

Language Access Plan
A Policy Of The
Snohomish County Superior Court, Snohomish County District Court,
and Snohomish County Superior Court Clerk's Office

I. BACKGROUND AND PURPOSE

Under Washington State law (chapters 2.42 and 2.43 RCW), Title VI of the Civil Rights Act of 1964 (Title VI), the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), the Americans with Disabilities Act (ADA), and the regulations implementing these federal laws, Washington courts are required to provide language access services to all limited English proficient (LEP) and deaf, hard of hearing, and deaf-blind (D/HH/DB) individuals in civil and criminal court proceedings and in all court-managed services and programs and to develop a written language access plan pursuant to RCW 2.43.090.

This Language Assistance Plan sets forth the policy and procedures for the provision of timely language access services that ensure access for all LEP and D/HH/DB individuals who come in contact with Snohomish County Superior Court, Snohomish County District Court, and Snohomish County Superior Court Clerk's Office (Snohomish County Court System) services and programs. Language access services include both interpretation and translation services for LEP and D/HH/DB individuals.

Although D/HH/DB individuals are covered under the ADA and chapter 2.42 RCW rather than Title VI and the Safe Streets Act, this plan covers language access services for both D/HH/DB and LEP individuals.

II. COURT POLICY REGARDING LANGUAGE ACCESS SERVICES

It is the policy of Snohomish County Court System to provide foreign language interpreter services at no cost to LEP parties, witnesses, victims, and others with a legal interest (e.g., parents, legal guardians, custodians) in all court proceedings and operations, both civil and criminal, other than when it is the responsibility of other government bodies pursuant to state law. It is also the policy of this court to provide sign language interpreting services at no cost to persons who are D/HH/DB as required under applicable state and federal statutes and regulations.

Accessible information is available to LEP and D/HH/DB persons on how to request these language assistance services and vital documents as part of the Court System's notice to the public about its language access services.

III. DATA COLLECTION AND NEEDS ASSESSMENT

The Snohomish County Court System will periodically, compile demographic data regarding the language needs of its community using the most recent and relevant U.S. Census and American Community Survey (ACS). This data will be analyzed to determine whether the court's allocation of language access resources is appropriate.

Every effort will be made to track language preference, case type, proceeding type, and location

of service requests for language access services in a case management system. On a periodic basis, the court will analyze the data collected to identify whether services requested are in fact provided, assist in the allocation of language access resources, and identify gaps in the provision of services to address future needs.

The final data compilation and analyses will be sent to the Washington State Court Interpreter Commission in the form of a biennial report to assist the Commission in monitoring of the court's Language Access Plan, identification of interpreter training and certification strategies, and other tools to assist the Administrative Office of the Courts and local courts in the provision of language access services.

A. Identified Current Needs

The most current language need identification efforts undertaken shows the following non-English languages, whether spoken or signed, that are most frequently used in our jurisdiction:

- Spanish
- Vietnamese
- Russian
- Korean
- Arabic

B. Identified Future Needs

The following languages have been identified as emerging and/or additional languages among court users in the area for which resources will be needed in the future:

- Chinese-Mandarin
- Swahili
- Punjabi

IV. LANGUAGE ASSISTANCE IDENTIFICATION AND RESOURCES

A. The Snohomish County Superior Court and Snohomish County District Court have designated personnel responsible for coordinating language access services and to whom requests for interpreters and other language access services may be addressed. These designated persons are available to:

- Develop lists of interpreters and obtain interpreter services;
- Receive and track language assistance requests;
- Address gaps in interpreter services by conducting outreach as needed;
- Provide information to assist LEP and D/HH/DB individuals to obtain language access services;
- Assist or provide referrals to attorneys, justice partners, and other relevant persons to attain language access services for their clients and constituents;
- Assist court staff with obtaining language access services; and
- Answer questions from LEP and D/HH/DB individuals, and the public at large, regarding the court's available language access services, including the court's language access resources such as translated materials, interpreter roster, language identification cards, and other resources identified in this plan.

LEP and D/HH/DB individuals, attorneys, justice partners, government agencies, and any

other entities in need of language access services for court programs or activities or to acquire such services or information for themselves or their clients, may contact:

Snohomish County District Court
Interpreter Coordinator
3000 Rockefeller Ave, M/S 508
Everett, WA 98201
425-388-3893
Fax 425-388-6480
Email:
SDCInterpreterSupport@snoco.org

Snohomish County Superior Court
Interpreter Coordinator
3000 Rockefeller Ave, M/S 502
Everett, WA 98201
425-388-3421
Fax 425-388-3498
Email:
SSCInterpreterSupport@snoco.org

Snohomish County Juvenile Court
Interpreter Coordinator
2801 10th Street, M/S 702
Everett, WA 98201
425-388-7960
Fax 425-388-7853
Email: SSCInterpreterSupport@snoco.org

B. Identification of Language Access Needs and Notice of Availability

LEP and D/HH/DB, individuals may come in contact with court personnel via the phone, TTY / TDD, in-person, or through other means. In addition, there are various points of contact within Snohomish County Court System where LEP individuals or persons who are D/HH/DB will be in contact with court staff. Accessible notice to the public of an individual's right to spoken and sign language interpreter services and to be provided vital documents in translated form whenever necessary to access court proceedings and court-managed programs are provided to ensure that LEP and D/HH/DB individuals are able to properly identify their language needs and to request language access and assistance services.

1. Identifying Language Needs at Points of Access

Snohomish County Court System's language access needs will be identified at all points of contact within the court, such as the following:

Snohomish County District Court:

Clerks, Jury, Court Records, Cashier Offices, Small Claims or Alternative Dispute Resolution Services, and Courtrooms at the following locations:

- ❖ Arlington, Everett, Lynnwood, and Monroe

Court-managed programs and services at the following locations:

- ❖ Arlington, Everett, Lynnwood, Monroe, and Probation and Community Program locations

Snohomish County Superior Court:

Courtrooms, Court Administration Offices, Jury Assembly and court-managed programs and services at the main Courthouse and Denney Juvenile Justice Center

Snohomish County Superior Court Clerk’s Office:

All customer service locations within the Courthouse and Mission Building.

To ensure the earliest possible identification of the need for language access services, internal protocols have been established with the various justice partners which routinely interact with this court in order for these partners to communicate to the appropriate court staff the needs of LEP or D/HH/DB participants who will be coming into contact with the court. While justice partners themselves may be under a separate legal obligation to provide language access services to their clients, the court will be notified of any services that fall under the responsibility of the court as early as possible so services may be provided in a timely and efficient manner.

2. Notice of the Availability of Language Access Services

In order to facilitate the ability of LEP and D/HH/DB individuals to request their need for language access services, notice of the availability of language access services translated into Snohomish County Court System’s most frequently used languages are available that states:

It is the policy of Snohomish County Courts that no one shall be excluded from full and equal access to all court services, programs, and activities because of disability or inability to communicate in English.

Please make requests for reasonable accommodations and/or interpreter services to the Interpreter Coordinators:

Snohomish County Superior Court - 425-388-3369

Snohomish County Juvenile Court - 425-388-7960

Snohomish County District Court – 425-388-3893

Additionally the following resources are available at points of contact, including those listed above when appropriate, to help LEP and D/HH/DB and court staff communicate with each other:

- “I Speak” booklets at all points of contact
- Multi-lingual notices at all appropriate points of contact notifying members of the public of their right to request an interpreter or other language assistance at any point during their contact with the court.

When it appears that an individual has difficulty communicating due to a language barrier, staff must inform the LEP or D/HH/DB person of his or her right to have language access services provided by the courts at no cost to them, even if the LEP or D/HH/DB person has not made a request for the language access services.

V. LANGUAGE ACCESS SERVICES

A. Language Access Services Inside the Court Room

1. Appointment of a Certified, Registered, or Qualified Interpreter for In Court Proceedings

The personnel responsible for appointing an interpreter will comply with the following order of preference in appointing an interpreter as set forth in RCW 2.43.030(1) (b) and (2).

RCW 2.43.030(1) (b) states:

An in-person Certified or Registered interpreter who has been credentialed by the Administrative Office of the Courts shall be appointed, whenever possible, unless good cause is found and noted by the appointing authority. “Good cause” includes, but is not limited to, a determination that:

Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of an in-person credentialed interpreter are not reasonably available to the appointing authority; or

The current list of credentialed interpreters maintained by the Administrative Office of the Courts does not include an interpreter in the language spoken by the LEP.

RCW 2.43.030(2) states:

If good cause is found for using an interpreter who is not credentialed by the Administrative Office of the Court, the appointing authority shall make a preliminary determination that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

Is capable of communicating effectively with the court or agency and the person for who the interpreter would interpret; and
Has read, understands, and will abide by the code of ethics for language interpreters established by court rules.

In the event no in-person interpreter is available locally, the court will weigh the need for moving forward with the proceeding against any possible negative consequences to the LEP or D/HH/DB person’s ability to effectively participate in the proceedings through the use of a remote interpreter, as may be allowed by Washington court rule or law. When evidentiary matters are before the court, the court may reschedule the hearing until an in-person interpreter is available, whether located in-state or out-of-state, and be made present at the hearing.

Snohomish County Court System will not appoint as interpreters anyone with a potential conflict of interest in the case, including the following: minors; friends and family of the LEP or D/HH/DB person; advocates and attorneys; justice partner bilingual staff; or anyone deemed unqualified after inquiry by the court.

2. Practices in the Appointment and Use of Interpreters

In appointing interpreters, staff will ensure that the interpreter and the LEP or D/HH/DB participant can effectively communicate. It is also the staff’s practice to:

- Make a determination of the appropriate number of interpreters that may be required for the proceeding. When the proper administration of justice so requires the court may appoint multiple or separate interpreters.
- For long hearing sessions or trials, appoint a team of two interpreters or if no second interpreter is available, allow the interpreter to have frequent breaks to avoid interpreting fatigue, ensure accuracy, and avoid subsequent errors.
- Only allow an LEP or D/HH/DB person to waive his or her right to the assistance of an interpreter if the waiver is understood, voluntary, and on the record. The waiver of an interpreter may be rejected by the court or later revoked by the person.
- Require interpreters to provide sight translations for documents related to the court proceedings and prohibit them from providing legal advice to LEP or D/HH/DB individuals.
- Provide sign language interpreters for jurors who are D/HH/DB when such persons are called and selected for jury service.

3. **Calendaring and Scheduling of Interpreters for In-court and Out-of-court Contacts**

In order to provide high quality language access services in an efficient and timely manner, the following practices are employed:

- Batching of matters for which an interpreter for a specific language is needed so long as this does not cause unnecessary delays in access and loss of remedies available to litigants;
- Coordinating calendars so an interpreter may be available for several matters in the same court location on the same day;
- Establishing systems so that an interpreter coordinator can easily dispatch an interpreter from one court location to another, or one courtroom to another, efficiently;
- Coordinating the use of interpreters so that when an interpreter is not busy in a courtroom proceeding he or she may be available in person or telephonically to assist in other court-managed services; and
- Identifying interpreters and agencies available by telephone to assist in non-evidentiary proceedings or other court programs.

4. **Remote Interpreting**

For hearings where a certified or qualified interpreter is unavailable in person, the judicial officer may authorize in-court use of telephonic interpreting provided by credentialed interpreters and agencies, including the Language Line. Telephonic interpreting will be a last resort for courtroom proceedings.

The court requires training for staff on telephonic interpreting and how to use the technology.

B. **Language Services outside the Courtroom**

Reasonable steps are taken to ensure that LEP or D/HH/DB individuals have meaningful access to services outside the courtroom. It is the practice of the court to provide interpreters for court-managed services, programs and operations consistent with state and federal language access mandates. In compliance with such mandates, the court shall provide language access services at:

- Alternative dispute resolution programs

- Anger management class
- CASA Programs
- Cashiers
- Diversion programs
- Guardians Ad Litem
- Information counters
- Intake or filing offices
- Juvenile detention
- Parenting classes
- Pro se clinics
- Probation offices
- Community programs
 - DV-MRT
 - Alive @ 25
 - Attitudinal Defensive Driving Course

The court, in compliance with federal and state civil rights laws and regulations, the court shall provide the most appropriate language access service for these programs and services, including qualified interpreters, bilingual staff, and translated materials and information. When the most appropriate language access service is the appointment of a qualified interpreter, the court shall follow the guidelines described for the appointment of interpreters.

As noted in the policy interpretation section earlier, chapter 2.42 RCW requires that courts provide interpreters for persons who are D/HH/DB when they are required to attend court ordered-programs or services. In addition to the provision of qualified interpreters in all proceedings where required, court's bilingual staff may assist with language needs outside of court proceedings. Bilingual staff shall be trained to understand their role, how it differs from the role of an interpreter, and that staff are only used for basic communications.

In the customer service setting, the Language Line telephonic interpreting service is utilized to assist LEP customers. Additionally, web-based translation services may be used by court staff in limited circumstances.

C. Translated Forms and Documents

Translating forms, documents, and electronic materials into non-English language is important so that LEP individuals have greater access to the courts' services. Judicial and court staff shall not use web-based applications or software to provide document translations for LEP individuals.

State forms which have been translated are available at www.courts.wa.gov/forms. Additional informational resources translated into Spanish include:

- A Guide to Washington State Courts / Guía de los Tribunales del Estado de Washington
- Self-Represented Persons in District Court / Personas que se representan a sí mismas en el Tribunal de Distrito
- Self-Represented Persons in Superior Court Civil Proceedings / Personas que se auto representan en procedimientos civiles en el Tribunal Superior
- An Introduction to Small Claims Court / Una Introducción Al Juzgado De Demandas De Cuantía Menor

- Domestic Violence Affects Us All/La Violencia Domestica Nos Afecta a Todos
- Snohomish County Superior Court Clerk’s Office Citizen Guide, Secretaria del Condado de Snohomish Guia del Ciudadano
- Petition for At Risk Youth and Child In Need of Services/Petición de Joven en Riesgo Niño n Necesidad de Services
- Advice of Rights form translated into Spanish
- Domestic Violence Affects Us All, *translated into Spanish, Arabic, Korean, Russian, and Vietnamese.*

The forms are available at the appropriate locations in its court system.

D. Providing Emergency Information to LEP Court Customers

In taking reasonable steps to ensure that LEP and D/HH/DB individuals have meaningful access to emergency information should an emergency situation arise, the court provides such information in the following ways:

- There are universally understood emergency signs located in the strategic places throughout the courthouse building.
- Emergency exits are clearly marked.

VI. TRAINING

The Snohomish County Court System is committed to providing training for all judicial and court staff members who come in contact with LEP and D/HH/DB individuals in order to ensure the successful delivery of language access services. The court will provide staff training on all requirements in this Language Access Plan. Additional training opportunities will include:

- Judicial CLEs via Conferences
- Role of an interpreter, modes of interpreting, and interpreter ethics and professional standards
- Cultural Awareness

Training efforts will include an initial training for new staff on the requirements of the current Language Access Plan and a periodic training for existing court personnel that addresses any revisions made to the plan.

Resources and information regarding language access services, policies and procedures, and tools for providing language assistance (such as bench cards, language identification guides, brochures, etc.) are available to all court staff and decision makers via the court’s Language Access Coordinator/Interpreter Coordinator and the Snohomish County Courts Interpreter Services webpage.

VII. COMPLAINT PROCESS FOR NON-COMPLIANCE

A. Complaints Against Local Court

This specific complaint process is designed to bring to the attention of the local court, and if necessary, the Commission, allegations filed by LEP or D/HH/DB parties that the local court is out of compliance with its Language Access Plan, any applicable federal statutes or regulations, state statutory provisions, such as chapters 2.42 or 2.43 RCW and/or any applicable state or local court rules. Under the law, a person may elect to file a grievance with

a specific agency of the Snohomish County Court System, a complaint with the Washington State Interpreter Commission, and/or the Department of Justice, at their discretion. This is an informal process whereby the Commission may be involved in providing consultation and guidance to LEP parties and local courts in resolving and removing barriers to language access services and resources.

LEP and D/HH/DB individuals are encouraged to first file a complaint with the local court using local court customer complaint filing procedures. The local court complaint rules are as follows:

1. LANGUAGE ASSISTANCE PLAN GRIEVANCE PROCEDURE

This Grievance Procedure is established to resolve allegations filed by Limited English Proficient (LEP) or deaf, hard of hearing, and deaf-blind (D/HH/DB) parties that the court is out of compliance with its own Language Access Plan (LAP).

The complaint shall be in writing and contain information about the alleged noncompliance. The written complaint shall be submitted as soon as possible, but no later than 30 calendar days after the alleged violation.

In order to assist Snohomish County in obtaining the necessary information for your complaint, please follow these steps:

Complete Snohomish County Court System LAP Complaint Grievance form (found on the Interpreter Services Web Page). Submit the form and any attachments to:

Snohomish County District Court
Court Administrator
3000 Rockefeller Ave, MS 508
Everett, WA 98201
425-388-3895
FAX: 425-388-6480
Email
SDCInterpreterSupport@snoco.org

Snohomish County Superior and Juvenile
Court
Assistant Administrator
3000 Rockefeller Ave, MS 502
Everett, WA 98201
425-388-3761
FAX: 425-388-3498
Email
SSCInterpretersSupport@snoco.org

Within 15 calendar days after receipt of the complaint, the designated court representative will respond in writing to the complainant. The response will explain the position of the Court and may offer options for substantive resolution of the complaint. Subsequent to the written response, the complainant may appeal the decision within 15 calendar days after receipt of the response to the Presiding Judge, who will respond within 15 calendar days in writing to the complainant.

Should the complainant not be satisfied with the Presiding Judge's response, the complainant shall be advised of their right to file a complaint with the Washington State Interpreter Commission and/or U.S. Department of Justice Civil Rights Division.

Washington State Interpreter
Commission
c/o Interpreter Commission Staff
Administrative Office of the Courts
PO Box 41170
Olympia, WA 98504-1170
360-350-5373

U.S. Department of Justice
950 Pennsylvania Avenue NW
Civil Rights Division
Disability Rights Section 1425 NYAV
Washington, DC 20530
FAX: (202) 307-1197
Online: www.ada.gov

2. **Complaint Filed with the Court Interpreter Commission**

Except in extraordinary circumstances, the complaint must be filed with the Commission by an aggrieved party within 60 days from the date of the events on which the complaint is based.

Within 3 business days of the receipt of the complaint against a local court, Commission staff will inform complainant, using the contact information provided by complainant, of their option to file their complaint with the Department of Justice and of the need to file such complaint within 180 days from the date of the alleged discrimination.

- a. Complaints filed with the Court or the AOC must be in writing and must be signed. The complaint must include the following information:
 - 1) A clear and brief description of the complaint and any evidence upon which the allegation is based, with relevant supporting documentation. The description and supporting evidence should include relevant facts that support the complaint that the court did not provide language access services;
 - 2) If possible, the complaint should identify the section(s) of the court's plan, statutes or regulations alleged to have been violated and the time frame in which the lack of compliance is alleged to have occurred;
 - 3) Disclosure of any other channels the complainant is pursuing, including legal action (optional); and
 - 4) A statement authorizing the Commission to send a copy of the complaint to the court that is the subject of the complaint.

Complaints filed with the Interpreter Commission should be sent to:

Washington State Interpreter Commission
c/o Interpreter Commission Staff
Administrative Office of the Courts
PO Box 41170
Olympia, WA 98504-1170.

Or by contacting Robert W. Lichtenberg at 360-350-5373 by telephone or via email to Robert.Lichtenberg@courts.wa.gov

b. **Interpreter Commission Complaint Review**

- 1) The Commission shall determine whether the complaint alleges facts that raise issues relating to the court's compliance with its LAP, federal civil rights laws, chapters 2.42 and/or 2.43 RCW or court rules. This determination shall be made within 10 business days of receiving the complaint. The Commission may request additional information from the complainant if appropriate. If the Commission

concludes that the complaint does not raise issues relating compliance with the LAP, Title VI of the Civil Rights Act, chapters 2.42 and/or 2.43 RCW, the matter will be closed and the complainant will be notified of the decision.

- 2) If the Commission determines that the complaint may raise possible compliance issues, the complaint shall be sent to the court and a response requested. The Commission ordinarily will request the presiding judge of the court or their designee to respond within 30 days.
- 3) If the response from the court establishes that the court is not out of compliance with respect to the matters raised in the complaint, the Commission will close the matter.
- 4) If the court's response does not clearly establish that it is operating in compliance with the matters raised by the complaint, the Commission may appoint a fact-finder to investigate the issues raised by the complaint and to report on the court's response, if necessary. The complaint, the court's response, and fact-finder's report, if any, shall be referred to the Commission for any further action deemed necessary by the Commission.
- 5) The person making the complaint will be notified promptly regarding the conclusion of the Commission's review.

VIII. PUBLIC NOTIFICATION AND EVALUATION OF LAP

A. LAP Approval & Notification

Snohomish County Court System LAP has been approved by the Superior Court bench and Court Administrator, the District Court Presiding Judge and Court Administrator, and the County Clerk, and a copy has been forwarded to Washington State Administrative Office of the Courts' Interpreter Program Coordinator. Any revisions to the plan are to be submitted to the Presiding Judges, Court Administrators and County Clerk for consideration and approval, and then forwarded to the Interpreter Program Coordinator. Copies of Snohomish County Court System LAP shall be provided upon request. In addition, the court shall post its LAP on its own website at: <https://snohomishcountywa.gov/575/Interpreter-Services>
<https://snohomishcountywa.gov/1436/Interpreter-Services>

B. Outreach and Communication of Plan

In efforts to inform the public of the existence of the LAP, the court will collaborate with local bar associations, justice partners and other relevant organizations to ensure distribution of information. Feedback garnered will be taken into account at the periodic evaluation of the protocol.

C. Periodic Evaluation of the LAP

A periodic needs assessment to determine whether changes to the LAP are needed will be conducted. Feedback from stakeholders, including LEP and D/HH/DB persons, attorneys, and the public will be taken into account during the periodic review.

This assessment will be done by reviewing various areas in which the court provides language access services, taking into consideration, at a minimum, the number of interpreters requested by language in the courts and the identification of emerging changes in the languages spoken or signed within the court's local population as identified by any informational means or by other methods. Elements of the assessment evaluation shall include:

- Number of LEP or D/HH/DB persons requesting court interpreters;
- Assessment of current language needs to determine if additional services or translated materials should be provided;
- Assessing whether staff members adequately understand LAP policies and procedures and how to carry them out;
- Incorporating feedback from LEP, deaf and hearing impaired communities around the state; and
- Identification of challenges or trends your court is experiencing with providing language access services.

Any revisions made to the plan will be communicated to all court personnel, and an updated version of the plan will be posted on the court’s web site. In addition, the Snohomish County Court System will submit to the Administrative Office of the Courts a copy of any updated information contained in this LAP within 60 days of its approval.

D. Ideas for Future Improvements in Language Access

The Snohomish County Court System will review the results of its periodic needs assessment and conduct the following activities:

Identify any challenges or trends your court is experiencing with providing language access services, sourcing of interpreters, document translation tasks, and website information that is accessible to LEP and D/HH/DB individuals.

Engage in collaborative efforts with other courts to improve and coordinate interpreter scheduling where interpreter resources are shared.

Identify and implement changes or improvements identified by your court to improve language access services that are within the scope of this LAP.

LAP Contact Person

State Contact

Robert Lichtenberg
 AOC Interpreter Program
 1206 Quince Street SE
 PO Box 41170
 Olympia, WA 98504-1170
Robert.Lichtenberg@courts.wa.gov
 (360) 350-5373

Snohomish County Superior Court

Interpreter Coordinator
 3000 Rockefeller Ave, M/S 502
 Everett, WA 98201
 425-388-3421
 Fax 425-388-3498
 Email: SSCInterpreterSupport@snoco.org

Snohomish County District Court

Interpreter Coordinator
 3000 Rockefeller Ave, M/S 508
 Everett, WA 98201
 425-388-3893
 Fax 425-388-6480
 Email: SDCInterpreterSupport@snoco.org

Snohomish County Juvenile Court

Interpreter Coordinator
 2801 10th Street, M/S 702
 Everett, WA 98201
 425-388-7960
 Fax 425-388-7853
 Email: SSCInterpreterSupport@snoco.org

The effective date of this LAP plan is May 9, 2018.

APPENDIX A

Court Interpreter Bench Card



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. Describe what you see in this courtroom.
4. What is the purpose of your court hearing today?
5. **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?

Limited English Proficient (LEP) Persons: If the court is a direct or indirect recipient of federal funding, interpreters must be provided to LEP parties and witnesses at court-expense in all case types, including parents/guardians of minor crime victims and juvenile defendants. 42 U.S.C.A. §2000d; 28 C.F.R. §§42.104, 42.203(e); 67 Fed. Reg. §41455; Lau v. Nichols, 414 U.S. 563 (1974)

If the court is not a direct or indirect recipient of federal funding, interpreters must be provided to LEP persons at court-expense in all proceedings other than civil proceedings with non-indigent parties. RCW §2.43.040

Persons who are Deaf: Courts shall furnish interpreter services, assistive listening devices, or other communication methods where necessary, to afford an individual with a disability an equal opportunity

to participate in court services, programs or activities, 28 C.F.R. §35.160, unless the court can demonstrate that provision of such services “would result in a fundamental alteration in the nature of the service, program or activity, or in undue financial and administrative burdens.” 28 C.F.R. §35.164

Preference for Certified and Registered Language Interpreters

Foreign Language

(1) Courts must appoint an AOC court 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 by the court to (a) interpret accurately; (b) is capable of communicating effectively for the court and the person; and (c) has read, understands and will abide by the code of ethics for language interpreters established by court rules (RCW §2.43.030(2)).

Sign Language

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

Oath

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. Court interpreters who are certified or registered by the AOC or DSHS-ODHH are required to submit a signed, sworn oath to the AOC or DSHS-ODHH. Judges do not need to swear-in these interpreters if their names and AOC credentials are stated on the record. RCW §2.43.050(3). However, non-credentialed “Qualified” interpreters must be administered an oath.

Sample qualification questions for interpreters NOT AOC certified or registered:

1. What credentials do you have as an interpreter?
2. What is your native language? How did you learn _____?
3. Is your dialect compatible with Mr./Ms. _____?
4. Are there any cultural or community concerns between you and Mr./Ms. _____ that the court should be aware of?
5. What is your experience interpreting in court?
6. Have you ever interpreted for any of the people involved in this case?
7. Are you able to remain fair and impartial?
8. Are you familiar with the Code of Ethics for court interpreters? Please identify three of the primary tenets under GR 11.2.
9. To the parties: Does either party have any questions for the interpreter?

Interpreter oath for interpreters NOT AOC or DSHS-ODHH certified or registered:

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?

Sign Language: 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?

Clarifying the Interpreter's Role

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

To the speakers: 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.

To 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 (or sign) one at a time, loudly and/or clearly.
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. Pause (give time for the interpreter to catch up).

For additional assistance, please contact:

AOC Court Interpreter Program at:

360-705-5279 or review information at www.courts.wa.gov/interpreters

Text in shaded boxes are example scripts for reading into the record.

Court Interpreter Commission – August 2017

APPENDIX B

Questions to Ask/Consider When Qualifying an Interpreter

QUESTIONS TO ASK/CONSIDER WHEN QUALIFYING AN INTERPRETER

RCW 2.43.030 (2) states that:

If good cause is found for using an interpreter who is not certified or if a qualified interpreter is appointed, the appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

- a. Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and*
- b. Has read, understands, and will abide by the code of ethics for language interpreters established by court rules.*

Following is a list of questions recommended for judicial officers to use when qualifying a non-certified interpreter (including registered interpreters) for a hearing:

1. Are you certified by the state of Washington as a court interpreter? Any other state? Any other credentials or certification?
2. What is your native language?
3. How did you learn English and the target language?
4. Can you read in both languages?
5. Did you formally study either language in school? What was your primary language in school? Where and how long did you attend school?
6. Have you had an opportunity to speak with the litigant(s)? Do you need a few minutes? Were there any particular communication problems?
7. Are you familiar with the dialectical or idiomatic peculiarities of the witness/parties?
8. Have you ever interpreted in court before? Where? How often? For what types of hearings or cases?
9. Have you received any special training in court proceedings?
10. Describe simultaneous interpreting and your experience with it.
11. Describe consecutive interpreting and your experience with it.

12. Do you ever summarize statements while interpreting? Do you understand the law requires you to interpret everything said by all parties?
13. Have you read the Code of Conduct for Court Interpreters? Describe briefly the topics covered (see GR 11.1).
14. Are you a potential witness in this case?
15. Do you now or have you ever met any of the parties/witnesses? In what circumstances?
16. Do you have any other potential conflicts of interest?
17. Have you ever worked for any of the parties/witnesses? In what capacity?
18. Do you believe you can communicate with the non-English-speaking person/party; i.e., have you talked with the person already or do you need a few minutes to talk now?
19. Can you readily communicate with the non-English-speaking person?

APPENDIX C

Code of Conduct for Court Interpreters – GR 11.2

GR 11.2

CODE OF PROFESSIONAL RESPONSIBILITY for JUDICIAL INTERPRETERS

GR 11.2

CODE OF PROFESSIONAL RESPONSIBILITY FOR JUDICIARY INTERPRETERS

(a) PREAMBLE

As officers of the court, interpreters must maintain high standards of professional conduct that promote public trust and confidence in the administration of justice. The purpose of this code is to establish standards of conduct that interpreters must abide by in order to preserve the integrity and independence of the judicial system. It establishes core ethical principles of interpreter conduct in all aspects of their profession.

(b) SCOPE

The text of each rule is authoritative, while the comments provide important guidance in understanding these rules.

(c) APPLICABILITY

All interpreters serving in the judicial system must abide by this Code of Professional Responsibility.

(d) COMPLIANCE

Language interpreter who violates any of the provisions of this code are subject to disciplinary action and/or any other sanction that may be imposed by law.

(e) DEFINITIONS

- (1)** Source language – the original language of the writer or speaker.
- (2)** Target language – the language of the receiving reader or listener.
- (3)** Register – the degree of formality of language.
- (4)** Sight translation – the rendering of a written document directly into a spoken or signed language, not for purposed of producing a written document.

(f) CANONS

(1) ACCURACY

Interpreters must reproduce in the target language the closest natural equivalent of the source language message without altering it by means of addition, omission, or explanation.

Comment

(1)[1] Interpreters are obligated to conserve every element of information contained in the source and target languages. In doing so, they fulfill a twofold duty: (1) to ensure that legal proceedings reflect in English precisely what is said or signed by limited English proficient individuals and (2) individuals with limited English proficiency on an equal linguistic footing with those who are fully proficient in English.

(1)[2] Interpreters are required to apply their best skills and judgment to render, as faithfully as reasonably possible, the meaning of what is said or signed, preserving the style and register of speech, and the ambiguities and nuances of the source statement.

Everything must be interpreted, even if it appears nonresponsive, obscene, rambling, or incoherent. This includes false starts and apparent misstatements. However, verbatim, "word for word," or literal interpretation is inappropriate if it distorts the meaning of what is said or signed.

Spoken language interpreters should convey the speaker's tone without reenacting or mimicking the speaker's emotions or dramatic gestures. Sign language interpreters, on the other hand, should employ visual cues, including facial expressions, body language, and hand gestures, which are structural elements of sign languages.

(1)[3] Interpreters have the duty to immediately address any situation or condition that impedes their ability to accurately interpret. Examples include, but are not limited to, linguistic ambiguities, unfamiliar terms, inaudible speech, inability to see a speaker, background noise or distraction, and pace of speech.

(1)[4] The obligation to preserve accuracy includes the interpreter's duty to correct any substantive errors of interpretation as soon as possible. Interpreters should be prepared to accept feedback, including challenges to their interpretation, in a professional and impersonal manner.

(1)[5] Due to the difficulty of extemporaneously interpreting recordings (such as 911 calls), the practice of doing so in court should be discouraged at all times. Rather, proper transcripts and corresponding written translations should be prepared in advance. If ordered by the presiding officer to interpret a recording in court, interpreters should comply but state, on the record, that they cannot guarantee the accuracy of the interpretation.

(1)[6] Interpreters should refrain from sight translating documents for the record. Rather, written translations of documents offered in an evidentiary hearing should be prepared in advance. If ordered by the presiding officer to sight translate such documents, interpreters should comply but state, on the record, that they cannot guarantee the accuracy of the sight translation.

(1)[7] The ethical responsibility to interpret accurately includes being prepared for assignments. Interpreters are encouraged to obtain documents and other information necessary to familiarize themselves with the nature and purpose of an assignment. Prior preparation is

described below; it is especially important when testimony or documents include highly specialized terminology and subject matter.

Preparation may include but is not limited to:

(i) reviewing relevant documents, such as criminal complaints, police reports, briefs, witness lists, jury instructions, prior depositions, etc.;

(ii) asking interpreters previously involved in the case for information on language use or style; or

(iii) asking attorneys involved in the case for additional relevant information.

(2) COMPETENCE

Interpreters must not knowingly accept any assignment beyond their skill level. If at any point, before or during an assignment, they have reservations about their ability to satisfy an assignment competently, they must immediately disclose this to all parties and, if applicable, to the court.

In their professional capacity, interpreters must not give legal or other advice or engage in any activity that may be construed as a service other than interpreting or translating.

Comment

(2)[1] Interpreters are duty bound to inquire about the assignment in advance and assess their competence to render services.

(2)[2] Interpreters are not qualified to give written or oral counsel about a legal matter that could affect the rights and responsibilities of the person receiving the advice. GR 24 sets forth what constitutes the practice of law.

(2)[3] Interpreters should maintain and expand competence in their field through professional development. Professional development includes steady practice, professional training, ongoing education, terminology research, regular and frequent interaction with colleagues and specialists in related fields, and staying abreast of new technologies, current issues, laws, policies, rules, and regulations that affect their profession.

(2)[4] Interpreters should know and follow established protocols for delivering interpreting services. When speaking in English, interpreters should speak at a volume that enables them to be heard throughout the courtroom. They should interpret in the first person and refer to themselves in the third person.

(3) HONESTY AND INTEGRITY

Interpreters have an inviolable duty to provide honest services in which their behavior

upholds the values outlined in this code. They must accurately represent their credentials, training, and relevant experience. Interpreters must not engage in conduct that impedes their compliance with this code or allow another to induce or encourage them to violate the law or this code.

Comment

(3)[1] It is essential that interpreters present a complete and truthful account of their credentials, training, and relevant experience prior to an assignment so that their ability to satisfy it competently can be fairly evaluated.

(4) IMPARTIALITY AND NEUTRALITY

Interpreters must faithfully render the source message without allowing their own views to interfere. They must refrain from conduct that may give an appearance of bias and must disclose any real or potential conflict of interest to all parties and the court, if applicable, as soon as they become aware of it.

Comment

(4)[1] Interpreters should strive for professional detachment. They should uphold impartiality by avoiding verbal and nonverbal displays of personal attitudes, prejudices, emotions, or opinions. Interpreters must faithfully render all statements, even those they find personally objectionable, without allowing their own views or opinions to interfere.

(4)[2] As officers of the court, interpreters serve the court and the public, regardless of whether publicly or privately retained. Interpreters must uphold neutrality by avoiding any behavior that creates the appearance of favoritism toward anyone. Interpreters should maintain professional relationships with persons using their services, discourage personal dependence on the interpreter, and avoid participation in the proceedings in any capacity other than providing interpreter services. During the course of the proceedings, interpreters should not converse with parties, witnesses, jurors, attorneys, or friends or relatives of any party, except in the discharge of their official functions.

(4)[3] Interpreters must not serve in any matter in which they have an interest, financial or otherwise, in the outcome, unless a specific exception is allowed by the judicial officer for good cause and noted on the record. Interpreters must not solicit or accept gifts or gratuities from any of the parties, even as a social courtesy, in order to maintain the appearance of neutrality. Interpreters must disclose to the parties and/or the court any circumstance that creates a potential conflict of interest, including but not limited to the following:

(i) the interpreter is a friend, associate, or relative of a party, witness, victim, or counsel;

(ii) the interpreter or the interpreter's friend, associate, or relative has a financial interest in the case at issue, a shared financial interest with a party to the proceeding, or any other interest that might be affected by the outcome of the case;

(iii) the interpreter has served in an investigative capacity for any party involved in the case;

(iv) the interpreter has previously been retained by a law enforcement agency to assist in the preparation of the criminal case at issue;

(v) the interpreter is an attorney in the case at issue; or

(vi) the interpreter has previously been retained for employment by one of the parties.

The existence of any one of the above-mentioned circumstances should be evaluated by the parties and the court but should not automatically disqualify an interpreter from providing services. If an actual or perceived conflict of interest exists, the appropriate authorities should determine whether it is appropriate for the interpreter to withdraw based on the totality of the circumstances.

(5) CONFIDENTIALITY. Interpreters must not divulge privileged or other confidential information obtained in their professional capacity. They must refrain from making any public statement on matters in which they serve.

Comment

(5)[1] Privileged communications take place within the context of a protected relationship, such as that between an attorney and client, a husband and wife, a priest and penitent, and a doctor and patient. The law often protects against forced disclosure of such conversations.

Interpreters are bound to maintain the confidentiality of all privileged communications.

(5)[2] Interpreters are also routinely privy to communications that, while not necessarily privileged by law, are conveyed in confidence. In order to preserve the integrity of the judicial process, interpreters have an ongoing duty to refrain from disclosing information obtained in their professional capacity. This duty is consistent with CJC 2.10.

[Adopted effective November 17, 1989. Original Rule 11.1 was renumbered as Rule 11.2 effective September 1, 2005; Amended effective April 26, 2018; December 18, 2018.]