



National Association of Judiciary Interpreters & Translators
2002 Summit Blvd ▪ Suite 300 ▪ Atlanta, GA 30319
Tel: 404-566-4705 ▪ Fax: 404-566-2301 ▪ www.najit.org

The NAJIT Immigration Interpreters Committee provides a platform for training, exchanging resources and information on career opportunities for immigration interpreters. It will concentrate its efforts to create awareness about the contract conditions of the Executive Office of Immigration Review (EOIR) freelance interpreters and will advocate for the improvement of such conditions.

OVERVIEW

Immigration courts are under the purview of the US Department of Justice. In 1983, the Executive Office of Immigration Review (EOIR) became a separate agency within it. EOIR was created to adjudicate immigration cases as mandated by the Immigration and Nationality Act.

Three EOIR administrative courts preside:

- 1) The Office of the Chief Immigration Judge (OCIJ), with approximately 59 immigration courts, primarily adjudicates cases involving the removal of aliens from the United States;
- 2) The Board of Immigration Appeals (BIA) reviews appeals from the immigration courts and some decisions of the Department of Homeland Security (DHS), and oversees the EOIR's Certification Program and Recognition and Accreditation Program;
- 3) The Office of the Chief Administrative Hearing Officer (OCAHO) determines if civil monetary penalties are imposed on individuals and businesses that violate employment-related immigration laws and decides claims of unfair immigration-related employment practices.

In addition to the EOIR three adjudicating bodies, there are five non-adjudicating offices;

- 1) the Office of the Director (OOD)
- 2) the Administrative Division
- 3) the Office of the General Counsel (OGC)
- 4) the Office of Management Programs (OMP)
- 5) the Office of Planning, Analysis, and Technology (OPAT)

In order for EOIR to comply with Executive Order (EO) 13166, it “examines the services it provides, develops, and implements a system by which [limited English proficient] LEP persons can *meaningfully* access those services consistent with, and without unduly burdening, the fundamental mission of the agency” (65 Fed. Reg. 50, 121, August 16, 2000). The Department’s Civil Rights Division (CRT) defines ‘LEP persons’ as “individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.”



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Based on the above mentioned Executive Order, all governmental agencies, including EOIR, must adopt a language access plan (LAP) to ensure that the Limited English Proficiency person has meaningful access to immigration proceedings.

Interpreters, more specifically specialized Interpreters, referred to as Immigration Interpreters are vital to this process. Immigration Court Interpreters or EOIR Interpreters are professionals who require formal training and advanced study in the subset of immigration within the specialized field of court interpreting. They seek recognition as professionals who maintain as part of their occupation adherence to high standards in the performance of their duties, and they seek the respect and appreciation attributable to well-established professionals such as accountants, lawyers, doctors, and engineers. The respect sought finds its basis in the role and function carried out by EOIR Interpreters to provide language access to LEP Persons in all levels of immigration court proceedings, i.e., master calendar/scheduling hearings and individual hearings, known as merit hearings.

QUALIFICATIONS OF EOIR INTERPRETER

Interpreters engaged by EOIR have to meet specific qualifications and must pass a test and skills assessment, modeled after the federal judiciary and state courts requirements, equivalent to 3+ levels on the Interagency Language Round Table scale. This means having comprehensive knowledge of the linguistic aspects of court interpreting and mastery of language conversion in terms of vocabulary, grammar, syntax, idioms, colloquialisms, culturally-based terms, and technical terms in English and a foreign language. Additionally, they must possess:

- 1) at least two years of specialized experience interpreting non-routine material consecutively in a judicial environment;
- 2) one/two-years of specialized experience interpreting non-routine material simultaneously in a judicial environment

Further, EOIR Interpreters are bound to the oath they swear and affirm at the commencement of each hearing assigned or upon employment for staff interpreters. It is the committee's position that both employee and non-employee interpreters alike should adhere to the same code of conduct, and hold the same qualification as they are expected to render the same quality of language service for the common goal of assuring due process and the fulfillment of execute Order 13166 and EOIR's Language Access Plan. While interpreters in immigration court do not have to have the same qualifications, such as passing the federal and state oral and written exams, interpreters in immigration court have to pass extensive testing as well as a rigorous background check.



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CHALLENGES FACED BY EOIR INTERPRETERS

Working conditions of EOIR interpreters can be challenging due to the nature of the assignments, which can be held in a variety of settings, from regular non-detainee calendars in regular courts, to detainee calendars in courts located in prisons and detentions centers throughout the country, to detainee calendars in other settings such as Border Patrol and/or ICE facilities. Often they must travel to remote locations generally found far from services such as hotels and restaurants.

Since some facilities where EOIR interpreters are assigned have differing restrictions, interpreters must research and be fully informed about the requirements of the facility in advance so that they may be properly prepared; There are facilities where water may not be allowed to be brought in, regardless of the container or whether or not the bottle has been opened. Waiting rooms may have to be shared with defense attorneys and their clients, so interpreters must be careful in order to avoid any appearance of bias or impropriety in accordance with their code of ethics.

It is NAJIT's position that any lengthy hearing (over 45 minutes) be conducted with team interpreting. Team interpreting is a quality control mechanism to preserve the accuracy of the interpretation in any proceeding. Studies show that mental fatigue sets in after approximately 30 minutes of sustained simultaneous interpretation, resulting in a marked loss in accuracy. This is so regardless of how experienced or talented the interpreter may be. A 1998 study conducted at the École de Traduction et d'Interprétation at the University of Geneva, demonstrated the effects of interpreting over increasing periods of time¹. The conclusion of the study was that an interpreter's own judgment of output quality becomes unreliable after increased time on task.

RECOMMENDATIONS

In conclusion, interpreters play a vital role in enabling meaningful language access in immigration court proceedings. All stakeholders acknowledge that competent interpreters, more specifically competent immigration interpreters, are vital to ensure due process. NAJIT asserts that interpreter competency for an immigration court interpreter requires specialized knowledge, skills, and abilities. NAJIT further recommends adequate support within their work environment so that their role in supporting EOIR's compliance with the EO 13166 results in meaningful linguistic access for LEP populations appearing in Immigration court procedures.

¹ Moser-Mercer, B., Kunzli, B., and Korac, M. 1998. "Prolonged turns in interpreting: Effects on quality, physiological and psychological stress." University of Geneva, École de Traduction et d'Interprétation. *Interpreting* Vol. 3 (1), p. 47-64. John Benjamins Publishing Co.



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<https://www.justice.gov/sites/default/files/eoir/legacy/2004/08/05/ReliefFromRemoval.pdf>

Immigration Court Practice Manual

<https://www.justice.gov/eoir/page/file/1084851/download>

NAJIT Position Paper - Team Interpreting in the Courtroom

<https://najit.org/wp-content/uploads/2016/09/Team-Interpreting-5.2020.pdf>