

## WORKING WITH COURT INTERPRETERS

### Limited English Proficiency (LEP):

LEP means the inability to adequately hear, understand or communicate effectively in English in a court proceeding.

### Evaluate the Need for an Interpreter:

Presume a bona fide need when a representation is made by an attorney or by a pro se litigant that a party or witness is LEP and requests an interpreter. **A voir dire for determining fluency/understanding of the non-English speaker asks probing questions, such as:**

- “Please tell the Court your name and address”
- “Please tell us your birthday, how old you are, and where you were born.”
- “How did you come to court today?”
- “What kind of work do you do?”
- “Please tell the court how comfortable you feel speaking and understanding English.”

### Appointment of Interpreter:

- If the court determines that the person needs an interpreter to communicate with counsel, understand English testimony, or be understood in English, then the court should advise of the right to a qualified interpreter. **This determination does not require an elaborate hearing.**
- [state should revise this section to reflect in-state rules, circumstances]

### How Do I Locate an Interpreter?

- Contact your statewide interpreter certification program’s office at [phone number].
- If your local court has an interpreters’ office, contact it to request an interpreter.
- In very limited circumstances, call Language Line, if your court has an account: 800-874-9426 [account number].

### How Do I Know if the Interpreter is Qualified?

- **Being bilingual does not qualify a person to interpret.**
- **Children and relatives should never be used to interpret.**
- **Judges, attorneys, and court personnel should never function as interpreters.**
- **Certified interpreters should be called whenever available.**
- A qualified interpreter is readily able to: communicate with the person of LEP and interpret without omissions or additions, conserving the meaning, tone, and style of the original statement, including dialect, slang, and specialized vocabulary.
- Good interpreters know the code of ethics for court interpreters
- If you are unsure about an interpreter’s qualifications, ask a few questions to make a determination.
  - 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 and (non-English language)?
  - Do you have any potential conflict of interest in this case?
  - Did you formally study either language in school? To what extent?
- When you are assured that the interpreter is qualified, administer an oath.

### The Interpreter’s Oath: (Administer from the Bench)

“Do you solemnly swear or affirm that you will interpret accurately, completely and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the Code of Professional Responsibility for Court Interpreters, 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?”

### Code of Professional Responsibility for Court Interpreters: (See [provide Web site address here])

- |   |  |
|---|--|
| • Canon 1: Accuracy & Completeness                    | • Canon 6: Restriction of Public Comment     |
| • Canon 2: Representation of Qualifications           | • Canon 7: Scope of Practice                 |
| • Canon 3: Impartiality / Avoid Conflicts of Interest | • Canon 8: Assess/Report Impediments         |
| • Canon 4: Professional Demeanor                      | • Canon 9: Duty to Report Ethical Violations |
| • Canon 5: Confidentiality                            | • Canon 10: Professional Development         |

## **Maximizing Communication in Interpreted Proceedings**

### **The Judge Should:**

- Instruct all parties as to the role of the interpreter.
- Keep the courtroom as quiet as possible, allow only one person to speak at a time, ensure the interpreter can see and hear the proceedings, instruct all participants to speak loudly and clearly, and 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).
- Allow appropriate interpreter tools (language dictionaries, note taking). Allow interpreters to use appropriate signals to regulate speakers when the length of an utterance becomes too long.
- Allow interpreters to briefly converse with the non-English speaker to ensure understanding of dialect and pronunciation differences. Allow interpreters to view court file to familiarize themselves with names, parties and unique vocabulary.
- 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. Interpreters cannot act as advocates or advisers. The judge should instruct the parties, attorneys, and jurors on the role of the interpreter. Judges and attorneys should observe interpreters to make sure all statements are interpreted but no conversation is going on.
- Provide rest breaks as needed, since interpreter accuracy declines significantly after 30 minutes of continuous interpretation. Consider using two interpreters for trials and longer contested proceedings

### **The Interpreter Should:**

- Interpret in the first person and address the court in the third person (as “the interpreter”), to keep a clear record.
- Clarify statements, correct mistakes, check dictionaries, and request clarification if a phrase or word is not understood.
- Be as unobtrusive and professional as possible.
- Suggest the best position in the courtroom.

### **Other Suggested Instructions:**

#### **Clarifying the Interpreter’s Role to a Witness:**

“I want you to understand the role of the interpreter. The interpreter is here only to interpret the proceedings. The interpreter will say only what is said in your language and will not add, omit, or summarize anything. The interpreter will say in English everything that you say in your language, so do not say anything you do not want everyone to hear. If you do not understand a question that was asked, request clarification from the person who asked it. Do not ask the interpreter. You are giving testimony to this court; therefore please speak directly to the attorney or to me (the court). Do not ask the interpreter for advice. Speak in a loud clear voice. If you do not understand the interpreter please tell me. If you need the interpreter to repeat, please make your request to me, not to the interpreter. Please wait until the entire statement has been interpreted before you answer. Do you have any questions?”

#### **Jury Instructions:**

“This court seeks a fair trial for all regardless of the language they speak and regardless of how well they may or may not speak English. Bias against or for persons who have little or no proficiency in English is not allowed. Therefore, do not allow the fact that the party requires an interpreter to in any way influence you.”

---

#### Program Contact Information:

[Name], Program Manager, Administrative Office of the Courts

Phone Number

[ \_\_\_\_\_ ] Judicial Department Interpreter Website: - [www.xxxxx.xxx](http://www.xxxxx.xxx)

This project was supported by Grant No. 2015-TA-AX-K043 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women

This publication was developed under grant number SJI-20-E-005 from the State Justice Institute. The points of view expressed are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute.