

# Arizona Judiciary

## Working with Interpreters for the Deaf or Hard of Hearing

### Why is this necessary?

Federal and state laws require equal access to courts for individuals who are deaf or hard of hearing. Courts must work closely with interpreter coordinators, interpreters and parties to determine effective communication methods. These methods include: assisted listening devices, computer-aided technology (CART), American Sign Language (ASL) and Oral and relay interpreters.

Pursuant to A.R.S. §12-242(A), “The court shall in any civil or criminal case or grand jury proceeding in which a deaf person is party to such action, either as a witness, complainant, defendant or attorney, appoint a qualified interpreter...” A.R.S. §12-242 (H2) defines “Qualified interpreter” as a person who has a valid license of competency authorized by the Arizona Commission for the Deaf and the Hard of Hearing (ACDHH).

According to A.R.S. §36-1971 (A), “A person shall not practice as an interpreter for the deaf and hard of hearing without a license issued pursuant to this article. The licensure requirements of this article also apply to interpreters who provide services for legal proceedings as prescribed in A.R.S. § 12-242.”

### Interpreter Credentials

Effective October 2007, sign language interpreters are required to obtain licensure through ACDHH.

Licensure categories that apply to legal settings are represented by three classes (A, C, & D):

*Legal A interpreters* can interpret in any legal setting, including civil and criminal court proceedings, police interactions, and attorney/client meetings.

*Legal C interpreters* can interpret in legal settings only if teamed with a Legal A interpreter.

*Legal D interpreters* are themselves Deaf or Hard-of-Hearing and may interpret in legal settings in which a Certified Deaf Interpreter is needed to communicate effectively with a Deaf individual. These interpreters are typically teamed with Legal A interpreters.

An impartial, licensed legal interpreter should be used at all times. Priority should be given to those holding a “Class A, C, or D legal” interpreting license from ACDHH.

### Communication Needs

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 provide the party with questions in writing and state the answers **on the record** to establish the need. Please see Appendix A.

Special Credit: The Administrative Office of the Courts would like to thank *The Supreme Court of Ohio*, whose model of the bench card was the original text on which this document was derived.

## Working with Interpreters for the Deaf or Hard of Hearing

### How Can I Facilitate Communication in an Interpreted Proceeding?

#### *Prior to the start of the proceeding:*

- Determine if the deaf person may require interpreting services.
- If the proceeding will last an hour or longer, or has multiple deaf or hard of hearing persons involved, utilizing a team of at least **two (2) interpreters is highly recommended.**
- Allow the interpreter to converse with the deaf or hard of hearing person prior to the proceedings to ensure effective communication and to identify possible signing differences or other concerns.
- 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.

#### *For the Entire Courtroom:*

- Allow the interpreter to determine optimal positioning for effective communication during the proceeding.
- Advise everyone in the courtroom of the presence and role of the interpreter. (See Appendix B.)
- Instruct participants to speak loudly and clearly and allow only one person to speak at a time.

#### *For the Deaf or Hard of Hearing person:*

- 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 their hand if something is not understood.

#### *Reminders for the Judge and Counsel:*

- 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 speak in the first person in order for the record to be accurate.
- The interpreter will convey all questions, answers and courtroom dialogue in the first person. Therefore, the interpreter is always working. Advise the interpreter to notify the court when breaks are needed.

**IMPORTANT NOTE:** If your court has an interpreter services coordinator, the licensure and oath have probably been confirmed. Before the proceeding, it is recommended that you confirm the interpreter is licensed and their oath is on record. If your court does not have an interpreter coordinator, the following information will assist you in assuring that the interpreter is qualified.

See Appendix B for sample voir dire and oath.

A checklist for your use in court is provided as Appendix A. It references recommended scripts that may be utilized during court proceedings.

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### VRI Considerations

Video Remote Interpreting (VRI) provides access when an appropriately licensed ASL interpreter is not available to be on-site. The same licensing requirements listed above apply to interpreters appearing via a VRI connection. VRI may be appropriate in these situations:

- When there is an immediate need and no licensed on-site interpreter available
- Hearings of less than 30 minutes
- Hearings without testimony
- When the deaf party is in the courtroom and uses standard ASL
- Where real-time, full-motion video and audio are available over a high-speed, wide bandwidth connection providing clear audio and sharp images of the interpreter's face, arms, hands, and fingers, as well as those of the party using ASL

### Additional Resources

- U.S. Department of Justice/Americans with Disabilities Act: [www.ada.gov](http://www.ada.gov)
- Arizona Commission for the Deaf and Hard of Hearing: [www.acdhh.org](http://www.acdhh.org)
- Arizona Supreme Court: [http://ajinweb/ctserv/cmu/CMU\\_CourtInterpreter.htm](http://ajinweb/ctserv/cmu/CMU_CourtInterpreter.htm)
- Registry of Interpreters for the Deaf (RID): [www.rid.org](http://www.rid.org)

### APPENDIX A - Judicial Checklist

- Determine level of need (use cutout below)*
- Decide if multiple interpreters are needed*
  - *ASL or Relay*
  - *Length & type of hearing*
- Determine if equipment is needed*
  - *Computer-aided*
  - *Assisted listening devices*
- Confirm Interpreter Qualifications (Appendix B1)*
- Administer Oath (Appendix B2)*
- Clarify role of interpreter (Appendix B3)*
- Schedule next proceeding*
  - *Allow sufficient time to secure ASL interpreter*

Recommended Script to Determine Need  
(Written questions to be handed to person):

Hello. My name is Judge \_\_\_\_\_.

Please tell the court your name.

You have the right to participate and understand these proceedings.

What is the best way to communicate with you?

Do you need an interpreter?

- American Sign Language (ASL)
- Signed English Interpreter
- CART
- Assisted listening device (ear phones)
- Other type of interpreter: \_\_\_\_\_

## Working with Interpreters for the Deaf or Hard of Hearing

### Appendix B - Recommended Scripts

#### 1. Interpreter Voir Dire:

- What credentials do you hold?
- Describe your formal legal interpreter training, including the number of hours of legal interpreter training you have.
- Describe the Code of Professional Conduct (CPC) as it applies to legal interpreters.
- How many times have you interpreted in court and what type of cases?
- Are you related to or close acquaintances with a witness or party to this case?
- Are you a potential party or witness in this case?
- Are there any professional or personal issues that may influence your interpretation given the nature of this case?
- When interpreting errors occur, how do you intend to inform the court?

2. **Interpreter Oath**<sup>1</sup>: “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 a legal interpreter?”

<sup>1</sup> The “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.

#### 3. Clarify Role of ASL Interpreter

Judges may use the following scripts to clarify the role of the interpreter prior to the beginning of the proceeding:

##### For the Defendant/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 only evidence you are to consider is that provided through the official court interpreter(s).*

*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.*