

BEST PRACTICES FOR WORKING WITH COURT INTERPRETERS

AUTHORITIES

In accordance with Title VI of the Civil Rights Act of 1964, and Executive Order No. 13166, all Limited English Proficient (LEP) litigants, witnesses, victims, as well as parents, guardians, and families of juveniles are entitled to the assistance of an interpreter free of charge for all court- and court-ordered events and hearings. This applies to spoken languages.

The deaf and hard-of-hearing are entitled to interpreter services by law, as detailed in the *Americans with Disabilities Act* (ADA) and Arizona state law. These interpreters are licensed through the Arizona Commission for the Deaf and Hard of Hearing (ACDHH), pursuant to A.R.S. § 36-1946 and A.R.S. § 12-242. In order to work in court, these interpreters must hold a Legal licensure.

COURT INTERPRETER ETHICS

Arizona Supreme Court Administrative Order No. 2015-98 adopted and implemented the Arizona Court Interpreter Code of Conduct, which is applicable to all persons who administer, supervise use, or deliver interpreting services. All interpreters providing services to the Arizona judiciary are expected to adhere to the Code, which may be applied in concert with the Code of Conduct for Judicial Employees, where appropriate.

DETERMINING LANGUAGE IDENTITY

It is important to accurately identify the language an LEP person speaks when requesting an interpreter. It may be necessary to identify not only the person's country of origin, but also the region and, at times, the city, town, or village the person is from to identify the right language. "I speak..." cards and sites such as Ethnologue.com may be of assistance in identifying an individual's language.

For the deaf and hard-of-hearing, it is important to note that Sign Language is not universal; there are many variations around the world. It is important to determine the deaf or hard-of-hearing party's specific needs as to which type of Sign Language or other services are needed.

WHAT IS A QUALIFIED INTERPRETER?

A qualified interpreter is one with the skills, abilities, knowledge, and expertise necessary to render a message uttered in one language into another completely, accurately, and without modification. Qualified court interpreters:

- **Will** be able to provide services in the three modes of interpreting: Simultaneous Interpreting, Consecutive Interpreting, and Sight Translation.
- **Will** be familiar with the Court Interpreter Code of Conduct.
- **Will** request information about a case to prepare ahead of time.
- **Will** be impartial and show no favoritism toward any of the parties.
- **Will** maintain confidentiality and attorney-client privilege.
- **Will** interpret everything that is said and **will** ensure the parties speak in volume, pace, and order that permit everything to be interpreted.
- **Will** disclose any and all conflicts of interest, real or perceived.
- **Will not** have private conversations with the LEP party at any time.
- **Will not** offer opinions about a party or witness for the court or counsel.
- **Will not** perform live or on-the-spot interpretations of recorded media to be introduced into evidence. These may be submitted for translation in advance of the hearing.
- **Will not** explain the meaning of any words or answer any questions about the proceedings. They **will** interpret your explanations.
- **Will not** explain, review, or go over plea agreements, waivers, terms and conditions, or any other written document or pleading. They **will** interpret your explanations or provide sight translations, if feasible.
- **Will not** provide any services other than interpretation in one of the three modes (Consecutive, Simultaneous, and Sight Translation).

INTERPRETER'S OATH

Prior to an assignment commencing, interpreters should be sworn to interpret between the source and target languages completely, accurately, and impartially to the best of their skills and abilities, in accordance with their professional ethics and lawful standards for legal interpretation and translation.

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BEST PRACTICES PRIOR TO A HEARING/EVENT

Prior to a scheduled hearing or event involving an LEP individual, arrangements should be made to schedule a qualified, competent interpreter. Do not expect that an assistant, relative, friend, or other merely “bilingual” person will be able to provide the caliber of services that are required and expected of interpreters to ensure meaningful access to justice. Things to keep in mind:

- Only the official court interpreter is permitted to interpret in court on the record;
- Allow the interpreter to become familiar with the case by providing case-specific materials and information ahead of the interpreted event;
- Plan questions carefully to avoid confusion and misunderstanding. Avoid double negatives and long or compound questions;
- Remind all parties of the role of the interpreter:
 - The interpreter will interpret everything that is said;
 - The interpreter will not give advice or make explanations; and
 - The interpreter will offer no services other than interpreting.

HOW TO REQUEST AN INTERPRETER

IN-COURT EVENTS

Follow the local court’s protocols for requesting an interpreter. This may include filing a motion with the court and/or notifying a designated scheduler. The request should be filed as soon as it is known that an interpreter is needed. Waiting may lead to delays while a qualified interpreter is located.

OUT-OF-COURT EVENTS

Verify with the local court the events for which they provide interpreters. The court should assume responsibility for providing interpreters for any court-ordered event held in a location other than the court (e.g., an arbitration). Follow the local court’s protocol for requesting an interpreter.

For events not covered by the court, the attorney(s) must provide competent interpreters by contacting an individual interpreter or an agency.

BEST PRACTICES WHEN ON THE RECORD

IN GENERAL

- Speak loudly, clearly and at a pace that the interpreter can follow.
- Speak in logical, meaningful phrases.
- Do not permit more than one person to speak at a time.
- Give frequent breaks; interpreting is challenging and tiring.
- Be patient. Translating thoughts, ideas, and meaning is a complex task.
- If you notice or suspect a mistake, or believe there has been a misunderstanding or miscommunication, it is best to immediately follow up with a clarifying or rephrased question.

WITH AN LEP WITNESS

For witness testimony, the interpreter should use the Consecutive mode of interpreting. In this mode the interpreter will hear the entire question before interpreting it to the witness. The interpreter will then wait for the complete answer before rendering the answer into English for the record.

- Speak directly to the witness and not to the interpreter.
- Do not interrupt; wait for the interpreter to formulate renditions to and from English prior to polishing or rephrasing questions already asked of the witness, if necessary.
- The witness should wait for the full question to be interpreted prior to answering, even if the witness understands some English.
- The witness should be instructed to answer questions only in the interpreted language, not in English.
- Just as the attorneys should speak directly to the witness, instruct the witness to speak directly to the jury, judge, or attorney as if they spoke the same language.
- Ask shorter questions and elicit shorter answers.
- Do not ask compound questions and avoid double negatives.
- Interpreters do not clarify non-verbal responses nor do they mimic gestures. If these are meaningful, it falls to the attorney(s) to preserve the record.