

**WHATCOM COUNTY SUPERIOR / DISTRICT / MUNICIPAL COURT
LANGUAGE ASSISTANCE PLAN (LAP)**

I. LEGAL BASIS AND PURPOSE

This document serves as the plan for Whatcom Superior/District/Municipal Court to provide services to Limited English Proficient (LEP), deaf or hearing impaired individuals in compliance with Title VI of the Civil Rights Act of 1964; 45 C.F.R. § 80 et seq.; 28 C.F.R. § 42 et seq.; and RCW 2.42 and 2.43. The purpose of this plan is to provide a framework for the provision of timely and reasonable language assistance to LEP, deaf or hearing-impaired persons who come in contact with Whatcom Superior/District/Municipal Court.

This LAP Plan was developed to insure equal access to court services for persons with limited English proficiency and deaf and hearing-impaired persons. Although deaf and hearing-impaired individuals are covered under the Americans with Disabilities Act (ADA) rather than Title VI of the Civil Rights Act, they have been included in this plan insofar as they relate to RCW 2.42 and 2.43.

II. NEEDS ASSESSMENT

A. Statewide

Washington State provides court services to a wide range of persons, including people who do not speak English or who are deaf or hearing impaired. Service providers include the trial courts at the Superior, District and Municipal Court levels.

According to 2000 U.S. Census data, the most widely used languages for interpreters in Washington State were (in descending order of frequency):

1. Spanish
2. Russian
3. Vietnamese
4. Chinese

B. Whatcom Superior/District/Municipal Court

The courts will make every effort to provide service to all LEP, deaf and hearing-impaired persons. The following list shows the non-English languages that are most frequently used in the area.

- Spanish
- Mixteco/Spanish
- American Sign
- Russian
- Vietnamese
- Ukrainian

Spanish-speakers make up the overwhelming largest share of LEP court participants. This information is based on data from all court personnel.

In compiling information on local language needs, a stakeholders meeting was scheduled for March 25, 2009 and invitational letters were sent out requesting the attendance and input. (See attached invitee list, agenda and associated minutes).

The following individuals and groups were in attendance:

Bruce VanGlubt	Whatcom Count District Court
Terry Lewis	Municipal Judge, Ferndale & Lynden Courts
Peggy Hintz	Whatcom County District Court
Kathy Cramer	Bellingham Municipal Court
Tammy Dezeeuw	Lynden Municipal Court
Tammy Graham	Lynden Municipal Court
Nettie Cameron Clouthier	Interpreter
Rhonda Hanowell	Everson-Nooksack Municipal Court
Raylene Heutink-King	Blaine Municipal Court
N. F. Jackson	Whatcom County Superior Court
Shirley Zimmerman	Ferndale Municipal Court
George Perez	Interpreter
Julie Scerbik	The Language Exchange
Kyra Flor	Interpreter
Karina Pugachenok	WA AOC
Kelly Owen	Northwest Justice Project
Luba Sokolav	Interpreter
Tom Kroontje	District/Municipal Court Probation

Whatcom Superior/District/Municipal court has identified the following additional language assistance needs among court users in the area.

- Punjabi
- Cantonese
- German
- Korean

This information is based on input from the current and historical billing from all court personnel.

RECOGNIZED NEEDS:

- The Courts will display a sign translated into Washington State's six most frequently used languages that states: "You may have the right to a court-appointed interpreter in a court case. Please ask someone at the court's front counter."
- The Whatcom County Courts will utilize "I Speak" cards when the court staff does not recognize the language spoken by the customer.
- Expansion of translated forms
- Certified or registered interpreters need to be provided at every hearing.

III. LANGUAGE ASSISTANCE RESOURCES

A. Interpreters Used In the Courtroom

The use of court interpreters (both sign language and non-English spoken language) is guided by two state statutes – RCW 2.42 and 2.43, respectively.

It is the policy/law of Washington State to secure the constitutional rights of deaf persons and of other persons who, because of impairment of hearing or speech, are unable to readily understand or communicate the spoken English language and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them. See RCW 2.42. It is also the policy/law of Washington State to secure the rights, constitutional or otherwise, of persons who, because of a non-English speaking cultural background, are unable to readily understand or communicate in the English language and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them. See RCW 2.43.

When a deaf or hearing impaired person is a party or witness at any stage of a judicial or quasi judicial proceeding in the state or political subdivision, including but not limited to civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings and any proceeding in which a deaf or hearing impaired person may be subject to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter. See RCW 2.42.120(1). When a non English speaking person is a party to a legal proceeding or is subpoenaed or summoned by an appointing authority or is otherwise compelled by an appointing authority to appear at a legal proceeding, the appointing authority shall use the services of only those language interpreters who have been certified or registered by the Administrative Office of the Courts (AOC). See RCW 2.43.030(1)(b). If the current list of certified and registered interpreters maintained by AOC does not include an interpreter certified or registered in the language spoken by the non English speaking person, the appointing authority shall appoint a qualified interpreter as defined in RCW 2.43.020(2).

The Whatcom County Courts have regular calendars that require interpreters. District Court schedules interpreters as needed, as well as having interpreters present at every Friday morning arraignment. Municipal Courts provide interpreters on regular scheduled court days as needed. Superior Court has interpreters on criminal, domestic and civil calendars as needed.

1. Determining the Need for an Interpreter in the Courtroom

There are various ways that the Whatcom County Courts will determine whether an LEP, deaf or hearing-impaired court customer needs an interpreter for a court hearing.

a) The LEP, deaf or hearing-impaired person may request an interpreter in person or in writing. Court personnel at the front counter or a first appearance in court may alert the District and Municipal courts that an interpreter is needed. Front counter personnel are equipped with AOC's Interpreter/Language Resource guide "Serving Non-English Speaking Court Customers". Intake offices for the Superior Court may learn of the apparent need for an interpreter and initiate the recording of the need. Such intake offices include the Courthouse Facilitators and those interviewed for indigent defense representation and domestic violence, sexual assault and anti-harassment protection orders.

b) Judicial Information System (JIS) person screen will show that this individual may need an interpreter.

c) The infraction or citation will indicate that the individual will need an interpreter and which language.

d) Court personnel and judges may determine that an interpreter is appropriate for a court hearing. Many people who need an interpreter will not request one because they do not realize that interpreters are available, or because they do not recognize the level of English proficiency or communication skills needed to understand the court proceeding. Therefore, when it appears that an individual has any difficulty communicating, the court administrator or judge should err on the side of providing an interpreter to ensure full access to the courts.

e) Outside agencies such as probation, attorneys, social workers or correctional facilities may notify the court about an LEP, deaf or hearing-impaired individual's need for an interpreter for an upcoming court hearing. An electronic request can be forwarded from any county/city department with case information, language, and date of hearing. Upon receipt, the information is then forwarded to the appropriate court personnel to make arrangements to have an interpreter present.

2. Court Interpreter Qualifications

The Whatcom County Courts hire interpreters for courtroom hearings in compliance with the rules and policies set forth in RCW 2.42 and 2.43 as well as General Rule 11.0; 11.1; 11.2; and 11.3.

The Whatcom County Courts use court-certified or registered interpreters whenever possible. Whatcom County District/Municipal Court utilizes The Language Exchange, Inc., along with local and non-local interpreters. This Language Exchange provides only court-certified or registered interpreters in all languages for hearings and trials as requested by the Courts. The Superior Court contacts local certified interpreters as needed and will contact the Language Exchange and other non-local interpreters if no local certified interpreters are available.

The Washington State Court Interpreter Program maintains a statewide roster of Certified and Registered interpreters who may work in the courts. This roster is available to court staff and the public at <http://www.courts.wa.gov>. Certified and Registered interpreters on the roster have passed a written examination, oral examination, undergone a criminal background check, signed an oath and attended an orientation.

Washington State currently certifies the following languages: Arabic, Cantonese, Korean, Laotian, Mandarin, Russian, Somali, Spanish, Vietnamese and American Sign Language (ASL). Washington also offers testing in the Registered Category in the following languages: Albanian, Amharic, Armenian, Bengali, Bosnian/Croatian/Serbian, Bulgarian, Cebuano, Chavacano, Czech, Dari, Dutch, French, German, Haitian Creole, Hausa, Hebrew, Hindi, Hmong, Indonesian, Italian, Japanese, Javanese, Malay, Modern Greek, Mong, Pashto, Persian Farsi, Polish, Portuguese, Punjabi, Romanian (Moldovan), Slovak, Swahili, Swedish, Tagalog (Filipino), Thai, Turkish, Urdu and Yoruba.

The court may appoint non-certified and non-registered interpreters who are not listed on the statewide roster only when certified and registered interpreters are unavailable. Whenever non-certified and non-registered interpreters are used in the courtroom, judges are encouraged to inquire into the interpreter's skills, professional experience, and potential conflicts of interest.

The Whatcom County Courts may also use telephone interpreting if no interpreters are available in person pursuant to General Rule 11.3. Bilingual staff who are not on the statewide roster are never used to interpret in court.

B. Spoken Language Services outside The Courtroom

The Whatcom Superior/District/Municipal Court is also responsible for taking reasonable steps to ensure that LEP, deaf and hearing-impaired individuals have meaningful access to services outside the courtroom. This is one of the most challenging situations facing court staff, because in most situations they are charged with assisting LEP, deaf or hearing-impaired individuals without an interpreter. LEP, deaf or hearing-impaired individuals may come in contact with court personnel via the phone, TTY / TDD, counter or other means. To that end, the Whatcom County Courts have the following resources to help LEP, deaf or hearing-impaired individuals and court staff communicate with each other:

- The Whatcom County Courts utilize telephonic interpretation services as needed. This helps communicate with face to face encounters.
- The Superior Court uses the Language Line for its intake services, including the Courthouse Facilitators and the Assigned Counsel office providing for public defender indigency screening and protection order processing.
- Bellingham Municipal Court employs two full-time bi-lingual employees, Spanish and Korean, who can help at the front counter
- Superior Court has forms accessible on the Court's website with information on getting an interpreter for court hearings. District/Municipal Court accept oral requests for interpreters at the clerk's office or in the courtroom.
- Superior Court has forms to request an interpreter in it's lobby.

C. Translated Forms & Documents

The Administrative Office of the Courts understands the importance of translating forms and documents so that LEP individuals have greater access to the courts' services. The Whatcom County Superior/District/Municipal Court currently has the following forms translated into commonly used languages:

All of the following forms have been translated into Spanish:

- DV Protection Order
- DV Project, from Domestic Violence Sexual Assault Center
- Starting an Agreed Dissolution with Children
- Starting an Agreed Dissolution without Children
- Starting an Agreed Legal Separation with Children
- Starting an Agreed Legal Separation without Children
- Starting a Dissolution Action with Children
- Starting a Dissolution Action without Children
- Starting a Legal Separation with Children
- Starting a Legal Separation without Children
- Your Final Dissolution Hearing
- Modification of Custody Decree or Parental Plan
- Support Modification
- Sentence Order
- Guilty Plea
- Addendum to Sentence Order
- Criminal DV No Contact Order
- DP Policy
- Order to Extend DP
- Petition for DP
- Statement on DP
- Order for DP
- DWI Information Sheet
- DWI grid
- Firearm Rights
- ICAOS Travel rights
- Interlock Rule
- Probation Referral
- Assigned Counsel application Requirements
- Arraignment form (action memo)
- Defendant rights
- Waiver of speedy trial
- Probation Violation Hearing Order
- Infraction Hearing Orders
- Pro se Notice of Appearance
- Defendant Request for More Time to Pay

When interpreters are hired for hearings, they are expected to provide sight translations/ oral translations for corresponding documentation to LEP individuals, as well as for deaf or hearing-impaired individuals when necessary.

IV. TRAINING

Local courts are committed to providing training opportunities for all judicial and court staff members who come in contact with LEP, deaf or hearing-impaired individuals. Training opportunities specifically provided in the Whatcom County Superior/District/Municipal Court include:

- Staff has been instructed about LAP policies and procedures, as described by this LAP Plan, on an annual basis.
- The Superior Court has an ADA Compliance Plan on file.

V. PUBLIC NOTIFICATION AND EVALUATION OF LAP PLAN

A. LAP Plan Approval & Notification

Whatcom County Superior/District/Municipal court's LAP Plan has been approved by the **Superior, District and Municipal Court Administrators and the County Clerk**, and a copy has been forwarded to Washington State's Administrative Office of the Courts Interpreter Program Coordinator. Any revisions to the plan will be submitted to the Court Administrator for approval, and then forwarded to the Interpreter Program Coordinator. Copies of Whatcom Superior/District/Municipal court's LAP plan will be provided upon request. In addition, Whatcom Superior/District/Municipal court will post this plan on its own and AOC's websites.

B. Annual Evaluation of the LAP Plan

The Whatcom County Superior/District/Municipal Court will conduct an annual needs assessment to determine whether changes to the LAP plan are needed. This assessment may be done by tracking the number of interpreters requested by language in the courts, or by other methods.

Any revisions made to the Plan will be communicated to all court personnel, and an updated version of the plan will be posted on the court's web site. Additionally, it will be posted on the AOC's public website.

Each year the statewide AOC Court Interpreter Program Coordinator will coordinate with designated local court staff to review the effectiveness of the LAP Plan. The evaluation will include identification of any problem areas and development of required corrective action strategies. Elements of the evaluation will include:

- Number of LEP, deaf or hearing impaired persons requesting court interpreters in Washington State trial courts;
- Assessment of current language needs to determine if additional services or translated materials should be provided;
- Assessing whether staff members adequately understand LAP policies and procedures and how to carry them out; and
- Gathering feedback from LEP, deaf and hearing-impaired communities around the state.

LAP Contact Person

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The effective date of this LAP plan is July 1, 2009.

APPENDIX C
Questions to Ask/Consider When Qualifying an Interpreter

QUESTIONS TO ASK/CONSIDER WHEN QUALIFYING AN INTERPRETER

RCW 2.43.030 (2) states that:

If good cause is found for using an interpreter who is not certified or if a qualified interpreter is appointed, the appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

- a. Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and*
- b. Has read, understands, and will abide by the code of ethics for language interpreters established by court rules.*

Following is a list of questions recommended for judicial officers to use when qualifying a non-certified interpreter (including registered interpreters) for a hearing:

1. Are you certified by the state of Washington as a court interpreter? Any other state? Any other credentials or certification?
2. What is your native language?
3. How did you learn English and the target language?
4. Can you read in both languages?
5. Did you formally study either language in school? What was your primary language in school? Where and how long did you attend school?
6. Have you had an opportunity to speak with the litigant(s)? Do you need a few minutes? Were there any particular communication problems?
7. Are you familiar with the dialectical or idiomatic peculiarities of the witness/parties?
8. Have you ever interpreted in court before? Where? How often? For what types of hearings or cases?

9. Have you received any special training in court proceedings?
10. Describe simultaneous interpreting and your experience with it.
11. Describe consecutive interpreting and your experience with it.
12. Do you ever summarize statements while interpreting? Do you understand the law requires you to interpret everything said by all parties?
13. Have you read the Code of Conduct for Court Interpreters? Describe briefly the topics covered (see GR 11.1).
14. Are you a potential witness in this case?
15. Do you now or have you ever met any of the parties/witnesses? In what circumstances?
16. Do you have any other potential conflicts of interest?
17. Have you ever worked for any of the parties/witnesses? In what capacity?
18. Do you believe you can communicate with the non-English-speaking person/party; i.e., have you talked with the person already or do you need a few minutes to talk now?
19. Can you readily communicate with the non-English-speaking person?

APPENDIX D

Code of Conduct for Court Interpreters – GR 11.2

GR 11.2

CODE OF CONDUCT FOR COURT INTERPRETERS

Introduction: The Washington State Supreme Court adopted the Code of Conduct for Court Interpreters in November of 1989. Washington law establishes that all legal interpreters, whether certified or not, must follow the Code of Conduct.

Preamble: All language interpreters serving in a legal proceeding, whether certified or uncertified, shall abide by the following Code of Conduct:

A language interpreter who violates any of the provisions of this code is subject to a citation for contempt, disciplinary action or any other sanction that may be imposed by law. The purpose of this Code of Conduct is to establish and maintain high standards of conduct to preserve the integrity and independence of the adjudicative system.

(a) A language interpreter, like an officer of the court, shall maintain high standards of personal and professional conduct that promote public confidence in the administration of justice.

(b) A language interpreter shall interpret or translate the material thoroughly and precisely, adding or omitting nothing, and stating as nearly as possible what has been stated in the language of the speaker, giving consideration to variations in grammar and syntax for both languages involved. A language interpreter shall use the level of communication that best conveys the meaning of the source, and shall not interject the interpreter's personal moods or attitudes.

(c) When a language interpreter has any reservation about ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the parties and to the court. If the communication mode or language of the non-English-speaking person cannot be readily interpreted, the interpreter shall notify the appointing authority or the court.

(d) No language interpreter shall render services in any matter in which the interpreter is a potential witness, associate, friend, or relative of a contending party, unless a specific exception is allowed by the appointing authority for good cause noted

on the record. Neither shall the interpreter serve in any matter in which the interpreter has any interest, financial or otherwise, in the outcome. Nor shall any language interpreter serve in a matter where the interpreter has participated in the choice of counsel.

(e) Except in the interpreter's official capacity, no language interpreter shall discuss, report, or comment upon a matter in which the person serves as interpreter. Interpreters shall not disclose any communication that is privileged by law without written consent of the parties to the communication, or pursuant to court order.

(f) A language interpreter shall report immediately to the appointing authority in the proceeding any solicitation or effort by another to induce or encourage the interpreter to violate any law, any provision of the rules which may be approved by the courts for the practice of language interpreting, or any provisions of this Code of Conduct.

(g) Language interpreters shall not give legal advices and shall refrain from the unauthorized practice of law.

[Adopted effective November 17, 1989]

[By orders dated November 2, 1989, the Supreme Court adopted GR 11.1 and CrRLJ 3.2(0) and amended CR 79 (e) to read as set forth below. Effective November 17, 1989.]

GR 11.1 the use of qualified interpreters is authorized in judicial proceedings involving hearing impaired or non-English-speaking individuals [adopted effective July 17, 1987].

APPENDIX E

Comments on the Code of Conduct

COMMENTS ON THE CODE OF CONDUCT

By: Court Interpreter Task Force

The Court Interpreter Task Force published comments to its proposed code in 1986. These comments are useful because they expand on issues covered by various provisions of the Code of Conduct for court interpreters.

Standards

The Code of Judicial Conduct (CJC) Canons 1 and 3 require high standards of conduct by judges, their staff, and court officials. Such standards apply to interpreters as well. Interpreters are the vital link in communication between litigants and the court. Conflicts of interest may consciously or subconsciously affect the quality or substance of an interpretation or translation. The need for unquestioned integrity among interpreters is obvious. These Canons apply to interpreters and translators for both the hearing impaired and for individuals who speak a language other than English. CJC Canon 3 requires court personnel and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge.

Accuracy

The interpreter should utilize the same level of language used by the speaker. This means that the interpreter will interpret colloquial, slang, obscene or crude language, as well as sophisticated and erudite language, in accordance with the exact usage of the speaker. It is not the interpreter's task to tone down, improve, or edit phrases.

Unless the interpreter is faithful to this concept of accurate interpretation, he or she may act as a filter or buffer in the communication process. This could damage the integrity of the trial process, which is based on an adversarial system with vigorous examination and cross-examination. Consequently, the substance of questions posed and answers given during the testimony should not be altered more than absolutely necessary to assure comprehension.

The interpreter should not assume that it is his or her duty to simplify statements for a witness or defendant whom the interpreter believes cannot understand the speaker's statements. Like witnesses who do not use an interpreter, interpreted witnesses can and should request counsel or the court to explain or simplify matters if necessary.

An interpreter should never characterize or give a gratuitous explanation of testimony. The court or attorneys will request clarification from the speaker if necessary. The court and counsel should be sensitive to possible confusion by the witness. During testimony, the interpreter may volunteer to the court his or her belief that the witness does not understand a particular question or comment.

Idioms, proverbs and sayings rarely can be interpreted literally. The interpreter should seek an equivalent idiom or relate the meaning of the original idiom or saying.

While interpreting a non-English language, the interpreter should not offer an explanation or repeat a witness' gesture or grimace, which has been seen by the trier of fact.

Interpreters for the deaf or hearing-impaired should use the method of interpreting most rapidly understood by the deaf or hearing-impaired witness. For example, the witness may be more articulate in American Sign Language than in manually coded English or finger spelling.

Meaning

A court interpreter or legal translator is often faced with new technical terms, slang, regional language differences, and other problems posing difficulty in accurate interpretations or translations.

The interpreter or translator must take time, and be given appropriate time by the court, to determine an appropriate and accurate interpretation or translation of the material. If unable to interpret or translate the material, the parties and the court must be advised so the court can take appropriate action. When necessary, another, better-qualified interpreter should be substituted. Before such substitution, the court may determine whether another linguistic approach can be used for the same result in communication. For example, a different choice of words to be interpreted may solve the problem.

Impartiality

The purpose is to avoid any actual or potential conflict of interest. CJC Canon 3 requires similar disqualification of a judge because of a conflict of interest. Interpreters should maintain an impartial attitude with defendants, witnesses, attorneys, and families. They should neither conceive of themselves nor permit themselves to be used as an investigator for any party to a case. They should clearly indicate their role as an interpreter if they are asked by either party to participate in interviews of prospective

witnesses outside of the court. Interpreters should not “take sides” or consider themselves aligned with the prosecution or the defense.

See comment to Canon 6, which discusses the use of interpreters in client and witness interviews. Care must be taken to avoid exposing an interpreter to unnecessary conflict of becoming a potential witness on the merits.

Both court interpreters and jurors should be apprised of the identity of each during voir dire to help determine whether any juror knows the interpreter.

The fees and remuneration of a court interpreter or legal translator shall never be contingent upon the success or failure of the cause in which he/she has been engaged.

Interpreters and translators shall not interpret in any matter in which his/her employer has an interest as an advocate, litigant or otherwise.

Interpreters shall be limited to the role of communication facilitators.

No interpreter who has served as an investigator assisting in preparation for litigation shall serve as a court interpreter in that cause.

Personal Opinion

To promote the trust and integrity of the judicial system, it is important that court officials, including interpreters and translators, refrain from commenting publicly regarding an action. Interpreters and translators shall not offer an opinion to anyone regarding the credibility of witnesses, the prospective outcome of a case, the propriety of a verdict, the conduct of a case, or any other matter not already available by public record.

Legal Advice

The interpreter shall never give legal advice of any kind to the non-English-speaking person or to any other person, whether solicited or not. In all instances, the non-English-speaking person should be referred to counsel. The interpreter may give general information to a non-English-speaking person regarding the time, place, and nature of court proceeding. However, in matters requiring legal judgment, the individual should be referred to an attorney.

The interpreter should never function as an individual referral service for any particular attorney or attorneys. This kind of activity has the appearance of impropriety. When asked to refer a non-English-speaking person to a particular attorney, the interpreter should refer such individual to the local bar association or to the Office of the Public Defender.

APPENDIX F

List of Registered and Certified Languages

CURRENT LIST OF REGISTERED AND CERTIFIED LANGUAGES

Registered

Albanian	Hausa	Persian Farsi
Amharic	Hebrew	Polish
Armenian	Hilgaynon	Portuguese
Bengali	Hindi	Punjabi
Bosnian/Croatian/Serbian	Hmong	Romanian (Moldovan)
Bulgarian	Indonesian	Slovak
Cebuano	Italian	Swahili
Chavacano	Japanese	Swedish
Czech	Javanese	Tagalog (Fillipino)
Dari	Malay	Thai
Dutch	Modern Greek	Turkish
French	Mong	Urdu
German	Pashto	Yoruba
Haitian Creole		

Certified – languages for which Washington State currently offers certification¹.

Arabic
Cantonese
Korean
Laotian
Mandarin
Russian
Somali
Spanish
Vietnamese
American Sign Language

¹ The National Consortium also offers certification in French, Haitian Creole, Hmong, Portuguese and Serbian. These languages are currently being considered for certification in Washington.