

Language Service Companies with Significant Interpreting Portfolios – Section 2278 – B2B

- Referral Agency Exemption
- Interpreters can be Individual Sole Proprietors
- Interpreters with a certification in an available language and domain must be certified in that language and domain in order to work with a language company under a Referral Agency relationship.
- Ancillary Services?



AB 2257 and Referral Agencies



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A magnifying glass is held over a crowd of stylized human figures. The magnifying glass is positioned over one figure, making it larger and more detailed than the others. The background is a soft, out-of-focus blue and white gradient.

AB 2257- What tests are applied?

Dynamex vs. Borello

These are the cases from which AB5 was ostensibly derived:

- S.G. **Borello** & Sons, Inc. vs. Department of Industrial Relations 48Cal.3d 341 ("**Borello**") from 1989
- **Dynamex** Operations West vs. Superior Court of Los Angeles 4Cal.5th 903 (2018) ("**Dynamex**") from 2018
- Martinez v. Combs 49Cal.4th 35 (2010) ("Martinez")
- Ayala vs. Antelope Valley Newspapers, Inc. 59Cal.4th 522 (2014) ("Ayala")

READ ABOUT THEM HERE:

<https://www.wagehourblog.com/2020/03/articles/california-wage-hour-law/ab-5-dynamex-and-borello-what-standard-governs-independent-contractor-status-in-california/>

PREPARE:

Action

- Defend your business position
- Leverage legal structures
- Be in documented compliance with the regulations
- Hold up how you are independent (for freelancers)

Reason

- Most have no idea what we do is or how we do it, especially not government agencies.
- AB 2257 sets out the structure
- Avoid fines
- Establish yourself as a professional, separate & distinct entity

Check List for Freelance Interpreter:

3 Key things:

- Demonstrate independence from the referral agency
- Demonstrate professional prowess
- Demonstrate business practices that establish you as a separate business in the marketplace

How?

- Have written agreements between you and the agency
- Provide all requested documentation
- Obtain credentials- inform the agency of the special skills that set you apart as a professional
- Engage in professional development
- Obtain a business license, advertise, invoice regularly

Check List for Referral Agencies:

3 Key things:

- Demonstrate independence from the interpreter
- Demonstrate professional prowess
- Demonstrate business practices that establish you as a separate business in the marketplace

How?

- Have written agreements between you and the interpreter
- Maintain a record of all compliance documentation
- Incorporate, obtain a business license, liability insurance, workers' comp insurance
- Set up a website, advertise, keep an arms length from your vendors

SOME QUESTIONS TO ASK YOURSELF:

- Who are you in light of these new definitions.
- Under the law, is your business structure better defined as a:
 - B2B
 - Referral Agency
 - Service Provider
 - Business Service Provider



Referral Agency & Service Providers



AB 2257

- Retroactive from January 1, 2020
- Taxation codes still hold, but this law does make changes in that the determination of the status of a worker conforms to the criteria in this law. For most of us that means Borello.

