

Working with Foreign Language Interpreters in the Courtroom

A BENCH CARD FOR JUDGES



THE SUPREME COURT of OHIO

INTERPRETER SERVICES PROGRAM

How Do I know if a Party or Witness Needs an Interpreter?

A judge should presume a need for an interpreter when an attorney or pro se litigant indicates a party or a witness requests an interpreter. If a request for an interpreter is not made, but it appears a party or witness has limited English proficiency, a judge should ask 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 easily answered with “yes” or “no” replies.)

- Please tell the court your name.
- How did you learn English?
- Please tell me about your country.
- Tell me more about your country.
- What is the highest grade you completed in school?
- Describe some of the things you see in this courtroom.
- **You have the right to a court-appointed interpreter.** 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?*

A certified interpreter should be used. If one is not available, a candidate must have relevant training, specialized skills and knowledge, including familiarity with legal terminology, slang, idioms and dialectical variations. Candidates must also know the modes of interpretation (simultaneous, consecutive and sight-translation). **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 to Determine Interpreter Qualifications

- What training or credentials do you have as an interpreter?
- What is your native language?
- How did you learn your foreign language skills?
- Are you familiar with the National Association for Judiciary Interpreters and Translators’ “Code of Ethics and Professional Responsibility”? 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 you are to be a neutral party who is here to facilitate communication and that you should not offer advice or interject your opinion into these proceedings?

When Satisfied with the Interpreter’s Qualifications, the Oath may be Given

Interpreter Oath: 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 and 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?

**Currently, Ohio law does not require interpreters to be certified. However, interpreters must be qualified under Evid.R.604.*

How Can I Facilitate Communication in an Interpreted Proceeding?

- 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.
- Allow the interpreter to **converse briefly** with the non-English speaker to ensure understanding of accents, dialect, or pronunciation differences.
- Ask the non-English speaker if the speaker is able to understand and communicate through the interpreter. Instruct the speaker to interrupt or raise a hand if the speaker does not understand something.
- Allow the interpreter to view **court files** prior to the proceedings to become familiar with names, parties and technical vocabulary.
- Speak directly to the party or witness, not to 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, the interpreter 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** who can switch off as needed.
- Recognize that court proceedings can be confusing and intimidating for a non-English speaker since other countries' legal systems and concepts often vary from those of the United States.

For more information, contact the Supreme Court of Ohio's Interpreter Services Program at 614.387.9403.

Clarification Language of an Interpreter's Role

For the Defendant/Witness

Iwant 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 interpret only what is said without adding, omitting or summarizing anything. The interpreter will say in English everything 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, 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

Languages other than English may be used during this trial. The evidence you are to consider is only that provided through the official court interpreters. Although some of you may understand the non-English language used, it is important for all jurors to consider the same evidence. Therefore, you must base your decision on the evidence presented in the English interpretation. You must not rely in any way upon your own interpretation of the witness' words.

Additional Resources

U.S. Department of Justice: www.lep.gov; National Association of Judiciary Interpreters and Translators (NAJIT): www.najit.org; Supreme Court of Ohio: http://www.supremecourtofohio.gov/Judicial_and_Court_Services/interpreter_svcs/default.asp. The information provided within this guide was collected by NAJIT (the National Association of Judiciary Interpreters and Translators); NAJIT's electronic discussion list of interpreters; NCSC (the National Center for State Courts) and from states having court interpreting standards and certification.