



Working with Interpreters in the Courtroom

A Bench Guide for Judges

What are my duties regarding the appointment of an interpreter?

Arkansas judges are required both by statute and court rule to “appoint a qualified interpreter to assist a person with limited English proficiency in a court proceeding.” Ark. Code Ann. § 16-10-1101 et seq. Limited English proficiency is defined as the inability to understand or communicate in English, due to a lack of fluency or to a speech or hearing impairment.

How do I know if an interpreter is qualified?

If an AOC-certified interpreter 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 know all the modes of interpretation (simultaneous, consecutive and sight translation).

Determining the English proficiency of a party and the need for an interpreter:

When an attorney or pro se litigant makes a request for an interpreter on behalf of a party or a witness, a judge should make arrangements for a qualified interpreter for the duration of the proceeding. 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:

(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.
- What is the highest grade you completed in school?
- What did you do before coming here today?
- Describe some of the things you see in this courtroom.

Being bilingual or knowing sign language 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. For foreign language interpreters, “the judge may appoint a non-certified interpreter only upon finding that diligent, good faith efforts to obtain a certified interpreter have been made and none has been found to be reasonably available.” *In re Certification for Foreign Language Interpreters in Arkansas Courts*, 338 Ark. App’x 827 (1999).

Sample Voir Dire for Foreign Language Interpreters

- 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 Arkansas Code of Professional Responsibility for Interpreters in the Judiciary? 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?
- 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?

Sample Voir Dire for Sign Language Interpreters

- 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.
- How many times and what types of cases have you interpreted in court?
- Are there any professional or personal issues that may influence your interpretation?
- When interpreting errors occur, how do you intend to inform the court?

When satisfied with the interpreter's qualifications, the oath may be administered:

Sample Interpreter's Oath: "Do you swear [affirm] that you will make a true and impartial interpretation using your best skills and judgment in accordance with the standards and ethics of the interpreter profession and that you will abide by the Arkansas Code of Professional Responsibility for Interpreters in the Judiciary?"

How can I facilitate communication in an interpreted proceeding?

- Recognize that court proceedings can be confusing and intimidating for an LEP individual since other countries' legal systems and concepts often vary from those of the United States.
- 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**.
- Permit member of court personnel to speak, via the interpreter, with the limited English proficient (LEP) individual immediately prior to the proceeding to allow interpreter to **assess accents, dialect, or pronunciation differences**.
- Ask the LEP individual if he/she is able to understand and communicate through the interpreter.
- 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.
- Ensure that the interpreter always refers to self in the **third person** for the official record.
- 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.
- Some cases may require the use of two or more interpreters due to length or logistics. Certain situations require the use of an additional interpreter, who is deaf, to work in cooperation with the sign language interpreter.

Clarification of an interpreter's role

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

For the defendant/witness

I want 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.

To schedule an interpreter, for foreign language resources, or for further questions:

Court Interpreter Services
Administrative Office of the Courts
625 Marshall St.
Little Rock, AR 72201
Phone: 501-682-9400

<http://courts.arkansas.gov/administration/interpreters>