

Working with Interpreters in the Courtroom: A Bench Card for Judges

◆ How do I know if a party or witness needs an interpreter?

It is recommended that judges presume a need for an interpreter when a representation is made by an attorney or pro se litigant that a party or witness requests an interpreter. If there has been no request for an interpreter, but it appears that a party or witness has limited English proficiency or is deaf/has a hearing loss, use the following questions on the record to determine if an interpreter is necessary.

Determining the English Proficiency of a Party and the Need for an interpreter

(In general, avoid questions that can be answered with "yes" or "no" replies.)

- ▶ Please tell the court your name and address.
- ▶ How did you learn English?
- ▶ Please tell me about your country. Tell me more.
- ▶ You have the right to a court-appointed interpreter. Please tell the court the best way to communicate with you and to let you know what is being said.

◆ How do I know if the interpreter is qualified?

Interpreting requires specialized knowledge: legal and other specialized terminology, slang, idioms, and dialectal variations, and specialized skills: memory, comprehension, attentiveness, and multi-tasking. Being bilingual does not qualify a person to interpret. Children, relatives, and friends should never be used to interpret. Judges, attorneys, and court personnel should not function as interpreters.

Sample Voir Dire for Determining Interpreter Qualifications

- ▶ What training or credentials do you have as an interpreter?
- ▶ What is your native language?
- ▶ How did you learn (foreign language/ sign language)?
- ▶ Are you familiar with the Code of Professional Responsibility for Interpreters? What are its main points?
- ▶ How many times have you interpreted in court? Describe your familiarity with legal terminology.
- ▶ What types of cases have you interpreted?
- ▶ Are you related to or close friends with anyone in this case?
- ▶ Do you understand that you are a neutral party who is here to facilitate communication and that you may not offer advice or interject your opinion in these proceedings?

◆ Am I satisfied enough with the interpreter's qualifications to administer an oath?

Interpreter Oath:

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 ethics for legal 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?"

◆ How can I facilitate communication in an interpreted proceeding?

Suggested Tips

- ▶ Advise everyone in the courtroom of the presence and role of the interpreter.
- ▶ Instruct all participants to speak loudly and clearly and allow only one person to speak at a time.
- ▶ Ensure that sign language interpreters can see the participants.
- ▶ Allow the interpreter to briefly converse with the non-English/Sign Language speaker to ensure understanding of accents, dialect, or pronunciation/ sign language differences.
- ▶ Ask the non-English/Sign Language speaker if he/she is able to understand and communicate through the interpreter, Instruct him/her to interrupt (or raise his/her hand) if he/she does not understand something.
- ▶ Allow the interpreter to view court files prior to the proceedings to familiarize her/himself with names, parties and technical vocabulary.
- ▶ Speak directly to the party or witness, not the interpreter. Do not ask the interpreter to explain or restate anything said by the party. Always direct the interpreter to interpret in the first person in order for the record to be accurate.
- ▶ The interpreter must convey all questions, answers, and courtroom dialogue; therefore s/he is constantly working. Advise the interpreter to notify the court when breaks are needed. If the proceeding will last longer than two hours, require the presence of two interpreters that can switch off as needed.
- ▶ Recognize that court proceedings can be confusing and intimidating for a non-English speaker since their countries legal system and concepts can vary from those of the United States.
- ▶ Require an audio or video recording of the proceeding to allow for review of alleged interpretation errors.

Clarification of the Interpreter's Role

For a Defendant / Witness

I want you to understand the role of the interpreter. The court interpreter is a neutral party who is here only to interpret the proceedings and facilitate communication. 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.

You are here to listen and/or give testimony to this court. When speaking, please speak directly to the attorney or to me. Do not ask the interpreter for advice. If you do not understand the interpreter, please tell me. If you need a question or answer repeated, please tell me. Please wait until the entire statement has been interpreted before you answer. Do you have any questions?

For the Jury

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. Therefore, do not allow the fact that the party requires an interpreter to influence you in any way. Although some of you may know the non-English language being used, it is important that all jurors consider the same evidence. You should not rely in any way on any knowledge you may have of the language spoken. Your consideration of the testimony should be based only on the English interpretation of the evidence introduced in the trial.

◆ Additional Resources:

Alabama's Foreign Language Interpreter Certification Program

Alabama Office of Courts: visit www.alacourt.gov and click the Interpreters Quick Link.

Call (334) 954-5040 or use the following link <http://elegal.alacourt.gov/> to find more information.

U.S. Department of Justice- www.lep.gov, National Association of Judiciary Interpreters and Translators (NAJIT)- www.najit.org.
The information provided in this guide has been collected by NAJIT. NCSC (The National Center for State Courts) and from States that have implemented court interpreting standards and certification.