

GUIDE FOR GRADING LEGAL TRANSLATION EXAMS

General Framework

Persons grading these exams must keep in mind that there is rarely only one right way to translate a word or phrase. The corollary to that is that there are often two or more ways to correctly translate a word or phrase. We do not require that candidates give the best or even preferred translation of a word and phrase, only that it be an adequate translation of each word or phrase.

Unlike the court interpreting examinations, the legal translation exams are graded holistically. There are no scoring units or delimitations of any kind in what is graded. Everything the examinee writes in the translation is assessed.

Judiciary's Guiding Principle Regarding Purpose of Translation

The Judiciary is using the following basic philosophy for producing translations. The translation test is designed to measure a candidate's ability to translate documents accordingly, and all persons grading the Judiciary's legal translation exams must keep this general philosophy in mind and grade exams in a manner consistent with it. That guiding principle is as follows:

The purpose of a translation is to produce a written document that faithfully and accurately reproduces in the target language the closest natural equivalent of the source-language document or tape without embellishment, omission, or explanation. In order to provide equal access to written documents, translations must be neither **better than** nor **inferior to** the document being translated in appearance, style, or content. Readers of translations should be able to understand the original author's meaning and draw the same inferences about the author as they would if they were able to read the original document in the source language. *Proposed Guidelines for Legal Translation in the New Jersey Judiciary*, at 1.

Grading Process

The grader will read through the translation, comparing it to the corresponding source document. Any time the grader believes there is an error in meaning or mechanics, the grader writes on the candidate's exam *in caps* the letter of the type of error the grader believes has been made next to the word or phrase involved. Hence, if the translation into English involves the word "student" and it should have been something like "boy" and is deemed to be a "Flat wrong: minimum effect" mistake, the text would look something like this:

...student^B ...

Or, using the same example, a word has been misspelled, the text would look something like this:

...studnt^G ...

There are two options for how the persons grading the test work through the grading process. If they are physically together, then they can just go straight through each document together, with the lead grader making notes to produce the official version of the graded results.

If they are not physically together, then each grader should grade each test alone. Once they have completed their initial grading of each test alone, then they should discuss every single mistake that either of them believes has been made. The lead rater will mark on his or her copy of the test all of the errors that both raters have agreed have been made, clearly writing the letter of the pertinent criterion in each instance. He or she will erase or clearly strike out any preliminary errors that had been identified which are not ultimately agreed to by both combined.

Any perceived errors by one grader that the other grader cannot consent to will not be counted as errors. ***Only errors agreed to be errors by both graders will be counted as such. The benefit of any doubt or disagreement goes to the examinee.***

NOTE #1: Any time an examinee makes exactly the same mistake within the same exam, it can be counted only one time. For example, if the same word is somehow misspelled five times in the same way, that is only one mistake. There should be only one appearance of a notation of a G for a mistake that is repeated elsewhere.

NOTE #2: Keep in mind that the translator is required to preserve the nature of the source document. When the source document is written with spelling or grammar mistakes in it, the appropriate course of action for the translator is to preserve such errors in the translation and to either (1) include a translator's footnote indicating that the misspelled words or grammatical mistakes originate in the source document and were not introduced by the translator or (2) insert "sic" after each occurrence of such mistakes, with a translator's note at the end indicating that "sic" has been inserted to reflect a mistake that appeared in the source document. When the mistakes originate in the source documents in the text and are appropriately preserved and so identified in the translation produced by an examinee, they are not to be counted as translation mistakes when grading the exam. However, if the mistakes do appear in the examinee's rendition without any translator's note, they constitute errors in the translation (but keep in mind the limitations imposed in Note #1).

Grading Criteria

There are nine types of errors that this test grades for: six that go to meaning (i.e., degree to which the translation faithfully and accurately reproduces in the target language the closest natural equivalent of the source-language message without embellishment, omission, or explanation) and three that go to the mechanics of writing (e.g., non-meaning errors such as spelling, grammar, and style). Here is a list of all of these criteria, together with a description of what each one means.

Flat Wrong: Major Effect (A)

This criterion comes into play when the translation of a word or phrase is “flat wrong” or “entirely wrong” at two levels:

1. It has been mistranslated, i.e., it is not a faithful and accurate translation of the source word or phrase); **and**
2. The word or phrase being translated is significant in the overall context of the document so that the mistranslation has the effect or potential of throwing off the essence of the entire document or misleading or inadequately informing the prospective reader of nature of the document. For example, the English source document is a “Victim Contact Letter.” If that doesn’t clearly come across in the translation, that’s a major problem with possibly significant consequences.

Note that great weight is given to this kind of error. Both graders must agree that the error is both a mistranslation and has a significant effect on misguiding whoever would be reading the translation.

Flat Wrong: Minor Effect (B)

This criterion is the same as the previous one with respect to faithfulness and accuracy, but not significance. This is a mistranslation of a semantic unit that is not judged to have any particularly global effect on the entire document or the reader’s understanding of something particularly important.

Partially Wrong (C)

This criterion means that the translation of a word or phrase is somewhat right, but also somewhat incomplete or wrong.

Semantic Additions (D)

This means the translator has added a word, phrase, or concept to the text that is not in the source document. We do not require the translation to be verbatim or word-for-word as that would result in considerable nonsense; however, it is permissible to include some “words” that are not in the source text so long as, in the judgment of the graders, it or they may be necessary to ensure an accurate and faithful translation.

Semantic Deletions (E)

This refers to the failure to include in the translated text a word, phrase, or concept that is in the source material and should have been included. Essentially, this means that something was left out, omitted. Again, as with semantic additions, there is room here for leaving out something so long as it’s appropriate to do so to ensure an accurate and faithful translation.

Register (F)

Here we are looking for preserving the level of language of the source document. For example, a very formal way of addressing someone must be preserved in a similarly formal form in the target language. On the other end of the spectrum, words that are at the lower, non-formal end of the register spectrum should not be rendered with highly formal words in the translation. We are looking for extremes here, meaning that if a register term in the source document is at a level of 1 on the five-point register scale, a translation at the 2 or 3 level of the register scale is acceptable. But an equivalent that may preserve the semantics but not register at a level of 4 or 5 should be graded as an error.

In addition, if there is a perfectly equivalent register that is common and should be known, especially in the case of the formal “Dear so-and-so” or “Yours truly” in a letter or something like that, we expect the equivalent form to be used in the target language. For example, “Yours truly” cannot become “Fraternally!”

Spelling (G)

Spelling errors include the following:

1. Ordinary misspellings, such as “fater” instead of “father” or “husbnd” instead of “husband.”
2. Diacritical marks that are either in the wrong location (e.g., inserted where they do not belong) or are missing altogether.

Grammar (H)

Grammar errors include the following:

1. Lack of subject/verb agreement
2. Lack of adjective/noun or article/noun agreement
3. Punctuation that clearly should be in the translation but is missing
4. Punctuation that has been inserted that is clearly inappropriate

Style (I)

This criterion is to be used when the way the translator has used a word or phrase is not idiomatic or appropriate. Instead, it seems somewhat stiff or awkward or unnatural, not the way a native writer of the language would write the word or phrase. For anything to be marked as an I, it must really stand out as something that fits into this framework.

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