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COURT INTERPRETATION IN PROTECTION ORDER HEARINGS

JUDICIAL BENCHCARD

Judges have a critical role in ensuring access to justice in protection order proceedings. Petitioners with limited English proficiency (LEP) face special challenges when they attempt to use the judicial system. Courts should provide qualified interpreters to assist the parties in protection order proceedings to place non-English speaking and English-speaking parties of equivalent background and education on equal footing before the bench. See *Resources* for additional information.

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

- When an attorney or a pro se litigant advises the court that a party or witness has limited English proficiency and requests an interpreter.
- When any party involved in a case does not appear to understand court proceedings in English.
- If you are unsure, ask a few questions to determine the party's level of English understanding.

Sample Questions to Assess Understanding of English

- ❖ Please tell the court your name.
 - ❖ Please also tell us how old you are.
 - ❖ How did you come to court today?
 - ❖ What kind of work do you do?
 - ❖ How comfortable are you in proceeding with this matter in English?
 - ❖ Would you like the court to provide you with free assistance in understanding this proceeding?
- Determine the language of the party using language ID cards
 - *If the party cannot read, or if language ID cards are not available, contact a court interpreter or a commercial telephonic service, if you have access to one, to determine the language of the party requiring services.*

HOW DO I APPOINT AN INTERPRETER?

HOW DO I LOCATE AN INTERPRETER?

- If your local court has an interpreter services office, contact it to request an interpreter.
- If your court does not have someone responsible for securing interpreters, then: (1) Check a Federal or State certified list; (2) Check a locally accredited list; and (3) Call local universities and community-based organizations.
- Under only *very* limited circumstances, use a commercial telephonic interpreter service, if you have access to one.

HOW DO I KNOW IF THE INTERPRETER IS QUALIFIED?

- Interpreting requires specialized knowledge of: legal and other specialized terminology, slang, idioms and dialectal variations.
- Interpreting requires specialized skills, such as: memory, comprehension, attentiveness, and multi-tasking.
- *Being bilingual does not qualify a person to interpret. Children and relatives should never be used to interpret. Judges, attorneys, and court personnel should not function as interpreters.*
- If you are unsure, ask a few questions to determine the interpreter's qualifications.
- If you are assured that the interpreter is qualified, administer an oath of interpretation

Sample Questions to Assess Interpreter Qualifications

- ❖ What training or credentials do you have as an interpreter?
- ❖ Are you certified in the State of _____?
- ❖ Are you familiar with the Code of Professional Responsibility for interpreters? What are its main points?
- ❖ How did you learn English?
- ❖ How did you learn (*non-English language*)?
- ❖ Do you have any potential conflict of interest in this case? (E.g., do you know any of the parties in this case?)

Sample Interpreter's Oath

Do you solemnly swear or affirm that you will interpret accurately, completely and impartially, follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the duties and obligations of legal interpretation and translation?

WHAT SHOULD I EXPECT FROM THE INTERPRETER?

A good interpreter **will**:

- Interpret in the first person and address the court in the third person, to keep a clear record.
- Interpret everything said in the courtroom, with no additions, omissions, explanations, or personal input.
- Request clarification if a phrase or word is not understood.
- Use appropriate interpreter tools such as a language dictionary and note-taking materials.
- Be as unobtrusive and professional as possible.

HOW CAN I ASSIST COMMUNICATION IN INTERPRETED PROCEEDINGS?

- Instruct all parties as to the role of the interpreter.
- Allow the interpreter to view the court file to review names, parties and unique vocabulary.
- Allow the interpreter to briefly converse with the non-English speaker to ensure understanding of dialect and pronunciation differences.
- Instruct all participants to speak loudly and clearly.
- Allow only one person to speak at a time.
- Speak directly to the party or witness, not to the interpreter.
- Speak and read slowly and clearly enough for the interpreter to keep up during simultaneous interpretation.
- Speak in logical, meaningful phrases, pausing to allow the interpreter to keep the pace, during consecutive interpretation (witness testimony).
- Do not ask the interpreter to explain or restate anything said by the party and do not allow attorneys to ask that of an interpreter.
- Allow the interpreter to take a break after 30 minutes.

RESOURCES

- U.S. Department of Justice Web Site (<http://www.lep.gov>)
- Model Code of Professional Responsibility for Interpreters in the Judiciary (http://www.ncsconline.org/wc/publications/Res_CtInte_ModelGuidePub.pdf)
- State Court Interpreter Programs (http://www.ncsconline.org/D_Research/CourtInterp.html)
- The National Association of Judiciary Interpreters and Translators (NAJIT) (<http://www.najit.org>)

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