
40 (e) The court must provide a means for confidential attorney-client communications during
41 hearings, and allow for these communications to be interpreted confidentially.
42

43 Comment

1 (f) Section (e) reiterates the importance of the ability of individuals to consult with their attorneys,
 2 throughout a legal proceeding. When the interpreter is appearing remotely, courts should
 3 develop practices to allow these communications to occur. At times, the court interpreter will
 4 interpret communications between an LEP or Deaf litigant and an attorney just before a
 5 hearing is starting, during court recesses, and at the conclusion of a hearing. These practices
 6 should be supported even when the court is using remote interpreting services. To ensure
 7 accuracy of the record, ~~the court and the parties should,~~ where practicable, courts should
 8 provide relevant case information and documents to the interpreter in advance of the hearing
 9 including, but not limited to:

10 (i) Copies of documents furnished to other participants such as complaints, guilty
 11 pleas, briefs, jury instructions, infraction tickets, police reports, etc.

12 (ii) Names of all participants such as the parties, judge, attorneys, and witnesses.

13 (iii) If not practicable to provide documents in advance, courts should allow time for
 14 the interpreter to review documents or evidence when necessary for accurate interpretation.

15
 16 (g) Written documents, the content of which would normally be interpreted, must be read aloud
 17 by a person other than the interpreter to allow for full interpretation of the material by the
 18 interpreter.

19
 20 (h) Upon the request of a party, the court may make and maintain ~~an audio~~ recording of the spoken
 21 language interpretations or a video recording of the signed language interpretations made
 22 during a hearing. Any recordings permitted by this subparagraph shall be made and maintained
 23 in the same manner as other audio or video recordings of court proceedings. ~~This subparagraph~~
 24 ~~shall not apply to court interpretations during jury discussions and deliberations.~~

25 26 Comment

27
 28 ~~Section (h) first recognizes that interpreted testimony is part of the official record. For court~~
 29 ~~interpreting, it is the industry standard to use simultaneous interpreting mode when the LEP~~
 30 ~~or Deaf individual is not an active speaker or signer part. The use of consecutive interpreting~~
 31 ~~mode is the industry standard general practice for witness testimony where the witness is~~
 32 ~~themselves LEP or Deaf, is to utilize the consecutive interpreting mode. This allows for the~~
 33 ~~English interpretation to be on the record. The second portion of ¶ This section, also~~
 34 ~~addresses high-stakes situations where, at the request of a party, the court is to make a~~
 35 ~~recording of the interpretation throughout the hearing, aside from privileged~~
 36 ~~communications. If the court is not able to meet this requirement, an in-person hearing is~~
 37 ~~more appropriate to allow recording of both the statements made on the record and the~~
 38 ~~interpretation throughout during the hearing. Recordings shall not be made of~~
 39 ~~interpretations during jury discussions and deliberations off the record.~~

40
 41 (i) When using remote interpreter services in combination with remote legal proceedings, courts
 42 should ensure the following: the LEP person or person with hearing loss is able to access the
 43 necessary technology to join the proceeding remotely; the remote technology allows for
 44 confidential attorney-client communications, or the court provides alternative means for these
 45 communications; the remote technology allows for simultaneous interpreting, or the court shall

1 conduct the hearing using with consecutive interpretation and take measures to ensure
 2 interpretation of all statements; translated instructions on appearing remotely are provided, or
 3 alternative access to this information is provided through interpretation services; audio and video
 4 feeds are clear; and judges, court staff, attorneys, and interpreters are trained on the use of the
 5 remote platform.

6
 7 **Comment**
 8

9 Section (i) contemplates a situation where the legal proceeding is occurring remotely,
 10 including the interpretation. In this situation, all or most parties and participants at the
 11 hearing are appearing remotely and additional precautions regarding accessibility are
 12 warranted. This section highlights some of the additional considerations courts should make
 13 when coupling remote interpretation with a remote legal proceeding.

14 **Comments:**
 15

16 ~~(1) Section (a) is a significant departure from prior court rule which limited the use of telephonic~~
 17 ~~interpreter services to non-evidentiary hearings. While remote interpretation is permissible, in-~~
 18 ~~person interpreting services are the primary and preferred way of providing interpreter services~~
 19 ~~for legal proceedings. Because video remote interpreting provides the litigants and interpreters~~
 20 ~~the ability to see and hear all parties, it is more effective than telephonic interpreter services.~~
 21 ~~Allowing remote interpretation for evidentiary hearings will provide flexibility to courts to create~~
 22 ~~greater accessibility. However, in using this mode of delivering interpreter services, where the~~
 23 ~~interpreter is remotely situated, courts must ensure that the remote interpretation is as~~
 24 ~~effective and meaningful as it would be in-person and that the LEP litigant is provided full access~~
 25 ~~to the proceedings. Interpreting in courts involves more than the communications that occur~~
 26 ~~during a legal proceeding and courts utilizing remote interpretation should develop measures to~~
 27 ~~address how LEP and persons with hearing loss will have access to communications occurring~~
 28 ~~outside the courtroom where the in-person interpreter would have facilitated this~~
 29 ~~communication. Courts should make a preliminary determination on the record regarding the~~
 30 ~~effectiveness of remote interpretation and the ability of the LEP litigant to meaningfully~~
 31 ~~participate at each occurrence because circumstances may change over time necessitating an~~
 32 ~~ongoing determination that the remote interpretation is effective and enables the parties to~~
 33 ~~meaningfully participate.~~

34
 35 ~~Interpreting in courts involves more than the communications that occur during a legal~~
 36 ~~proceeding and courts utilizing remote interpretation should develop measures to address how~~
 37 ~~LEP and persons with hearing loss will have access to communications occurring outside the~~
 38 ~~courtroom where the in-person interpreter would have facilitated this communication.~~
 39

1 (2) Section (b) reinforces the requirement that interpreters appointed to appear remotely must
2 meet the qualification standards established in RCW 2.42 and 2.43 and they must be familiar with
3 and comply with the code of professional responsibility for judiciary interpreters. Courts are
4 discouraged from using telephonic interpreter service providers who cannot meet the qualification
5 standards outlined in RCW 2.42 and 2.43.

6
7 (3) Section (c) discusses the importance of courts using appropriate equipment and technology
8 when providing interpretation services through remote means. Courts should ensure that the
9 technology provides clear audio and video, where applicable, to all participants. Because of the
10 different technology and arrangement within a given court, audio transmissions can be interrupted
11 by background noise or by distance from the sound equipment. This can limit the ability of the
12 interpreter to accurately interpret. Where the litigant is also appearing remotely, as is contemplated
13 in (h), courts should also ensure that the technology allows litigants full access to all visual and
14 auditory information.

15
16 When utilizing remote video interpreting for persons with hearing loss, the following performance
17 standards must be met: real time, full motion video and audio over a dedicated high speed, wide-
18 bandwidth video connection or wireless connection that delivers high quality video images that do
19 not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication; a sharply
20 delineated image that is large enough to display the interpreter and person using sign language's
21 face, arms, hands, and fingers; and clear, audible transmission of voices.

22
23 (4) Section (e) reiterates the importance of the ability of individuals to consult with their attorneys,
24 throughout a legal proceeding. When the interpreter is appearing remotely, courts should develop
25 practices to allow these communications to occur. At times, the court interpreter will interpret
26 communications between a litigant and an attorney just before a hearing is starting, during court
27 recesses, and at the conclusion of a hearing. These practices should be supported even when the
28 court is using remote interpreting services.

29
30 (5) Section (h) contemplates a situation where the legal proceeding is occurring remotely, including
31 the interpretation. In this situation, all or most parties and participants at the hearing are appearing
32 remotely and additional precautions regarding accessibility are warranted. This section highlights
33 some of the additional considerations courts should make when coupling remote interpretation
34 with a remote legal proceeding.

BOARD FOR JUDICIAL ADMINISTRATION

RESOLUTION REQUEST COVER SHEET

Language Access Services Resolution

SUBMITTED BY: Washington State Supreme Court Interpreter Commission

- (1) **Name(s) of Proponent(s):** Supreme Court Interpreter Commission
- (2) **Spokesperson(s):** Judge Mafé Rajul, Chair, Supreme Court Interpreter Commission and Superior Court Judges Association Representative to the Commission
- (3) **Purpose:** Washington State has long recognized the need for interpreter services to allow access to courts by deaf, deaf-blind, hard of hearing or speech-disabled persons who prefer or need to communicate using a signed language. The legislative intent behind the adoption of RCW 2.42 was to establish the policy of the State of Washington “to secure the constitutional rights of deaf persons and of other persons who, because of impairment of hearing or speech, are unable to readily understand or communicate the spoken English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.” RCW 2.42.010 (Interpreters in Legal Proceedings).

The renewal of this Resolution, with its new, clarifying language offered for consideration to the Board of Judicial Administration, seeks to extend to individuals who are deaf, deaf-blind, hard of hearing, or speech-disabled the constitutional and statutory protections the Board has previously recognized as integral to the access to the fair administration of justice for and by limited-English proficient (LEP) individuals under the previous resolution adopted by the Board on May 2017.

The newly added wording will serve notice that the Board has resolved to include individuals with hearing loss or a speech disability who rely on sign language interpreters in its Language Access Services Resolution. The additional acknowledgement through the language of this renewed and revised Resolution remains consistent with the prior 2017 Resolution adopted by the Board of Judicial Administration. Furthermore, the provision of free and qualified interpreter services in all legal proceedings will continue to promote the Principal Policy Objectives of the State Judicial Branch regarding the fair and effective administration of justice in all civil and criminal cases, and accessibility to Washington courts.

(4) Desired Result:

- 1) The BJA should continue to endorse the provision of interpreter services, at court expense, in all legal proceedings, both criminal and civil; and
- 2) Ensure that all courts in Washington's judicial system make available access to language services so that the effective and meaningful participation of persons who are Limited English-Proficient, as well as those who are deaf, deaf-blind, hard of hearing, or speech-disabled, can be realized.

(5) Expedited Consideration: Expedited consideration is requested as this is a clarifying addition to the previous resolution and not a new policy addition. All courts in Washington are providing access to sign language interpreter services at present so this resolution will not result in an additional new fiscal impact on court operations.

(6) Supporting Material: (Please list and attach all supporting documents.)

- a. Proposed Resolution (from 2017, with changes)

RESOLUTION of the BOARD FOR JUDICIAL ADMINISTRATION
of the State of Washington

In Support of Language Access Services In Court

WHEREAS, equal access to courts is fundamental to the American system of government under law; and

WHEREAS, language barriers can create impediments to access to justice for individuals who are limited-English proficient and for deaf, deaf-blind, hard of hearing or speech-disabled individuals who rely on signed language; and

WHEREAS, it is the policy of the State of Washington “to secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.” RCW 2.43.010 (Interpreters for non-English speaking persons); and

WHEREAS, it is the policy of the State of Washington “to secure the constitutional rights of deaf persons and of other persons who, because of impairment of hearing or speech, are unable to readily understand or communicate the spoken English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.” RCW 2.42.010 (Interpreters in Legal Proceedings); and

WHEREAS, courts rely upon interpreters to be able to communicate with limited-English proficient litigants, witnesses and victims in all case types; and

WHEREAS, courts rely on sign language interpreters to be able to communicate with persons, who by reason of inability to speak English or adequately hear and understand a spoken language, are appearing in court as litigants, witnesses, victims, jurors and public viewers in all case types; and

WHEREAS, the State has previously acknowledged a responsibility to share equally with local government in the costs incurred in paying for quality court interpreting services; and

WHEREAS, the Board for Judicial Administration recognizes the benefit that interpreting services provided to limited English proficient litigants and those with hearing loss, hearing/vision loss or speech disability and to the fact-finder are critically important in the efficient and effective administration of justice; and

WHEREAS, the Board for Judicial Administration previously adopted a Resolution to, among other things, “remove impediments to access to the justice system, including

physical and language barriers, rules and procedures, disparate treatment and other differences that may serve as barriers.” (Board for Judicial Administration, Civil Equal Justice); and

WHEREAS, the provision of free and qualified interpreter services in all legal proceedings promotes the Principal Policy Objectives of the State Judicial Branch regarding fair and effective administration of justice in all civil and criminal cases, and accessibility to Washington courts;

NOW, THEREFORE, BE IT RESOLVED:

That the Board for Judicial Administration:

- 1) Endorses the provision of interpreter services, at public expense, in all legal proceedings, both criminal and civil;
- 2) Supports the elimination of language–related impediments to access to the justice system for limited English proficient persons;
- 3) Supports the elimination of language–related impediments to access to the justice system for deaf, deaf-blind, hard of hearing, or speech-disabled persons; and
- 4) Encourages the State to fulfill its commitment to share equally in the responsibility to provide adequate and stable funding for court interpreting services.

ADOPTED BY the Board for Judicial Administration on _____.

FILED
 11/15/2021
 Court of Appeals
 Division I
 State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

 Respondent,

v.

ROBERTO ALEXANDER
 CRUZ-YON,

Appellant.

No. 81418-4-I

DIVISION ONE

PUBLISHED OPINION

SMITH, J. — At the behest of the Supreme Court, we address Roberto Cruz Yon’s request for the appointment of an interpreter to assist him with filing a statement of additional grounds for review (SAG). Cruz Yon, who does not speak English, moved for an interpreter to translate his attorney’s brief and the trial report of proceedings into Spanish and to translate his SAG from Spanish to English. We conclude that Cruz Yon has the right to have these materials translated. Therefore, upon motion by Cruz Yon, we will authorize these expenses, and we will determine the substantive issues raised in Cruz Yon’s appeal following the filing of his SAG.

FACTS

On March 6, 2020, a jury convicted Cruz Yon of rape of a child in the second degree and one count of first degree child molestation. In April 2020, the trial court entered an order of indigency permitting Cruz Yon to appeal his conviction at public expense, and Cruz Yon did so.

Citations and pin cites are based on the Westlaw online version of the cited material.

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On August 21, 2020, we sent a letter informing Cruz Yon of his right to submit a statement of additional grounds for review (SAG). We noted that the deadline for submission was 30 days. On October 7, 2020, we notified defense counsel that no SAG had been filed by the appellant and that we considered him to have waived his right to submit a SAG.

On October 21, 2020, Cruz Yon's counsel filed a motion to extend time to file a SAG. Cruz Yon's counsel explained that Cruz Yon was having difficulty contacting counsel due to Department of Corrections Covid-19 restrictions. Cruz Yon's counsel also informed the court that "Cruz Yon is fluent only in the Spanish language" and that, therefore, he could not read or understand his counsel's brief. The court administrator/clerk granted the motion, extending the due date to December 7, 2020 with "no further extensions."

On December 9, 2020, Cruz Yon moved for this court to appoint an interpreter under chapter 2.43 RCW to translate the opening brief and report of proceedings into Spanish and to then translate Cruz Yon's SAG into English. In a supporting declaration, Cruz Yon's counsel stated that Cruz Yon "speaks Spanish and does not read, write or understand the English language." He said that Cruz Yon "explicitly stated many times that he could not follow the [SAG] procedure and prepare a [SAG] unless he received Spanish translations of the opening brief and of the verbatim report of proceedings, and an English translation of the Spanish [SAG] he ultimately prepares."

On December 11, 2020, our court administrator/clerk denied Cruz Yon's motion for an interpreter "without prejudice to pursue appointment of an

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interpreter through the Office of Public Defense.” Cruz Yon moved to void the ruling and the clerk denied the motion on procedural grounds. Cruz Yon’s counsel then moved to modify both of the rulings, contending that “the clerk has no authority to rule on a chapter 2.43 interpreter appointment.” A panel of judges determined that the motions should be addressed simultaneously with Cruz Yon’s direct appeal and referred the motions to this panel.

In the meantime, Cruz Yon filed a motion for discretionary review with the Washington Supreme Court. A court commissioner denied his motion, concluding that although the issue “touches on debatable issues of first impression concerning the appropriate means of seeking interpreter services in support of a direct appeal,” the better use of judicial resources was for this court to decide the issue first. A department of the Supreme Court subsequently denied Cruz Yon’s motion to modify the commissioner’s ruling.

ANALYSIS

Cruz Yon contends that he has a right to have the opening brief, report of proceedings, and SAG translated, and that this right is governed by chapter 2.43 RCW. We agree that Cruz Yon has this right but disagree as to the rules governing his request.

Timeliness

As an initial matter, we note that Cruz Yon’s request for an interpreter to assist in filing his SAG came after the SAG deadline. RAP 10.10(d). However, the RAPs must “be liberally interpreted to promote justice and facilitate the decision of cases on the merits.” RAP 1.2(a). Because there are no compelling

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circumstances which preclude us from deciding Cruz Yon's motion on the merits, and given the important issues raised, we address the substance of Cruz Yon's request.

Right to an Interpreter/Translator

Cruz Yon asserts that he has a constitutional right to receive translated copies of his attorney's brief and the Report of Proceedings and to have his SAG translated to English. We agree.

In a criminal trial, the defendant has a constitutional right to an interpreter extending from the Sixth Amendment rights to confront witnesses and to be present at trial. State v. Gonzales-Morales, 138 Wn.2d 374, 379, 979 P.2d 826 (1999). Unlike the federal constitution, the Washington constitution also guarantees criminal defendants the right to an appeal. WA. CONST. art. 1, § 22; State v. Atteberry, 87 Wn.2d 556, 558 n.2, 554 P.2d 1053 (1976). "It is well established that '[t]he State must provide indigent criminal defendants with means of presenting their contentions on appeal which are as good as those available to nonindigent defendants with similar contentions,'" including represented defendants filing pro se SAGs. State v. Harvey, 175 Wn.2d 919, 921, 288 P.3d 1111 (2012) (alteration in original) (quoting State v. Giles, 148 Wn.2d 449, 450, 60 P.3d 1208 (2003)); see also State v. Thomas, 70 Wn. App. 296, 298-99, 852 P.2d 1130 (1993) (linking guarantee of an adequate defense for indigent defendants on appeal to Washington constitutional right to appeal). This right includes a record of sufficient completeness to allow the court to properly consider the defendant's claims. Harvey, 175 Wn.2d at 921-22.

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In Harvey, an indigent defendant appealed his conviction through counsel, but also moved to have the jury voir dire transcribed at public expense to provide a complete record for his SAG. Harvey, 175 Wn.2d at 920. The Supreme Court held that the defendant was entitled to this transcription so that the arguments in his SAG could be properly considered. Harvey, 175 Wn.2d at 922.

We conclude that indigent non-English-speaking defendants must have a right to have certain documents translated in order to have a meaningful right to engage in their appeal and file a SAG. A defendant has the right to prepare a SAG to address issues that their counsel's brief did not adequately address, and they may request a copy of the report of proceedings to do so. RAP 10.10(a), (e). It follows that a non-English-speaking defendant requires the translation from English of their attorney's brief and the report of proceedings, as well as the translation to English of their SAG, to adequately inform the court of the issues that they wish to raise. The State must provide indigent defendants "with the basic tools of an adequate defense when those tools are available to others for a price," and the requested translations are such tools. State v. Cirkovich, 35 Wn. App. 134, 136, 665 P.2d 440 (1983). Therefore, Cruz Yon's request to translate his attorney's opening brief, the report of proceedings,¹ and his SAG must be granted.

¹ Here, in accordance with RAP 15.2(e), the trial court specified which reports of proceedings were reasonably necessary for review. The translated documents should not go beyond those specified by the trial court.

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Procedure for Providing Interpreter/Translating Services

Because we have concluded that Cruz Yon has the right to have his request granted, we must determine the proper procedure for providing these translations. Cruz Yon contends that his request is governed by chapter 2.43 RCW, which provides for the appointment of a qualified interpreter when a non-English-speaking person is involved in a legal proceeding. RCW 2.43.030(1)(c). We disagree.

1. Statutory Provisions for Interpreters

Our “fundamental objective in construing a statute is to ascertain and carry out the legislature’s intent.” Arborwood Idaho, LLC v. City of Kennewick, 151 Wn.2d 359, 367, 89 P.3d 217 (2004). “The legislature is presumed to intend the plain meaning of its language.” State v. Garcia, 179 Wn.2d 828, 836, 318 P.3d 266 (2014). “In determining the plain meaning of a provision, we look to the text of the statutory provision in question, as well as ‘the context of the statute in which that provision is found, related provisions, and the statutory scheme as a whole.’” State v. Ervin, 169 Wn.2d 815, 820, 239 P.3d 354 (2010) (quoting State v. Jacobs, 154 Wn.2d 596, 600, 115 P.3d 281 (2005)).

In the context of translating materials for a SAG, which is at issue here, chapter 2.43 RCW does not appear to control. RCW 2.43.030 requires the appointment of an interpreter in a “legal proceeding,” which is defined as “a proceeding in any court in this state, grand jury hearing, or hearing before an inquiry judge, or before an administrative board, commission, agency, or licensing body of the state or any political subdivision thereof.”

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RCW 2.43.020(3). As relevant here, a “proceeding” could mean “[a]ny procedural means for seeking redress from a tribunal or agency,” which would include the filing of a SAG, or “[t]he business conducted by a court or other official body; a hearing,” which would likely exclude a written appeal to a court. BLACK’S LAW DICTIONARY 1457 (11th ed. 2019). In looking to related provisions of this chapter, it appears that the latter meaning is intended. Significantly, RCW 2.43.020(5) provides that a “qualified interpreter” must be able to translate oral or written statements of a non-English-speaking person “into spoken English,” but not written English. These provisions fail to address Cruz Yon’s needs, which include the translation of his SAG from Spanish to written English.

Furthermore, our Supreme Court has held, in appeals from the Board of Industrial Insurance Appeals, that RCW 2.43.030’s provision of the right to an interpreter “is limited to the hearing itself and does not extend to any hearing preparation.” Kustura v. Dep’t of Labor & Indus., 169 Wn.2d 81, 93-94, 233 P.3d 853 (2010).² Correspondingly, the right to an interpreter under RCW 2.43.030 may extend to oral argument on appeal but does not extend to the preparation of briefs and SAGs.

² Cruz Yon contends that Kustura’s holding is limited to Board of Industrial Insurance Appeals cases and notes that the court was applying regulations specific to these cases that specified interpreters should be appointed “in a hearing.” However, the court also specifically noted that “[n]othing in chapter 2.43 RCW . . . requires paid interpreter services outside of the actual board hearing.” Kustura, 169 Wn.2d at 93.

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Therefore, we conclude that the provisions for appointing interpreters under chapter 2.43 RCW do not apply to defendants' translation needs for the filing of a SAG.

2. Rules of Appellate Procedure

Because the statutory provisions for interpreters do not apply, we look to the rules of appellate procedure for guidance.

RAP 15.4(a) provides that:

The expenses for an indigent party which are necessarily incident to review by an appellate court will be paid from public funds only if:

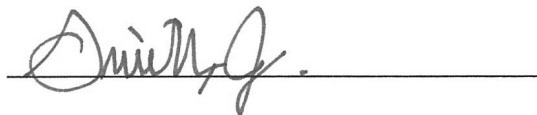
- (1) An order of indigency is included in the record on review; and
- (2) An order properly authorizes the expense claimed; and
- (3) The claim is made by filing an invoice in the form and manner provided by this rule and procedures established by the Office of Public Defense.

When a defendant appeals his conviction at public expense, the trial court enters an order of indigency which "designate[s] the extent to which public funds are to be used for the record on review, 'limited to those parts of the record reasonably necessary to review issues argued in good faith.'" State v. Thomas, 70 Wn. App. 296, 298, 852 P.2d 1130 (1993) (quoting RAP 15.2(e)). RAP 10.10(e) provides that, when a defendant requests the report of proceedings for purposes of preparing a SAG, "[t]he cost for producing and mailing the verbatim report of proceedings for an indigent defendant will be reimbursed to counsel from the Office of Public Defense in accordance with Title 15 of these rules." RAP 15.5(a) provides that "[t]he director of the Office of Public Defense determines all claims for expense" for an indigent party.

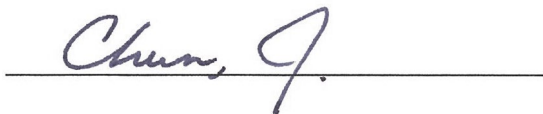
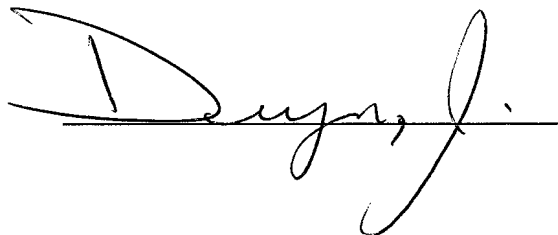
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We conclude that the translation of those documents necessary to file a SAG is an expense that is necessarily incident to review for a non-English-speaking defendant, and that it should therefore be authorized in an order under RAP 15.4(a)(2). Under these provisions, the trial court ordinarily has the responsibility to enter an order authorizing the expense, and the Office of Public Defense has the responsibility to pay for the translation.³ However, in this case, Cruz Yon's counsel should file his motion for an order authorizing the expenses with this court. RAP 8.3; RAP 7.2(a), (g).

We conclude that Cruz Yon has the right to have his attorney's brief, the trial report of proceedings, and his written SAG translated. Upon motion by Cruz Yon, we will authorize these expenses, and we will determine the substantive issues raised in Cruz Yon's appeal following the filing of his SAG.




WE CONCUR:

³ The procedures for submitting an invoice for transcription services under RAP 15.4(d) should be followed for translation services as well. See WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 2426 (2002) (final definition of "transcribe" is "translate").

Committee Reports

 <p>WASHINGTON COURTS</p>	<p>Interpreter Commission – Issues Committee Meeting Tuesday, November 9 Videoconference Meeting 12:00 PM – 1:00 PM Zoom</p>
<p>MEETING MINUTES</p>	

Present: Francis Adewale, Luisa Gracia, Frankie Peters, Anita Ahumada, James Wells, Bob Lichtenberg, Michelle Bellmer, Moriah Freed, Kristi Cruz, Naoko Inoue Shatz, Diana Noman

Issues Committee Chair

- Judge Antush has resigned effective 11/08. Francis Adewale is serving as interim Chair.

ACTION: Let Bob Lichtenberg know if you are interested in being Issues Committee chair.

Approval of Previous Meeting Minutes

- The October 5 and September 15 minutes were approved as presented.

LAP Approval Criteria

- There is an LAP event on 11/19 for the courts. It is an opportunity for courts to learn how to do a LAP.
 - The following timeline is currently set for the 2022 LAP: first draft 1/31, second draft due 3/31. Final document no later than 5/1.
- Michelle Bellmer outlined new policies for courts who do not follow the LAP, such as withholding of funds.
 - Some courts also need to update the LAP.
- The Reimbursement Program is hoping to hire a contractor for LAP review with reimbursement program funds.
 - The Committee emphasized the need for someone experienced with interpreting who is impartial.
 - The funding source is being reviewed internally
- It was suggested that under 2) Role of the Commission that the language is softened. The following language was proposed:
 - “The Commission has developed the standards by which to approve the LAPS and will work with program staff to review all submitted plans.”
 - The suggested language was adopted by the Committee.
- A template or model policy LAP is provided in the 2018 deskbook. On the 11/19 webinar, there will be discussion on how the template might not address each court’s individual needs and might need to be amended.

- It was proposed that the Committee recommend to have a full time staff member to monitor LAPs beyond the contract phase. The Committee instead decided that they should wait and see how the contractor process works before making a long term recommendation to the Commission.
- Naoko Inoue Shatz will work with Michelle Bellmer on securing further funding.
- The following recommendations will be made to the Commission concerning the LAP:
 - Work on LAP document further
 - An ad-hoc committee will be formed


ACTION: The Committee approved amended language for 2) Role of the Commission.

Emergency Court Orders

- The Court Recovery Task Force is looking at which emergency orders to continue now that courts are returning to more normal operations.
- It was suggested to add this agenda item and the following as priority items for the December Commission meeting. The Issues Committee will meet again before Thanksgiving.
- The Committee requested further clarification from Jeanne Englert on the request.

Redrafting of RCW 2.42 and RCW 2.43

- Tabled until next meeting.

 <p>WASHINGTON COURTS</p>	<p>Interpreter Commission – Issues Committee Meeting Wednesday, October 5, 2021 Videoconference Meeting 12:00 PM – 1:00 PM Zoom</p>
<p>MEETING MINUTES</p>	

Present:

Francis Adewale, Anita Ahumada, Judge Matthew Antush, Kristi Cruz, Luisa Gracia, Bob Lichtenberg, Diana Noman, Frankie Peters, Judge Mafe Rahul, James Wells

Review of GR11.1

An updated version of GR11.1 was approved at the September 24 Interpreter Commission meeting. During the final review of the language an issue was found in the language. The update modified the number of members of the Commission members the named types of representatives.

- Prior to the Commission meeting, the Issue Committee recommended changes that changing the overall number of Commission members from 15 to 20 and specified four new named positions: a Deaf interpreter representative, Deaf community member, a translator representative, and a co-chair.
- After the issues committee meeting where the recommended changes were voted on, there was a final review of the draft language that would be looked at by the full Commission. This review introduced a scrivener's error which modified the number of interpreter representatives from 2 to 5. This change was not discussed by either the Issues Committee or the full Commission indicating this change was not intended.
- The Committee discussed the language in GR11.1 and the confusion resulting from some of the specified types of representatives listed in GR11.1, which don't total the number of members of the Commission members. Some seats are variable depending on the needs of the Commission.
 - Currently the AOC representative and one of the court administrator representatives are the positions not currently specified.
 - The new language does not specify the whether the co-chair would be a new member of the Commission or chosen from the existing members.
- The Committee discussed how the unspecified members could be designated, however, it was felt that making changes beyond fixing the error would not be appropriate at this time.
- An email would need to go to the full Commission members pointing out the error.

The Issues Committee made the following motion, which passed unanimously:

MOTION: Due to the scrivener's error in the draft language of GR11.1 in the meeting packet, the Issues Committee recommends that: the number of interpreter members stay at two and the total number of members of the Commission be 20 with the named positions remain as described and the unspecified positions to remain open and filled as needed.

Edits to GR 11.3


- Some of the edits were a result of discussion during the Commission meeting which resulted in changing the term "litigant" so a more general term except in the context of attorney-client privilege.
- A number of typographical changes were made.
- Some language was flagged for discussion. There was not time to discuss the changes and so the language would remain for now.

Edits to GR9 Packet

- Consistency in the names of the people GR 9 packet should be consistent.
- Donna Walker's name would remain in the list of contributors and Diana Noman's would be added with her Commission title.
- There is one instance where the word "interpreting" instead of interpreter was used in reference to the proposed new title of the Commission and would need to be resolved.

Other Discussion Items

- Previous Meeting Minutes: The discussion and approval of the September meeting minutes will be postponed due to the time sensitive nature other agenda items
- Materials for Committee members to review should be sent out earlier to make sure Committee members have enough time to review.

 <p>WASHINGTON COURTS</p>	<p>Interpreter Commission – Issues Committee Meeting Wednesday, September 15 2021 Videoconference Meeting 12:00 PM – 1:00 PM Zoom</p>
<p>MEETING MINUTES</p>	

Present:

Luisa Gracia, Kristi Cruz, Francis Adewale, Diana Noman, Judge Matthew Antush, Anita Ahumada, Bob Lichtenberg, Moriah Freed, James Wells

Approval of July Meeting Minutes

The minutes were approved as presented.

GR 11.3 Review and Final Wording

The revisions for GR 11.3 were circulated via email. They were reviewed with the Committee members by subsection:

- Subsection (a) includes two language options – need guidance from the Committee.
 - Committee members gave feedback that option 2 is clearer stylistically. Option 1 mirrors the current rule more closely, but both accomplish the same thing.
 - Bob Lichtenberg observed that option 2 handles both evidentiary and non-evidentiary hearings and is thus clearer.
- Use of the word “litigant” might need to be replaced in the comment.
 - LEP and deaf individual was used in the rule. Should it be continued for consistency, or should the comment be used to add explanation.
 - Committee members support the use of broader language.
- Subsection (c) - Remove use of word “litigant” – broadened language in the rule.
- Subsection (f) – Removed reference to “parties” in distributing documents, and included “practicable.”
- Subsection (h) – Changed language about recording of interpretation. Necessitated changing the comment.

ACTION: The Committee will bring both options for subsection (a) before the full Commission and see if they have any feedback. It can be added that the Committee is leaning towards option 2 because of clarity.

ACTION: Luisa Gracia and Kristi Cruz will get a final draft to Bob Lichtenberg to include in the Commission meeting packet.

GR 11.1 Review and Final Wording

- Bob Lichtenberg circulated a revised draft of GR 11.1
- There has been discussion of expanding the Commission scope to translation and text based language access issues. Should language about translation representatives and a related Committee be included or should it be kept broad?
- (a) – Purpose and scope
 - It was suggested to add language in the Purpose and Scope about language access.
 - Committee members suggested that the Commission should adopt what is already standard in the translation industry instead of reinventing practices. Language in the rule needs to be edited.
 - The Commission is the correct place for a Translation committee – need more expertise on the Commission and Committee for the topic. Committee members do not necessarily need to be Commission members.
- It was suggested that the member representative should be a WA certified interpreter who is also a translator. A Translation member should be appointed by the professional association, instead of selected by the Commission. It was also suggested that the Issues Committee review in the future that interpreter representatives are also appointed by their professional association instead of selected by the Commission.


ACTION: Kristi Cruz will send draft language to Bob Lichtenberg for subsection (a) of GR 11.1 about language access.

ACTION: Luisa Gracia will send Bob Lichtenberg suggested qualifications for a translator representative member.

Overview of Court Recovery Task Force Rules Review

- Recommendations are being sought on rules to stay in place on remote hearings.
 - It was recommended that language from the Supreme Court Order should stay intact. Will mention revision of GR 11.3.
 - Suggested that language access needs to be built in throughout the rule, not just in one section.
- Committee members should consider if any other court rules need revision and suggest them to the Committee Chair and staff.

ACTION: Bob Lichtenberg will review materials from the Court Recovery Task Force and follow-up with the Committee.

 <p>WASHINGTON COURTS</p>	<p>Interpreter Commission Education Committee Meeting November 8, 2021 Zoom Videoconference 12:00 PM – 1:00 PM</p>
<p>Meeting Minutes</p>	

Present: Francis Adewale, Florence Adeyemi, Michelle Bellmer, Jeanne Englert, Luisa Gracia, Katrin Johnson, Bob Lichtenberg, Frankie Peters, Naoko Schatz, James Wells, Justice Whitener

Approval of Previous Meeting Minutes

- August 31 meeting minutes were approved.

Language Access Plan (LAP) Training

- A training about LAPs for courts in the Reimbursement Program will take place November 19.
- Materials will be shared before the training including the LAP Deskbook, the template, and example of a complete LAP, and a short questionnaire
- A series of learning modules were also created and with shared with the courts.
 - Michelle Bellmer gave an overview of the modules and the platform.
 - The content came from pre-existing materials that were adapted
 - The modules will be made available on the public website.
 - Some aspects of the platform and modules may not be usable by screen readers or meet with other aspects of accessibility.
- The current template was created with the input of several court administrators. Courts that have submitted their LAPs have not all included as much information in their plans that
- Courts in the program are required to submit an LAP. It may be possible to withhold or delay funding to courts who do not meet this requirement.
 - A draft will be required by next January 31 and a final version on May 1.
- Having more information on court users can inform the plan and help the Commission to focus resources.
- Naoko Schatz is working with Senator Wellman on a bill regarding language access. It may be possible to request funding for translation.

Interpreter Commission 2022 Meeting Dates

Date	Time	Location
Friday, 2/04/2022	8:30 AM – 12:00 PM	Zoom Videoconference
<u>Special Meeting:</u> Legislative Session Matters Friday 3/04/2022	9 AM – 12:00 PM	Zoom Videoconference
Friday, 6/03/2022	8:30 AM – 12:00 PM	<i>TBD*</i>
Friday, 9/16/2022	8:30 AM – 12:00 PM	<i>TBD*</i>
Friday, 12/02/2022	8:30 AM – 12:00 PM	<i>TBD*</i>

*Meetings Held By Videoconferencing Until Further Notice

Please contact Bob Lichtenberg at Robert.Lichtenberg@courts.wa.gov or 360-350-5373 if you have any questions.