

# Bench Card

## Courtroom Interpreting

### How do I determine whether a person needs an interpreter?

Presume a need for an interpreter when an attorney or litigant indicates a party or a witness requests one. If an interpreter is not requested, but it appears a party/witness has limited English proficiency, a judge should ask questions **on the record** to assess the need for an interpreter.

### Sample questions for determining the English proficiency of a person and the need for an interpreter:

(Avoid questions easily answered with yes or no replies.)

1. How did you come to court today?
2. How did you learn English, and what is most difficult about communicating in English?
3. Please tell me about your country.
4. Tell me more about your country.
5. Describe what you see in this courtroom.
6. What is the purpose of your court hearing today?
7. **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.

*If the person has difficulty answering these simple questions, an interpreter is recommended. Presumably, a person unable to answer these questions is unable to communicate well in high-stress matters involving legal terminology.*

Also, **if the court cannot understand the person's spoken English**, consider using an interpreter. Request that the person speak in their native language, so that the interpreter can interpret into English.

**For trials and other long proceedings**, court administration should hire a team of two interpreters, who will alternate interpreting approximately every 20 minutes.

### When is the court required by law to provide and pay for an interpreter?

**Criminal Cases, Traffic Infractions, Commitments & all proceedings initiated by Government Agencies or in which the non-English speaking person is a party or is compelled to appear:** Interpreter costs are paid by the governmental body initiating the proceedings (RCW 2.43.030; 2.43.040).

**All Other Legal Proceedings:** Interpreter costs are borne by the non-English-speaking person unless determined to be indigent; in those cases, interpreter costs are administrative costs of the governmental body under the authority of which the legal proceeding is conducted (RCW 2.43.030; 2.43.040).

**Deaf Persons:** When a hearing-impaired person is a party or witness at any stage of a judicial or quasi-judicial proceeding. The appointing authority must appoint and pay for the interpreter (RCW 2.42.120).

**\*\*See RCW 2.42.120 for enumeration of the other circumstances in which the appointing authority must appoint and pay for an ASL interpreter.\*\***

### Preference for Certified and Registered Language Interpreters

#### Foreign Language

- (1) Court must appoint a certified or registered interpreter unless "good cause" is found and noted **on the record**: "good cause" = (a) certified or registered interpreter is not reasonably available or (b) the list of certified or registered interpreters does not include an interpreter in the needed language.
- (2) Otherwise, the court must appoint an interpreter who is qualified on the record (RCW 2.43.030).

#### Sign Language

- (1) Court must request a qualified interpreter through DSHS-ODHH or through a community center for hearing impaired persons.
- (2) Court must make a preliminary determination that the interpreter can interpret accurately (RCW 2.42.130).

According to the **Rules of Evidence**, an interpreter should be **qualified as an expert**, and administered an **oath**. WA R. Evid. 604; *see also* RCW 2.42.050; 2.43.050 (requiring oath).

### Sample Qualification Questions

1. What credentials do you have as an interpreter?
2. Are you certified? If you are not certified, are you registered?
3. What is your native language? How did you learn \_\_\_\_\_?
4. Is your dialect compatible with Mr./Ms. \_\_\_\_\_?
5. Are there any cultural or community concerns between you and Mr./Ms. \_\_\_\_\_ that the court should be aware of?
6. What is your experience interpreting in court?
7. Have you ever interpreted for any of the people involved in this case?
8. Are you able to remain fair and impartial?
9. To the parties: Does either party have any questions for the interpreter?

### Interpreter Oath

**Spoken Language:** Do you swear (affirm) that you will make a true interpretation to the person being examined of all the proceedings in the \_\_\_\_\_ language, and that you will repeat the statements of the person being examined to this court in the English language, to the best of your skill and judgment?

**Deaf / Hearing Impaired:** Do you swear (affirm) that you will make a true interpretation to the person being examined of all the proceedings in a manner which the person understands, and that you will repeat the statements of the person being examined to this court, to the best of your skill and judgment?

To assure that all participants understand the role of the interpreter, consider reading the following language at the start of a court proceeding:

### Clarification Language of an Interpreters Role

The interpreter can only interpret for one person at a time, so please do not speak or interrupt while someone is testifying or speaking. The interpreter can only interpret testimony that is spoken, so all responses must be verbal. You are reminded to speak at a slower but steady pace, and make eye contact occasionally with the interpreter to gauge whether your pace is appropriate. A slower pace is

especially important when stating dates, numbers, figures or highly technical vocabulary.

As for the interpreter(s), you are bound by the Code of Conduct for Court Interpreters, and you are expected to follow its provisions. You must interpret everything that is said in this courtroom, including this information. You are not allowed to engage in any conversation with the person(s) you are interpreting for. You are not allowed to give any legal advice, or express personal opinions about this matter. You are expected to maintain confidentiality, and not publicly discuss this case. If for some reason you need to pause the proceedings so that you can refer to a dictionary or clarify a word, please raise your hand and speak up. Are there any questions?

### Tips for Communicating Through Interpreters

1. Instruct all participants to speak loudly and clearly and to speak one at a time.
2. Allow the interpreter to converse briefly with the non-English speaker for the limited purpose of ensuring the understanding of accents, dialect or pronunciation differences.
3. Speak directly to the non-English speaking person. Do not ask the interpreter to independently explain/restate anything said by the party.
4. The interpreter must convey all questions, answers and courtroom dialogue, and therefore, is constantly working. Advise the interpreter to notify the court when breaks are needed.
5. Allow the interpreter to review the court file prior to the hearing, to become familiar with names, dates, and technical vocabulary.
6. Monitor the interpreter so that side conversations are not held with the non-English speaking person.
7. 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 U.S.
8. Pause (give time for the interpreter to catch up).

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**For additional assistance, please contact:**  
*(Insert county-specific contact information here using a mailing label.)*

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