

Chapter 2.42 RCW Interpreters in legal proceedings

Chapter Listing

RCW Sections

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Notes:

Rules of court: ER 604.

2.42.010

Legislative declaration -- Intent.

It is hereby declared to be the policy of this state to secure the constitutional rights of deaf persons and of other persons who, because of impairment of hearing or speech, are unable to readily understand or communicate the spoken English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the appointment of such interpreters.

[1989 c 358 § 12; 1983 c 222 § 1; 1973 c 22 § 1.]

Notes:

Severability -- 1989 c 358: See note following RCW 2.43.010.

2.42.050

Oath.

Every qualified interpreter appointed under this chapter in a judicial or administrative proceeding shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or other agency conducting the proceedings, to the best of the interpreter's skill and judgment.

[1989 c 358 § 14; 1985 c 389 § 20; 1973 c 22 § 5.]

Notes:

Rules of court: ER 604.

Severability -- 1989 c 358: See note following RCW 2.43.010.

2.42.110
Definitions.

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Impaired person" means a person who, because of a hearing or speech impairment, cannot readily understand or communicate in spoken language; and includes persons who are deaf, deaf and blind, speech impaired, or hard of hearing.

(2) "Qualified interpreter" means a visual language interpreter who is certified by the state or is certified by the registry of interpreters for the deaf to hold the comprehensive skills certificate or both certificates of interpretation and transliteration, or an interpreter who can readily translate statements of speech impaired persons into spoken language.

(3) "Intermediary interpreter" means a hearing impaired interpreter who holds a reverse skills certificate by the state or is certified by the registry of interpreters for the deaf with a reverse skills certificate, who meets the requirements of RCW 2.42.130, and who is able to assist in providing an accurate interpretation between spoken and sign language or between variants of sign language by acting as an intermediary between a hearing impaired person and a qualified hearing interpreter.

(4) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision.

[1991 c 171 § 1; 1985 c 389 § 11.]

2.42.120
Appointment, pay.

(1) If a hearing impaired person is a party or witness at any stage of a judicial or quasi-judicial proceeding in the state or in a political subdivision, including but not limited to civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a hearing impaired person may be subject to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(2) If the parent, guardian, or custodian of a juvenile brought before a court is hearing impaired, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(3) If a hearing impaired person participates in a program or activity ordered by a court as part of the sentence or order of disposition, required as part of a diversion agreement or deferred prosecution program, or required as a condition of probation or parole, the appointing authority shall appoint and pay for a qualified interpreter to interpret exchange of information during the program or activity.

(4) If a law enforcement agency conducts a criminal investigation involving the interviewing of a hearing impaired person, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. Whenever a law enforcement agency conducts a criminal investigation involving the interviewing of a minor child whose parent, guardian, or custodian is hearing impaired, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(5) If a hearing impaired person is arrested for an alleged violation of a criminal law the arresting officer or the officer's supervisor shall, at the earliest possible time, procure and arrange payment for a qualified interpreter for any notification of rights, warning, interrogation, or taking of a statement. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(6) Where it is the policy and practice of a court of this state or of a political subdivision to appoint and pay counsel for persons who are indigent, the appointing authority shall appoint and pay for a qualified interpreter for hearing impaired persons to facilitate communication with counsel in all phases of the preparation and presentation of the case.

[1985 c 389 § 12.]

2.42.130**Source of interpreters, qualifications.**

(1) If a qualified interpreter for a hearing impaired person is required, the appointing authority shall request a qualified interpreter and/or an intermediary interpreter through the department of social and health services, office of deaf services, or through any community center for hearing impaired persons which operates an interpreter referral service. The office of deaf services and these community centers shall maintain an up-to-date list or lists of interpreters that are certified by the state and/or by the registry of interpreters for the deaf.

(2) The appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the hearing impaired person, that the interpreter is able in that particular proceeding, program, or activity to interpret accurately all communication to and from the hearing impaired person. If at any time during the proceeding, program, or activity, in the opinion of the hearing impaired person or a qualified observer, the interpreter does not provide accurate, impartial, and effective communication with the hearing impaired person the appointing authority shall appoint another qualified interpreter. No otherwise qualified interpreter who is a relative of any participant in the proceeding may be appointed.

[1991 c 171 § 2; 1985 c 389 § 13.]

2.42.140**Intermediary interpreter, when.**

If the communication mode or language of the hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the appointing authority who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

[1985 c 389 § 14.]

2.42.150**Waiver of right to interpreter.**

(1) The right to a qualified interpreter may not be waived except when:

- (a) A hearing impaired person requests a waiver through the use of a qualified interpreter;
- (b) The counsel, if any, of the hearing impaired person consents; and
- (c) The appointing authority determines that the waiver has been made knowingly, voluntarily, and intelligently.

(2) Waiver of a qualified interpreter shall not preclude the hearing impaired person from claiming his or her right to a qualified interpreter at a later time during the proceeding, program, or activity.

[1985 c 389 § 15.]

2.42.160**Privileged communication.**

(1) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law.

(2) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending.

[1991 c 171 § 3; 1985 c 389 § 16.]

2.42.170**Fee.**

A qualified and/or intermediary interpreter appointed under this chapter is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The fee for services for interpreters for hearing impaired persons shall be in accordance with standards established by the department of social and health services, office of deaf services.

[1991 c 171 § 4; 1985 c 389 § 17.]

2.42.180**Visual recording of testimony.**

At the request of any party to the proceeding or on the appointing authority's initiative, the appointing authority may order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding.

In any judicial proceeding involving a capital offense, the appointing authority shall order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding.

[1985 c 389 § 18.]



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SignOn

A Sign Language Interpreting Resource, Inc.

RESOURCES - FAQ



*Your Communication in
Our Hands*

FAQ - Frequently Asked Questions

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Why do I need to hire an interpreter?

The Americans with Disabilities Act (ADA) of 1990 mandates that a comprehensive variety of public and private services as well as employers must be accessible to all people, regardless of disability. When dealing with people who are Deaf, Deaf-blind, or hard of hearing, this means that communication must be accessible. In many cases, the best way to ensure this is to have an interpreter.

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When do I need to use an interpreter?

An interpreter may be used any time communication is occurring between people who do not share the same language. Deaf, Deaf-blind, and hard of hearing people may not have access to information if it is presented in English, either verbally or in writing. Some simple communications (for example, between a Deaf customer and a clerk in a store) can be done through written notes or gestures, but any time important content is being communicated, having an interpreter present safeguards the participants by ensuring that information is accessible to both parties.

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Who is required to pay for an interpreter?

The ADA states that all public and private agencies that provide services to the general public, and all employers with 15 or more employees, must be accessible. This means that, if your agency, service, or business is accessible to people without disabilities, it must be accessible to people with disabilities. Additionally, companies with 15 or more employees must follow fair hiring and employment practices when considering candidates with disabilities. (However, the ADA is superceded in Washington State by RCW , which covers employers with 8 or more employees.) Therefore, it is the agency, service, or business which is responsible for payment for interpreting services.

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Isn't it expensive to provide interpreting services?

Interpreting services should be budgeted as part of your annual planning for accessibility services. It is true that, on a per-encounter basis, you may pay more for interpreting services than you generate in revenue for your company. However, if you consider the cost over the course of a year as an overhead cost of doing business, providing accessible services is quite reasonable.

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Will I have to pay a minimum charge?

You will be asked to pay usually a one or two hour minimum charge for interpreting services. Because interpreters come to you, on your schedule, their fees have to take into account the amount of time spent traveling between jobs, wait time for the next assignment to start, and down time when no work is available. Additionally, mileage and/or travel time is sometimes charged, depending on how far the interpreter has to travel to your assignment.

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What if I have to cancel my request?

When you schedule an interpreter, you are purchasing his/her time. If you have to cancel your request, it may or may not be possible to sell that time to another customer. SignOn has a policy to charge the full rate for assignments which are cancelled with under two business days' notice, as less than this amount of time makes it unlikely that we will be able to refill the interpreter's time.

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How much advance notice do I need to give you to get an interpreter?

There's never too much advance notice! Interpreters are a scarce resource, and often the demand exceeds the supply. Because interpreters come to you, on your schedule, we must juggle many customers' needs to try to accommodate as many requests as possible. The farther in advance you can plan appointments, trainings, or meetings

where you will be using an interpreter, the better. However, if you have a last minute need, don't despair. Often another customer will cancel interpreting services at the last minute, freeing up an interpreter's time for your last minute request.

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What does it take to become an interpreter?

Interpreting is a complex task, requiring near-native language skills in at least two languages, as well as a deep knowledge of two cultures. A skilled interpreter should provide the full content of an interaction between two or more people who do not share the same language. This often requires exposure to and understanding of the information that is being transmitted, as well as interpreting skills. Most interpreters have studied American Sign Language for two to five years, plus one to three years of interpreter training. They are required to continue expanding their skills on an annual basis.

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How do I know an interpreter is qualified?

There are national testing systems in place to evaluate an interpreter's skills. All SignOn's interpreters (except apprentices) have passed the national examination administered by the Registry of Interpreters for the Deaf, Inc. (RID), which tests knowledge of culture, ethics, and interpreting skills. This is a very rigorous examination which guarantees a minimum level of competency. Additionally, since SignOn is owned and managed by experienced interpreters, all our interpreters are screened to determine their level of skills before being placed on assignments. Of course, no one interpreter can be qualified for every situation, so SignOn's scheduler has the responsibility to gather as much information about your assignment as possible to determine which of our interpreters will best meet your needs.

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What guarantees do I have that my interpreter will behave ethically?

All RID certified interpreters are required to follow the **RID Code of Ethics** <http://www.rid.org/coe.html> This Code of Ethics requires that interpreters behave in a manner appropriate to their position, e.g. interpreters may not add to, omit, or change the message they are interpreting; all assignment-related information must remain confidential; interpreters will use their judgment when accepting assignments; no personal opinions or advice can be interjected while interpreting. If you feel an interpreter has behaved unethically, you can contact RID to find out how to file a grievance against that interpreter <http://www.rid.org/eps.html>

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■ **Why do I have to have two interpreters for my assignment?**

Interpreting is a very taxing activity, both mentally and physically. Research has shown that an interpreter's ability to mentally process the message and interpret it accurately diminishes drastically after approximately 20 minutes of interpreting. Worse, the interpreter is usually unaware that his or her accuracy has decreased, so misinformation is being unwittingly transmitted. Additionally, the rate of repetitive motion injuries among sign language interpreters is very high (some studies have shown over 60% of interpreters suffering some injuries that require medical treatment). Therefore, when an assignment is over 1-2 hours, two interpreters will be scheduled; they will spell each other approximately every 20 minutes, to ensure that the message is interpreted accurately for the full length of your assignment. SignOn's scheduler will assist you in determining the appropriate number of interpreters needed.

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■ **Someone in my office knows sign language. Can I have that person interpret for us?**

Interpreting is a very complex task that requires more than just knowing some sign language. The process of translating a message from one language to another requires a high level of proficiency in both languages, as well as knowing principles of accurate interpretation. A coworker, or someone who is responsible for other duties in your workplace, should not be put in the position of interpreting for a Deaf colleague or customer, as it takes away from his/her ability to perform his/her assigned duties. Additionally, there is no guarantee of quality, accuracy, or confidentiality of information when using a person who works in your office or workplace. In many cases, more damage has been done by a "signer" who is trying to help out, requiring more extensive interpreting time to repair the misunderstandings caused by not calling in an interpreter the first time!

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SignOn, Inc
1414 Dexter Avenue N. #316
Seattle WA 98109

TTY: 206.632.7200 / Voice: 206.632.7100
Toll Free: TTY/Voice 866.688.7100
Fax: 206-632-0405
E-mail: Terps@SignOnASL.com
www.SignOnASL.com
www.SignOnVRI.com

Interpreter List: Indigenous Languages
(Washington; Northern Oregon)

Name	Telephone	Languages	Address
°Hector Carillo	360.481.3032	<i>Mam</i>	Shelton, WA
*§°Domingo Martinez	503.289.7567	<i>Kanjobal y Acateco</i> (San Rafael, Huehuetenango, Guatemala)	Portland, OR kanjobal@peoplepc.com
°Bertilde Martin Mendoza	971.275.2844	<i>Mam</i>	Portland, OR
*°Mariano Mendoza	360.649.4697	<i>Mam</i>	Belfair, WA
°Alejandra Porfirio	509.488.4452	<i>Mixteco Alto</i>	Othello, WA
§Gemme Salinas	206.433.1465	<i>Mixteco Bajo</i>	Seattle, WA
*°Feliciano Tapia	509.760.4062	<i>Mixteco Alto</i> (Santa Cruz, Tlopal, Guerrero)	Othello, WA
°Graciela Vargas Velasquez	206.433.3492	<i>P'urhepecha</i> (<i>Tarasco</i>)	Burien, WA
*Leonor Vera	503.640.9227	<i>Mixteco Bajo</i>	Hillsboro, Oregon
§Silverio Vivanco	360.757.0128; 360.540.1490 c	<i>Tarasco</i>	Seattle, WA

* Participated in interpreter trainings in 2003, 2004, or 2005 sponsored by the Oregon Judicial Department and the Oregon Law Center (OLC). Note: neither the OLC nor the Oregon Judicial Department make any representation as to the interpreting ability of these persons.

§ Names taken from list provided by Lois Feuerle, Oregon Judicial Department.

°Participated in an interpreter training in 2005 sponsored by Columbia Legal Services and the Oregon Judicial Department.

Additionally, the following people live outside of Washington but may be available:

Name	Telephone	Languages	Address
Perfecta Ventura	971-240-0631	<i>Mixteco Alto</i>	Salem, Oregon
Carmen de Jesus Gonzalez	503-475-9514	<i>Mixteco Bajo</i>	Wilsonville, Oregon
Juana Mendez	541-747-0407 cell-541-513-6385	<i>Kanjobal and Acateco</i>	Springfield, Oregon
Eduardo Mendez	541-747-0407 cell-541-513-6385	<i>Kanjobal and Acateco</i>	Springfield, Oregon
Francisco Lopez Aguilar	503-981-9410	<i>Trique</i> (San Juan Copala)	Woodburn, Oregon
Zoila Tencos	503-640-8967	<i>Nahuatl</i> (Pueblo)	Hillsboro, OR
Mario Aguilar	619-948-8861	<i>Nahuatl</i> (Vera Cruz)	La Jolla, CA

There are other sources for seeking indigenous language interpreters. These include:

Frente Indígena Oaxaqueño Binacional <http://www.fiob.org/nuestraorganizacion/nuestra.html>

Julie Samples
Oregon Law Center
230 W. Hayes
Woodburn OR 97071
(503) 981-0336 (ph)
(503) 981-0373 (fax)
juliesamps@yahoo.com

Oregon Judicial Department
Lois M. Feuerle, Coordinator,
Court Interpreter Certification, Testing & Training
(503) 236-5593
Lois.M.Feuerle@oid.state.or.us

The following may also be of assistance:

Northwest Justice Project,
Yakima office
509-574-4234
micheleb@nwjustice.org

Columbia Legal Services
Rachel da Silva
360-943-6260 ext. 203
Rachel.dasilva@columbialegal.org

Selected Resources regarding Language Access in Health Care

Cynthia E. Roat, MPH
September 2006

Research

- A good guide to the clinical research literature related to language access in health care is *Language Barriers in Health Care Settings: An Annotated Bibliography of the Research Literature*. Available for free download at www.calendow.org.

While research published after mid-2003 does not appear in this bibliography, the National Council on Interpreting in Health Care will soon be posting to its website (www.ncihc.org) an updated version of the bibliography in a searchable format.

- For information about the Joint Commission's study of language access services in 60 hospitals, *Hospitals, Language and Culture: A Snapshot of the Nation*, contact Amy Wilson at (630) 792-5954, awilson@jcaho.org, or go to http://www.jointcommission.org/HLC/about_hlc.htm.

Legislation and Accreditation

- The best summary of legislation, regulations and civil rights law regarding language access is *Ensuring Linguistic Access in Health Care Settings: Legal Rights and Responsibilities*, downloadable from the National Health Law Program at www.healthlaw.org
- The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) published in January 2006 a Crosswalk showing which of JCAHO standards correspond to each of the DHHS Office of Minority Health's CLAS standards (Cultural and Linguistically Appropriate Services). http://www.jointcommission.org/NR/rdonlyres/5EABBEC8-F5E2-4810-A16F-E2F148AB5170/0/hlc_omh_xwalk.pdf

Service Delivery Systems

- The report from California Health Care Safety Net Institute, *Straight Talk: Model Hospital Policies and Procedures on Language Access*, is available for free download at www.safetynetinstitute.org.
- The guide from the California Academy of Family Physicians, *Addressing Language Access Issues in Your Practice: A Toolkit for Physicians and Their Staff Members*, is available for free download at www.familydocs.org.

Financing

To learn more about how various states use public funds to reimburse hospitals for interpreter services, a good resource is *Language Services Action Kit* published by the National Health Law Program and downloadable from www.healthlaw.org.

Networking

- The National Council on Interpreting in Health Care has a website at www.ncihc.org.

- The interpreter association now dealing with healthcare interpreting regionally is the Northwest Translators and Interpreters Society (NOTIS), especially the Medical Interpreting Special Interest Group. Contact www.notis.org

Standardization

- *A National Code of Ethics for Interpreters in Health Care*, downloadable at www.ncihc.org.
- *National Standards of Practice for Interpreters in Health Care*, downloadable at www.ncihc.org

Training

- **Provider training**
On-line training for physicians on how to work with interpreters is available at minimal cost through Medical Directions' Virtual Lecture Hall at www.vlh.com. For more information and to review the program, contact Bob Amend at bamend@md-inc.com, (520) 722-1970.
- **Interpreter Training**
The National Council on Interpreting in Health Care (with funding from The California Endowment through the National Health Law Program) is currently working on a resource guide that will include an extensive listing of interpreter training programs around the country. It should be available this fall on the websites of all three organizations: www.ncihc.org, www.healthlaw.org, www.calendow.org.

Assessment, Credentialing and Certification

- An expanded interpreter registry will be introduced to the website of the California Healthcare Interpreting Association at www.chia.ws.
- An introduction to issues regarding assessing and certifying interpreters, *Certification of Healthcare Interpreters in the United States: A Primer, a Status Report, and Considerations for National Certification* will be available October 2006 from The California Endowment at www.calendow.org.

Additional websites with information regarding language access in healthcare

- Website of Resources for Cross Cultural Care: www.diversityrx.org
- Website of the Federal government's Interagency Working Group on Language Access: www.lep.org
- Website of the DHHS Office of Minority Health: www.omhrc.gov
- Website of the Hospitals, Language and Culture program of the Joint Commission: http://www.jointcommission.org/HLC/compiled_list.htm
- Website of the *Hablamos Juntos* program of the Robert Wood Johnson Foundation: www.hablamosjuntos.org.

For addition resources, contact Cindy Roat, 206-546-1194, cindy.roat@alumni.williams.edu.