



National Association of Judiciary Interpreters & Translators

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This communication comes from the National Association of Judiciary Interpreters and Translators (NAJIT), founded in 1978, the only nationwide organization of court interpreters in the United States. Current membership stands at approximately 1100, including state and federal court interpreters of many languages.

Among our stated purposes are: 1) to advocate training and certification of interpreters through competent and reliable methodologies; 2) to promote professional standards of performance and integrity; and 3) to advance the highest quality services.

We applaud the steps the state of Hawai'i is taking to implement an interpreter testing and certification program in its courts.

In response to the public request for comments, we offer several suggestions regarding the language of the proposed "Hawai'i Rules for Certification of Spoken and Sign/Visual Language Interpreters in Hawai'i State Courts":

- a) **Rule 14.1** governing appointment of court interpreters reads, in part, "... a court *may* give preference to court interpreters who have been qualified under these Rules ... " (emphasis added). We urge that the rule be change to read "... a court shall give preference to court interpreters who have been qualified under these Rules ...".

All parties deserve the best interpretation available, to ensure their rights to equal access to the justice system, as provided in the Constitution and Title VI of the Civil Rights Act of 1964. Interpreters will have little incentive to become certified if courts are free to prefer non-certified interpreters.

- b) **Rule 15**, governing disqualification or removal of interpreters, section 15.2 (a), allows disqualification or removal from a legal proceeding of an interpreter for "inability to interpret adequately, including where the interpreter self-reports such inability."

Hawai'i's own proposed Code of Professional Conduct for Court Interpreters (Rule 10), NAJIT's Code of Ethics, as well as the Consortium for State Court Interpreter Certification's Code of Ethics all require an interpreter to disqualify him or herself

if he or she is not capable of interpreting in a given setting. We are concerned, however, that as currently written, Rule 15 offers little guidance to the court in cases where the interpreter does not withdraw but where doubts regarding his or her competence exist. Legal professionals, even if bilingual, are not necessarily qualified to pass upon the competence of an interpreter. Apart from situations where it is apparent that the interpreter is not interpreting, is summarizing, or is not fluent in either the source or the target language, it is advisable that the court conduct a *voir dire* of the interpreter prior to the initiation of the proceedings.

Further, it should be made clear that *disqualification* in the Rule means “disqualification from the proceeding” and not “permanent disqualification from interpreting in legal settings.” We recommend the substitution of the word *recuse* for *disqualify* to avoid ambiguity.

- c) **Rules 7.2 and 10.2**, governing written English and oral examinations respectively, state that each applicant may take any single version of the examination a maximum of two times and may not take a single version more than once a year.

However, it should be borne in mind that if only one version of a test is adopted, opportunities for interpreting candidates will be severely limited. We hope that multiple test versions will be available. We suggest that a provision be included in the Rule so that a candidate who has failed the examination twice be required to wait until one or two testing cycles have passed before being allowed to retest. (Please note that since its creation in 1980, the federal certification examination has set no limit on the number of times a candidate may sit for the exam.)

NAJIT takes this opportunity to commend Hawai'i's efforts and to reiterate our support for the interpreter certification program. Thank you for considering our comments on the proposed rules.

Sincerely,

Isabel Framer
Chair, Board of Directors
National Association of Judiciary
Interpreters and Translators