

Court Interpreter Commission Meeting Minutes

**Friday, July 31, 2009
11:00 – 2:00, AOC SeaTac Facility**

Present: Justice Susan Owens, Dirk Marler, Frank Maiocco, Jr., Leticia Camacho, Emma Garkavi, Judge James Riehl, Judge Gregory Sypolt, Steven Muzik, Mike McElroy, and Judge Judith Hightower.

Absent: Virginia Rockwood, Theresa Smith.

Guests: Kristi Cruz, Alex Jouravlev, and Judge Ron Mamiya.

AOC Staff: Shirley Bondon, Katrin Johnson

I. General Business

Welcome and introductions. Ron Mamiya, Seattle Municipal Court Judge and former Commission member was invited to today's meeting. Observing the meeting were Kristi Cruz, attorney with the Northwest Justice Project (NJP), and Alex Jouravlev, intern with NJP.

II. Minutes, April 10 Meeting

The minutes of the April 10 meeting were unanimously approved. They will be posted on the Interpreter Commission page of the AOC website.

III. Issues Committee Report

A. Interpreter Requests for Waivers in Timeline for Completion of Continuing Education

The Issues Committee received two requests from certified interpreters for time extensions in fulfilling continuing education credits. The first request came from an interpreter who claims that he has been unable to fulfill his requirements because he does not have a car to travel outside of Seattle for classes. He also claims to have no access to high-speed internet (online classes have been available), and earning credits via individual study was too much work. Because the interpreter has not made efforts via other transportation means or to use others' computers, and because he has no specific plan or timeline for completion, the Issues Committee recommends that his request be denied.

The second request came from a certified interpreter who has been at a closed Buddhist retreat for three years. She is seeking a six-month extension. She articulated her plans to the Committee for obtaining credits by July 1, 2010. Because she offered a specific plan and timeline, the Issues Committee recommends that the six-month extension be approved.

Both recommendations were approved by the full Commission.

B. Issues Regarding Continuing Education Policy Language

AOC staff have recently received several inquiries regarding continuing education, and in the absence of specific policy language, sought guidance from the Issues Committee.

1. If an interpreter takes the exact same class two times within the same compliance period, should credit be given for both training events.

The Issues Committee recommended that as a general rule, credit should not be given for repeating the same class. However, exceptions may be given for classes that are hands-on discussion or skills development, as opposed to lecture-based. For example, an interpreter may take two classes entitled "Interpreter Ethics," but will likely be exposed to different content each time, as these typically involve discussion of students' experiences.

2. Should the AOC limit the number of credits granted per educational event.

Currently, the AOC assigns the number of credits per event based on the number of educational contact hours, with no limit. As a way to promote involvement in more educational events, the ATA limits the number of credits per event to ten credits, even if the educational hours exceed that amount. It has been recommended to AOC staff that WA Court Interpreter Program take a similar approach.

The Issues Committee recommends that no such limit be imposed, in order to give interpreters more flexibility in obtaining their necessary continuing education credits.

3. Should interpreter trainers earn credits when paid for the training assignment.

The AOC regularly hires freelance interpreters as staff for interpreter training events. The interpreter trainers are typically paid for their time, in recognition of the fact that they forego employment opportunities. The AOC has typically offered freelance interpreters the option of payment or continuing education credits for their participation – but not both. Should interpreters earn continuing education credit when they are paid for being instructors? Does it matter that they are paid by the AOC, particularly given that the AOC also acts as the credentialing authority?

The Issues Committee recommended that interpreters receive credit for instructional hours, even when paid. However, to avoid a conflict of interest, the Committee recommends that interpreters not earn credits when paid by the AOC to serve as faculty for interpreter training events.

Members of the Commission disagreed with the recommendation in that they did not see a conflict of interest for the AOC to pay interpreters and grant credits for that same work. Attorneys are reimbursed for teaching CLEs and CJs, and are also entitled to credit for those hours.

For the next meeting, the Issues Committee will prepare some amendments to the policies in light of the above discussion.

C. Languages & Certification

In March 2007, the Commission voted to “approve in principle that Washington offer certification exams in all languages in which the Consortium offers certification testing.” Priority was first given to Somali, Mandarin and Arabic, which have since been added to certification. However, since then no other languages have been added. Staff approached the Issues Committee to discuss recommendations on (1) how to select languages to add to the certification category, and (2) how to transfer language groups from certified to registered because certification exams are available in some of the languages currently categorized as registered.

The Commission reviewed data showing (1) the frequency of languages interpreted in the courts, (2) which of those are currently categorized as registered or certified, and (3) which of those could potentially be categorized as certified because oral certification exams are available. Data was obtained from the courts receiving state reimbursement, King County District Court, and Spokane County District and Municipal Courts.

Altering languages in the Certified and Registered categories bring up several concerns, including:

- If we offer certification in all possible languages, some of those languages are infrequently used in courts (Ilocano, Hmong, etc.), and certified interpreters would be unable to obtain their minimum hour requirements for certification maintenance.
- If we transition languages from the registered to the certified categories, we risk losing a significant number of those interpreters from our roster. Passing rates on certification exams are much lower than passing rates on exams used for registered status.
- The Court Interpreter Program is moving back towards language specific skills building training. It is unrealistic to provide such training in all possible certification languages, because no trainers exist for some of the languages. The program will be providing a different standard of training to different languages.

The Commission briefly discussed tiered systems, which are common in other state court interpreter programs. In those programs they typically have certification as the highest level, and registered as a lower level. Courts are obligated to hire certified interpreters, but when none is available, they can hire the registered interpreters. The Commission did not want to move to this approach, because it may promote courts hiring interpreters who meet lower standards.

The Issues Committee will continue to discuss the issues, and bring back recommendations to the full Commission.

D. Permanently Swearing In Interpreters

In the recently unpublished case of State v. Flores the WA Court of Appeals ruled that it is statutorily required that interpreters be sworn in, and that there is no legal authority for being “permanently” sworn in. This case has caused concern among judges, because the process of permanently swearing in certified and registered interpreters helps to save time on busy court calendars.

When interpreters initially become certified or registered, they are required to take and sign an oath, which is kept on file by the AOC. However, this process was not necessarily designed to serve the same process of being sworn in, as established by RCW 2.43.050, and Evidence Rule 604.

Historically, the intentions behind RCW 2.43.050 and requiring the swearing in for every hearing included: (1) to educate the judges and attorneys about the specific role of the interpreter; (2) to give greater confidence to the non-English speakers about the interpreter's obligations, and (3) to segue into qualifying the interpreter, which is also mandated by statute and rule.

In Oregon, the following statutory language is in place: *“A court... shall require any person serving as an interpreter for the court or agency to state the person's name on the record and whether the person is certified under ORS 45.291. If the person is certified under ORS 45.291, the interpreter need not make the oath or affirmation required by ORS 40.325 or submit the interpreter's qualifications on the record.”*

WITS (Washington State Court Interpreters and Translators Society) is interested in protecting the perception of interpreters by supporting swearing-in by courts. WITS is in support of judicial associations seeking to clarify the procedure either via statute or court rule.

Would it be more effective to address the issue through legislation or court rule? Clarification language in a rule may be easier to obtain, and provide guidance that still complies with the statutory language.

Motion: That the Commission propose a housekeeping statutory change allowing for certified interpreters to have a sworn oath on file with the AOC for purposes of fulfilling the swearing-in requirement.

Discussion: It was recommended that instead of the Commission pursuing legislation, that it instead should recommend the issue to the judicial associations for their consideration.

Amended Motion: That the Commission propose a housekeeping statutory change to the judicial associations that certified interpreters have sworn oaths on file with the AOC for purposes of fulfilling the swearing-in requirement.

Motion passed by unanimous vote.

IV. Recognition of Service

Justice Owens presented a plaque to Judge Ron Mamiya to commemorate his twenty-five years of active involvement in development of court interpreter standards, serving on the Interpreter Commission since its formation, and the work he has done nationally with the Consortium.

V. Education Committee

A. Training for Court Staff

Progress is being made on the training session for court staff working with interpreter issues. The daylong workshop entitled “Enhancing Court Services through Interpreters and Language Access” will take place in SeaTac on September 18, and in Spokane on October 15. The Commission reviewed a draft registration form and program budget. Program agenda items include: how to find and work with interpreters, understanding interpreter ethics, considerations specific to sign language interpreters and deaf court customers, and innovative ways that courts have provided quality interpreting while reducing costs. The cost per participant is \$50, and the fee is necessary to cover expenses.

B. Training Proposals

The Education Committee submitted a proposal for the Superior Court Judges Association Spring Conference in conjunction with the Gender and Justice Commission. The proposed session would focus on navigating linguistic and cultural dynamics for Russian, Vietnamese and deaf court customers. These three groups were specifically targeted because they represent the highest demand beyond Spanish interpreters. The Gender and Justice Commission’s interest is illuminating family dynamics in these culture groups.

C. Other Training News

The Hispanic Bar Association is interested in a CLE in Snohomish County on working w/ interpreters and language access issues.

VI. Update on the Sign Language Interpreting Standards Workgroup

The AOC and the Office for Deaf and Hard of Hearing has collaborated on forming a workgroup to set standards for sign language interpreters in courts. The workgroup is comprised by representatives of the judicial branch, the interpreting community and the deaf community. The specific goals of this workgroup are:

- Setting the criteria for implementing a list of interpreters who are appropriate for use in court interpreting situations, which is required by RCW 2.42.130;
- Establishing standards for fees for sign language interpreting services in court, as required by RCW 2.42.170;
- Addressing whether a statutory change should be proposed for the definition of “qualified interpreter” in RCW 2.42.110;
- Researching laws and policies in other states regarding sign language court interpreting.

It is anticipated that the workgroup's recommendations will be finalized by the end of October.

VII. State and National Issues on Court Interpreting

A. Recent Mam case

Clallam County regarding a defendant charged with murder who speaks Mam.

B. U.S. Department of Justice Update

There have been indications that under the new presidential administration, there will be increased enforcement efforts in the areas of Title VI language based and national origin discrimination.

C. Kohl Bill

As done in recent years, a Bill has been introduced in the U.S. Senate to appropriate more than \$15 million to state court interpreter programs for the purpose of developing and administering court interpreter programs (commonly known as the "Kohl Bill"). Letters of support have been sent from the BJA to Senators Murray and Cantwell.

D. Brennan Center Report

The Brennan Center for Justice at New York University School of Law recently released a report entitled "Language Access in the Courts." The focus of the report is identifying states whose courts do not provide free interpreter services in civil cases, and to identify best practices for courts to follow. To supplement the report, the Brennan Center posted state-specific information on their website.

There are concerns about this report among Consortium member states and the Consortium Executive Committee, as there are several inaccuracies in the report, as well as a lack of understanding about court interpreter certification programs. The information about Washington in the report and online is accurate.

E. Updates from the Consortium

In recognition of the broader work regarding language access that is accomplished by the Consortium, the membership has voted to change its name from The Consortium for State Court interpreter Certification to The Consortium for Language Access in the Courts. As part of this effort, the Consortium has also adopted a mission statement, a listing of its core values, and the ten key components to a successful language access program in the courts.