



THE SUPREME COURT *of* OHIO

INTERPRETERS IN THE JUDICIAL SYSTEM

A Handbook *for* Ohio Judges



NOTICE: In order to comply with the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et. seq., the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3789d(c), and 28 C.F.R. Part 42, Subparts C and D, recipients of federal funds must provide meaningful access to limited English proficient (LEP) individuals. *Lau v. Nichols*, 414 U.S. 563 (1974). The U.S. Department of Justice advises that practices, such as charging for interpretation and translation services or seeking recoupment for those costs, significantly impair, restrict, or preclude the participation of LEP individuals in the judicial system and are inconsistent with recipients' Title VI obligations. For more information, please refer to Guidance from the U.S. Department of Justice to state court justices and administrators. Letter from Assistant Attorney of the Civil Rights Division to Chief Justices and State Court Administrators (Aug. 16, 2010); Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (June 18, 2002).

INTERPRETERS IN THE JUDICIAL SYSTEM

A Handbook *for* Ohio Judges



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Supreme Court of Ohio Advisory Committee on Interpreter Services

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A group of women are shown from the chest up, clapping their hands. They are positioned in front of a dark backdrop featuring several white, five-pointed stars. The image is overlaid with a semi-transparent blue filter. The women are dressed in professional attire, including blouses and jackets. They are all looking towards the left side of the frame with positive expressions.

Introduction

CHAPTER I

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I. Introduction

Over the past decade, Ohio has experienced a significant increase in the number of its residents who speak languages other than English. The 2000 census reported the use of 116 languages in the state. According to a survey by the Supreme Court of Ohio Interpreter Services Program, by 2006, approximately 73 languages (including the sign languages used by the state's deaf and hard-of-hearing populations) were needed in Ohio courts, where non-English speakers and deaf individuals regularly appear as parties and witnesses.

Due process, fundamental fairness and equal protection of the law, as guaranteed by the U.S. and Ohio Constitutions, require communication in Ohio courts to be effective and accurate. Defendants in criminal cases have the right to be meaningfully present at their trials, assist in their defense, receive effective assistance of counsel and confront witnesses. They also have the right to waive any of these rights, provided they do so knowingly, intelligently and voluntarily.

State and federal law clearly hold accurate, high-quality interpretation, translations and transliteration services to be fundamental elements of due process. Ohio courts must employ highly skilled and professionally qualified judicial interpreters to ensure deaf and limited-English-proficiency people legal protections. To meaningfully participate, parties must be able to understand legal proceedings, and this cannot happen without a competent interpreter.

This handbook is designed to help judicial officials understand the role of judiciary interpreters, assess their qualifications and select and work with them effectively.

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Overview of Interpreting *in*
Ohio Courts

CHAPTER III

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II. Overview of Interpreting in Ohio Courts

Although interpreting may appear simple, it is an exceedingly complex and demanding process requiring a thorough knowledge of two languages, two cultures and much more. The level of expertise required to interpret even ordinary conversation demands a highly developed set of linguistic skills and cognitive abilities. Every language has sophisticated rules governing its structure, sounds, inflection and syntax. But interpreting also requires cognitive abilities in the interpreter — listening, understanding and memory, which are inextricably intertwined in processing the words to be interpreted. The interpreter also must take into account culture, idioms, register and more because the process “demands conserving the language level, style, tone, and intent of the speaker.”¹ The intricate interplay among these many sociolinguistic elements is extremely complex and nuanced. The professional interpreter must identify and analyze all of these aspects in two languages simultaneously and make choices — instantaneously — to speak the words on which lives and property may depend.

Judges play a crucial role in overseeing this process. This includes establishing the interpreter’s qualifications, permitting the interpreter a brief conversation with the party or witness to confirm they speak the same language or dialect, and allowing the interpreter to review relevant documents to become familiar with the terminology, context, and other information necessary to do the job well. The judge also must determine if two (or even more) interpreters will be necessary and then monitor interpreter performance to ensure effective communication is taking place. Finally, it is extremely important for the court to clarify the interpreter’s role for the parties, witnesses, jurors and courtroom staff, so their expectations will be realistic.

Ohio is in the early stages of developing its interpreter program. Further, the Supreme Court of Ohio Advisory Committee on Interpreter Services, appointed by Chief Justice Thomas J. Moyer, is in the process of crafting policy recommendations for using interpreters in the state courts. This handbook is organized to allow for the information herein to be updated as the program develops.

¹ González, Vásquez and Mikkelson, *Fundamentals of Court Interpretation* (Durham: Carolina Academic Press, 1991), 155.

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A person wearing a dark suit jacket and a white shirt is shown from the chest down, holding an open book. The person's hands are visible, and they appear to be reading. The background is a soft, out-of-focus blue. The text "Glossary of Terms" is overlaid on the upper part of the image.

Glossary of Terms

CHAPTER III

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III. Glossary of Terms

American Sign Language (ASL)

“American Sign Language” is a visual-gestural language created by deaf people. It is not English. ASL has all of the elements of any spoken language. Its grammar and conversational rules are very different from spoken English, but, like all languages, it comprises a set of abstract symbols agreed upon by those who “speak” it. ASL is the preferred language of the deaf community in the United States, even among those who use spoken English.

American Translators Association (ATA)

The “American Translators Association” is a professional association founded to advance the translation and interpreting professions and foster the professional development of individual translators and interpreters.

C-Print

“C-Print” is a computer-aided speech-to-print transcription system using two laptops and specialized programming, allowing the deaf or hard-of-hearing person to view words as the captionist types what is being said.

Certified Sign Language-Specialist Certificate: Legal (SC:L)

The sign-language interpreting certificate, “Specialist Certificate: Legal,” indicates the highest level of Registry of Interpreters for the Deaf (RID) qualification for courtroom and legal settings (deposition, interviews, etc). These interpreters demonstrate intellectual and practical knowledge of legal settings. Additionally, they have documentation of five years of generalist certified experience and have completed formal training and/or mentorship programs.

Computer-Assisted Real-Time Captioning (CART)

“Computer-Assisted Real-Time Captioning” is computer-aided transcription by a skilled court reporter in which a court reporter keys the shorthand notes of spoken language into a stenotype machine, and the words spoken in court are concurrently translated into English text. In a court setting, the CART system sends the shorthand output from the stenotype machine directly into a personal computer that translates the shorthand instantaneously and displays it on a monitor, making it possible for courtroom observers to read a written version of courtroom speech while the record is being made.

Credentialed Interpreters (Spoken Language)

There is a hierarchy of interpreter credentials that reflects the skill and qualification levels of those who hold them. Credentials, from highest to lowest, follow.

1. Certified Interpreter (Federal Court or State Court)

“Certified interpreter” represents the highest level of credentialed interpreters. The term refers to someone who has passed either (a) the Federal Court Interpreter Certification Examination, or (b) the National Center for State Courts (NCSC) Consortium test administered by a state judicial department. Federal certification is generally recognized as more demanding than that of the Consortium.

2. Qualified Interpreter

“Qualified interpreter” is a term of art for a spoken-language interpreter credentialed at a level lower than certified interpreter. Although these interpreters must meet certain experience, training, and testing criteria to be deemed “qualified interpreters,” they have not passed a certification examination.

3. Language-Skilled Interpreter

A “language-skilled interpreter” is an individual who lacks the training and testing to be a qualified interpreter, but has demonstrated, to the satisfaction of the court, the ability to interpret between English and a designated language and has met certain other criteria, such as attendance at a seminar on the Code of Ethics for Court Interpreters and court observation.

Facial Grammar

“Facial Grammar” refers to messages conveyed by different parts of the face or the shifting of the head, torso or eyes to communicate syntax or the type of sentence being communicated; it also can refer to the display of such emotions as humor or anger.

Finger Spelling

“Finger spelling” is an English-language signing system in which each letter of the ordinary alphabet has its own sign.

Gesturing

“Gesturing” is an informal communication system used by some deaf people to express themselves through gestures, pictures, pantomime or by pointing to objects.

Interpretation

“Interpretation” is the unrehearsed conversion of a spoken or signed message from one language to another. Interpretation is distinguished from “translation” (see *page 13*), which always deals with written text.

Limited English Proficient (LEP)

“Limited English Proficient” (LEP) is the federal term for people who do not speak English as their primary language and have a limited or basic ability to read, speak, write or understand English. Such individuals are entitled to interpreter services when participating in any court proceeding.

Manually Coded English (MCE)

“Manually Coded English” is a sign-language system developed to reflect the structure of spoken English. MCE systems are typically used in educational settings with children.

Modes of Interpretation

“Modes of interpretation” are interpreting techniques interpreters use to convey message content from the source language into the target language. There are only three interpretation modes permitted by federal and state statutes, court rules, and the judicial-interpreting profession: *simultaneous interpretation*, *consecutive interpretation* and *sight translation*.

1. Simultaneous Interpretation

“Simultaneous interpretation” is the technique of rendering the source language message into the target language while the original speaker continues to speak. Strictly speaking, it is not literally simultaneous with the utterance in the source language, but commences only after an extremely brief time-lag.

2. Consecutive Interpretation

In “consecutive interpretation,” the interpreter waits until the original speaker has completed his or her utterance before beginning to interpret that utterance. It is the normal mode for witness-stand testimony and colloquies.

3. Sight Translation

“Sight translation” (sometimes called sight interpreting) is a hybrid mode in which the interpreter, without advance notice and after only briefly examining a document, provides an oral translation of it. Sight translation is distinguished from other translation in that it is rendered orally and it is performed immediately (“on sight”), whereas translators ordinarily have the opportunity to do research and review the translation prior to final submission.

Summary interpretation should never be used in court, because it involves paraphrasing and condensing the original speaker’s statement and because it does not provide a precise rendering of the complete message.

National Association of Judiciary Interpreters and Translators (NAJIT)

The “National Association of Judiciary Interpreters and Translators” is a nonprofit organization dedicated to the furtherance of the judiciary-interpreting and legal-translation profession. NAJIT’s mission is to be a leader in promoting quality interpretation and translation services in the judicial system.

Rare Languages (Spoken Languages)

“Rare languages” is a term used to refer to languages less frequently encountered in particular parts of the country and for which no standard tests for assessing interpreting skills have been developed.

Register

“Register,” in reference to interpretation and translation, refers to the relative level of formality of a word or phrase in its context. Register can range from very formal, “high register,” to standard, “normal,” to very informal or casual, “low register.” In English, the standard term “prison” can be expressed in low register as “joint” or “slammer” and in high register as “penitentiary.” The source language register should be preserved in the target language.

Registry of Interpreters for the Deaf (RID)

The “Registry of Interpreters for the Deaf” is the major professional organization of (a) interpreters between ASL (see *page 9*) and English and (b) transliterators (see “*transliteration,*” *page 13*). RID and the National Association of the Deaf formed the National Council on Interpreting (NCI) to, among other things, develop a National Interpreter Certification (NIC) test. This new test replaces the current RID generalist test (Certificate of Interpretation and Certificate of Translation). The NIC test is available for sign-language interpreters.

Relay Interpreting

“Relay interpreting” is the process by which two interpreters with different language pairs work in tandem. The first interpreter interprets the original source language into a second language common to both of them. Then the message is interpreted by the second interpreter into a third language, the ultimate target language.

Source Language

“Source language” refers to the language of the original speaker (or document) whose words are to be interpreted (or translated). It is the language from which a statement or text is interpreted or translated.

Speech Read

“Speech read” also is known as lip reading.

Target Language

“Target language” refers to the language into which the source language message is interpreted (or translated) for the benefit of the listener(s) or reader(s) who may not understand the source language.

Translation

“Translation” refers to the conversion of a written text from one language into written text in another language.

Transliteration

“Transliteration,” also known as “Signed English,” refers to a representation of the English language (not ASL) via a visually accessible form of hand signs, “manual coding,” that follows the grammar and structure of spoken English.

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A photograph of a man with a mustache, wearing a dark suit, white shirt, and patterned tie, standing in a courtroom. He is looking directly at the camera. In the background, a judge in black robes is seated at a bench. The scene is dimly lit, with a large arched doorway behind the man.

Legal Considerations

CHAPTER IV

NOTICE: In order to comply with the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et. seq., the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3789d(c), and 28 C.F.R. Part 42, Subparts C and D, recipients of federal funds must provide meaningful access to limited English proficient (LEP) individuals. *Lau v. Nichols*, 414 U.S. 563 (1974). The U.S. Department of Justice advises that practices, such as charging for interpretation and translation services or seeking recoupment for those costs, significantly impair, restrict, or preclude the participation of LEP individuals in the judicial system and are inconsistent with recipients' Title VI obligations. For more information, please refer to Guidance from the U.S. Department of Justice to state court justices and administrators. Letter from Assistant Attorney of the Civil Rights Division to Chief Justices and State Court Administrators (Aug. 16, 2010); Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (June 18, 2002).

IV. Legal Considerations

A. Federal Sources

1. U.S. Constitution

The U.S. Constitution guarantees individuals the right to due process and the right to meaningful participation in the proceedings in which they are involved. Providing individuals who do not speak English, are Limited English Proficient (LEP) or are deaf or hard-of-hearing with an interpreter is essential to upholding these rights.

2. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.

Title VI, enacted as part of the Civil Rights Act of 1964, prohibits discrimination on the basis of race, color and national origin in all programs and activities receiving federal financial assistance.

Under regulations issued by essentially every federal grant agency, Title VI has been construed consistently since 1964 to prohibit both intentional discrimination and the adoption of facially neutral policies and practices that have a significant adverse discriminatory impact (see *Appendix A: Title VI/Department of Justice Material*).

3. Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d

The nondiscrimination provision contained in the Omnibus Crime Control and Safe Streets Act of 1968 prohibits discrimination on the basis of race, color, religion, national origin and sex in any program funded under the statute. The act authorizes the U.S. attorney general to bring a civil action in response to any past or present pattern or practice of discrimination. The aggrieved parties also may sue after exhausting administrative remedies.

4. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency

To help prevent discrimination on the basis of national origin in violation of Title VI, President William J. Clinton in 2000 signed Executive Order 13166 (see *Appendix A: Title VI/Department of Justice Material*). Reaffirmed by President George W. Bush in the year he took office, Section 3 of the order requires all federal agencies providing federal financial assistance to draft Title VI guidance regulations specifically tailored to its recipients and consistent with the LEP Guidance issued by the Department of Justice.

Related Web Resources

Title VI of Civil Rights Act

- www.usdoj.gov/crt/cor/coord/titlevi.htm
- www.lep.gov

Omnibus Crime Control

- www.usdoj.gov/crt/split/42usc3789d.htm

Americans With Disabilities Act

- www.ada.gov/adaintro.htm
- www.ada.gov/taman2.html
- www.ada.gov/websites2.htm
- www.mclld.org/

Rehabilitation Act of 1973

- www.dotcr.ost.dot.gov/Documents/ycr/REHABACT.HTM

Title VI and its regulations require recipients to take reasonable steps to ensure “meaningful” access to the information and services they provide. What constitutes “reasonable steps” with respect to LEP people is contingent on a number of factors, including the number or proportion of LEP individuals in the eligible service population, the frequency with which they come in contact with the program, the importance of the service provided by the program and the resources available to the recipient.

5. Americans with Disabilities Act, 42 U.S.C § 12115

Title II of the Americans with Disabilities Act (ADA) prohibits state and local government discrimination against people with disabilities in providing public services.

Title II requires local and state courts to provide qualified sign-language interpreters or other auxiliary aids, such as transcription or assistive listening systems, to ensure effective communication with the deaf and hard-of-hearing. The statute covers not only litigants and witnesses, but all those with disabilities who may have dealings with the courts. It also requires reasonable deference to the deaf or hard-of-hearing individual’s choice when selecting the appropriate reasonable accommodation.

6. Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against any “handicapped individual” in programs receiving federal financial assistance, and defines such people as:

- a) anyone with a disability that is a substantial handicap to employment
- b) anyone whose employability might reasonably be expected to benefit from the vocational rehabilitation services authorized under the act.

7. Court Interpreters Act

This act establishes a certification program for federal courts and gives authority to the director of the administrative office of the United States courts to set forth criteria for court interpreter certification (see *Appendix B: Court Interpreters Act of 1978*).

B. Ohio Sources

1. R.C. 2311.14 — Use of Interpreter in the Court

A.

1. When a party to or witness in a legal proceeding cannot readily understand or communicate because of a hearing, speech, or other impairment, the court should appoint a qualified interpreter to assist such person. Before appointing any interpreter under this division for a party or witness who is

a mentally retarded person or developmentally disabled person, the court should evaluate the qualifications of the interpreter and should make a determination as to the ability of the interpreter to effectively interpret on behalf of the party or witness the interpreter will assist. The court may appoint the interpreter only if the court is satisfied that the interpreter is able to effectively interpret on behalf of that party or witness.

2. This section is not limited to a person who speaks a language other than English. It also applies to the language and descriptions of any mentally retarded person or developmentally disabled person who cannot be reasonably understood, or who cannot understand questioning without the aid of an interpreter. The interpreter may aid the parties in formulating methods of questioning the person with mental retardation or a developmental disability and in interpreting the answers of the person.
 - B. Before entering upon official duties, the interpreter should take an oath that the interpreter will make a true interpretation of the proceedings to the party or witness, and that the interpreter will truly repeat the statements made by such party or witness to the court, to the best of the interpreter's ability. If the interpreter is appointed to assist a mentally retarded person or developmentally disabled person as described in division (A) (2) of this section, the oath also should include an oath that the interpreter will not prompt, lead, suggest, or otherwise improperly influence the testimony of the witness or party.
 - C. The court should determine a reasonable fee for all such interpreter service, which should be paid out of the same funds as witness fees.
 - D. As used in this section, "mentally retarded person" and "developmentally disabled person" have the same meanings as in R.C. 5123.01.

2. Ohio Rules of Court Evid.R. 604 — Interpreters

An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation that he will make a true translation or interpretation.

3. Ohio Rules of Court Evid.R. 702 — Testimony by Experts

A witness may testify as an expert if all of the following apply:

- A. The witness' testimony either relates to matters beyond the knowledge or experience possessed by lay persons or dispels a misconception common among lay persons;
- B. The witness is qualified as an expert by specialized knowledge, skill, experience, training or education regarding the subject matter of the testimony;

C. The witness' testimony is based on reliable scientific, technical, or other specialized information. To the extent the testimony reports the result of a procedure, test, or experiment, the testimony is reliable only if all of the following apply:

1. The theory upon which the procedure, test, or experiment is based is objectively verifiable or is validly derived from widely accepted knowledge, facts, or principles;
2. The design of the procedure, test, or experiment reliably implements the theory;
3. The particular procedure, test, or experiment was conducted in a way yielding an accurate result.

4. Citation of Important Cases

Ohio case law on interpreters in the courts goes as far back as 1903, [*Fennen v. State of Ohio* (1903)], established that the qualifications of an interpreter are within the discretion of the trial court. Much has changed in Ohio and the country since then. The use of interpreters in the courts has become far more common, and a greater body of case law has been established. More recent cases reveal that appellate courts primarily decide interpreter issues in the following areas: failure to appoint an interpreter, interpreter's oath, qualifications as an expert witness, attorneys as interpreters, no error/harmless error involving an interpreter and so on. For a comprehensive list of cases, see *Appendix C: Citation of Important Cases*.

The Role of the Interpreter
in Legal Proceedings

CHAPTER V



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V. The Role of the Interpreter in Legal Proceedings

A. The Role of the Interpreter

The role of the interpreter is to place the Limited English Proficient (LEP), deaf or hard-of-hearing individual in a position as close as linguistically possible to that of a similarly situated English speaker (e.g., an English speaker of similar background, experience and education) in the same legal setting.

To this end, the interpreter must interpret completely and accurately, adding or omitting nothing, giving due consideration to grammar, syntax, intent, register and level of language of the original speaker.

NOTE

The interpreter should not interpret word-for-word, but should render what may be termed the “closest natural equivalent” of the source message into English.

Having an interpreter should not result in an advantage or disadvantage to the LEP, deaf or hard-of-hearing witness or defendant.

As impartial officers of the court, interpreters, transliterators and translators act strictly in the interest of the court. Their duty is to the judicial process rather than to any particular party or person involved in the case.

The role of the interpreter(s) should be made clear to the parties and attorneys at the commencement of proceedings in order to avoid distracting explanations at a later time, which might interrupt the flow of proceedings.

B. Direct Speech in Legal Settings

To ensure a clear and unambiguous record, the interpreter and all other speakers in the courtroom (judge, parties, attorneys, witnesses and court personnel) must employ what is called “direct speech.”

Direct speech means that everyone should direct everything they say to each other, exactly as they would if there were no language or hearing issue. The interpreter interprets and speaks or signs the speaker’s message in the other language, but says or signs it in the first person, thus sounding exactly as if the interpreter were the person who had initiated the message (see *Table 5.1: Direct Speech on page 24*).

Direct speech in open court ensures everyone in the courtroom always hears the speaker’s first-person words (which the court reporter can record) in English, either as spoken by the original speaker or by the interpreter. This rule also applies to the interpreted conversations between attorney and client that are not on the record because the principles of avoiding confusion and unobstructed accuracy are the same.

Direct speech preserves the integrity of plea agreements pursuant to Crim. R. 11, avoids miscommunication, reduces confusion and resultant delays, minimizes the adverse effects the presence of an interpreter might have on interactions among the various persons in the courtroom, promotes quality interpretation, and preserves the integrity of the record.²

| Correct | Incorrect |
|--|--|
| Judge: “Please state your name for the record.” | Judge: “Please ask him to state his name for the record.” |
| TRAINED interpreter: (In foreign language) “Please state your name for the record.” | UNTRAINED interpreter: (In foreign language) “He’s asking you to state your name for the record.” |

Table 5.1: Direct Speech
 Questions and requests should never be directed to the interpreter to pass on in the third person. Judges and attorneys should always formulate their statements as if the interpreter were not present.

C. When Speaking in the Third Person is Appropriate

Proper third-person self-reference by interpreters eliminates possible ambiguities and helps to maintain the clarity of the record. When interpreters need to speak directly to the judge on their own behalf, rather than interpreting the words of someone else, they should always refer to themselves in the third person (see *Table 5.2: Speaking in the Third Person*).

| Correct | Incorrect |
|--|--|
| TRAINED interpreter: “Your honor, the interpreter requests a repetition. The interpreter did not hear the question.” | UNTRAINED interpreter: “I’m sorry, but I did not hear the question.” |

Table 5.2: Speaking in the Third Person
 When interpreters need to speak directly to the judge on their own behalf, they should always refer to themselves in the third person.

² See *State v. Pina*, 361 N.E.2d 262 (Ohio Ct. App. 1975), *State v. Nieves*, 1990 Ohio App. LEXIS 5561 at 3 (Ohio App. 11 Dist.1990), *State vs Fonseca*, 705 N.E.2d 1278 at 1279 (Ohio App.11 Dist.1997), and see NAJIT position paper, Direct Speech in Legal Settings, at: www.najit.org/Documents.

D. Ethical Duties and Responsibilities of the Interpreter

Because interpreters are officers of the court, it is important they conduct themselves in a professional manner at all times and observe the canons of the Code of Ethics, which require them to:

- Render complete and accurate interpretation
- Avoid any conflict of interest, financial or otherwise
- Represent their credentials accurately and completely
- Report any ethical violation, action or information that suggests imminent harm to anyone, relates to a criminal act, or efforts by a party to induce the interpreter to violate the law (subject to applicable privilege)
- Refrain from dispensing legal advice, communicating conclusions or expressing personal opinions to those for whom they are interpreting
- Refrain from providing services to the court if he or she has a stake in the outcome
- Refrain from providing services in which he or she has served as an interpreter in preparation of litigation

E. Other Interpreter Requirements

- The interpreter should interpret everything said in the courtroom
- The interpreter should be as unobtrusive and professional as possible
- If the interpreter does not understand a phrase or word, he or she should immediately request clarification from the court and parties
- When requesting clarification, it always should be made clear the interpreter is speaking on his or her own behalf and not interpreting for the party or witness (see *Chapter V, Section C: “When Third-Person References are Appropriate”*).

NOTE

An interpreter never should carry on independent conversations with the party or witness for whom he or she is interpreting, except for a brief conversation with the court’s permission prior to the commencement of testimony. In the case of a foreign-language interpreter, the sole purpose of this conversation is to establish that the interpreter can understand and make himself or herself understood by the LEP person, and in the case of a sign-language interpreter, to establish the deaf or hard-of-hearing person’s preferred mode of communication.

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Modes *of* Interpretation

CHAPTER VI



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VI. Modes of Interpretation

A. Methods

1. Consecutive

Consecutive interpreting is the rendering of statements made in a source language into statements in the target language after a pause between each completed statement in the source language.

More simply, the interpreter renders an interpretation only after the original speaker stops speaking. When using this mode of interpreting, it may be necessary for the interpreter to signal a speaker to pause to permit a consecutive interpretation up to that point because the length of the utterance approaches the interpreter's capacity for recall.

During consecutive interpreting, the interpreter may take notes as a memory aid, especially for dates, names, addresses and numbers.

NOTE

This mode should be used when testimony is given and when a judge or an officer of the court poses questions and expects a response (e.g., taking a plea).

This is the mode used when interpreting at the witness stand and is considered the customary mode for witness interpreting. It also is used in depositions or other situations (e.g., jail interviews) where the conversation or questions and answers are back and forth between two or more people.

2. Simultaneous

Simultaneous interpretation is the rendering of statements made in a source language into statements in the target language as they are made, without waiting for the original speaker to pause or stop speaking.

NOTE

Simultaneous interpretation is used during all court proceedings where the non-English speaker is listening and is not expected to respond.

This occurs most often for the benefit of a defendant in a criminal case, who usually will spend time in most proceedings passively listening and is not expected to respond while the others in the courtroom do the talking. Because the non-English speaking defendant is unable to comprehend or fully understand the language of the proceeding, it is the interpreter who makes it all meaningful by interpreting everything said by the judge, counsel, witnesses, court staff, jurors and even the public audience.

3. Sight Translation

Sight translation is a hybrid form of interpreting and translating in which, after a brief time to review the document, the interpreter reads a written document in the source language while rendering it orally into the target language. Written documents may include letters, court documents and change of plea forms. In this mode of interpreting, written text is rendered orally without advance notice (e.g., on sight, rather than being rendered into a written translation in advance). Ideally, such materials should be provided to the interpreter in advance.

B. Relay Interpreting

Although not an approved mode, relay interpreting may have to be used in cases where rare languages or minimal language skills (deaf) appear.

Relay interpreting is the process by which two interpreters with different language pairs work in tandem: the first interprets the original source language into a second language common to both of them, to have the message then interpreted by the second interpreter into a third language, which is the ultimate target language.

NOTE

Relay interpreting is used when it is not possible to find an interpreter who can work directly between English and the other language. In sign language, relay interpreting is used when individuals have non-standardized sign-language communication, such as hand signals, gestures or pantomime.

The need for relay interpreting is often encountered in the U.S. with speakers of the indigenous languages of Mexico or Guatemala, who, if they are bilingual, tend to speak Spanish as their second language, rather than English. Thus, the only available interpreter of an indigenous language might speak Spanish well, but little or no English. This requires a second interpreter of Spanish or English, to work in tandem, first interpreting the indigenous language into Spanish, then from Spanish to English (and, of course, the same process in reverse from English into the indigenous language). Although relay interpreting is fraught with the expected pitfalls, two relay interpreters with a very good command of their language pairs will actually be more accurate than a direct interpreter who is weak either in English or the rare language.

A woman in a dark suit is seated at a long wooden desk in a courtroom. She is looking down at a stack of papers she is holding in her left hand, while her right hand holds a pair of glasses. In the background, another woman is seated at a desk, and a man in a suit is visible further back. An American flag is partially visible in the background. The entire scene is overlaid with a semi-transparent blue filter.

Interpreting for Deaf
or Hard-of-Hearing Individuals

CHAPTER VII

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VII. Interpreting for Deaf or Hard-of-Hearing Individuals

A. Communication Barriers

Different types of disabilities call for the services of a sign-language interpreter or other assistance for courtroom communication. The court always should ask the deaf or hard-of-hearing person what communication preference would be most helpful in the courtroom (adapted from Derek Wyckoff, manuscript, 2005).

1. Deaf

All deaf people in the court system will need reasonable accommodations. For many, the accommodation is a sign-language interpreter. The court will need to work with the deaf person and interpreter to see what kind of sign interpreter is needed because there are numerous sign systems that are not mutually intelligible. Also, no sign language is universal, so a deaf person from another country may need to have an interpreter who is knowledgeable in the sign language of that country.

Some deaf individuals have understandable speech and will prefer to speak for themselves and use the interpreter or an auxiliary aid to receive information. Some may want to speak in a very soft voice so the interpreter can re-speak what is said. Still others do not have intelligible speech and will rely on the interpreter to put into spoken English what they are communicating.

There is no “one size fits all” when it comes to deafness, so it is important for the court to work with the deaf individual to come up with an accommodation to meet everyone’s needs.

2. Hard-of-hearing

Many users of sign languages are not completely deaf. They may be completely deaf in one ear, or may suffer a partial hearing loss in both ears. Not all such people learn to use sign language, and if a partially deaf individual does not know sign language, a sign-language interpreter will be of no value. The judge must determine if an interpreter is of benefit to the court and desired by the deaf person. The deaf or hard-of-hearing person is the most appropriate person to make a request for accommodation.

If a person of limited hearing ability insists on not having an interpreter present or does not know sign language, the bench should determine if another reasonable accommodation would be effective. One option for the court to consider is computer-assisted real-time captioning (CART), in which a court reporter with a specialized computer renders all speech into text on a computer screen. Another option is an FM-loop system, in which the speaker’s microphone broadcasts via an FM signal directly to the affected person’s hearing aid.

3. Minimal or Limited Communication Skills

Communicating with people with minimal ability to express themselves due to a hearing disability can be particularly broad and challenging. Again, the first concern is to determine whether the potential deaf or hard-of-hearing speaker understands sign language or any language at all. It is possible the individual may have limited language ability, and may use some sign language, some gestures and some English. If this is the case, it may be necessary to have a team of interpreters, including a certified deaf interpreter (CDI), who is specially trained to work with minimal-language people to convey meaning to the courts through another interpreter who is hearing.

It also may require, as part of the interpreting team, the use of a family member or close associate who is familiar with the speaker's modes of expression, as this represents a form of "home language."

If such a person is adjudged competent to give testimony at all, it will generally require a great deal of patience, adaptation and simplification of language to communicate successfully.

A photograph of a woman with curly hair, wearing a dark blazer over a white top and a pearl necklace, standing in a courtroom. Her hands are clasped in front of her. In the background, a man with glasses is partially visible. The image is overlaid with a semi-transparent blue filter.

Communicating with Deaf
and Hard-of-Hearing Parties
and Witnesses

CHAPTER VIII

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VIII. Communicating with Deaf and Hard-of-Hearing Parties and Witnesses

A. Methods of Communication

What people who cannot hear have in common is they rely on “information they can see” to communicate. Beyond that, it is difficult to generalize. The preferred or most effective means of communication for deaf people varies widely. The variation relates to the age at onset of hearing loss, the severity of the loss, how the person has been educated, and equally or more importantly, what languages or modes of communication the people in a given setting have used.

There are several recognized methods or modes of communication used by deaf and hard-of-hearing individuals. These include *gesturing*, the most primitive and limited form of communication with deaf people; *speech reading* or *lip reading*; *written communication*, including computer-aided real-time transcription; *C-Print*; and *sign language*.

There are many forms of sign language; however, American Sign Language (ASL) is the one most commonly used in the United States.

1. **Sign language** is the use of visual-gestural signs to convey information and ideas. The most advanced forms of sign language are not just manual representations of oral language; they are true independent languages.

When combined with facial grammar and body shifting, as in ASL, sign language conveys rich meaning, humor, pathos, and every other subtlety of communication. Beyond the issues surrounding the complexities of any single sign language is the fact there are many sign languages, just as there are many oral languages. The range and complexity of sign-language communication make it apparent that interpreters need to be extremely knowledgeable and adept at recognizing and overcoming barriers to communication. This is what certified interpreters for the deaf are trained to do.

- a. **American Sign Language (ASL)** is a fully developed language with a structure described in its own terms. The vocabulary, grammar, idioms and syntax of ASL are completely different from English. The linguistic units and structure of ASL comprise facial expressions, body posture and shapes and movements of hands, arms, eyes and head. ASL is the primary language of the American deaf community, and learning ASL is prerequisite for certification as an interpreter for the deaf. Misinformation and misconceptions about ASL are not uncommon among court officials who have some involvement in or knowledge of court interpretation.

NOTE

The following is an example of these fallacies: “American Sign Language is not word-for-word, and should cause concern as to its use for a verbatim record [sic].”³

³ John G. Richardson, “Court Interpretation for Deaf Persons: Culture, Communication and the Courts.” National Center for State Courts [web resource] (cited 27 February 2006); available from www.ncsconline.org/wc/publications/Res_CtInte_State-CrtJV20N1CtInterpForDeafPersionsPub.pdf.

The comment above illustrates two prevalent misconceptions, the first about ASL specifically, and the second about language and interpreting generally. The first misconception is that ASL is some form of “shorthand English,” rather than a language of its own.

The second is that proper interpretation between any two languages should always be “word-for-word.” Despite legal language that is often phrased to the contrary, acceptable interpretation from one language to another is seldom word-for-word. In fact, some word-for-word translations between languages result in nonsense or at least in the loss or distortion of meaning.

Idiomatic expressions are good examples of this. One of the specific abilities all interpreters are tested for is whether they can conserve meaning in such situations, rather than resorting to nonsensical or misleading word-for-word interpretations. These misconceptions interfere with the best practices courts should follow to facilitate communication when a deaf person is involved in court proceedings.

2. Several different systems of **manually coded English** (MCE) have been developed with the aim of reflecting the structure of spoken English. MCE systems are typically used in educational settings with children, rather than in social interactions among deaf adults. Other similar language systems are “Seeing Essential English” and “Signed English.”
3. **Finger spelling** is an English-language signing system in which each letter of the ordinary alphabet has its own sign. This principle can be applied to any language developed with an alphabetic writing system.

The main strength of finger spelling is its scope and flexibility. It can be learned quickly and can be used to sign an infinite number of words. However, it is rarely used by users of ASL. Rather, it is primarily used for signing proper names, which are not given their own signs in other sign systems. However, finger spelling is a slow system to use, rarely exceeding 300 letters per minute (about 60 words). Moreover, it cannot be used at all unless one is able to spell (a problem for young children and adults who do not have a good command of English). Also, it is difficult to distinguish the hand shapes at a distance. If the rate of signing speeds up in response to rapid

speech, the signer will begin to omit letters, and the receiver may begin to lose comprehension. Finger spelling is best thought of as an auxiliary-signing system, a convenient bridge between spoken or written language and sign language proper.

4. A deaf person may or may not be able to **speech read** (commonly referred to as lip reading). Under normal conditions, deaf people will be unable to comprehend most of what is being said if they rely solely on speech reading, because only 26 percent of speech is visible on the lips. Facility in speech reading also varies, as does facility in any mode of communication: given two equally intelligent people with identical training, one may be an excellent speech reader, the other a poor one.
5. Hard-of-hearing people who prefer speech reading as their chosen mode of communication may require **oral interpreters**. Oral interpreters are professionals who are specifically trained to present information through mouth movements only. Oral interpreters use clear mouth movements and rephrase words that are difficult to speech read. For example, the words “green” and “red” sound different, but they look the same on the lips. If the words red and green appeared in the same sentence or paragraph, an oral interpreter might replace the word “red” with “maroon,” “mauve,” “dark pink” or another synonym for red.

B. Written Communication

Written communication is a way to communicate with a deaf or hard-of-hearing person who is proficient in English and can read. Communication by means of drawing pictures is a separate mode of communication, used most often to communicate with people who have not developed language skills. Because English may be a second language for many deaf people, some have limited competence in writing and reading English. Their writing style may be similar to others for whom English is a second language. In these cases, the use of concrete images and simple sentence structures is important. A deaf person usually will want important information, such as appointment dates and times, confirmed in writing.

1. With **computer-aided transcription** (computer-assisted real-time captioning, or CART), a skilled court reporter keys the shorthand notes of spoken language into a stenotype machine, and the words spoken in court are concurrently translated into English text. CART systems send the shorthand output from the stenotype machine directly into a personal computer that translates the shorthand instantaneously and displays it on a monitor. This makes it possible for courtroom observers to read a written version of courtroom speech while the record is being made. It also makes it possible to print the transcript at a moment’s notice. This method of communication is both efficient and effective for deaf and partially deaf individuals who are comfortable reading English.

Courts need to be vigilant, however, to avoid a misuse of CART. CART work is usually done by court reporters who have extensive training to do this special type of keying. Furthermore, special dictionaries must be developed so the shorthand can be translated immediately into written English. If CART-communicative assistance is done by the same person who is the official court reporter, special arrangements will be required for the deaf person to communicate with counsel during the proceeding. The official reporter cannot make the record and also assist the deaf person. This is not a problem if a special reporter is brought in solely for the purpose of assisting the deaf person.

2. Another common method is **C-Print**, which is a computer-aided speech-to-print transcription system. With the use of two laptops and specialized programming, the deaf or hard-of-hearing person can view the words as the captionist types what is being said.
3. **Gesturing** is an informal communication system used by some people to express themselves through gestures, pictures, pantomime or by pointing to objects. While sign language can express the same range of meaning as would be achieved by speech, gesturing is far more limited. There are very few hand gestures and these are used in an ad hoc way to express a small number of basic notions. Some deaf people (e.g., minimally language-competent individuals) have no formalized communication system.

Other deaf people may have developed specialized (or home) signs to communicate with family members. These signs are generally understood only by the family members with whom the deaf person regularly interacts. When a deaf person uses specialized (home) signs, a qualified family member may prove helpful, but when this is done, the family member should not be a substitute for a certified interpreter. Instead, the family member should work as part of a relay team under the supervision of the interpreter.

C. Relay Interpreting

Relay interpreting may be needed if the deaf person has never learned standard signing or finger spelling. For example, the deaf person may communicate only with gestures. Relay interpreters, also called certified deaf interpreters, have studied to become experts in communicating with gesture. If the relay interpreter is deaf, or hearing- or speech-impaired, the court should appoint a second interpreter to interpret the relay interpreter's ASL into spoken English.

D. Facial Grammar or Body Shifting

Some judges and lawyers do not understand the seemingly strange physical behavior of deaf people as they “speak,” and they restrict an interpreter’s use of facial grammar or body shifting. This seriously interferes with communication during the proceeding, and facts may be lost or distorted. Such rulings limit the effectiveness of the interpreter’s professional language skills and thus, limit the effectiveness of the court.

There are two categories of facial grammar (often incorrectly referred to as facial expressions):

1. Messages conveyed by different parts of the face

The upper part of the face conveys syntax and the type of sentence being communicated (e.g., interrogative, declarative, imperative).

The lower part of the face conveys descriptions, such as adjectives and adverbs. Finally, the shifting of the head, torso and eyes can designate subject, object and prepositions, as well as references to things present and not present.

2. Effective display of emotions

This is the manner in which humor, anger, sadness, or even sarcasm is communicated.⁴

⁴ See John G. Richardson, “Court Interpretation for Deaf Persons: Culture, Communication and the Courts.” National Center for State Courts [Web resource] (cited 27 February 2006); www.ncsconline.org/wc/publications/Res_CtInte_StateCrjV20N1CtInterpForDeafPersonsPub.pdf.

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A person wearing a white judicial robe with black stripes on the sleeves is shown from the chest down. Their right hand, adorned with a ring, rests on a dark book. The background is a soft, out-of-focus light blue.

Appointment of Judiciary
Interpreters

CHAPTER IX

NOTICE: In order to comply with the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et. seq., the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3789d(c), and 28 C.F.R. Part 42, Subparts C and D, recipients of federal funds must provide meaningful access to limited English proficient (LEP) individuals. *Lau v. Nichols*, 414 U.S. 563 (1974). The U.S. Department of Justice advises that practices, such as charging for interpretation and translation services or seeking recoupment for those costs, significantly impair, restrict, or preclude the participation of LEP individuals in the judicial system and are inconsistent with recipients' Title VI obligations. For more information, please refer to Guidance from the U.S. Department of Justice to state court justices and administrators. Letter from Assistant Attorney of the Civil Rights Division to Chief Justices and State Court Administrators (Aug. 16, 2010); Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (June 18, 2002).

IX. Appointment of Judiciary Interpreters

Most often, a judge will have the necessary information prior to official court functions to determine the need for an interpreter in the courtroom. When such information is not presented by attorneys or court staff, or the judge suspects the affected parties may have difficulty understanding or communicating, the judge must inquire and make such determinations based upon his or her first-hand interview and observations. Further, the judge's interview also serves to validate the need when a request for an interpreter has been made.

The following outlines information useful for judges to determine or validate need prior to appointing an interpreter to a case.

A. When Should the Court Appoint an Interpreter?

An interpreter should be appointed in all civil and criminal cases whenever a party or witness:

- Is deaf or hard-of-hearing
- Cannot speak or understand the English language or has limited English proficiency (LEP)
- Is unable to accurately describe, in English, people, places and events
- Finds it impossible to assist in his or her defense because of a limited understanding of the English terms used in the courtroom
- Has a marginal knowledge of English and a fundamental issue or interest at stake, such as parental rights, paternity rights, dissolution of marriage or civil commitment.

If the court has any doubt whether an interpreter is needed, the court should conduct a brief *voir dire*. In such *voir dire*, the judge should ask questions requiring the affected person to generate fully structured English sentences, not questions simply answered “yes” or “no,” or with very short answers that might mask LEP.

It is always best to err on the side of caution. No *voir dire* will be able to anticipate and explore every language problem possible. Therefore, if there is any doubt about the affected person's ability to comprehend or adequately express himself or herself in English, an interpreter should be appointed (see *Appendix D: Foreign Language Interpreter Bench Card*).

B. Model Voir Dire for Determining the Need for a Foreign-Language Interpreter

The following are inquiries a judge may make during *voir dire* to determine the need for an interpreter:

- Please tell the court your name.
- How did you learn English?
- Tell me about your country.
- Tell me more about your country.
- What is the highest grade you completed in school?
- Describe some of the things you see in this courtroom.

C. Model Voir Dire for Determining the Need for a Sign-Language Interpreter

The *voir dire* questions for deaf and hard-of-hearing people are similar to those posed to non-English-speaking and LEP individuals. However, when determining the need for a sign-language interpreter, it is important to remember that not all deaf or hard-of-hearing people know sign language, nor do they all use ASL. Therefore, it is important to determine the individual's needs at the outset. Consequently, the first questions posed to the deaf or hard-of-hearing person should relate to the individual's background and preferred mode of communication (see *Appendix E: Deaf and Hard of Hearing Bench Card*).

The Americans with Disabilities Act requires the court to ask the person with a hearing disability the type of reasonable accommodation they need. If a request for an interpreter is not made, but the party or witness could benefit from the services of an interpreter, the judge may proceed as follows on the record to establish the need:

- Please tell the court your name.
- You have the right to participate and understand these proceedings. Tell the court the best way to communicate with you so you know what is being said.
- Do you need an interpreter?

D. Waiver of Interpreter

1. Waiver Must Be Knowing, Intelligent and Voluntary

Parties in need of an interpreter may waive any right they have to an interpreter. However, the court should not accept a waiver unless it has conducted a *voir dire* of the non-English speaking, deaf or hard-of-hearing party.

The court should explain the waiver in the party's primary language (this may require the use of an interpreter) and provide the defendant

with the opportunity to consult with counsel before waiving his or her right to an interpreter. Additionally, the court should provide a written waiver in English and in the defendant's primary language, and ensure the defendant, not counsel, signs the waiver. The party's waiver to an interpreter should be done knowingly, intelligently and voluntarily.

2. Ensuring a Waiver of the Right to an Interpreter is Knowing, Intelligent and Voluntary

All deliberations concerning the waiver of a party's right to an interpreter should be conducted on the record. A waiver need not be accepted where the court has determined an interpreter is required for the protection of the party's rights and the integrity of the proceedings. Many deaf people have competent written English skills and will be able to write their waiver. Others will need to put their waiver into sign language and have the interpreter put it into written English.

E. Interpreter Functions

There are three basic functions an interpreter serves during court proceedings. In some circumstances, it is physically impossible for one interpreter to fulfill more than one function at the same time and still maintain accuracy.

1. Interpreting During Court Proceedings

Judiciary interpreters most often interpret to enable a non-English speaking, deaf or hard-of-hearing party to understand the entire proceedings and to communicate with the court and counsel when necessary. Proceedings interpreting includes everything said in the courtroom: witness testimony, colloquy between court and counsel, and anything stated by the parties, jurors, court staff or audience. Its purpose is to ensure the criminal defendant or civil litigant is truly "present" at all proceedings. This type of interpreting is performed in the simultaneous mode. Because it is exhausting work, it is necessary to appoint two interpreters for trials and proceedings lasting more than two hours.

2. Interpreting Witness Testimony

The function of witness interpreting is to make the evidence taken from non-English-speaking witnesses accessible to the court and parties and to preserve it for the record. It is sometimes called "record" interpreting and is conducted in the consecutive mode.

3. Interpreting for Attorney-Client Interactions

The function of the interpreter is to facilitate communication between a non-English-speaking person and his or her attorney, either at the courthouse or in any other interview setting in connection with a court proceeding, most often to ensure the effective assistance of counsel in criminal cases. This is sometimes referred to as defense interpreting.

F. Appointment of Multiple Interpreters (Foreign Language)

As mentioned before, it may be physically impossible for one interpreter to fulfill all the functions required at trial at once. In addition to problems of physical placement and fatigue, there are constitutional and privilege issues that might make it desirable or even necessary to appoint more than one interpreter if more than one interpreter function is required (see *Appendix F: Vidal, “New Study on Fatigue Confirms the Need for Team Interpreting”*).

The court should appoint more than one interpreter for:

- Any proceeding expected to last two or more hours if continuous simultaneous or consecutive interpretation will be required. This is necessary to ensure the quality of interpretation does not decrease due to interpreter fatigue.
- Proceedings involving a non-English-speaking defendant when non-English-speaking witnesses will testify in order to ensure attorney-client communication can take place.
- Cases involving multiple parties with adverse interests, if counsel or the parties are unwilling to use the same interpreter for privileged communications.

Also, audio equipment, if available, can permit a single interpreter to interpret for multiple defendants for shorter hearings (lasting less than two hours) and if witnesses will not be requiring interpreters.

G. Appointment of Multiple Interpreters (Sign Language)

In “The Court Interpreter’s Guide to Legal and Ethical Principles Regarding Roles,” Carla Mathers defines three basic functions a sign-language interpreter or teams of interpreters serve during court proceedings: *proceedings interpreting*, *defense interpreting* and *witness interpreting*.

1. Proceedings Interpreting

The function of proceedings interpreting is to interpret (1) the entire colloquy between the court and counsel, (2) all of the remarks that occur in court between the parties, jury, audience, and (3) all English-speaking witness testimony.

2. Defense Interpreting

The function of defense interpreting requires the interpreter to sit at counsel table and (1) interpret all private conversations between the non-English speaking person (also referred to as deaf or hard-of-hearing person) and counsel and (2) to serve as a check on the accuracy of the proceedings interpreter.

3. Witness Interpreting

The function of witness interpreting is limited to (1) interpreting non-English speaking (deaf or hard-of-hearing) witness testimony.

There are physical placement issues, fatigue issues and constitutional and privilege issues that may necessitate multiple interpreters, although realistically, two functions usually are performed by one interpreter. The proceedings interpreter also handles the witness interpreting and a separate interpreter handles the defense interpreting.

Most often it is necessary to have a minimum of two interpreters or two teams of interpreters because the proceedings interpreter cannot stop interpreting the proceedings or questioning of the witness to move to the defense table to interpret between counsel and the defendant. Not providing a defense interpreter could raise constitutional challenges to the trial process because the defendant would not have effective assistance of counsel throughout the proceedings and could be deemed not linguistically present.

Additionally, if an interpreter is expected to perform all three functions, the interpreter is switching between being an officer of the court, not aligned with any party, to being a member of the defense team in a privileged communication setting. These are two different roles with different expectations and guidelines.

The question often arises about when teams or multiple interpreters are needed. The following is offered as a rule of thumb. It is always advisable to seek input from the interpreter(s) ahead of time.

- Teams of interpreters are needed for trials and evidentiary hearings. As fatigue (both mental and physical) sets in, accuracy decreases.
- Teams of interpreters are needed for proceedings expected to last longer than two hours.
- Multiple interpreters are needed for proceedings involving a deaf or hard-of-hearing defendant, as well as deaf or hard-of-hearing witnesses.
- Typically, courts appoint an interpreter for each defendant in order to provide defense interpreting as needed.

In cases where a trial involves more than one defendant or plaintiff whose interests are in conflict with each other, counsel and parties may be uncomfortable using the same interpreter for privileged communications. If this becomes an issue, the court may have no choice but to provide interpreters for each defendant. The practice should not be presumed necessary, however, because trained and qualified interpreters are under oath to protect

confidentiality of communications and to refrain from communicating directly with any court participant, except when they are engaged in interpretation.⁵

H. Removal of Interpreter

If at any time during the course of proceedings it becomes apparent the interpreter has violated an ethical obligation or is unable to communicate effectively with the presiding judicial officers, attorneys, a party or a witness, the court should dismiss the interpreter and obtain the services of another interpreter.

⁵ The Court Interpreter's Guide to Legal and Ethical Principles Regarding Roles used with the permission of the author Carla Mathers, Esq., CSC, SC:L and the publisher, UNC-Distance Opportunities for Interpreter Training Center in Denver, Colorado.

A man in a dark suit, white shirt, and patterned tie is raising his right hand in a courtroom. He is wearing glasses and has a serious expression. In the background, another man in a suit is visible, slightly out of focus.

Establishing Qualifications
of Interpreters

CHAPTER X

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X. Establishing Qualifications of interpreters

One of the most important steps judges can take to ensure non-English-speaking, limited English proficient (LEP) and deaf or hard-of-hearing individuals enjoy the protections guaranteed under the U.S. and Ohio Constitutions is to make sure assigned court interpreters possess the skills, knowledge and ability to do the job competently. *(To see results of a survey conducted of interpreters working in the courts of Ohio, visit www.supremecourtsohio.gov/publications/interpreter_services/interpreter_use_report.pdf).*

Ideally, the interpreter's qualifications should be determined before assignment to a legal proceeding, but circumstances may make that impossible.

This section reviews the requisite skills for competent interpreting, provides a model *voir dire* for establishing interpreter qualifications and additional questions for sign-language interpreters, and describes credentials and qualifications for different levels of professional interpreters.

A. Essential Skills for Competent Interpreting

Court interpreters should have the following linguistic skills, abilities and professional knowledge:

- The ability to interpret in both consecutive and simultaneous modes
- The ability to sight-translate printed, typed or handwritten documents (applicable to foreign-language interpreters)
- The ability to understand and employ the dialectal and cultural nuances of both English and the other language
- A good grasp of jargon, slang and technical terminology in both languages
- The ability to converse in a full range of registers in both languages
- The ability to speak clearly and enunciate in both English and the other language
- Good short-term memory, retention and communication skills
- A wealth of legal terminology in both English and the other language
- Familiarity with the Ohio court system and procedures, as well as some familiarity with the legal system(s) of the country or countries of the other language
- Familiarity with and a strong commitment to the Code of Ethics for Judiciary Interpreters (www.najit.org/ethics.html).

B. Foreign Language Interpreter Credentials

1. Certified Interpreters are Presumed to Meet the Minimum Qualifications

Because certified interpreters have undergone a rigorous testing process and met other conditions required by the certifying state, they should be presumed to meet the minimum standards needed to interpret in court.

2. Uncertified Interpreters: Ohio Qualified Interpreters and Language-Skilled Interpreters, Untrained Interpreters

Because uncertified interpreters do not possess a credential establishing they have met the minimum standard to interpret in court, the judge must determine whether such interpreters are adequate for the job of court interpreting (see *Appendix G: Interpreter Credentials*).

3. Determining Interpreter Qualifications

When interpreters are not certified or do not meet alternative requirements that may be imposed by the state of Ohio, the court must determine, by other means, whether the proposed interpreter is qualified to participate in a court proceeding. In such cases, the judge may need to conduct a *voir dire*.

For rare languages, the only interpreter available might be someone with no interpreter credentials and very little experience. Therefore, the need for the judge's inquiry is increased.

4. Model Voir Dire for Establishing Qualifications

The following are samples of questions the court or counsel should ask in an informal inquiry or *voir dire* to determine whether the proposed interpreter is qualified to participate in a court proceeding.

- Do you have any training or credentials as an interpreter?
- If so, what was the granting authority and who sponsored the training?
- What is your native language?
- How did you learn English?
- How did you learn the [foreign language][sign language]?
- What was the highest grade you completed in school?
- Have you spent any time in the foreign country?
(Applies to foreign language interpreters).
- Did you formally study the language in school? How long?
- How many times have you interpreted in court?
- How did you become familiar with legal terminology?
- Have you interpreted for this type of hearing or trial before?
How many times?

- Are you familiar with the Code of Professional Responsibility for Court Interpreters? Explain some of its main points (e.g., accuracy, interpret everything said, impartiality, no conflicts of interest).
- Are you a potential witness in this case?
- Do you know or work for any of the parties?
- Do you have any other potential conflicts of interests with respect to this case?
- Have you had an opportunity to speak with the deaf, hard-of-hearing, or non-English-speaking person prior to these proceedings? Were there any particular communication problems?
- Are you familiar with the dialectal or idiomatic peculiarities of the parties or witnesses?
- Are you able to interpret simultaneously without leaving out or changing anything that is said?
- Are you able to interpret consecutively?
- Are you able to interpret in the simultaneous mode of interpretation?

5. Additional Questions for Establishing Sign-Language Interpreter Qualifications

- Do you have national certification?
- If yes, what certification do you hold?
- If CSC or CI/CT (see *Appendix G: Interpreter Credentials*) how many hours of court experience and training do you have?

6. Questions Regarding Ethical Conduct for the Interpreter

- Do you understand that while serving in an official capacity, all information said or revealed to you or exchanged in your presence by any of the parties must be kept confidential?
- Do you understand you cannot give any legal or other advice to anyone or interject any opinion of your own, whether or not it is solicited by any person involved in the case?

7. Question to the Attorneys/Defendants

After carrying out the *voir dire*, the court should ascertain whether counsel is satisfied with the interpreter's qualifications by asking: "Are you satisfied with the qualifications of the interpreter?"

8. For the Record

The record should reflect the parties' acceptance of the interpreter and his or her qualifications. The following is a sample statement to be read into the record confirming the parties' stipulations.

Sample Statement

The court finds the interpreter is a [certified][professionally qualified] court interpreter, that all parties have stipulated the interpreter's qualifications are satisfactory, that the [defendant][witness] has indicated and the interpreter has represented that he/she is able to understand and communicate with the [defendant][witness]. Therefore, I will appoint [Mr.][Ms.] _____ as the interpreter on this case.

C. How do I Know if an Interpreter is Qualified? (Sign Language)

Interpreters must be qualified under Evid.R.604 and Title II of the ADA. An impartial, certified interpreter should be used at all times. Priority should be given to those holding a Specialist Certificate: Legal (SC:L) from the Registry of Interpreters for the Deaf (RID). If an SC:L interpreter is not available, other certifications may be appropriate, with 80 hours of legal interpreter training.

D. Interpreter Credentials for Court Assignments (Sign Language)

- Specialist Certificate: Legal (SC:L)
- **Or, with 80 hours of legal interpreter training:**
 - National Interpreter Certification (NIC) Advanced or Master
 - Both Certificate of Interpretation and Certificate of Transliteration (CI/CT)
 - Comprehensive Skills Certificate (CSC)
 - National Association of the Deaf (NAD) Certification: Level V
 - Specialized Interpreting Services:
 - Certified Deaf Interpreter (CDI)
 - Oral Transliteration Certification (OTC)

NOTE

It is strongly recommended that the services of an uncertified interpreter not be used. Further, family members, personal acquaintances, judges and court personnel generally should not function as interpreters. Family members or close associates should only be made part of an "interpreting team" in limited circumstances (see *pages 34 and 40*).



Preparation *of*
the Court Interpreter

CHAPTER XI

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XI. Preparation of the Court Interpreter

The following recommendations are designed to facilitate the interpreter's job and to promote greater accuracy.

A. Interpreter Interview with the LEP Individual Prior to Swearing In the Interpreter

There are innumerable variations in accents, dialects, regionalisms and personal language traits in all languages and multiple forms of sign language. Therefore, to ensure the interpretation provided meets an acceptable standard of competency, the judge should provide all interpreters with an opportunity to converse briefly with the defendant, party or witness to determine if they can communicate effectively. The judge may then state, for the record, that the interpreter had an opportunity to converse with the defendant, party or witness and the parties indicate they are able to understand each other.

B. Prior Review of Relevant Documents

The court should require that the clerk and the parties give the interpreter access to documentary information relating to the case (e.g., complaints, indictments, police reports, experts' reports and handwriting samples). Many words have multiple meanings that cannot be accurately interpreted unless the interpreter understands the context. Also, many American legal concepts, terminology and idioms have no counterpart in other legal systems or cannot be interpreted precisely into a second language. Moreover, even highly qualified interpreters may be unfamiliar with some technical, legal or specialized vocabulary. Being familiar with things as seemingly simple as names, addresses and places can aid interpretation. Accordingly, to avoid misinterpretations or delays, interpreters should be given the opportunity to prepare as far in advance as possible.

Fears that prior access to materials or witness preparation may create bias, although understandable, are unwarranted because court interpreters are bound to be impartial. The ability and opportunity for prior preparation enables the interpreter to be more accurate, decreases the need for and number of requests for repetitions and breaks to review terminology, and reduces the risk of mistrial and appeal based on incompetent interpretation.

C. Instructions to the Interpreter

The court should remind the interpreter of the obligation to report impediments to performance, as well as any interpreting errors the interpreter may make.

1. Impediments to Performance

An interpreter has a duty to report any impediment to performance. Impediments can arise for a variety of reasons (see *Table 11.1: Impediments to Performance*).

| | |
|-------------------|---|
| Physical | Visual impediments, background noise, mumbling, too many people speaking at once, equipment failure |
| Linguistic | Rate of speech, dialect, specialized terminology |
| Emotional | Harrowing nature of testimony |
| Fatigue | Insufficient breaks, long proceeding without a second interpreter |

Table 11.1: Impediments to Performance

Interpreter impediments can arise for a variety of reasons.

Such reports should be viewed as good-faith efforts to protect the quality of the interpretation and fairness of the proceedings.

2. Interpreter Error or Uncertainty

Because court interpreters are sworn to interpret accurately and completely, when they realize they have made a mistake, they must stop the proceedings, advise the judge and correct the mistake. It is a mark of a true professional to take responsibility for such errors.

Similarly, where an interpreter is uncertain how to interpret a term or phrase, or where the question or testimony has been too long for the interpreter to accurately remember what was said, the interpreter should so inform the court. The court should then direct the speaker to rephrase the question or testimony or have the lengthy statement read back or restated.



Conducting Court Proceedings
and Ensuring Quality

CHAPTER XII

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XII. Conducting Court Proceedings and Ensuring Quality

A. Instructions for Interpreted Proceedings

1. Interpreter's Oath

After the interpreter's qualifications have been established, the interpreter should be sworn in. It is recommended the court use the following:

Proposed Oath

Do you solemnly swear or affirm you will interpret accurately, completely and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the code of ethics for legal interpreters, follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?

2. Instruction to All Parties in the Courtroom on the Interpreter's Role

After an interpreter has received the oath, it is recommended the court use the following:

Proposed Instruction from the Bench

An interpreter will be assisting the court throughout these proceedings, and those present should know what the interpreter can do and what the interpreter cannot do. The interpreter's only function is to assist the [non-English-speaking] [limited English proficient] [deaf or hard-of-hearing] party to communicate effectively with the court, the attorneys, and other parties in the case. The interpreter is not a party in this case, has no interest in this case, and is neutral. The interpreter is prohibited from giving advice, legal or otherwise.

Interpreters speak in the first person to ensure the court record accurately reflects that the party's statements are voluntary and of [his][her] own free will and not the interpreter's conclusion. If anyone present does not understand the interpreter, please inform the bench. Is anyone having difficulty understanding the interpreter at this time?

The interpreter will not be asked questions and will not answer questions, but rather will only interpret them.

If a person who is using the services of an interpreter has any questions, those questions will be directed to the court, attorney, witness, or party to the case through the interpreter.

If anyone cannot understand or communicate effectively with the interpreter, that person should tell the court.

Does anyone have any questions about the role or responsibilities of the interpreter?

3. Instruction to Witness on the Interpreter's Role

Before a witness begins testimony, it is recommended the court use the following:

Proposed Instruction from the Bench

I want you to understand the role of the interpreter. The interpreter is here only to interpret the questions you will be asked and to interpret your answers. The interpreter will interpret only what is said and will not add, omit, or summarize anything.

The interpreter will interpret into English everything you say in your language, so do not say anything you do not want everyone to hear.

You are here to listen and/or give testimony to this court. When speaking, please speak directly to the attorney or to me. Do not ask the interpreter for advice. If you do not understand the interpreter, please tell me. If you need a question or answer repeated, tell me. Wait until the entire question has been interpreted before you answer. Do you have any questions?

Do you understand the interpreter?

4. Instruction to the Jury Clarifying the Interpreter's Role

Before proceedings begin, it is recommended the court use the following when advising jury members of their role and obligation:

Proposed Instruction from the Bench

This court seeks a fair trial for all, regardless of the language they speak, regardless of how well they may or may not speak English and regardless of how much or how little the person may or may not be able to hear. Therefore, do not allow the fact that the party requires an interpreter to influence you in any way. Although some of you may know the non-English language being used, it is important that all jurors consider the same evidence. You should not rely in any way on any knowledge you may have of the language spoken; your consideration of the testimony and/or transcripts should be based only on English interpretation of the evidence introduced in the trial.

B. Minimizing Errors During Interpreted Proceedings

1. Minimizing Errors

Courts should be aware of and make provisions for dealing with interpreter fatigue. Although judiciary interpreting may seem effortless to others, it is a highly demanding and mentally taxing task. After long periods of uninterrupted interpreting, interpreters may experience fatigue, which, although unnoticeable at times, may have a negative impact on their rendition. While performing under this condition, the interpreter is more susceptible to committing serious errors:

- If the interpreter requests it or if the court perceives the interpreter is having difficulty hearing a speaker, the court should ask the person to speak more loudly or more clearly.
- If the interpreter has difficulty hearing or being heard, the court should permit the interpreter to move to a location where audibility is better.
- The court might require the use of audio equipment, if available, for all participants in interpreted proceedings, not only to enhance the general audibility of testimony, but also to ensure the court reporter hears everything spoken in court.
- If attorneys or witnesses speak too rapidly for the interpreter to keep up, the court should instruct the participants to speak more slowly.
- If the interpreter has a problem interpreting a concept or idea, the court should instruct counsel to rephrase the question or make it more specific.
- If more than one person is speaking at the same time, the court should instruct the speakers to speak one at a time; this will allow the interpreter to interpret faithfully and accurately.

2. Errors, Correcting Errors and Challenges to the Interpreter

Professional interpreters are trained to understand and act on their obligation to correct any error they may make during a proceeding. If, during witness testimony, the interpreter discovers a personal error in interpretation while the witness is still on the stand, the interpreter should immediately inform the court and correct the error. If the testimony has been completed before the interpreter discovers the mistake, the interpreter should, as soon as possible, request a sidebar conference to address the issue.

When an error is suspected by someone other than the interpreter, such as a bilingual attorney or another interpreter, the challenge should be addressed in a sidebar conference in order not to prejudice the jury.

Such challenges can be resolved by allowing the interpreter to consult his or her dictionary, confer with a colleague if one is present, or request for the question and answer to be read back or repeated. The judge also can ask the witness what was meant by the statement. If the interpreter acknowledges the mistake, the court should advise the jury of the correction and amend the record accordingly.

However, if the interpreter believes there was no error in interpretation, the judge may wish to consult a second interpreter as an expert to resolve the problem, making sure the second interpreter has credentials equal, or superior, to those of the interpreter being challenged.

Although interpreters are not infallible, sometimes challenges to interpreters are made by persons who may have just enough knowledge of the witness' language to recognize the most common meaning of a word, but not enough to be familiar with its full range of meanings. In such circumstances, it is important the judge bear in mind that the certified or professionally qualified interpreter is a trained professional and the court's expert in language. There is a presumption for the interpreter's interpretation to be correct, but it is the judge who, after evaluating the interpreter's training, experience and expertise in court interpretation versus that of the person challenging the interpretation, makes the final determination as to the correct interpretation.

Any parties objecting to the court's decision between the competing versions must be given opportunity to make clear their exception thereto on the record.

C. Monitoring Interpreter Performance

1. Rate of Speech

The court should monitor the rate of speech of all court participants, not only out of consideration for the interpreter, but also for the benefit of everyone listening to the interpretation. Even if court participants may be speaking at a moderate speed, interpreters must interpret at a faster speed in order to keep up with the speaker, particularly since some languages, such as Spanish, require more words than English to express the same messages. Rapid speech may cause the listener to miss or not fully comprehend what is being interpreted. The danger of less than full comprehension is especially acute when written documents, such as indictments, changes of plea and jury instructions are read aloud, as people often read aloud much faster than they speak in normal conversation.

2. Side Conversations

Even if the court is not able to speak the language being interpreted, the court should monitor certain interpreter behaviors. Except for a short initial conversation for the purpose of establishing that adequate communication can take place, interpreters should never converse with parties or witnesses. If the court observes this happening, the interpreter should be reminded that such conversations are prohibited.

3. The Silent Interpreter

Similarly, interpreters should be interpreting everything spoken in the courtroom. They are not permitted to interpret only what they deem to be important. Consequently, if the interpreter sits silently (or fails to sign) during a colloquy, testimony or other spoken event, the court must remind the interpreter of the duty to interpret everything an English-speaking litigant could hear.

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Compensation
and Payment Issues

CHAPTER XIII

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XIII. Compensation and Payment Issues

A. Paying the Interpreter

Ohio Revised Code 2311.14 (A) authorizes courts to appoint an interpreter and Section (C) assigns the responsibility for payment: “The court shall determine a reasonable fee for all such interpreter service which shall be paid out of the same funds as witness fees.”

Federal sources also place the same responsibility on the courts, via Executive Order 13166.

The final *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* offers an analysis of the cost to federal recipients (pages 41460-41462).

Under *Executive Order 13166, Limited English Proficiency Resource Document: Tips and Tools from the Field*, Chapter V, Section 4, the Department of Justice states that courts should “make interpretation and translation services freely available in civil and criminal matters.”

Additionally under the ADA, deaf and hard-of-hearing individuals may not be charged for the costs of such auxiliary aids or services, 28 C.F.R. § 35.130(f).

Related Web Resources

Executive Order 13166

- www.usdoj.gov/crt/cor/Pubs/eolep.htm

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (Full text)

- www.usdoj.gov/crt/cor/lep/DOJFinLEPFRJun182002.pdf
- http://lep.gov/tips_tools_92104.htm

Compensation of Salaried Interpreters

- www.ncsconline.org/D_Research/CISurveyResults.html

Compensation of Contract Interpreters

- www.ncsconline.org/D_Research/CISurveyResults.html

B. How Much Does the Interpreter Get Paid?

If courts were to perform a job analysis of the competencies required to be a professional court interpreter, courts might come up with a list similar to the one in Chapter IX, Section A, of this handbook, or a more extensive one, (see *Appendix H: Job Analysis and Position Description for Professional Court Interpreters*) where a summary profile, a detailed inventory of tasks, knowledge required and skills and abilities are presented (see *Table 8.1: Human Resources Pay Models on page 72*).

Table 8.1: Human Resources Pay Models

Human resources pay models suggest to determine fair compensation for any employee, a number of strategic policy decisions must be made.

| | |
|---|--|
| <p>What is the external competitiveness of the labor market for the profession?</p> | <p>How much are court interpreters making in various parts of the nation or area?</p> |
| <p>What will be internal alignment to the current compensation system?</p> | <p>If a full-time certified court interpreter in California is making \$84,000 per year, how does that measure up to the salary of the magistrate who makes \$65,000, the mediator who makes \$53,000 or the court reporter? Courts have to determine how an interpreter fits in to the existing pay system.</p> |
| <p>What is the employee's contribution?</p> | <p>Employee contribution refers to the performance of the employee. Most organizations have performance measures or reviews conducted by supervisors in conjunction with human resource personnel.</p> |

In assessing fair compensation, courts must consider the elements discussed previously, as well as other matters related to their organizational environment.

The Consortium for State Court Interpreter Certification surveys states on the issue of compensation (see *“Related Web Resources”* box on page 71 for Web sites containing survey results).



Access to Interpreters
and Other Resources

CHAPTER XIV

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XIV. Access to Interpreters and Other Resources

A. Resources to Locate Interpreters

Courts should exercise discretion in determining the qualifications of interpreters to serve in a particular court proceeding. If a qualified interpreter is not readily available, courts can reference the following additional resources.

1. Supreme Court of Ohio Interpreter Services Program

Courts should contact the Supreme Court of Ohio Interpreter Services Program for help in locating interpreters. Once an interpreter is located, courts should engage in the proper screening of the candidate to establish qualifications on the record. More information about the Supreme Court of Ohio Interpreter Services Program is available at www.supremecourtofohio.gov/Judicial_and_Court_Services/interpreter_svcs/default.asp.

2. Other State Courts

Many member states of the Consortium for State Court Interpreter Certification have certified interpreters in various languages. Other state programs have certified interpreters in the languages listed below:

| | | |
|----------------|------------|------------|
| Arabic | Laotian | Somali |
| Cantonese | Mandarin | Spanish |
| Haitian-Creole | Portuguese | Vietnamese |
| Hmong | Russian | |
| Korean | Serbian | |

Development continues with tests in additional languages.

California, New Jersey and New York have interpreters in other languages as well (see *Appendix I: Interpretation Services of Other States*).

NOTE

The following Web resources are for program managers and administrators of state interpreter services. Additionally, the National Center for State Courts Web site, www.ncsconline.org, can be searched for interpreters in other states' databases.

3. U.S. District Court for the Northern District of Ohio

To find a federally certified interpreter, visit www.ohnd.uscourts.gov.

4. Interpreter and Translator Associations

There are a number of national and state interpreter organizations to assist in locating rare-language interpreters (see *Table 9.1: Interpreter and Translator Associations*). It is nonetheless necessary for courts to establish the qualifications of the potential interpreters from these lists to ensure the individuals possess the skills, knowledge and ability required to interpret in court.

Table 9.1: Interpreter and Translator Associations
A number of organizations are available to assist rare-language interpreters.

| | |
|--|--|
| American Translator Association | www.atanet.org |
| Community and Court Interpreters of the Ohio Valley | www.ccio.org |
| National Association of Judiciary Interpreters and Translators | www.najit.org |
| Ohio Chapter of the Registry of Interpreters for the Deaf | www.ocrid.org |
| Registry of Interpreters for the Deaf | www.rid.org |

5. Local Language Agencies and Independent Contractors

There are numerous language agencies that provide translation and interpreting services in most major cities in Ohio. The Supreme Court of Ohio does not specifically endorse any of them in regard to competency and professionalism. Local courts can search for these agencies by using their local directories; however, the court must carefully examine the qualifications of the interpreters provided to ascertain whether the requisite standards have been met.

6. Other Organizations

Some embassies, schools, churches and ethnic community organizations may be of assistance in locating interpreters of rare languages or dialects. Exercise caution when using such alternatives due to possible conflicts of interest. Rigorous examination is especially needed here to ascertain that these interpreters meet minimum qualifications.

B. Interpretation Technology

1. Telephonic Interpreting Services (Foreign Language)

These services are appropriate to use for short hearings of approximately 15 minutes in duration (e.g., arraignment), “at the public counter” interpretations between parties and court staff, when the court is having

difficulty determining what language the person speaks, or is unable to locate an interpreter for one of the less frequently encountered languages. These services are not appropriate for long hearings or trials.

2. Interpretation Equipment (Foreign Language)

The use of wireless remote interpreting equipment, when available, can minimize the intrusiveness of an interpreter into the proceedings. When wireless remote interpreting equipment is not available, interpreters must be positioned close enough to individuals requiring their services to permit clear audibility of whisper interpreting, while at the same time not interfering with the proceedings or the court reporter's ability to hear the other speakers.

3. Audio Recording of Proceedings Requiring an Interpreter (Foreign Language)

If errors in interpretation are made during the proceedings, a court reporter's transcript of the hearing will not be of assistance because the court reporter records only what the interpreter says in English and not the actual testimony of the witness. Thus, to permit review of any alleged errors in interpretation raised during trial or on appeal, it is of critical importance an audio recording of all proceedings be made. This often is the only way to check the accuracy of an interpretation, even if the challenge is raised immediately following the alleged error, because it allows for the tape to be played back at the point in time the objection is made. It is particularly important for a tape recording to be made when a non-certified interpreter is employed.

4. Video Recording of Proceedings Requiring an Interpreter (Sign Language)

Similarly, if errors in interpretation are made during the proceedings where a sign-language interpreter is present, a court reporter's transcript of the hearing will not be of assistance because the court reporter cannot record the actual testimony of the witness.

Thus, to allow for review of any alleged errors in interpretation raised during trial or on appeal, it is of critical importance a video recording of all proceedings be made. Other than arranging for another independent interpreter to sit in the room to assess the work, this often is the only way to check the accuracy of an interpretation, even if the challenge is raised immediately following the alleged error, because it allows for the video to be played back at the time the objection is made. It is particularly important for a videotape recording to be made where a non-certified interpreter is employed.

C. Bilingual Court Personnel

Judges, attorneys and other court personnel should not function as foreign- or sign-language interpreters and should speak English at all times during proceedings.

English is the official working language of the courtroom and the court reporter is not able to record any other language. Further, attorneys and judges cannot effectively serve as both attorney or judge and interpreter.

D. Translation

Courts often need to translate documents from English into other languages. Translators differ from interpreters because they work with written text, whereas interpreters work with spoken words or sounds. Although each profession involves different skills, many interpreters also translate and some translators interpret. Because of this, courts must explore translators' skills, knowledge and ability to ascertain qualifications. For tips to ensure potential candidates are a good fit, see *Appendix J: Translation Material*.



INTERPRETERS IN THE
JUDICIAL SYSTEM

A Handbook *for* Ohio Judges

APPENDICES

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Appendix A: Title VI/Department of Justice Material

Title VI of the 1964 Civil Rights Act
(www.usdoj.gov/crt/cor/coord/titlevistat.htm)

42 U.S.C §§ 2000d - 2000d-7. Title 42 — The Public Health and Welfare

Subchapter V — Federally Assisted Programs

Cross Reference

- Age discrimination in employment, see Section 621 et seq. of Title 29, Labor.
- Age discrimination in federally assisted programs, see Section 6101 et seq. of this title.

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 290cc-34, 300w-7, 300x-7, 708, 1437l, 1988, 2000d-6, 2000d-7, 2000h, 3608, 3608a, 4621, 5057, 5309, 5891, 6709, 6870, 8625, 9906, 10406, of this title; Title 15, sections 719o, 775, 3151; Title 20, sections 1231e, 1232i, 1717, 3022, 3291; Title 23, sections 117, 324; Title 29, sections 794a, 1577; Title 40, section 476; Title 43, section 1863; Title 49, section 306; Title 49, App. sections 1604, 1615, 2208, 2219.

Sec. 2000d. Prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin

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.

(Pub. L. 88-352, Title VI, Sec. 601, July 2, 1964, 78 Stat. 252.)

Coordination of Implementation and Enforcement of Provisions

For provisions relating to the coordination of implementation and enforcement of the provisions of this subchapter by the Attorney General, see section 1-201 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note under section 2000d-1 of this title.

Section Referred to in Other Sections

This section is referred to in section 2000d-1 of this title; Title 39, section 410.

Sec. 2000d-1. Federal authority and financial assistance to programs or activities by way of grant, loan, or contract other than contract of insurance or guaranty; rules and regulations; approval by President; compliance with requirements; reports to Congressional committees; effective date of administrative action

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected

(1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or

(2) by any other means authorized by law:

Provided, however, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

(Pub. L. 88-352, title VI, Sec. 602, July 2, 1964, 78 Stat. 252.)

Delegation of Function

Function of the President relating to approval of rules, regulations, and orders of general applicability under this section, delegated to the Attorney General, see section 1-101 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note below.

Equal Opportunity in Federal Employment

Nondiscrimination in government employment and in employment by government contractors and subcontractors, see Ex. Ord. No. 11246, eff. Sept. 24, 1965, 30 F.R. 12319, and Ex. Ord. No. 11478, eff. Aug. 8, 1969, 34 F.R. 12985, set out as notes under section 2000e of this title.

Executive Order No. 11247

Ex. Ord. No. 11247, eff. Sept. 24, 1965, 30 F.R. 12327, which related to the enforcement of coordination of nondiscrimination in federally assisted programs, was superseded by Ex. Ord. No. 11764, eff. Jan. 21, 1974, 39 F.R. 2575, formerly set out as a note below.

Executive Order No. 11764

Ex. Ord. No. 11764, Jan. 21, 1974, 39 F.R. 2575, which related to coordination of enforcement of the provisions of this subchapter, was revoked by section 1-501 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72996, set out as a note below.

Executive Order No. 12250. Leadership and Coordination of Implementation and Enforcement of Nondiscrimination Laws

www.usdoj.gov/crt/cor/byagency/eo12250.htm

Section Referred to in Other Sections

This section is referred to in sections 2000d-2, 2000d-5, 5057, 9821, 9849, 10406 of this title; title 39 section 410.

Sec. 2000d-2. Judicial review; administrative procedure provisions

Any department or agency action taken pursuant to section 2000d-1 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 2000d-1 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that chapter.

(Pub. L. 88-352, title VI, Sec. 603, July 2, 1964, 78 Stat. 253.)

Codification

“Chapter 7 of title 5” and “that chapter” were substituted in text for “section 10 of the Administrative Procedure Act” and “that section”, respectively, on authority of Pub. L. 89-554, Sec. 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Prior to the enactment of Title 5, section 10 of the Administrative Procedure Act was classified to section 1009 of Title 5.

Section Referred to in Other Sections

This section is referred to in sections 2930c, 2971c, 2985g, 5057, 9821, 9849, 10406 of this title; title 39 section 410.

Sec. 2000d-3. Construction of provisions not to authorize administrative action with respect to employment practices except where primary objective of Federal financial assistance is to provide employment

Nothing contained in this subchapter shall be construed to authorize action under this subchapter by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

(Pub. L. 88-352, title VI, Sec. 604, July 2, 1964, 78 Stat. 253.)

Section Referred to in Other Sections

This section is referred to in title 39 section 410.

Sec. 2000d-4. Federal authority and financial assistance to programs or activities by way of contract of insurance or guaranty

Nothing in this subchapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

(Pub. L. 88-352, title VI, Sec. 605, July 2, 1964, 78 Stat. 253.)

Section Referred to in Other Sections

This section is referred to in title 39 section 410.

Sec. 2000d-4a. “Program or activity” and “program” defined

For the purposes of this subchapter, the term “program or activity” and the term “program” mean all of the operations of -

(1)

(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)

(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

(3)

(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship -

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3); any part of which is extended Federal financial assistance.

(Pub. L. 88-352, title VI, Sec. 606, as added Pub. L. 100-259, Sec. 6, Mar. 22, 1988, 102 Stat. 31.)

References in Text

Section 198(a)(10) of the Elementary and Secondary Education Act of 1965, referred to in par. (2)(B), is section 198 of Pub. L. 89-10, title I, as added by Pub. L. 95-561, title I, Sec. 101(a), Nov. 1, 1978, 92 Stat. 2198, which was classified to section 2854 of Title 20, Education, prior to the complete revision of Pub. L. 89-10 by Pub. L. 100-297, Apr. 28, 1988, 102 Stat. 140. For definitions, see section 2891 of Title 20.

Exclusion from Coverage

This section not to be construed to extend application of Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.] to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100-259, set out as a Construction note under section 1687 of Title 20, Education.

Abortion Neutrality

This section not to be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion, see section 8 of Pub. L. 100-259, set out as a note under section 1688 of Title 20, Education.

Sec. 2000d-5. Prohibited deferral of action on applications by local educational agencies seeking Federal funds for alleged noncompliance with Civil Rights Act

The Secretary of Education shall not defer action or order action deferred on any application by a local educational agency for funds authorized to be

appropriated by this Act, by the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2701 et seq.], by the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) [20 U.S.C. 236 et seq.], by the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) [20 U.S.C. 631 et seq.], or by the Cooperative Research Act [20 U.S.C. 331 et seq.], on the basis of alleged noncompliance with the provisions of this subchapter for more than sixty days after notice is given to such local agency of such deferral unless such local agency is given the opportunity for a hearing as provided in section 2000d-1 of this title, such hearing to be held within sixty days of such notice, unless the time for such hearing is extended by mutual consent of such local agency and the Secretary, and such deferral shall not continue for more than thirty days after the close of any such hearing unless there has been an express finding on the record of such hearing that such local educational agency has failed to comply with the provisions of this subchapter:

Provided, That, for the purpose of determining whether a local educational agency is in compliance with this subchapter, compliance by such agency with a final order or judgment of a Federal court for the desegregation of the school or school system operated by such agency shall be deemed to be compliance with this subchapter, insofar as the matters covered in the order or judgment are concerned.

(Pub. L. 89-750, title I, Sec. 182, Nov. 3, 1966, 80 Stat. 1209; Pub. L. 90-247, title I, Sec. 112, Jan. 2, 1968, 81 Stat. 787; Pub. L. 96-88, title III, Sec. 301(a)(1), title V, Sec. 507, Oct. 17, 1979, 93 Stat. 677, 692.)

References in Text

This Act, referred to in text, is Pub. L. 89-750, Nov. 3, 1966, 80 Stat. 1191, as amended, known as the Elementary and Secondary Education Amendments of 1966. For complete classification of that Act to the Code, see Short Title of 1966 Amendment note set out under section 2701 of Title 20, Education, and Tables.

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 100-297, Apr. 28, 1988, 102 Stat. 140, which is classified generally to chapter 47 (Sec. 2701 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 20 and Tables.

Act of September 30, 1950, referred to in text, is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, popularly known as the Educational Agencies Financial Aid Act, which is classified generally to chapter 13 (Sec. 236 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 236 of Title 20 and Tables.

Act of September 23, 1950, referred to in text, is act Sept. 23, 1950, ch. 995, as amended generally by Aug. 12, 1958, Pub. L. 85-620, title I, 72 Stat. 548, which is classified generally to chapter 19 (Sec. 631 et seq.) of Title 20. For complete classification of this Act to the Code, see Tables.

The Cooperative Research Act, referred to in text, is act July 26, 1954, ch. 576, 68 Stat. 533, which was classified generally to chapter 15 (Sec. 331

et seq.) of Title 20, and terminated on July 1, 1975, under provisions of section 402(c)(1) of Pub. L. 93-380, title IV, Aug. 21, 1974, 88 Stat. 544. See section 1851 et seq. of this title. For complete classification of this Act to the Code, see Tables.

Codification

Section was enacted as part of the Elementary and Secondary Education Amendments of 1966, and not as part of the Civil Rights Act of 1964, title VI of which comprises this subchapter.

Amendments

1968 - Pub. L. 90-247 inserted proviso.

Effective Date

Section 191 of Pub. L. 89-750 provided that: “The provisions of this title [enacting this section and sections 241m, 871 to 880, and 886 of Title 20, Education, amending sections 241b, 241c, 241e, 241f, 241g, 241h, 241j, 241k, 241l, 244, 331a, 332a, 332b, 821, 822, 823, 841, 842, 843, 844, 861, 862, 863, 864, 883, and 884 of Title 20, repealing section 241d of Title 20, and enacting provisions set out as notes under sections 241a, 241b, and 241c of Title 20] shall be effective with respect to fiscal years beginning after June 30, 1966, except as specifically provided otherwise.”

Transfer of Functions

“Secretary of Education” and “Secretary” substituted in text for “Commissioner of Education” and “Commissioner”, respectively, pursuant to sections 301(a)(1) and 507 of Pub. L. 96-88, which are classified to sections 3441(a)(1) and 3507 of Title 20, Education, and which transferred all functions of Commissioner of Education of Department of Health, Education, and Welfare to Secretary of Education.

Section Referred to in Other Sections

This section is referred to in section 2000d-6 of this title.

Sec. 2000d-6. Policy of United States as to application of nondiscrimination provisions in schools of local educational agencies

(a) Declaration of uniform policy

It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] and section 182 of the Elementary and Secondary Education Amendments of 1966 [42 U.S.C. 2000d-5] dealing with conditions of segregation by race, whether de jure or de facto, in the schools of the local educational agencies of any State shall be applied uniformly in all regions of the United States whatever the origin or cause of such segregation.

(b) Nature of uniformity

Such uniformity refers to one policy applied uniformly to de jure segregation wherever found and such other policy as may be provided pursuant to law applied uniformly to de facto segregation wherever found.

(c) Prohibition of construction for diminution of obligation for enforcement or compliance with nondiscrimination requirements

Nothing in this section shall be construed to diminish the obligation of responsible officials to enforce or comply with such guidelines and criteria in order to eliminate discrimination in federally assisted programs and activities as required by Title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.].

(d) Additional funds

It is the sense of the Congress that the Department of Justice and the Secretary of Education should request such additional funds as may be necessary to apply the policy set forth in this section throughout the United States.

(Pub. L. 91-230, Sec. 2, Apr. 13, 1970, 84 Stat. 121; Pub. L. 96-88, title III, Sec. 301, title V, Sec. 507, Oct. 17, 1979, 93 Stat. 677, 692.)

References in Text

The Civil Rights Act of 1964, referred to in subsecs. (a) and (c), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to this subchapter (Sec. 2000d et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

Codification

Section was enacted as part of the Elementary and Secondary Education Amendments of 1969, and not as part of the Civil Rights Act of 1964, title VI of which comprises this subchapter.

Transfer of Functions

“Secretary of Education” substituted for “Department of Health, Education, and Welfare” in subsec. (d) pursuant to sections 301 and 507 of Pub. L. 96-88, which are classified to sections 3441 and 3507 of Title 20, Education, and which transferred functions and offices (relating to education) of Department and Secretary of Health, Education, and Welfare to Secretary of Education.

Sec. 2000d-7. Civil rights remedies equalization

(a) General provision

(1) A State shall not be immune under the Eleventh Amendment of the

Constitution of the United States from suit in Federal court for a violation of section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], or the provisions of any other Federal statute prohibiting discrimination by recipients of Federal financial assistance.

(2) In a suit against a State for a violation of a statute referred to in paragraph (1), remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public or private entity other than a State.

(b) Effective date

The provisions of subsection (a) of this section shall take effect with respect to violations that occur in whole or in part after October 21, 1986. (*Pub. L. 99-506, title X, Sec. 1003, Oct. 21, 1986, 100 Stat. 1845.*)

References in Text

The Education Amendments of 1972, referred to in subsec. (a)(1), is Pub. L. 92-318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Education Amendments of 1972 is classified principally to chapter 38 (Sec. 1681 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of Title 20 and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (a)(1), is title III of Pub. L. 94-135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (Sec. 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to this subchapter (Sec. 2000d et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

Codification

Section was enacted as part of the Rehabilitation Act Amendments of 1986, and not as part of the Civil Rights Act of 1964, title VI of which comprises this subchapter.

U.S. Department of Justice Executive Order 13166:
Improving Access to Services for Persons with Limited
English Proficiency

(www.usdoj.gov/crt/cor/Pubs/eolep.htm)

THE WHITE HOUSE

Office of the Press Secretary
(Aboard Air Force One)

For Immediate Release

August 11, 2000

EXECUTIVE ORDER

13166

IMPROVING ACCESS TO SERVICES FOR
PERSONS WITH LIMITED ENGLISH PROFICIENCY

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP), it is hereby ordered as follows:

Section 1. Goals.

The Federal Government provides and funds an array of services that can be made accessible to otherwise eligible persons who are not proficient in the English language. The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency shall also work to ensure that recipients of Federal financial assistance (recipients) provide meaningful access to their LEP applicants and beneficiaries. To assist the agencies with this endeavor, the Department of Justice has today issued a general guidance document (LEP Guidance), which sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on

the basis of national origin in violation of title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations. As described in the LEP Guidance, recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

Sec. 2. Federally Conducted Programs and Activities.

Each Federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities. Agencies shall develop and begin to implement these plans within 120 days of the date of this order, and shall send copies of their plans to the Department of Justice, which shall serve as the central repository of the agencies' plans.

Sec. 3. Federally Assisted Programs and Activities.

Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice. This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance. Agencies that already have developed title VI guidance that the Department of Justice determines is consistent with the LEP Guidance shall examine their existing guidance, as well as their programs and activities, to determine if additional guidance is necessary to comply with this order. The Department of Justice shall consult with the agencies in creating their guidance and, within 120 days of the date of this order, each agency shall submit its specific guidance to the Department of Justice for review and approval. Following approval by the Department of Justice, each agency shall publish its guidance document in the Federal Register for public comment.

Sec. 4. Consultations.

In carrying out this order, agencies shall ensure that stakeholders, such as LEP persons and their representative organizations, recipients, and other appropriate individuals or entities, have an adequate opportunity to provide input. Agencies will evaluate the particular needs of the LEP persons they and their recipients serve and the burdens of compliance on the agency and its recipients. This input from stakeholders will assist the agencies in developing an approach to ensuring meaningful access by LEP persons that is practical and effective, fiscally responsible, responsive to the particular circumstances of each agency, and can be readily implemented.

Sec. 5. Judicial Review.

This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.

WILLIAM J. CLINTON

THE WHITE HOUSE,
August 11, 2000.

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Appendix B: Court Interpreters Act of 1978

§ 1827. Interpreters in Courts of the United States

a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.

(b)

(1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters, when the Director considers certification of interpreters to be merited, for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director may certify interpreters for any language if the Director determines that there is a need for certified interpreters in that language. Upon the request of the Judicial Conference of the United States for certified interpreters in a language, the Director shall certify interpreters in that language. Upon such a request from the judicial council of a circuit and the approval of the Judicial Conference, the Director shall certify interpreters for that circuit in the language requested. The judicial council of a circuit shall identify and evaluate the needs of the districts within a circuit. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. The Director shall issue regulations to carry out this paragraph within 1 year after the date of the enactment of the Judicial Improvements and Access to Justice Act.

(2) Only in a case in which no certified interpreter is reasonably available as provided in subsection (d) of this section, including a case in which certification of interpreters is not provided under paragraph (1) in a particular language, may the services of otherwise qualified interpreters be used. The Director shall provide guidelines to the courts for the selection of otherwise qualified interpreters, in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

(3) The Director shall maintain a current master list of all certified interpreters and otherwise qualified interpreters and shall report periodically on the use and performance of both certified and otherwise qualified interpreters in judicial proceedings instituted by the United States and on the languages for which interpreters have been certified. The Director shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by interpreters, certified or otherwise, used in proceedings instituted by the United States, and in doing so shall consider the prevailing rate of compensation for comparable service in other governmental entities.

(c)

(1) Each United States district court shall maintain on file in the office of the clerk, and each United States attorney shall maintain on file, a list of all persons who have been certified as interpreters by the Director in accordance with subsection (b) of this section. The clerk shall make the list of certified interpreters for judicial proceeding available upon request.

(2) The clerk of the court, or other court employee designated by the chief judge, shall be responsible for securing the services of certified interpreters and otherwise qualified interpreters required for proceedings initiated by the United States, except that the United States attorney is responsible for securing the services of such interpreters for governmental witnesses.

(d)

(1) The presiding judicial officer, with the assistance of the Director of the Administrative Office of the United States Courts, shall utilize the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise qualified interpreter, in judicial proceedings instituted by the United States, if the presiding judicial officer determines on such officer's own motion or on the motion of a party that such party (including a defendant in a criminal case), or a witness who may present testimony in such judicial proceedings—

(A) speaks only or primarily a language other than the English language; or

(B) suffers from a hearing impairment (whether or not suffering also from a speech impairment) so as to inhibit such party's comprehension of the proceedings or communication with counsel or the presiding judicial officer, or so as to inhibit such witness' comprehension of questions and the presentation of such testimony.

(2) Upon the motion of a party, the presiding judicial officer shall determine whether to require the electronic sound recording of a judicial proceeding in which an interpreter is used under this section. In making this determination, the presiding judicial officer shall consider, among other things, the qualifications of the interpreter and prior experience in interpretation of court proceedings; whether the language to be interpreted is not one of the languages for which the Director has certified interpreters, and the complexity or length of the proceeding. In a grand jury proceeding, upon the motion of the accused, the presiding judicial officer shall require the electronic sound recording of the portion of the proceeding in which an interpreter is used.

(e)

(1) If any interpreter is unable to communicate effectively with the presiding judicial officer, the United States attorney, a party (including a defendant in a criminal case), or a witness, the presiding judicial officer shall dismiss such interpreter and obtain the services of another interpreter in accordance with this section.

(2) In any judicial proceedings instituted by the United States, if the presiding judicial officer does not appoint an interpreter under subsection (d) of this section, an individual requiring the services of an interpreter may seek assistance of the clerk of court or the Director of the Administrative Office of the United States Courts in obtaining the assistance of a certified interpreter.

(f)

(1) Any individual other than a witness who is entitled to interpretation under subsection (d) of this section may waive such interpretation in whole or in part. Such a waiver shall be effective only if approved by the presiding judicial officer and made expressly by such individual on the record after opportunity to consult with counsel and after the presiding judicial officer has explained to such individual, utilizing the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise competent interpreter, the nature and effect of the waiver.

(2) An individual who waives under paragraph (1) of this subsection the right to an interpreter may utilize the services of a non-certified interpreter of such individual's choice whose fees, expenses, and costs shall be paid in the manner provided for the payment of such fees, expenses, and costs of an interpreter appointed under subsection (d) of this section.

(g)

(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Office of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified interpreters, and otherwise fulfill the provisions of this section and the Judicial Improvements and Access to Justice Act, except as provided in paragraph (3).

(2) Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

(3) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses (including for grand jury proceedings) shall, unless direction is made under paragraph (4), be paid by the Attorney General from sums appropriated to the Department of Justice.

(4) Upon the request of any person in any action for which interpreting services established pursuant to subsection (d) are not otherwise provided, the clerk of

the court, or other court employee designated by the chief judge, upon the request of the presiding judicial officer, shall, where possible, make such services available to that person on a cost-reimbursable basis, but the judicial officer may also require the prepayment of the estimated expenses of providing such services.

(5) If the Director of the Administrative Office of the United States Courts finds it necessary to develop and administer criterion-referenced performance examinations for purposes of certification, or other examinations for the selection of otherwise qualified interpreters, the Director may prescribe for each examination a uniform fee for applicants to take such examination. In determining the rate of the fee for each examination, the Director shall consider the fees charged by other organizations for examinations that are similar in scope or nature. Notwithstanding section 3302(b) of title 31, the Director is authorized to provide in any contract or agreement for the development or administration of examinations and the collection of fees that the contractor may retain all or a portion of the fees in payment for the services. Notwithstanding paragraph (6) of this subsection, all fees collected after the effective date of this paragraph and not retained by a contractor shall be deposited in the fund established under section 1931 of this title and shall remain available until expended.

(6) Any moneys collected under this subsection may be used to reimburse the appropriations obligated and disbursed in payment for such services.

(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters, pursuant to the schedule of fees prescribed by the Director under subsection (b) (3).

(i) The term “presiding judicial officer” as used in this section refers to any judge of a United States district court, including a bankruptcy judge, a United States magistrate judge, and in the case of grand jury proceedings conducted under the auspices of the United States attorney, a United States attorney.

(j) The term “judicial proceedings instituted by the United States” as used in this section refers to all proceedings, whether criminal or civil, including pretrial and grand jury proceedings (as well as proceedings upon a petition for a writ of habeas corpus initiated in the name of the United States by a relator) conducted in, or pursuant to the lawful authority and jurisdiction of a United States district court. The term “United States district court” as used in this subsection includes any court which is created by an Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title.

(k) The interpretation provided by certified or otherwise qualified interpreters pursuant to this section shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses, except that the presiding judicial officer, sua sponte or on the motion of a party, may authorize a simultaneous, or consecutive interpretation when such

officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. The presiding judicial officer, on such officer's motion or on the motion of a party, may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.

(1) Notwithstanding any other provision of this section or section 1828, the presiding judicial officer may appoint a certified or otherwise qualified sign-language interpreter to provide services to a party, witness, or other participant in a judicial proceeding, whether or not the proceeding is instituted by the United States, if the presiding judicial officer determines, on such officer's own motion or on the motion of a party or other participant in the proceeding, that such individual suffers from a hearing impairment. The presiding judicial officer shall, subject to the availability of appropriated funds, approve the compensation and expenses payable to sign-language interpreters appointed under this section in accordance with the schedule of fees prescribed by the Director under subsection (b) (3) of this section.

28 U.S.C.A. § 1827

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Appendix C: Citation of Important Cases

Appellate Cases

Sixth Amendment Rights to Confrontation and Effective Assistance of Counsel

Federal

United States v. Joshi, 896 F.2d 1303 (11th Cir. 1990)

U.S. ex rel. Negron v. New York, 310 F. Supp. 1304 (E.D.N.Y. 1970)

Ohio

State v. Lopez, 114 Ohio St. 3d 1411 (Ohio 2007)

State v. Razo, 157 Ohio App. 3d 578 (Ohio Ct. App. 2004)

State v. Esqueda, No. 96APA01-118, 1996 WL 550277 (Ct. App. Ohio Sept. 30, 1996)

State v. Castro, No. 94APA09-1331, 1995 WL 347871 (Ct. App. Ohio, June 6, 1995)

State v. Pina, 361 N.E.2d 262 (Ct. App. Ohio 1975)

Failure to Appoint an Interpreter

State v. Gegia, 157 Ohio App. 3d 112, 118 (Ohio Ct. App. 2004)

State v. Frunza, 2003 Ohio 4809 (Ohio Ct. App. 2003)

Ohio v. Fonseca, 705 N.E.2d 1278 (Ct. App. Ohio 1997)

State v. Torres, No. 64335, 1993 WL 497048 (Ct. App. Ohio Dec. 2, 1993)

State v. Schaim, 65 Ohio St. 3d 51 (Sup. Ct. 1992)- ASL

State v. Gandarella, No. 36129, 1977 WL 201396 (Ct. App. Ohio May 5, 1977)

Standard of Interpretation

State v. Negash, 170 Ohio App. 3d 86 (Ohio Ct. App. 2007)

State v. Lopez, 2007 Ohio 202 (Ohio Ct. App. 2007).

State v. Rodriguez, 2001 Ohio 2179 (Ohio Ct. App. 2001)

State v. Mendoza, 2001 Ohio 2178 (Ohio Ct. App. 2001)

Reversible Error-Plea was not knowingly and voluntarily entered

State v. Nieves, No. 90-L-14-003, 1990 WL 208821 (Ct. App. Ohio Dec. 14, 1990)

Interpreter's Oath/ Qualification as an Expert on the Record

State v. Newcomb, 2004 Ohio 4099, P17 (Ohio Ct. App. 2004)

Manbeck Nurseries v. Ohio Civil Rights Comm'n, 639 N.E.2d 1247 (Ct. App. Ohio 1994)

State v. Felix, No. 66617, 1994 WL 706128 (Ct. App. Ohio Dec. 15, 1994)

State v. Ruiz, No. 16063, 1994 WL 78620 (Ct. App. Ohio Mar. 16, 1994)

State v. Rosa, 547 N.E.2d 1232 (Ct. App. Ohio 1988)

State v. Sanchez, No. 50566, 1986 WL 4949 (Ct. App. Ohio Apr. 24, 1986) (dialect)

State v. Diaz, No. 83AP-1102, 1984 WL 5944 (Ct. App. Ohio Oct. 16, 1984)

Attorneys as Interpreters

Federal

Valladares v. United States, 871 F.2d 1564 (11th Cir. 1989)

Ohio

State v. Mota, 2006 Ohio 3800 (Ohio Ct. App. 2006)

State v. Duran-Nina, Nos. 71159, 7116, 1997 WL 675450 (Ct. App. Ohio Oct. 30, 1997)

State v. Zambrano, No. S-89-2, 1989 WL 123312 (Ct. App. Ohio Oct. 20, 1989)

No Error/Harmless Error Involving an Interpreter

State v. Bulgakov, No. WD-03-096, 2005 WL 791403 (Ct. App. Ohio Apr. 8, 2005)

State v. Burnett, No. Civ.A.1638, 2005 WL 32797 (Ct. App. Ohio Jan. 7, 2005)- ASL

State v. De La Paz, Nos. 03AP-1147, 04AP-453, 2004 WL 2283940 (Ct. App. Ohio Sep. 21, 2004)

State v. Patterson, No. 03 CA 48, 2004 WL 1812826 (Ct. App. Ohio Aug. 11, 2004)- ASL

Ohio v. Razo, No. 03CA008263, 2005 WL 1763611 (Ct. App. Ohio June 30, 2004)

State v. Alvarez, 797 N.E.2d 1043 (Ct. App. Ohio 2003)

State v. Guzman, No. 02AP-1440, 2003 WL 22099257 (Ct. App. Ohio Sep. 11, 2003)

State v. Marafa, Nos. 2002CA00099, 2002CA00259, 2003 WL 150093 (Ct. App. Ohio Jan. 21, 2003)

State v. Gerardi, No. 01CA-A-07-029, 2002 WL 228792 (Ct. App. Ohio Feb. 4, 2003)- ASL

State v. Rodriguez, No. 9-01-01, 2001 WL 731083 (Ct. App. Ohio June 29, 2001)

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Appendix D: Foreign Language Interpreter Bench Card

Working with Foreign Language Interpreters in the Courtroom

A BENCH CARD FOR JUDGES



THE SUPREME COURT of OHIO

INTERPRETER SERVICES PROGRAM

How Do I know if a Party or Witness Needs an Interpreter?

A judge should presume a need for an interpreter when an attorney or pro se litigant indicates a party or a witness requests an interpreter. If a request for an interpreter is not made, but it appears a party or witness has limited English proficiency, a judge should ask the following questions **on the record** to determine if an interpreter is necessary:

Determining the English Proficiency of a Party and the Need for an Interpreter

(In general, avoid questions easily answered with “yes” or “no” replies.)

- Please tell the court your name.
- How did you learn English?
- Please tell me about your country.
- Tell me more about your country.
- What is the highest grade you completed in school?
- Describe some of the things you see in this courtroom.
- **You have the right to a court-appointed interpreter.** Tell the court the best way to communicate with you and to let you know what is being said.

How Do I Know if the Interpreter is Qualified?*

A certified interpreter should be used. If one is not available, a candidate must have relevant training, specialized skills and knowledge, including familiarity with legal terminology, slang, idioms and dialectical variations. Candidates must also know the modes of interpretation (simultaneous, consecutive and sight-translation). **Being bilingual does not qualify a person to interpret. Children, relatives and friends should never be used to interpret. Judges, attorneys and court personnel should not function as interpreters.**

Sample Voir Dire to Determine Interpreter Qualifications

- What training or credentials do you have as an interpreter?
- What is your native language?
- How did you learn your foreign language skills?
- Are you familiar with the National Association for Judiciary Interpreters and Translators’ “Code of Ethics and Professional Responsibility”? What are its main points?
- How many times have you interpreted in court?
- Describe your familiarity with legal terminology.
- What types of cases have you interpreted?
- Are you related to or close friends with anyone in this case?
- Do you understand you are to be a neutral party who is here to facilitate communication and that you should not offer advice or interject your opinion into these proceedings?

When Satisfied with the Interpreter’s Qualifications, the Oath may be Given

Interpreter Oath: Do you solemnly swear or affirm you will interpret accurately, completely, and impartially, using your best skill and judgment in accordance with the standards prescribed by law and follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?

*Currently, Ohio law does not require interpreters to be certified. However, interpreters must be qualified under Evid.R. 604.

How Can I Facilitate Communication in an Interpreted Proceeding?

- Advise everyone in the courtroom of the presence and role of the interpreter.
- Instruct all participants to speak loudly and clearly and allow only one person to speak at a time.
- Allow the interpreter to **converse briefly** with the non-English speaker to ensure understanding of accents, dialect, or pronunciation differences.
- Ask the non-English speaker if the speaker is able to understand and communicate through the interpreter. Instruct the speaker to interrupt or raise a hand if the speaker does not understand something.
- Allow the interpreter to view **court files** prior to the proceedings to become familiar with names, parties and technical vocabulary.
- Speak directly to the party or witness, not to the interpreter. Do not ask the interpreter to explain or restate anything said by the party. Always direct the interpreter to interpret in the **first person** in order for the record to be accurate.
- The interpreter must convey **all** questions, answers and courtroom dialogue. Therefore, the interpreter is constantly working. Advise the interpreter to notify the court when breaks are needed. If the proceeding will last longer than two hours, require the presence of **two interpreters** who can switch off as needed.
- Recognize that court proceedings can be confusing and intimidating for a non-English speaker since other countries' legal systems and concepts often vary from those of the United States.

For more information, contact the Supreme Court of Ohio's Interpreter Services Program at 614.387.9403.

Clarification Language of an Interpreter's Role

For the Defendant/Witness

Iwant you to understand the role of the interpreter. The court interpreter is a neutral party who is here only to interpret the proceedings and facilitate communication. The interpreter will interpret only what is said without adding, omitting or summarizing anything. The interpreter will say in English everything you say in your language, so do not say anything you do not want everyone to hear.

You are here to listen and/or give testimony to this court. When speaking, please speak directly to the attorney or to me. Do not ask the interpreter for advice. If you do not understand the interpreter, then tell me. If you need a question or answer repeated, please tell me. Wait until the entire statement has been interpreted before you answer. Do you have any questions?

For the Jury

Languages other than English may be used during this trial. The evidence you are to consider is only that provided through the official court interpreters. Although some of you may understand the non-English language used, it is important for all jurors to consider the same evidence. Therefore, you must base your decision on the evidence presented in the English interpretation. You must not rely in any way upon your own interpretation of the witness' words.

Additional Resources

U.S. Department of Justice: www.lep.gov; National Association of Judiciary Interpreters and Translators (NAJIT): www.najit.org; Supreme Court of Ohio: http://www.supremecourtofohio.gov/Judicial_and_Court_Services/interpreter_svcs/default.asp. The information provided within this guide was collected by NAJIT (the National Association of Judiciary Interpreters and Translators); NAJIT's electronic discussion list of interpreters; NCSC (the National Center for State Courts) and from states having court interpreting standards and certification.

Appendix E: Deaf and Hard of Hearing Bench Card

Working with Interpreters for Deaf or Hard of Hearing Persons in the Courtroom

A BENCH CARD FOR JUDGES



THE SUPREME COURT of OHIO

INTERPRETER SERVICES PROGRAM

Complying with the Americans with Disabilities Act (ADA)

The Americans with Disabilities Act (ADA) assures equal access to justice for people who are deaf, deaf-blind, or hard of hearing. Courts must work closely with interpreters, parties and witnesses to determine effective communication methods. Possible accommodations may include sign language interpreters, specialized interpreter services, computer-assistive transcription services, and assistive listening devices.

Determining the Communication Preference of the Deaf or Hard of Hearing Party

The ADA requires the court to ask the person with a hearing disability the type of reasonable accommodation they need. If a request for an interpreter is not made, but the party or witness could benefit from the services of an interpreter, the judge may ask the following **on the record** to establish the need:

- Please tell the court your name.
- **You have the right to participate and understand these proceedings.** Tell the court the best way to communicate with you, so you know what is being said.
- **Do you need an interpreter?**

How Do I Know if the Interpreter is Qualified?

Interpreters must be qualified under Evid.R.604 and Title II of the ADA. An impartial, certified interpreter should be used at all times. Priority should be given to those holding a Specialist Certificate: Legal (SC:L) from the Registry of Interpreters for the Deaf (RID). If an SC:L interpreter is not available, other certifications may be appropriate, with 80 hours of legal interpreter training.

Interpreter Credentials for Court Assignments

- Specialist Certificate: Legal (SC:L)
- Or, with **80 hours of legal interpreter training**:
 - National Interpreter Certification (NIC) Advanced or Master
 - Both Certificate of Interpretation and Certificate of Transliteration (CI/CT)
 - Comprehensive Skills Certificate (CSC)
 - National Association of the Deaf (NAD) Certification: Level V
 - Specialized Interpreting Services:
 - ◊ Certified Deaf Interpreter (CDI)
 - ◊ Oral Transliteration Certification (OTC)

It is strongly recommended that the services of an uncertified interpreter not be used.

Further, family members, personal acquaintances, judges and court personnel should not function as interpreters.

Sample Voir Dire to Determine Interpreter Qualifications

- What credentials do you hold?
- Describe your formal legal training.
- What specialized training have you had?
- Describe the Code of Ethics as it applies to legal interpreters.¹
- How many times have you interpreted in court?
- What types of cases have you interpreted?
- Are you related to or close acquaintances with anyone in this case?
- Are there any professional or personal issues that may influence your interpretation?
- When interpreting errors occur, how do you intend to inform the court?

¹The "Code of Ethics and Professional Responsibility" of the National Association of Judiciary Interpreters & Translators (NAJIT), as well as the RID-NAD Code of Professional Conduct.

When Satisfied with the Interpreter's Qualifications, the Oath shall be Given²

Interpreter Oath: Do you solemnly swear or affirm you will interpret accurately, completely, and impartially, using your best skill and judgment in accordance with the standards prescribed by law, follow all official guidelines established by this court for legal interpreting, and discharge all of the solemn duties and obligations of legal interpretation and translation?

How Can I Facilitate Communication in an Interpreted Proceeding?

- Advise everyone in the courtroom of the presence and role of the interpreter.
- Instruct participants to speak loudly and clearly. Allow only one person to speak at a time.
- Allow the interpreter to converse with the deaf or hard of hearing person prior to the proceedings to ensure effective communication and identify possible signing differences or other concerns. Additionally, deaf persons with minimal language skills, blindness or who rely upon lip reading may require specialized interpreting services. In these instances, the court may need to provide such an interpreter.
- Ask the deaf or hard of hearing person if he or she is able to understand and communicate through the interpreter. Instruct the person to raise a hand if something is not understood.
- Allow the interpreter to view court files prior to the proceedings to become familiar with names and technical vocabulary. Allow the interpreter to view all exhibits, photos or other visual records prior to their introduction into evidence.
- Speak directly to the party or witness, not to the interpreter. Do not ask the interpreter to explain or restate anything the party or witness says. The interpreter will interpret in the first person in order for the record to be accurate. The interpreter will convey all questions, answers and courtroom dialogue. Therefore, the interpreter is always working. Advise the interpreter to notify the court when breaks are needed.
- If the proceeding will last longer than two hours or has multiple deaf or hard of hearing

persons involved, require the presence of **two interpreters** who can switch off as needed.

- Proper interpreter positioning and close proximity to the speaker allow optimal access to communication.

Clarifying the Role of the Interpreter

Before the start of courtroom proceedings, it is highly recommended the judge clarify the role of the interpreter for the defendant, witnesses and jury members. Judges may use the following language for this purpose.

For the Defendant/Witness

Iwant you to understand the role of the interpreter. The court interpreter is impartial and here only to interpret the proceedings. The interpreter will interpret only what is said without adding, omitting or summarizing anything. The interpreter will interpret everything you state, so do not say anything you do not want everyone to hear. You are here to listen and/or give testimony to this court. When speaking, speak directly to the attorney or to me. Do not ask the interpreter for advice. If you do not understand the interpreter, then tell me. If you need a question or answer repeated, please tell me. Wait until the entire statement has been interpreted before you answer. Do you have any questions?

For the Jury

Modes of communication other than spoken English may be used during this trial. The evidence you are to consider is only that provided through the official court interpreters. Although some of you may understand the deaf or hard of hearing person, it is important for all jurors to consider the same evidence. Therefore, you must base your decision on the evidence presented in the interpretation. You must not rely in any way upon your own interpretation of the witness' words.

Additional Resources

- U.S. Department of Justice/Americans with Disabilities Act: ada.gov
- Registry of Interpreters for the Deaf (RID): rid.org
- Supreme Court of Ohio: supremecourtofohio.gov
- Midwest Center on Law and the Deaf: mcl.d.org

² O.R.C. 2311.14(B)

APPENDIX F: “New Study on Fatigue Confirms Need for Team Interpreting,” Mirta Vidal, *Proteus*, April 1997

(www.najit.org/proteus/back_issues/vidal2.htm)

New Study on Fatigue Confirms Need for Working in Teams

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The practice of having simultaneous interpreters work in teams of two during lengthy assignments, although standard procedure in all other forums requiring interpretation, has never been universally accepted by the courts. In most state and many federal courts, it is simply not done. Attempts by interpreters to institute the policy have met with resistance from judges who consider it wasteful and administrators who cite budgetary constraints. But a study recently conducted at the University of Geneva has contributed important new information on the subject: its findings provide further scientific evidence to support the position that accuracy is directly related to the length of time that a person interprets.

The study by Barbara Moser-Mercer and her colleagues (forthcoming) at the University of Geneva’s *École de Traduction et d’Interprétation* constitutes the first part of a two-part study on stress and fatigue in conference interpreting. Its aim is to examine the fatigue factor during extended turns, as well as the coping behavior of interpreters when under stress. The subjects—five native English-speakers working from German into English, whose professional experience ranged from 12 to 25 years in the booth—were told to work until they could no longer provide acceptable quality. During the first 30 minutes the frequency of errors—as measured with an elaborate error scale—rose steadily. The interpreters, however, “appeared to be unaware of this decline in quality,” according to the report, as most of them continued on task for another 30 minutes.

The error scale included several different categories by which quality can be determined. “Looking at the total number of errors,” the report states, “we can see that the frequency increases from three minutes to 30 minutes.” The category of most serious errors, i.e., errors in meaning, rose consistently with increased time on task. At 60 minutes, all subjects combined committed a total of 32.5 meaning errors. “Considering that each meaning error, no matter how minor, does distort the message, a considerable increase in the number of meaning errors after 30 minutes on task does represent a significant decline in output quality,” the authors argue. In the category of nonsense, the number of errors committed by the subjects almost doubled after 30 minutes on task—from 4.5 after 15 minutes to 8.5.

Moser-Mercer and her colleagues conclude:

The increase in the number of meaning errors combined with the interpreters' lack of awareness of this drastic decrease in quality shed some light on the validity of interpreters' judgement of their own output quality [...] This lack of judgement appears to be the result of cognitive overload: a situation in which the interpreter tries to economize on processing capacity and allocate resources only to those parts of the interpreting process that will ensure continuous output (irrespective of the quality provided) [...] We can conclude from this that shorter turns do indeed preserve a high level of quality, but that interpreters cannot necessarily be trusted to make the right decision with regard to optimum time on task.

This is an important insight, since many interpreters, fearful of not getting work or of exposing what is erroneously perceived as a weakness, will insist that they can work for extended periods of time without any adverse consequences to accuracy. It also shows that some courts beg the question: if interpreters themselves are unable to judge the length of time beyond which the quality of their performance declines significantly, how can anyone else have the power to decide how long an interpreter should work without relief?

An additional conclusion reached by the University of Geneva team concerned the subjects' emotional response to increased time on task. "Interpreters seem to experience an increase in stress during the first 30 minutes, as indicated by a rise in cortisol levels, but with task overload respond with an 'I couldn't care less' feeling," they report, adding: "This is borne out by anecdotal evidence according to which interpreters try to deflect responsibility for the quality of output when they consider the demands to be unrealistic; this would include increased time on task, extremely fast speakers, and long working hours." Every court interpreter, no matter how experienced, would undoubtedly corroborate this finding.

Stress investigated among UN interpreters

H. McIlvaine Parsons, a fellow at the Institute for Behavioral Research, in Silver Spring, MD, reached similar conclusions in a consultation he conducted in 1975 for the United Nations. The study was part of an investigation that followed a job action in which UN interpreters stayed away from their jobs for one day to protest "working hours and the stress and tension they said resulted from working more than seven half-day sessions per week." McIlvaine Parson's objective was in part to "create a wider understanding than there seemed to be of the interpretation process. If some of these factors could be ameliorated," he argues, "the interpreters might experience less stress and tension and they might be less likely to avoid that stress and tension by failing to come to work."

McIlvaine Parsons reported that "the interpreters were emphatic that more than three hours in a booth [taking turns with a colleague] resulted in excessive stress and tension, especially compared with a shorter time." Other factors rated by the

subjects as stressful or extremely stressful included: the speaker talking very fast, lack of clarity or coherence by the speaker, the need for intense concentration, inexperience with the subject matter, a speaker's accent, long speaker utterances between pauses, background noise in the meeting room, and mispositioning of the speaker's microphone relative to the speaker. All of these would be equally applicable to court interpreters.

As a result of his study, McIlvaine Parsons recommended to the UN Secretariat “that a simultaneous interpreter should not be required to work more than three half-day sessions in succession.” It should be borne in mind that UN interpreters work in teams of two at all times. Skeptics might be inclined to argue that these studies do not refer specifically to interpreters who work in court and are therefore not applicable to this sector. A comparison of court and conference interpreting, however, can easily demonstrate that the former is in fact more demanding and stressful than the latter.

What is fatigue?

Although the definition of the word fatigue seems obvious, there is considerable confusion among the general public and the legal profession about its meaning and consequences in a courtroom setting. Fatigue for interpreters is not primarily physical, as in the case of athletes, whose muscles become strained after sustained exertion: it is mental fatigue. It results from complex mental processing and the high degree of concentration the interpreter must have to hear, then understand, analyze and finally express ideas coherently in another language. “Most people do not realize that an interpreter uses at least 22 cognitive skills when interpreting,” states Patricia Michelsen in an article published in *The Court Management and Administration Report*. Other studies of simultaneous interpretation have shown that fatigue is exacerbated by environmental factors that interfere with various aspects of the cognitive process.

Taking into consideration both cognitive processes and environmental interference, the degree of concentration required of an interpreter is many times greater than that of any other person in a courtroom. In a 1995 study on fidelity assessment in consecutive interpretation, Daniel Gile reports that a group of subjects asked to rate an interpretation “were found to be unreliable fidelity assessors: they did not detect all interpretation errors on the one hand, and imagined errors that had not been made by the interpreter on the other.” This is not surprising to interpretation teachers, according to Gile, since “ordinary listening entails too much loss, and [...] interpreters have to listen to speakers with much more concentration than is usual in everyday life.”

While conference interpreters must cope with the stress generated by the job's cognitive demands, their booth-enclosed environment is relatively stress-free compared to a courtroom setting. As Michelsen indicates, “Conference interpreters work under better conditions: they concentrate on only one speaker at a time, often have a prepared text of the speech ahead of time, address the audience in only one level of rhetoric, and usually do not have audibility problems.”

Environmental factors and loss of accuracy

Audibility is one of the key factors contributing to the stress suffered by court interpreters. In 1974, an enlightening study on the effects of noise on the performance of simultaneous interpreters was conducted by David Gerver, then at the University of Durham, Great Britain. He found that, as the listening conditions deteriorated, significantly more errors were committed by the subjects when interpreting than when shadowing (repeating a spoken text in the same language).

This finding, according to Gerver, “suggested that difficulty in perceiving source language passages reduced the ability of simultaneous interpreters to monitor their own interpretations into the target language.” He added that other studies indicated that “levels of noise which would not necessarily impair perception of speech by simultaneous conference interpreters could interfere with the processes involved in the retrieval and transformation of the messages being interpreted.” Listening conditions are most relevant to any discussion of interpreter stress and fatigue. Since monitoring their own utterances and making corrections is one of the many cognitive functions performed by interpreters, if their ability to self-correct is impaired, their level of stress and resulting fatigue also increase proportionately. “It is perhaps not surprising,” Gerver comments, “that simultaneous interpreters are particularly sensitive to environmental noise and that they will often refuse to work in conditions which, to the observer at least, do not appear particularly stressful.”

While Gerver’s study was conducted with a monitored increase in noise level, the same conclusions would apply to a situation in which the interpreter is simply unable to hear, as too often occurs in the courtroom. Given that acoustic impairments cause conference interpreters stress and fatigue, we can safely conclude that court interpreters are at a distinctly greater disadvantage acoustically, and therefore subjected to even more severe stress. Unlike conference interpreters, who work in soundproof booths and hear the sound through headphones connected to a stationary microphone, court interpreters hear telegraphic, often-interrupted messages from speakers distributed throughout the courtroom. Although many courts have microphones, they are not multi-directional and often distort the sound more than they amplify it. The interpreter must then filter this message through myriad other noises polluting the audible space, such as telephones ringing, jurors coughing, babies crying in the gallery, and so on. The best kept secret in the courtroom may well be that interpreters are often unable to hear what they are expected to interpret. When interpreting simultaneously into a microphone, they are invariably made to position themselves at the point furthest away from the witness stand, so as not to disturb jurors and those testifying. When no simultaneous equipment is available, the interpreter is obliged to sit next to the defendant—the hardest place from which to hear the proceedings. (By contrast, court reporters are granted the choice spot in the well of the courtroom to maximize their ability to hear every word uttered.) Moreover, no one seems to realize that the interpreter’s hearing is further obstructed by the sound of his or her own voice overlapping the original speaker’s at all times, creating an additional acoustical impediment. The bolder or more experienced interpreters will interrupt to insist that the

parties speak up or rearrange themselves to improve audibility. But courtroom atmospheres are not always conducive to intransigence on the part of someone who is supposed to be invisible and unobtrusive, and even well-meaning judges and court clerks often have little or no control over antiquated sound systems or acoustically faulty architecture.

All of the factors found by the various studies described here to be major causes of conference interpreter stress and fatigue—acoustics, prolonged periods on task, lack of familiarity with relevant terminology, excessively fast or incoherent speakers, etc.—are in fact more applicable to interpreters in court than in any other setting. Moreover, judiciary interpreters have the additional pressure of knowing that nothing less than the life and liberty of human beings are at stake in the proceedings they are called upon to duplicate in a defendant’s native tongue. The awareness that each word mistranslated or omitted hinders the non-English speakers’ ability to follow the proceedings against them is a constant source of tension. Whereas the conference setting allows for much more flexibility, interpreting in court requires greater precision, since a complete and faithful rendition must include hesitations, false starts, repetitions and inaccuracies. It follows then that judiciary interpreters face more demanding and stressful working conditions than their counterparts elsewhere.

Studies corroborate empirical evidence

The only way to ensure a faithful rendition is to provide interpreters with relief at half-hour intervals. While these studies make an important contribution to the body of scientific data needed for a better understanding of the interpreting process and its complexities, they merely corroborate what practicing interpreters have known and argued all along: that work quality—i.e., accuracy and coherence—begins to deteriorate after approximately 30 minutes of sustained simultaneous interpreting, and that the only way to ensure a faithful rendition of legal proceedings is to provide interpreters with adequate relief at approximately half-hour intervals.

Conscientious administrators in several federal courts, the United Nations and the U.S. State Department recognized the need for tandem interpreting and adopted the practice early on. Team interpreting, in fact, dates back to the Nuremberg trials. At the State Department, which according to Harry Obst, Director of the Office of Language Services, handles 200 to 300 interpreting missions in 100 different locations per day, it is considered an inviolable policy. In response to a request from Ed Baca of the Administrative Office of the U.S. Courts, Obst pointed out that “The policy on simultaneous interpreters is simple and corresponds to that of all other responsible interpreting services in the entire world (United Nations, European Commission, International Red Cross, International Court of Justice, foreign ministries in other nations.) No individual simultaneous interpreter is allowed to work for more than 30 minutes at a time.” The letter continues, “This is also done for the protection of the users. After 30 minutes the accuracy and completeness of simultaneous interpreters decrease precipitously, falling off by about 10% every 5 minutes after holding a

satisfactory plateau for half an hour.” The reason, Obst explains, is that “The human mind cannot hold the needed level of focused concentration any longer than that. This fact has been demonstrated in millions of hours of simultaneous interpretation around the world since 1948. It is not a question of opinion. It is simply the result of empirical observation.”

Echoing the results of the University of Geneva study, Obst adds that although some interpreters believe they can interpret longer than that, they do so because after 30 minutes “they can no longer differentiate between interpreting the original message or just babbling in the target language. Their mind is too tired to evaluate their own performance.” The policy on the part of court administrators that interpreters work for an hour or more without relief, says Obst, “makes sense only in budgetary terms. It makes reliable interpreting impossible and denies the client who has to rely on the interpreter the due process that every person is entitled to under our laws.”

And that is precisely the point. Unlike their colleagues in any other sector, judiciary interpreters are placed under oath to “truly and accurately interpret” the proceedings. Accuracy in a legal context is not an academic concept or an abstraction that can be quantified in relative terms. It is the cornerstone that guarantees limited-English litigants equality under the law. That was the spirit of the Court Interpreters Act enacted in 1978. It is also the spirit of the Code of Professional Responsibility drafted by the Administrative Office of the U.S. Courts, which compels interpreters to “fulfill a special duty to interpret accurately and faithfully” and “perform to the best of their ability to assure due process for the parties” and “refuse any assignment [...] under conditions which substantially impair their effectiveness.” If interpreters are to be expected to comply with these canons, they will need the full support of administrators in both the state and federal courts, who will place due process considerations above the temptation to trim their budgets at the expense of those who come before the bar of justice.

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APPENDIX G: Interpreter Credentials

The federal courts and many states have implemented formal testing procedures to determine the competence of foreign-language court interpreters.

The Court Interpreter Act of 1978 and subsequent amendments of 1988, 28 USC §1827-1828, resulted in the establishment of the Federal Court Interpreter Certification Examination Program (FCICE). Passing the federal certification exam represents one of the highest levels of professional credentialing obtained by foreign-language court interpreters. The examination is so rigorous that only about 5 percent of examinees pass all portions of the test.

A similar effort to assess the skill, knowledge and ability of foreign-language interpreters began at the state level in 1995. Four states — Minnesota, New Jersey, Oregon and Washington — created the Consortium for State Court Interpreter Certification (CSCIC) to pool their resources for the development and administration of court interpreting testing and training programs. Since its inception, 39 additional states, including Ohio, have joined the Consortium. The Consortium has developed tests in 14 languages that are used by its members to certify interpreters.

Related Web Resources

Federal Court Interpreter Certification Examination Program (FCICE)

- www.uscourts.gov/interpretprog/interp_prog.html

Consortium for State Court Interpreter Certification (CSCIC)

- www.ncsconline.org/D_Research/CourtInterp.html

Foreign-Language Credential Categories

- www.uscourts.gov/interpretprog/infosheet.html

Ohio Credentials

- www.supremecourtsohio.gov/Judicial_and_Court_Services/interpreter_svcs/default.asp

Credentialing by Registry of Interpreters for the Deaf (RID)

- <http://www.rid.org/education/index.cfm>

A. Foreign-Language Credential Categories

The federal courts established three categories of interpreter: certified interpreters, professionally qualified interpreters and language-skilled interpreters. The information below summarizes the requirements for each category. (Administrative Office of the United States Courts, Federal Court Interpreter Program, “Federal Court Interpreter Information Sheet”; Administrative Office of the United States Courts, 2006 [cited 5 February 2006]; www.uscourts.gov/interpretprog/infosheet.html).

1. Federal Credentials

a.) *Certified Interpreter*

Federally certified interpreters have successfully passed a rigorous written test and a challenging oral exam administered under contract from the U.S. Administrative Office of the Courts. To date, federal certification exams have been developed in Spanish, Navajo

and Haitian-Creole. Federal courts give priority to certified interpreters when hiring interpreters in these languages. In the languages for which no federal examination exists, the courts seek interpreters from the “professionally qualified” or “language skilled” categories.

b.) Professionally Qualified Interpreter

There are two ways in which an interpreter may become professionally qualified. One is through previous employment as a conference or seminar interpreter with any United States agency, the United Nations, or a similar agency if the condition for employment included successfully passing an interpreter examination. Alternatively, the interpreter must be a member in good standing of a professional interpreter association “that requires a minimum of 50 hours of conference interpreting experience in the language(s) of expertise and the sponsorship of three active members of the same association who have been members for at least two years and whose language(s) are the same as the applicant’s, and who will attest to having witnessed the applicant’s performance and to the accuracy of the statements on the application.” Individuals demonstrating to the local court they are eligible through either of these two methods can be classified as “professionally qualified.” To be classified as professionally qualified, the interpreter must submit a resume detailing education, training and experience.

c.) Language-Skilled Interpreter

Interpreters who are not certified (Spanish, Navajo, or Haitian-Creole) or considered “professionally qualified,” as described previously, but who can demonstrate to the satisfaction of the court their ability to effectively interpret from the foreign language into English and vice versa in court proceedings, can be classified as “language-skilled” interpreters. For the full text describing these categories, see: www.uscourts.gov/interpretprog/infosheet.html.

2. State Credentials

A number of states have certified interpreters since the 1980s. Those states with significant foreign-language populations lead the way in pushing for regulation of interpreters. To date, more than 20 states have an active interpreter certification process in place using tests created by the Consortium for State Court Interpreter Certification and adding their own particular local requirements. (National Center for State Courts, “Model Judges Bench Guide on Court Interpreting”; National Center for State Courts, 2006 [cited 5 February 2006]; www.ncsonline.org/wc/publications/Res_CtInte_ModelGuideChapter8Pub.pdf).

a.) State Certified Interpreter

The details of state certification vary from state to state. However,

the centerpiece of the process is passing one of the reliable, valid and psychometrically sound examinations developed by the Consortium. Each state adds its local requirements to the certification process. Even when interpreters are certified, courts should still establish the qualification of the interpreter on the record.

Typical requirements for state certification include a written exam, an oral exam, mandatory attendance at a two-day orientation program, court observation, continuing education requirements and a criminal-history check.

b.) Registered and Other Categories of Interpreters

Many states find it desirable or necessary to institute multiple categories of interpreters, reflecting not only different levels of skills, but also providing the framework for the assessment of the qualifications of interpreters for whose languages there are no tests.

3. Ohio Certification

Ohio does not offer certification at this time.

At present, there are seven court-certified foreign-language interpreters and five court-certified American-Sign-Language interpreters residing in Ohio who tested and became certified in other states and are now providing services in Ohio.

Visit the Supreme Court of Ohio Web site, www.supremecourtofohio.gov/Judicial_and_Court_Services/Interpreter_Svcs/FAQ, for a roster with the location and contact information for Ohio's externally certified interpreters.

B. Sign-Language Categories

Although interpretation of spoken language and sign language are similar in many ways, there are significant differences also.

Although the ADA requires the use of qualified interpreters to assist deaf individuals, few courts have established any specific requirements to interpret in legal proceedings. In Ohio, sign-language interpreters may interpret without any kind of certification. As with incompetent language interpreters, this undermines constitutional rights to due process, meaningful presence, effective assistance of counsel, knowing, intelligent and voluntary waiver of rights, among others.

Equal access is best ensured by requiring skill, knowledge and ability and by developing a comprehensive set of policies and procedures.

1. Credentialing by Registry of Interpreters for the Deaf

a.) Registry of Interpreters for the Deaf

The Registry of Interpreters for the Deaf (RID) explains the certification process as follows:

- The certificates described within are an indication that the interpreter or transliterator was assessed by a group of professional peers according to a nationally recognized standard of minimum competence. The individual's performance was deemed to meet or exceed this national standard.
- Certificates accepted by RID are recognized as valid certificates provided the interpreter/transliterator meets all requirements of membership including participation in the Certification Maintenance Program. All interpreters and transliterators are required to adhere to the RID Code of Professional Conduct governing ethical behavior within the profession.
- The RID National Testing System strives to maintain adherence to nationally recognized testing industry standards of validity, reliability and equity. As a result, an independent psychometrician (test development expert) is retained by RID and oversees test development and revision processes. RID maintains affiliation with the National Organization for Competency Assurance, the entity that sets national criteria for validity, reliability and fairness in testing and credentialing.

Below is an abbreviated list of the certificates offered and deemed appropriate for court interpreting by RID. To see the complete list, visit: www.rid.org/expl.html.

2. RID Certificates

a.) *CDI (Certified Deaf Interpreter)*

Holders of this certification are interpreters who are deaf or hard-of-hearing and who have completed at least eight hours of training on the RID Code of Ethics, and eight hours of training in general interpretation as it relates to the interpreter who is deaf or hard-of-hearing and who have passed a comprehensive combination written and performance test. Holders of this certificate are recommended for a broad range of assignments where an interpreter who is deaf or hard-of-hearing would be beneficial. This test is currently available.

b.) *CI and CT (Certificate of Interpretation and Certificate of Transliteration)*

Holders of both full certificates (as listed previously), demonstrated competence in both interpretation and transliteration. Holders of the CI and CT are recommended for a broad range of interpretation and transliteration assignments.

c.) *CSC (Comprehensive Skills Certificate)*

Holders of this full certificate demonstrate the ability to interpret between American Sign Language and spoken English and to transliterate between spoken English and an English-based sign language. Holders of this certificate are recommended for a broad

range of interpreting and transliterating assignments. The CSC examination was offered until 1987.

d.) MCSC (Master Comprehensive Skills Certificate)

The MCSC examination was designed with the intent of testing for a higher standard of performance than the CSC. Holders of this certificate were required to hold the CSC prior to taking this exam. Holders of this certificate are recommended for a broad range of interpreting and transliterating assignments. This certificate is no longer offered.

e.) OTC (Oral Transliteration Certificate)

Holders of this generalist certificate demonstrate, using silent oral techniques and natural gestures, the ability to transliterate a spoken message from a person who hears to a person who is deaf or hard-of-hearing and the ability to understand and repeat the message and intent of the speech and mouth movements of the person who is deaf or hard-of-hearing. This test is currently available.

f.) OIC:C (Oral Interpreting Certificate: Comprehensive)

Holders of this generalist certificate demonstrated the ability to transliterate a spoken message from a person who hears to a person who is deaf or hard-of-hearing and the ability to understand and repeat the message and intent of the speech and mouth movements of the person who is deaf or hard-of-hearing. This certification is no longer offered. Individuals wishing oral certification should take the OTC exam noted previously.

g.) SC:L (Specialist Certificate: Legal)

Holders of this specialist certificate demonstrate specialized knowledge of legal settings and greater familiarity with language used in the legal system. Generalist certification and documented training and experience are required prior to sitting for this exam. Holders of the SC:L are recommended for a broad range of assignments in the legal setting. This test is currently available.

2. Credentialing by National Association of the Deaf (NAD)

The National Association of the Deaf also has a standards-setting series of certificates to measure the competence of sign-language interpreters.

A brief description of some NAD certificates follows. The inclusion of these descriptions does not necessarily indicate holders of the certificates are qualified to interpret in court. Courts should make this determination before allowing an interpreter to interpret.

a.) NAD Certificates

Description of certificates issued by NAD

(i.) NAD III (Generalist) - Average Performance

Possesses above average voice-to-sign skills and good sign-to-voice skills, or vice versa. Demonstrates the minimum competence needed to meet generally accepted interpreter standards. Occasional words or phrases may be deleted, but the expressed concept is accurate. Has good control of the grammar of the second language. Is generally accurate and consistent, but is not qualified for all situations.

(ii.) NAD IV (Advanced) - Above Average Performance

Possesses excellent voice-to-sign skills and above average sign-to-voice skills, or vice versa. Demonstrates above-average skill in any given area. Performance is consistent and accurate. Fluency is smooth, with little deleted, and the viewer has no question as to the candidate's competency. Should be able to interpret in most situations.

(iii.) NAD V (Master) - Superior Performance

Possesses superior voice-to-sign skills and excellent sign-to-voice skills. Demonstrates excellent to outstanding ability in any given area. Performance is with a minimum of flaws. Demonstrates interpreting skills necessary in almost all situations.

b.) NIC (National Interpreter Certification)

Since the mid 1990s, RID and NAD have worked collaboratively to develop a joint test to replace both organizations' current generalist tests. In 2005, the written portion of the test was presented and in 2006, the performance section was presented.

All three levels of this certification are considered professional-level certified interpreters. For the interview portion, certificate holders demonstrate decision-making skills meeting or exceeding basic professional standards. For the performance portion, certificate holders demonstrate interpreting and transliterating performances meeting or exceeding basic professional standards. Holders of all levels of the NIC are recommended for a broad range of interpretation and transliteration assignments.

(i.) NIC

Those who pass at this level demonstrate basic professional-level interpreting and transliterating skills.

(ii.) NIC Advanced

Those who pass at this level scored within the standard range on the interview portion and high on the performance portion of the examination.

(iii.) NIC Master

Those awarded the NIC Master designation scored high on both the interview and performance portions of the test.

Appendix H: Job Analysis and Position Description for Professional Court Interpreters

Chapter 3: Job Analysis and Position Descriptions for Professional Court Interpreters
www.ncsconline.org/D_Research/CourtInterp.html

In most states, there are no qualifications required by law for foreign language court interpreters. (By contrast, laws in many states do specify the qualifications that interpreters for deaf or hearing impaired people must have.) A wealth of published research and systematic job analysis studies have extensively documented the core knowledge, skills, and abilities that professional court interpreters should possess, regardless of the specific conditions and location of their employment. This chapter provides a foundation for position descriptions, job announcements, and testing or other qualifications assessments for salaried or contract interpreters. The chapter:

- summarizes the central findings of job analysis studies related to interpreting;
- notes other related language and communicative assistance tasks that interpreters are de facto expected to perform in many courts (e.g., document translation, tape translation), and
- provides samples of position descriptions used in two locations where interpreters are employed by the courts (one statewide system and one local court).

Summary Profile of the Qualifications of a Professional Interpreter

Professional court interpreters are individuals who possess educated, native-like mastery of both English and a second language; display wide general knowledge characteristic of what a minimum of two years of general education at a college or university would provide; and perform the three major types of court interpreting: sight interpreting, consecutive interpreting, and simultaneous interpreting.

Court interpreters must perform each type of interpreting in a manner that includes everything that is said, preserves the tone and level of language, and neither changes nor adds anything to what is said. Interpreters deliver services in a manner faithful to all canons of a Code of Professional Responsibility and policies regarding court interpreting promulgated by the judiciary.

A detailed inventory of the tasks interpreters perform is presented in the next section. Several distinctions made in the task analysis are not usually found in interpreter job analyses and deserve a brief explanation. Their implications are important for testing and training.

- Work performed in court under the supervision of a judge is distinguished from work that is performed outside the judge's purview. The latter increases the opportunity for interpreters to act outside their proper role, as well as the likelihood of experiencing pressure to do so.
- The distinction between interpreting familiar versus unfamiliar documents is important, because interpreters with a limited vocabulary can study and learn the proper interpretation of familiar documents. It takes substantially more education and very broad vocabulary to interpret unfamiliar documents effectively.
- The distinction between interpreting (or sight translating) from English into the foreign language versus interpreting the other way is important for two related reasons: 1) the former occurs more frequently than the latter, and 2) there is less likelihood that improper or mistaken interpreting will be noticed by court officials.

Detailed Inventory of Tasks Interpreters Perform

The tasks described below appear in roughly the same order of frequency that interpreters perform them. For example, the various kinds of interpreting tasks, as a group, are performed more frequently than sight translations. Within interpreting, work in the simultaneous mode happens more often than work in the consecutive mode; and, sight translation from English to a foreign language is more frequent than sight translation from the foreign language into English.

Interpreting:

- Provide simultaneous interpretation of oral communication during court proceedings, from English into the foreign language.
- Provide consecutive interpretation between the non-English speaking person and probation or social service officers in interview settings.
- Provide consecutive interpretation between the non-English speaking person and his or her attorney in interview settings.
- Provide consecutive interpretation of English questions and non-English language responses during examination of witnesses in court proceedings.
- Provide consecutive interpretation of colloquy between English-speaking court officials and non-English speaking litigants during non-evidentiary proceedings.
- Provide consecutive interpretation of all off-the-record oral communication between a non-English language speaking

person and his or her English-speaking attorney during court proceedings, at the discretion of the parties.

Sight translation from English into the foreign language:

- *Out of the presence of the judge or counsel*, orally translates *familiar* official advisements from English into the foreign language:
 - ◊ to groups of individuals at the same time
 - ◊ individually
- *Out of the presence of the judge or counsel*, orally translates *unfamiliar* investigation or diagnostic reports from English into the foreign language.
- *During court proceedings*, orally translates *familiar* official advisements or other documents from English into the foreign language.
- *During court proceedings*, orally translates *unfamiliar* reports or other documents from English into the foreign language.

Sight translations from the foreign language into English:

- *Off-the-record during interviews between counsel and client*, orally translates *unfamiliar* correspondence or other informal written communications, from the foreign language into English.
- *Off-the-record during interviews between counsel and client*, orally translates *unfamiliar* official documents.
- *For the record during court proceedings*, orally translates *unfamiliar* official documents from the foreign language into English.
- *For the record during court proceedings*, orally translates *unfamiliar* correspondence or other informal written communications from the foreign language into English.

Related tasks many interpreters are expected to perform:

- Translates written court documents from English into an equivalent document in a foreign language (notices, advisements, etc.).
- Transcribes and translates into written English tape recordings of foreign language conversational speech (often of poor technical quality and replete with slang idioms).

Other professional responsibilities:

- Reviews relevant material prior to the assignment whenever possible.
- Educates non-English-speaking persons about the interpreter role (i.e., that interpreter will not assist with preparation of the case or provide personal explanations or advice, that everything said will be interpreted).
- Refrains from inserting personal explanations or clarifications while interpreting or translating orally.
- Instructs non-English speaking persons to refer questions to their attorneys or court professionals involved and present in the matter at hand.
- Preserves the confidentiality of what is heard during interviews and privileged communications.
- Refrains from commenting on issues that are not related to providing accurate interpretations.
- Reports to attorney, judge, or hearing officer if the non-English speaking person does not appear to understand instructions or questions.
- Explains the reasons for an interpretation when requested by a judge
- Refrains from disclosing information about cases or assignments to unauthorized individuals, including testimony heard, identification of parties to the action, nature of the assignment; observes requirements of rule or law governing confidentiality and public disclosure of information obtained during the course of professional duties.

Knowledge Required by Interpreters**Grammar:**

- Knowledge of standard grammar for English and the foreign language (e.g., verb agreement and conjugation, singular/plural forms, possessive case, correct syntax, gender).
- Knowledge of grammatical conventions observed during formal, consultative, and casual modes of oral communication in English and the foreign language.

Vocabulary:

- Knowledge of English and the foreign language vocabularies typically used in formal, consultative, and casual modes of communication in justice system contexts, including colloquial slang, idiosyncratic slang, and regionalisms.

- Knowledge of specialized vocabulary (terminology) in both English and the foreign language related to court and general administrative hearing procedures; legal and criminal justice system terminology; terms related to injury and physical and mental symptoms of illness; tests and laboratory analyses related to alcohol and drugs; ballistics and firearms; and slang expressions related to crime and drug use.
- Knowledge of the dialectical varieties of English and the foreign language.

General:

- Knowledge of theory, skills, and techniques of interpreting.
- Knowledge of ethical codes for interpreters and protocol of interpreting.
- Knowledge of generally observed forms of justice system organization (organization of courts and their relationships to other agencies) and procedure.
- Knowledge of standards and laws pertaining to court interpreting and basic court procedure.

Skills and Abilities

Cluster 1 – Oral English into oral foreign language

- Skill in comprehending varieties of spoken English.
- Skill in speaking a standard variety of the foreign language with correct pronunciation and inflection.
- Ability to speak the foreign language fluently, including regional colloquialisms and slang expressions.
- Ability to render precise, accurate interpretations from English into the foreign language without omissions or additions.
- Ability to maintain speaker’s register (level and complexity of vocabulary and sentence construction) in the interpretation.
- Ability to render interpretations promptly without hesitation.

Cluster 2 – Oral foreign language into oral English

- Skill in comprehending varieties of the spoken foreign language.

- Skill in speaking standard English with correct pronunciation and inflection.
- Ability to speak English fluently, including regional colloquialisms, slang terms, and slang expressions.
- Ability to render precise, accurate interpretations from the foreign language into English, without omissions or additions.
- Ability to maintain speaker's register (level and complexity of vocabulary and sentence construction) in the interpretation from foreign language into English.
- Ability to render interpretations promptly without hesitation.

Cluster 3 – Written English into oral foreign language

- Skill in comprehending written English.
- Ability to read and understand technical material written in English such as legal documents, probation or social services reports, medical reports, etc.
- Ability to maintain writer's register (level and complexity of vocabulary and sentence construction) in the oral translation from English into the foreign language.
- Ability to render precise, accurate sight translations from English into the foreign language promptly without hesitation and without omissions or additions.

Cluster 4 – Written foreign language into oral English

- Skill in comprehending the written foreign language.
- Ability to read and understand legal documents written in the foreign language.
- Ability to read and understand correspondence written in the foreign language that may be written in an archaic or illiterate manner.
- Ability to render precise, accurate sight translations from the foreign language into English promptly without hesitation and without omissions or additions.

General requirements for interpretation

- Ability to interpret simultaneously.
- Ability to interpret consecutively.
- Ability to interpret every oral utterance, even those embarrassing to the interpreter or other court participants. Ability to monitor one's interpretations and correct one's own mistakes.
- Ability to conduct terminological research efficiently and effectively.

- Ability to perform interpreter services effectively under pressure of time constraints, adversarial settings, and in emotionally charged circumstances.
- Ability to comprehend and retain conversation and testimony as long as necessary to render an accurate interpretation.

General job skills

- Ability to follow written and oral instructions effectively.
- Skill in writing English (e.g., appropriate grammar, spelling).
- Skill in writing the foreign language (e.g., appropriate grammar, spelling)
- Ability to determine a speaker's language skills, country and region of origin, and dialects.
- Ability to provide equal service regardless of the race, national origin, gender, religion, physical abilities, or socioeconomic status of the non-English speaking persons or professionals; and ability to remain impartial in all cases.
- Ability to recognize and understand one's own motives, limitations, and prejudices.

Sample Job Descriptions

The following example job descriptions are nearly verbatim reproductions of two job titles used in the state of New Jersey and one title used in Maricopa County (Phoenix), Arizona. Interpreter positions in New Jersey are state classified, and there are three levels (trainee, entry, and supervisor). Only the titles used for the highest and the lowest are reproduced below. The Maricopa title defines one county position, but includes within it provisions for three levels of interpreter.

Example I: Chief Interpreter or Supervising Interpreter

Definition

Under the general direction of the Trial Court Administrator or other high level official, interprets complex proceedings presided over by employees of the judiciary and other authorized persons. Translates forms, letters and other court-related documents as needed in the county for foreign language-speaking persons who have limited or no proficiency in English. Oversees, evaluates and trains lower level court interpreters and coordinates all interpreting and translating services; does related work as required.

Examples of Work

- Interprets in simultaneous and consecutive modes complex

proceedings, hearings, interviews, and other court-related communicative events.

- Sight interprets foreign language or English documents as required during a proceeding, hearing, interview or other court-related communicative event.
- Reviews translations of or translates into foreign language, official forms, documents, public signs, notices, posters, form letters, job applications, and correspondence.
- Reviews translations of or translates into English letters, legal documents and other materials written in foreign language.
- Oversees activities of all staff interpreters, supervising their interpreting and translating activities.
- Performs evaluations, determining deficiencies, progress and training needs of all court interpreters.
- Provides, arranges and/or develops proper on-going training for staff interpreters.
- Evaluates overall needs of court interpreters and makes recommendations to the Trial Court Administrator.
- Assures efficient administration of interpreting and translating services in consultation with the Trial Court Administrator, Presiding Judges, Case Managers, Clerks and Attorneys.

JOB SPECIFICATION – CHIEF INTERPRETER

- Maintains files and records of interpreting and translating activities.
- Coordinates the use of free-lance interpreters as needed.
- Collects, interprets and analyzes data for the computation and submission of statistical records and reports.

Requirements

- Certification: Passage of a screening and certification test administered by [_____]
- Experience: One year of experience as a full-time court interpreter.

Knowledge and Abilities

- Thorough knowledge of the theory, method, techniques, ethics and standards of interpreting and translating.
- Thorough knowledge of English and appropriate foreign language phonology, vocabulary, grammar and dialectology.
- Thorough knowledge of the methods, techniques and procedures used in interpreting in simultaneous and consecutive modes.

- Wide knowledge of English and appropriate foreign language legal terminology.
- Ability to acquire a wide knowledge of the English-speaking cultures of the United States and specified foreign language-speaking cultures in [state].
- Ability to acquire a wide knowledge of the court system and related agencies.
- Ability to acquire a wide knowledge of the methods, techniques, and procedures used in evaluating the work of court interpreters.
- Ability to interpret in consecutive and simultaneous modes complex hearings, interviews and other court related communicative events.
- Ability to translate forms, letters and other court-related documents from English to specified foreign language and from specified foreign language to English.
- Ability to sight interpret specified foreign language or English documents during a proceeding, hearing, interview or other court-related communicative event.
- Ability to oversee and evaluate court interpreters and trainees.
- Ability to determine deficiencies, needs, and progress of court interpreters and trainees.
- Ability to evaluate and determine needs of the program and make necessary recommendations.
- Ability to determine the need for training and to provide or arrange ongoing training for the court interpreters and trainees.
- Ability to collect, interpret, and analyze data.
- Ability to maintain clear, concise, and informative records and files.
- Ability to read, write, speak, understand or communicate in English sufficiently to perform the duties of this position. American Sign Language or Braille may be considered as acceptable forms of communication.
- Persons with mental or physical disabilities are eligible as long as they can perform the essential functions of the job after reasonable accommodations are made to their known limitations. If the accommodations cannot be made because it would cause the employer undue hardship, such persons may not be eligible.

NOTE

“Foreign language” is defined as any language other than English, including sign language.

Example II: Entry-Level Staff Interpreter

Definition

Under the direction of a supervising interpreter, interprets proceedings of limited legal significance, held by employees of the Judiciary and other authorized persons. Translates forms, letters and other court-related documents. Does related work as required.

Examples of Work

- Interprets proceedings of limited legal significance, such as hearings, interviews, weddings and other court related communicative events.
- Sight interprets appropriate foreign language or English documents as required during a proceedings, hearing, interview or other court-related communicative event.
- Produces initial drafts of translations into specified foreign language of official forms, documents public signs, notices, posters, form letters, job applications, correspondence written in English
- Produces initial drafts of translations into English of letters, legal documents, and other materials written in specified foreign language.
- Attends ongoing training provided or funded by the Administrative Office of the Courts.
- Maintains records of interpreting and translating activities.
- Collects, interprets and analyzes data for the computation and submission of statistical records and reports.

Requirements

- [Satisfactory performance] score on a screening and certification test administered by [_____]
- Passage of the screening or certification test administered by [_____] within one year of appointment.

JOB SPECIFICATION – COURT INTEPRETER

Knowledge and Abilities

- Basic knowledge of theory, method, techniques, ethics and standards of interpreting and translating.
- Basic knowledge of English and appropriate foreign language phonology, vocabulary, grammar and dialectology.
- Basic knowledge of the methods, techniques and procedures used in interpreting in the simultaneous and consecutive modes.
- Ability to acquire a basic knowledge of the English and specified foreign language legal terminology.
- Ability to acquire a basic knowledge of the English-speaking cultures of the United States and the specified foreign language-speaking cultures of [state].
- Ability to acquire a wide knowledge of the court system and related agencies.
- Ability to interpret in consecutive and simultaneous modes for proceedings of limited legal significance, hearings, interviews, and other court-related communicative events.
- Ability to translate forms, letters and other court-related documents from English to specified foreign language and from specified foreign language to English.
- Ability to sight interpret specified foreign language or English documents during a proceeding, hearing, interview and other court-related communicative events.
- Ability to keep, clear, concise and informative records and reports.
- Ability to read, write, speak, understand or communicate in English sufficiently to perform the duties of this position. American Sign Language or Braille may be considered as acceptable forms of communication.
- Persons with mental or physical disabilities are eligible as long as they can perform the essential functions of the job after reasonable accommodations are made to their known limitations. If the accommodations cannot be made because it would cause the employer undue hardship, such persons may not be eligible.

NOTE

“Foreign language” is defined as any language other than English, including sign language.

EXAMPLE III: Generic Interpreter Position Title (With Three Levels)

Title: Court Interpreter

Reports to: Judicial Services Administrator assigned to the Office of Court Interpreters (OCI). May also report to Senior Court Interpreter with regard to language and professional issues.

Summary of Responsibilities: Minimizes language obstacles between the Court and all parties to a legal proceeding.

Description of Duties:

- Interprets in Spanish and English a true, unbiased rendition of the entirety of court hearings and related interviews, both simultaneously and consecutively, for the interpreted subject and officers of the Court*, in and out of the courtroom, pacing the interpretation to match the flow of the language spoken. Comprehension is determined based upon feedback from parties being interpreted.
- Accurately translates correspondence and related documents arising out of assigned caseload. May also prepare written translations of forms and other documents for Court and county agencies. Accuracy is determined by periodic peer review.
- Maintains assigned caseload: adds and deletes assigned cases from the OCI's Active List; responds promptly to requests for interpreter assistance in hearings and interviews in efficient, effective and courteous manner; promptly and accurately enters interpreter appearances and minute entries in files; performs related work as requested.
- Calendars all appointments accurately and submits them for process in timely manner;
- Arrives at each scheduled interpreter site in timely manner;
- Maintains accurate statistics on interpreter appearances and submits them in timely manner;
- Maintains high level of language and court interpreter skill by both independent study and periodic exchange of vocabulary solutions among peers;
- Cooperatively shares interpreting assignments with peers as required to fulfill Office the Court Interpreter obligations;
- Adheres to OCI Polices, Procedures and Practices and Interpreter Code of Ethics as stated therein.

Knowledge, Skills and Abilities: Comprehensive knowledge of correctly-written and spoken Spanish; comprehensive knowledge of Spanish as spoken in Mexico; familiarity with Spanish as spoken in Spain and areas of Latin America. Ability to plan, organize and maintain work flow; ability to interpret simultaneously and consecutively; ability to communicate effectively in Spanish and in English orally and in writing; ability to establish and maintain effective working relationships.

Minimum Qualifications: At all levels, certification by appropriate agency, society or institution as a court interpreter is required. Additional requirements by level as follows: Interpreter I: One year of interpreting experience in Spanish; knowledge of legal terminology desirable; Interpreter II: One year of experience as Court Interpreter I; Interpreter III: Two years of experience as Court Interpreter II.

NOTE

Hearing officers, lawyers, juvenile and adult probation officers, juveniles and relatives of juveniles, defendants, witnesses and investigators.

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Appendix I: Interpretation Services of Other States

Alabama

<http://alisdb.legislature.state.al.us/acas/ACASLogin.asp>

Bill requiring the use of qualified bilingual persons. This bill (62294-1:n:01/14/2004: LLR/agb LRS2004-77SB175 by Senator Bedford RFD Governmental Affairs Rd 1 03-FEB-04) would require each state and local law enforcement agency serving an area in the state where there are a substantial number of non-English speaking residents to employ a sufficient number of qualified bilingual persons to assist the members of those agencies who are in public contact positions

Alabama

www.pelhamonline.com/Default.asp?ID=114

Pelham, Ala. Municipal Court; A Spanish staff interpreter is available at every court session

Alaska

www.state.ak.us/courts/interpreter.htm

Oral Languages Interpretation Services is the state's volunteer interpreter program; Alaska recently joined the National Consortium for State Court Interpreters

Alaska

www.state.ak.us/courts/intcode.pdf

Alaska adopted a Model Code of Professional Responsibility

Arizona

www.sc.co.pima.az.us/interpreter/default.htm

Arizona Superior Court Office of the Court Interpreter; Pima County

Arizona

www.aciaonline.org/

Arizona Court Interpreters Association

Arkansas

<http://courts.state.ar.us/courts/ci.html>

Arkansas Interpreter Program; Arkansas Judiciary

California

www.courtinfo.ca.gov/programs/courtinterpreters/

California Interpreting Program; Judicial Council of California

California

www.courtinfo.ca.gov/programs/courtinterpreters/resourcesreq.htm

Court Interpreters Resources and Requirements; Judicial Council of California

California

www.courtinfo.ca.gov/programs/courtinterpreters/faq.htm

Information About Becoming a Sign-Language Interpreter in California; Judicial Council of California

California

www.ccia.org/

California Court Interpreters Association

California

www.ncta.org/

Northern California Translators Association

Colorado

www.courts.state.co.us/chs/hr/interpreters/courtinterpreterpage.htm

Court Interpreters; Colorado Judicial Branch

Colorado

www.denvergov.org/redirect_404/tabid/383437/Default.aspx?

Denver County Court Office of the Court Interpreter FAQs

Colorado

www.coloradointerpreters.org/

Colorado Association of Professional Interpreters

Colorado

www.cta-web.org/

Colorado Translators Association

Connecticut

www.state.ct.us/cdhi/interp.htm

Commission on the Deaf and Hearing Impaired; State of Connecticut

Connecticut

www.jud.ct.gov/external/news/jobs/interpreter.htm

Court Interpreter and Translator Services; Connecticut Judicial Branch

Delaware

<http://courts.delaware.gov/General%20Information/?CourtInt.htm>

Delaware Interpreting Program; Delaware State Courts

District of Columbia

www.dccourts.gov/dccourts/superior/special_ops/ocis.jsp

Office of Court Interpreting Services; D.C. Superior Court

District of Columbia

www.ncata.org/template/index.cfm?CFID=11720204&CFTOKEN=80626278

National Capital Area Chapter of the American Translators Association

Florida

www.flcourts.org/

*Florida Interpreting Program
(Click on Judicial Administration, then Court Interpreters Program)*

Georgia

www.georgiacourts.org/

Georgia Interpreting Program

Georgia

www.aait.org/

Atlanta Association of Interpreters and Translators

Hawaii

www.courts.state.hi.us/index.jsp

*Hawaii Court Interpreter Program
(Click on search, then enter “interpreting”)*

Idaho

www.isc.idaho.gov/language.htm

Idaho Interpreting Program

Illinois

www.cookcountycourt.org/services/index.html

*Illinois – Cook County Interpreting Program
(Click on Court Services, then on Office of Interpreter Services)*

Indiana

www.in.gov/judiciary/interpreter/

Interpreter Certification Program; Indiana Courts

Iowa

www.judicial.state.ia.us/

Iowa Court Interpreters Program; Iowa Judicial Branch

Kansas

www.kscourts.org/kcjl/draft/ratrec22.htm

Recommendation 22: Interpreters. Kansas Citizen Justice Initiative Draft Final Report, May 1999; This report makes recommendations to the Supreme Court on the assignment of court interpreters.

Kentucky

<http://dpa.ky.gov/library/manuals/inter/letter.html>

Redd, Margaret G. "Court Interpreters: A Letter to a Congressman." Kentucky Office of Public Advocacy; Article discusses the need for interpreters in Kentucky.

Louisiana

<http://brgov.com/dept/citycourt/Interpreter>

Interpreter Appointment Procedure; Baton Rouge City Court

Maine

www.courts.state.me.us/courtservices/accessibility/request_proc.html

Accommodation Request Procedure; State of Maine Judicial Branch; Provides procedure for requesting an interpreter

Maryland

www.courts.state.md.us/interpreter/index.html

Maryland Interpreting Program; Maryland Judiciary

Massachusetts

www.mass.gov/courts/admin/planning/interpreters.html

Massachusetts Court Interpreting; Massachusetts Court System

Michigan

<http://courts.michigan.gov/scao/resources/other/ccilst.htm>

Michigan Interpreting Program; State Court Administrative Office

Minnesota

www.courts.state.mn.us/?page=304

Minnesota Court Interpreting; MN State Court Administrative Office

Mississippi

www.mssc.state.ms.us/AOC/aocinterp.htm

RID, QA, and NAD interpretation; MS Administrative Office of the Courts

Missouri

www.courts.mo.gov/page.asp?id=182

Court Interpreter Services; Your Missouri Courts Web site

Montana

<http://data.opi.state.mt.us/bills/mca/49/4/49-4-503.htm>

Deaf or hard-of-hearing interpretation; Montana Code Annotated 2003

Nebraska

<http://court.nol.org/rules/>

Nebraska Interpreting Program (Click on Supreme Court Rules, then under Official Nebraska Supreme Court Rules, click on Rules Relating to Court Interpreters [html or PDF])

Nevada

www.nvsupremecourt.us/ccp/interpreters/

Court Interpreters Program; Supreme Court of Nevada

New Hampshire

www.gencourt.state.nh.us/legislation/2004/HB1238.html

House Bill requiring interpreters with limited English proficiency (2003 Session)

New Jersey

www.judiciary.state.nj.us/interpreters/index.htm

New Jersey Interpreting Service; New Jersey Judiciary

New Mexico

www.nmcourts.com/newface/court-interp/index.html

New Mexico Court Interpreter Program; New Mexico Courts

New Mexico

<http://internet.cybermesa.com/~nmtia/>

New Mexico Translators and Interpreters Association

New York

www.courts.state.ny.us/courts/nyc/smallclaims/services.shtml

Interpreters for Small Claims; New York City Civil Court

New York

www.nyctranslators.org/

New York Circle of Translators professional organization

North Carolina

www.nccourts.org/Citizens/CPrograms/Foreign/Default.asp

Foreign Language Services; North Carolina Court System

North Carolina

www.catiweb.org/

Carolina Association of Translators and Interpreters; This professional association of interpreters serves both North and South Carolina

Ohio

www.supremecourtofohio.gov/Judicial_and_Court_Services/interpreter_svcs/default.asp

Interpreter Services Program; Supreme Court of Ohio

Ohio

<http://ccio.org/>

Community and Court Interpreters of Ohio

Ohio

<http://OCRID.org>

Ohio Chapter of the Registry of Interpreters for the Deaf

Oklahoma

www.okc.gov/courts/rules.pdf

Court rules for interpreter services (see Rule #20); City of Oklahoma

Oregon

www.ojd.state.or.us/osca/cpsd/interpreter/index.htm

Court Interpreter Certification; Oregon Courts

Pennsylvania

<http://members.aol.com/StatutesP8/Ev.604.html>

Evidence Rule 604: Interpreters; Pennsylvania Statutes Web site

Pennsylvania

www.courts.state.pa.us/index/interpreterprogram/

Pennsylvania Interpreter Certification Program

Rhode Island

www.courts.state.ri.us/ada/order.htm

Policy of the Rhode Island Judiciary for Providing Services to the Hearing Impaired (Dated October 1, 1997)

South Carolina

www.judicial.state.sc.us/whatsnew/displaywhatsnew.cfm?indexID=126

Telephonic Foreign Language Interpreter Services in Magistrate and Municipal Courts; Supreme Court of South Carolina Order, January 14, 2003

South Carolina

www.judicial.state.sc.us/whatsnew/displaywhatsnew.cfm?indexID=21

Orders for interpretation appointing qualified interpreters for the deaf and hard-of-hearing

South Dakota

<http://legis.state.sd.us/rules/DisplayRule.aspx?Rule=46:31>

Interpreter rules and certification procedures regarding the deaf and hard-of-hearing.

Tennessee

www.tsc.state.tn.us/geninfo/Programs/Interpreters/Interpreters.htm

Court Interpreters; Tennessee Judiciary

Tennessee

www.tapit.org/

Tennessee Association of Professional Interpreters

Texas

www.license.state.tx.us/court/court.htm

Licensed Court Interpreters; Texas Department of Licensing and Regulation

Texas

www.dfw-mita.com/

Metroplex Interpreters and Translators Association Dallas-Ft. Worth

Texas

www.aatia.org/

Austin Area Translators and Interpreters Association

Utah

www.utcourts.gov/resources/interp/

Interpreter Information; Utah State Courts

Vermont

www.vermontjudiciary.org/Library/PDF/resources/Rpts/interrpt.pdf

A Report on Interpreter Services in the Vermont Courts; Committee on Fairness and Equal Access to Justice, Sub-Committee on Court Interpreters, June 2004

Virginia

www.courts.state.va.us/flilist.htm

Certified Spanish Language Interpreter List for Virginia's Courts; Virginia's Judicial System

Washington

www.courts.wa.gov/programs_orgs/pos_interpret/

Washington State Interpreting Program for Certified Court Interpreters; Washington Courts

Washington

www.witsnet.org/

Washington State Court Interpreters and Translators Professional Society

West Virginia

www.legis.state.wv.us/WVCODE/57/masterfrm2Frm.htm

Rules regarding the use of interpreters (see 57-5-7); West Virginia Code by Chapter

Wisconsin

www.wicourts.gov/services/interpreter/index.htm

Wisconsin Court Interpreting Program; Wisconsin Court System

Wisconsin

www.wicourts.gov/services/judge/interpret.htm

Information for Wisconsin Judges: Helpful information, such as an interpreter roster and court interpreter ethics; Wisconsin Court System

Wyoming

<http://courts.state.wy.us/BJPA/policycourt%20interpretersFinal.htm>

Interim Policy Statement Concerning Appointment and Compensation of Language Interpreters in the Circuit Courts; Board of Judicial Policy and Administration

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Appendix J: Translation Material

| | |
|--------------------|--------------------------------|
| Translator | Renders the message in WRITING |
| Interpreter | Renders the message ORALLY |

A good or certified interpreter is not automatically a competent translator vice versa.

NOTE

Interpreters may be asked to “sight translate” written documents, such as an indictment or a section of an exhibit, meaning “to render it orally” in the language of the target listener. In this case, the interpreter should be granted a brief period of time to review the entire text before rendering the oral translation. Due to the time-consuming nature of this task and the difficulty of working without any reference materials, assigning long documents for “sight translation” is discouraged.

Translation Issues

Translation of any official document involves all or most of the following steps to ensure the quality of the final product:

- Project Management
- Translation
- Editing
- Quality Control
- Formatting
- Proofreading
- Certification of Accuracy*

*Sample Certificate of Accuracy

I, [translator’s name], certify that I am competent to translate this document, and that the foregoing is to the best of my knowledge and belief a true and correct translation of the accompanying document in the [source language] language.

x _____

Translator’s Signature

Name: [Translator’s Name]

Date _____

NOTE

Translation must be accompanied by its original. All contents of the original must be reflected in the translation. Stamps and seals may be in the narrative form.

Qualification of Translators

On Qualifying a Translator

For the purpose of facilitating qualification, translators may be divided into three categories:

1. Translator of Major Languages

- Master's degree or equivalent from U.S. - or foreign-accredited institution (preferably master of arts in translation)
- Minimum of two-year full-time "relevant" experience
- Resume highlighting education and experience
- Acceptable work samples
- Relevant professional references
- Member in good standing of a professional organization (American Translators Association, Northeast Ohio Translators Association, etc.)
- American Translators Association certification in the required direction (e.g. English into Target Language)

2. Translator of Other Languages

- Bachelor degree or equivalent from U.S.- or foreign-accredited institution (preferably in translation)
- Some "relevant" experience
- Acceptable work samples
- Relevant professional references
- Resume highlighting education and experience

3. Translator of Rare Languages

- Qualified on a case-by-case review of the individual's curriculum vitae and an interview conducted by a court-authorized translation services manager.

NOTE

This page is for reference only and the information contained herein is best considered in the light of the more extensive report produced by the Translation Subcommittee of the Supreme Court of Ohio Advisory Committee on Interpreter Services in 2005.

On Qualifying a Translation Services Vendor (Translation Agencies)

General Business Considerations

- **Credibility.** The client should request references.
- **Good customer service.** Such as politeness, timely quoting, availability for contact, ability to meet deadlines and resolve translation quality issues.
- **Equipment, software.** Can the provider deliver the work on the required system, in the required format, and does he or she have the necessary equipment or access to it?
- **Work methods.** It is a good idea to determine if the provider uses translator-editor translation model, how the provider plans to proceed if the work is lengthy, or if he or she becomes ill. Does the provider have access to reliable and competent back-up resources?
- **Security and confidentiality.** If the document to be translated has a security classification, it is important to ensure that the document provider, or any employee or subcontractor involved in the translation, has the necessary security clearance and is prepared to work on-site or in designated facilities.
- **Reasonable rate and computerized billing.** Reasonable does not mean cheap. The provider should be capable of timely computerized billing for the services.
- **Reporting.** The provider should be able to provide the client with basic statistics regarding performed translation projects.
- **Knowledge of the state or federal government.** Has the provider already been employed by, or done work for, a state or federal institution? If so, which one?

Other Important Considerations

- **Recruitment and screening practices.** How does the provider recruit translators? How are candidates screened? Is the provider capable of complying with the client's requirements and specifications?
- **Experience.** The curriculum vitae of the provider's staff or subcontractor(s) who will be commissioned to work is a

useful source of information. It is also appropriate to determine whether the provider has extensive translation experience and the nature of that experience. How and where was it acquired?

- **Areas of expertise.** A translator's knowledge can be verified from his or her curriculum vitae or by reviewing work samples. Degrees the provider or his or her employees/subcontractors hold, education and courses completed, the areas of activity of clients. Does the provider or the provider's staff or subcontractors take professional development courses?
- **Work samples.** The client should request that the provider certify in writing that he or she (or employees or subcontractors, as applicable) is actually the author of the samples submitted. The samples should be long enough for quality-control purposes and cover a relevant field.
- **Membership in professional associations.** In translation or related fields.

General Translation Terminology

NOTE

The following terms are standard terms related to the translation field. When qualifying an individual or an agency as a translation-services provider, it is suggested the candidate be asked to define one of these terms, particularly one requiring thorough knowledge of the field. This, too, may serve as a tool to determine how familiar the individual or provider is with translation.

Background Text

A text in the source or target language providing background information about the subject matter of the text to be translated. Facilitates the translator's task by providing, for example, context, terminology or definitions.

Parallel Text

A text in the source or target language comparable to the text to be translated in terms of subject matter or text type.

Source Text (ST)

The original contents of the document in the original language.

Target Text (TT)

The translation (e.g., the result of the translation process).

Source Language (SL)

The specified original language of a document, Web page or e-mail before it is translated.

Target Language (TL)

The specified language into which a document is to be translated.

Target Audience

The group of people to whom a live interpreter addresses. Sometimes used (incorrectly) in the sense of target readership.

Target readership

The group of people for which a text is translated (e.g., subject experts, novices or prospective customers). It is important to specify the target readership when commissioning a translation, to enable the translator to choose an appropriate style and vocabulary.

Text Type

Class of text (e.g. abstract, news report, light fiction, commentary) with specific characteristics of style, sentence formation and terminology.

Literal Translation

Translation closely adhering to the wording and construction of the source text. A literal translation usually appears “stilted” and unnatural and is to be avoided unless there is a specific reason for translating literally. In court, this may be necessary for exhibits meant to attest to an individual’s character for instance.

Editing

Changes in the style and format of translations or original documents on the basis of the linguistic standards recommended in authoritative reference works on language.

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