



## HOW DO I KNOW IF A PARTY OR WITNESS NEEDS AN INTERPRETER?



### FOREIGN LANGUAGE [Sup.R. 88(A)]

A court shall appoint a foreign language interpreter when:

1. A non-English-speaking party or witness requests an interpreter and the court determines an interpreter is necessary;
2. Absent a request, the court concludes the party is limited in communication and the services of an interpreter are necessary.

Also see R.C 2311.14 (Appointment of Interpreter).

### Appointment of Foreign Language Interpreters in Case or Court Function [Sup.R. 88(D)]

1. The court shall appoint an in-person Supreme Court-certified foreign language interpreter (CFLI).
2. If a CFLI does not exist or is not reasonably available in-person and, after considering the gravity of the matter and whether it could be rescheduled in order to obtain a CFLI, then the court may appoint an in-person Supreme Court-provisionally qualified foreign language interpreter (PFLI).
3. If an in-person CFLI or PFLI does not exist or is not reasonably available and, after considering the gravity of the matter and whether it could be rescheduled in order to obtain an in-person CFLI or in-person PFLI, then the court may appoint an in-person language-skilled interpreter (LSI).

The court shall summarize on the record its efforts to obtain an in-person CFLI or in-person PFLI and the reasons for using a LSI.

The LSI's experience, knowledge, and training shall be stated on the record.

### Appointment of Telephonic Interpreters in Case or Court Function [Sup.R. 88(D)(4)]

If a CFLI, PFLI, or LSI does not exist or is not reasonably available to participate in-person and, after considering the gravity of the proceeding and whether the matter could be rescheduled in order to obtain a CFLI, PFLI or LSI to participate in-person in the case or court function, then a court may appoint an interpreter to participate in the case or court function through telephonic interpretation (TI).

The court should summarize on the record its efforts to obtain a CFLI, PFLI, or LSI to participate in-person in the case or court function and the reasons for using an interpreter who will participate in the case or court function through telephonic interpretation. When appointing an interpreter, the court must follow the order of certification as outlined in divisions (D) (1) through (3) of Sup.R. 88 — that is, a certified interpreter if one exists or is reasonably available, a provisionally qualified if one exists or is reasonably available, or a language-skilled if one exists or is reasonably available.

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## Interpreter Credentials

### CERTIFIED INTERPRETER

CFLI is an interpreter who received certification from the Supreme Court of Ohio's Language Services Program, pursuant to Sup.R. 81(A).

The CFLI passed an English-proficiency written exam and a bilingual-interpreting oral exam in the respective language pair. The interpreter also passed a background check showing no convictions of crimes involving moral turpitude. Interpreter has no less than 24 hours of court interpreter training and meets the minimum qualifications for certification.

Courts should not accept any other certification to meet the requirements of Sup.R. 88(D). The Supreme Court offers certification in 18 languages:

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|---------------------------------|----------------|
| 1. Arabic                       | 9. Khmer       |
| 2. Bosnian/<br>Croatian/Serbian | 10. Korean     |
| 3. Cantonese                    | 11. Lao        |
| 4. Filipino<br>(Tagalog)        | 12. Mandarin   |
| 5. French                       | 13. Polish     |
| 6. Haitian-<br>Creole           | 14. Portuguese |
| 7. Hmong                        | 15. Russian    |
| 8. Ilocano                      | 16. Spanish    |
|                                 | 17. Turkish    |
|                                 | 18. Vietnamese |

Some certified languages do not have certified interpreters in Ohio, primarily because the volume of cases and/or compensation is not present to attract candidates as may be the case in other states.

### PROVISIONALLY QUALIFIED INTERPRETERS

PFLI is an interpreter who received provisional certification pursuant to Sup.R. 81(G)(3).

This interpreter received a score of less than 70 percent, but at least 60 percent in each section of the bilingual-interpreting oral exam, passed the written exam, passed a background check and has no less than 24 hours of court interpreter training. This credential is tied to certified languages. This certification may expire in three years.

### REGISTERED FOREIGN LANGUAGE INTERPRETER

A registered foreign language interpreter<sup>1</sup> (Sup.R. 81.01) is an interpreter who is ineligible for certification because no bilingual interpreting exam exists. They meet the following criteria:

- Scored 80 percent or better on the written exam;
- Scored superior in their foreign language assessment;
- Passed a background check; and
- Attended at least 24 hours of court interpreter training.

### LANGUAGE-SKILLED INTERPRETER

An LSI is an interpreter whose qualifications, experience, knowledge, and training are determined by the court for a particular case. When assigned, they are required to take an oath to know, understand, and act according to the Code of Professional Conduct for Court Interpreters and Translators set forth by Appendix H of the Rules of Superintendence.

Since LSI's have not met the minimum qualifications to be listed on the roster, it is uncertain whether they were screened by a background check or had any language assessments demonstrating their language proficiency. While language-skilled interpreters may be qualified to interpret for certain cases, they may not be qualified for others. For example, an

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1 Amendments to the Rules of Superintendence for the Courts of Ohio regarding the qualifications of registered interpreters take effect Jan. 1, 2021.

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LSI may be qualified for a minor misdemeanor case, but not an aggravated murder case involving expert testimony because an LSI lacks significant expertise in court or technical matters or lacks substantial proficiency in the language pairs. Therefore, LSIs do not belong to a permanent category.

## REMOTE TELEPHONIC INTERPRETER

A telephonic interpreter (TI) provides interpretation services through telephonic means. A telephonic interpreter may be part of a national service that offers on-demand services available

24-hours a day and may reside anywhere in the country or may be listed on the Supreme Court roster and may be available by appointment only.

Telephonic interpreters from the national service are not certified by the Supreme Court of Ohio. The use of telephonic interpreters is meant to be a last resort and not as a replacement to certified, provisionally qualified, or registered interpreters. (See Sup.R. 88(D)(4).) Telephonic interpreters from national services are not listed on the Supreme Court's roster because they have not met the minimum requirements.

## Sample Voir Dire to Determine Interpreter Qualifications

### FOR CREDENTIALLED LANGUAGES

- Do you have credentialing from the Supreme Court of Ohio?
- If so, what is your Supreme Court credential number?
- How many court cases have you provided interpreter services for?
- How many years have you been working as a court interpreter?
- Did you review this case?
- Do you know any of the parties?
- Are you prepared to proceed in this matter?

- Do you have a degree from a university outside the United States?
- Are you familiar with Ohio's Code of Professional Conduct for Court Interpreters and Translators? List at least three canons.
- 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 a neutral party who is here to facilitate communication and that you should not offer advice or an opinion in these proceedings?

### FOR NON-CREDENTIALLED LANGUAGES

- Have you had a language assessment in either of your pair languages?
- What were your scores in each assessment?
- How many years of experience do you have as a court interpreter?
- How many cases have you provided interpreter services for?
- How and where did you learn English?
- Do you have any degrees from an American university?

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?*

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## The Role of the Interpreter

The interpreter must interpret everything that is stated or written, without editing, summarizing, or changing the meaning of the original message. The interpreter is not to give opinions on cultural matters, explain the law, explain terms, provide language assessments, or act as an advocate. The interpreter is trained only to interpret and is not tested in substantive areas of law, culture, linguistics, or other disciplines.

### 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.
- 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. [Sup.R. 88(F)(1)(a)]
  - 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.