

# Guidance to Courts Regarding the “Preference” Requirement in A.O. 2016-02



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## Acknowledgments

This guidance is the product of recommendations from the “Preference” Guidance Workgroup of the Court Interpreter Program Advisory Committee (CIPAC). Members of the workgroup are

Mr. Juan Carlos Cordova  
Court Interpreter  
Federal Courts

Ms. Kathy Schaben  
Court Administrator  
Yuma County Superior Court

Mr. Scott Robert Loos  
Court Interpreter (ret.)  
Maricopa County Superior Court

## Introduction

In furtherance of its Strategic Agenda, “Advancing Justice Together”, the Arizona Supreme Court issued [Administrative Order 2016-02](#) in January of 2016, thereby establishing the Arizona Court Interpreter Credentialing Program (ACICP). The Administrative Order states, “[e]ffective July 1, 2017, judges should give appointment preference to credentialed contract interpreters, if available.”

It is important that courts seek out and use credentialed interpreters whenever possible to ensure not only the same level of professionalism and competency by interpreters throughout the courts across the state, but also to ensure that access to justice and communications with limited English proficient (LEP) persons are meaningful as required by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.; 45 C.F.R. § 80.1 et seq.; and 28 C.F.R. § 42.101–42.112). The purpose of this document is to provide guidance to the courts on complying with the “preference” requirement for freelance interpreters contained in Administrative Order 2016-02.

## Expected Protocol for Demonstrating Preference

The preference requirement is intended to promote the use of credentialed contract interpreters over uncredentialed contract interpreters while still permitting courts a certain flexibility to conduct business with an interpreter who is not credentialed should circumstances so warrant. The use of uncredentialed interpreters is to be limited to the following situations:

- No interpreters credentialed by ACICP in the language required; or
- No interpreters credentialed by ACICP in the language required within a reasonable radius of the court, or in a timely manner.

When an interpreter is needed, the following steps should be followed to locate a credentialed interpreter:

1. Identify the language of the LEP person
2. Use the [Arizona Court Interpreter Registry](#) to view the credentialed interpreters in that language. The Registry can be searched by the language spoken, an interpreter’s county of residence, Tier level, etc., or any combination of criteria. Contact the AOC [Language Access Coordinator](#) for instructions on how to use the Arizona Court Interpreter Registry.

- a. Alternatively, the [Public Roster of Credentialed Interpreters](#) may also be used to locate an interpreter. The Public Roster is updated throughout the year. Court staff printing the Public Roster must verify they are working from the current version.

**NOTE:** The [Registry](#) is always the most complete and up-to-date tool for ACICP interpreter records.

- b. Courts with their own lists of interpreters are encouraged to verify the credential status of their interpreters using the tools listed above. Additionally, courts are encouraged to use these tools to augment their lists, thereby increasing the number of credentialed interpreters from which to choose for court proceedings.
3. If a credentialed interpreter is reasonably available to appear for the hearing or event, then such interpreter is to be contracted by the court.
    - a. An interpreter does not necessarily have to appear in person. Remote interpreting (RI) may be an option for some hearings and events. For example, for short, procedural hearings and events when the interpreter is located far away.
    - b. Courts must consider the interpreter's level of credential (Tier) when determining the appropriate interpreter to hire. See the [Overview of Tiers](#) for more information. The progression for preference is as follows:
      - i. Look first for a Tier 3 or Tier 4. These interpreters have passed the required interpreting skills exam at a level sufficient for a permanent credential. If no Tier 3 or Tier 4 interpreters are available, proceed to Step 3(b)(ii).
      - ii. Look for a Tier 2 interpreter. These interpreters have passed the required interpreting skills exam at a level sufficient for a temporary credential. If no Tier 2 interpreters are available, proceed to Step 3(b)(iii).
      - iii. Look for a Tier A or Tier 1 interpreter. These interpreters have passed the required exams to demonstrate proficiency in English and the foreign language. However, they have either not taken or not passed the skills exam required for higher tiers. Some languages may not have an interpreting skills exam available. Interpreters of these languages will only be able to earn a Tier 1 or Tier A credential.

**NOTE:** Courts near other counties or other states may consider contracting credentialed interpreters who have passed an interpreting skills exam from those areas prior to contracting with a Tier 1 interpreter.

- iv. When no credentialed interpreters are available, courts may consider using uncredentialed, but otherwise qualified individuals to provide interpreter services. Contact the AOC [Language Access Coordinator](#) for information on qualifying an interpreter.

**NOTE:** It is not sufficient to only look for interpreters in the same city or town as the court. It is also not sufficient to rely solely upon the court's own internal list of interpreters. The ACICP creates a statewide network of credentialed interpreters and courts are expected to use the tools listed above to find qualified interpreters, even if it means hiring someone previously unknown to the court. The requirement to provide meaningful access for LEP persons requires courts to search for and use qualified interpreters.

### Breadth of Searches for Credentialed Interpreters

For steps 3(b)(i – iii) above, courts are expected to search within their own county first. For each step, if no interpreter is available in the same county as the court, then the search should be expanded to neighboring counties before proceeding to the next step in the progression. The nature and complexity of a given hearing or event, and the language needs of LEP persons, will at times require the court to search even more broadly for a credentialed interpreter, be that across the state or, in some cases, across the country.

### Additional Factors to Consider

An in-person interpreter is recommended for trials, evidentiary hearings, and any other hearing or event with multiple parties who need an interpreter, or which are expected to last 30 minutes or longer. Shorter, simple hearings and events may lend themselves to the use of remote interpreter options if a credentialed interpreter is not available to appear in person. In many instances, interpreters for languages other than Spanish will only be available remotely. Contact the AOC [Language Access Coordinator](#) for information on managing remote events and events in which uncredentialed interpreters are being used.

In addition, courts are encouraged to include information on their policies and procedures for demonstrating preference for credentialed interpreters in their Language Access Plans and in their contracts with vendors. Contact the AOC [Language Access Coordinator](#) for suggested language.

## Appendices

### Appendix 1: Definitions

- **Arizona Court Interpreter Code of Conduct** – In the context of the ACICP, refers to the Arizona Court Interpreter Code of Conduct, applicable to all who provide interpreter services for the courts.
- **Arizona Court Interpreter Credentialing Program (ACICP)** – The interpreter credentialing body created by Arizona Supreme Court Administrative Order 2016-02.
- **Arizona Court Interpreter Registry** – A searchable database of interpreters and interpreter candidates in Arizona that indicates if a particular interpreter has earned a credential issued by ACICP.
- **Arizona Public Roster of Credentialed Interpreters** – A publicly available list of interpreters credentialed by the ACICP.
- **Certified** – said of an interpreter holding a qualification as required by a specific jurisdiction other than the State of Arizona. For Arizona’s qualification system, see “Credentialed.”
- **Credentialed** – said of an interpreter who has earned any tier of credential from the Arizona Court Interpreter Credentialing Program. Not synonymous with “certified” as used in other jurisdictions and which may connote other requirements for its grant.
- **Interpreter** – a person who orally translates between English and the language of a limited-English-proficient party or court customer for two or more people who would not otherwise understand each other.
- **LEP** – Limited-English-Proficient or Limited-English-Proficiency.
- **Otherwise qualified** – refers to a person who is not credentialed to interpret but who may have some training, knowledge or experience interpreting or other qualifications making them potentially viable for certain interpreting assignments.
- **Preference** – in the context of A.O. 2016-02, “preference” refers to the priority that courts must show in appointing credentialed interpreters over uncredentialed interpreters.
- **Public Roster** – see Arizona Public Roster of Credentialed Interpreters.
- **Registry** – see Arizona Court Interpreter Registry.
- **Remote Interpreting (RI)** – a term use to describe interpreting services that are not offered on-site. Typically refers to telephonic and video remote interpreting services.

Appendix 2: Preference Flowchart

# PREFERENCE FLOWCHART

