

Arizona Judiciary

Working with Spoken Language Interpreters

A.R.S. § 12-241 and Title VI of the 1964 Civil Rights Act mandate interpreter services during court hearings for Limited-English Proficient Speakers (“LEP Speaker”) to protect their due process rights and promote access to justice. *State v. Natividad*, 111 Ariz. 191, 526 P.2d 730 (1974) requires *effective* interpreter services. Please consult A.O. 2011-96 and your local court’s language access plan for more information.

If the court’s interpreter coordinator or interpreter office is responsible for procuring and qualifying the interpreter, items 1, 3, and 4 below may be omitted in the interests of judicial economy.

1. Needs Assessment

To make efficient and effective determinations about whether an interpreter is needed, ask at least one or two questions from each of the following categories:

- 1) Identification, such as:
 - a. Please tell the court your name.
 - b. What is your address?
 - c. When is your birthday? or When were you born?
 - d. How old are you?
 - e. Where were you born?
- 2) Active vocabulary in vernacular English, such as:
 - a. How long have you been speaking English?
 - b. How did you learn English?
 - c. How did you get to court today?
 - d. What kind of work do you do?
 - e. Did you go to school as a child?
 - f. Where did you go to school?
 - g. What is the highest grade you completed in school?
 - h. What have you eaten today?
 - i. How comfortable are you understanding and speaking English?
- 3) Simple, direct questions requiring a response other than “yes” or “no.”

2. If an Interpreter Is Needed

Best Practices Prior to the Start of the Proceeding:

- Use two interpreters for proceedings lasting longer than one hour to ensure accuracy of the record.

- Allow the interpreter to converse with the LEP Speaker before the proceeding to ensure effective communication and to identify concerns.
- Allow interpreters to view relevant records and materials that will be the basis of testimony (such as those containing names, dates, and locations; police reports; expert reports, etc.) and documents that will be read during the proceeding (lists of potential jurors, jury instructions, jury verdict forms, plea agreements, etc.) well in advance of proceedings to prepare for and to render efficient interpretation in court.
- Allow the interpreter to move freely about the courtroom and close to the LEP Speaker in order to hear any utterance clearly.

For the LEP Speaker:

- Ask if the LEP Speaker is able to understand and communicate with the interpreter.
- Instruct the LEP Speaker to inform you if something is not understood.

Reminders for the Judge and Counsel:

- Speak directly, using the “first person,” to the LEP Speaker—not to the interpreter—to accurately identify the speaker in the record.
- Do not ask the interpreter to explain or restate anything the party or witness says; rather, ask the party or the witness to do so.
- Advise the interpreter to notify the court when breaks are needed.
- Advise attorneys and other parties that it is the duty and responsibility of the interpreter to render every utterance made on the record.

3. Equipment Needs Assessment

Determine what equipment may be needed, including assistive listening devices. ADA needs should be referred to your court’s ADA coordinator.

4. Interpreter Voir Dire:

- At which Arizona Tier are you credentialed? If not Arizona credentialed, “Do you hold any other court interpreter certification?” (e.g., federal, NAJIT, Consortium)
- Describe your formal training related to legal interpretation.

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- How many times and what types of cases have you interpreted in court?
- Are you familiar with and will you adhere to the Arizona Court Interpreter Code of Conduct?
- Are you related to or do you know any of the parties involved in this case?
- Are you a potential party or witness in this case?
- Are there any professional or personal issues that may influence your interpretation given the nature of this case?
- When interpreting errors occur, how do you intend to inform the court?

5. Interpreter Oath:

Before the proceeding starts, confirm that the interpreter's oath is on record. If it is not, then this oath is provided for your use.

Do you solemnly swear or affirm that you will interpret from _____ to English and English to _____ accurately, completely, and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the Arizona Court Interpreter Code of Conduct; you will follow all official guidelines established by this court for legal interpreting or translating, and you will discharge all of the solemn duties and obligations of legal interpretation and translation?

6. Clarify the Interpreter's Role:

Judges may use the following scripts to clarify the role of the interpreter prior to the beginning of the proceedings:

For any Party or Witness:

An official court interpreter is going to assist today in these proceedings. The court interpreter is an officer of the court and not a party in this case. The interpreter is neutral and impartial and is here only to interpret the proceedings accurately between two languages 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.

When speaking, speak directly to the attorney or to me. Do not ask the interpreter for any advice, legal or otherwise. If you do not understand the interpreter,

then please tell me. If you need a question or an answer repeated, tell me. Allow the interpreter to finish interpreting the entire utterance 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 only evidence you are to consider is that provided through the official court interpreter.

Although some of you may understand a witness who speaks a language other than English, it is important for all jurors to consider the same evidence. Therefore, you must base your decision only on the evidence presented via the interpretation.

7. Assess Interpreter Performance

Consider the following to determine if the interpreter is effectively facilitating the communication during the proceeding:

- Are there significant differences in the length of interpretation as compared to the original testimony?
- Does the LEP Speaker appear to be asking questions of the interpreter?
- Is the interpreter acting in a professional manner?
- Is the interpretation being done in the first person?
- If the interpreter has a question or a comment, is it addressed to the court in the third person (e.g., "Your Honor, the interpreter could not hear your last question...") to keep a clear record?

8. Future Proceedings

Schedule future proceedings, allowing sufficient time to procure interpreter services in accordance with your court's practices.

Credit: Special thanks to *The Supreme Court of Ohio* and *The New York State Unified Court System*. This document was adapted from their model bench cards.