Guidelines for Approval of Certification Programs for Interpreters for Deaf and Hard-of-Hearing Persons

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Judicial Council *of* California

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Preamble

Evidence Code section 754 requires that in any civil or criminal action—including any action involving a traffic or other infraction, juvenile court proceeding, proceeding to determine the mental competency of a person, or administrative hearing where a party or witness is a deaf or hard-of-hearing person and that person is present and participating—the proceeding shall be interpreted in a language that the deaf or hard-of-hearing person understands by a qualified interpreter appointed by the court or other appropriate authority. A "qualified interpreter" is defined as "an interpreter who has been certified as competent to interpret court proceedings by a testing organization, agency, or educational institution approved by the Judicial Council as qualified to administer tests to court interpreters for individuals who are deaf or hard of hearing." (Evid. Code, § 754(f).)

Evidence Code section 754 further requires the Judicial Council to establish guidelines under which it will determine which testing organizations, agencies, or educational institutions will be approved to administer tests and certify court interpreters for deaf and hard-of-hearing persons and provides that an initial approval of testing entities shall occur before July 1, 1992. The Judicial Council, therefore, establishes the following guidelines.

In these guidelines, the term "certified court interpreter" is used to mean a sign language interpreter who is certified to interpret in court proceedings. "Certifying organization" refers to the entity under whose auspices the evaluation of applicant interpreters is conducted. "Evaluating panel/board" refers to the persons who rate the applicant interpreters. Oral interpreting, services to hard-of-hearing individuals such as assistive listening devices, interpreting for deaf/blind individuals, and other forms of communicative assistance to persons with hearing disabilities are not covered by these guidelines.

Guidelines

1. Structure and Administration of Evaluating Panels/Boards

A. The evaluating panel/board and its processes must be administratively independent of the certifying organization in the testing and certification of individual applicants—that is, the panel/board must be free of influence from any external sources on decisions affecting the test results and certification of interpreters.

B. The certifying organization, in all its processes, must have a non-discrimination policy that ensures no discrimination among applicants for certification as to age, sex, race,

ethnicity, religion, national origin, disability, sexual orientation, or marital status. The certifying organization must provide for access and reasonable accommodation to the testing process for persons with disabilities.

C. The certifying organization must possess the knowledge and experience necessary to conduct the testing and certification of court interpreters.

D. The certifying organization must have a formal procedure for the selection of evaluating panel/board members. That procedure must include input from certified interpreters and deaf individuals who possess the knowledge and experience required for that purpose.

E. The certifying organization must have formal procedures for training of evaluating panel/board members to ensure the consistency of their evaluation over time.

F. The certifying organization must hold testing at reasonable cost to the applicant interpreter and with sufficient frequency to ensure that there is reasonable opportunity for individuals to be tested and certified.

G. The certifying process must have and maintain:

1. Competence-based standards of performance;
2. A clear process for determining the pass-fail standard for certification and cutoff scores on tests; and
3. An established procedure for the regular and timely review and adjustment of these standards of performance, utilizing input from interpreters, deaf and hard-of-hearing persons, court personnel, and research sources.

H. The certifying organization must maintain the confidentiality and integrity of the testing process, including test materials, scoring information, and other sensitive information. The certifying organization must have a procedure to regularly update, rotate, reformulate, or alter test materials to guarantee that the confidentiality of test items, tapes, scripts, and other materials is protected and that the materials are new to those applicants who are being tested.

I. On completion of testing, the certifying organization must issue to qualified interpreters a certificate that clearly identifies the interpreter as certified to interpret in court by this organization and the period of time covered by the certification.

J. The certifying organization must maintain a list of those interpreters who are certified to interpret in court proceedings and must keep this list up to date.

K. The certifying organization must have an established and reasonable procedure for assuring the continued competency of certified court interpreters through periodic assessment or other means. Such a certification maintenance process must include efforts by the certifying organization to enhance continued competence of the individual.

If continuing education is used as a means of ensuring continued competency, the certifying organization may not require interpreters to enroll in its own education or training program.

M. The certifying organization must promptly report certification results to applicants.

N. The certifying organization must have and publicize the existence of a reasonable grievance and appeal process for certification applicants who question the certification or testing process, test results, or eligibility for testing.

O. The certifying organization must have and publicize the existence of a reasonable complaint process for the public to use in addressing discipline of those holding certificates, including revocation of certification for conduct that clearly indicates incompetence, unethical behavior, and physical or mental impairment affecting performance.

2. Certification Testing and Test Content

A. The certification process, including tests and testing procedure, must be objective, fair, and free of test bias (including, but not limited to, bias as to age, sex, race, ethnicity, religion, national origin, sexual orientation, culture, or class).

B. The certification process, including tests and testing procedure, must be directly based on the knowledge and skills needed to function as an interpreter in court proceedings.

C. Tests and testing processes must be standardized and nondiscriminatory and must be shown to be both reliable and valid (particularly relative to the certified court interpreter's subsequent ability to perform in court proceedings) under generally accepted procedures for establishing the validity and reliability of tests.

D. The certifying organization must clearly state, and publish in a manner reasonably certain to provide adequate notice to applicants, the certification and testing criteria and the requirements used to certify court interpreters, including information about the competencies required, the level of competency required, and how these competencies are determined.

E. The certifying process must be comprehensive in testing for all aspects of the court interpreting process, including:

1. Interpretation competency, which includes:

    a. Consecutive interpreting, simultaneous interpreting, and sight translation;
    b. American Sign Language competency;
    c. English language competency; and

d. Competency in interpreting language and terminology common to court proceedings;

2. Understanding of social, cultural, and linguistic aspects of the local, state, and national communities of deaf people;
3. The role and function of court interpreters, including court etiquette;
4. The various court proceedings that commonly and frequently require use of an interpreter or interpreters; and
5. A code of conduct and professional ethics.

F. If, in addition to testing for the above, a certifying organization establishes education and training requirements that an interpreter must have before certification (such as a high school diploma or college degree), there must be a direct correlation between these requirements and an interpreter's ability to perform in court proceedings. A certifying organization may not require an interpreter to take its own education or training program as a prerequisite to testing or certification.

3. Application to the Judicial Council for Approval to Certify Court Interpreters and Maintenance of Standing

A. The certifying organization must submit a completed application to the Judicial Council to document compliance with these guidelines at four-year intervals after initial approval.

B. The certifying organization must notify the Judicial Council if it plans to suspend or discontinue testing, either permanently or temporarily.

C. The Judicial Council may suspend or revoke its approval of a certifying organization or place conditions on continued approval, if such action is deemed necessary to ensure the quality and/or integrity of court interpreting or this approval process.

4. Exemptions in Critical or Unusual Circumstances

A. Effective January 1, 2024, the council approved allowing for exemptions for adherence to these guidelines in critical or unusual circumstances for a period of four years to assure that certified ASL court interpreters are available to provide services in California. This allowance may include recognition of another state's testing program, provided that the council can verify that the testing entity is qualified to administer tests to court interpreters for the deaf or hard-of-hearing.[1]

[1] On November 17, 2023, the council approved a four-year exemption, effective January 1, 2024, to ensure certified ASL court interpreters are available in California. This includes recognizing the Texas Office of Deaf and Hard of Hearing Services (DHHS) Board for Evaluation of Interpreters (BEI) as an approved testing entity for a temporary period. For more details, refer to the Judicial Council Report.