

# THE SUPREME COURT *of* OHIO

## WORKING WITH INTERPRETERS FOR DEAF & HARD OF HEARING PERSONS IN THE COURTS

### UNDER SUP.R. 88(B)

A court shall appoint a sign language interpreter when:

1. A deaf, deaf-blind, or hard of hearing party, witness, or juror requests an interpreter.
2. Absent a request, the court concludes an interpreter is necessary for meaningful participation of a party, witness, or juror.

The court shall give primary consideration to the method of interpretation chosen by the party, witness, or juror. [Sup.R. 88(B) (2)]

Deaf, deaf-blind and hard of hearing people may not be charged for the costs of such auxiliary aids or services. [28 C.F.R. 35.130(f)]

### THE VARIABLE NATURE OF COMMUNICATION IN DEAF AND HARD OF HEARING COMMUNITIES

1. Deaf individuals have varying degrees of proficiency using American Sign Language (ASL), and deaf individuals who come from other countries may not understand ASL at all.
2. Give primary consideration to the method of communication chosen by the individual and provide a reasonable accommodation.
3. Not all deaf individuals may have ASL proficiency significant enough to participate in legal proceedings or ancillary services.
4. Not all deaf individuals know how to read or to write English, and written communication may be limited or nonexistent.
5. Deaf individuals may have minimal language skills and the use of hearing ASL interpreters may not be effective. A certified deaf interpreter might be necessary.
6. Speechreading may have a degree of effectiveness; however, [studies](#) show it may be only about 40-percent accurate. Other sources suggest lower percentages.
7. Friends and family members, especially children, should never be used as interpreters.

### COMPLYING WITH THE AMERICANS WITH DISABILITIES ACT (ADA) AND OHIO SUPERINTENDENCE RULE 88

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.

### LIP READING V. SPEECH READING

Lip reading consists of watching the lips to glean whatever speech information may be discernible. Speech reading is watching the lips, tongue, teeth, cheeks, eyes, facial expressions, gestures, body language and anything else that gives clues as to what the person is saying.

## AMERICAN SIGN LANGUAGE INTERPRETER CREDENTIALS

ASL credentialing from the Registry of Interpreters for the Deaf (RID) is divided into two main categories: generalist and specialized. The specialized certification to work in a court setting is the Specialist Certificate: Legal (SC:L).

Currently, the definition of sign language interpreter categories are as follows:

**Supreme Court certified sign language interpreter** means a sign language interpreter who has received certification from the Supreme Court Language Services Program pursuant to Sup.R. 82. This interpreter possesses an SC:L, has passed a background check, and is in good standing with RID and LSP.

**Supreme Court registered sign language interpreter** means a sign language interpreter who has registered with the Supreme Court Language Services Program pursuant to Sup.R. 82.01. This interpreter has a generalist certification from RID, has passed a written exam for court interpreter credentialing, has passed a background check, and has attended 24 hours of court-specific training.

**Sign language interpreter with generalist credential** means a sign language interpreter who has one of the certifications set forth in Sup.R. 88(E)(3). This interpreter has passed a background check, has met general continuing education requirements that may or may not include legal interpreting, and has not met all the requirements to qualify as a registered interpreter.

**Certified Deaf Interpreter** means a deaf or hard of hearing individual who has demonstrated knowledge and understanding of ASL interpreting, deafness, the Deaf community, and Deaf culture. This interpreter has specialized training and experience in the use of gesture, mime, props, drawings and other tools to enhance communication.

**Oral Transliteration Certification** is awarded to an individual who has demonstrated, using silent oral techniques and natural gestures, and the ability to transliterate a spoken message from a person who hears to a person who is deaf or hard of hearing. This individual demonstrates the ability to understand and to repeat the message and intent of the speech and mouth movements of the person who is deaf or hard of hearing. This credential is fully recognized by RID, but the designation is no longer awarded as of Jan. 1, 2016.

### REQUIRED JUDICIAL TASK

State the court's efforts to obtain a certified interpreter by the judge or magistrate on the record. [Sup.R. 88(D)]

## SUP.R. 88(E) APPOINTMENT OF CERTIFIED SIGN LANGUAGE INTERPRETERS IN CASE OR COURT FUNCTION

When appointing a sign language interpreter pursuant to division (B) of this rule, the court shall appoint a Supreme Court certified sign language interpreter.

If a Supreme Court certified sign language interpreter does not exist or is not reasonably available and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain a Supreme Court certified sign language interpreter, a court may appoint a registered sign language interpreter.

If a Supreme Court certified sign language interpreter or registered sign language interpreter does not exist or is not reasonably available and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain a Supreme Court certified sign language interpreter or registered sign language interpreter, a court may appoint a sign language interpreter who holds one of the following certifications:

- National Interpreter Certification (NIC) from the Registry of Interpreters for the Deaf;
- Certification of Interpretation and Certification of Transliteration (CI/CT) from the Registry of Interpreters for the Deaf;
- National Association of the Deaf Level V Certification (NAD V)
- National Association of the Deaf Level IV Certification (NAD IV).

If the communication mode of the deaf, hard-of-hearing, or deaf-blind party, witness, or juror is unique and cannot be adequately accessed by a sign language interpreter who is hearing, a court shall appoint a Certified Deaf Interpreter (CDI) credentialed by the Registry of Interpreters for the Deaf.

If the communication mode of the deaf, hard-of-hearing, or deaf-blind party, witness, or juror requires silent oral techniques, a court may appoint a sign language interpreter who possesses an Oral Transliteration Certificate (OTC) from the Registry of Interpreters for the Deaf.

A court shall summarize on the record its efforts to obtain and reasons for not using a Supreme Court certified sign language interpreter or registered sign language interpreter. The sign language interpreter's name, experience, knowledge, and training should be stated on the record.

### CASE OR COURT FUNCTION

“Case or court function” means any hearing, trial, pre-trial conference, settlement conference, or other appearance before a court in an action, appeal, proceeding, or other matter conducted by a judge, magistrate, or other court official.

### WHEN SATISFIED WITH THE INTERPRETER'S QUALIFICATIONS, THE OATH SHALL 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?

## SUP.R. 89(B) USE OF COMMUNICATION SERVICES IN ANCILLARY SERVICES

### DEAF, DEAF-BLIND, AND HARD OF HEARING INDIVIDUALS

A court shall provide sign language communication services to deaf, hard of hearing, and deaf-blind individuals in conjunction with ancillary court services. Dependent upon the significance and complexity of the ancillary court service, a Supreme Court certified sign language interpreter, a registered sign language interpreter, or an interpreter eligible pursuant to Sup.R.

88(E) (3) may provide the communication services in person, telephonically, or via other electronic means available.

## SUP.R.80 (A) ANCILLARY COURT SERVICES

Ancillary court services means any activity, other than a case or court function, that includes the exchange of legal or general court-related information with the public or parties in interest and is paid for or provided by the court. “Ancillary court services” includes, but is not limited to, the following:

1. Dispute resolution programs;
2. Evaluations;
3. Information counters;
4. Probation or criminal diversion program functions;
5. Pro se clinics;
6. Specialized dockets and dedicated-subject-matter dockets.