

2015 CLAC Conference Express Lesson: Working with Freelance and Agency Interpreters

EXPRESS LESSON

Virginia

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SCENARIOS

Scenario 1 – Exposure of a Contractor’s Social Security number.

At the end of an assignment as the contract interpreter is checking out, he notices a pile of payment vouchers for other contract interpreters. The pile is easily accessible and social security numbers included on the vouchers are clearly visible. The contractor complains.

Scenario 2 – A Judge Complains about a Contract Interpreter.

You receive a communication from a judge about a contract interpreter. Apparently, the interpreter attempted advocating for the LEP person and approached the bench to share ex-parte information when the hearing was concluded.

Scenario 3 – An Unqualified Agency Interpreter

During a domestic violence proceeding, an interpreter was not interpreting. The judge reminded the interpreter of his professional obligation to interpret everything. The interpreter then seemed to interpret but only when the judge stopped speaking. The judge asked the interpreter if he could simultaneously interpret. The agency interpreter stated he had never done so. The proceeding was adjourned.

Scenario 4 – Inexperienced Coordinator of Language Services

An administrative secretary is given the responsibility to receive and process requests for interpreting services from court clerks, law clerks and other court staff. The secretary has experience dealing with other types of contractors used by the courts and is bilingual but she is not an interpreter, has no knowledge about the profession, or experience working with court interpreters. Complaints from judges soon arrive about poorly performing interpreters that resulted in cases being postponed. Complaints from irate contract interpreters also arrive about insufficient case prep materials and denied requests for teammates. Also, Legal Services has raised concerns about indigent self-represented litigants having unequal access to the courts due to poor interpreting services.

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| Different States | | |
|----------------------------|---|---|
| Context/State | Virginia | New Jersey |
| Court structure | unified | unified |
| Labor environment | non-union | union |
| Interpreting demand | 74,745 service events (FY2014) 41,140 contractor service (all languages); 33,605 staff (Spanish only) | 80,000 + interpreting events annually in 80+ languages, 85% Spanish |
| Public Registry? | No; no qualification of interpreters at a lesser level than certification | Yes |
| # of freelancers | 200 +/- | 200 + |
| Use a freelancer contract? | No (in person); Yes (phone) In-person interpreter remuneration in accordance with language access plan | Yes |
| # of agencies | 15 +/- | 50 +/- |
| Use an agency contract? | No | Yes |
| # of Telephone agencies | 1 (could have more, but would negotiate separate contract) | 20 |
| Common Issues | | |
| Background check required | Staff (yes); Phone (no); in-person contractors (varies by law enforcement requirements) | Freelancer – Yes per contract but not yet implemented. Agency interpreter(onsite/phone) – No |
| Code of conduct | Yes | Yes ; freelancer annual contract requires confirmation to abide |
| Type of Service | | |
| Onsite and remote | Onsite (staff and vendors); Phone remote (under contract) VRI (staff only) | Onsite (staff, contractors, agencies); Phone remote (staff, contractors, agencies) VRI (staff only) |
| Case prep time | Not addressed; may be compensated if allowed by the judge | Yes if mutually agreed upon in advance; paid per contract rate |
| Translation | Included in phone contract; may be compensated if ordered by the judge | Yes (staff, contractors, agencies) paid per contract rate |
| Payment | | |
| Per credential | Higher credential/higher pay (vendors) Language (phone) Qualifications and experience (staff) | Freelancers - Higher credential/higher pay per contract Agency interpreters – per contract |

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| | | |
|--------------------------|---|--|
| Unit of time | Two hour minimum, 15 minute increments thereafter (vendors); Salary (staff); Minute (phone) | Freelancers - Half day or full day Agency interpreters – two or three hour minimums |
| Mileage paid | (vendors) Yes, and travel time (at half hourly rate) if over 30 miles (staff) Yes | Freelancers – Yes Agency rate must be all inclusive per contract |
| Parking/tolls paid | No (vendors) Yes (staff) | Freelancers – No; with exceptions Agency rate must be all inclusive |
| Arrival/departure | Procedures vary by county | Freelance and agency interpreters- Sign in/out protocols per contract |
| Late arrival | Vendors only paid for time utilized | Freelancer and agency pay prorated per contract |
| Cancellation fees | Within 24 hours, if no alternate assignment can be offered for same time period; 4 hours (whole day); 8 hours (multiple days); will ideally utilize service instead | Freelancers - Yes, varies by length of assignment. No pay for two day-or-longer-assignments if notified within 48 hours. Agency – agreed upon in advance per contract |
| Management Issues | | |
| Rotating business | Provide guidance on rotation in language access plan Section III - IV | Interpreting units must rotate work across available contractors to ensure fair distribution and a large and diversified pool |
| Quality control | Complaint Forms Individual Feedback and evaluation (internal forms for both staff and contracted vendors) Public survey | Policies require use of approved interpreters first |
| Service Complaints | Managed by Office of Executive Secretary (AOC in VA), in combination with judicial authority responsible for appointing language service provider | Managed by counties via ombudsman and county interpreting units, and the Language Services Section |
| Training | Yes; before certification and after on a regular basis (to both staff and contractors) | No training provided by the Judiciary to freelance or agency interpreters |
| Contract renewal | NA (staff and in-person contracted vendors) RFP (phone and translation); for 1 year with 4 x 1-year renewal options | Freelancer contract renewed annually Agency contract remains in effect until either side terminates |
| Contract termination | Non-exclusive | Anytime by either side |

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SAMPLE VOIR DIRE QUESTIONS TO DETERMINE QUALIFICATIONS OF UNCREDENTIALED INTERPRETERS

Knowledge of the Languages and General Education

1. How did you learn English?
2. Have you formally studied the English language in school or college? Please describe if so.
3. How did you learn [insert name of the other language to be interpreted]?
4. Have you formally studied the [insert name of the other language to be interpreted] language in school or college? Please describe if so.
5. What is the highest grade or degree you completed?

Interpreting and Translating Skills

6. What formal courses or training have you had in the professions of interpreting and translating?
7. What specific courses or training have you completed in legal or court interpreting and translating?
8. Have you passed any accreditation or certification exams for interpretation or translation? Please describe if so.
9. Are you a member in good standing of any professional associations of interpreters or translators? If so, please identify them.
10. How often do you attend meetings, conferences, and other gatherings of professional interpreters and translators?
11. Have you read and understood the Code of Professional Conduct for Interpreters, Transliterators, and Translators? Do you agree to abide by that code and advise the court when you cannot abide by any particular provisions of it?
12. Have you ever been disciplined for conduct that violates a Code of Professional Conduct approved by the New Jersey Supreme Court, another state judiciary, or an association of professional interpreters or translators?
13. About how many times have you interpreted in a Municipal, Superior, or Federal court?
14. About how many times have you interpreted for depositions?

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15. About how many times have you interpreted for administrative tribunals in the executive branch, such as a judge of Workers Compensation, an Administrative Law judge, or Federal Immigration?
16. Have you ever interpreted in proceedings like the one we are about to have? If so, about how many times?

Conflicts of Interest

17. Are you a potential witness in this case?
18. Do you know or work for any of the lawyers, parties, or witnesses in this case?

Communicative Compatibility

19. Have you had an opportunity to speak with the person for whom you will be interpreting?
20. Did you have any difficulty understanding everything that person says?
21. Do you speak the same language?
22. Does that person have any dialectal or idiomatic peculiarities that you do not understand or which you cannot interpret into English?

Performance of Appropriate Interpreting Modes

23. Tell me what simultaneous and consecutive interpreting are and when you should use them while interpreting court proceedings.
24. Can you interpret simultaneously into *[name of language]* everything that is said in English during this proceeding without adding, deleting, or changing anything?
25. Can you interpret consecutively from English into *[name of language]* and from *[name of language]* into English everything that is said without adding, deleting, or changing anything?

YouTube Video

Example of Court Interpreter's Interview to Verify Credentials: [Federal Judiciary Channel](https://www.youtube.com/watch?v=Ylq0A0NMtuk)
<https://www.youtube.com/watch?v=Ylq0A0NMtuk>

Note: In NJ, interpreting unit staff ask these types questions when contracting agency interpreters and address responses that raise red flags. Interpreting unit staff will also communicate with a judge prior to an event about agency interpreter issues and ideas for addressing them such as postponing until a better interpreter is available or partnering the agency interpreter with a staffer.

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TEAM INTERPRETING BASICS

Teammates collaborate, support and monitor each other to achieve a faithful and accurate interpretation.

- **Principles:**
 - 2 interpreters, 1 interpretation
 - Your partner's work is your work

- **Before Court, Discuss:**
 - What you know and can anticipate about the case
 - How and when to switch roles
 - How to signal each other to seek or provide help; ex. whisper, write on pad, etc.
 - How to notify each other of errors
 - How to inform the court of corrections
 - How to ensure linguistic continuity within the team

- **During Court:**
 - Team members work in close physical proximity and alternate between active and support roles
 - The support interpreter monitors, assists, and brings substantive errors to the active interpreter's attention
 - Team members use neutral language, e.g., "The source language was X, the interpretation was Y." (NOT, "You are wrong.")
 - The support interpreter must be ready at a moments notice to perform a secondary function; e.g. continuing the interpretation when the active interpreter addresses the court
 - Team members address allegations of errors as a team

- **After Court, Debrief:**
 - What surprised you?
 - What was successful?
 - What was not successful?
 - What might the team do differently next time?

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TRAINING IDEAS FOR COURT STAFF WHO BRING IN CONTRACT AND AGENCY INTERPRETERS

A. Understand the Big Picture (Accurate interpreting equals justice)

1. Management Structure
 - a. Supreme Court, Judicial Council, Administrative Council, Conference of Operations Managers, Committee of County Coordinators of Interpreting Services, etc.
 - b. AOC/county relations
 - c. Overview of Policy – Statutes, court rules, administrative directives, local policy
2. Key Terms
 - a. Limited English Proficient (LEP)
 - b. Translation vs. Interpretation vs. Bilingual services
3. Overview of Policies: Statutes, rules, administrative directives, local policy (include sites)
 - a. Basic principle: Equal Access
 - b. Interpreting Standards
 - c. Interpreter Code of Conduct
 - d. Remote (Telephone) Interpreting Standards
 - e. Notices to the Bar
4. The Registry of Interpreting Resources
 - a. Purpose, content and use
5. The Court Interpreter Approval Program
 - a. Written Exam, Orientation Seminar, and Oral Exam (National Center for State Courts)
 - b. Classifications based on Exam Performance: Approved (Master/Journey), conditionally-approved, or registered (no oral exam)
 - c. Federal Court Certification Program (Spanish only)

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B. Establish Specific Responsibilities

1. Maintain good communication channels with judges, law clerks, court management and staff, and interpreters and agencies.
2. Ensure Quality Interpreting Services
 - a. Understand the movement of cases and nature of proceedings.
 - b. Gather basic case information and understand the interpreting need.
 - c. Provide case prep information to interpreters in advance.
 - d. Anticipate when a team is needed and hire accordingly.
3. Optimal Use of Contract Interpreters
 - a. A contract
 - b. Hierarchy for contracting interpreters; seek to hire the most qualified first
 - c. Rotation Principle
 - d. Handle Performance Issues
4. Optimal Use of Interpreting Agencies
 - a. Use Agencies has a last resort (highest cost, lowest quality)
 - b. Agency contract
 - c. Handle Performance Issues
5. Observe Court and Court Interpreters
6. Maintain and Analyze Statistics
 - a. Track onsite and remote (telephone/video) interpreting events

C. Develop Resources

1. Judges' Guide to Court Interpreting Services, Judges' Bench Card, Brochure on Role of the Court Interpreter, online training, etc.

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D. Understand Services for Persons Who are Deaf or Hard of Hearing

1. Federal and state statutes – ADA, and LAD
 - a. “Effective Communication”, preference of an accommodation to the person with a disability
 - b. Provide an interpreter anytime one is requested
2. Deaf People
 - a. juveniles (underdeveloped language), other countries
 - b. Customer service contact using relay systems, TTY, ALD, or Interpret type
 - c. Cases of great import, high profile
3. Sign Language Interpreter
 - a. Credentials
 - b. Certified deaf interpreter – a deaf specialist
 - c. case prep materials
 - d. Number of Interpreters on a team – interpreter decisions
4. Scheduling AOC ASL Interpreters – deaf jurors
 - a. Far in advance
 - b. Back up assignments
 - c. Guidelines for Trials Involving Deaf Jurors Who Serve with the Assistance of Sign Language Interpreters
 - d. Guidelines for Proceedings That Involve Deaf Persons Who Do Not Communicate Competently in American Sign Language
5. Managing Interpreters at Psychiatric facilities
6. ADA reporting required
7. Tips: maintain folders for reoccurring cases, a list of cases needing a CDI