

NORTHWEST JUSTICE PROJECT
DRAFT

PROGRAM POLICY NO.

RE: Access to NJP Services for People who are Deaf or Hard of Hearing or Deaf and Blind

DATE APPROVED BY BOARD OF DIRECTORS:

Introduction: The Northwest Justice Project is committed to overcoming access barriers caused by communication differences that impede equal access to and receipt of legal representation. NJP and its staff have an obligation to identify communication/language barriers to representation of individual clients and to affirmatively take steps to overcome them. This policy sets out NJP's plan for addressing the communication/language needs of clients who are deaf, hard of hearing, deaf-blind and speech disabled. NJP provides accommodations when necessary to ensure effective access and communication with clients who experience communication barriers.

Statutory Authority:

Americans with Disabilities Act of 1990 (ADA) 42 U.S.C. §§ 12101 et seq: The ADA prohibits discrimination on the basis of disability and requires provision of reasonable accommodations for disabled persons in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications.

Rehabilitation Act of 1973; Section 504, 29 U.S.C. § 794: The Rehabilitation Act prohibits discrimination on the basis of disability in programs conducted by Federal agencies, in programs receiving Federal financial assistance, in Federal employment, and in the employment practices of Federal contractors.

RCW 49.60: RCW 49.60 mandates the provision of reasonable accommodations for people with disabilities in places of employment, government and businesses.

RCW 2.42: RCW 2.42 mandates the provision of interpreter services for deaf and hard of hearing individuals in court proceedings.

Reasonable accommodation of deaf and hard of hearing or deaf-blind clients

- Upon identification of a deaf and hard of hearing client NJP staff shall:
 - Inquire about the individual's language and assistive technology preferences (including preferences for particular interpreters).
 - Make every reasonable effort to match a qualified interpreter with the individual's preferred communication needs.
 - Verify that the interpreter does not have a conflict of interest in working with a particular client. (See Appendix D)

- Use certified interpreters and certified deaf interpreters to communicate with clients who have minimal language skills (MLS) (see explanation below).
- Schedule two interpreters for any meeting scheduled for longer than two hours, or be prepared to provide interpreter adequate breaks (20 minutes per hour).
- When tactile signing for deaf-blind clients is appropriate, NJP staff should plan to schedule two interpreters per deaf-blind client unless a meeting is scheduled to last for less than 30 minutes
- When appropriate, provide pertinent case documents in large print format or, as feasible and approved (See discussion below)

Identification of Deaf and Hard-of-Hearing Clients: Deaf and hard-of-hearing clients must be adequately identified and be able to obtain and receive legal representation though the mode of communication that reasonably accommodates the individual's access to legal assistance. Because of the variety of communication modes amongst deaf and hard of hearing individuals, when it is apparent that a client is deaf or hard of hearing, NJP staff must identify the client's communication preference and note the preference in the case management system.

Communication/language Needs: Deafness falls along a continuum of both severity of hearing loss as well as modes of communication. Some deaf persons are adept at lip reading and may not know sign language, while others may be fluent in American Sign Language (ASL) but have limited ability to read and write English. Other deaf individuals, including recent immigrants, may not have formal training in either ASL or English. These individuals may use a system of "home sign" language to communicate. Deaf or hard of hearing clients who have minimal language skills (MLS), including solely the use of home sign language, may require the skills of a certified deaf interpreter skilled in the client's "home sign" language. On a case by case bases, certified deaf interpreters may need to be used in conjunction with ASL interpreters to bridge the communication gap between the client and the attorney.

Use of Writing to Communication with Deaf Client: Communicating with a deaf or hard-of-hearing individual by writing back and forth is generally not recommended. If a client indicates a preference for writing back and forth, NJP staff should ensure that the client understands that they have a right to an interpreter and that, if they proceed with writing back and forth, the client comprehends the communication.

Identification of Deaf-Blind Clients: Deaf-blind clients must be adequately identified and be able to receive legal representation though the mode of communication that reasonably accommodates the individual's need for access to legal assistance. Just as deafness falls along a continuum, individuals identified as deaf-blind vary in both their vision and hearing loss. Some deaf-blind clients use tactile signing (a type of signing

whereby one person signs and the “listener” places their hands on the hands of the “speaker”), other deaf-blind individuals use an interpreter who is trained in a method of interpretation called close-visual interpretation (a close-visual interpreter will accommodate the limited scope of sight of the deaf-blind individual by adjusting their signing space to a very small area just in front of the interpreters’ face), and some, but not all, deaf-blind individuals read Braille.

Bilingual Staff: NJP has from time to time hired local office staff who are fluent in American Sign Language. Bilingual staff are encouraged to communicate directly with clients; however, bilingual staff should not interpret for other staff members and their clients unless the bilingual staff member has been trained as an interpreter.

Training: NJP staff will be trained on the substance of this policy and resources available to meet the language assistance needs of clients.

Confidentiality and Interpreter Conduct: To promote client trust and to maintain the integrity of NJP, it is mandatory that interpreters and translators used by NJP abide by NJP’s Confidentiality Rules and the Rules of Professional Conduct for Interpreters. RCW Chapter 2.42 sets out the right to an interpreter in legal proceedings for deaf persons and other persons who, because of impairment of hearing or speech, are unable to readily understand or communicate in the English language. The Code of Conduct for Court Interpreters (GR 11.2), attached as Appendix A, is a model of the high standards necessary for successful interpreting. NJP requires all interpreters to either enter into the Professional Conduct Agreement attached as Appendix B, or have signed a similar agreement to which they are bound as a condition of their employment by the interpretation service with which NJP contracts for language assistance services.

Duty to Ensure Interpreter is Qualified and Client Consent: To ensure that an ASL, home language or tactile signing interpreter is qualified to communicate with deaf and hard of hearing clients, NJP uses only qualified interpreters. (See below for qualifications) Use of family members and friends as interpreters may compromise both the quality and integrity of the information received from the client and should be avoided. The client must affirmatively consent to use of an interpreter known personally to the client and/or to the opposing party and the client’s consent must be reflected in the case management system record.

Interpreter Qualifications: Interpreter qualifications may be demonstrated by proof of certification from the Registry of Interpreters for the Deaf (RID), from National Association of the Deaf (NAD), combined RID/NAD Certifications; or by formal inquiry and adequate response into the interpreter’s experience and education, including years of formal training (both languages), number of years and kind of interpreting experience, demonstration of language skill in formal client setting, and understanding of Rules of Interpreter Conduct; or the interpreter is provided by one of the professional interpreter service providers with which NJP contracts for services. . (See Appendix D):

Regardless of the basis for the interpreter's qualifications, the interpreter should be asked about their knowledge of the client and any conflicts of interest they are aware of between themselves and the client or other related parties to the matter. If the NJP staff member does not believe the interpreter is qualified, or if the client seems uncomfortable with the interpreter, the staff member will notify their supervising attorney and determine if the problem is correctable or identify another interpreter for future interactions.

Interpreter Certification of Document Interpretation: When a client signs a document pertinent to the representation, such documents shall be interpreted to the client, if the client's primary language is ASL. The interpreter shall interpret the content of the document to the client prior to the client signing the document. The interpreter shall attest to the client's apparent understanding of the document on a certification form. A model certification form shall be provided to all staff (See Appendix C).

Alternate Format Documents: As a reasonable accommodation, it may be necessary to reproduce documents in either large print or other format such as Braille for deaf-blind clients. Due to the high cost of Braille translation, this must be approved by NJP's Director of Advocacy, an Advocacy Coordinator or other designee before translation costs are incurred. See the Handbook for additional information and resources on alternate format documents.

Implementation: NJP will instruct all NJP offices on how to arrange for interpretation and translation services. NJP will train staff on use of interpreters in client communications by providing practical tips and guidelines. (Attached as Appendix D) NJP will develop and maintain a deaf and hard of hearing Handbook to help facilitate implementation of this policy, which shall be available on its internal website.

Executive Director

Attachments

- Appendix A: GR 11.2, Code of Conduct for Interpreters
- Appendix B: Interpreter/Translator Confidentiality Agreement
- Appendix C: Interpreter / Translator Certification Form
- Appendix D: Guidelines for Use of Interpreters/ Assistive Technology Devices

Appendix A

RULE 11.2
CODE OF CONDUCT FOR COURT INTERPRETERS

PREAMBLE. All language interpreters serving in a legal proceeding, whether certified or uncertified, shall abide by the following Code of Conduct:

A language interpreter who violates any of the provisions of this code is subject to a citation for contempt, disciplinary action or any other sanction that may be imposed by law. The purpose of this Code of Conduct is to establish and maintain high standards of conduct to preserve the integrity and independence of the adjudicative system.

(a) A language interpreter, like an officer of the court, shall maintain high standards of personal and professional conduct that promote public confidence in the administration of justice.

(b) A language interpreter shall interpret or translate the material thoroughly and precisely, adding or omitting nothing, and stating as nearly as possible what has been stated in the language of the speaker, giving consideration to variations in grammar and syntax for both languages involved. A language interpreter shall use the level of communication that best conveys the meaning of the source, and shall not interject the interpreters personal moods or attitudes.

(c) When a language interpreter has any reservation about ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the parties and to the court. If the communication mode or language of the non-English speaking person cannot be readily interpreted, the interpreter shall notify the appointing authority or the court.

(d) No language interpreter shall render services in any matter in which the interpreter is a potential witness, associate, friend, or relative of a contending party, unless a specific exception is allowed by the appointing authority for good cause noted on the record. Neither shall the interpreter serve in any matter in which the interpreter has an interest, financial or otherwise, in the outcome. Nor shall any language interpreter serve in a matter where the interpreter has participated in the choice of counsel.

(e) Except in the interpreters official capacity, no language interpreter shall discuss, report, or comment upon a matter in which the person serves as interpreter. Interpreters shall not disclose any communication that is privileged by law without the written consent of the parties to the communication, or pursuant to court order.

(f) A language interpreter shall report immediately to the appointing authority in the proceeding any solicitation or effort by another to induce or encourage the interpreter to violate any law, any provision of the rules which may be approved by the courts for the practice of language interpreting, or any provisions of this Code of Conduct.

(g) Language interpreters shall not give legal advice and shall refrain from the unauthorized practice of law.

[Adopted effective November 17, 1989; September 1, 2005.]

Appendix B

**INTERPRETER/TRANSLATOR CONFIDENTIALITY RULES &
RULES OF PROFESSIONAL CONDUCT AGREEMENT**

(To be used for all interpreter/translator appointments, other than the Language Line)

To promote the trust and integrity of our client cases, it is mandatory that interpreters and translators hired by Northwest Justice Project to perform interpreting and translating services abide by Northwest Justice Project's Confidentiality Rules and Rules of Professional Conduct.

1. No language interpreter or translator shall discuss, report, or comment upon a matter or case in which the person serves as an interpreter or translator.
2. Interpreters and translators shall not offer an opinion to anyone regarding the prospective outcome of a case or any other matter.
3. Interpreters shall not disclose any communication that is privileged by law without the written consent of authorized parties to the communication, or pursuant to court order.

Any circumstance which poses a possible violation of the confidentiality rules above shall be called to the immediate attention of the interpreter and will be a direct violation of Northwest Justice Project's Rules of Professional Conduct.

STATEMENT OF RECEIPT AND UNDERSTANDING

I certify that I have received a copy of and read the Northwest Justice Project Interpreter/Translator Confidentiality Rules and agree to abide by these confidentiality rules. I also understand that any violation of the Interpreter/Translator Confidentiality Rules will be a direct violation of the Rules of Professional Conduct adopted by Northwest Justice Project.

Date: _____

Interpreter Signature

Print Name

Appendix C

INTERPRETER CERTIFICATION OF INTERPRETED DOCUMENT

I am fluent/ [certified] in the _____ language and I have interpreted this entire document [insert document name] for the [petitioner/respondent] from English to the language of _____. The [petitioner/respondent] has acknowledged his/her understanding of both the interpretation and the subject matter of this document.

I certify under penalty of perjury, under the laws of the State of Washington, that the foregoing is true and correct.

DATED this _____ day of _____, at _____, Washington.

Interpreter Signature

Client Signature

Interpreter Name (Please Print or Type)

Client Name (Please Print or Type)

[NOTARY SEAL]

Appendix D

INTERPRETER QUALIFICATION GUIDELINES

Interpreter qualifications may be demonstrated by proof of certification from the Registry of Interpreters for the Deaf (RID), from National Association of the Deaf (NAD), combined RID/NAD Certifications; or by formal inquiry and adequate response into the interpreter's experience and education, including years of formal training (both languages), number of years and kind of interpreting experience, demonstration of language skill in formal client setting, and understanding of Rules of Interpreter Conduct; or the interpreter is provided by one of the professional interpreter service providers with which NJP contracts for services. . (See Appendix D):

Regardless of the basis for the interpreter's qualifications, the interpreter should be asked about their knowledge of the client and any conflicts of interest they are aware of between themselves and the client or other related parties to the matter.

- Registry of Interpreters for the Deaf (RID) certifications:
 - Certificate of Transliteration (CT)
 - Certificate of Interpretation (CI)
 - Certified Deaf Interpreter (CDI)
 - Specialist Certification: Legal (SC: L)
 - Comprehensive Skills Certificate (CSC)
 - MCSC (Master Comprehensive Skills Certificate)
 - IC/TC (Interpretation Certificate/Transliteration Certificate)
- National Association of the Deaf certifications:
 - NAD III (Generalist) - Average Performance
 - NAD IV (Advanced) - Above Average Performance
 - NAD V (Master) - Superior Performance
- Combined NAD/ RID Certifications:
- National Interpreter Certification (NIC)
 - National Interpreter Certification – Advanced
 - National Interpreter Certification - Master

By formal inquiry and adequate response into the interpreter's experience and education, including years of formal training (both languages), number of years and kind of interpreting experience, demonstration of language skill in formal client setting, and understanding of Rules of Interpreter Conduct. (See Appendix D); or,

An interpreter provided one of the professional interpreter service providers with which NJP contracts for services should be presumed to be competent to interpret, but should also be asked about their knowledge of the client and any conflicts of interest they are aware of between themselves and the client or other related parties to the matter.

In determining if an Interpreter is qualified for a particular assignment, NJP staff shall consider:

- The individual's expressed communication needs and preferences;
- The context, type or setting, in which the meeting is taking place;
- The number of people involved;
- The importance of the meeting
- The length of the meeting;
- The certification level of the interpreters; and
- Any other complexities of the meeting.