



National Association of Judiciary Interpreters & Translators
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October 29, 2020

Comments on proposed Rule 1705: Kansas Judicial Branch Court Interpreter Orientation

Thank you for the opportunity to comment on proposed Rule 1705. The NAJIT Advocacy Committee is pleased to offer these comments and brings considerable expertise to the subject. One of our members is a former Chief Court Interpreter for the U.S. District Court of the Southern District of New York, a practicing contract interpreter in federal and state courts of Virginia, a professor of court interpretation at Virginia Commonwealth University in Richmond, and has taught dozens of court interpreter orientation courses in several jurisdictions. Another is the retired program manager of the New Jersey Courts' language access program who designed its orientation program and taught dozens of orientation classes, staffed the Supreme Court Task Force on Interpreter and Translation Services, and helped establish the Consortium for State Court Interpreter Certification for the National Center for State Courts and chaired the Consortium's Technical Committee and served on its Executive Committee.

Before we offer our comments, we want to acknowledge and congratulate you for the steps you have taken thus far. The goal of institutionalizing a "comprehensive language access program," as Rule 1701 states, is exactly right. Rules 1701 through 1704 provide a good foundation for providing language access and Rule 1705 is a logical complement to those policies. An orientation program for prospective court interpreters is a uniform component of the vast majority of language access programs across the nation's court systems. As you surely know, it is part of the package of best practices recommended by the National Center for State Courts (see Chapter 4, "Training for Court Interpreters," in [Court Interpretation: Model Guides for Policy and Practice in the State Courts, 1995](#)).

We respectfully offer two basic comments. First, since proposed Rule 1705 is difficult to assess due to its general nature, here are some considerations that you might address:

- **Length of the online program:** The basic model followed by most states is an introductory program that is delivered over two days for approximately 14 hours of instruction. Any orientation program by definition is little more than an introduction to the field, regardless of its length, but if that's the only training there is, then the best practice is around 14 hours.



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- **Nature of the online program:** Would the training be passive (i.e., something prerecorded that participants watch and listen to) or active (i.e., a live presentation with opportunities for questions and answers)? We submit that an active approach will be more effective.
- **Curriculum of the online program:** It's very difficult to pare down what court interpreters need to know to perform their duties faithfully, but an introductory orientation program, absent any advanced training, should cover at least:
 - As much detail about your Code of Professional Responsibility as possible;
 - An overview of the environments in which court interpreters will be delivering services; and
 - Demonstrations of what professional court interpreting looks like.
- **Method of validation:** How will it be determined that a participant actually engaged the material and understood it, much less took it to heart?
- **Selection of faculty:** How will the faculty be selected in terms of their expertise and ability to deliver the material in an engaging manner?

Secondly, we wonder how this proposed orientation program fits into the “comprehensive language access program” envisioned in Rule 1701. On the one hand, given the sequence of existing rules plus the proposed rule that Kansas is striving to put in place, you are on your way. On the other hand, we don't know what other components you may be anticipating that would fulfill that objective. Here's what we would hope you are contemplating:

- A court interpreter certification program that, at a minimum, includes—
 - A written exam that measures candidates' knowledge of written English, court terminology and procedures, and ethics;
 - In all languages for which exams are available, performance exams that measure the ability to deliver interpreting services in accordance with your Code of Professional Responsibility;
 - A policy requiring trial courts to use certified court interpreters when and where they are available; and
 - A policy setting forth what interpreters may be used in all other circumstances.
- Compliance mechanisms that ensure all Supreme Court rules pertaining to court interpreters are followed in the trial courts.
- Training modules targeting the bench, bar, and court employees with respect to all the rules pertaining to court interpreters and how to work effectively with them.



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- Levels of compensation commensurate to the level of knowledge, skills and abilities court interpretation warrants (which a recent study showed to exceed those of court reporters: see Section 2 in [Compensation of Court Interpreters in the State of New York](#)) together with levels of credentialing to recognize excellence and provide incentive for professional development (see §1.4.1. in the NCSC's [State Court Interpreter Testing Desk Reference Manual](#)).

We leave you with one last comment. An orientation program plus knowledge of your Code of Professional Responsibility alone cannot ensure the delivery of professional court interpreting services. To illustrate this point, New Jersey, which requires candidates to complete its orientation program and pass a written test measuring basic written English language competency and knowledge of court terminology and ethics, has concluded that those two steps of the process are inadequate predictors of competence (New Jersey Courts: [Court Interpreting Testing Statistics](#)). The vast majority (88%) of candidates who have completed those two requirements and taken the court interpreting performance exam failed the exam. That means one can safely assume that around 88% of the candidates who take your orientation seminar are not able to perform the duties required of them by your Code of Professional Responsibility. Merely signing the document, promulgated under Rule 1704, agreeing to adhere to the code cannot mean that they are able to abide by the code.

We hope you will find our comments helpful on your journey to reaching the goal of providing equal access for persons with limited English proficiency appearing in your courts. If we can be of service in any way, please do not hesitate to contact us. We stand ready to lend a hand at any time.

Sincerely,

Sandro Tomasi, Advocacy Committee Chair
Robert Joe Lee, Advocacy Committee Vice-Chair

cc: NAJIT Board of Directors