

Guide to Translation of Legal Materials

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Consortium for Language Access in the Courts

Equal Justice: Bridging the Language Divide

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DISCLAIMER:

This translation guide was compiled and edited by the Consortium for Language Access in the Courts' Professional Issues Committee, a committee of volunteers dedicated to advancing the work of the state courts' language access programs. Nothing in this document should be viewed as an "industry standard," or required of the state courts. Instead, it is meant to compile some lessons learned by program managers over the years and serve as a guide to help other program managers move forward with translation projects within their own court system.



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Requirement for Courts to Provide Translations

Title VI of the **1964 Civil Rights Act** states **“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.”** **In order to better enforce Title VI, Executive Order (EO) 13166 “Improving Access to Services for Persons with Limited English Proficiency” was signed into law.** EO 13166 requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. EO 13166 also requires Federal agencies work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.

As recipients of federal funding, most court systems have accepted their obligation to provide interpreter services to Limited English Proficient (LEP) individuals and families in order to ensure meaningful access. This obligation, however, also extends to the need for courts to provide LEP individuals with translations of written documents as well. The United States Department of Justice (USDOJ) guidance states:

It is important to ensure that written materials routinely provided in English also are provided in regularly encountered languages other than English. It is particularly important to ensure that vital documents are translated into the non-English language of each regularly encountered LEP group eligible to be served or likely to be affected by the program or activity.¹

Difference between Translation and Interpretation

“Bilingualism on its own is not a guarantee of written fluency or skill in translation. Professional translators are first and foremost writers, capable of producing texts that read well in the target language. Bilingualism is something else. Bilinguals speak two languages fluently, but are not necessarily good at moving information between the two, especially in writing. Experience shows that many people who describe themselves as bilingual over-estimate their communications skills **altogether.”**²

Translation is written. It involves taking a written text in a source language (language of the original text) and providing a written text into the target language (the language of the reader). Translators must have excellent knowledge of at least two languages but they often work in only one direction, from their acquired language into their native language.

Some of the skills and abilities translators are required to possess are:

- ◆ Sound knowledge of source language equivalent to at least 4 years of intensive and 10 years of sporadic study

¹ Commonly Asked Questions and Answers Regarding Executive Order 13166 Providing Meaningful Access to Individuals Who Are Limited English Proficient to Federally Assisted and Federally Conducted Programs and Activities, USDOJ - Coordination and Review Section: <http://www.lep.gov/faqs/faqs.html>

² American Translators Association (ATA)- *“Translation – Getting it Right; A Guide to Buying Translations”* A. Aparicio & C. Durban 2003

- ◆ Above-average writing ability in the target language equivalent to that of educated native speakers
- ◆ Reasonable familiarity with the subject matter, equivalent to that which can be acquired by at least one year (preferably two) of formal education or job experience in the particular field.

Translators are expected to perfect their work product through cross referencing and researching **methodically over a project’s timeline**. They can look up words in a variety of dictionaries, do research while they are working, contemplate the best formulation of a concept and modify drafts many times before settling on a finished product. Translators may use computer software, translation memory programs or other term management tools to assist their efforts.³

Interpretation is oral. It is the unrehearsed transmitting of a spoken or signed message from one language to another. It involves listening to something spoken in a source language and providing an oral or signed equivalent into the target language. Interpreters must have excellent knowledge of two languages and usually must be able to work in both directions. Court, medical and community interpreters work in both directions; some conference and all UN interpreters work only in one direction.

The skills and abilities required of an interpreter are different from a translator. The thirty-two areas of knowledge, skills and abilities to perform the task of interpreting include, among others:

- ◆ Language skills
- ◆ Speaking skills
- ◆ Listening comprehension skills
- ◆ Interpreting skills
- ◆ Behavioral skills

Each area involves a number of the following cognitive abilities: alternating attention, auditory processing speed, central processing speed, conceptual reasoning, divided attention, fine motor control and speed, focused (or selective) attention, visuospatial classification and sequencing, visual perception, processing speed, scanning and tracking and working memory.⁴

To get a sense of the different work product involved with translating and interpreting, the professional translator typically produces about 5 words per minute or 300 words per hour. The simultaneous interpreter, in contrast, has to respond instantly to the incoming spoken text, typically at a rate some 30 times faster than the translator, i.e. 150 words per minute or **9000 words per hour.**⁵

Identify What Needs to be Translated

Court staff may be involved with different types of documents needing to be translated. They generally fall into two primary groups: 1) official court forms or informational material and 2) evidentiary

³ Judith Kenigson Kristy, “*Translators and Interpreters: Cut from the Same Cloth?*” *Proteus Newsletter* (Spring 2007 Volume XVI, No. 1) National Association of Judiciary Interpreters and Translators (NAJIT)

⁴ Roseann Duenas Gonzalez, Victoria F. Vasquez, & Holly Mikkelson, *Fundamentals of Court Interpretation* (Carolina Academic Press: North Carolina 1991)

⁵ Mona Baker, *Routledge Encyclopedia of Translation Studies*, (London: Routledge, 1998) 186.

materials submitted to the court as evidence which generally consist of audio recordings and written documents. This document focuses on the first group and does not address the process of translating evidentiary materials.

Official Court Forms and Informational Documents

Individuals and government agencies embarking on a translation project of court forms should carefully consider which forms and informational documents need to be translated. Courts should keep in mind the requirement to translate **all documents considered “vital.” A document will be considered vital if:**

- it contains information critical for obtaining federal services and/or benefits;
- OR
- it is required by law

Vital documents must be translated when a significant number or percentage of the population eligible to be served, or likely to be directly affected by the program/activity, needs services or information in a language other than English to communicate effectively. The U.S. Department of Justice recommends that recipients of **federal funding provide “written translations of vital documents for each eligible LEP (Limited English Proficiency) language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.”**⁶ For some larger documents, translation of vital information contained within the document will suffice and the documents need not be translated in their entirety.

It may sometimes be difficult to draw a distinction between vital and non-vital documents, particularly when considering outreach efforts or other documents designed to raise awareness of rights or services. Title VI does not require recipients of federal financial assistance to translate every piece of outreach material to notify communities of the existence of every particular program or service. It is important, however, to keep in mind when determining which forms to translate that a lack of awareness of a particular program or service may result in effectively denying an LEP individual or family meaningful access. Moreover, on-going assessment of the needs of eligible service populations in order to determine whether certain critical outreach materials should be translated into other languages is necessary as well.

Examples of documents provided by government agencies that may be considered *vital* include:

- ◆ applications
- ◆ consent and complaint forms
- ◆ notices of rights and disciplinary action
- ◆ notices advising LEP persons of the availability of free language assistance
- ◆ prison rulebooks
- ◆ written tests that do not assess English language competency, but rather competency for a particular license, job, or skill for which English competency is not required
- ◆ letters or notices that require a response from the beneficiary or client
- ◆ a complaint form required in order to file a claim with an agency

Some examples of documents considered *non-vital* might include:

- ◆ documents that are not critical to access such benefits and services
- ◆ advertisements of federal agency tours

⁶ 67 Fed. Reg. 41464 (June 18, 2002).

- ◆ copies of testimony presented to Congress that are available for information only.

When going through the process of identifying which documents to translate, it is also recommended to keep in mind the likelihood the document will undergo modifications due to changes in laws, rules, policies and procedures. Any changes (both large and small) in the original will require changes to the translation. If a court form has been identified as vital and needing to be translated, it will be crucial to ensure an adequate process and budget are in place for the initial translation as well as maintenance of the translation if necessary. Before the translation process is started, make certain the document or form is in its final format and not a draft-in-progress.

Translation: A Three-Layer Process

While it may be more convenient and economical to hire just one translator, translation can be an idiosyncratic process. To ensure that your translated materials are (1) absolutely accurate and (2) understandable by the widest range of speakers of that language, the recommended process entails three layers: translation, editing, and reviewing (or proof-reading). The primary translator will consult with an editor, who is equally qualified as a translator, to edit the work product for accuracy and completeness. An additional reviewer, also qualified as a translator, shall also review or proofread the work product after it has been edited. Concerns about accuracy and completeness shall be communicated back to the translator. Adjustments should be incorporated and reviewed again.

Choosing the Right Translator

When determining eligibility of a prospective translator, it is highly recommended to contact a translator (as well as editor and reviewer or proof-reader) with the language expertise, experience, and other qualifications such as translation credentials. If it is not possible to select a credentialed translator (for example, where the language is uncommon), the translator may be chosen from some other reliable list or from other credible sources that may be available. However, ***it is essential to check the translators' qualifications and experience of legal translation before engaging their services.*** The following elements should be taken into account when choosing a translator:

Language Match

In general the best result is obtained if the chosen translator's mother tongue is in the target language (the language that the material will be translated into). For example, if the contracting party wishes to translate a document from English into Spanish, it is recommended to choose a translator whose first language is Spanish; if the contracting party wishes to translate a document from Spanish into English, it is recommended to choose a translator whose first language is English.

Level of Qualifications

The translator's level of qualification, specialization, standard of general education, and relevant experience should be appropriate to the complexity of the text and the specialist nature of the text

Membership in a Professional Body

The translator should ideally be certified by American Translators Association (ATA) which has a translation certification exam, Code of Ethics and disciplinary power over its members. If it is a language for which there are no certified translators, it is advisable to find someone who is an ATA member.

Access to Information Technology (IT) Tools

The translator should have access to specific computer software programs or certain IT tools (such as modem and email).

Financial Considerations

While high prices do not necessarily guarantee high quality, keep in mind the adage, “You get what you pay for.” The party seeking the translation should expect to negotiate various costs associated with the translated product:

- ◆ minimum charge (average between \$50- \$100)
- ◆ per word charge: for Spanish the average is \$.10 to \$.25 per word); for Languages other than Spanish the average is \$.27 to \$.30 per word)
- ◆ per hour depending on market rates (average \$40-\$50 per hour)
- ◆ editing
- ◆ reviewing/proofreading
- ◆ formatting⁷

It should be noted that editing, reviewing and proofreading tasks are typically paid per word or per hour at a lower rate than translations. There may be other expenses involved such as costs for printing and distribution that entities should consider when budgeting for their translation project.

Developing and Maintaining a Translation Glossary

Translation, like interpretation, is not the automatic conversion of words from English into the non-English language. Rather, the translator or interpreter identifies the meaning of what is stated in English and finds the most appropriate equivalent in the non-English language (or vice versa when translating/interpreting into English). The importance of conveying meaning instead of translating words is especially crucial in the legal setting because non-English languages often lack direct **translations of the words used in the U.S. courts. Both seemingly basic concepts like “domestic abuse” as well as complex terms such as “stare decisis” can be challenging to translate** depending on the language, and different translators may come up with different, yet equally accurate translations.

It is important that the terminology used in various versions of translations match. For example, the **term “domestic abuse” may appear in translated materials such as an informational brochure, order for protection application, summons, courthouse signage, etc.** If different translators work on these translations at different times, it could be that each will contain **different equivalents of “domestic abuse.” To avoid confusion it is essential to develop and maintain a translation glossary** that is available to everyone in the organization who works with translators. This will ensure that terminology is consistent among translators and translations in your jurisdiction.

Hiring a Translator

A translator may be obtained through an interview process or through a bidding process that may be **administered through your court system’s procurement or human resources division.** If a bidding

⁷ 2010 sampling of Pacific Northwest US rates

process is used, it is suggested that any Request for a Proposal (RFP) or bid include the following basic information:

- ◆ Specific language(s) needed
- ◆ The nature of the text to be translated
- ◆ Background of the text
- ◆ Purpose of the translation
- ◆ Likely readership
- ◆ Complexity and specialist nature of the text
- ◆ Deadlines
- ◆ Minimum required qualifications
- ◆ The need to develop or abide by a translation glossary

Once a determination of the appropriate translator is made, it is recommended that a contract or letter of agreement be drafted **with the organization's legal or human resources sections** to finalize hiring.

Briefing the Translator

Once a translator has been hired for the job, the contracting party who requires the translation should brief the translator and establish proper procedures and preferred protocols. Some of the information to be discussed with the translator might include the following:

Supportive Material or Background Information

Make available information and specialized knowledge the translator may need. If possible, give the translator access to relevant background information and supportive material (i.e., any previously translated forms) or arrange for an opportunity to consult it.

Contact Person

Appoint a person for the translator to contact for clarification or additional information.

Linguistic Issues

Decide together with the translator how words and terms for which there is no equivalent in the target language will be handled. Based on protocols of equal access to justice, codes of professional responsibility and ethics and Title VI, consider whether they will be explained in the text or left without being translated but with an explanatory footnote.

Pre-Editing Collaboration with Author/Expert

Arrange collaboration between the author/expert and the translator on any pre-editing of the text in the source language that may be required to meet the needs of a particular readership (e.g., a crime prevention handout may well need to accommodate completely different starting points from the text in the source language). Pre-editing does not apply to formal documents but only to handouts or similar documents for other groups.

Safety Measures

Specify whether any specific safety requirements are needed for storing the source text and the translation, i.e., whether the translator may store the translation on a personal computer or whether the material needs more heightened security measures in place.

How Translations are to be Submitted

Explain how the completed translation files are to be named, including agreed upon systems indicating dates. Explain when, where, and how the completed translation is to be sent and to whom it should be addressed; method to be sent, i.e. e-mail, fax, or hardcopy; deadline for delivery of the completed translation – keep in mind it takes time to produce a quality translation

How to Handle Discrepancies

Translation is more an art than a science and typically more than one “correct” way to translate a word or phrase exists. Discrepancies may arise between the translator and the editor or proofreader as to the accuracy of a translation. This situation may occur when an independent editor or proofreader is hired to review the work of a translator. It is important to establish a procedure for the individuals to discuss and resolve differences openly so a mutually acceptable high-quality end-product can be produced.

Style and Formatting

The contracting party must inform the translator of the preferred style and format of the translated document. Generally, there are two main styles which are described below: the bilingual format and the monolingual format. In either format, translated forms should include the date of the translation in a document footer to help identify that it matches the most recent version of the original English form.

Bilingual Format

The parallel bilingual format means the non-English translation is positioned directly under or after each English word, sentence or paragraph. It is recommended that the translated part be in italics or in a different font so that it is easily identifiable to the reader.

The clearest advantage of translating forms in the bilingual format is that all participants will have a clear understanding of what information is contained in the same form. Since it contains both the English and translated content, there is no question as to what the document may say. Similarly, if the limited English proficient (LEP) party is required to sign a form, he/she is signing based on his/her understanding of the translated contents of that actual document. This format is preferable to the LEP person signing an English version, which he/she cannot read nor understand.

One of the greatest challenges in translating forms in a bilingual manner arises with formatting of the original English document.

Below are three examples of formatting styles:

Basic parallel bilingual format:

Other court cases or other restraining, protection or no-contact orders involving me, the minors and the respondent:
(Otros casos judiciales u otras órdenes de restricción, protección o prohibición de contacto en la que estoy involucrado/a yo, los menores y la parte demandada:)

3. My age is:
(Mi edad es:)
 Under 16 16 or 17 18 or over
(Menos de 16) (16 o 17) (18 años o más)

Parallel bilingual format when information is filled out by the LEP document user:

7. Grant me use of the following vehicle:
(Que se me conceda el uso del siguiente vehículo):
Year, Make & Model _____ License No. _____
(Año, Marca y Modelo) (Placa N°)

Note that the check boxes in the translated portion of the form contain dashes [-] to encourage the reader to check the boxes above in the English version:

*Restrain respondent from causing any physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening, or stalking me the minors named in paragraph 5 above these minors only:
(Prohibirle a la parte demandada que cause daño físico, lesiones corporales, agresión, incluso agresiones sexuales y abusos, incluyendo hostigarme, acosarme, amenazarme o acecharme [-] a mí, [-] a los menores nombrados en el párrafo 5 de arriba, [-] solamente a los siguientes menores):*

Monolingual Format

The other style generally used is a monolingual format or the “mirror image” of the English written document. The mirror image pertains to developing the translated version using the same format, font and size as the original English document. The monolingual format is the recommended approach for instructions or informational brochures. If the monolingual format is used for court forms, and if courts in your jurisdiction will only accept English filings, be sure to include an instruction on the translated form that this translation is for informational purposes only, and the English version must be submitted to the court.

When forms are translated using the monolingual format, they may or may not result in the same size or length as the original English document. Shorter documents or documents translated into languages of European origin, may likely result in the similar length as the original English document. However, for many languages the accurate translation of an English word or phrase may require a significantly longer phrase in the non-English language. For example, “bench warrant” in Spanish is “orden judicial de arresto.” “Juror” in Hmong is “tus pejxeem txiav txim.” A commonly used English legal term like “presumed innocent until proven

guilty” may require multiple sentences to accurately translate because of the layers of meanings embedded in only five words. Therefore, while translators should strive to attain the same look and feel as the original English document, expect the final translation to be longer.

Typographical Conventions

When obtaining a translation of an English language document into non-English language, bear in mind that typographical conventions will vary between languages. For example, French has a space between **a word and the colon that follows, and writes quotation marks as “« ».” In Spanish and French, neither months nor days of the week take an initial capital. Professional translators will respect the typographical conventions of the language they are working into so don’t expect a non-English translation to follow all the principles of the English language.**⁸

Watermark

It is recommended that each translated and revised text that was requested by the court bears the watermark **“Official Translation of the Court”**. This watermark certifies the text as an official translation. The text bearing the watermark shall be deemed authoritative for the purpose of the court.

The watermark shall not be removed from translations submitted electronically to the requesting party. The court or any other legal entity shall only recognize the version bearing the watermark as an official translation. Translations shall bear the watermark **“Draft Translation” until they have been reviewed and revised**. The watermark shall not be removed from un-reviewed/unrevised translations.

Certification and Notarization

Often the user of a translation will request it be certified or notarized. Even without official certification, translators can validate their work by attaching a statement to it (document designed specifically for this purpose can be obtained from the National Notary Association), attesting that it is a true and correct translation of the original.

The statement should clearly identify the original document so that there can be no question about what is being translated. Translators may indicate their credentials (professional degree, interpreter certification, ATA accreditation) in this statement. A typical translator certification would read as follows:

I, _____, certified by the (state name) Administrative Office of the Courts for Spanish-English court interpreting and accredited by the American Translators Association for Spanish-English translation, do hereby declare that the attached birth certificate, identified with serial number _____, is a true and correct translation of the Spanish original.

Translators should sign the translated document, and may or may not have their signatures notarized, depending on what the contracting party desires. Note that this certification and notarization are not required by law in the United States, but may be requested by the party for whom the translation is being made.

⁸ *“Translation – Getting it Right”*

What to Expect from a Translator: Checklist

The contracting party should expect the translator will:

- ✓ Understand the purpose for which the document will be used. The translator should respect cultural differences in the legal system,⁹ recognize and reflect the styles of the legal system for which the translation is being made¹⁰ and respect nomenclature.¹¹
- ✓ Read the document from beginning to end.
- ✓ Check existing files to see if he/she has a previously translated document that is similar to the one requiring a translation.
- ✓ Obtain the necessary reference materials, and do any preliminary research that may be required to familiarize with the subject matter in general. Translators should ask questions and be inquisitive.
- ✓ Utilize and contribute new terms/phrases to a translation glossary to ensure that consistent terminology is used in all court related translations.
- ✓ Read the text through another time for the purpose of planning the translation in order to pay particular attention to problem terms, passages that are unclear, and passages that will require extensive reworking in the target language (TL) for stylistic reasons.
- ✓ Produce a first draft of the translation. Translators should ensure they do not omit any element of meaning, and maintain the style and tone of the original text. Translators should always focus on the meaning of the original text, rather than the individual words.
- ✓ Proofread the draft, correcting any errors in grammar, spelling, or style and make sure the draft is coherent and is true to the meaning of the source language (SL) text.
- ✓ Compare the corrected draft with the SL text to make sure nothing has been inadvertently omitted or eliminated during the course of reworking and editing.
- ✓ Collaborate with an editor and a reviewer to evaluate their recommended changes, discuss with them as needed, and modify the translation to ensure accuracy.

⁹ The comparison of salutations of a judge in American and German courts, for example, demonstrates the importance of this rule. The informal “Herr/Frau Richter” (Mr. /Mrs. Judge) in German should be translated into the more formal American English counterpart, “Your Honor.” The translator must translate not the word, but the legal culture of German into the legal culture of the United States.

¹⁰ The translator should know what type of reasoning is characteristic of the legal system. For example, the US common law system uses inductive reasoning in legal analysis, while the European civil law system uses deductive reasoning. The translator must recognize this and be sure to reflect it and explain it in his translation.

¹¹ To respect nomenclature is to realize the semantics behind one legal term of art and to use such a loaded term, e.g., tort, with the caveat that the term’s implications and body of law in one country is specific to that legal order. Thus, all of that meaning will not translate. For example, the use of American legal terminology to discuss Chinese law would inevitably lead to misinterpretation of Chinese legal discourse and misperception of Chinese legal practice. This rule applies to comparativists and to legal translators.

- ✓ Produce a final copy. This copy should be clean and legible, with no typographical errors or obvious corrections. In the case of legal documents, it should resemble the original document in appearance as closely as possible.

Finalization of the Translated Text

The following section applies to translations of handouts for publication. Once the translation is completed, the contracting party should check the explanations in the translated text for logic and sequencing. This process can be conveniently done by showing the text to some of the likely readership. It is important that expert advice be sought before printing to avoid misunderstanding or offense being caused among the readership by layout, color, or presentation. Make sure that instructions, suggestions, or advice given in the text can be acted upon by those reading it (i.e. if a handout offers an advice service at a particular place at a stated time, it is imperative that an interpreter is available).

Completion of Necessary Administrative Tasks

The contracting party (i.e. court interpretive services administrator, court clerk etc.) should carry out appropriate procedures to **ensure the translator's fees and expenses are paid in accordance with** existing regulations.

Reflection Upon the Process

Upon completion of the project, the contracting party should try to identify what went well and why, so that these satisfactory approaches can be used in the future; and also, what elements were unsatisfactory and why, so that steps can be taken to avoid these in the future. It may prove fruitful to discuss these matters with the translator if possible.

Maintenance and Upkeep of Translations

As mentioned earlier, statutes, court rules, policies and procedures change, so do court forms, instructions and informational guides. While minor edits are easy to make on English documents, the equivalent edits must be updated on translated documents as well. Such edits should be completed by translators, edited and reviewed as previously described. While typically the fees charged for such updates are much lower than the original translation, it is important to budget for these costs so that translated forms and documents continue to be made available to limited English proficient court customers.

A Note about On-Line Translation Tools

When starting a translation project, it may be tempting to use on-line translation tools. While on-line translation tools give an idea of what's going on, they don't have a high level of reliability. These tools may be adequate for an audience who is going to recognize the errors of syntax based on educational and literacy level, but they are clunky, and may compromise meaning. Additionally, attention must be made to the language data base used for the particular tools and software and respecting cultural differences. Some well-known on-line tools use the database of UN translations, a very credible source. However, the Spanish is dominated by Spain, which may not meet the particular geographic or cultural LEP translation needs in court correspondence and documents. For example, an on-line tool translates "costs" in the following example as "coste," a word not used in many North and South American Spanish

speaking countries, but is in the Oxford Spanish dictionary as used in Spain.¹²

In summary, on-line translation tools seem to have a weakness where judicial branches would require strength: the more complicated the statement, the more likely the translation will lose meaning by sinking into incomprehensible syntax.

¹²Wikipedia website http://en.wikipedia.org/wiki/Google_Translate; examples: "Click here to follow the Court's cost savings campaign," is translated as "Click here to follow the Justice Court of savings of costs of the campaign." "Welcome to Oregon's Fifth Judicial District" is translated as "Welcome to the Five of Oregon Judicial District Of " "We provide fair and accessible justice services that ..." uses infinitive forms of the verbs "protect", "preserve" and "inspire." In the Spanish translation tool, it comes out in a mixture of verb tenses, with conjugations in the present indicative, and the infinitive. A professional translator will recognize the verb tense depends on whether "services that" is translated as "servicios que" or "servicios para".

American Translators' Association (ATA) Code of Professional Conduct and Business Practices

- I. As a Translator or Interpreter, a bridge for ideas from one language to another and one culture to another, I commit myself to the highest standards of performance, ethical behavior, and business practices.
 - A. I will endeavor to translate or interpret the original message faithfully, to satisfy the needs of the end user(s). I acknowledge that this level of excellence requires:
 1. mastery of the target language equivalent to that of an educated native speaker,
 2. up-to-date knowledge of the subject material and its terminology in both languages,
 3. access to information resources and reference materials, and knowledge of the tools of my profession,
 4. continuing efforts to improve, broaden, and deepen my skills and knowledge.
 - B. I will be truthful about my qualifications and will not accept any assignments for which I am not fully qualified.
 - C. I will safeguard the interests of my clients as my own and divulge no confidential information.
 - D. I will notify my clients of any unresolved difficulties. If we cannot resolve a dispute, we will seek arbitration.
 - E. I will use a client as a reference only if I am prepared to name a person to attest to the quality of my work.
 - F. I will respect and refrain from interfering with or supplanting any business relationship between my client and my client's client.
- II. As an employer or contractor of translators and/or interpreters, I will uphold the above standards in my business. I further commit myself to the following practices with translators and interpreters:
 - A. I will put my contractual relationship with translators and interpreters in writing and state my expectations prior to work.
 - B. I will adhere to agreed terms, payment schedules, and agreed changes, and will not capriciously change job descriptions after work has begun.
 - C. I will deal directly with the translator or interpreter about any dispute. If we cannot resolve a dispute, we will seek arbitration.

- D. I will not require translators or interpreters to do unpaid work for the prospect of a paid assignment.
- E. I will not use translators' or interpreters' credentials in bidding or promoting my business without their consent or without the bona fide intention to use their services.
- F. For translations for publication or performance over which I have direct control, I will give translators recognition traditionally given authors.

As Amended by the ATA Board of Directors March 2002

Bibliography

- **American Translators Association (ATA)** “*Translation – Getting it Right: A Guide to Buying Translations*” A. Aparicio & C. Durban 2003
- Baker, Mona, *Routledge Encyclopedia of Translation Studies* (London: Routledge, 1998)
- Child, Jack, *An Introduction to Spanish Translation* (University Press of America 1992)
- “*Commonly Asked Questions and Answers Regarding Executive Order 13166 Providing Meaningful Access to Individuals Who Are Limited English Proficient to Federally Assisted and Federally Conducted Programs and Activities,*” USDOJ - Coordination and Review Section; <http://www.lep.gov/faqs/faqs.html>
- Dueñas González, Roseann, Vásquez, Victoria F. and Mikkelson, Holly – *Fundamentals of Court Interpretation: Theory, Policy and Practice* (Carolina Academic Press: North Carolina 1991)
- Federal Register Vol. 67, No. 117 / Tuesday, June 18, 2002
- Hertog, Erik, ed. (2001) *Aequitas: Access to Justice across Language and Culture in the EU*, Lessius Hogeschool, Antwerpen
- Kennedy, Rose, “*Much Ado About Noting: Problems in the Legal Translation Industry,*” 14 Temp. Int’l & Comp. L.J. 423 (Fall 2000)
- **Kenigson Kristy, Judith** “*Translators and Interpreters: Cut from the Same Cloth?*” **Proteus** Newsletter, National Association of Judiciary Interpreters and Translators (NAJIT), Spring 2007, Volume XVI, No. 1

Other Resources

- American Translators Association, www.atanet.org
- Atlanta Association of Interpreters and Translators, www.aait.org
- Carolina Association of Translators and Interpreters, www.catiweb.org
- Delaware Valley Translators Association, www.dvta.org
- Michigan Translators/Interpreters Network, www.mitinweb.org
- Mid-America Chapter of ATA, www.ata-micata.org
- Midwest Association of Translators and Interpreters, www.matiata.org
- National Capital Area Chapter of ATA, www.ncata.org
- New York Circle of Translators, www.nyctranslators.org
- Northeast Ohio Translators Association, www.notatranslators.org
- Northern California Translators Association, www.ncta.org
- Northwest Translators & Interpreters Society, www.notisnet.org
- Upper Midwest Translators and Interpreters Association www.umtia.org

Resource Example: New Jersey Judiciary Translation Process

The New Jersey Judiciary's has a dedicated translation unit that uses a database system to manage all requests for translation of forms and other documents. The translation unit consists of a translation coordinator (a document controller), two off-site translators, and a bilingual editor-Manager of the Language Services Section. Below are key steps of the translation process.

1. Each division has two to three individuals authorized to request the translation of forms, brochures, pro se packets, etc.
2. **Authorized requestors from each division complete a "Forms/Translation Work Order Request"** which is e-mailed to a dedicated mailbox. See the attached request form and Snapshot #1 below.
3. The translation coordinator receives the requests and coordinates with the divisions to balance the incoming requests with limited translating resources. The coordinator confirms receipt of requests, formats text before sending the request to translators, and reformats the completed translations into final format. The database is used to track the progress of each translation request. See Snapshot #2 below.
4. The coordinator is not bilingual and must ensure that documents are specially formatted to track English and Spanish language before emailing requests to the translators. Snapshots #3 through #6 highlight how a request to revise an existing bilingual form was managed.
5. The two off-site translators communicate mostly via email, both with each other and with the coordinator to complete the translation. The translators then email the translated document back to the coordinator who returns it to its final format before giving it to the bilingual editor.
6. The bilingual editor provides a last review of the Spanish translations for completeness, consistency, formatting, typos, etc. The editor will send any questions or changes to the coordinator who will follow-up with the translation team.
7. Once all changes are made and approved by the editor, the coordinator does a final review of the English and Spanish documents for consistency and formatting. The finished electronic documents are then sent to the originating requestor for promulgation.

Note that New Jersey has a strict rule that all forms and brochures that have been translated into Spanish must exist in identical form in both English and Spanish. In other words, we do not permit English and Spanish versions of the same document to differ from each other in content.

Snapshot #1

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Work Request for Automated Forms

Division: Requestor: Requestor Phone Number:

Change / Design Form

Type of Request: Catalog Number (if known):

Form Name:

Form Changes:

Translation:

Should the English copy be held pending completed translation?

Emergent? **If yes**, other work from your division will be moved down on the work list.
 Explain the emergent nature of the request and include any critical deadlines

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Snapshot #2

[Master table: \[Automated Forms - Tracking\]](#)

Catalog Number	Emergent	Date Received	Category	Division	Form Name
10837		11/18/2010	New / Change	Appellate Division	Appellate Pro Se Kit

[Back to Master table](#)

Logged as Angela Watson

[Return to Menu](#)

Search for:

Details found: 6 Page 1 of 1 Records Per Page:

		Status Date	Language	Status	Assigned To
Edit	View	2/14/2011 4:01:06 PM	Spanish	LS: Reviewing translation	Arlene Lyons
Edit	View	1/28/2011 11:07:40 AM	Spanish	LS: Translating	Arlene Lyons
Edit	View	12/30/2010 3:47:06 PM	English	C: Posted	Arlene Lyons
Edit	View	12/28/2010 4:02:52 PM	Spanish	LS: Translating	Arlene Lyons
Edit	View	11/18/2010 1:11:22 PM	English	R: Awaiting requestor approval	Angela Watson
Edit	View	11/18/2010 1:09:40 PM	English	F: Layout / Formatting	Angela Watson

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Snapshot #3 of a Spanish/English retranslation

This snapshot is a submission from a requestor to revise an existing bilingual form. The requestor highlighted changes to the English.

17.a.	Are you a citizen of the United States?	[Yes]	[No]
b.	Do you understand that if you are not a United States citizen or national, you may be deported by virtue of your plea of guilty?	[Yes]	[No]
c.	Do you understand that if your plea of guilty is to a crime considered an "aggravated felony" under Federal law you will be subject to deportation/removal?	[Yes]	[No]
d.	Do you understand that you have the right to seek legal advice on your immigration status prior to entering a plea of guilty?	[Yes]	[No]

Snapshot #4 of a Spanish/English retranslation

This snapshot shows how the translation coordinator formatted the existing Spanish/English template before sending to the translators.

17.a.	¿Es usted ciudadano de los Estados Unidos? (Si no lo es, conteste la pregunta 17b.)	[Sí/Yes]	[No/No]
	Are you a citizen of the United States? (If no, answer question #17b)		
b.	¿Entiende usted que si no posee la ciudadanía o la nacionalidad de los Estados Unidos, podrá ser deportado en virtud de su declaración de culpabilidad?	[Sí/Yes]	[No/No]
	Do you understand that if you are not a United States citizen or national, you may be deported by virtue of your plea of guilty?		
c.	[SPN]	[Sí/Yes]	[No/No]
	Do you understand that if your plea of guilty is to a crime considered an "aggravated felony" under Federal law you will be subject to deportation/removal?		
17.d.	[SPN]	[Sí/Yes]	[No/No]
	Do you understand that you have the right to seek legal advice on your immigration status prior to entering a plea of guilty?		

Snapshot #5 of a Spanish/English retranslation

This snapshot shows the completed translation sent to the coordinator from the translation team. The coordinator reviews the submission for formatting and consistency before sending to editor for final approval.

17.a.	¿Es usted ciudadano de los Estados Unidos? (Si no lo es, conteste la pregunta 17b.)	[Sí/Yes]	[No/No]
	Are you a citizen of the United States? (If no, answer question #17b)		
b.	¿Entiende usted que si no posee la ciudadanía o la nacionalidad de los Estados Unidos, podrá ser deportado en virtud de su declaración de culpabilidad?	[Sí/Yes]	[No/No]
	Do you understand that if you are not a United States citizen or national, you may be deported by virtue of your plea of guilty?		
c.	¿Entiende usted que si su declaración de culpabilidad es por un delito que se considera un "delito con agravantes" de acuerdo con las leyes federales, estará sujeto a deportación o expulsión?	[Sí/Yes]	[No/No]
	Do you understand that if your plea of guilty is to a crime considered an "aggravated felony" under Federal law you will be subject to deportation/removal?		
17.d.	¿Entiende usted que tiene derecho a tratar de obtener asesoramiento legal sobre su estatus migratorio antes de presentar una declaración de culpabilidad?	[Sí/Yes]	[No/No]
	Do you understand that you have the right to seek legal advice on your immigration status prior to entering a plea of guilty?		

AF staff would fix before sending to editor

Snapshot #6 of a Spanish/English retranslation

This snapshot shows the final version of the bilingual form.

17. a. ¿Es usted ciudadano de los Estados Unidos? (Si no lo es, conteste la pregunta 17b.) Are you a citizen of the United States? (If no, answer question #17b)	[Sí/Yes]	[No/No]
b. ¿Entiende usted que si no posee la ciudadanía o la nacionalidad de los Estados Unidos, podrá ser deportado en virtud de su declaración de culpabilidad? Do you understand that if you are not a United States citizen or national, you may be deported by virtue of your plea of guilty?	[Sí/Yes]	[No/No]
c. ¿Entiende usted que si su declaración de culpabilidad es por un delito que se considera un “delito con agravantes” de acuerdo con las leyes federales estará sujeto a deportación o expulsión? Do you understand that if your plea of guilty is to a crime considered an “aggravated felony” under Federal law you will be subject to deportation/removal?	[Sí/Yes]	[No/No]
Iniciales del acusado / Defendant's Initials _____		
Formulario principal de declaración / Formulario enmendado promulgado por la directriz #08-09 (09/04/2009), CN 10079-English-Spanish Main Plea Form / Revised Form Promulgated by Directive #08-09 (09/04/2009), CN 10079-English-Spanish		página 5 de 7 page 5 of 7
17. d. ¿Entiende usted que tiene derecho a tratar de obtener asesoramiento legal sobre su estatus migratorio antes de presentar una declaración de culpabilidad? Do you understand that you have the right to seek legal advice on your immigration status prior to entering a plea of guilty?	[Sí/Yes]	[No/No]

Glossary of Terms

American Translators Association (ATA) - A national, professional organization for professional translators. The ATA administers a translation certification exam for the following languages: Arabic, Chinese, Croatian, Danish, Dutch, Finnish, French, German, Hungarian, Italian, Japanese, Polish, Portuguese, Russian, Spanish and Ukrainian. ATA certified translators must pass the exam and maintain ongoing continuing education credits. The ATA also has many non-certified members who may or may not have certifications from the ATA and/or other organizations. A listing of all ATA members, their specialties and contact information can be found at www.atanet.org.

Bilingual – a person who speaks two languages fluently.

Editing – a monolingual process that includes stylistic editing, i.e., tailoring language to readers, ensuring smoothness of text, checking syntax and idiom, house style, spelling, typography, punctuation, as well as copyediting/proofreading for consistency. An editor ensures that a text is free of grammatical errors and that it meets the readability criteria appropriate for the document in question.

Interpreter - a person who transmits spoken or signed message from one language to another.

Proofreading – a process whereby a text undergoes final checking for any typographical, spelling, or other error not normally related to the overall style, content of the text, or accuracy of the translation.

Revision - A bilingual process that ensures a translated text faithfully renders the source text and meets the readability criteria appropriate for the text in question. It involves comparing the source text with the translation and making corrections and/or editorial improvements where necessary.

Source Language (SL) – the original language of the writer or speaker.

Target Language (TL) – the language of the receiving reader or listener.

Translator – a person who takes written text in a source language (language of the original text) and provides a written text into the target language (the language of the reader).