

Working with Interpreters for Deaf or Hard of Hearing Persons in the Courtroom

A BENCH CARD FOR JUDGES



THE SUPREME COURT of OHIO

INTERPRETER SERVICES PROGRAM

Complying with the Americans with Disabilities Act (ADA)

The Americans with Disabilities Act (ADA) assures equal access to justice for people who are deaf, deaf-blind, or hard of hearing. Courts must work closely with interpreters, parties and witnesses to determine effective communication methods. Possible accommodations may include sign language interpreters, specialized interpreter services, computer-assistive transcription services, and assistive listening devices.

Determining the Communication Preference of the Deaf or Hard of Hearing Party

The ADA requires the court to ask the person with a hearing disability the type of reasonable accommodation they need. If a request for an interpreter is not made, but the party or witness could benefit from the services of an interpreter, the judge may ask the following **on the record** to establish the need:

- Please tell the court your name.
- **You have the right to participate and understand these proceedings.** Tell the court the best way to communicate with you, so you know what is being said.
- **Do you need an interpreter?**

How Do I Know if the Interpreter is Qualified?

Interpreters must be qualified under Evid.R.604 and Title II of the ADA. An impartial, certified interpreter should be used at all times. Priority should be given to those holding a Specialist Certificate: Legal (SC:L) from the Registry of Interpreters for the Deaf (RID). If an SC:L interpreter is not available, other certifications may be appropriate, with 80 hours of legal interpreter training.

Interpreter Credentials for Court Assignments

- Specialist Certificate: Legal (SC:L)
- Or, **with 80 hours of legal interpreter training:**
 - National Interpreter Certification (NIC) Advanced or Master
 - Both Certificate of Interpretation and Certificate of Transliteration (CI/CT)
 - Comprehensive Skills Certificate (CSC)
 - National Association of the Deaf (NAD) Certification: Level V
 - Specialized Interpreting Services:
 - ◊ Certified Deaf Interpreter (CDI)
 - ◊ Oral Transliteration Certification (OTC)

It is strongly recommended that the services of an uncertified interpreter not be used.

Further, family members, personal acquaintances, judges and court personnel should not function as interpreters.

Sample Voir Dire to Determine Interpreter Qualifications

- What credentials do you hold?
- Describe your formal legal training.
- What specialized training have you had?
- Describe the Code of Ethics as it applies to legal interpreters.¹
- How many times have you interpreted in court?
- What types of cases have you interpreted?
- Are you related to or close acquaintances with anyone in this case?
- Are there any professional or personal issues that may influence your interpretation?
- When interpreting errors occur, how do you intend to inform the court?

¹The "Code of Ethics and Professional Responsibility" of the National Association of Judiciary Interpreters & Translators (NAJIT), as well as the RID-NAD Code of Professional Conduct.

When Satisfied with the Interpreter's Qualifications, the Oath shall be Given²

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, follow all official guidelines established by this court for legal interpreting, and discharge all of the solemn duties and obligations of legal interpretation and translation?

How Can I Facilitate Communication in an Interpreted Proceeding?

- Advise everyone in the courtroom of the presence and role of the interpreter.
- Instruct participants to speak loudly and clearly. Allow only one person to speak at a time.
- Allow the interpreter to converse with the deaf or hard of hearing person prior to the proceedings to ensure effective communication and identify possible signing differences or other concerns. Additionally, deaf persons with minimal language skills, blindness or who rely upon lip reading may require specialized interpreting services. In these instances, the court may need to provide such an interpreter.
- Ask the deaf or hard of hearing person if he or she is able to understand and communicate through the interpreter. Instruct the person to raise a hand if something is not understood.
- Allow the interpreter to view court files prior to the proceedings to become familiar with names and technical vocabulary. Allow the interpreter to view all exhibits, photos or other visual records prior to their introduction into evidence.
- Speak directly to the party or witness, not to the interpreter. Do not ask the interpreter to explain or restate anything the party or witness says. The interpreter will interpret in the first person in order for the record to be accurate. The interpreter will convey all questions, answers and courtroom dialogue. Therefore, the interpreter is always working. Advise the interpreter to notify the court when breaks are needed.
- If the proceeding will last longer than two hours or has multiple deaf or hard of hearing

persons involved, require the presence of **two interpreters** who can switch off as needed.

- Proper interpreter positioning and close proximity to the speaker allow optimal access to communication.

Clarifying the Role of the Interpreter

Before the start of courtroom proceedings, it is highly recommended the judge clarify the role of the interpreter for the defendant, witnesses and jury members. Judges may use the following language for this purpose.

For the Defendant/Witness

Iwant you to understand the role of the interpreter. The court interpreter is impartial and here only to interpret the proceedings. The interpreter will interpret only what is said without adding, omitting or summarizing anything. The interpreter will interpret everything you state, 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, 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

Modes of communication other than spoken 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 deaf or hard of hearing person, it is important for all jurors to consider the same evidence. Therefore, you must base your decision on the evidence presented in the interpretation. You must not rely in any way upon your own interpretation of the witness' words.

Additional Resources

- U.S. Department of Justice/Americans with Disabilities Act: ada.gov
- Registry of Interpreters for the Deaf (RID): rid.org
- Supreme Court of Ohio: supremecourtofohio.gov
- Midwest Center on Law and the Deaf: mcl.d.org

² O.R.C. 2311.14(B)