

June 26, 2023

Court Interpreter Program
c/o Mr. Jeff Shorba, State Court Administrator
State Court Administrator's Office
Court Services Division
25 Rev. Dr. Martin Luther King Blvd, Suite 105
St. Paul, MN 55155

Dear Mr. Jeff Shorba and Court Interpreter Program staff:

The American Translators Association (ATA) is the largest professional association of interpreters and translators in the United States, representing more than 8,500 members working in over 90 languages.

We are writing in response to the public call for comments about the proposed revisions to policies 513(a) and 513(c). We would like to address concerns raised by our colleagues in the State of Minnesota in their June 16, 2023 letter to your office, and express our support and solidarity with the comments expressed by the National Association of Judiciary Interpreters and Translators (NAJIT) in their June 23, 2023 letter on these changes.

We would also like to acknowledge the Minnesota Judicial Branch's commitment to equal language access as reflected in the change proposed in Policy 513(a)(1)(2) to "[p]rovide equal access to justice and a consistently high degree of interpreting for court proceedings." We commend you for recognizing how critical it is to ensure that limited English proficient (LEP) persons can participate meaningfully in the US justice system.

With regard to fair compensation, the current hourly rate of \$50 for certified court interpreters in Minnesota has not been adjusted since 1997. However, the cost of living nationwide has increased substantially since then, and interpreter compensation should be adjusted to match. According to the Bureau of Labor Statistics' CPI Inflation Calculator, \$1 in May 2023 has the same buying power as \$0.53 in June 1997. In other words, had the hourly rate been adjusted for inflation, it would be at least \$94.86 today. Moreover, these fees do not fairly reflect the value and scarcity of interpreter skills in your state.

The proposed payment policy under 513(a), which establishes rates for language conversion in different formats, pays individuals less the more different the language is from English and the farther away the culture is from American. We see this as discriminatory.

Minnesota Judicial Branch	Court Interpreter Payment Policy 513(a)		
	Per hour	Language(s)	Culture(s)
Communication Access Realtime Translation (CART)	\$120	English	American
ASL Legal Specialist Certification	\$86	ASL/English	Deaf/American
Court Certified for a Foreign Language	\$60	Foreign/English	Foreign/American

This policy essentially enshrines unequal pay for equal (if not more difficult) work, since court interpreting actually entails a higher level of knowledge, skills and abilities than court reporting because the former is based on culture-bound translation while the latter is based on phonetic-bound translation.¹

Interpreters provide an essential and professional service to the courts, which is mandated by both state and federal law. As small business owners, contract interpreters are responsible for paying for their own health insurance, Social Security, Medicare, federal and state income taxes, as well as covering their own sick and vacation time, among other business expenses. Professional interpreters must also bear costs associated with keeping their skills and certifications current.

Furthermore, interpreting is a demanding profession that requires significant training and investment in continuing education and, increasingly, specialized equipment for remote assignments. As such, it is imperative that interpreters be paid at market rate, which is what they can expect to bill and earn on the open market for their services, commensurate with their skills, expertise, and the demand for their work.

If Minnesota courts continue to offer rates below the fair market value, it may drive certified interpreters into other markets where their services are remunerated commensurate with their level of expertise. This will result in a decrease of available court-certified interpreters and compromise due process for LEP individuals whom the court is mandated to serve equitably. Many highly skilled interpreters will seek work elsewhere given the rapid expansion of opportunities for interpreters to work remotely, and the gap will likely be filled by deskilled, nonprofessional bilinguals, especially if the “Diligent Effort” clause to hire a certified court interpreter, as set forth in Rule 8.02 of the General Rules of Practice for District Courts, is eliminated from Policy 513(a). Removing the clause will make it easier for court administrators to hire unqualified interpreters, thinking they are saving money rather than realizing deaf, hard of hearing, and immigrant court users will get far less language access compared to their English-speaking counterparts.

Such a shift away from court-certified linguists increases the risk of errors and has devastating consequences for the most vulnerable communities in Minnesota. It also raises questions of ethics and accuracy, which could lead to costly appeals, put taxpayer dollars unnecessarily at risk, and expose the state to liability for violating the right to meaningful language access contained in Title VI of the Civil Rights Act of 1964.

¹ [Compensation of Court Interpreters in New York](#) (2019), pp. 10-13; 37-48.

In addition to an hourly rate at fair market value, industry standards dictate that court interpreters are also entitled to minimum fees (usually a half day). Court interpreters must be scheduled in advance and usually cannot be available at a moment's notice. Assignments in settings like the courts require interpreters to arrive prior to their assignment and to be present until the case is called. They cannot accept other work for the scheduled time, and if an assignment is canceled with insufficient notice, it is unlikely they will be able to fill that time slot with another assignment and should thus be compensated for reserving their availability.

The policy amendments also propose eliminating compensation for travel interpreters may be required to undertake to fulfill their professional duties to state courts, making it financially challenging to render their services. Eliminating compensation for travel time in Policy 513(a) will have a negative impact on rural courts in Minnesota that rely on this advantage to attract court interpreters to their neck of the woods.

Though not part of the changes on which we've been invited to comment, Policy 513(c) requires candidates to, "pass all three modes of the exam (Simultaneous, Consecutive, and Sight Translation) with a score of at least 70 percent."² A benchmark of 80% was established over 40 years ago to identify competent court interpreters with the minimum skills to interpret accurately in court settings.³ We will follow up with more information about said benchmark in a future letter.

ATA supports the efforts of court interpreters in Minnesota to update their decades-old fees to a fair rate, receive better terms that include travel reimbursement, and establish a mechanism for annual rate increases commensurate with those received by other court personnel, the pace of inflation, and current market conditions. We encourage you to take this matter under serious consideration to continue to guarantee language access in your state.

Please feel free to contact me if our association can be of any further assistance.

Sincerely,



Madalena Sánchez Zampaulo
President, American Translators Association

Cc:

Hon. Lorie Skjerven Gildea, Chief Justice of the Minnesota Supreme Court
Hon. Leslie E. Beiers and Mary R. Vasaly, co-chairs of the Committee for Equality and Justice

² Minnesota Judicial Branch Policy and Procedures (2014). [Court Interpreter Roster Qualifications](#). Policy Source: State Court Administrator. Policy Number: 513(c).

³ The benchmark cut score of 80% on court interpreter exams was set in 1980 with the federal court interpreter certification examination (FCICE) and later with the national court interpreter and translator certification exam (NJITCE) of the National Association of Judiciary Interpreters and Translators.