

# **Compensation of Court Interpreters in the State of New York**



**A report supporting the reclassification and reallocation  
of the court interpreter job title**



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## Author

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## EXECUTIVE SUMMARY

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“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” —*Title VI, Civil Rights Act of 1964*

The Supreme Court of the United States has held that failing to take reasonable steps to ensure meaningful language access for limited English proficient (LEP) persons is a form of national origin discrimination.<sup>1</sup> The United States Department of Justice’s guidance<sup>2</sup> and subsequent technical assistance letters from its Civil Rights Division explain that court systems receiving federal financial assistance, either directly or indirectly, must provide meaningful access to LEP persons.

Dispensing justice fairly, efficiently, and accurately is a cornerstone of the judiciary. Court interpreters are necessary to secure the rights of deaf, hard of hearing and LEP persons who cannot be fully protected in legal proceedings unless qualified interpreters assist them. To that effect, the New York State Unified Court System (NYS UCS) has more than 300 full- and part-time court interpreters in 21 languages.<sup>3</sup> Court interpreters work bi-directionally, from and into the English language, using the three modes of interpreting: simultaneous, consecutive and sight. Language industry surveys show that interpreters are a highly educated majority female and majority immigrant workforce.

The Federal Judiciary sets a benchmark for both quality and compensation. In 2008, the federal Judicial Conference (the national policy-making body for the federal courts) adopted a new “landmark standard” setting grade JSP-14 for federal staff court interpreter positions.

Court interpreters in the New York State Unified Court System are paid substantially less than this federal benchmark. This pay disparity does not exist for other job titles in the New York State Unified Court System.

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<sup>1</sup> *Lau v. Nichols*, 414 U.S. 563 (1974).

<sup>2</sup> U.S. Department of Justice (2002). [Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons](#), 67 Fed. Reg. 41 455.

<sup>3</sup> New York State Unified Court System (2017). [Ensuring Language Access: A Strategic Plan for Ensuring Language Access in the New York Courts](#), p. 5.



### State-to-Federal Salary Comparison

TITLE	SALARY RANGE		NYS DIFFERENTIAL	
	NYS	Federal	Min Salary	Max Salary
Court Reporter	\$81,254 – \$131,923	\$91,511 – \$105,237	- 11%	+25%
Court Clerk	\$69,852 – \$99,057	\$49,297 – \$86,879	+42%	+14%
Court Officer	\$63,358 – \$90,160	\$75,961 <sup>4</sup>	- 17%	+19%
Court Interpreter	\$60,245 – \$85,886	\$120,580 – \$156,758	- 50%	- 45%

Court interpreter compensation is also not in proper relationship to similar job titles in State service. The court reporter title, which is the closest group of professional employees to interpreters, provides another point of comparison and illustrates another significant disparity. Despite similarities in the nature of the job and skills required, a non-supervisory court interpreter in the NYS UCS earns 26% less than a non-supervisory court reporter at the entry level and 35% less at the top of the salary range.

Research conducted for this report confirms important facts that illustrate deficiencies in the current job title and the unequal treatment of court interpreters:

- Advanced fluency in a second language — close to native speakers — is typically reached after between five and ten years of learning the language. The NYS Office of Court Administration does not recognize much less quantify the acquisition of a second language as a qualification for the court interpreter title.
- Though the NYS UCS job title only requires a high-school diploma, industry surveys show that at least 86% of interpreters surveyed are, in fact, college graduates, post-graduates or doctoral graduates.
- The single most important qualification that court interpreters must have — passing the civil service exam (or the equivalent) — does not appear in the court interpreter job title.
- Risk factors unique to court interpreting are not properly accounted for by the NYS UCS. Interpreters work in potentially violent, stressful and high conflict environments, which have been documented to cause burnout, depression and/or vicarious trauma.

<sup>4</sup> Number based on what a federal security court officer, a private contractor, would make at \$36.52 an hour for 40 hours a week times 52 weeks.

- Court reporters share several KSAs with court interpreters but many of these KSAs do not appear in court interpreter job title. Indeed, the court interpreter KSAs — originally issued in 1986 and unchanged in the 1994 version — neither reflect current industry standards nor the actual qualifications required of New York’s staff court interpreters.
- Court interpreting is a more demanding profession than court reporting due to the difference between the phonetic-bound translation performed by court reporters as compared with the culture-bound translation performed by court interpreters as well as the necessity of working in two languages rather than one.
- 55% of court reporting candidates pass the New York State Unified Court System’s civil service exam whereas the pass rate for Spanish court interpreters is 10%.
- NYS UCS staff court interpreters are paid about half of what their federal counterparts are compensated while the salaries for NYS UCS court reporter, senior court clerk and court officer are not only comparable to those of their federal counterparts but, in most cases, higher.
- While in the Federal Judiciary the compensation for the court interpreter title (JSP-14) is set higher than the court reporter title (comparable to JSP-12), the NYS UCS compensates the court interpreter title (JG-18) much less than the court reporter titles (JG-24 to 27). The salary range for JSP-14 is \$120,580 – \$156,758.
- In order for NYS court interpreters to be treated equitably and consistent with the treatment of other job titles in NYS UCS, their salary grade would need to be reallocated from JG-18 to JG-31.

Based on these findings and the supporting information in this report, the following recommendations are respectfully submitted in order for NYS UCS staff court interpreters **to achieve salary parity** with their federal counterparts in accordance with NYS UCS practice for its other court employees as well as to reach a proper relationship with the similar job of court reporting:

- 1) Update and reclassify the job title for NYS UCS staff court interpreters to better reflect their unique qualifications and KSAs.
- 2) Reallocate the salary grade for NYS UCS staff court interpreters from JG-18 to JG-31.

It is possible that the stark disparity in NYS UCS staff court interpreters’ compensation is based on an inadequate assessment of the skills, knowledge, experience and qualifications actually required to provide equal access to justice for all. It is noteworthy that in addition to being made up of a majority immigrant and majority female workforce, the work performed is inherently associated with immigrants and LEP populations. Discrimination is often expressed

differently against foreign nationals than it is against people born in the United States; discrimination on the basis of actual or perceived English-language ability, bilingualism, and accent, is a common method of subordinating immigrants.<sup>5</sup>

The New York State Unified Court System should also consider the inherent risk of setting such disproportionate compensation policies for a single class of employees insofar as it has a discriminatory effect. When salaries are too low, only those with means or those who have a high earning spouse or partner can accept a post. Such practice negatively affects recruitment and retention, as well as the diversity of the workforce and the institution by discriminating against those who are well qualified and interested in serving, but unable because of financial hardship.<sup>6</sup> Court interpreting then becomes more a hobby than a viable profession reinforcing negative stereotypes for a majority female workforce.

“It shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.” —Title VII, Civil Rights Act of 1964

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<sup>5</sup> Jasmine B. Gonzales Rose (2014). Race Inequity Fifty Years Later: Language Rights Under the Civil Rights Act of 1964. *Alabama Civil Rights & Civil Liberties Law Review*, vol. 6, pp. 167–212.

<sup>6</sup> *Maron v. Silver*, 14 N.Y.3d 230, 263 (2010).

## INTRODUCTION

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Court interpreters play a fundamental role in the administration of justice by ensuring access to the courts for deaf, hard of hearing and limited-English proficient (LEP) persons.<sup>7</sup> Ensuring language access to the courts by providing professional interpreters goes to the core values of the New York State Unified Court System — fairness, equal justice, unfettered access, and public confidence and trust in the judiciary.<sup>8</sup>

This report reviews the New York State Unified Court System’s policies with respect to classification and compensation of employees working in the court interpreter title. The following questions are explored:

- In view of the principle that employees in state titles should be compensated similarly to equivalent titles in the U.S. District Court, how does the current rate of compensation for staff interpreters in the New York State Unified Court System compare to their counterparts in the federal courts in the New York region?
- In view of the principle that New York State Unified Court System titles that are similar in their professional qualifications and duties should be compensated similarly, how does the compensation of court interpreters in the NYS UCS compare with their closest professional counterpart, court reporters?
- In view of the similarity of the professions of court interpreters and court reporters, how do the qualifications, knowledge, skills, abilities and duties of these two indispensable groups of employees compare to one another?

This report answers all those questions and concludes with findings and recommendations.

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<sup>7</sup> New York State Unified Court System (2018). Court Interpreter Manual and Code of Ethics, p. 1.

<sup>8</sup> New York State Unified Court System, *supra* note 3 at 9. See also New York State Unified Court System (2011). Court Interpreting in New York - A Plan of Action: Moving Forward, pp. 9–10.

## 1. STATE-TO-FEDERAL SALARY COMPARISON

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### 1.1 Judicial Compensation

The Commission on Judicial Compensation determined in 1999, 2011 and again in 2016 that the appropriate benchmark for the New York State Judiciary is the compensation level of the Federal Judiciary. The reasoning behind the Commission's recommendations is succinct:

The Commission recognizes the importance of the New York State Judiciary as a co-equal branch of government and recognizes the importance of establishing pay levels that make clear that the judiciary is valued and respected. The Federal Judiciary sets a benchmark of both quality and compensation — New York should seek to place its judiciary on par.<sup>9</sup>

The proper adjustment of salaries has implications far beyond fairness to individual judges. As the New York Court of Appeals recognized, if salaries are too low, “only those with means will be financially able to assume a judicial post, negatively impacting the diversity of the Judiciary and discriminating against those who are well qualified and interested in serving, but nonetheless unable to aspire to a career in the Judiciary because of financial hardship that results from stagnant compensation over the years.”<sup>10</sup>

By anchoring the compensation benchmark for the New York State Judiciary to the compensation level of the Federal Judiciary, the Commission succeeded in establishing standards for compensation levels through a fair, independent, and rational process. In 2016, NYS judges received a salary increase based on their salary comparison to federal judges with additional raises recommended.<sup>11</sup> Between 2011 and 2018, judges' salaries in the New York State Unified Court System were increased between 53% to 54%.<sup>12</sup>

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<sup>9</sup> Lawrence K. Marks (2015). [Submission to the 2015 Commission on Legislative, Judicial and Executive Compensation](#), p. 7.

<sup>10</sup> *Maron v. Silver*, *supra* note 5.

<sup>11</sup> The state Commission on Legislative, Judicial, & Executive Compensation approved a set of recommended pay raises for Supreme Court judges to nearly \$193,000 a year on April 1, 2016 that would be matched to those of federal district judges with likely salaries of about \$207,000 by 2018, depending on cost of living adjustments. <http://www.nydailynews.com/news/politics/panel-approves-big-pay-boosts-new-york-state-judges-article-1.2465861>

<sup>12</sup> Susan DeSantis (April 03, 2018). “[Salaries of NY State Supreme Court Justices Now on Par With Federal Court Judges](#)” in *New York Law Journal*. See also [SEEthroughNY, Payrolls](#). Branch/Major Category, State - Judicial. Supreme Court Judges: \$135,700 (2011); \$208,000 (2018) = 53.28%. Lower court judges: \$125,600 (2011); \$193,500 (2018) = 54.06%.

## 1.2 Judicial Support Staff Compensation

Currently, NYS salaries for court reporter (JG-24 and JG-27), senior court clerk (JG-21) and court officer (JG-19) are not only comparable to those of their federal counterparts but, in most cases, higher.<sup>13</sup> In contrast, **NYS court interpreters are paid about half of what their federal counterparts are compensated.**

TITLE	SALARY RANGE		NYS DIFFERENTIAL	
	NYS	Federal	Min Salary	Max Salary
Court Reporter	\$81,254 – \$131,923	\$91,511 – \$105,237	- 11%	+25%
Court Clerk	\$69,852 – \$99,057	\$49,297 – \$86,879	+42%	+14%
Court Officer	\$63,358 – \$90,160	\$75,961 <sup>14</sup>	- 17%	+19%
Court Interpreter	\$60,245 – \$85,886	\$120,580 – \$156,758	- 50%	- 45%

Table 1: Salary Comparison for Comparable State and Federal Positions

This stark disparity in compensation is not based on a valid assessment of the skills, knowledge, experience and qualifications actually required to provide this critical service in the judicial system. Moreover, given that other positions in the New York State Unified Court System are compensated in line with or above federal court compensation, the disparate treatment of court interpreters gives the appearance of singling out a class of employees. This presents a risk insofar as it has a discriminatory effect on court interpreters, most of whom are women and immigrants.

## 1.3 Federal Court Interpreter Compensation Benchmark

One of the key factors that drives the compensation of many job types is the degree to which the work is viewed to constitute a profession with standards of performance that must be demonstrated on a valid and reliable certification exam rooted in the profession’s documented knowledge, skills and abilities (KSAs). Court interpretation is a profession that has been evolving for almost four decades, maturing from a service sometimes viewed as a necessary evil to a profession on par with long-established professions such as court reporting. Many studies have

<sup>13</sup> Federal “locality” rates in the NY-NJ-CT-PA region for Court Reporter ([CR Level 1 – CR Level 4](#)); Court Clerk ([CL 25 – CL 26](#)); and Court Interpreter ([JSP 14](#)). NYS salaries include a \$4,200 “location” pay.

<sup>14</sup> Number based on what a federal security court officer, a private contractor, would make at \$36.52 an hour for 40 hours a week times 52 weeks.

shown how up through the early 1980s court interpreters were often viewed and treated as glorified clerical personnel who were asked to do a job that “any bilingual person” could perform — with a corresponding low compensation. There were few standards and the few that existed were not based on empirical studies of the actual KSAs that the job entails. There was very little professional training available in either academic or non-academic contexts and no strong professional associations of court interpreters to promote professionalism.<sup>15</sup>

That state of affairs began to end when, after Congress passed the Court Interpreters Act of 1978, the Administrative Office of the United States Courts (AOUSC) embarked on developing a certification exam based on a robust study of the KSAs of court interpretation in the federal trial courts. An interdisciplinary team of experts was assembled that traversed the country, conducting a thorough investigation of what judges and other legal professionals expected a competent interpreter to do, and then developed a certification process that would yield professionals who have demonstrated the ability to perform those KSAs.<sup>16</sup>

The impact of the development of the Federal court interpreter certification exam had a significant impact on compensation. The best summary is provided by González et al.:

In sum, the impact federal certification had on the professional status of court interpreters in an area that traditionally had been highly resistant to change was remarkable. The Government Service (GS) level of court interpreters prior to 1978 was 5 to 7, which translated to approximately \$10,000 to \$14,000 per annum. This pay level doubled after implementation of Public Law 95-539, when the starting salary for certified staff interpreters was elevated to GS 10, or \$26,261 to \$34,136 per year. An additional pay rate was instituted in 1985, which significantly increased both daily contractor rates — from \$175 to \$210 per day — and staff rates — to an entry level of GS 10 to 13. In 2000, the daily contractor pay rate was raised to \$305 per day, while the staff rates increased to an entry level of JSP 11 to 14, or \$57,408 to \$125,695 per year. In 2010, daily contractor rates were at an all time high of \$388 per day..., but staff starting pay remained in JSP 11 to 14 range.... Clearly, the value of the linguistic and interpreting skills for federal interpreters has increased tremendously over time.<sup>17</sup>

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<sup>15</sup> To see the level of professionalism in one nearby state in the early 1980s, see the final report of the New Jersey Supreme Court Task Force on Interpreter and Translation Services, *EQUAL ACCESS TO THE COURTS FOR LINGUISTIC MINORITIES*. Trenton: Administrative Office of the Courts, 1985, especially pp. 82ff. and background reports 3, 7-9, 12, 15, 16 and 22. For a historical overview, see Chapter 4, “The Profession of Court Interpretation,” in Roseann Dueñas González, Victoria E. Vásquez and Holly Mikkelson, *FUNDAMENTALS OF COURT INTERPRETATION: THEORY, POLICY, AND PRACTICE*. Second edition. Durham: Carolina Academic Press, 2012.

<sup>16</sup> Detailed descriptions of this massive endeavor are available in Etilvia Arjona, “The Court Interpreters Test Design,” in L. Elías-Olivares, E.A. Leone, R. Cisneros and J.R. Gutiérrez, eds. *SPANISH LANGUAGE USE AND PUBLIC LIFE IN THE UNITED STATES*. Berlin: Mouton de Gruyter, 1985. pp. 185-200; Chapter 46, “Federal Certification,” in González et al., *supra*; and Seltzer v. Foley, 502 F. Supp. 600 (S.D. NY 1980).

<sup>17</sup> Roseann Dueñas González, Victoria Vásquez, and Holly Mikkelson (2012). *Fundamentals of Court Interpretation: Theory, Policy and Practice*, 2<sup>nd</sup> ed., p. 173. Durham, N.C.: Carolina Academic Press.

In 2008, the Judicial Conference of the United States (the national policy-making body for the federal courts) adopted the following policy as recommended by its Committee on Judicial Resources:

Noting that staff court interpreter positions are highly specialized and present unique challenges for fitting into the new CPS salary progression policy due to the difficulties in making meaningful distinctions on the fundamental elements of the interpreters' work, the Committee recommended that the Conference approve the conversion of the staff court interpreter position from the CPS to the JSP, effective October 13, 2008. It also recommended the creation of a JSP landmark standard with a target grade of JSP-14 for all staff court interpreter positions and the establishment of a grade JSP-15 for supervisory court interpreter positions. The Conference adopted the Committee's recommendations.<sup>18</sup>

Recent postings of job vacancies in the United States District Courts state that the salary range for the court interpreter position is JSP 11-14. However, **a study published in 2016<sup>19</sup> found that federal district courts in the New York/New Jersey region hire court interpreters at the JSP-14 level because this is the entry-level position consistent with the Judicial Conference's policy.**

There are two lessons to draw from the Federal experience. First, court interpretation is a very sophisticated profession requiring a very high level of KSAs. Second, an exam that adequately measures the profession's KSAs commands compensation commensurate to that level of professionalism.

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<sup>18</sup> [Report of the Proceedings of the Judicial Conference of the United States](#). September 16, 2008, p. 26.

<sup>19</sup> Robert Joe Lee and Francis W. Hoeber (Winter 2016). "Interpreter Compensation in the Courts: A Descriptive Study," in 31 COURT MANAGER 10. (The data for this finding are reported in [Chapter Two of the United States Court Interpretation Database](#).)



## 2. COURT INTERPRETER TO COURT REPORTER COMPARISON

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At first glance, a comparison of these two job titles would suggest that the work of the court reporter is more challenging and requires a greater range of KSAs than the work of court interpreter. However, this report will make the case that the profession of court interpreting actually entails a higher level of KSAs than the profession of court reporting.

A court reporter transcribes verbatim,<sup>20</sup> i.e., captures and converts the spoken word into written text.<sup>21</sup> A court interpreter interprets from one spoken or signed language into another language. Both jobs require actions of language conversion and share the words “translate” and “interpret.”<sup>22</sup> Obtaining and maintaining a good “personal dictionary” is an ongoing process for court reporters<sup>23</sup> in order to define how each stroke on the stenotype machine should be translated.<sup>24</sup> Similarly, dictionaries are essential tools of the trade for interpreters, allowing them to create “personal glossaries” which help improve their terminological repertoire. The work is so closely related that the internet job and career site, CollegeGrad, lists interpreter and translator as careers related to the one of court reporter.<sup>25</sup>

Though these jobs are similar in nature, it takes longer for court interpreters to reach required performance levels due, in part, to second language acquisition (see 3.4.3). Interpreting is also more demanding at the cognitive level due to the difference between the phonetic-bound translation performed by court reporters as compared with the culture-bound translation performed by court interpreters.

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<sup>20</sup> Open-Competitive Examination Announcement for Court Reporters: Examination Number 45–796. Office of Court Administration of the New York State Unified Court System.

<sup>21</sup> [Mission statement](#). National Court Reporters Association. Accessed on September 6, 2018.

<sup>22</sup> *Merriam-Webster's Dictionary*. **translate translated; translating** transitive verb.

1 a: to turn into one's own or another language

b: to transfer or turn from one set of symbols into another : transcribe ...

2 a: to bear, remove, or change from one place, state, form, or appearance to another : TRANSFER, TRANSFORM //translate ideas into action ....

See, e.g., CourtReporterEDU.org in [Real-Time Reporting Explained](#) (use of “translate”). See also Court Reporting Schools Online. [Software for Court Reporters](#) (use of “translate”). See also National Court Reporters Association Communication Access Realtime Translation Community of Interest in [The CART Provider's Manual](#) (use of “interpreting service”).

<sup>23</sup> Linda L. Taylor. [Personal Dictionary Building a Must for Busy Court Reporters](#). Taylor Kentucky Court Reporters Blog.

<sup>24</sup> [Software for Court Reporters](#). Court Reporting Schools Online.

<sup>25</sup> CollegeGrad. [Court Reporters Career, Salary and Education Information](#).

## 2.1 Phonetic- Versus Culture-Bound Translation

A court reporter engages in a number of complex listening and comprehension tasks in order to turn spoken source messages into a written record.<sup>26</sup> The phonetic based shorthand court reporters use allows for a word for word conversion of the spoken message into keystrokes. A court interpreter, on the other hand, must listen, comprehend, conceptualize the meaning of the message, store the ideas into memory, and then set about searching for conceptual and semantic matches to reconstruct the message in another language, all this within the cultural and linguistic constraints and operating rules of that target language,<sup>27</sup> and then speak or sign the interpretation into another language. Simultaneous interpreting performed by court interpreters is a linguistic task that involves high-level linguistic processing (i.e., phonetic but also semantic, syntactic and prosodic) and extensively taps cognitive control mechanisms that are not specifically linguistic in nature.<sup>28</sup> The above analysis as well as the science on linguistic processing indicate that court interpreting is a more demanding profession than court reporting.

## 2.2 Knowledge, Skills and Abilities (KSAs)

The job specifications as well as the actual duties of court reporter and court interpreter share many of the same or similar knowledge, skills, and abilities (KSAs). Despite this, the specification for court reporters includes several KSAs that also apply to the work performed by court interpreters but do not appear in the court interpreter job title, for example:

- knowledge of legal terminology and legal reference materials,
- knowledge of judicial procedures and court policies,
- knowledge of medical and technical terminology and reference sources; and
- ability to adapt to different accents, manners of speaking, and to record slang or idiomatic expressions.

Whereas the KSAs are similar, court interpreters working in two languages and across two cultures require a more complex set of KSAs. For a more in-depth analysis between the court reporter and the court interpreter KSAs, see Appendix 7.

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<sup>26</sup> Anne Graffam Walker. (1987). "Court Reporters are Interpreters Too." Paper presented to Colloquium on Issues in Court Interpretation, Montclair State College, Montclair, NJ, July 24-26, 1987.

<sup>27</sup> Roseann Dueñas Gonzáles, Victoria Vásquez, and Holly Mikkelson (1991). *Fundamentals of court interpretation: Theory, policy and practice*, p. 23. Durham, N.C.: Carolina Academic Press.

<sup>28</sup> Hervais-Adelman, Alexis, Barbara Moser-Mercer, Micah M. Murray, Narly Golestani (2017). [Cortical thickness increases after simultaneous interpretation training](#). *Neuropsychologia* 98, pp. 212–219.

## 2.3 Qualifications and Testing

Both court reporter (JG-24) and court interpreter (JG-18) job titles include the requirement of a high school diploma or the equivalent. In addition, the court interpreter qualification provides an alternative to the high school diploma: an equivalent combination of education and experience or tested proficiency in English and another language.

In contrast, both court reporter job titles (non-supervisory) require experience or experience and training:

- **Court Reporter (JG-24):** “...three (3) years of general verbatim reporting experience or, graduation from a formal program in court reporting and two (2) years of general verbatim reporting experience.”
- **Senior Court Reporter (JG-27):** “One [1] year of permanent competitive class service as a court reporter; or Four [4] years of recent general verbatim reporting experience; or Successful completion of a program in general verbatim reporting from a recognized school and three (3) years of satisfactory full-time experience in general verbatim reporting.”

Since high school students do not acquire the ability to do stenographic reporting, it makes perfect sense to include a formal program and/or experience requirement for court reporters. The same holds true for court interpreters since high school graduates have surely not developed the requisite KSAs either. The findings of this report make evident how inadequate the high school qualification is for the profession of court interpretation.

The JG-24 court reporter title and the JG-18 court interpreter title do not state that passing a performance test administered by the New York State Unified Court System, or any other entity, is a required qualification. The senior court reporter title (JG-27) mentions a one-year “competitive class” qualification (passing the civil service exam), but it allows the appointment for such position without that as long as the appointee has four years of “verbatim reporting experience” instead.

In conclusion, the single most important qualification that both court reporters and court interpreters must have — passing their respective civil service exams (or the equivalent) — does not appear in either the JG-18 court interpreter title or the JG-24 court reporter title. Since current hiring practices require candidates for both professions to take and pass exams with two parts (knowledge plus performance), the respective job titles are incomplete and should be revised.

How do candidates for the two professions actually perform on the NYS UCS’s civil service exams? About half (55%) of JG-24 court reporting candidates pass<sup>29</sup> whereas Spanish court

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<sup>29</sup> New York State Unified Court System (2017). Court Reporter – Exam No. 45-796.

interpreters pass at the much lower rate of 10%.<sup>30</sup> What conclusions can be drawn by comparing the scores of the two groups? This considerable difference in passing rates is yet another indicator that court interpreting is a more challenging profession than court reporting.

## 2.4 Compensation

The New York State Unified Court System has set the maximum compensation levels for the court reporter titles (JG 24-27) consistent with federal compensation and recognizing the KSAs required for the job, though the entry level salary still lags behind its federal counterpart.

Federal court compensation for court interpreters is set significantly higher than for court reporters.<sup>31</sup> In contrast, the New York State Unified Court System compensates interpreters much less than reporters.<sup>32</sup>

		Salary Range		Interpreter Salary Difference	
		Min	Max	Min	Max
Federal	Interpreter	\$120,580	\$156,758	+32%	+49%
	Reporter	\$91,511	\$105,237		
New York State	Interpreter	\$60,245	\$85,886	- 26%	- 35%
	Reporter	\$81,254	\$131,923 <sup>33</sup>		

Table 2: Salary Comparison for Comparable State and Federal Positions

<sup>30</sup> New York State Unified Court System (2016). Court Interpreter (Spanish) – Exam No. 45-788.

<sup>31</sup> *Supra* note 13.

<sup>32</sup> *Id.*

<sup>33</sup> Combined range of JG-24 and JG-27 court reporter titles.

### 3. THE JOB OF COURT INTERPRETER AND CURRENT NYS JOB TITLE

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New York State's current court interpreter title was issued in 1986 and slightly amended in 1994. Even though the New York State Unified Court System has made much progress since then to expand and improve language access,<sup>34</sup> the basic content of the NYS court interpreter job title has not been updated in thirty-three years. The current job title does not reflect the consensus of scholarship and practice in the field over all those years, leaving New York's court interpreter title outdated and inadequate. This section of the report covers issues not addressed in Section 2 above, and further explains why the title does not adequately reflect the nature of the court interpreter's work.

#### 3.1 What Court Interpreters Do

To help the courts reach the goal of ensuring equal access to justice for all, court interpreters must possess native-like mastery in two languages as well as high level interpreting skills.<sup>35</sup> Court interpreters are required to accurately and faithfully reproduce what was spoken or signed in one language into another language without embellishment or omission, while preserving the language level and register of the speaker.<sup>36</sup>

In order to interpret accurately, interpreters must master both working languages' cultural context<sup>37</sup> and be able to prepare for specialized topics rapidly and routinely. To add to the complex nature of their job, interpreters must also know and use various forms of both working languages because they regularly work with a wide range of language users. Court interpreters interact with people with high levels of education and corresponding high levels of formal speech (e.g., judges, attorneys, and expert witnesses) as well as people with little to no formal education and corresponding highly informal ways of speaking.

To interpret for such a broad range of speakers, an interpreter must have an ample repertoire of vocabulary and be able to handle language that ranges from subject-specific terminology to colloquialisms, regionalisms and slang. Moreover, to ensure the public's trust in the judiciary, court interpreters are required to observe high standards of professional conduct.<sup>38</sup>

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<sup>34</sup> The New York State Unified Court System implemented a strategic plan in 2006 to ensure quality language access in the UCS and issued reports in 2011 and 2017 on the progress and continuing implementation of the plan.

<sup>35</sup> Romberger, Wanda and William E. Hewitt (2006). "Wanted: Career Paths for Court Interpreters," p. 80 in [Future Trends in State Courts](#). Williamsburg, Virginia: National Center for State Courts.

<sup>36</sup> New York State Unified Court System, *supra* note 6 at 7.

<sup>37</sup> [Interpreting: Getting it Right](#). American Translators Association. Accessed on October 23, 2018; United States Courts. [Court Administration and Services Careers](#).

<sup>38</sup> New York State Unified Court System, *supra* note 6 at Appendix A.

## 3.2 Court Interpreter Knowledge, Skills and Abilities (KSAs)

The highly complex work of court interpreters requires the appropriate knowledge, skills and abilities to perform at the standards set by the UCS to ensure language access. There has been significant movement to describe the traits of a competent court interpreter and the nature of the job since the title was issued in 1986 (qualifications and KSAs remain unchanged in the 1994 version). Other courts around the country have made significant inroads to identify the traits of a competent court interpreter. The federal courts recognize that the KSAs required of a court interpreter are highly complex.<sup>39</sup> The National Center for State Courts published the results of a nationwide assessment of court interpreting that took a comprehensive view of the profession, including a chapter entitled “Job Analysis and Position Descriptions for Professional Court Interpreters,” in 1995.<sup>40</sup> A study of California’s court interpreter certification exam conducted in 2007 identified a broad range of KSAs essential to court interpretation. The California Judicial Council applied the same KSAs in 2010 to evaluate the National Center for State Court’s certification exam (see Appendix 5 for full list).<sup>41</sup>

Court interpreting is a developing profession, and even these well-founded KSA’s do not include all aspects of the job. For example, the ability to exercise professional judgment in a wide range of scenarios to comply with ethics standards is underrepresented. The Language Services Program manager for New Jersey’s Administrative Office of the Courts recommended augmenting the California KSA’s with additional skills and abilities that are vital to the day-to-day work of a court interpreter. These include exercising situational control (knowing how to handle impediments to performing interpreting duties), switching back and forth among the modes of interpreting appropriately, employing note-taking techniques and working effectively in a team of interpreters, among others (see Appendix 6 for full list).<sup>42</sup>

## 3.3 Court Interpreter Testing

The New York State United Court System’s *Strategic Plan for Ensuring Language Access* acknowledges that “assessing qualifications to serve as a court interpreter is critical to achieving a successful language access program.”<sup>43</sup>

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<sup>39</sup> United States Courts. [Court Interpreter Knowledge, Skills and Abilities](#). [For a full list of the federal court interpreter KSAs, contact the Administrative Office of the U.S. Courts.]

<sup>40</sup> William E. Hewitt (1995). [Chapter 3](#) in *Court Interpretation: Model Guides for Policy and Practice in the State Courts*. Williamsburg, VA: National Center for State Courts.

<sup>41</sup> Judicial Council of California/Administrative Office of the Courts. (2007). *KSA’s Essential for Court Interpretation*. [See Appendix 5 of this report.] [Study of California’s Court Interpreter Certification and Registration Testing](#). Prepared by ALTA Language Services, Appendix 4 of *California’s Assessment of the Consortium for Language Access in the Courts’ Exams*: Judicial Council of California 2010 report by ALTA Language Services, Inc.

<sup>42</sup> New Jersey AOC, Language Services Section, Office of Management and Administrative Services. [Becoming an Arabic Court Interpreter](#), at Appendix A.

<sup>43</sup> New York State Unified Court System, *supra* note 3 at 11.

Courts increasingly recognize that interpreters who have not been properly tested and trained almost certainly will have trouble understanding or accurately conveying important information, including a broad range of legal terminology,<sup>44</sup> and untrained bilinguals are a major risk in an interpreted encounter.<sup>45</sup>

### 3.3.1 NYS Court Interpreter Testing

A 2017 report on progress implementing the strategic plan concludes, “enhanced testing and assessment of prospective interpreters, including development of oral examinations in additional languages” is among the achievements of the 2006 and 2011 strategic plans on language access.<sup>46</sup> The NYS UCS “has developed and administers a rigorous and comprehensive assessment program to evaluate the skills and qualifications of prospective interpreters.”<sup>47</sup>

### 3.3.2 Written and Oral Testing

A written English exam is a first step to qualify as a staff or per diem interpreter. The English proficiency exam is rigorous; typically 40% of candidates pass. Due to the high demand for Spanish and the number of Spanish staff interpreters hired, Spanish interpreters take a rigorous bilingual written exam.<sup>48</sup>

Candidates who are successful on the written exam are required to take an oral exam to assess an applicant’s ability to provide complete and accurate renditions going in both directions, between English and the other language, in three modes of interpreting: sight, consecutive, and simultaneous. Oral assessment examinations are required for all staff interpreter positions. Oral exams are given in 22 languages that account for eighty percent of the interpreting needs in the courts.<sup>49</sup> Interpreters for the deaf and hard of hearing must meet rigorous requirements of the

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<sup>44</sup> U.S. Department of Justice (2016). *Language Access in State Courts*, p. 8. Civil Rights Division, Federal Coordination and Compliance Section.

<sup>45</sup> American Translators Association. [Interpreting: Getting it Right](#).

<sup>46</sup> New York State Unified Court System, *supra* note 3 at 2.

<sup>47</sup> New York State Unified Court System, *supra* note 3 at 6.

<sup>48</sup> *Id.* at 6. (“There is a different process for testing and hiring of staff Spanish court interpreters. In light of the high demand for Spanish and the number of Spanish staff interpreters hired, the UCS has developed a competitive civil service examination. The two-part examination first requires candidates to pass a three-hour, multiple-choice test of their bilingual skills, probing candidates’ grammar, vocabulary, word usage, sentence structure and reading comprehension, in both Spanish and English. The written test also assesses candidates’ ability to translate from English to Spanish and Spanish to English. Candidates who pass this written examination qualify to take a one-hour oral examination, which includes viewing a video and interpreting everything spoken in Spanish to English and from English to Spanish, in simultaneous and consecutive modes. Final grades are based on performance on both the written and oral components of the examination, and candidates are ranked and selected for employment from an eligible list in compliance with state civil service law and rules.”)

<sup>49</sup> Albanian, Arabic, Bengali, Bosnian/Croatian/Serbian, Cantonese, French, Greek, Haitian Creole, Hebrew, Hindi, Italian, Japanese, Korean, Mandarin, Polish, Portuguese, Punjabi, Russian, Spanish, Urdu, Vietnamese, and Wolof

Registry of Interpreters for the Deaf, Inc. (RID) the Chief Judge's recognized credentialing authority. Interpreters holding this credential may be placed on the NYS Registry of per diem court interpreters.

### 3.3.3 Test Outcomes

Many people believe that interpreting can be performed by almost anyone who is bilingual. The word "bilingual" covers a wide range of communicative competence. At one end is the person who has total mastery of two languages as a native speaker with high levels of formal education in both languages. At the other end of the spectrum is the person who, while a "native speaker" of one language, has used that language only in informal situations such as family and work contexts and has completed limited formal education in that language, and is at an early stage of acquiring a second language.

Professional interpreters are bilingual at the top end of that range both in terms of language usage and level of education. This is illustrated by two facts. First, university interpreting programs test applicants' language mastery in both languages since, without this foundation, there is no basis for teaching or learning interpreting skills. Second, all available statistics for court interpreting certification exams consistently show a high failure rate. One of the reasons for this is that anyone may take the tests. This open-access policy has been deemed essential due to the widespread lack of sufficient numbers of certified interpreters and the fear of using some educational or other prerequisite that might result in some false negatives, i.e., persons who could pass the test but that would be screened out by such prerequisites for which there is no empirical data to indicate their validity.

Just what are those failure rates? Here are the available data.



JURISDICTION	SAMPLE	FAILURE RATE
Administrative Office of the United States Courts	Haitian Creole exam, 1990-1992 (administration suspended in 1993); N=339	96%
	Navajo exam, 1990-1992 (administration suspended in 1993); N=104 <sup>50</sup>	91%
	Spanish exam, 1980-1999 (written test + performance test); N=18,351 <sup>51</sup>	95%
	Spanish exam, 2001-2009 (written test + performance test); N=4,686 <sup>52</sup>	92%
Consortium <sup>53</sup>	Spanish exam: all states that had used the test (performance test only); N=5,916; 1995-March 2010 <sup>54</sup>	82%
New Jersey <sup>55</sup>	Spanish exam only, (performance test only); N=2,630; Nov. 1987-Dec. 2016	88%
	All languages other than Spanish (performance test only); N=1,055; Nov. 1987-Dec. 2016 <sup>56</sup>	87%
New York State	Spanish exam, (written test + performance test); N=1,075; Jul. 2015 <sup>57</sup>	90%

Table 3: Failure Rates for Court Interpreter Exams

It should be noted that the cut score on the oral performance test for the Federal exams is 10 points higher, 80% versus 70%, than the state court exams.

## 3.4 Other Factors Relevant to Title Reclassification and Reallocation

### 3.4.1 Court Interpreter Classification as Professional

Courts across the United States have recognized that interpreters are “skilled professionals.” The National Center for State Courts states that “interpreters are highly skilled professionals” who fulfill an essential role in the administration of justice.<sup>58</sup> The Administrative Office of the

<sup>50</sup> Court Interpreting Research. [Testing Statistics for AOUSC and Washington](#).

<sup>51</sup> González et al., *supra* note 16 at 1170-1171.

<sup>52</sup> *Id.* at 1172.

<sup>53</sup> “Consortium” refers to the Consortium for State Court Interpreter Certification, which was founded as a collaborative endeavor by four states, facilitated by the National Center, in 1995. The goal was to share resources so a bank of tests could be developed for state judiciaries to use to certify court interpreters. The Consortium itself was dissolved in April 2012, but the testing program developed under the Consortium was reconstituted under a newly created Language Access Services Section at the National Center. <https://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access.aspx>.

<sup>54</sup> Melissa Wallace (2012). Predictors of Successful Performance on U.S. Consortium Court Interpreter Certification Exams, p. 234. Ph.D. Dissertation, Universidad de Alicante.

<sup>55</sup> New Jersey Courts. [Results of New Jersey’s Court Interpreter Screening Tests, November 1987-December 2016](#).

<sup>56</sup> *Id.* New Jersey tests in 18 languages other than Spanish.

<sup>57</sup> New York State Unified Court System, *supra* note 29.

<sup>58</sup> William E. Hewitt (1995). [Chapter 9, “Model Code of Professional Responsibility for Interpreters in the Judiciary,”](#) p. 199, in *Court Interpretation: Model Guides for Policy and Practice in the State Courts*. Williamsburg, VA: National Center for State Courts.

United States Courts holds that federally certified court interpreters are “highly skilled professionals” who bring to the judicial process specialized language skills.<sup>59</sup> Considering the difficulty of court interpretation, the Virginia Court System maintains that a qualified court interpreter is therefore “a highly skilled, impartial language professional.”<sup>60</sup>

The Equal Employment Opportunity Commission has classified the job of interpreter as “professional” just as with the jobs of judge, lawyer and doctor.<sup>61</sup> The American Bar Association holds that the delivery of appropriate language-access services in legal proceedings depends upon the provision of competent and well-trained “professional” interpreters.<sup>62</sup> ASTM International, a recognized leader in setting private industry and government standards, also designates language interpreting as a “professional activity.”<sup>63</sup>

### 3.4.2 Education

Since court interpreters must be “equipped to understand the grammatically and syntactically complex language of the court — 14<sup>th</sup> to 18<sup>th</sup> grade level (González, 1977) — and produce a meaningful legally equivalent interpretation with grammatical, structural, semantic, and pragmatic accuracy,”<sup>64</sup> it is unreasonable to expect that a high school graduate with no college education will be up to the task. Empirical data from the field shows that 86% of NYS staff court interpreters surveyed held degrees in higher education.<sup>65</sup>

A study by InterpretAmerica demonstrated that the vast majority of North-American interpreters are college-educated, with 79% holding a bachelor’s degree or higher.<sup>66</sup> A survey conducted by the Interpreters Division of the American Translators Association found 97% of its interpreters hold a college and/or a professional degree.<sup>67</sup>

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<sup>59</sup> Administrative Office of the United States Courts, Court Services Office (2014). [Federal Court Interpreter Orientation Manual and Glossary](#), Appendix 3: Court Interpreter Ethics and Protocol.

<sup>60</sup> Virginia Court System. *Serving Non-English Speakers in the Virginia Court System: Guidelines for Policy and Best Practice*, p. 3-2.

<sup>61</sup> U.S. Equal Employment Opportunity Commission. [EEO-1 Job Classification Guide 2010](#).

<sup>62</sup> American Bar Association (2012). [Standards for Language Access in Courts](#).

<sup>63</sup> ASTM International. *4.3 Characteristics of Interpreting*. [Standard Practice for Language Interpreting](#).

<sup>64</sup> Dueñas González et al., *supra* note 16 at 21.

<sup>65</sup> Court Interpreter Chapter, Local 1070/AFSCME DC 37 (Feb., 2018). “Interpreter Survey.” Questionnaire (N=70: HS diploma, 10; associate’s degree, 7; bachelor’s degree, 35; master’s degree, 14; juris doctor degree, 3; PhD, 1).

<sup>66</sup> Nataly Kelly, Robert G. Stewart, and Vijayalaxmi Hegde. (2010). [The Interpreting Marketplace: A Study of Interpreting in North America](#). InterpretAmerica. (N=1,140.)

<sup>67</sup> ATA Interpreters Division (May, 2015). [ATA Interpreters Division Report to ATA Board of Directors: Survey Results, Conclusions and Recommendations](#). (N=536: 34% of its interpreters hold an associate’s and/or bachelor’s degree while 63% have a master’s and/or doctorate and/or professional degree.)

### 3.4.3 Second Language Acquisition

The Office of Court Administration neither fully recognizes nor quantifies what goes into the acquisition of a second language as a qualification for the court interpreter title. In order to succeed on a court interpreter exam, however, a person must already have acquired knowledge, practice and a combination of education and experience in a second language to develop the requisite proficiency level “equivalent to that of a native speaker,” as required under the NYS court interpreter title.

Many people who have taken four years of foreign-language courses cannot carry on a conversation in that language. Research in the field of second language acquisition shows that even students enrolled in immersion programs still produce non-native-like grammar when they speak, even after years of meaning-focused lessons in the second language.<sup>68</sup>

Experts agree that advanced fluency in a second language requires years of immersion.<sup>69</sup> Stephen Krashen, one of the foremost scholars on second language acquisition (SLA),<sup>70</sup> divides the process of SLA into five stages: preproduction, early production, speech emergence, intermediate fluency, and advanced fluency.<sup>71</sup> The final stage is typically reached after between five and ten years of learning the language at a level “close to native speakers,”<sup>72</sup> or 7.5 years on average. However, reaching the “advanced fluency” stage does not necessarily meet the criterion of “native-like mastery” required to pass court interpreter exams and provide accurate interpreting in the legal setting. One can deduce, then, that developing native-like mastery in a second language requires a minimum of 7-10 years of immersion and practice in a second language.

## 3.5 Deficiencies in Current Title

Here are some examples of the ways the NYS title does not sufficiently account for the nature of the work of the court interpreter because they are not addressed at all:

- Research and preparation that is key to achieving standards of accuracy and competence that the code of professional conduct requires for interpreting in court proceedings.

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<sup>68</sup> Merrill Swain (1991). “French immersion and its offshoots: Getting two for one”. In Freed, Barbara. *Foreign language acquisition research and the classroom*. Lexington, MA: Heath. pp. 91–103.

<sup>69</sup> Language immersion, or simply immersion, is a technique used in bilingual language education in which a native language and a second language are used for instruction in a variety of topics, including math, science, or social studies with the overall goal of promoting bilingualism and, in many cases, biculturalism.

<sup>70</sup> Stephen Krashen (University of Southern California) is an expert in the field of linguistics, specializing in theories of language acquisition and development.

<sup>71</sup> The Room 241 Team (2012). [Five Stages of Second Language Acquisition](#). Concordia University-Portland.

<sup>72</sup> Judie Haynes (2007). *Getting Started With English Language Learners: How Educators Can Meet the Challenge*. Alexandria, VA: Association for Supervision and Curriculum Development.

- Hazards and risks related to employment. These include well-documented factors that can affect the quality and accuracy of the interpreter’s performance: fatigue,<sup>73</sup> burnout,<sup>74</sup> depression<sup>75</sup> and vicarious trauma.<sup>76</sup> Working in close proximity with inmates, interpreting in stressful and high conflict situations, and interpreting related to trauma experienced by victims, witnesses and litigants in the UCS are features of the job that court interpreters regularly encounter and that need to be more fully considered in the training, classification and allocation for this job title.

Here are some examples of the current provisions in the court reporter title that need to be augmented or revised in the court interpreter title (see Appendix 7 for more details):

- Knowledge of legal terminology and legal reference materials would have to be augmented to two languages — each with its own legal culture. Familiarity with statutes, case law and legal scholarship from the source-language country as well as the target-language country is essential for court interpreters to understand the legal concepts behind the terms in order to interpret them faithfully and accurately. For example, “burglary” is a common-law crime not found in the civil-law countries. A layperson usually conceives of burglary as a theft crime. However, court interpreters must know that burglary is a trespassing crime in order to interpret the term correctly. Inversely, when going from Spanish into English, for example, the crime of *violación de domicilio* should not be translated literally, “violation of domicile,” but within the framework of American laws which have termed the crime as “criminal trespass.”
- The term “verbatim” is not applicable to court interpreting and reflects a fundamental misunderstanding of the work.<sup>77</sup> Use of this term in the court interpreter job title is

<sup>73</sup> Barbara Babbini Brasel (1976). *The Effects of Fatigue on the Competence of Interpreters for the Deaf* (after 30 minutes there is a slow but steady increase in error rate and after 60 minutes this increase becomes significant). See also Barbara Moser-Mercer (1998), [Prolonged turns in interpreting: Effects on quality, physiological and psychological stress](#) (provided evidence that prolonged turns lasting longer than 30 minutes have negative effects on the quality of an interpreter’s output and on his attitude towards the task).

<sup>74</sup> Hans Zeier (1998). [Psychophysiological stress research](#). Interpreting (analogous to a study on burnout behavior of some air-traffic controllers, mental overload in simultaneous interpreting may change the attitude to the job. It is less seriously taken, a certain carelessness occurs). See also Jorma Tommola and Jukka Hyönä (1990). [Mental load in listening, speech shadowing and simultaneous interpreting: A pupillometric study](#) (measured the variations in cognitive load during simultaneous interpreting and two other language processing tasks, listening and shadowing, by means of pupillometry and found that SI was associated with the highest dilation levels, associated with increased processing in the brain).

<sup>75</sup> Jin Ying (2008). [The Conceptual Mapping Model in Consecutive Interpreting Teaching](#) in *Learning Theories and Practice in Translation Studies* (“If the challenges caused by cognitive overload cannot be solved promptly, the interpreter can become increasingly anxious and depressed, which can strongly affect the quality of his/her performance,” p. 4).

<sup>76</sup> Miranda Lai and Sedat Mulayim (2015). [Vicarious Trauma Among Interpreters](#) (21.36% reported that the emotional distress was so severe it reduced the perceived quality of their onsite interpreting performance).

<sup>77</sup> “Verbatim” is defined as “word for word” or “literally”. Court interpreters are trained to interpret meaning, not words. Factors including grammar, syntax, word order and idiomatic meaning, among others, make the term

inappropriate and conflicts with the UCS's Court Interpreter Manual and Code of Ethics which requires court interpreters to interpret "faithfully and accurately."<sup>78</sup>

And here are some examples of provisions that may need to be reconsidered:

- Oversight of per diem interpreters, translation work, and language proficiency evaluation are additional duties of the classification that require review and may warrant revision, removal or increased training and compensation.
- The current practice of assigning a combination of clerical and interpreting duties to this classification warrants review, taking into account impacts on job performance in both areas, considering the complex cognitive processing demands involved in simultaneous and consecutive interpretation of court proceedings.<sup>79</sup>

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"verbatim interpreting" an oxymoron. See Holly Mikkelson (1999). [Verbatim Interpretation: an Oxymoron](#). Acebo. Also see William E. Hewitt, *supra* note 57 at 200.

<sup>78</sup> New York State Unified Court System, *supra* note 6.

<sup>79</sup> Babbini Brasel, *supra* note 71. (Research shows reduced performance on clerical duties after 30 minutes of sustained interpreting: decreased typing speed; increased typing error rate; and deterioration in other functions and performance including short-term memory recall and accurate transfer of numbers.)

## 4. CONCLUSION AND RECOMMENDATIONS

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Providing the services of professional interpreters goes to the core values of the New York State Unified Court System (UCS) — fairness, equal justice, unfettered access, and public confidence and trust in the judiciary.<sup>80</sup> The federal courts and many state courts, including New York, have made significant progress over the past forty years in developing testing standards and policies to improve the quality of language access.

The court interpreter title in New York State has had the same qualifications and KSAs since 1986, however, and does not accurately reflect the nature of the work or improvements in standards. For example, although New York State court interpreters pass a rigorous exam, the job title does not include this important qualification or recognize the experience and preparation that go into developing native-like mastery of two languages and interpreting skills.

The current job specifications for this title also do not recognize the years of experience or training that go into second language acquisition, or that interpreters as a whole are a highly educated professional workforce.

The New York State Unified Court System applies a federal benchmark in setting compensation for the judiciary. Salaries for New York State’s court reporter, senior court clerk and court officer are not only comparable to their federal counterparts but, in most cases, higher. Court interpreter is the only one of these job titles in the New York State courts paid significantly less — **fifty percent less** — than its federal counterpart.

Discriminating against one group of individuals is against the fundamental principle of equal treatment exemplified in laws which seek to end discrimination.<sup>81</sup> The unequal treatment of court interpreters compared to other classes of employees in the New York State Unified Court System reveals a widespread lack of understanding of the complexity and demands of the court interpreter’s job. Disparate compensation policies have a discriminatory effect on employees in this job title, most of whom are female and immigrant, and warrant further consideration and investigation.

Establishing appropriate and equitable compensation for court interpreters is necessary to achieve language access goals through recruitment and retention of highly skilled and competent interpreters, to eliminate the appearance of discrimination based on language, a marker for national origin, and as a matter of fairness and equity.

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<sup>80</sup> New York State Unified Court System, *supra* note 7.

<sup>81</sup> American Bar Association, *supra* note 57 at 21.

## 4.1 Findings

- The current job description does not accurately describe the knowledge, skills and abilities candidates need to pass the qualifying exam and perform the job;
- Although testing is the primary requirement in place to ensure court interpreters have the language proficiency and interpreting skills required to do the work, the exam process described in this report is not included as a required qualification in the NYS UCS's court interpreter job title;
- Foundational language proficiency and skills typically acquired through a combination of education and experience prior to passing the court interpreter exam are not recognized in the job classification and salary grade.

## 4.2 Recommendations

- 1) The court interpreter job title should be reclassified. The distinguishing features and typical duties of the job should be reviewed and revised to account for peculiarities of the job and accurately reflect the work performed, including to determine whether all duties assigned to the classification are appropriate, accounted for and properly valued.
- 2) The court interpreter job title should be reallocated to a JG-31 salary grade (\$112,170-\$154,848) with an additional \$4,200/year in location pay.

## APPENDIX 1 NYS COURT INTERPRETER JOB TITLE (1986)

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3/11/86

### TITLE STANDARD

TITLE: COURT INTERPRETER Title Code Number: 9442701  
 Salary Grade: 16  
 Jurisdictional Classification: C

### DISTINGUISHING FEATURES OF WORK:

Court Interpreters are primarily responsible for translating between a foreign language and English in the courtroom and other settings. Court Interpreters may also perform clerical tasks such as filing or answering inquiries and other related duties.

### TYPICAL DUTIES:

Interprets verbatim a foreign language into English, and vice versa, in formal and informal settings.

Translates official, technical, medical and legal documents, certificates, letters and other written material, and tape recordings into English.

Assists non-English speaking persons in filling out forms and preparing complaints.

Performs clerical tasks such as indexing and filing court papers and answering routine inquiries from the public.

*The above statements are intended to describe the general nature and level of work being performed by persons assigned to this title. They do not include all job duties performed by employees in this title, and every position does not necessarily require these duties.*

### KNOWLEDGE, SKILLS, AND ABILITIES:

Knowledge of standard English and a foreign language including vocabulary, grammar and pronunciation, as well as street language or slang, equivalent to that of a native speaker of English and the foreign language.

Ability to accurately interpret oral exchanges from one language into another in both simultaneous and consecutive modes.

Ability to communicate effectively with persons of varying linguistic levels and different cultural backgrounds.

Ability to translate written documents.

Ability to read, write, and communicate verbally at a level equivalent to a twelfth grade education in English and a foreign language.



3/11/86

## COURT INTERPRETER (Cont'd)

Ability to understand and follow oral and written instructions.

## QUALIFICATIONS:

High school diploma or the equivalent;

or

An equivalent combination of education and experience.

Note: All candidates will be tested for bilingual ability in English and a foreign language. Examinations in this title will be given in foreign languages based on the needs of the courts. At present examinations are given only for Spanish-speaking Court Interpreters.

## APPENDIX 2 NYS COURT INTERPRETER JOB TITLE (1994)

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Page 1 of 2

**TITLE:** COURT INTERPRETER

**Effective Date:** 06/30/1994

**Title Code Number:** 9442707

**Salary Grade:** 18

**Jurisdictional Classification:** C

**DISTINGUISHING FEATURES OF WORK:**

Court Interpreters are primarily responsible for interpreting between English and another language in the courtroom and other settings. When court activity does not require interpreting services, Court Interpreters also may oversee per diem interpreting services, perform clerical tasks such as filing or answering inquiries, and other related duties.

**TYPICAL DUTIES:**

Interprets verbatim between English and another language in formal and informal settings.

Translates official, technical, medical and legal documents, certificates, letters and other written material, and audio recordings into English or another language.

Assists non-English speaking persons in filling out forms and preparing complaints.

Performs clerical tasks such as indexing and filing court papers and answering routine inquiries from the public.

May administer per diem interpreter proficiency tests, obtain per diem interpreting services and evaluate language proficiency.

*The above statements are intended to describe the general nature and level of work being performed by persons assigned to this title. They do not include all job duties performed by employees in this title, and every position does not necessarily require these duties.*

**KNOWLEDGE, SKILLS, AND ABILITIES:**

Knowledge of English and another language including vocabulary, grammar

and pronunciation, as well as street language or slang, equivalent to that of a native speaker of English and the other language.

Ability to accurately interpret oral exchanges from one language into another in both simultaneous and consecutive modes.

Ability to communicate effectively with persons of varying linguistic levels and different cultural backgrounds.

Ability to translate written documents.

Ability to read, write, and communicate verbally at a level equivalent to a twelfth grade education in English and another language.

Ability to understand and follow oral and written instructions.

#### **QUALIFICATIONS:**

High school diploma or the equivalent;

**or**

An equivalent combination of education and experience.

**or**

*Note: All candidates will be tested for proficiency in English and another language. Examinations in this title will be given in other languages based on the needs of the courts.*

## APPENDIX 3 NYS COURT REPORTER JOB TITLE

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Page 1 of 3

**TITLE: COURT REPORTER**

**Effective Date:** 12/01/1988  
**Title Code Number:** 9441501  
**Salary Grade:** 24  
**Jurisdictional Classification:** C

**DISTINGUISHING FEATURES OF WORK:**

Court Reporters are responsible for verbatim recording and transcribing testimony in formal and informal court settings, such as trials, conferences, calendar calls, arraignments and hearings. They also perform back office and courtroom clerical tasks such as processing forms related to case proceedings. Court Reporters may be assigned to work in other courts during emergencies or to record and transcribe administrative hearings. Court Reporters work in the Civil and Criminal Courts of the City of New York and in City, Family, District, Surrogate's, and County Courts.

**TYPICAL DUTIES:**

Records verbatim multi-voiced testimony at all hearings, trials, arraignments and other proceedings by use of a stenotype shorthand machine or manual shorthand notes for the purpose of making an accurate record.

Maintains, through stenographic notation, a record of all non-verbal incidents related to the courtroom proceedings, including: witnesses sworn; exhibits entered, and by which party; off the record discussions; type of testimony (Q & A, Direct, Cross Examination, Voir Dire, Jury Charge, etc.); identification of speakers; parties present; etc., in order to preserve a clear and complete description of the proceeding.

Reads back stenographic notes of prior testimony and colloquy at the direction of the judge in order to either refresh the memories of interested parties regarding factual or legal points or to restate questions to witnesses.

Marks and records exhibits introduced during proceedings.

Transcribes notes through the use of computer-aided transcription (CAT) and other methods for the purpose of producing transcripts.

Prepares transcripts in approved format and provides completed transcripts

promptly to interested parties and the court.

Maintains a listing of pending and completed case transcripts, submits status reports and answers inquiries regarding transcripts.

Files and maintains notes and completed transcripts.

*The above statements are intended to describe the general nature and level of work being performed by persons assigned to this title. They do not include all job duties performed by employees in this title, and every position does not necessarily require these duties.*

**KNOWLEDGE, SKILLS, AND ABILITIES:**

Knowledge of English grammar, spelling, and vocabulary.

Knowledge of the principles of shorthand writing.

Knowledge of legal terminology and legal reference materials.

Knowledge of judicial procedures and court policies regarding the marking of exhibits, rules of evidence, trial procedures, legal citations, and the confidentiality of records.

Knowledge of standardized transcript format and administrative rules regarding production standards and time requirements for such transcripts.

Knowledge of medical and technical terminology and reference sources.

Skill in using a shorthand system to record and transcribe multi-voiced verbatim testimony during legal proceedings at speeds averaging from 175 to 190 words per minute.

Skill in the operation of a stenotype shorthand machine.

Skill in typing at a rate of at least 35 words per minute.

Ability to utilize computer-aided transcription systems in the timely production of transcripts.

Ability to adapt to different accents, manners of speaking; and to record slang or idiomatic expressions.

Ability to accurately translate stenographic notes when reading aloud.

Ability to label and maintain notes according to court policies, and to produce neat and legible transcripts.

Ability to prepare correspondence and reports relating to requests for transcripts.

**QUALIFICATIONS:**

High School diploma or the equivalent and three (3) years of recent general verbatim reporting experience;

**or**

Completion of a course in court reporting and two (2) years of full-time general verbatim reporting experience.

## APPENDIX 4 NYS SENIOR COURT REPORTER JOB TITLE



UCS-23

EMPLOYMENT  
OPPORTUNITY  
ANNOUNCEMENT  
STATE OF NEW YORK  
UNIFIED COURT SYSTEM

**PLEASE POST**  
ANNOUNCEMENT NO. 6612

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**POSITION TITLE:** SENIOR COURT REPORTER **JG: 27**

**LOCATION:** 6<sup>th</sup> JUDICIAL DISTRICT

**BASE SALARY:** \$85,435

**CLASSIFICATION:** PROVISIONAL\*

**QUALIFICATIONS:** One year of permanent competitive class service as a Court Reporter; or four years of recent general verbatim reporting experience; or successful completion of a course in court reporting and three (3) years of full-time general verbatim reporting experience.

**\*Section 25.20 (a) Rules of the Chief Judge provides that an appointment may be made on a provisional/temporary basis provided there are no eligibles available for appointment from the existing eligible list. To be appointed on a permanent basis, you must take the civil service examination and be among the top three acceptors.**

**DISTINGUISHING FEATURES OF WORK:** Senior Court Reporters are responsible for verbatim recording and transcribing testimony in formal and informal court settings such as trials, conferences, calendar calls, arraignments, and hearings. Senior Court Reporters work in the Court of Claims, the Supreme Court, and those County Courts with 2 or more full-time County Court Judges or one full-time County Court Judge and combined annual filings of indictments and Supreme Court civil actions exceeding 650. They may also be assigned to record and transcribe administrative hearings or to work in other courts during emergencies or in a difficult or protracted proceeding. They may also perform courtroom clerical duties related to the matters before the court and back office clerical tasks and other related duties.

**ASSIGNMENT:** 6<sup>th</sup> Judicial District. Extensive travel may be required.

**GENERAL INFORMATION:** The above statements are intended to describe the general nature and level of work being performed by persons assigned to this title. They do not include all job duties performed by employees in the title, and every position does not necessarily require these duties. Although a position is available and situated at a specific location, the appointee may be subject to reassignment to any position in the same title in this promotion unit dependent upon the needs of the Unified Court System. All applications received from this announcement may be used to fill any vacancies in this title that may occur in this court or agency within the next six (6) months.

**ADDITIONAL INFORMATION:** Individuals who have either failed or withdrawn from a recent civil service examination for the title of Senior Court Reporter (Examination 55-787 or 45-787) administered in June 2015, or Court Reporter (Examination 45-786) administered in April 2015, or any provisional employee who was eligible to take this exam but chose not to will not be considered for this position. As part of the screening process for this position, candidates will be required to participate in a formal assessment of their verbatim recording and transcribing skills, including a read back from their stenographic notes.

**APPLICATION PROCEDURES:** All interested persons meeting the minimum qualifications are encouraged to submit a UCS-5 Application for Employment form (obtainable from any administrative office in a court building or on the web at [www.nycourts.gov/careers/UCS5.pdf](http://www.nycourts.gov/careers/UCS5.pdf)) and a resume by email to [6jdeployment@nycourts.gov](mailto:6jdeployment@nycourts.gov) or mail to:

Alanna Vroman  
Human Resources  
Sixth Judicial District Administrative Office  
The Kilmer Building  
31 Lewis Street, 5<sup>th</sup> Floor  
Binghamton, NY 13901

**APPLICANTS ARE ENCOURAGED TO COMPLETE THE EEO DATA COLLECTION FORM.**

**POSTING DATE:** August 5, 2016

**APPLICATIONS MUST BE POSTMARKED OR RECEIVED BY:** August 19, 2016

The New York State Unified Court System is an equal opportunity employer, and does not discriminate on the basis of race, color, religion, gender (including pregnancy and gender identity or expression), national origin, political affiliation, sexual orientation, marital status, disability, age, membership in an employee organization, parental status, military service, or other non-merit factor.

## APPENDIX 5 CALIFORNIA COURT INTERPRETER KSAs



**JUDICIAL COUNCIL  
OF CALIFORNIA**

COURT LANGUAGE ACCESS  
SUPPORT PROGRAM

### **Knowledge, Skills and Abilities Essential for Court Interpretation**

The following knowledge, skills and abilities (KSAs) essential for court interpretation are identified in: *Study of California's Court Interpreter Certification and Registration Testing* (2007) by ALTA Language Services, Inc. <http://www.courts.ca.gov/2686.htm>

**Linguistic skills:**

- 1A Native-like proficiency in all working languages;
- 1B Ability to think and react communicatively in all working languages;
- 1C Knowledge and use of a broad range of vocabulary, including legal terminology, subject-specific terminology, and slang; and
- 1D Knowledge and use of cultural nuances, regional variations, idiomatic expressions, and colloquialisms in all working languages.

**Speaking skills:**

- 2A Ability to speak with proper pronunciation, diction, and intonation in all working languages;
- 2B Ability to speak with a neutralized accent in all working languages; and
- 2C Ability to project and/or speak softly.

**Listening comprehension skills:**

- 3A Ability to listen to and comprehend different rates of speech in all working languages;
- 3B Ability to listen to and comprehend various regional accents and/or dialectical differences in all working languages; and
- 3C Ability to ignore auditory distractions and focus on source speaker.

**Reading comprehension skills:**

- 4A Ability to read and comprehend overall meaning and specific details of written text in all working languages;
- 4B Ability to read and recognize various written contexts, including formal and informal text, subject-specific vocabulary, idiomatic expressions, and colloquialisms; and
- 4C Ability to read quickly and with little preparation.

**Interpreting skills:**

- 5A Ability to concentrate and focus;
- 5B Ability to process linguistic information quickly;
- 5C Ability to make quick linguistic decisions regarding word choice or terminology selection;
- 5D Ability to apply short-term memory skills in retaining small units of information;
- 5E Ability to think analytically;



- 5F** Ability to utilize predictive thinking skills to anticipate incoming messages;
- 5G** Ability to convey meaning;
- 5H** Ability to provide transference from one language to another;
- 5I** Ability to preserve accuracy;
- 5J** Ability to select appropriate equivalent for vocabulary or phrases;
- 5K** Ability to conserve intent, tone, style, and utterances of all messages;
- 5L** Ability to reflect register; and
- 5M** Ability to self-monitor and self-correct.

**Behavioral skills:**

- 6A** Ability to practice and follow ethical standards;
- 6B** Ability to conduct business in a professional manner;
- 6C** Knowledge and awareness of cultural aspects that affect language;
- 6D** Ability to work in various settings, situations, or conditions;
- 6E** Ability to project self-confidence and self-awareness when interpreting; and
- 6F** Knowledge, and continued learning of social, technological, and legal changes that affect language.

## APPENDIX 6 NEW JERSEY COURT INTERPRETER KSAs

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### **KNOWLEDGE, SKILLS, AND ABILITIES (KSAs) FOR THE PROFESSION OF COURT INTERPRETATION**

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The following is a part of and must be read in conjunction with the Court Interpreting Test Results section of the [Overview For Examinees Taking the Court Interpreter Oral Exam \(Overview\)](#).

#### **What knowledge, skills, and abilities are needed to become a court interpreter?**

A helpful way to consider the knowledge, skills, and abilities (KSAs) of court interpreters is the comprehensive itemization issued in 2007 by a research report commissioned by the Judicial Council of California.<sup>1</sup> The KSAs they determined to be “essential for the performance of court interpretation” appear below.<sup>2</sup> Again, please ask yourself two questions about **each** KSA: (1) Do I currently have this KSA? (2) If not, what am I willing and able to do to obtain each of these KSAs?

#### **Linguistic Skills**

- Native-like proficiency in all working languages;
- Ability to think and react communicatively in all working languages;
- Knowledge and use of a broad range of vocabulary, including legal terminology, subject-specific terminology, and slang; and
- Knowledge and use of cultural nuances, regional variations, idiomatic expressions, and colloquialisms in all working languages.

#### **Speaking Skills**

- Ability to speak with proper pronunciation, diction, and intonation in all working languages;
- Ability to speak with a neutralized accent in all working languages; and
- Ability to project and/or speak softly.

#### **Listening Comprehension Skills**

- Ability to listen to and comprehend different rates of speech in all working languages;
- Ability to listen to and comprehend various regional accents and/or dialect differences in all working languages; and
- Ability to ignore auditory distractions and focus on source speaker.

#### **Reading Comprehension Skills**

- Ability to read and comprehend overall meaning and specific details of written text in all working languages.
- Ability to read and recognize various written contexts, including formal and informal text, subject-specific vocabulary, idiomatic expressions, and colloquialisms; and
- Ability to read quickly and with little preparation.

#### **Interpreting Skills**

- Ability to concentrate and focus;
- Ability to process linguistic information quickly;
- Ability to make quick linguistic decisions regarding word choice or terminology selection;
- Ability to apply short-term memory skills in retaining small units of information;
- Ability to think analytically;
- Ability to utilize predictive thinking skills to anticipate incoming messages;

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<sup>1</sup> *Study of California's Court Interpreter Certification and Registration Testing*, 2007.

<sup>2</sup> *Ibid.*, pp. 20-21.

**KNOWLEDGE, SKILLS, AND ABILITIES (KSAs)  
FOR THE PROFESSION OF COURT INTERPRETATION**

- 
- Ability to convey meaning;
  - Ability to provide transference from one language to another;
  - Ability to preserve accuracy;
  - Ability to select appropriate equivalents for vocabulary or phrases;
  - Ability to accommodate for lack of equivalents in vocabulary or phrases;
  - Ability to conserve intent, tone, style, and utterances of all messages;
  - Ability to reflect register; and
  - Ability to self-monitor and self-correct.

**Behavioral Skills**

- Ability to practice and follow ethical standards;
- Ability to conduct business in a professional manner;
- Knowledge and awareness of cultural aspects that affect language;
- Ability to work in various settings, situations, or conditions;
- Ability to project self-confidence and self-awareness when interpreting; and
- Knowledge and continued learning of social, technological, and legal changes that affect language.

In his comments on that report to the Judicial Council of California, Robert Joe Lee<sup>3</sup> identified several additional KSAs that you should also consider as vital to the day-to-day work of an Arabic court interpreter:

- Ability to exercise situational control appropriately (e.g., knowing how to handle impediments to performing court interpreting duties and having the fortitude to do so);
- Ability to switch back and forth among the various modes of interpretation appropriately;
- Ability to use note-taking techniques effectively to supplement short-term memory;
- Ability to work effectively and productively on a team of interpreters (teams of two or more interpreters are important if not essential in proceedings that last two hours or longer);
- Ability to prepare for assignments, including knowing when and how to request appropriate information;
- Ability to use equipment appropriately, especially simultaneous and telephone interpreting devices; and
- Ability to use professional judgment flowing from professional codes of conduct and conform one's practice to the interpreter's role and functions.

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<sup>3</sup> "Comments on the Study of California's Court Interpreter Certification and Registration Testing," December 14, 2007.

## APPENDIX 7 NEW YORK COURT INTERPRETER/REPORTER KSAs COMPARISON

This Appendix provides an in-depth comparison of the Knowledge, Skills and Abilities (KSAs) of the court reporter<sup>82</sup> and court interpreter<sup>83</sup> job titles issued by the NEW YORK STATE UNIFIED COURT SYSTEM. This analysis will show two things. First, it illustrates the many similarities between the two classes of employees that warrant their being viewed as very similar professions and that, while they are quite similar, a court interpreter must have KSAs above and beyond those of a court reporter. Second, it illustrates many of the ways the current title for interpreter needs to be updated in order to correspond to the actual nature of the work performed by court interpreters. The tables below present the actual KSAs of the respective job titles currently in force.

### Knowledge

UCS Knowledge Requirements for Reporters	UCS Knowledge Requirements for Interpreters
1. Knowledge of English grammar, spelling, and vocabulary.	1. Knowledge of English and another language including vocabulary, grammar and pronunciation, as well as street language or slang, equivalent to that of a native speaker of English and the other language.
2. Knowledge of the principles of shorthand writing.	
3. Knowledge of legal terminology and legal reference materials.	
4. Knowledge of judicial procedures and court policies regarding the marking of exhibits, rules of evidence, trial procedures, legal citations, and the confidentiality of records.	
5. Knowledge of standardized transcript format and administrative rules regarding production standards and time requirements for such transcripts.	
6. Knowledge of medical and technical terminology and reference sources.	

This side-by-side comparison of the UCS-established KSAs suggests that reporters have substantially more knowledge requirements than interpreters. However, upon closer inspection, there are several interpreter knowledge requirements that have been combined in a single statement in the interpreter job title. In addition, there are reporter knowledge requirements that ought to be required for the interpreter but are not, e.g., legal terminology and reference materials.

<sup>82</sup> New York State Unified Court System, Court Reporter Title; Code Number 9441501.

<sup>83</sup> New York State Unified Court System, Court Interpreter Title; Code Number 9442707.

## Reporter Knowledge Requirement (KR) 1

*Knowledge of English grammar, spelling and vocabulary.*

Reporter KR 1 applies to court interpreters — even spelling — which is substantiated in the next section.

## Interpreter Knowledge Requirement 1

*Knowledge of English and another language including vocabulary, grammar and pronunciation, as well as street language or slang, equivalent to that of a native speaker of English and the other language.*

If KR 1 for reporters is properly classified, then KR 1 for interpreters should follow suit and be split up into additional KRs to account for the broad knowledge needed to provide the levels of accuracy and completeness required of interpreters by the New York State Unified Court System as the following:

1. Knowledge of English vocabulary, spelling, grammar and pronunciation.
2. Knowledge of vocabulary, spelling, grammar and pronunciation in another language.
3. Knowledge of colloquialisms and slang, equivalent to that of a native speaker of English.
4. Knowledge of colloquialisms and slang, equivalent to that of a native speaker of another language.
5. Knowledge of regional variations in English.
6. Knowledge of regional variations in another language.

Spelling should be added since one of the UCS-established KSAs in the interpreter title is the “ability to translate written documents.” Moreover, interpreters are better acquainted with the spelling of names, words and places from other countries, which is often required for the court’s records.

Knowledge of slang and colloquialisms in another language should be a separate category since languages have their own cultural influences. For example, a slang usage of the word “bad” in English means “good.” An interpreter must have this type of knowledge for a wide range of slang and colloquialisms in each language the interpreter works with in order to provide accurate interpretations.

Regional variations in English alone can differ from one country to another — e.g., girl = chick (U.S.), bird (U.K.), sheila (Australia) — and from one region, within a country, to another, e.g., in the U.S. “soda” is used on the east coast, “pop” is used on the west coast. Additional languages present additional knowledge requirements. Considering that many languages (e.g., Arabic, French, and Spanish) have over 20 national variations and additional local subsets, a knowledge requirement in another language can exponentially outweigh the knowledge requirement in

English (at least 41 ways to say “girl” in Spanish<sup>84</sup>). Regional variations also apply to low-, high- and common-register words, as well as legal, medical and technical terms.

When considering all of the previous factors, the KR may be better suited as a skill requirement since interpreters must be “equipped to understand the grammatically and syntactically complex language of the court — 14<sup>th</sup> to 18<sup>th</sup> grade level,”<sup>85</sup> (i.e., from legal experts and expert witnesses who hold from associate’s to doctoral degrees), as well as the skill level to understand a variety of slang and colloquialisms of the street (e.g., from everyday people and persons from the underworld).

## Reporter Knowledge Requirement 2

*Knowledge of the principles of shorthand writing.*

This requirement is similar to note-taking for consecutive interpreting, a highly specialized form of relying on each interpreter’s own system of symbols for supplementing short-term memory.<sup>86</sup> The interpreter must know how to take notes as required by the professional performance of duties since it is essential for interpreting accurately and completely, which are ethical requirements. Note-taking is learned through a university program, professional training and/or autodidactic studies.

This should be added to the interpreter job title as a knowledge requirement.

## Reporter Knowledge Requirement 3

*Knowledge of legal terminology and legal reference materials.*

KR 3 is fully applicable to court interpreters. Additionally, the interpreter must know the terms not only in English, but also in a second language. In addition, the interpreter has to have at least a cursory knowledge of two different legal systems in order to bridge the lego-cultural and lego-linguistic gaps between our common law system and the civil law systems in other countries.

Knowledge of legal reference materials from the United States and the target language countries is necessary for continuing legal terminology research. Such references consist of

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<sup>84</sup> SpeakingLatino.com. [41 Examples of Spanish Slang Words for GIRL](#).

<sup>85</sup> Roseann Dueñas Gonzáles, Victoria Vásquez, Holly Mikkelson (2012). *Fundamentals of Court Interpretation: Theory, Policy and Practice*, 2<sup>nd</sup> ed., p. 21. Durham, N.C.: Carolina Academic Press.

<sup>86</sup> *Id.* For further details, see §2.4, pp. 878-886.

primary sources (laws), secondary sources (legal scholarship), tertiary sources (monolingual law dictionaries) and quaternary sources (bilingual law dictionaries).

## **Reporter Knowledge Requirement 4**

*Knowledge of judicial procedures and court policies regarding the marking of exhibits, rules of evidence, trial procedures, legal citations, and the confidentiality of records.*

Although an interpreter does not have to know how to mark an exhibit, the interpreter needs to know judicial procedures, court policies, rules of evidence and trial procedures when interpreting, translating evidentiary documents or performing the transcription and translation of foreign-language recordings.

More importantly is that if there is such a reporter KR, it follows that there should be an Interpreter KR vis-à-vis the New York State Unified Court System's Canons of Professional Responsibility for Court Interpreters and their relation to judicial procedures and court policies. One simple example of this is that interpreters must have knowledge of their confidentiality requirements under the law and their ethical responsibilities with the aim of safeguarding confidential hearings, attorney-client communications and, in some cases, patient privacy issues, e.g., HIPPA.

## **Reporter Knowledge Requirement 5**

*Knowledge of standardized transcript format and administrative rules regarding production standards and time requirements for such transcripts.*

Court interpreters are asked or sometimes ordered by judges to transcribe and translate foreign-language recordings and provide a transcript thereof for court proceedings. Court interpreters should be required to have knowledge of standardized transcript formats, chain-of-custody issues and case law regarding standards for producing bilingual forensic transcripts.

## **Reporter Knowledge Requirement 6**

*Knowledge of medical and technical terminology and reference sources.*

KR 6 is fully applicable to interpreters, but, as with KR 1 and KR 3, must be expanded beyond English alone. Knowledge of proper medical and technical reference materials is essential for

continuing development and to meet the needs of the court as many types of expert witnesses and forensic reports are presented in hearings and trials.

A further challenge is posed to court interpreters working in non-Western languages. For English and Romance languages such as Spanish, Latin and Greek roots provide considerable similarities in vocabulary and there is also a cultural framework that has many common features. By contrast, there is little to no shared linguistic or cultural framework between English and speakers of thousands of languages in Africa, Asia and the Americas. For example, there can be vast differences between eastern and western medical practices. Therefore, it is essential to know additional medical concepts behind the terms in order to interpret them accurately from one culture to the other. In addition, there are cultural concepts that simply do not exist in such languages, , e.g., in some Asian and African cultures which have no word for “autism.”<sup>87</sup>

## Skills

UCS Skill Requirements for Reporters	UCS Skill Requirements for Interpreters
1. Skill in using a shorthand system to record and transcribe multi-voiced verbatim testimony during legal proceedings at speeds averaging from 175 to 190 words per minute.	
2. Skill in the operation of a stenotype shorthand machine.	
3. Skill in typing at a rate of at least 35 words per minute.	

Currently, the interpreter title lists no skill requirements. Some of the reporter skill requirements apply to the interpreter title and there are many other skill requirements interpreters must possess that are not listed. (See Appendix 1 or 2; Appendix 3; reporter AR 1, 2 and 3; interpreter AR 1 and 2.)

### Reporter Skill Requirement (SR) 1

*Skill in using a shorthand system to record and transcribe multi-voiced verbatim testimony during legal proceedings at speeds averaging from 175 to 190 words per minute.*

The skill of using a shorthand system in verbatim court reporting is similar to the skill of simultaneous interpreting insofar as both are needed to work in real time, without interrupting speakers, to capture and convert what is said in a courtroom into another form.

<sup>87</sup> Stephanie Kitzhaber (2012). [Interventions for Multicultural Children with Autism](#), p. 5. St. Catherine University.



One way the level of skill required by the profession of court interpreting exceeds the level of skill required of court reporting is that, while the court reporter is working in a single operating system of shorthand “translation,” court interpreters, depending on the nature of the proceedings being interpreted, flow back and forth in two directions (code switching from Language A into B and B into A) and among three systems of “translation,” which are referred to as modes of interpretation: sight, consecutive and simultaneous. There are also specific skills unique to each mode of court interpretation, e.g., sustained periods (30 minutes) of high concentration and interpretation in simultaneous, short-term memory in consecutive, and reading a wide range of documents in sight.

A second factor that demonstrates how interpretation involves a more demanding set of skills than verbatim court reporting is that it is based on culture-bound translation rather than the reporter’s phonetic-bound translation. This means that in addition to choosing between various words to interpret into another language, the interpreter must have the requisite cognitive skills to understand a source message while adjusting for syntax, regionalisms and culturally appropriate terms before rendering the interpretation into the target language.<sup>88</sup> Due to the phonetic as well as semantic, syntactic and prosodic processing, interpreting also requires cognitive control mechanisms that are not specifically linguistic in nature.<sup>89</sup> By contrast the court reporter stays in a single linguistic and cultural system and the translation is phonetic.

## Reporter Skill Requirement 2

*Skill in the operation of a stenotype shorthand machine.*

The court interpreter also has machinery that must be used appropriately. The first is simultaneous interpreting equipment. It is an industry standard to employ this equipment when working in the simultaneous mode. There are many different types of simultaneous interpreting equipment and the court interpreter must be able to use any of a variety of systems.<sup>90</sup>

The second is telephone interpreting equipment;<sup>91</sup> the third is Video Remote Interpreting (VRI) equipment.<sup>92</sup> Staff and contract interpreters sometimes deliver their services remotely using a variety of devices, which are also considered to be industry standards.<sup>93</sup>

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<sup>88</sup> Dueñas González, Roseann; Victoria F. Vásquez, Holly Mikkelson, *supra* note 16 at 20.

<sup>89</sup> Hervais-Adelman, Alexis, Barbara Moser-Mercer, Micah M. Murray, Narly Golestani, *supra* note 27.

<sup>90</sup> González et al., pp. 1071-1073. See New Jersey’s “Court Interpreter Band Specification,” <https://www.njcourts.gov/public/assets/langSrvcs/jobspecs.pdf?c=7Yf>; and §510 of the AOUSC’s Guide to Judiciary Policy, Volume 5: Court Interpreting, [https://www.uscourts.gov/sites/default/files/guide\\_vol05\\_0.pdf](https://www.uscourts.gov/sites/default/files/guide_vol05_0.pdf).

<sup>91</sup> Hewitt, William E. (1995). Chapter 8, “Telephone Interpretation,” in *Court Interpretation: Model Guides for Policy and Practice in the State Courts*. Williamsburg, VA: National Center for State Courts.

If interpreters do not have the assistance of a technician to manage equipment and software, then it would take a certain amount of skill to ensure microphones, headphones, internet connections, input-output connections and software are all in synch before and during any such interpreting assignment. However, adding this skill to a list of interpreter requirements would increase the possibility of stress in the interpreter, which could impact the interpreter’s ethical requirements of interpreting accurately and completely.

## Reporter Skill Requirement 3

*Skill in typing at a rate of at least 35 words per minute.*

Typing should also be included as a skill under the court interpreter title if the UCS expects interpreters to produce translations. It is also fully applicable regarding the production of forensic transcripts of foreign-language recordings, but would also exceed the knowledge and skill of reporters since interpreters would have to type in at least two languages and know enough about computer keyboard settings to type efficiently in both languages.

## Abilities

UCS Ability Requirements for Reporters	UCS Ability Requirements for Interpreters
1. Ability to utilize computer-aided transcription systems in the timely production of transcripts.	1. Ability to accurately interpret oral exchanges from one language into another in both simultaneous and consecutive modes.
2. Ability to adapt to different accents, manners of speaking; and to record slang or idiomatic expressions.	2. Ability to communicate effectively with persons of varying linguistic levels and different cultural backgrounds.
3. Ability to accurately translate stenographic notes when reading aloud.	3. Ability to translate written documents.
4. Ability to label and maintain notes according to court policies, and to produce neat and legible transcripts.	4. Ability to read, write, and communicate verbally at a level equivalent to a twelfth grade education in English and another language.
5. Ability to prepare correspondence and reports relating to requests for transcripts.	5. Ability to understand and follow oral and written communications.

At first glance, the above table suggests that the reporter and interpreter titles share the same number of ARs, but upon closer inspection, many of the interpreter abilities need, once again,

<sup>92</sup> Dueñas González, Vásquez and Mikkelson, *supra* note 16, at. Chapter 43, “Remote Interpreting: Telephonic and Videoconferencing.”

<sup>93</sup> NAJIT Position Paper (2009). [Telephone Interpreting in Legal Settings](#).

to be expanded due to the fact they are performed in English **and** a second language, **and/or** converted to a skill requirement. It is essential to distinguish between an ability as something natural or inbuilt and a skill as something that is a learned behavior. For example, when cutting hair one might have an ability to keep their hand steady or cut a straight line, but the skill is what the person learned in a hairdressing school.

The ensuing paragraphs analyze which of the reporter ability requirements correspond to the interpreter, and which of the interpreter ability requirements should be converted to skill requirements and/or expanded to separate requirements.

## Reporter Ability Requirement (AR) 1

*Ability to utilize computer-aided transcription systems in the timely production of transcripts.*

The reporter AR 1 could be applied to interpreters if the UCS would ever want to implement a more modern approach to translations. In today's market, many professional translators rely on Computer Assisted Translation (CAT) tools. With the requirement to perform translations (*see* interpreter AR 3) and the mandate from the Department of Justice to translate vital written materials into the language of each frequently encountered LEP group,<sup>94</sup> CAT tools would enable the UCS to provide consistent translations to its LEP communities. Knowing how to use CAT tools, however, is an acquired skill, not an ability.

## Interpreter Ability Requirement 1

*Ability to accurately interpret oral exchanges from one language into another in both simultaneous and consecutive modes.*

Much more than an ability, interpreting is a skill that not all bilinguals possess.<sup>95</sup> The Office of Court Administration can verify this from its own interpreter testing data in which many bilingual candidates who have passed the written exam have failed the oral exam. Moreover, the interpreter AR 1 should be divided into two SRs in order to follow suit with what has been established in the reporter title, i.e., English into stenotype (*see* reporter SR 1) and stenography into English translation (*see* reporter AR 3). Correspondingly, said division would also follow suit with industry translation and interpretation standards, i.e., for each language pair, professionals interpret or translate into the language in which they have demonstrated an

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<sup>94</sup> Department of Justice. "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." Federal Register; Vol. 67, No. 117; Tuesday, June 18, 2002.

<sup>95</sup> American Translators Association. [Interpreting: Getting it Right](#).

ability to do so. The American Translators Association tests and certifies only specific language directions (from or into English) in a specific language pair.<sup>96</sup> A Russian translator who is certified by the ATA for the Russian-into-English direction may not necessarily have the skill requirements to pass an English-into-Russian certification exam.

The United Nations assigns conference interpreters to interpret in specific target language booths, according to their skills. For example, a Mandarin interpreter may have the required skills to interpret into English and be assigned to the English booth, but may not necessarily have the skills required to perform in the Mandarin booth. Conference interpreters that are allowed to interpret in more than one booth receive extra compensation for their additional language direction performance.

To list the different set of interpreter skills that are tested and are expected from professional interpreters, the Unified Court System should consider subdividing them as the following:

1. Skill in interpreting oral exchanges from English into another language accurately and completely.
2. Skill in interpreting oral exchanges from another language into English accurately and completely.
3. Skill in interpreting in the simultaneous mode accurately and completely.
4. Skill in interpreting in the consecutive mode accurately and completely.
5. Skill in performing in the sight translation mode accurately and completely.

## Reporter Ability Requirement 2

*Ability to adapt to different accents, manners of speaking; and to record slang or idiomatic expressions.*

The ability to adapt to accents and manners of speaking also applies to interpreters, but is not listed as an interpreter AR. Not only does this apply in English, but it also applies to dozens of accents and manners of speaking in other languages, which — like Arabic, French and Spanish — can be spoken in over 20 countries and carry an even wider range of subsets of accents and manners of speaking within each country.

Recording slang and idiomatic expressions for reporters is analogous to interpreting the same for interpreters. Both are better defined as skills since recording and transcribing testimony (*see* reporter SK 1) or interpreting it into another language (*see* interpreter AR 1) go beyond a mere ability. Nonetheless, interpreting (or translating) slang and idiomatic expressions is a high-level skill since there is often different shades of meaning and overlapping senses from one language to another and from one culture to another that must be considered and requires an interpreter's expertise to choose the right word for a particular context from a wide range of knowledge of slang (*explained in* Interpreter KR 1) and idiomatic expressions. A trial could hinge upon the translation of such a term.

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<sup>96</sup> American Translators Association. [A Guide to the ATA Certification Program](#).

## Interpreter Ability Requirement 2

*Ability to communicate effectively with persons of varying linguistic levels and different cultural backgrounds.*

The interpreter AR 2, as written, pertains to one language since monolingual court employees are expected to communicate with the public on a daily basis — especially with such an ethnically diverse population as is the case in the State of New York. However, communicating effectively with the LEP, Deaf and Hard of Hearing communities requires interpreters to have this ability in two languages, including understanding linguistic levels and cultural elements that an English monolingual person may not possess.

## Reporter Ability Requirement 3

*Ability to accurately translate stenographic notes when reading aloud.*

The reporter AR 3 is analogous to sight translation, and should be regarded as a skill for the simple reason that it takes specialized training for a person to translate stenographic notes into English.

interpreters are tested on their sight translation skills in both language directions, i.e., reading in English and translating into another language and vice versa, and should be prepared to do so in court. Therefore, sight translation should be a required skill under the New York State Unified Court System's interpreter title.

## Interpreter Ability Requirement 3

*Ability to translate written documents.*

Translation (written) and interpretation (oral) share many KSAs, but translation requires an additional set of skills that are different from interpreting, e.g., writing, editing, proofreading. The American Translators Association (ATA) only certifies translators through its exams in a similar process that the New York State Unified Court System can credential interpreters through its exams. An ATA certification should be considered as a qualification to perform written translations.

As demonstrated in the Interpreter AR 3, regarding language directions, a demonstrated skill to translate in one direction does not necessarily demonstrate the same in the opposite direction. For example, both language directions are tested in the New York State Unified Court System's Spanish Court Interpreter civil service exam and the ATA also tests in both directions with regard to its English-Spanish language combination.

The only jurisdiction that tests legal translation skills is New Jersey. Their experience has demonstrated that many persons who pass the court interpreting exam are not able to pass the legal translation exam. This legal translation test is given only to persons who have become staff interpreters and therefore have either passed or scored at a conditionally approved level on the court interpreting exam. While most (61%) pass the Spanish-to-English section of the exam, most (39%) fail the English-to-Spanish exam. Only about one-third (36%) pass both sections.<sup>97</sup> These findings yield the following conclusions:

- The fact that a person has passed a court interpreting exam does not necessarily mean that person can translate documents.
- A person who passes a translation test in one direction (e.g., English into Spanish), does not necessarily mean that person can translate in both directions (i.e., also Spanish into English).
- Translation competency should be determined by a separate test of legal translation, with two sections: one from L1 into L2 and another from L2 into L1.

## Reporter Ability Requirement 4

*Ability to label and maintain notes according to court policies, and to produce neat and legible transcripts.*

Reporter AR 4 is fully applicable to court interpreters vis-à-vis the production of bilingual forensic transcripts of foreign language recordings, including what can and cannot be included in a cover sheet thereof so that it does not outweigh its probative value, as well as translations that are carried out during the course of their work.

## Interpreter Ability Requirement 4

*Ability to read, write, and communicate verbally at a level equivalent to a twelfth grade education in English and another language.*

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<sup>97</sup> <https://nycourts.gov/public/assets/langSrvcs/teststatsspnl.pdf?c=aPu>

There are two components to the Interpreter AR 4. The first component, a twelfth grade education, does not adequately reflect the level of education required for interpreters. The first indication of the insufficiency of a twelfth grade education is the nature of courtroom colloquy between judges, lawyers and expert witnesses, which far exceeds the language of a twelfth grader as they have completed at least 16 years of schooling plus post-baccalaureate studies. In addition, the Administrative Office of the United States Courts has documented that the minimum language level at which interpreters must be educated is fourteen years, not twelve.<sup>98</sup>

The second component involves two languages. Therefore, the requirements should be categorized separately. An interpreter must have not only a minimum of fourteen years of education in English, but also the equivalent in the second language.

## **Reporter** Ability Requirement 5

*Ability to prepare correspondence and reports relating to requests for transcripts.*

This AR is not applicable to the court interpreter title.

## **Interpreter** Ability Requirement 5

*Ability to understand and follow oral and written communications.*

This AR is applicable to interpreters.

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<sup>98</sup> [Seltzer v. Foley, 502 F.Supp. 600 \(S.D. NY 1980\).](#)