



# Working with Interpreters

## Tips for Attorneys & Other Legal Professionals

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**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).**

## Understanding the Use of Interpreters

Bilingual people have different skills and varying degrees of language command. Typically, they have a greater command of one language over the other. In few exceptions, bilingual people have an equal command of both languages. Language proficiency depends on a number of factors, namely, exposure, study, use, immersion, and deliberate effort. The latter is necessary when working in a technical field such as law, where learning specific terminology is critical.

Bilingualism is necessary but not the only qualification to be an interpreter. Court interpretation requires a specialized set of skills, knowledge, and abilities. The individual must interpret everything that is stated or written without editing, summarizing, or changing the meaning of the original message. This standard is set forth in *State v. Pina*, 361 N.E.2d 262 (Ct. App Ohio 1975). *Pina* also requires interpreters to interpret in the first person. Interpreters must know and abide by the Code of Professional Conduct for Court Interpreters and Translators, found in *Appendix H* of the Rules of Superintendence for the Courts of Ohio.

## Why Certification?

Surveys conducted by the Supreme Court of Ohio Language Services Program have identified a number of issues with interpreters in Ohio courts. For example, some interpreters:

- Provide inaccurate interpretations
- Fail to interpret the entire message
- Add to, delete from, or summarize the witness or victim's testimony
- Provide their own opinion or put their own "spin" on the testimony
- Lack a general understanding of their professional responsibilities.

## Certification in Ohio

In June of 2011, the Ohio Supreme Court adopted the Rules of Superintendence for the Courts of Ohio to assist in the selection of court interpreters. Effective January 1, 2013, courts must appoint interpreters in the following fashion (Sup.R. 80-88).

### 1. Certified Interpreter

A court should appoint a Supreme Court-certified interpreter if one is available. Certification in Ohio guarantees that interpreter meets the minimum qualifications, which require that the individual (See Sup.R. 81):

- Is at least 18 years of age, a citizen, legal resident, or has the right to work in the United States
- Has not been convicted of any crime involving moral turpitude
- Has at least 24 hours of court interpreter-related training
- Passed the written exam with a score of 80 percent or higher
- Passed the oral exam with a score of 70 percent or better in sight-translation, consecutive, and simultaneous interpretation
- Signed an oath to comply with the Code of Professional Conduct for Interpreters and Translators.

### 2. Provisionally Qualified Interpreter

If a certified interpreter does not exist or is not reasonably available, the court may appoint a provisionally qualified court interpreter. These individuals meet the same conditions as certified interpreters but differ in one significant way: They have scored no less than 60 percent on the oral exam, but not 70 percent or higher in each part.

### 3. Language-Skilled Interpreters

Language-skilled interpreters should be used as a last resort or in languages where no certification is available. Courts should consider the gravity of the proceedings and whether the matter could be rescheduled to obtain a certified or provisionally qualified interpreter before appointing a language-skilled interpreter.

A language-skilled interpreter should:

- Show sufficient preparation to properly interpret
- State on the record knowledge, skills, experience, training, and education
- Take an oath or affirmation to know and understand the code of ethics for interpreters.

**NOTE:** Under Sup.R. 88, the court must qualify and establish on the record the interpreter’s knowledge, skill, experience, training, or education.

**Ohio courts are strongly encouraged to consult Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 200d to 2000d-7, 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 before making a determination regarding interpreter costs.**

## Filing a Complaint

The Supreme Court of Ohio has established a complaint process to ensure that litigants can gain access to the courts. This document details the steps a complainant may take to report the failure of a local court to appoint an interpreter in cases and court functions when one is required to be appointed pursuant to Sup.R. 88.

## Initiating a Complaint

A Limited English Proficient person, his or her attorney, or their advocate, may initiate a complaint in their primary language through the following methods:

- Calling 1.888.317.3177, toll-free. Interpreters will be available to assist with communication.
- Sending a letter to the Language Services Program, 65 South Front Street, Columbus, Ohio 43215-3431
- E-mailing the complaint to the Language Services Program at [lsp.resolution@sc.ohio.gov](mailto:lsp.resolution@sc.ohio.gov).
- Filling out a complaint form available at [www.sc.ohio.gov/JCS/interpreterSvcs](http://www.sc.ohio.gov/JCS/interpreterSvcs).

For more information about the complaint process, visit [www.supremecourt.ohio.gov](http://www.supremecourt.ohio.gov).

## Language Demographics & Certification in Ohio

In Ohio, the top 10 languages make up 95 percent of cases that require interpreters. Ohio handles about 25,000 cases per year.

1.	Spanish	85%
2.	ASL	3.0%
3.	Somali	2.5%
4.	Russian	1.4%
5.	Arabic	1.0%
6.	French	.88%
7.	Mandarin	.54%
8.	Vietnamese	.45%
9.	Korean	.31%
10.	Cambodian	.28%

The 20 exams available for certification are:

Arabic	Lao
Bosnian	Mandarin
Croatian	Marshallese
Serbian	Polish
Cantonese	Portuguese
Chuukese	Russian
French	Somali
Haitian-Creole	Spanish
Hmong	Tagalog
Ilocano	Turkish
Korean	Vietnamese

The exams were created at the national level to meet geographic demands.



## THE SUPREME COURT *of* OHIO

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OFFICE OF COURT SERVICES  
Language Services  
65 South Front Street, 6th Floor  
Columbus, Ohio 43215-3431