

THE SUPREME COURT *of* OHIO

LANGUAGE SERVICES IN CASE OR COURT FUNCTION AND ANCILLARY COURT SERVICES

APPOINTMENT OF A FOREIGN LANGUAGE INTERPRETER [SUP.R.88(D) SUMMARY]

When appointing a foreign language interpreter to participate in-person in a case or court function, a court shall appoint an interpreter in the following order:

- A **Supreme Court certified foreign language interpreter**. If one does not exist or is not reasonably available and after considering the gravity of the proceeding and whether the matter could be rescheduled to obtain one, a court may appoint:
- A **provisionally qualified foreign language interpreter or registered foreign language interpreter**. The court shall summarize on the record its efforts to obtain a Supreme Court certified interpreter and the reasons for using a provisionally qualified foreign language interpreter or registered foreign language interpreter. If one does not exist or is not reasonably available and after considering the gravity of the proceeding and whether the matter could be rescheduled to obtain one, a court may appoint:
- A foreign language interpreter who demonstrates to the court proficiency in the target language and sufficient preparation to properly interpret the proceedings to participate in-person at a case or court function. Such interpreter shall be styled a “**language-skilled foreign language interpreter**.” The court shall summarize on the record its efforts to obtain a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter and the reasons for using a language-skilled foreign language interpreter.
The language-skilled interpreter’s experience, knowledge, and training should be stated on the record. This interpreter shall take an oath or affirmation that the interpreter knows, understands, and acts in accordance with the “Code of Professional Conduct for Court Interpreters and Translators” in Appendix H of the Rules of Superintendence.
- If a certified, provisionally qualified, registered, or language-skilled interpreter does not exist or is not reasonably available to participate in-person at a case or court function and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain an interpreter listed above, a court may appoint a **telephonic interpreter** to participate in a case or court function.

WHEN TO APPOINT A FOREIGN LANGUAGE INTERPRETER

See Sup.R. 88(A) and
R.C. 2311.14.

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.

REQUIRED JUDICIAL TASK

State the court’s efforts to obtain a certified interpreter by the judge or magistrate on the case record.

The court shall summarize on the record its efforts to obtain an above-mentioned interpreter and the reason for using a telephonic interpreter.

- In appointing a **telephonic interpreter**, the court shall follow the order of credentialing in divisions (D)(1) through (3) of Sup.R.88 (certified, provisionally qualified, registered or language-skilled). The court must also comply with the “Standards for the Use of Telephonic Interpretation,” Appendix J of the Rules of Superintendence.

APPOINTMENTS TO AVOID [SUP.R. 88(C)]

The court shall use all reasonable efforts to avoid appointing an individual as interpreter if any of the following apply:

1. The interpreter is compensated by a business owned or controlled by a party or a witness;
2. The interpreter is a friend, family, or household member of a party or witness;
3. The interpreter is a potential witness;
4. The interpreter is court personnel employed for a purpose other than interpreting;
5. The interpreter is a law enforcement officer or probation department personnel;
6. The interpreter has a pecuniary or other interest in the outcome of the case;
7. The appointment of the interpreter would not serve to protect a party’s rights or ensure the integrity of the proceedings; or
8. The interpreter does or may have a real or perceived conflict of interest or appearance of impropriety.

WHEN DO I HAVE TO USE MULTIPLE INTERPRETERS?

Sup.R. 88(F) Appointment of multiple foreign language interpreters or sign language interpreters

1. To ensure the accuracy and quality of interpretation, when appointing a foreign language interpreter pursuant to division (A) of this rule or sign language interpreter pursuant to division (B) of this rule, a court shall appoint two or more foreign language interpreters or sign language interpreters in either of the following situations:
 - a. The case or court function will last two or more hours and requires continuous, simultaneous, or consecutive interpretation; or
 - b. The case or court function will last less than two hours, but the complexity of the circumstances warrants the appointment of two or more interpreters.

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?

2. To ensure the accuracy and quality of interpretation, a court shall appoint two or more foreign language interpreters or sign language interpreters for a case or court function involving multiple parties, witnesses, or jurors requiring the services of an interpreter.

MATCHING LINGUISTIC AND DIALECTAL DIFFERENCES

- In some situations, a person may speak various languages with varying proficiency. For instance, a party may be fluent in an **indigenous language**, such as Mam (a Mayan language spoken in Guatemala) and may also speak some Spanish. A Spanish interpreter may not be adequate. The court should make every effort to provide an interpreter in the language of proficiency, which in this example would be Mam.
- In other cases, the parties may display **dialectal differences**. Trained interpreters can usually navigate differences by preparing for the assignment and inquiring about terminology during the course of the proceeding. Consider standard British English, standard American English, and standard Australian English. Most native English speakers can navigate communication without an “English-speaking” interpreter.
- When dialectal differences are present, courts may seek an interpreter of that region to mitigate potential differences. For example, a Puerto Rican party may be paired with a Spanish-certified interpreter from Puerto Rico or a Spanish-certified interpreter that is familiar with the speech of Puerto Ricans.
- In accordance with the Code of Professional Conduct for Court Interpreters and Translators, if an interpreter accepts an assignment, the interpreter attests that the interpreter is proficient in the language combination and has the ability to work with regional differences and dialects.

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 party or witness before the proceedings to ensure effective communication and identify possible dialectal differences or other concerns.

INDIGENOUS LANGUAGE:

A language that is native to a region and has been spoken by indigenous people before colonization. For example, Navajo in the U.S., K’iche’ in Guatemala, Wolof in Senegal, etc.

DIALECT:

A regional variety of language distinguished by features of vocabulary, grammar, and pronunciation from other regional varieties and constituting together with them a single language (Merriam-Webster).

OHIO CODE OF PROFESSIONAL CONDUCT COMMENTARY – CANON 6:

By accepting an assignment, interpreters warrant they have the skills, training, and understanding of terminology to interpret accurately and effectively in the given setting, are fluent in the required languages, and have the ability to understand regional differences and dialects.

- Ask the party through the interpreter 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 before the proceedings to become familiar with names and technical vocabulary. Allow the interpreter to view all exhibits, photos, or other records before 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. Advise the interpreter to notify the court when breaks are needed.
- Position the interpreter in close proximity to the party to allow the interpreter to whisper during simultaneous interpretation.

INSTRUCTIONS FOR LANGUAGE-SKILLED AND RARE-LANGUAGE INTERPRETERS

When working with untrained interpreters, especially rare-language interpreters, the court may want to take an active role in guiding the interpreter on how interpreting will take place. The court may consider the following colloquy:

You have been appointed as the court interpreter for this case because there are no certified, provisionally qualified, or registered interpreters available in this matter.

As a court interpreter in this case, you will not provide any opinion, advice, or guidance to the party, or witness.

You will not have a conversation or any communication with the person you are interpreting for, unless it is to establish that you speak the same language and are able to communicate.

Your role as a court interpreter is to interpret what I say and what everyone says in the court as well as what the party, or witness says to the court. Your interpretations will be complete and accurate, leaving nothing out and adding nothing, even if the message appears obscene, incoherent, or a misstatement. Do you understand how you will be interpreting?

You will be impartial and unbiased. You will not take sides. You will only interpret what is said here today.

FEATURES OF LANGUAGES OF LESSER DIFFUSION (RARE LANGUAGES)

- Interpreters in language of lesser diffusion do not have the opportunity to polish skills because there are not enough cases to develop expert performance.
- They may have minimal preparation, knowledge, and experience in legal interpreting.
- They may not be familiar with the Code of Professional Conduct for Court Interpreters and Translators or the mechanics of professional interpreting.

You will maintain confidentiality. You must not share any information you hear in today's proceeding. The information you hear between the party and his or her attorney is privileged — this means that it is private. You may not talk about the proceedings with anyone, including the media.

If there are some words that you do not understand, please let me know and I will get clarification for you. You may say, "Your Honor, the interpreter would like clarification on..." Please ask. This is an important hearing and I need for the party or witness to understand what is being said here today.

If there is anything that prevents you from serving as the court interpreter today, please let me know. We will slow down as much as we can and we will try to speak in the simplest language that we can.

INSTRUCTIONS FOR A PARTY/WITNESS & THE JURY FOR THE PARTY/WITNESS

I want 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 interpreter. Although some of you may understand the foreign language, 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's words.

THE CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS AND TRANSLATORS

The main task of the interpreter is defined in Canon 2 of the Code of Professional Conduct for Court Interpreters and Translators:

Accuracy and Completeness. Interpreters and translators shall render a complete and accurate interpretation or translation without altering, omitting, or adding anything to what is spoken or written, and shall do so without explaining the statements of the original speaker or writer.

The role of the interpreter is limited to facilitating the exchange of information between two languages. The interpreter is not allowed to express opinions, provide advice, or practice any other profession other than interpreting while delivering these services. As such, the interpreter is:

- Not a social worker
- Not an expert in law
- Not a language evaluator
- Not a counselor
- Not an expert in culture
- Not an advocate

The Code of Professional Conduct may be found in [Appendix H of the Rules of Superintendence for the Courts of Ohio](#). The Canons include:

- Canon 1: High Standards of Conduct
- Canon 2: Accuracy and Completeness
- Canon 3: Impartiality and Avoidance of Conflicts of Interest
- Canon 4: Confidentiality
- Canon 5: Representation of Qualifications
- Canon 6: Proficiency
- Canon 7: Assessing and Reporting Impediments to Performance
- Canon 8: Duty to Report Ethical Violations
- Canon 9: Scope of Practice
- Canon 10: Restrictions from Public Comment

COMMENTARY – CANON 2:

In order to preserve the record and assist in the administration of justice, interpreters should completely and accurately interpret the exact meaning of what is said or written without embellishing, explaining, omitting, adding, altering, or summarizing anything.

Interpreters should maintain accuracy of style or register of speech, as well as not distort the meaning of the source language, even if it appears obscene, incoherent, non-responsive, or a misstatement.

Interpreters have a duty to inform the court of any error in misinterpretation, so that the record may be promptly corrected.

The terms “accurately,” “completely,” and “exact” do not signify a word-for-word or literal interpretation, but rather mean to convey the exact meaning of the discourse of the speaker or writer.

PROVIDING LANGUAGE ASSISTANCE IN ANCILLARY COURT SERVICES

SUP.R. 89. USE OF COMMUNICATION SERVICES IN ANCILLARY SERVICES.

(A) Limited English proficient individuals

A court shall provide foreign language communication services to limited English proficient individuals in conjunction with ancillary court services. Dependent upon the significance and complexity of the ancillary court service, the following individuals may provide this service in person, telephonically, or via other electronic means available:

1. An employee of the court, other than a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter, who has demonstrated proficiency in English and the target language in accordance with standards set by the Supreme Court Language Services Program and who the program has determined is qualified to conduct communication services directly with a limited English proficient individual in the target language;
2. A Supreme Court certified foreign language interpreter;
3. A provisionally qualified foreign language interpreter;
4. A registered foreign language interpreter.

ANCILLARY COURT SERVICES [(SUP.R. 80(A)]

“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” include, but is not limited to, the following:

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