

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report

TO: Judicial Council

FROM: Court Interpreters Advisory Panel
Hon. Kathleen E. O’Leary, Chair
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DATE: April 8, 2008

SUBJECT: Court Interpreters: Certification Examinations for Interpreters of
Previously Registered Languages (Action Required)

Issue Statement

Government Code section 68562 et seq. mandates that the Judicial Council shall designate languages for certification and adopt requirements for interpreter proficiency. In accordance with this authority, following the *2000 Language Need and Interpreter Use Study*, the Judicial Council designated Armenian, Russian, Mandarin, Cambodian, and Punjabi for certification. Certification examinations for the languages of Eastern Armenian, Western Armenian, Mandarin, and Russian were subsequently developed. In April 2004, the Executive and Planning Committee (E&P) granted a grace period for registered interpreters of those languages to pass the new certification exams. The original grace period ended on February 1, 2006, but was extended 12 months by E&P two additional times, the second time ending on February 1, 2008.

In anticipation of the February 1, 2008, deadline, staff identified the number of interpreters who would be affected by the deadline and the courts that would be affected. This information was shared with those courts, which were individually contacted to determine how the deadline was going to affect their ability to provide interpreter services to the public.

Statewide, 75 interpreters of the four languages were certified and therefore not subject to the grace period. Ninety (90) interpreters were identified as registered in the four languages, 29 of them as employees and 61 as independent contractors. Fifty-two of the 90 were based in Los Angeles County, 19 of these as employees of the Los Angeles Superior Court. Through consultation with the affected courts, staff learned that several courts required additional time to prepare for providing interpreter services without use of the affected interpreters who had not passed the certification tests in these languages.

On January 17, 2008, the Court Interpreters Advisory Panel (CIAP) requested that E&P approve a third extension of the grace period to February 1, 2009, based on the information received from several courts that additional time was required to establish the necessary infrastructure and operational procedures to continue to effectively meet the public's interpreting needs in these languages. E&P approved this request. CIAP also recommended that E&P specifically provide that there be no further extension of the grace period beyond February 1, 2009. E&P declined to take action on this recommendation, requesting that it be referred to the full council for decision after further comment could be obtained from the Court Executives Advisory Committee (CEAC), the Trial Court Presiding Judges Advisory Committee (TCPJAC), and CIAP. Comments were obtained from each of the three advisory committees and are described beginning on page 4 of this report.

Recommendation

The Court Interpreters Advisory Panel recommends that the Judicial Council provide no further extension of the grace period beyond the deadline of February 1, 2009. The panel further recommends that individual interpreters be allowed to qualify for a one-year exemption from the deadline by meeting *all* of the following conditions:

1. Verify to the AOC, on penalty of perjury, the number of times the interpreter has taken the certification exam. For interpreters who do not become certified by the February 2009 deadline, this information will be reported by the AOC to the courts for the purpose of providing information that will be useful to the courts in supporting interpreter efforts to pass the examination.
2. Pass the written exam, if the interpreter has not done so already, in time to take the November 2008 oral exam. The written exam will be offered in both May and September 2008.
3. Register for the November 2008 oral exam.
4. Participate in a two-day training workshop¹ (16 hours), provided by the AOC in October 2008, to prepare for the November exam. Participants must be registered for the November exam in order to attend the two-day training.
5. Take the November 2008 oral exam.
6. If the interpreter has not passed the November 2008 oral exam, take the oral certification exam again at least once during 2009. (The exam is offered in July and November each year for languages other than Spanish.)

This proposal requires the registered interpreters in the four designated languages to pass the written certification exam and to demonstrate serious efforts toward passing the oral

¹ This workshop will be available to all registered interpreters of the four targeted languages who have passed the written exam. The workshop will include breakout sessions conducted in each of the four languages.

exam to become certified. Interpreters demonstrating this level of competence and commitment would continue to be registered for an additional 12 months, to February 1, 2010. Those interpreters who do not meet the above requirements will convert to noncertified status as of February 1, 2009. They would, however, be able to continue to interpret in the courts as independent, noncertified interpreters if the court, for good cause, determines them to be provisionally qualified.

Rationale for Recommendation

CIAP and staff believe this proposal will both advance the mandate to provide certified interpreters in the designated languages, and address the need by the courts for a reasonable period of time to adjust operational procedures and provide notice to the affected interpreters who are employees of the courts. The proposal emphasizes the shared responsibility of the AOC, the interpreters, and the courts to implement the mandate for certified interpreters in the four newly designated languages: (1) the AOC is required to develop and provide targeted training to assist the 89² currently registered interpreters in passing the certification exam; (2) the 89 affected interpreters are required to participate in meaningful efforts to become certified; and (3) the courts are required to be ready to implement the end of the grace period on February 1, 2009, and the end of the 12-month exemption for the remaining registered interpreters on February 1, 2010.

Alternative Actions Considered

Extend the Grace Period Indefinitely Until New Certification Exams Are Developed

CIAP and staff considered the suggestion made by both CEAC and the California Federation of Interpreters that the grace period be indefinitely extended until new certification examinations are developed based on the ALTA study recommendations. Ultimately this recommendation was rejected based on several factors:

- The ALTA study confirmed that the current exam is credentialing court interpreters whose knowledge, skills, and abilities are aligned with those needed to interpret at a high level of competence.
- Developing new examinations will take several years. Due to the expense involved, it is anticipated that new exams will be phased in based on which languages demonstrate the greatest need in the courts. Eastern and Western Armenian, Mandarin, and Russian would not be addressed before Spanish, Vietnamese, and Korean, at a minimum. New examinations in these languages may not be available for five years or more.
- An indefinite extension beyond the four grace periods already granted would seriously undermine the credibility of the testing program.

² One of the 90 registered interpreters has become certified, so the current number of uncertified interpreters is 89.

- The current interpreter assignment system has created the situation for these four languages where registered interpreters, due to their seniority and/or employment status, are used before certified independent contractor court interpreters. This conflicts with the mandate that certified court interpreters be used in designated languages unless there is a showing of good cause.

Grandfather Interpreters Based on Years of Service

The Court Interpreters Advisory Panel considered the possibility that registered interpreters be “grandfathered” or granted certification based on years of service interpreting in the court. This recommendation was rejected for several reasons:

- The Judicial Council has established standards for interpreters of the designated languages that are measured by the certification examination. Granting registered interpreters certification would undermine the credibility and intent of the certification program.
- The registered interpreters for these languages have had *nine testing opportunities over 4 1/2 years* to pass the certification exam. By not passing the certification examination, the remaining registered interpreters have not demonstrated the ability to meet the Judicial Council standards for court interpreter certification.
- Certification without examination was granted only once before to a small number of interpreters at the time the interpreter-testing responsibility was transferred to the Judicial Council. The two qualifying reasons for granting certification were:
 - (1) The court interpreter had already been tested and certified by the State Personnel Board and was on their list of recommended court interpreters.
 - (2) The interpreter had served as a subject-matter expert in developing the current certification examination being used. Granting certification to test developers is a common testing-industry practice, as it does not make sense to test the person who developed the test.

In the existing instance, the registered interpreters have neither been previously certified nor have they been involved in test development.

Comments from Interested Parties

Trial Court Presiding Judges Advisory Committee – In response to a request for comments on this matter, the TCPJAC reported individual comments from two of its members: Judge Czuleger (Los Angeles) and Judge Shaver (Stanislaus). Judge Czuleger is opposed to precluding a future extension of the grace period, based on the concern that the Los Angeles court would not be able to meet its daily interpreter need if the availability of interpreters in these languages is reduced. Judge Shaver, who is also the TCPJAC liaison to CIAP, concurs with the extension of the grace period to 2/1/09. His comments do not address whether this should be the final extension.

Court Executives Advisory Committee – CEAC chair, Michael Roddy, reported comments on behalf of the committee as a whole:

- CEAC opposes the recommendation that this be the final extension, on the basis that the courts would be unable to meet the public's interpreter needs in the affected languages and that the courts need an additional amount of time for the orderly operational transition necessary to address the potential loss of the 29 registered interpreter employees in these languages.
- CEAC is also concerned that court interpreters will be lost from the statewide contract interpreter pool in these hard-to-find languages, due to the lower compensation rates paid to noncertified interpreters.
- CEAC advocates a longer-term strategy that continues the grace period until new exams are developed that may improve test results.
- CEAC also recommends training and development to prepare interpreters to pass the exams.

California Federation of Interpreters – CFI expressed the following concerns:

- The ALTA study raises serious questions about the testing instruments and the fairness and adequacy of the rating process.
- The grace period should be extended until issues with the testing instruments and rating process are addressed.

Court Interpreters Advisory Panel – CIAP members had several concerns:

- The right of non-English-speaking court users to competent interpretation services;
- The lack of participation by many of the registered interpreters in opportunities to take the certification exam;
- The repeated extension of the deadline for court operational reasons;
- The effect further extensions will have on undermining the credibility of the court interpreter testing program; and
- The potential for years of delay if extensions are continued while new exams are being developed in these languages, particularly as the timing for development of new exams will be based on the highest statewide language use and need in the courts.

CIAP gave close consideration to the comments of TCPJAC, CEAC, and CFI in developing its recommendation. Ultimately, the panel agreed that an alternative was needed that included a sharing of responsibility between the AOC, the interpreters, and the courts. The panel's recommendation provides the affected courts with time for a gradual transition consistent with their operational needs and provides the interpreters with training to help them pass the certification exam. Most importantly, it offers needed progress toward meeting the mandate for certification of interpreters in these designated languages, thereby ensuring the quality of interpreting services for court users and the courts.

Implementation Requirements and Costs

The only additional cost required to implement the recommendation would be the expenses involved in developing and conducting the two-day workshop, including breakout sessions in each of the four targeted languages, for the 89 eligible interpreters. Staff estimates the cost to the AOC to be \$25,000.

The participating interpreters would be expected to pay their own travel expenses, including meals and overnight lodging if required. By conducting the training in Burbank on the weekend, the majority (59 out of 89) of the eligible participants would be able to drive to the training each day. The interpreters would also be required to pay the normal \$250 fee to take the November oral exam.