

Resource Guide for Advocates & Attorneys on Interpretation Services for Domestic Violence, Sexual Assault, and Trafficking Victims

Updated 2016



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Introduction: Providing Meaningful Access

All survivors and victims of domestic violence, sexual assault, or trafficking navigate complex legal systems – those with limited English proficiency and those who are deaf or hard of hearing face additional challenges. Language access policies that implement the provision of spoken and sign language interpretation by professional, culturally competent interpreters are critical to ensuring equal access to safety and justice.

Interpreters fulfill a critical duty: they place individuals with Limited English Proficiency (LEP) on an equal footing with those who understand English. Systems relying on untrained interpreters discriminate against LEP victims¹ by failing to provide the same level of access they provide to English speakers. Qualified interpreters ensure that limited English proficient and Deaf individuals are able to access the same level of service as hearing English speakers. To ensure meaningful access, LEP and Deaf victims must have access to trained and competent spoken and sign language interpreters.

This Resource Guide from the Interpretation Technical Assistance and Resource Center focus on interpretation for domestic violence, sexual assault, or trafficking victims with limited English proficiency. This national project is an opportunity to build effective systems through collaboration and political will, identify and address problems early on, and be guided by clear strategies. *Resource Guide for Advocates & Attorneys on Interpretation Services for Domestic Violence, Sexual Assault, and Trafficking Victims* informs how advocacy, interpretation, and language access can be integrated.

A. Principles Governing Language Access

1. In accordance with Title VI and the Americans with Disabilities Act, recipients of federal financial aid are responsible for ensuring language access for limited English proficient and deaf or hard of hearing persons.
2. At all points of contact, services for victims of domestic violence, sexual assault, or trafficking with limited English proficiency should include bilingual advocates/staff that provide services in the victim's primary language *and* qualified interpreters.
3. Interpretation must be provided by qualified professional interpreters who adhere to

¹ We mostly use the term 'victims' (instead of survivors) because these guidelines address several systems contexts where this term is used, such as courts. We recognize, and agree, that in the contexts of advocacy, 'survivor' is the preferred term because it denotes empowerment.

ethical codes of conduct, are culturally competent, and have training on dynamics of domestic violence, sexual assault, or trafficking.

4. All legal and social service providers serving victims of domestic violence, sexual assault, or trafficking should be trained on advocating for language access, coordinating with systems for the provision of interpretation services, and working with interpreters.
5. Native-like proficiency in English and one or more foreign languages is a prerequisite for becoming a qualified interpreter, not the sole determining factor. Bilingual speakers, be they advocates, attorneys, law enforcement, court personnel or community members, untrained in interpretation should not serve or be asked to serve as interpreters, and systems should not rely on them to do so.
6. In all situations, reasonable efforts to locate and provide a professional interpreter must be made and only when all else fails and a delay will jeopardize a victim's safety, can an exception be made until a professional interpreter is obtained.
7. All advocates and attorneys should be trained on asserting their clients' rights to professional interpretation.
8. Bilingual advocates should also be trained on the modes and ethics of interpretation because they are all too often asked or pressured to interpret. If they are improperly called upon to interpret in court, they must attempt to decline and disclose their conflict of interest for the record.

B. Interpretation in Civil Court

The civil legal system is a significant arena for legal remedies for victims. Courts recognize the right to an interpreter in criminal cases, but states vary in recognizing the same rights in civil cases. Some states do not recognize this right in civil cases. Some states mandate that the court provide an interpreter in civil cases, but assign the costs to the litigant. Courts may provide interpreters at the state's expense in civil matters if the victim is indigent. Title VI requires all state courts receiving federal funds to provide interpreters at the state's expense in both criminal and civil cases.



A strong infrastructure for the provision of interpretation services must ensure access at all points of entry that victims seek services; take varied locations – remote, rural, urban, large metropolitan areas, reservations, etc., into account; and be coordinated across systems. Leadership from the courts, law enforcement, legal services professionals, interpreters, federal agencies, funders, state administrators, and victim service agencies have to demonstrate political will in advocating for and applying pressure to implement language access and systems change.

Interpretation is a skill acquired through extensive education, training, and experience. It requires native-like fluency in both English and the target language; knowing the mechanics of interpretation; having training on a range of topics associated with the profession; possessing a technical vocabulary; and adhering to a code of ethics emphasizing accuracy, proficiency, confidentiality and neutrality.

A. DEFINITIONS

1. BASIC TERMS

a. Interpretation

Interpretation is the process of orally rendering a spoken or signed communication from one language into another language.

b. Translation

Translation is converting written text from one language into written text in another language. 'Translation' is often misused to mean interpretation, but it is a written medium.

c. Language

The whole body of words and the systems for their use common to a people who are of the same community or nation, the same geographical areas, or the same cultural tradition.

d. Dialect

One of the subordinate forms or varieties of a language arising from local peculiarities of vocabulary, pronunciation, and idioms.

e. Accurate Interpretation

The process of orally rendering communication from one language into another language while preserving the same intent and meaning of the original discourse. Accurate interpretation does not mean 'word-for-word' interpretation, because words or phrases do not have exact equivalents in foreign languages. Word-for-word interpretation in idiomatic expressions, or in grammatical structures and vocabularies, would be nonsensical in the target language. Conceptual accuracy means rendering the same meaning in the natural form of the other language.

2. INTERPRETERS

a. Definition

An interpreter is a trained professional who is a neutral third party with the requisite bilingual skills, experienced in interpretation techniques, and knowledgeable in specialized content areas and technical terminology in order to effectively facilitate communication between two or more parties who do not share a common language.

b. Role

The interpreter is a conduit whose only role is to enable others to communicate.

c. An Interpreter Is...

- A conduit for communication
- A neutral third party with a single role (to interpret)
- A professional following codes and ethics
- Fluent in English and foreign language(s)
- Skilled in consecutive and simultaneous interpretation and sight translation
- Knowledgeable in content areas with specialized vocabulary
- Trained in modes, ethics, vocabulary, system protocols, legal proceedings, etc.
- Continually maintaining and improving skills through continuing education

d. An Interpreter Is Not...

- A bilingual advocate
- A bilingual community member
- A bilingual staff person with other duties

Example: Idioms

- **In English:** Being under the gun.
- True meaning: Being under pressure.
- **In Korean:** 당근이지 (dang-geun e-jee)
- Literal meaning: It's a carrot.
- True meaning: Of course, it's obvious.
- **In French:** Avoir les dents longues.
- Literal meaning: To have long teeth.
- True meaning: To be ambitious.
- **In Chinese:** 杯弓蛇影 (bēi gōng shé yǐng/būi gōng sèh yíng)
- Literal meaning: Seeing the reflection of a bow in a cup and thinking it's a snake.
- True meaning: Worrying about things that aren't there.

Example:

Conceptual Accuracy*

- **In Spanish:** Tengo sueño; "I have sleep"
- **In Aguaruna (Peru):** Kangjang pujawai; "My sleep lives"
- **In English:** "I am sleepy"

* Example provided by Martha Cohen

- A stakeholder or advisor having two or more roles
- A family member, child, or friend (of either party)
- Someone struggling to understand either language
- Someone with the role of setting a client at ease
- A dictionary or a manual to explain unfamiliar meanings or procedures
- A cultural expert, an anthropologist, sociologist, psychologist, linguist
- An expert witness

3. IN-PERSON, TELEPHONIC AND VIDEO INTERPRETATION

In-person interpretation is the preferred method of delivering interpretation services.

a. In-Person Interpretation

- The interpreter and all parties are on-site together.
- The interpreter is seated to the side of and slightly behind the LEP individual, facing the person conducting the interview.

b. Telephonic Interpretation

- The interpreter is off-site, connected by a phone line to conversation between two parties, and interprets over the phone.
- Courts may use specialized equipment, including headsets and two telephone lines. One phone line is used to allow the interpreter to hear what is being said in the courtroom and to address the court. The second line is used by the interpreter to interpret communications between the LEP person and her/his attorney.

c. Video Interpretation

- Cameras or webcams in the courtroom are connected by phone or internet to an off-site interpreter. The interpreter receives both video and audio through the equipment.
- Depending on the need of the parties, video remote interpretation can be facilitated by using a webcam.

B. MODES OF INTERPRETATION

Three modes of interpretation: consecutive, simultaneous, and sight translation are used for accurate and complete communication.

1. SIMULTANEOUS INTERPRETATION

- **Definition:** The process of orally rendering one language into another language virtually at the same time that the speaker is speaking with only a very short lag time.
- **Example:** Most of us associate this with interpreters at the United Nations simultaneously (and speedily) interpreting a speech into the source or target language that listeners hear through their headsets.

2. CONSECUTIVE INTERPRETATION

- **Definition:** The process of orally rendering one language into another language after the speaker has completed a statement or question and pauses. The interpreter then renders that statement into the other language.
- **Example:** Typically seen in court when witness testimony is being interpreted.

3. SIGHT TRANSLATION

- **Definition:** The rendering of material written in one language, completely and accurately into spoken speech in another language.
- **Example:** An Arabic interpreter is handed a marriage certificate and orally provides a sight translation of what is stated on the document.

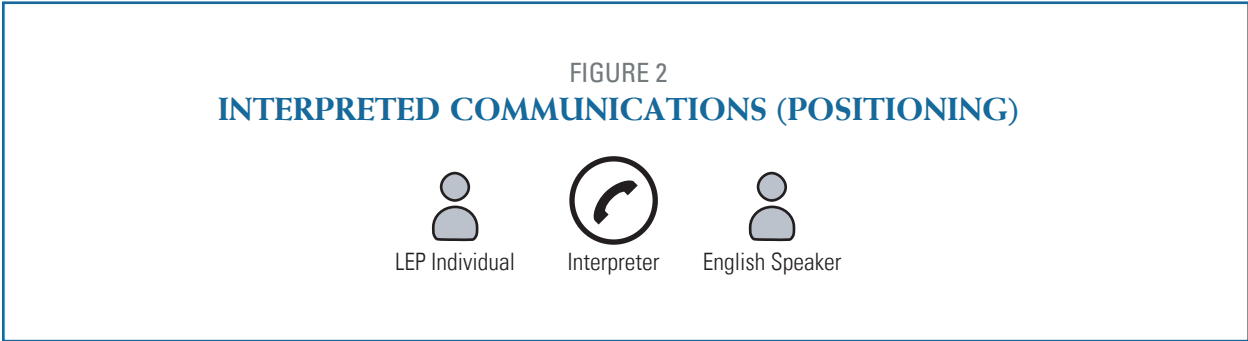
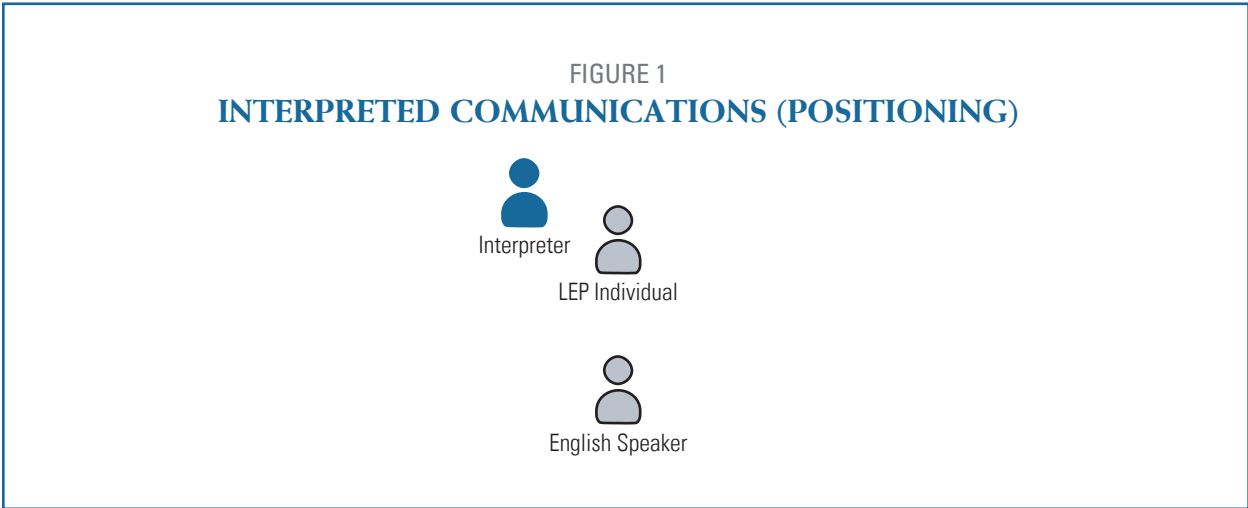
4. SUMMARIZING IS NOT INTERPRETATION

- **Definition:** Summarizing is when the bilingual individual only communicates parts of the statements made by the English speaker and LEP individual.
- Summarizing should not be used in any setting when the information the LEP individual is trying to convey may be important. The prohibition against summarizing is not restricted just to legal or medical settings, but is determined by the importance of the communication.
- **Example:** A lawyer asks: "Please describe your history of domestic violence, when it first started, the nature of the abuse and the injuries you sustained as a result." The bilingual speaker summarizes: "She wants to know about the kind of domestic violence in your life and how long it's been happening." This is not interpretation.

C. INTERPRETATION

1. INTERPRETATION SETTINGS²

The interpreter is a conduit for communication for limited English proficient victims and the systems they encounter. Victims require interpretation services in a variety of areas, including but not limited to: attorney-client interviews, shelter intake, supervised visitation, group meetings, and law enforcement interviews. Interpretation can be done in an office, over the phone, at home, in a shelter, or a courthouse hallway. Interpretation services must be provided by qualified interpreters to ensure accuracy, neutrality and very importantly, to preserve privilege.



² Interpretation in business, political, medical, etc., settings is not discussed in these guidelines.

2. COURT INTERPRETATION FOR INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY

The court interpreter for sign or spoken language is a neutral officer of the court whose duty is to the judicial process, not to individuals in the court. It is the court's responsibility to be understood and to understand and therefore to obtain and hire a certified or qualified interpreter to interpret court proceedings and ensure a complete, accurate and neutral record for later review.³ Judicial Benchcards inform judges about the use of interpreters in their courtrooms.⁴

a. Proceedings Interpretation

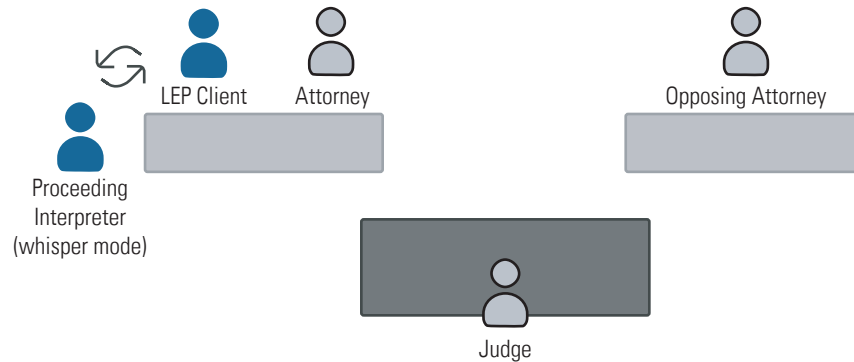
- Proceedings interpretation is for a non-English speaking litigant (in civil cases) or defendant (in criminal cases) in order to make the litigant “present” and able to participate effectively during the proceeding.
- This interpreting function is ordinarily performed in the simultaneous mode.⁵
- The interpreter's speech is always in the foreign language, in whisper mode (not out loud) to the litigant, and is not part of the record of proceedings.
- The court should appoint two interpreters for proceedings lasting more than two hours so interpreters can alternate every 20-30 minutes to avoid mental fatigue.
- *Proceedings Interpretation for One LEP Party:* The interpreter is seated with the LEP party (litigant or defendant), at counsel's table, and:
 1. Interprets everything said in court in whisper mode to LEP party;
 2. Interprets LEP party's testimony out loud to entire court;
 3. Interprets communications between attorney and LEP party which are protected by attorney-client privilege in whisper mode. A bilingual attorney and LEP client can communicate with each other without an interpreter.

3 Isabel Framer, Personal communication, July 26, 2009

4 <http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/accessfair&CISOPTR=103>

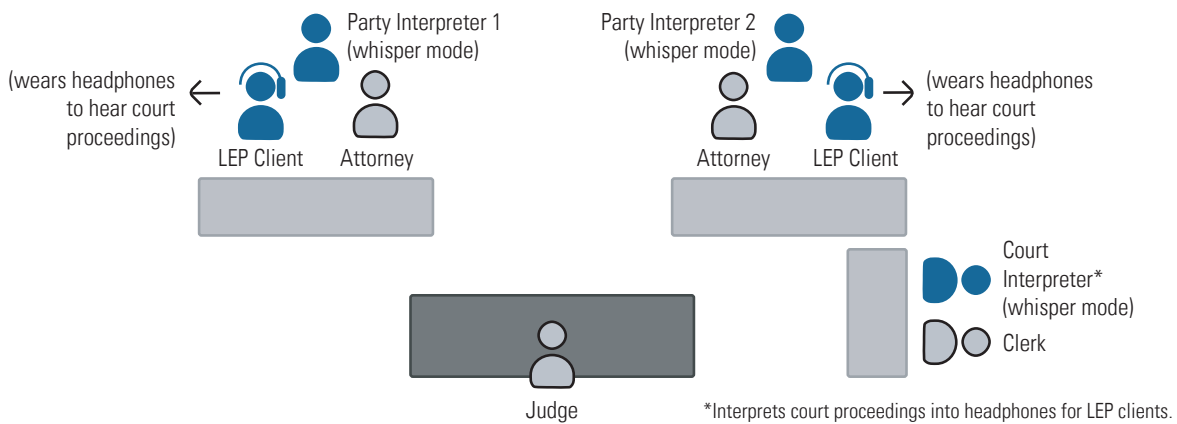
5 National Center for State Courts (NCSC) (n.d.) *Court Interpretation: Model Guide for Policy & Practices in the State Courts*. Chapter 2, pp. 33-34. <http://cdm16501.contentdm.oclc.org/cdm/singleitem/collection/accessfair/id/168/rec/33>

FIGURE 3
PROCEEDINGS INTERPRETATION FOR ONE LEP PARTY



- *Proceedings Interpretation for Two LEP Parties:* When there are two LEP defendants (in criminal cases) or an LEP litigant/petitioner and an LEP respondent (in civil cases), ideally, there are 3 interpreters.
 1. Both LEP individuals listen on headphones to the proceedings interpreters.
 2. There is an interpreter for each of the parties to interpret attorney-client communication in whisper mode.
 3. One interpreter sits with either the litigant or defendant during the entire proceedings, while the other two alternate between court proceeding and party interpretation.

FIGURE 4
PROCEEDINGS INTERPRETATION FOR TWO LEP PARTIES



- Realistically, a lack of financial resources and a lack of multiple certified or qualified interpreters make this difficult.
 1. One alternative (absent a bilingual attorney) is for the attorney to have their bilingual assistant with them only for the purpose of consulting with their client during the proceedings.
 2. A second possibility is that one proceedings interpreter sits near the litigant's attorney and the defendant's attorney so that when either one needs to consult with their attorney, the interpreter is available for either party while the other interpreter is interpreting the proceedings. Both litigant and defendant are still listening to the proceedings interpreter via headphones.⁶

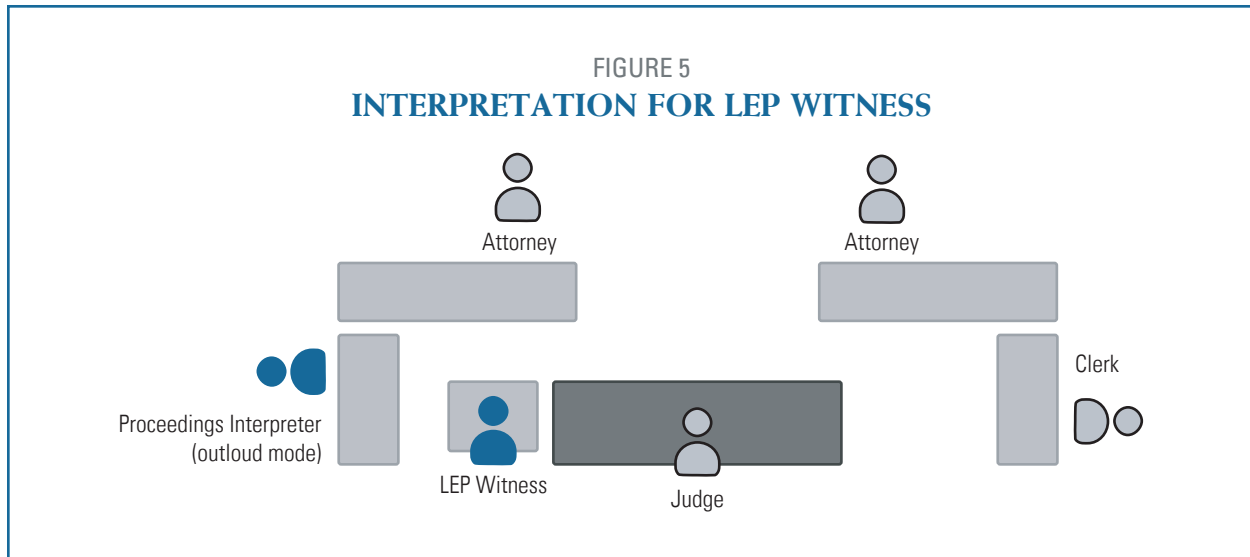
b. Witness Interpretation

- Witness interpretation is interpretation during witness testimony given by an LEP witness for the purpose of presenting evidence to the court.
- This interpreting function is performed in the consecutive mode; the English language portions of the interpretation are part of the record of the proceeding.⁷
- The interpreter interpreting witness testimony interprets all questions and answers, out loud, in both English and the foreign language, so that the litigant (LEP or English speaking) and defendant (LEP or English speaking), officers of the court and jury can hear them. This portion of the proceedings, i.e. the LEP witness testimony, is heard by all English and non-English-speakers in the court.
- Whilst witness interpreters are interpreting, there is no need for the proceedings interpreters to interpret for the LEP litigant or LEP defendant.⁸

6 Isabel Frammer, Personal communication, July 26, 2009

7 National Center for State Courts (NCSC) (n.d.) *Court Interpretation: Model Guide for Policy & Practices in the State Courts*. Chapter 2, pp. 33-34. <http://cdm16501.contentdm.oclc.org/cdm/singleitem/collection/accessfair/id/168/rec/33>

8 Isabel Frammer, Personal communication, July 26, 2009



3. COURT INTERPRETATION FOR DEAF AND HARD OF HEARING INDIVIDUALS

a. Proceedings Interpreters

- American Sign Language (ASL) interpreters who interpret court proceedings and witness testimony sign everything said by witnesses, plaintiffs, defendants, and their legal representatives.
- The proceedings interpreter does not interpret for either party in the case.

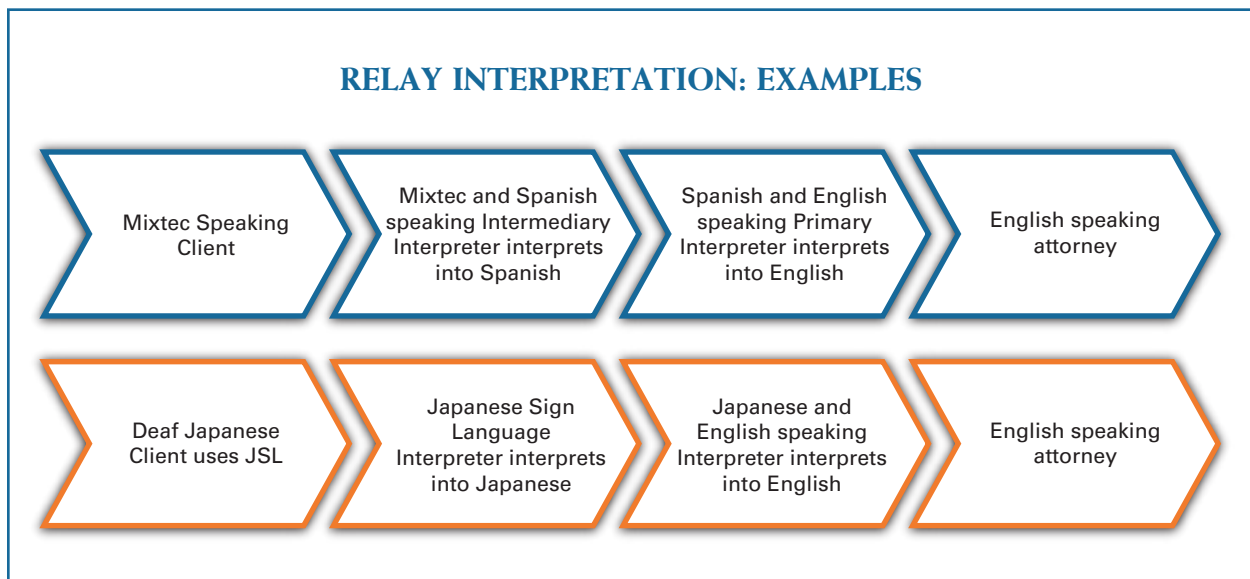
b. Party Interpreters

- ASL interpreter interprets for deaf individual.
- The interpreter is positioned across from the deaf individual and counsel to interpret communications between attorney and client.
- These communications are protected by attorney-client privilege.

4. RELAY OR INTERMEDIARY INTERPRETATION

- Relay interpretation involves using more than one interpreter to act as a conduit for spoken or sign languages beyond the understanding of a primary interpreter.
- Relay interpretation is used for certain languages lacking certified or qualified interpreters, rare languages, home signing, or foreign sign languages.

- During relay interpretation, at least two interpreters are used.
 1. An interpreter (called the 'intermediary' interpreter) interprets from one foreign language (e.g., Mixtec) to a second foreign language (e.g., Spanish).
 2. A qualified interpreter (referred to as the 'primary' interpreter) then interprets from the second foreign language (in this example, Spanish) into English.
- Intermediary interpreters must work with professional primary interpreters.
- Additional time should be budgeted for relay interpretation, depending on how many additional interpreters there are.



D. TRANSLATION

- Translation is converting written text from one language into written text in another language.
- When possible a certified translator should be used. An interpreter may not have the written skills necessary to translate competently.
- The American Translators Association is a professional association of translators and interpreters that certifies translators.⁹
- The term for translating American Sign Language is glossing.

⁹ <http://www.atanet.org>

A. Laws Governing Access for Individuals with Limited English Proficiency

1. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Title VI of the Civil Rights Act ensures language access for individuals with limited English proficiency. Pursuant to Title VI's prohibition against discrimination based on race, color, or national origin, organizations receiving federal financial assistance are required to develop and implement policies that ensure meaningful access for limited English proficient persons to their programs and activities.

Victims of domestic violence, sexual assault, or trafficking receive services through programs funded by the Department of Health and Human Services and the Department of Justice (DOJ).

Organizations may receive federal funds directly or indirectly, through grants, contracts or subcontracts that may be dispersed by federal, state, county, or city authorities.

When a program receiving federal funding is not providing meaningful access to LEP individuals, an administrative complaint may be filed with the U.S. Department of Justice, Office of Coordination and Review.¹⁰ Private individuals may file a complaint with the federal department that is the source of funding for an agency violating Title VI. A violation of Title VI may result in the loss of funding, or compliance to federal regulations.

The Department of Justice issued a language access guidance letter to State Court Chief Justices and State Court Administrators clarifying the courts obligation to provide language access to LEP individuals. The letter stated that courts are required to provide:

Federal guidances represent a significant shift from previous positions where the onus was on the non-English-speaker to be understood; now service providers are responsible for ensuring access. The burden of communication was shifted from victim to provider.

10 <http://www.usdoj.gov/crt/cor/complaint.php>

- Interpreters at no cost for LEP persons in all court and court-annexed proceedings, including civil, criminal, or administrative, including those presided over by non-judges;
- Meaningful access to LEP persons to court functions that are conducted outside the courtroom including but not limited to information counters, intake or filing offices, cashiers, records rooms, sheriff's offices, probation and parole offices, alternative dispute resolution programs, *pro se* clinics, criminal diversion programs, anger management classes, and detention facilities;
- Interpreters or bilingual staff to ensure that LEP persons are able to communicate effectively with court appointed or court supervised personnel to include criminal defense counsel, child advocates, guardians ad litem, court psychologists, probation officers, doctors, trustees, and other such individuals who are employed, paid, or supervised by the courts.¹¹

2. EXECUTIVE ORDER 13166

This order requires federal agencies that provide federal financial assistance to issue guidances explaining the obligations of recipients to ensure meaningful access by limited English proficient persons to their federally assisted programs.¹²

3. DEPT. OF JUSTICE GUIDANCE TO FEDERAL FINANCIAL ASSISTANCE RECIPIENTS REGARDING TITLE VI PROHIBITION AGAINST NATIONAL ORIGIN DISCRIMINATION AFFECTING LIMITED ENGLISH PROFICIENT PERSONS

This guidance further explains EO 13166 and how grant recipients can comply with Title VI and provide LEP individuals meaningful access to a grant recipient's programs and activities. Policies dealing with interpretation services in legal, law enforcement and quasi-judicial settings are in Appendix A of the guidance.¹³

The guidance requires all federally supported entities to take reasonable steps to provide meaningful access to LEP persons and identifies four factors used to determine what steps are required to ensure compliance:

- a. The **number** or proportion of limited English proficient persons in the eligible service population;
- b. The **frequency** with which these limited English proficient persons come into contact with the program;
- c. The **importance** of the benefit or service to the limited English person; and
- d. The **resources** available and costs to the recipient of federal financial assistance.

¹¹ Language Access Guidance Letter to State Courts from Assistant Attorney General Thomas E. Perez, August 16, 2010. http://www.lep.gov/final_courts_ltr_081610.pdf.

¹² http://www.lep.gov/resources/tips_and_tools-9-21-04.htm

¹³ <http://www.usdoj.gov/crt/cor/lep/DOJFinLEPFRJun182002.php>

B. Laws Governing Access for Deaf and Hard of Hearing Individuals

There are some similarities in the issues and challenges for advocates serving individuals with Limited English Proficiency and those serving individuals who are deaf and hard of hearing. However, there are differences in the extent to which laws governing language access for deaf and hard of hearing have been implemented. These policies and procedures are an excellent model for spoken language access.

1. AMERICANS WITH DISABILITIES ACT (ADA)

Under the Americans with Disabilities Act and associated regulations, public accommodations and state entities are required to provide American Sign Language (ASL) interpreters, and other auxiliary aids, to ensure effective communication with deaf and hard of hearing individuals. Deference must be given to the deaf or hard of hearing individual's choice of what auxiliary aid she or he needs.¹⁴

2. SECTION 504 OF THE REHABILITATION ACT

Section 504 requires recipients of Federal financial assistance to provide deaf and hard of hearing individuals the opportunity to participate in and benefit from the activities or services provided by the recipient.

“No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.”¹⁵

An individual may file a complaint with the appropriate Federal Agency or bring a private lawsuit for violations of the ADA and Section 504.¹⁶

14 28 C.F.R. S28 C.F.R. S35.160 (b)(2) (NAD Law Center, 2002).

15 29 U.S.C. § 794(a) (2007)

16 <http://www.ada.gov/cguide.htm#anchor62335>

QUESTIONS TO ANSWER WHEN DEVELOPING A LANGUAGE ACCESS PLAN

Developing a Language Access Plan

1. Who is in charge?
2. Who are you serving?
3. What will be done?
4. Who pays for language services?
5. How will you provide notice?
6. How will you train staff?
7. How will you monitor and update policies and procedures?
8. Who can you collaborate with?

Assessing Agency Resources and Needs

1. Who is your LEP population?
2. How does the LEP population come into contact with your organization?
3. Are LEP clients seeking your services?
4. How do you communicate with your LEP populations?
5. What trainings for staff do you have in place?
6. What are your policies and procedures?
 - a. Bilingual staff
 - b. Interpreters
 - c. Referral
 - d. Translation of documents

RESOURCES: DEVELOPING A LANGUAGE ACCESS PLAN

American Bar Association’s Commission on Domestic Violence: Materials on integrating interpretation in civil representation of domestic and sexual violence victims. http://www.abanet.org/domviol/institute/integration_of_interpreters.html

Department of Justice, Office of Civil Rights, Executive Order 13166 Limited English Proficiency Resource Document: Tips and Tools from the Field: Overview and tips and tools for law enforcement, domestic violence specialists and service providers, 911 call centers, courts, federally conducted programs and activities. http://www.lep.gov/resources/tips_and_tools-9-21-04.htm

Department of Justice, Office of Coordination and Review: File complaints for Title VI violations <http://www.justice.gov/crt/how-file-complaint>

Legal Services Corporation: Guidance to LSC programs on training, procedures and policies. http://lri.lsc.gov/sites/default/files/LRI/pdf/Program_Letter_LEP_Guidance.pdf

National Association of Judiciary Interpreters and Translators (NAJIT): Professional certification, training, policy advocacy, how to work with interpreters. <http://www.najit.org>

National Center on Immigrant Integration Policy: Policy, research, technical assistance, training and an electronic resource center on immigrant integration issues with a special focus on state and local policies and data. http://www.migrationinformation.org/integration/language_portal

National Consortium of State Courts: Materials on court interpretation including tests for certifying interpreters and Model Guide for Policy & Practice in State Courts. <http://www.ncsc.org/Education-and-Careers/State-Interpreter-Certification.aspx> and <http://cdm16501.contentdm.oclc.org/cdm/ref/collection/accessfair/id/162>

Ohio State, Dept of Public Safety/Office of Criminal Justice Services: Training materials for law enforcement and judges. <http://www.ocjs.ohio.gov/LEPResources.htm>

A. Types of Qualified Interpreters

1. QUALIFIED INTERPRETERS

- a. Qualified interpreters have been identified by a regulating body as fit to serve as interpreters. Depending on the state, a qualified interpreter has met the minimum requirements to interpret, this may mean certification, or a screening conducted by the regulating body including questions about language skill, tests, and education.
- b. Qualification standards for interpreters vary from state to state.
- c. Qualified interpreters have the requisite knowledge and skills to serve as an interpreter in a specific setting – court, medical, educational, or administrative hearing.¹⁷

2. CERTIFIED COURT INTERPRETERS

- a. Certified court interpreters have demonstrated the requisite knowledge, skills, and abilities needed to interpret competently in the court and are qualified by the certifying entity to work as a court interpreter.
- b. A certified interpreter has successfully passed an interpreter certification test administered by an interpreter certification body.
- c. The certification test evaluates the interpreter’s language fluency in both English and the interpreted language; and the ability to work in the three modes of interpretation: simultaneous, consecutive, and sight translation.
- d. Court interpreters can only be certified in languages for which examinations have been devised.
- e. Court interpreter certification exams are available in: American Sign Language, Arabic, Armenian (Eastern), Armenian (Western), Bosnian/Serbian/Croatian, Cantonese, French, Greek, Haitian-Creole, Hmong, Ilocano, Italian, Japanese, Khmer, Korean, Laotian, Mandarin, Marshallese, Polish, Portuguese, Russian, Somali, Spanish, Tagalog, Turkish, and Vietnamese. The availability of these tests varies from state to state.

¹⁷ So, for example, a medical interpreter is not qualified to interpret in court, and vice versa.

- f. Testing entities include, but are not limited to: the Administrative Office of the United States Courts (AOC), the National Association of Judiciary Interpreters and Translators (NAJIT), Registry of Interpreters for the Deaf, Inc. (RID), and licensing bodies.
- g. The National Center for State Courts (NCSC) provides court interpreter certification exams to its member states.

3. REGISTERED INTERPRETERS

- a. Registered interpreters have met state-established requirements to interpret in court and be listed on a state registry of court interpreters, but they have not successfully completed a court interpreter certification exam or there is no certification exam in the foreign language they interpret.
- b. Registered interpreters are interpreters in languages for which there is no certification exam.
- c. Registered interpreters are generally bi-lingual speakers who have had experience working in the court and have some, generally minimal training on interpretation modes, ethics and best practices.
- d. Registered interpreters are tested only on their English language ability and not on their fluency in the foreign language.
- e. Their proficiency in interpreting in English and in the foreign language is not tested.

4. PROVISIONALLY QUALIFIED INTERPRETERS

- a. Provisional qualification is granted on the spot to a bi-lingual speaker appointed to interpret.
- b. It is conferred by the court or may be conferred by court administrative personnel responsible for managing the court interpreter system.
- c. A provisionally qualified interpreter has not successfully passed a certification examination, or completed the registration process, and may or may not have interpretation training or experience.

Qualifying a court interpreter

Fluent in English and interpreted language

NO

Certified court interpreter in target language

YES

QUALIFIED

1. Fluent in English and the target language (4+ on the ILR Scale)
2. Training and experience in interpretation including knowledge of legal terminology
3. Able to interpret simultaneously or consecutively
4. No conflict of interest (No personal relationship with client, no bias against client e.g. opposed to divorce, or financial interest in case)
5. Is familiar with and agrees to comply with professional standards and code of conduct

NO

YES

STOP
Not Qualified

Interpretation training/court interpretation experience

NO

YES

NO

Can the interpreter use simultaneous or consecutive interpreting?

YES

Is there a conflict of interest?

YES

NO

STOP
Not Qualified

STOP
Not Qualified

Willing to comply with interpreter professional standards and code of conduct

NO

YES

STOP
Not Qualified

Note: Proceed with caution. If a non-certified interpreter is being used, ask the court for permission to record the proceeding to ensure the accuracy of the interpretation.

B. Knowledge, Skills, Abilities, Ethics and Responsibilities

Interpreters are bound by a code of ethics and responsibilities that regulate their services and the practice of their profession. The Code of Ethics and Professional Responsibility drawn up by the National Association of Judiciary Interpreters and Translators (NAJIT)¹⁸ reflect the standards adopted by the federal government and by many states for interpretation, and should be used by agencies and organizations that rely on interpreters to communicate with LEP individuals in all settings.

1. ACCURACY

a. NAJIT Code: Accuracy

Source-language speech should be faithfully rendered into the target language by conserving all the elements of the original message while accommodating the syntactic and semantic patterns of the target language. The rendition should sound natural in the target language, and there should be no distortion of the original message through addition or omission, explanation or paraphrasing. All hedges, false starts and repetitions should be conveyed; also, English words mixed into the other language should be retained, as should culturally-bound terms which have no direct equivalent in English, or which may have more than one meaning. The register, style and tone of the source language should be conserved.

Guessing should be avoided. Interpreters who do not hear or understand what a speaker has said should seek clarification. Interpreter errors should be corrected for the record as soon as possible.

Example: *“I don’t know, no, I don’t, uh, understand what, well, the doctor, or was it the admitting nurse...?, was telling, was telling my amma and my mother’s sister.”*

All hesitations, false starts, repetitions must be interpreted; the phrase ‘mother’s sister’ cannot be shortened to ‘aunt’; interpreter can repeat foreign word, but not assume or guess its meaning and seek clarification if necessary.

Example: *“Were you raped, forced to have sex against your will?”*

This question cannot be interpreted with phrases/words that are considered to be culturally sensitive (“Did he force you to go with him?”) or because the interpreter finds it culturally or personally inappropriate or disrespectful to bring up embarrassing material in such blunt language.

18 National Association of Judiciary Interpreters and Translators. (n.d.). Code of Ethics and Professional Responsibility. <http://www.najit.org/about/NAJITCodeofEthicsFINAL.pdf>

b. Commentary: Accuracy

- Interpreters must ensure that statements and discussions in the source language (English) are interpreted accurately for an LEP individual in the target language; and that information and discussions in the LEP individual's language are interpreted accurately for English speaking individuals.
- All statements, even if they are incoherent, rambling, obscene, etc., must be interpreted.
- In matters of sexual violence, advocates or community interpreters may hesitate to use sexually explicit terms thinking them to be culturally insensitive, and substitute colloquial expressions. This demonstrates inaccurate interpretation, not cultural competency on the part of the interpreter.

GUIDELINES FOR ADVOCATES: ACCURACY

1. Use the first person: e.g., "What time did you call the police?"
2. Do not use the 3rd person e.g., "Ask her when she called the police". If you do, that is how it will be interpreted.
3. Use plain English, avoid jargon, do not use acronyms.
4. Speak slowly and clearly with regular pauses.
5. Ask one question at a time.
6. Allow the interpreter to finish interpreting before speaking again.
7. Don't ask interpreter to explain or restate what is said.
8. Don't ask interpreter not to interpret something that was said.
9. Do not assume every challenge by an attorney to an interpreter is an interpretation error.
10. If you think the interpreter is editing, adding, subtracting, or summarizing remind the interpreter to repeat everything that is said.
11. If you're having trouble understanding the interpreter's English, ask for clarification. If you're still having problems, get a different interpreter.

2. IMPARTIALITY AND CONFLICTS OF INTEREST

a. NAJIT Code: Impartiality and Conflicts of Interest

Interpreters and translators are to remain impartial and neutral in proceedings where they serve, and must maintain the appearance of impartiality and neutrality, avoiding unnecessary contact with the parties. Interpreters and translators shall abstain from comment on matters in which they serve. Any real or potential conflict of interest shall be immediately disclosed to all parties as soon as the interpreter or translator becomes aware of such conflict of interest.

Example (lack of impartiality): An interpreter, for religious reasons, is opposed to divorce. While interpreting for a battered woman the interpreter advises her to go back to her husband to save the victim's family from the shame of divorce.

Example (conflict of interest): An interpreter has previously interpreted in an unrelated matter for the employer of the batterer.

b. Commentary: Impartiality and Conflicts of Interest

- There is a distinction between conflict of interest and impartiality – the responsibility to be neutral. If there is an actual conflict of interest, then another interpreter is needed.
- In small ethnic or geographic communities, there can be a higher likelihood of conflicts of interest because everyone knows everyone, there is only a small pool of target language speakers and/or there are not enough trained interpreters in that language.
- Extended family members of the victim and of the batterer should not be allowed to interpret, particularly in those communities where domestic violence is also perpetrated by in-laws and/or natal family members. In extended family networks, there are often relatives who may not immediately appear to be related to either party but could be related to both.
- Unqualified community interpreters cannot always be relied on for impartiality: they may feel entitled, inclined, pressured, or even be asked by victims to give their opinions and advice.
- When recruiting interpreters from small communities, the interpreter may know both the victim and abuser. Victims may, therefore, be unwilling to disclose details of the violence/assault to someone they know, or interpreters may wittingly or unwittingly disclose confidential information, or interpreters may be pressured to interpret favorably for one party by powerful community members.
- A qualified interpreter will immediately advise a provider when there is a potential or actual conflict of interest and withdraw from the assignment.
- The potential for gender bias, belief in traditional roles for women, and victim-blaming adversely affect an interpreter's impartiality, particularly in domestic violence, sexual assault, and trafficking cases.

- National Center for State Courts offers an important guideline: “If the interpreter is serving in a dual role and is also acting as a LEP victim’s advocate, or if the LEP individual develops a personal dependence on the interpreter, the interpreter should not accept any other interpreting assignments related to the case, including interpreting for the court or for any party in the case. Such advocacy and dependency creates a conflict of interest for the interpreter and the interpreter must reveal that conflict to other persons providing services to the LEP victim.”¹⁹

GUIDELINES FOR ADVOCATES: IMPARTIALITY AND CONFLICT OF INTEREST

1. Avoid conflict of interest by checking that interpreter and client do not know each other:
 - Advocate or attorney should check with client as soon as interpreter is assigned; or
 - Advocate or attorney should check with interpreter before the meeting begins.
2. If the client and interpreter know each other, another interpreter should be found to avoid any potential conflict of interest. If no other interpreter is available, determine if any potential conflict of interest would negatively affect your client’s interests and decision making process. (Examples of questions include: Does the interpreter know the abuser?)
3. If there is a conflict of interest a different interpreter should be used:
 - Inform the interpretation services agency that a different interpreter is needed; and
 - If appointed by the court, notify the judge and the court interpreter program so that a different interpreter can be appointed.
4. Advocates who become aware of a conflict of interest in the court can:
 - Inform attorneys for both sides of the conflict; or
 - Inform the bailiff if there are no attorneys, the bailiff will inform the judge.

19 The National Advisory Board of Serving LEP Battered Women: (n.d.). *Code of Professional Responsibility for Interpreters Serving Limited English Proficiency (LEP) Victims of Domestic Violence outside of the courtroom and judicial settings*. <http://niwaplibrary.wcl.american.edu/language-access/government-materials/CodeofResponsibilityforInterpreters.pdf/view>

5. The judge can assess the nature of the conflict and whether it will impede the interpreter's ability to interpret. (Examples of questions include: Does the interpreter have a financial interest in the case? Do the client's and interpreter's children attend the same school?) The judge can then make a decision about using that interpreter or not.
6. Pay attention to observations and clues (from the client, from conversations between interpreter and client, etc.) that the interpreter is not neutral and follow the steps in #2 above.
7. Inform system personnel providing services to the LEP victim if an individual interpreter cannot provide services because a conflict of interest was established by the court (this would be part of the public record).

3. CONFIDENTIALITY

a. NAJIT Code: Confidentiality

Privileged or confidential information acquired in the course of interpreting or preparing a translation shall not be disclosed by the interpreter without authorization.

Example: A volunteer interpreter is hired to interpret for the victim. The interpreter is friends with the batterer's brother and tells the brother that the victim is seeking a restraining order and the name of the shelter she is staying at.

Example: A lesbian victim of domestic violence is assigned an interpreter. The victim has not come out to her family. The interpreter is acquainted with the victim's family and outs the victim (and/or her abuser) to her family and other community members.

b. Commentary: Confidentiality

- Interpreters must not disclose any information on a case, particularly the names of the parties they are interpreting for, and even information that may be well known and/or is not considered confidential (e.g., victim's age was stated in a newspaper article).
- In domestic violence cases, interpreters must take particular care not to reveal information that jeopardizes a victim's safety or the location of a shelter and other service programs.
- Interpreters are bound to keep legally protected, privileged communications between attorney-client, doctor-patient, and advocate-client (applicable in some states) confidential.

c. Sample Interpreter’s Confidentiality Agreement

“I understand that I have been retained by (organization’s name) to provide interpretation. I agree to provide accurate interpretation for the client and for the attorney/advocate of everything that is said between the client and the attorney/advocate. I understand that everything that is said during all meetings, be they face-to-face or telephonic, between the parties, are confidential. I agree not to disclose any information about all meetings/calls to anyone, including the fact that these meetings/calls took place; and I agree to keep confidential the names of all individuals pertaining to the case.”

Interpreter’s signature and name / Date

Witness signature / Date

GUIDELINES FOR ADVOCATES: CONFIDENTIALITY

1. If an interpreter breaks confidentiality:
 - Take the appropriate steps to ensure your client’s safety.
 - If this is a court interpreter, notify the court of the breach.
 - If the interpreter is on a list or is certified, notify the appropriate agency and file a complaint.
2. Advocates should notify the attorney of the breach, so that the attorney can take steps to exclude the information should the batterer attempt to use the information against your client in court.
3. Attorney should notify the advocate of the breach, so that the advocate can take the appropriate steps to ensure the client’s safety.

4. LIMITATIONS OF PRACTICE

a. NAJIT Code: Limitations of Practice

Interpreters and translators shall limit their participation in those matters in which they serve to interpreting and translating, and shall not give advice to the parties or otherwise engage in activities that can be construed as the practice of law.

Example: An interpreter who is asked by a shelter worker to advise her client of her rights and agrees to do so is practicing outside the scope of the interpreter’s role.

Example: An interpreter offers the judge or custody mediator a ‘cultural’ explanation about the meaning of wedding gifts, who they traditionally belong to and/or revert to at divorce; or offers a linguistic explanation “*What that means in Hmong is...*”

b. Commentary: Limitations of Practice

- Some interpreters offer ‘cultural interpretation’ or explanations of cultural practices or beliefs – often reflective of the cultural biases in their larger ethnic community. This is outside the scope of practice.
- Interpreters are not anthropologists, lawyers, case workers, psychologists, or linguists. They should not volunteer commentary, be asked to comment or give an opinion on any matters, and they should refuse to do so if asked.

GUIDELINES FOR ADVOCATES: LIMITATIONS OF PRACTICE

1. Advocates should not ask interpreters to provide explanations, information, etc. because they ‘understand’ the client’s culture.
2. If an interpreter steps out of role, stop the interpretation and advise the interpreter to stay in role. If the interpreter continues to step out of role, stop the conversation and reschedule with a different interpreter.
3. If an interpreter steps out of role in the court, inform (a) attorneys, (b) court personnel and (c) interpretation services agency.

5. PROTOCOL AND DEMEANOR

a. NAJIT Code: Protocol and Demeanor

Court interpreters shall conduct themselves in a manner consistent with the standards and protocol of the Court, and shall perform their duties as unobtrusively as possible. Interpreters not appearing in court should be professional and adhere to interpreter ethics. Interpreters are to use the same grammatical person as the speaker. When it becomes necessary to assume a primary role in the communication, they must make it clear that they are speaking for themselves.

Example: If a witness or plaintiff is sobbing, the interpreter interprets the words, sighs, etc., but doesn’t mimic the sobbing.

Example: If the interpreter does not understand something or does not hear properly and asks for a clarification, the interpreter makes it clear that it is her/his request.

b. **Commentary: Protocol and Demeanor**

- Interpreters can initiate communication when they need to get a clarification, to correct an interpretation error, to consult a bilingual dictionary.
- The interpreter should use the 3rd person when s/he speaks, e.g., to seek clarification “The interpreter requests that...”

GUIDELINES FOR ADVOCATES: PROTOCOL AND Demeanor

1. Do not ask interpreters to provide sight translation of a form or other written materials.
2. Do not ask interpreters to explain procedures, forms, or services.
3. Do not ask interpreters to take someone they are interpreting for to an office, counter, or appointment.
4. Do not expect interpreter to console, set at ease, or reassure, an LEP client during difficult testimony or proceedings.

6. MAINTENANCE AND IMPROVEMENT OF SKILLS AND KNOWLEDGE

a. **NAJIT Code: Maintenance and Improvement of Skills and Knowledge**

Interpreters and translators shall strive to maintain and improve their interpreting and translation skills and knowledge.

b. **Commentary: Maintenance and Improvement of Skills and Knowledge**

- Skills improvement includes:
 - Increasing knowledge of languages interpreted.
 - Keeping up with changes in the way everyday language is used – learning new terms, slang, vernacular or regional phrases.
 - Attending professional workshops and meetings. Many interpreters work to keep improving their skills.
- Interpreters must stay informed about rules, policies, and statutes relating to the practice of interpretation.
- Preparation is important for interpreters in order to be familiar with technical, scientific and other terms that will be used during the session with the LEP individual.
- Protocols for regular debriefings, peer consultation and supervision for beginning interpreters to improve and maintain professional skills.

- In sexual assault, domestic violence, and trafficking cases, knowledge of the vocabulary, procedures, dynamics, and the potential impact of dealing with disturbing material is important. For example, minor victims of trafficking often refer to their pimp as “Daddy,” so the accurate meaning of the term needs to be understood. Using another example, there is a difference between the term child prostitute (used by the general public) and prostituted child (used by the anti-trafficking field).

GUIDELINES FOR ADVOCATES: MAINTAINING KNOWLEDGE AND SKILLS

1. Inform the interpreter in advance what the nature of the proceeding is, who is involved, special terminology or vocabulary that will be used, etc. so the interpreter is well prepared.
2. Let interpreter speak briefly to LEP person to size up their communicative style and needs (i.e., ‘register’); that way interpreter can make necessary adjustments to improve communication.
3. Train interpreters providing telephonic and in-person services about domestic violence, sexual violence, dating violence and trafficking, with particular attention to:
 - Terminology used in these fields (e.g., rape kit, intimate homicide)
 - Common acronyms (e.g., SANE = Sexual Assault Nurse Examiner) and procedures (e.g., civil standby)
 - Importance of precision and correct meaning because seemingly interchangeable terms will have different meanings (e.g., in Japanese, family violence refers to abuse by adult children of their parents, and domestic violence describes abuse by intimates/spouses.)

7. ACCURATE REPRESENTATION OF CREDENTIALS

a. NAJIT Code: Accurate Representation of Credentials

Interpreters and translators shall accurately represent their certifications, accreditations, training and pertinent experience.

Example: An advocate is reviewing the qualifications of an interpreter. The interpreter states that s/he is a certified interpreter. During the interview it becomes apparent that the interpreter has difficulty interpreting. After the interview it is discovered that the interpreter is a certified medical interpreter in a language (e.g., Urdu) other than the one needed (e.g., Hindi).

b. **Commentary: Accurate Representation of Credentials**

- There are several types of certifications, including: court, medical, educational, and administrative hearing.
- If the interpreter is certified, the interpreter's name should be on a list of certified interpreters maintained by the certifying body.
- Interpreters may or may not be certified in all the languages they are fluent to interpret in.

GUIDELINES FOR ADVOCATES: ACCURATE REPRESENTATION OF CREDENTIALS

1. Understand differences between qualified interpreters who are certified, registered and provisionally qualified.
2. If you have concerns or information about an interpreter's credentials, inform the attorneys, judge, bailiff, or court clerk.
3. Certified interpreters may be listed on the following websites:
 - **National Center for State Courts** lists the contacts for interpreter programs in its member state courts. These programs maintain lists of interpreters who have been certified by the state: <http://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/Resources-for-Program-Managers/LAP-Map/Map.aspx>
 - **National Association of Judiciary Interpreters and Translators:** <http://www.najit.org>
 - **American Translators Association:** <http://www.atanet.org/onlinedirectories>

8. IMPEDIMENTS TO COMPLIANCE

a. **NAJIT Code: Impediments to Compliance**

Interpreters and translators shall notify the attorney, advocate, or Court official of any circumstance or condition that impedes full compliance with any Canon of this Code, including interpreter fatigue, inability to hear, or inadequate knowledge of specialized terminology, and must decline assignments under conditions that make such compliance patently impossible.

Example: Interpreter who was a sexual assault victim herself may feel re-traumatized to interpret in such cases.

Example: In a cyber-stalking case, an interpreter does not have adequate knowledge of the topic, of relevant terminology and/or of the technologies used in stalking to interpret correctly; e.g., the interpreter is not able to interpret descriptions of spyware that record all keystrokes.

b. Commentary: Impediments to Compliance

- If possible, interpreters should inquire into the nature and topic of the interpretation assignment before accepting it.
- Interpreters should undergo background checks to identify any history of perpetrating child abuse, sexual assault, domestic violence or trafficking. Interpreters with arrests or convictions for child abuse, sexual assault, domestic violence²⁰, or trafficking should not interpret for a victim.

GUIDELINES FOR ADVOCATES: IMPEDIMENTS TO COMPLIANCE

1. Discuss the interpreter’s experience interpreting in cases involving trafficking, domestic and sexual violence to identify any potential impediments.
2. Cultivate professional relationships with interpreters that have the knowledge, skills, and experience to interpret for victims of domestic violence, sexual assault, or trafficking.
3. Interpreted conversations take longer. Make sure to schedule enough time to account for the use of interpreters.
4. Ensure the space used allows everyone to hear what is being said.
5. Establish protocols for everyone involved to raise any potential impediments to interpretation that may come up. (e.g. periodically check in with everyone to identify any potential problems).
6. Determine who and how to report impediments to compliance including but not limited to court, legal and quasi-legal settings.
7. When advocates have information about an interpreter that could be an impediment to compliance (e.g., the interpreter is a batterer) but that information is confidentially obtained (e.g., they are providing services to the interpreter’s partner) they cannot publicly state such a reason to both maintain confidentiality and to avoid slander. Advocates can bring another interpreter and use her/him, or request that another interpreter be assigned.

20 The National Advisory Board of Serving LEP Battered Women: (n.d.). Code of Professional Responsibility for Interpreters Serving Limited English Proficiency (LEP) Victims of Domestic Violence outside of the courtroom and judicial settings. <http://niwaplibrary.wcl.american.edu/language-access/government-materials/CodeofResponsibilityforInterpreters.pdf/view>

Understanding How Bilingual Speakers and Interpreters Differ

A. Differences between Bilingual Services and Interpretation Services

This section identifies the difference between bilingual advocacy and interpretation services so Bilingual advocates can continue providing advocacy to LEP victims.

1. BILINGUAL STAFF COMMUNICATING WITH VICTIMS FLUENTLY IN A FOREIGN LANGUAGE IN THE COURSE OF PERFORMING THEIR PROFESSIONAL DUTIES ARE PROVIDING BILINGUAL SERVICES.

- In all situations, one-on-one communication (between advocate and victim, lawyer and client, police officer and victim, etc.) can be conducted in the foreign language.
- However, bilingual staff acting as a conduit between an LEP victim and any other monolingual, English-speaking system personnel are providing interpretation services. Such communications have to be done by an interpreter.
- **Example:** *An Amharic-speaking police officer, responding to a domestic violence call can interview all parties in Amharic to gather information but cannot interpret when the police investigator interviews the victim.*

2. SERVICES AND COMMUNICATIONS WITH LEP VICTIMS SHOULD EQUAL THOSE PROVIDED TO ENGLISH-SPEAKING VICTIMS.

Two guiding questions can help bilingual persons speaking in a foreign language to LEP individuals, determine if they are providing services connected to their role:

- Is this an activity/service you would engage in regardless of the language the parties spoke?
- **Example:** *A caseworker at the social security office, a bilingual advocate and a victim all speak Spanish fluently; the advocate will not need to interpret but would still accompany the client to advocate for her. The advocate is working for the client.*
- Are you engaging in a role and responsibility that is outside the scope of your job description?

- **Example:** *An advocate accompanies a battered woman to family court and no interpreter is available. The judge appoints the advocate as the interpreter. The advocate is now working for the court and not for the client.*

3. INTERPRETED ATTORNEY-CLIENT AND ADVOCATE-CLIENT COMMUNICATIONS ARE PROTECTED BY PRIVILEGE.

- The co-occurrence of privilege may not be guaranteed if the advocate is present during privileged communications between the attorney and client.
- Attorneys must confirm that state law maintains attorney-client privilege when an advocate is present and serving as interpreter.
- Persons who have served as interpreters, may be called as witnesses, or called to the stand to address their qualifications to interpret.
- Mandatory reporters serving as interpreters, including advocates, may be required to notify authorities if child abuse is disclosed in the presence of the mandatory reporter during a privileged communication.

Example: *Child or elder abuse disclosure to an attorney may not remain privileged when an advocate is present since most state laws mandate that domestic violence advocates report such incidents.*

B. Being Bilingual Isn't Enough

1. SHOULD BILINGUAL ADVOCATES INTERPRET?

Interpretation is not a natural extension of a bilingual speaker's language skills. Bilingual speakers should not provide interpretation in legal settings because they lack the requisite knowledge, skills and abilities – bilingual advocates or community members cannot be a substitute for professional interpreters. Furthermore, at any stage, from evidence collection to trial, the use of un-trained interpreters can have a negative impact on a case, with challenges mounted on neutrality, the quality of interpretation provided and/or the qualifications of the interpreter.

Because systems are not aware of the unique training and skill set needed to interpret, bilingual speakers are asked or brought in to interpret. Advocates and bilingual employees face pressure to assist LEP individuals by acting as their interpreters when there is no access to qualified interpreters; when immediate assistance to a client is needed or demanded; when a delay in proceedings will endanger victim safety; in rural or remote areas lacking interpretation services; when rare languages are spoken; and most often, because there is no budget to hire trained interpreters.

Role conflict and role confusion are critical problems. Biases and filters can result in conflicts of interest e.g., a bilingual community member asked to interpret may advise a woman to return to her abusive partner; bilingual advocates may filter information they deem harmful to their client. The interpreter's neutral role precludes the advocate from assisting or supporting

the client while interpreting for the court – this can jeopardize the advocate-client relationship. E.g., in the role of interpreter, the advocate interprets everything, including misinformation; or is asked to interpret for both parties. The client may perceive the latter as being on the perpetrator’s side, or expect the advocate/interpreter to do something about the former.

All monolingual and bilingual advocates, bilingual speakers who serve as community or ad hoc interpreters and all system personnel must understand the requisite knowledge, skills and abilities for interpreting to achieve the goal of access through the use of qualified, trained legal interpreters. In the meantime, understanding what it takes to interpret will introduce caution into programs and systems serving victims with limited English proficiency and move them towards compliance with language access laws.

2. DO BILINGUAL ADVOCATES HAVE THE KNOWLEDGE, SKILLS AND ABILITIES TO INTERPRET?

Many bilingual speakers incorrectly assume their strong language skills pave the way for interpreting. Without training, most make the same mistakes – summarizing, answering clarifying questions, paraphrasing, using the third person, etc. and generally cannot interpret accurately and completely. This section guides bilingual advocates (and bilingual speakers) to assess their knowledge, skills, and abilities objectively and to understand the impact of interpreting in legal settings.

C. FANS Checklist for Bilingual Advocates

The following questions and checklist are not exhaustive, but cover four fundamentals:

1. **Fluency**
2. **Accuracy**
3. **Neutrality**
4. **Safety**

✓ **Are you fluent in English? (Fluency)**

This means you are able to understand and speak English and the target language with native-like mastery. Native-like mastery includes the ability to interpret in a variety of language registers utilized by speakers such as regionalisms, colloquialisms, technical and slang. Without English fluency, accuracy is compromised.

- Take the *Self-Assessment of Speaking Proficiency* test (see Appendix), designed by the Interagency Language Roundtable (ILR) to estimate your speaking proficiency.²¹ You must complete Level S-4 (i.e. a score of 4) to demonstrate the level of language fluency in English needed for interpretation.

²¹ <http://www.govtilr.org>

✓ **Are you fluent in the foreign language? (Fluency)**

This means you are able to understand and speak the target language with native-like mastery. Native-like mastery includes the ability to interpret in the variety of language registers utilized by speakers such as regionalisms, colloquialisms, technical and slang. Without fluency in the foreign language, a victim's access is compromised.

- Take the *Self-Assessment of Foreign Language Listening Proficiency* test (see Appendix), designed by the Interagency Language Roundtable (ILR) to estimate your speaking proficiency.²² You must complete Level S-4 (i.e. a score of 4) to demonstrate proficiency in target language.

✓ **Are you able to interpret in the consecutive or simultaneous mode accurately and completely; and do sight translation? (Accuracy)**

Bilingual speakers must render what is being said from one language to another accurately, completely, promptly, without hesitation, maintain the speaker's register, without summarizing, omitting, or adding anything; and be able to sight translate. To accomplish this, an interpreter must possess:

- Strong auditory processing abilities (and no learning disabilities)
- Excellent short-term memory to ensure completeness and accuracy
- Quick note-taking skills
- High level of bi-literacy in English and in target language (if it has a written form).²³

✓ **Are you familiar with legal terminology and specialized terminology of domestic violence, sexual assault, and/or trafficking in both English and the foreign language? (Accuracy)**

To interpret competently you must have knowledge of the technical language associated with the setting (legal, medical, etc.) in both English and the target language. This includes terminology associated with basic legal, medical, social service, law enforcement, domestic violence, sexual assault, and trafficking. You must be able to read and understand materials related to these settings and provide accurate sight translation of the materials.

- Review commonly used legal terms in a glossary²⁴ to test your knowledge.

²² <http://www.govtilr.org>

²³ Bi-literacy depends on one's level of education and cannot be taken for granted in fluent speakers. Also second generation immigrants/refugees who speak fluently do not always learn to read and write in their target language.

²⁴ Legal glossaries in Arabic, Armenian, English, Hindi, Hmong, Mien, Punjabi, Romanian, Russian, Spanish, Urdu and Vietnamese <http://www.saccourt.ca.gov/general/legal-glossaries/legal-glossaries.aspx>

- Review domestic violence, sexual assault, and trafficking terms that will be used in court, law enforcement, social service and administrative hearings. Some terms e.g., marital rape, are concepts not prevalent in all cultures or laws of foreign countries, hence review and preparation is important.

✓ **Can you avoid a conflict of interest or the appearance of a conflict of interest between you and your client? (Neutrality)**

Interpreters must be impartial and neutral in proceedings and must maintain the appearance of impartiality and neutrality, avoiding unnecessary contact with the parties. Any bias, real or perceived, can jeopardize the proceeding. For example, the advocate is naturally sympathetic to the victim, and although may be able to serve as a neutral interpreter, the perception that the advocate is on the side of the victim is sufficient to show there is no impartiality. Being invested in the outcome of a case is a conflict of interest.

Conflicts of interest may exist when interpreters have been involved in selecting an attorney for the client, and/or could be a potential witness. One potential way to address neutrality could be to have an advocate who is not working with the victim serve as the interpreter, but that individual must still meet all the standards listed here.

Many states have identified domestic violence advocates as mandatory reporters of child abuse. Agencies, organizations, and attorneys relying on bilingual advocates to interpret during attorney-client communications should be aware that a disclosure of child abuse creates a legal obligation for advocates to disclose the abuse that breaches the attorney-client privilege.

✓ **Can you stay in the interpreter's role and function in your advocate's role? (Neutrality)**

The interpreter is a neutral conduit, and in a courtroom, is an officer of the court. The advocate who interprets has stepped out of the role of advocate and into the role of interpreter participating in proceedings to assist the court and not the victim. Advocates serving as interpreters, cannot assist, clarify, omit or explain anything to the client while in the interpreter role. As stated above they must avoid unnecessary contact with the parties, inside and outside the courtroom. Will this be possible?

✓ **Could you be a potential witness in the case? (Neutrality)**

An interpreter who could be called as a witness in a case has a conflict of interest and should not interpret. An interpreter can be called by the opposing party as a witness to evaluate her/his competence as an interpreter. Even if the interpreter was provisionally qualified by the judge, testimony interpreted by the advocate could be called into question by challenging interpreter's neutrality. For example an advocate that serves as a court interpreter could have his/her neutrality challenged jeopardizing the outcome of the case.

✓ **Will you only be interpreting for your client and not the defendant? (Neutrality)**

Interpreters must not only avoid an actual conflict of interest or bias, but must avoid the appearance of a conflict of interest or bias. Advocates, for good reason, will be viewed as biased towards the victim. But if a qualified interpreter is not available, the court may ask the advocate to serve as interpreter for both the victim and batterer.²⁵ In this instance the advocate should attempt to limit his/her interpretation to only the proceedings, and should avoid interpreting for the parties; e.g., not interpreting between the parties and their attorneys, or entering a plea for the defendant. Additionally, serving as the interpreter for both parties may jeopardize the relationship between advocate and victim. The victim may be confused as to why the advocate appears to be assisting the batterer.

✓ **Will interpretation by bilingual advocate void attorney-client privilege? (Safety)**

Attorney-client privilege may be undermined when an advocate also functions as an interpreter in communications between a lawyer and a client, particularly when a professional interpreter is also present. Attorney-client privilege is maintained when a professional interpreter is the only third party present, and because the attorney has arranged for or hired an interpreter in order to allow the communication, the interpreter falls under the purview of attorney-client privilege.

Attorney-client privilege is extended to interpreters but not to other third parties such as advocates. If the third party present is an advocate who is interpreting, then the attorney-client privilege is voided and privilege and confidentiality are compromised. The advocate could later be called as a witness and have to testify about matters discussed in such an interview. Attorneys need to hire a professional interpreter because interpretation by bilingual advocates will jeopardize attorney-client privilege.

This presents difficulties for service organizations that rely on *pro bono* attorney services to represent victims who cannot afford private attorneys. In such situations, bilingual advocates accompany a victim and interpret during the attorney-client interview. Attorneys accept this arrangement because they are not charging for their services and cannot absorb additional costs for professional interpretation. Interpretation services need to be added to all budgets.

25 Individuals in community-based-organizations (e.g., supporters, board officers) may sometimes pressure staff to interpret for a batterer who may be a relative, a prominent community member, etc. Staff and management should be united in refusing such requests and educating everybody about the use of qualified interpreters.

✓ **Will waiting till a qualified interpreter is found negatively affect a victim’s immediate need for safety? (Safety)**

These situations can include:

- Without immediate interpretation there is immediate danger;
- A delay in the proceeding will endanger victim safety;
- The abuser or family members are offering to interpret;
- There is some subtle or outright hostility towards the LEP victim by the court for not bringing an interpreter;
- Despite everyone’s best efforts, no interpreter is available or not in the language needed;²⁶ and the court calendar is extremely tight.

✓ **Will your safety be jeopardized? (Safety)**

Advocate safety is an important consideration that is often overlooked. Defendants may threaten and/or harm those assisting the victim; or use their influential community status to intimidate helpers; harass community-based-organizations with subpoenas, etc. Serving as an interpreter for the court will require the advocate to provide her/his name and a professional address (a community member without a professional address would give their personal address) — information that a defendant could use to retaliate against an advocate.

²⁶ This is often the case for languages other than Spanish.

FANS Checklist for Bilingual Speakers	Yes ☑	No ⊖
Fluency		
(1a) Are you fluent in English?		
(1b) Did you complete S-4 level and score 4 (Advanced Professional Proficiency) on ILR scale, Self Assessment–Speaking Proficiency test?		
(2a) Are you fluent in the target foreign language?		
(2b) Did you complete L-4 level and score 4 on ILR scale, Self-Assessment of Foreign Language Listening Proficiency test?		
Accuracy		
(3) Are you able to interpret in the consecutive or simultaneous mode accurately without adding, omitting, or summarizing?		
(4) Are you familiar with legal terminology and specialized terminology of domestic violence, sexual assault, and trafficking in the source language?		
Neutrality		
(5) Can you avoid a conflict of interest <u>or</u> the appearance of a conflict of interest between you and your client?		
(6) Can you stay in the interpreter’s role and avoid functioning in the advocate’s role?		
(7) Are you certain that you will not be called as a witness in the case?		
(8) Will you be interpreting for your client and not the defendant?		
Safety		
(9) Is your interpretation covered under the attorney-client privilege?		
(10) Can you ensure the victim’s immediate safety while waiting for a qualified interpreter?		
(11) Can you ensure your own safety?		

☑ If you answered “yes” to all of the above questions and no qualified interpreter is available, you can provide limited interpretation, but proceed with caution.

⊖ If you answered “no” to any question and you do not feel competent to interpret and a judge or attorney is pressuring you to interpret, you can state your reasons and request that your objection be placed in the record.

GUIDELINES: WHEN ADVOCATES ARE ASKED TO INTERPRET

1. Advocates must not interpret at trials, motion hearings, custody hearings, arraignments, or divorce hearings.
2. Advocates must decline to interpret. If a judge insists that an advocate serve as the interpreter, despite the advocate's objections, the advocate should request that the objection is placed on the record.

Example: "Your honor, this is not the recommended procedure and I want my statement noted in the record."

3. Advocates must not interpret if no attempt to find a qualified interpreter (either in-person or for telephonic interpretation) was made before the advocate is asked to interpret.
4. Advocates must not interpret at attorney-client interviews.
5. ONLY in the interest of a victim's immediate safety and when a qualified interpreter is not available in person or via the telephone, an advocate can step in to interpret.
6. Advocates who are interpreting must stop when they are:
 - losing the message,
 - summarizing because they are unable to retain the information or interpret particular concepts or terminology,
 - confused and/or confusing the client,
 - finding that the vocabulary being used is beyond their language ability.

A. Determining Interpretation and Target Language Needs

To identify the foreign language spoken by the LEP individual, language identification tools can be used. For telephonic interpretation, most interpretation services are able to identify the foreign language when the LEP individual speaks into the phone.

GUIDELINES: DETERMINING IF CLIENTS NEED INTERPRETATION SERVICES

1. Assess a client's English fluency/lack of proficiency objectively.
2. Does a victim speak English well enough to:
 - Tell a story *and* answer questions?
 - Listen to communications in English and understand them?
 - Be understood by staff, law enforcement officers, or the court?
 - Understand everyone in the proceeding or interview (considering regional accents, speed, etc)?
3. Prepare victim well to understand legal and interpretation procedures: this increases empowerment; and remember the interpreter is a conduit for telling the victim's story.

RESOURCES: IDENTIFYING LANGUAGE SPOKEN BY CLIENT NEEDING INTERPRETATION SERVICES

Asian Family Support Services of Austin (AFSSA). Cards provided to the agency's LEP clients to use in any social or legal services setting: *I am Limited English Proficient and speak only _____.* According to Title VI, Civil Rights Act of 1964, Executive Order 13166 "Improving Access to Services for Persons with Limited English Proficiency," *I am entitled to meaningful access to your services. Please provide me appropriate language assistance. Thank you. My name is _____.* The back of the card has contact information for the agency and the client's advocate.

California Department of Social Services. (2002). *I Speak Cards.* These cards can be used by LEP persons to get interpreter services. The pocket size card provides a statement that identifies the language spoken by the LEP person. Languages include: Arabic, Armenian, Cambodian, Chinese, Farsi, Hmong, Korean, Laotian, Russian, Spanish, Tagalog, and Vietnamese. <http://www.cdss.ca.gov/civilrights/PG584.htm>

Economic and Statistics Bureau U.S. Census. (2004). *Language Identification Flashcards: I Speak Cards.* U.S. Department of Commerce. Flashcards to identify following languages: Arabic, Armenian, Bengali, Cambodian, Chamorro, Chinese (flashcards in Simplified and Traditional), Croatian, Czech, Dutch, English, Farsi, French, German, Greek, Haitian Creole, Hindi, Hmong, Hungarian, Ilocano, Italian, Japanese, Korean, Laotian, Polish, Portuguese, Romanian, Russian, Serbian, Slovak, Spanish, Tagalog, Thai, Tongan, Ukrainian, Urdu, Vietnamese, and Yiddish. <http://www.lep.gov/resources/ISpeakCards2004.pdf>

Minnesota Department of Human Services. *I Need an Interpreter Card.* These cards say in both English and another language "I need a _____ interpreter." The cards are available in: Arabic, Hmong, Khmer (Cambodian), Laotian, Oromo, Russian, Serbo-Croatian (Bosnian), Somali, Spanish, and Vietnamese. LEP persons may present the cards when they contact a state, county, or community agency to assist with conveying their need for a language interpreter. <http://edocs.dhs.state.mn.us/lfserver/Legacy/DHS-4374-ENG>.

State of Ohio Office of Criminal Justice Services, Summit County Sheriff's Office, National Association of Judiciary Interpreters and Translators, and the American Translators Association. *Language Identification Guide.* This language identification guide is a tool for law enforcement and other criminal justice agencies to identify the language of individuals they encounter who do not speak English. http://www.lep.gov/resources/ocjs_languagecard.pdf

B. Points of Contact where Interpretation Services are Needed

LEP victims need bi-lingual staff and interpreters at all points of contact, from start to finish so that legal outcomes are not jeopardized by errors arising from a lack of professional interpretation. Discussing all points of contact is beyond the scope of these guidelines, but all legal and social service providers need to understand the importance of utilizing qualified interpreters.

Poor interpretation at one point of contact has repercussions throughout all systems the victim uses. For instance, reliance on family members, children, or neighbors during the police investigation can result in gathering misleading information that can hinder prosecution and the conduct of a trial, result in the arrest of an LEP victim, and have other negative outcomes for victims and their children. Having a court certified interpreter during the trial will not correct for errors made in pre-trial investigations.

Potential hostility to immigrant victims with limited English proficiency Anti-immigrant sentiments, likely to surface towards victims with limited English proficiency can and do have a bearing on cases; they need to be mitigated in the courtroom and throughout all systems by challenging bias.

The points of contact listed below are not mutually exclusive. Programs that do not receive federal funding, directly or indirectly, are not required to have language access plans, but LEP victims will nevertheless need interpreted communications.

FIRST RESPONDERS

911 (or other emergency numbers)

Emergency Medical Response

Fire Department

Law Enforcement: Police (campus, military, transport police, etc.), Sheriff

LEGAL SYSTEMS & PERSONNEL – CIVIL, CRIMINAL, IMMIGRATION

Attorneys

Child Custody

Civil Courts for Orders of Protection

Courts, including Bailiffs, Court Clerks

Court Advocates providing services to victims

Defense Attorneys

District Attorneys/Prosecutors

Family Court Services

Family Justice Centers

Immigration & Customs Enforcement (ICE)

Jails, Detention Facilities

Judges in Civil, Criminal, Administrative, and Immigration Courts

Juvenile Court Personnel and Judges

Mediators, Evaluators

Police Investigators

Probation Officers

Public Defenders

Self Help Centers (established in some counties for self-represented litigants)

SOCIAL SERVICES

Adult Protective Services

Child Support Enforcement

Child Welfare System

Domestic Violence Service Programs

Employment Programs

Healthcare Providers – Clinics, Hospitals, Emergency Rooms

Homeless and Housing Services Programs

Hotlines, Crisis Lines

Information & Referral Services (e.g., 211 for city information on social services)

Mental Health

Public Benefits

Refugee Resettlement Agencies

Shelters

Sexual Assault Service Programs/Rape Crisis Centers

Social Security Office

Suicide Prevention

Supervised Visitation Centers

C. Finding Professional Spoken Language Interpretation Services

The pool of qualified interpreters varies from region to region; resources for obtaining interpretation services are listed below.

1. INTERPRETER ASSOCIATIONS

Interpreter associations are an excellent resource, particularly if a state does not have an interpreter certification program. Members may or may not be certified interpreters, but generally they are trained and experienced interpreters. When working with an interpreter from these lists, make sure to inquire about certification, training, and experience. Also ask for references and check them.

National Association of Judiciary Interpreters and Translators (NAJIT) is a professional association whose mission is to promote quality services in the field of legal interpreting and translating. NAJIT maintains a directory of its member interpreters and translators. <http://www.najit.org>

American Translators Association (ATA) is a professional association whose mission is to advance the translation and interpreting professions and assist in the professional development of individual translators and interpreters. ATA maintains a directory of its member interpreters and translators. <http://www.atanet.org>

2. STATE ADMINISTRATIVE OFFICE OF THE COURTS (AOC): COURT INTERPRETER PROGRAMS LISTED WITH NATIONAL CENTER FOR STATE COURTS (NCSC)

Some state judiciaries have Court Interpreter Programs and maintain a list of interpreters that are approved to work in state courts. Whether the interpreter is court certified or not depends on the state. To find listings of state and federal interpreter programs, check the National Center for State Courts. <http://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/Resources-for-Program-Managers/LAP-Map/Map.aspx>

3. INTERPRETING AND TRANSLATING AGENCIES: ASSOCIATION OF LANGUAGE COMPANIES (ALC)

The *Association of Language Companies* maintains a list of member agencies that provide interpreting and translating services in many languages. Depending on the agency, interpreters may or may not be certified and some agencies may have in-house training programs to improve interpreter skills. Make sure to inquire into the interpreter's qualifications and if the agency trains them on domestic and sexual violence. The ALC has links to its member agency websites. <http://www.alcus.org/membership/index.cfm>

4. TELEPHONIC INTERPRETATION SERVICES

Telephonic interpretation is widely used, particularly for languages where an interpreter may be difficult to find. Telephonic interpreters are generally not court certified. As part of an agency's language access plan, contracts should be set up with a telephonic interpretation service for interpreters trained and experienced in interpreting on domestic violence, sexual assault and/or trafficking. Although the term language line is commonly used to describe telephonic interpretation services, Language Line is the name of a company that provides this service. When searching for telephonic interpretation services, to ensure getting a complete list of providers, "telephonic interpretation" (not Language Line) should be entered into the search engine.

The Association of Language Companies lists member agencies providing telephonic interpreting. <http://www.alcus.org/membership/index.cfm>

5. BILINGUAL STAFF AND VOLUNTEERS

Programs rely on bilingual staff and volunteers to assist communications with LEP individuals. To ensure bilingual staff and volunteers are effective, the following steps should be followed before allowing interpretation or monolingual service provision: (a) Assess the bilingual person's language skill for English using Interagency Language Roundtable's *Self-Assessments of Speaking, Listening and Reading Proficiency*. (govtilr.org) (b) Assess the bilingual person's language skill in the foreign language. Have the bilingual staff or volunteer be interviewed in the target language and include content covering the bilingual person's duties and responsibilities. Contact a local college or university that provides courses in the target language, and ask if you can send your candidate to be assessed using the school's language assessment test. Or, pay for a professional language assessment. Companies, such as Berlitz and ALTA Language Services provide telephonic language fluency assessment for a fee. (c) Provide training on interpretation skills building and best practices. (d) Provide protocols for the bilingual staff or volunteer to interpret only in settings that match their ability level in interpretation.

These guidelines do not cover sign language access for deaf, hard of hearing and deaf-blind individuals who are victims of domestic, sexual violence, or trafficking because of the extensive expertise of, and advocacy by, the Deaf community. However, there are several considerations in working with immigrant or refugee victims who are deaf, deaf-blind and hard of hearing and do not use ASL, or read English.

GUIDELINES: FINDING SPOKEN LANGUAGE INTERPRETATION SERVICES

1. Develop directory of qualified interpreters for languages identified in your agency's Language Access Plan.
2. Familiarize yourself with the court's interpretation services and/or use of qualified interpreters who are certified, registered and provisionally qualified. Telephonic interpreters may not be certified court interpreters.
3. Cultivate professional relationships with interpreters and professional interpreter associations to work collaboratively and develop volunteer interpreter pool.
4. Consider outreaching to language programs and interpreter training programs for volunteer opportunities with your program
5. Obtain and check interpreters' credentials and references; do not utilize problematic interpreters.
6. Set up a contract for telephonic interpretation services; ask about non-profit rates.
7. Make interpreter training on domestic violence and sexual assault a condition of interpretation provision contract.

RESOURCES: FINDING SPOKEN LANGUAGE INTERPRETATION SERVICES

American Translators Association (ATA) <http://www.atanet.org>

Association of Language Companies (ALC) <http://www.alcus.org/AboutAlc/Member>

National Association of Judiciary Interpreters and Translators (NAJIT) <http://www.najit.org>

National Center for State Courts (NCSC) lists the contacts for interpreter programs in its member states. <http://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/Resources-for-Program-Managers/LAP-Map/Map.aspx>

Telephonic Interpretation Services Enter term into search engine to identify and contract with providers

Volunteer Match <http://www.volunteermatch.org>

Interpretation for Deaf Victims Who Do Not Know American Sign Language

A. Knowing the Basics of Deaf Culture

In working with deaf, deaf-blind and hard of hearing victims of domestic violence, sexual assault, or trafficking advocates need to know some basics:

1. 'Deaf' (with upper case 'D') refers to an identity with its own culture, language and diverse communities; 'deaf' refers to a physical condition/impairment.
2. Deaf and hard of hearing protections appear as a disability issue rather than a language access issue. However, many in the Deaf community see it as a language access, not a disability, issue.
3. Do not assume that all deaf people are mute: some can speak, some can and choose not to and some cannot. (As with hearing people, some can sing, some cannot and some can but choose not to.)
4. Dynamics of domestic violence in Deaf communities have additional dimensions: e.g., hiding hearing aid, disabling TTY equipment, a batterer who speaks or interprets for the victim, etc.
5. American Sign Language is not English made visual; this is also true of foreign sign languages.
6. The process of writing out American Sign Language is referred to as "glossing".
7. Sign language needs differ depending on impairment:
 - a. *Deaf*: Sign Language
 - b. *Hard of Hearing*: Hearing aids and assistive listening devices
 - c. *Late Deafened Adults* i.e., hearing loss after acquiring language, due to age or accident: Computer Assisted Realtime Transcription (CART)
 - d. *Deaf-Blind*: Tactile signing
8. Devices available for deaf individuals:
 - a. CART: Communication Access Realtime Translation involves the use of captioning technology to transcribe spoken language into text. The "captioner" types exactly what a speaker is saying in real time and the text is displayed on a screen for deaf or hard of hearing individuals to read.

- b. TTY: Text Telephone is a device used by deaf individuals to communicate over telephone lines using a keyboard and display screen. The user types a message into the TTY device, which is then relayed to another TTY machine.
- c. VRI: Video Remote Interpretation involves the use of an offsite interpreter that is connected to the communicating parties through the use of video communication equipment (webcams, computers, and videophones). VRI is used when the parties are in the same location.
- d. VRS: Video Relay Service allows people who use sign language to communicate over the telephone through the use of a sign language interpreter. The VRS user and interpreter are connected by video and communicate through sign language, and the interpreter interprets over the phone line to the hearing individual.

B. Understanding the Social Contexts

In working with immigrant or refugee victims who are deaf, deaf-blind and hard of hearing, advocates need to understand some of the social contexts:

1. In many regions of the world, such individuals are stigmatized and seen as a burden on the family who may not adequately care for them: depriving them of schooling, medical care or equipment like hearing aids. These attitudes are not merely a by-product of poverty, but of cultural stigma.
2. Women and girls who are deaf, deaf-blind or hard of hearing, are often further devalued; and more so if they are victims of gender violence.
3. Many such individuals will not learn a formal sign language, may not be literate, and may use some form of home signing.
4. The context for refugees may differ: they may have become deaf, deaf-blind or hard of hearing due to war-related physical and psychological injuries; and lack of medical care in these conditions.
5. Individuals who sustained hearing loss after acquiring spoken language, may not have yet learned to communicate through formal or informal sign language and will have different needs.

GUIDELINES: PROGRAMS SERVING LEP IMMIGRANTS AND REFUGEES WHO ARE DEAF, HARD OF HEARING OR DEAF-BLIND

1. Develop program guidelines to comply with the stipulations of the Americans with Disabilities Act.
2. Utilize national and or local resources to educate agency staff.
3. Identify who serves deaf and hard of hearing victims in your area.
4. Determine the sign language interpretation needs of deaf, deaf-blind or hard of hearing victims who don't use or know ASL:
 - Identify what communication methods they use, including if they use ASL, a foreign sign language, home signing, and/or Computer Assisted Realtime Transcription. Lip reading and passing notes are not acceptable communication methods.
 - Do not assume they understand or use ASL.
 - Do not assume a high or low level of English fluency.
 - Do not assume a high or low level of literacy in their native language and/or English.
5. Establish procedures to obtain relay interpretation if needed – a sign language interpreter and a spoken language interpreter.
6. Develop procedures to obtain other assistive technologies, such as Computer Assisted Realtime Transcription (CART) for the deaf, deaf-blind and/or hard of hearing individual.
7. Learn to work with sign and spoken language interpreters, and how relay interpretation and assistive technologies work.

RESOURCES: INTERPRETATION FOR DEAF VICTIMS

Abused Deaf Women’s Advocacy Services: Training, technical assistance and publications on safety protocols and interpretation in ASL. <http://www.adwas.org>

Advocacy Services for Abused Deaf Victims: Provides support for Deaf, Deaf-Blind, and Hard of Hearing victims and survivors of domestic violence and/or sexual violence, including but not limited to language access. <http://asadv.org/#>

American Bar Association’s Commission on Domestic Violence: Materials on sign language interpretation in civil representation. http://www.abanet.org/domviol/trainings/Interpreter/CD-Materials/safety_protocol.pdf

Ohio State: Working with Interpreters for Deaf or Hard of Hearing Persons in the Courtroom. http://www.supremecourt.ohio.gov/Publications/interpreter_services/DeafHOHbenchcard.pdf

Registry of Interpreters for the Deaf, Inc. <http://www.rid.org>

Vera Institute Center on Victimization and Safety: Works with government and nonprofit organizations to enhance services for Deaf survivors. <http://www.vera.org/centers/victimization-and-safety>

LEP.gov is a federal interagency website that acts as a clearinghouse on information, tools, and technical assistance regarding language access for federal agencies, federal fund recipients, and stakeholders. Some key highlights are:

FEDERAL AGENCY LEP GUIDANCE FOR RECIPIENTS

In accordance with Executive Order 13166, all federal agencies that provide financial assistance must provide guidance to recipients on their obligation to provide meaningful language accessibility. LEP.gov provides links to each agency's LEP guidance for recipients of federal financial assistance. www.lep.gov/guidance/guidance_index.html

FEDERAL AGENCY LANGUAGE ACCESS PLANS

Although Title VI does not apply to federal agencies, Executive Order 13166 requires all federal agencies to develop a language access plan. LEP.gov provides links to each federal agency's language access plan. www.lep.gov/guidance/fed_plan_index.html

HOW TO FILE A LANGUAGE ACCESS COMPLAINT

Information on how to file a Title VI complaint with the Department of Justice. www.justice.gov/crt/filing-complaint

LANGUAGE MAPS

The Civil Rights Division's Language Map App helps users find data on the languages spoken by LEP populations at the State and County level for all fifty states, the District of Columbia, and Puerto Rico. www.lep.gov/maps

Printable maps provide the number and percentage of LEP individuals in each region. County and judicial district maps provide the top five languages spoken by LEP individuals within those areas in the form of detailed pie charts.

TIPS: TRANSLATION, INTERPRETATION, AND PROCUREMENT SERIES

The Federal Coordination and Compliance Section's TIPS series, includes tips for agencies on hiring language service providers, vetting linguists, using telephone interpreters, and choosing appropriate services for a given task. www.lep.gov/interp_translation/trans_interpret.html

VIDEO TRAININGS ON TITLE VI AND LIMITED ENGLISH PROFICIENCY

LEP.gov includes a series of videos that explain the Title VI obligations of federal agencies and recipients of federal financial aid. It includes the Interagency Video Training Series on Communicating Effectively with Limited English Proficient Members of the Public. This training series was inspired by both emergency and routine events that federal government staff has faced over the years. While designed for federal employees, the training series is also useful for organizations interested in training staff on how to determine whether a person is LEP, identifying an LEP person's primary language, and reviewing reliable language assistance options. www.lep.gov/video/video.html

Appendix

1. LANGUAGE ACCESS POLICY TEMPLATE

Asian Pacific Institute on Gender-Based Violence

2. SELF-ASSESSMENT OF SPEAKING PROFICIENCY

Interagency Language Roundtable

3. SELF-ASSESSMENT OF LISTENING PROFICIENCY

Interagency Language Roundtable

4. SELF-ASSESSMENT OF READING PROFICIENCY

Interagency Language Roundtable

5. COURT INTERPRETATION IN PROTECTION ORDER HEARINGS: JUDICIAL BENCHCARD

National Center for State Courts

Permission for materials in the Appendix has been obtained from relevant agencies.

APPENDIX 1

Language Access Policy Template

Asian Pacific Institute on Gender-Based Violence

Language Access Policy Template¹

Prepared by the Interpretation Technical Assistance & Resource Center of the Asian Pacific Institute on Gender-Based Violence www.api-gbv.org, 2015

General Language Access Policy

1. Policy Statement

Sample statement²

“It is the policy of this agency to provide timely meaningful access for LEP persons to all agency programs and activities. All personnel shall provide free language assistance services to LEP individuals whom they encounter or whenever an LEP person requests language assistance services. All personnel will inform members of the public that language assistance services are available free of charge to LEP persons and that the agency will provide these services to them.”

2. Purpose and Authority

In accordance with Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act, this policy establishes guidelines for providing language accessible services to individuals that are limited English Proficient and/or Deaf or Hard of Hearing.

3. Definitions

- a. Limited English Proficient individual means any individual whose primary language is not English, and has limited or no ability to speak, understand, read, or write English.*
- b. Primary language is the language that an individual communicates most effectively in.*
- c. Interpretation is the process of orally rendering a spoken or signed communication from one language into another language.*
- d. Translation is converting written text from one language into written text in another language. (‘Translation’ is often misused to mean interpretation, but it is a written medium.)*
- e. A qualified interpreter or translator is a trained professional who is a neutral third party with the requisite language skills, experienced in interpretation or translation*

¹ This template is based on the Department of Justice’s Language Access plan. The original document is available at www.justice.gov/open/language-access-plan.pdf.

² Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs. Federal Coordination and Compliance Section, Civil Rights Division, U.S. Department of Justice. 16. May 2011

techniques, and knowledgeable in specialized content areas and technical terminology in order to effectively facilitate communication between two or more parties who do not share a common language.

- f. Simultaneous interpretation is the process of orally rendering one language into another language virtually at the same time that the speaker is speaking with only a very short lag time.*
- g. Consecutive interpretation is the process of orally rendering one language into another language after the speaker has completed a statement or question and pauses. The interpreter then renders that statement into the other language.*
- h. Sight translation is the rendering of material written in one language, completely and accurately into spoken speech in another language.*
- i. Vital documents are any materials that are essential to an individual's ability to access services provided by the organization, or are required by law.*

4. Language Data

Organization shall conduct an annual/biennial review of language uses and needs of the organization and its service population. (TIP: List the sources of information you will include in your review. Sources can include: intake, Census, American Community Survey, Department of Education, or the Office of Refugee Resettlement.)

Language Assistance Procedures

1. How to determine the need for language assistance

- a. Staff at the initial point of contact will conduct an assessment of the need for language assistance, and notify the individual of the right to an interpreter at no cost. Staff members who have subsequent contact will continue to assess the need for language assistance.*
- To assess the need for language assessment, staff should ask open ended questions, and avoid asking questions that would allow for yes or no responses. For example, asking: "how may I be of assistance?" instead of "do you need help?"*
- The LEP individual may speak more than one language, or may have limited proficiency in a secondary language. Staff shall identify the primary language of the LEP individual, and work to provide language assistance in the primary language of the individual.*
- A Deaf individual may also be limited English proficient and not be proficient in American Sign Language. Staff shall work to identify the primary sign language of the Deaf*

individual, and provide sign language assistance in the primary sign language of the individual.

- b. Request for language assistance from the LEP individual or companion.*

2. Identifying Language

- a. Staff shall request the individual or companion identify the language of the LEP or Deaf individual.*
- b. Staff may request bilingual/multilingual staff or volunteers to identify the primary language.*
- c. Use in-person, video remote interpreters, or telephonic interpreters to identify the language.*
- d. Use an "I speak" card or poster to identify the primary language.*
- e. Staff should determine if the preferred mode of communication for a Deaf or Hard of Hearing individual is interpretation or Communication Access Realtime Translation (CART).*

3. Procedures for language services (TIP: Provide step by step guidance on how staff can access language services adopted by the organization. The following are examples of different ways to provide language services.)

a. Bilingual/multilingual staff

- (QUESTION: Who should staff contact?)
- (QUESTIONS: What services will the bilingual/multilingual staff person provide? Interpretation or services in the primary language of the individual?)

b. In-person Interpreters

- (Detail procedures for obtaining an in-person interpretation services.)
- (QUESTION: Do you have staff interpreters? Do you contract with an interpretation agency or independent contractor?)

c. Telephonic/video remote Interpreters

- (Detail procedures for obtaining services through your telephonic or video remote interpretation company.)

d. Video Relay Services

- (Detail procedures for using video relay services.)

4. Translation of Vital Documents

- Organizations will make available vital forms and materials in the most frequently encountered languages. (QUESTIONS: What forms and materials will you translate? How about outreach materials? If you have translated outreach materials, do you have the capacity to provide services in the languages you are translating your materials?)*
- For other languages, staff should use an interpreter to sight translate the document into the individuals primary language.*
- Written communication to the LEP individual should be translated into the primary language of the LEP individual.*

5. Notice of Language Services

- Signage will be placed in visible locations notifying individuals of the right to request an interpreter at no cost to the individual. Signage will be translated into the languages most frequently encountered by the organization.*
- Staff at the initial point of contact, will notify individuals of their right to an interpreter at no cost.*

6. Prohibition against using children as interpreters

Staff are prohibited from using minor children to interpret, absent emergency circumstances.

Interpreter and Translator Code of Ethics³

1. Accuracy

Source-language speech should be faithfully rendered into the target language by conserving all the elements of the original message while accommodating the syntactic and semantic patterns of the target language. The rendition should sound natural in the target language, and there should be no distortion of the original message through addition or omission, explanation or paraphrasing. All hedges, false starts and repetitions should be conveyed; also, English words mixed into the other language should be retained, as should culturally-bound terms which have no direct equivalent in English, or which may have more than one meaning. The register, style and tone of the source language should be conserved. Guessing

³ National Association of Judiciary Interpreters & Translators, Code of Ethics and Professional Responsibilities. Available at www.najit.org/about/NAJITCodeofEthicsFINAL.pdf.

should be avoided. Interpreters who do not hear or understand what a speaker has said should seek clarification. Interpreter errors should be corrected as soon as possible.

2. Impartiality and Conflicts of Interest

Interpreters and translators are to remain impartial and neutral in proceedings where they serve, and must maintain the appearance of impartiality and neutrality, avoiding unnecessary contact with the parties. Interpreters and translators shall abstain from comment on matters in which they serve. Any real or potential conflict of interest shall be immediately disclosed to _____ [position title/name of agency's language access coordinator] and all parties; as soon as the interpreter or translator becomes aware of such conflict of interest.

3. Confidentiality

Privileged or confidential information acquired in the course of interpreting or preparing a translation shall not be disclosed by the interpreter without authorization.

4. Limitations of Practice

Interpreters and translators shall limit their participation in those matters in which they serve to interpreting and translating, and shall not give advice to the parties or otherwise engage in activities that can be construed as the practice of law.

5. Protocol and Demeanor

Interpreters shall conduct themselves in a manner consistent with the standards and protocols of the Interpreter Code of Conduct for _____ [name of the State], and shall perform their duties as unobtrusively as possible. Interpreters are to use the same grammatical person as the speaker. When it becomes necessary to assume a primary role in the communication, they must make it clear that they are speaking for themselves.

6. Maintenance and Improvement of Skills and Knowledge

Interpreters and translators shall strive to maintain and improve their interpreting and translation skills and knowledge.

7. Accurate Representation of Credentials

Interpreters and translators shall accurately represent their certifications, accreditations, training and pertinent experience.

8. Impediments to Compliance

Interpreters and translators shall bring to the advocate or attorney's attention any circumstance or condition that impedes full compliance with any Canon of this Code, including interpreter fatigue, inability to hear, or inadequate knowledge of specialized terminology, and must decline assignments under conditions that make such compliance patently impossible.

Staff Compliance

1. Training

Staff will receive training on: the content of the language access policy; how to identify the need for language access services; working with LEP and Deaf individuals; providing language accessible services in a culturally sensitive manner; working with an interpreter; and interpretation best practices.

(TIP: Contact the Interpretation Technical Assistance Resource Center for resources and assistance in training your staff.)

Internal Language Access Contacts

1. (Identify the Language Access Coordinator for your organization)

Monitoring and Assessment

1. *Staff shall be responsible for monitoring compliance with the organization's language access policy.*
2. *Organization shall collect information on language use and need, including: primary language of clients; use and language of interpretation services; distribution of translated documents; frequency of contact with LEP or Deaf individuals seeking services; and referrals of LEP or Deaf individuals and the language of the referred LEP or Deaf individual.*
3. *Organization shall conduct an annual review on ___/___/___ [date] on the effectiveness of the language access policy and make changes as needed.*

Complaint Process

1. *A complaint regarding the denial of language accessible services, or regarding the quality of language accessible services, including interpreters or translated materials, may be made in person, or in writing.*
2. *The complaint should specify the date, individuals involved, and the nature of the problem (e.g., the interpreter was summarizing, or an LEP individual or Deaf individual was denied services because they did not bring their own interpreter).*

3. *All complaints will be directed to the Language Access Coordinator.*
4. *The Language Access Coordinator will notify the parties within 30 days upon receipt of the complaint of the outcome.*
5. *Staff will notify individuals of the complaint process.*
6. *The complaint process will be included in the posted notification of the right to an interpreter.*

Signatures & Date

Agency's Executive Director and Language Access Coordinator

APPENDIX 2

Self-Assessment of Speaking Proficiency

Interagency Language Roundtable



SELF-ASSESSMENT OF SPEAKING PROFICIENCY

The following Self-Assessment of Speaking Ability is intended to guide those who have not taken a U.S. Government-sponsored speaking test. It will produce an estimate of your speaking ability and is in no way a replacement for the existing ILR Skill Level Descriptions.

Please respond “yes” or “no.”

To estimate your rating, start a Level 1 and see how many times you answered “yes.” If you answered “yes” to each statement in the level, move on to the next level. If you answered “no” to one or more statements, then you are not at that level.

If you answered “yes” to all the statements at a level, but at the next level you have a mixture of “yes” and “no” answers, then you may be at the plus level. For example, if you answered “yes” to all the statements at Level 1, but have a mixture of responses at Level 2, you may be at Level 1+ in speaking, provided that you had more “yes” answers than “no” at Level 2.

SELF-APPRAISAL OF SPEAKING PROFICIENCY		Yes	No
S-1	I can tell/ask someone how to get from here to a nearby hotel, restaurant, or post office.		
	I can order a simple meal.		
	I can arrange for a hotel room or taxi ride.		
	I can buy a needed item such as bus or train ticket, groceries, or clothing.		
	I can ask and answer simple questions about date and place of birth, nationality, marital status, occupation, etc.		
	I can make social introductions and use greeting and leave-taking expressions.		
S-2	I can handle conversations about familiar topics in an organized way.		
	I can produce speech with some organization on familiar topics that extend beyond my daily routine.		
	I can describe my present or most recent job or activity in some detail.		
	I can give detailed information about my family, my house, and my		

	community.		
	I can interview an employee, or arrange for special services (taking care of details such as salary, qualifications, hours, specific duties).		
	I can give a brief autobiography including immediate plans and hopes.		
	I feel confident that when I talk with native speakers on topics such as those mentioned above, they understand me most of the time.		
	I can take and give simple messages over the telephone, or leave a message on voice mail.		
	I can describe in detail a person or place that is very familiar to me.		
	I can report the facts of what I have seen recently on television news or read in the newspaper.		
	I can talk about a trip or some other everyday event that happened in the recent past or that will happen soon.		
S-3	I feel that I have a professional command, rather than just a practical one, of the language.		
	There are few grammatical features of the language that I try to avoid.		
	I rarely find myself unable to finish a sentence because of linguistic limitations (grammar or vocabulary).		
	I find it easy to follow and contribute to a conversation among native speakers.		
	I can speak to a group of educated native speakers on a professional subject and be sure I am communicating what I want to, without obviously irritating them linguistically.		
	I can, on a social occasion, defend personal opinions about social and cultural topics.		
	I can cope with difficult situations such as broken-down plumbing, an undeserved traffic ticket, or a serious social or diplomatic blunder made by a colleague or me.		
	I can use the language to speculate at length about abstract topics such as how some change in history or the course of human events would have affected my life or civilization.		
	In professional discussions, my vocabulary is extensive and precise enough to enable me to convey my exact meaning.		
	I am able to adjust my speech to suit my audience, whether I am talking to university professors, close friends, employees, or others.		

		Yes	No
S-4	I consistently use the language in a sophisticated and nuanced way to effectively communicate with great precision.		
	I practically never make a grammatical mistake.		
	I can carry out any job assignment as effectively as if in my native language.		
	I can persuade someone effectively to take a course of action in a sensitive situation such as to improve his/her health, reverse a decision or establish a policy.		

	I can prepare and give a lecture at a professional meeting about my area of specialization and debate complex aspects with others.		
	I naturally integrate appropriate cultural and historical references in my speech.		
	I can eloquently represent a point of view other than my own.		
	I can lead the direction of the discussion (friendly, controversial, collaborative).		
S-5	My language proficiency is functionally equivalent to that of a highly articulate well-educated native speaker and reflects the cultural standards of a country where the language is natively spoken.		
	I can use the language with complete flexibility and intuition, so that speech on all levels is fully accepted by well-educated native speakers in all of its features, including breadth of vocabulary and idiom, colloquialisms, and pertinent cultural references.		
	My pronunciation is typically consistent with that of well-educated, highly articulate native speakers of a standard dialect.		
	My vocabulary is extensive and precise, allowing me to consistently convey complex ideas and details.		

APPENDIX 3

Self-Assessment of Listening Proficiency

Interagency Language Roundtable



SELF-ASSESSMENT OF FOREIGN LANGUAGE LISTENING PROFICIENCY

To estimate your level of proficiency, start at the lowest level and respond to each statement. For each statement, respond “yes” or “no.” If a statement describes your ability only some of the time, or only in some contexts, you should answer “no.” If you answer “yes” to every statement in the level, your ability is probably at least at that level. Move on to the descriptions at the next level. If you answer “no” to one or more statements, then you are likely not at that level.

If you answer “yes” to all the statements at one level, and have a majority of “yes” answers at the next higher level, then you may be at a “plus” level. For example, if you answer “yes” to all the statements at Level 1, but have a mixture of responses at Level 2 (almost all “yes” answers), your self-assessed ability may be at Level 1+.

SELF-ASSESSMENT OF LISTENING PROFICIENCY		Yes	No
L1	In everyday conversation with people speaking the standard dialect, I can understand speech that is slow and clear. I can understand basic directions and instructions, such as how to get to a local store. I can understand questions and answers about basic survival needs, such as meals, lodging, transportation and time. I can understand routine questions about my job, my immediate family and myself. I can understand simple statements about a person’s background and occupation. If I cannot understand what a speaker tells me, I can understand the statement after it has been repeated or rephrased slowly and clearly.		
L2	When people are speaking the standard dialect at a normal rate, I can understand their speech when it is spoken with some repetition and rephrasing, can understand speech about everyday topics, for example common personal and family news, well-known current events, and routine situations at work. I can understand spoken descriptions of different places, for instance the geography of a country or location that is familiar.		

	<p>I can understand uncomplicated stories about current, past and future events.</p> <p>I can understand at least some details from announcements made over a loudspeaker.</p> <p>I can usually understand the main idea and basic facts from a short news report on the radio or television.</p>		
L3	<p>I can accurately follow all conversations among native speakers who are speaking at a normal rate of speech.</p> <p>I rarely, if ever, have to ask speakers to paraphrase or explain what they have said.</p> <p>I can correctly infer meanings that are not directly stated.</p> <p>I can understand discussions of ideas and concepts, including proposals and speculation.</p> <p>I can understand someone's opinion and the points used to support the opinion.</p> <p>I can often, if not always, detect the attitudes and feelings of a speaker.</p> <p>I can understand speech in a professional setting concerning my field of expertise or some technical subjects, such as a lecture or a panel discussion.</p>		
L4	<p>I can understand almost all forms and styles of speech pertinent to professional needs.</p> <p>I can fully understand all speech that involves the use of extensive and precise vocabulary, including subtle distinctions between word choices.</p> <p>I can follow arguments with unpredictable presentation, for example, in informal and formal speeches covering editorial and literary material.</p> <p>I can understand language adjusted for different audiences and for different purposes.</p> <p>I can readily and accurately infer meanings and implications.</p> <p>I am able to understand the main ideas of speech in some non-standard dialects.</p> <p>I can fully understand spoken interactions among native speakers at public gatherings, such as meetings, seminars, task groups or conferences.</p> <p>I can fully understand a speech, oral report or briefing given to a group of native speakers concerning any topic directed to a general audience.</p>		
L5	<p>My comprehension is fully equivalent to that of a well-educated native listener.</p> <p>I can fully understand all forms and styles of speech. This includes slang, jokes and puns.</p> <p>I can understand speech even when it is distorted by other noise.</p> <p>I can fully understand regional dialects, highly colloquial and idiomatic language.</p>		

APPENDIX 4

Self-Assessment of Reading Proficiency

Interagency Language Roundtable



SELF-ASSESSMENT OF READING PROFICIENCY

The following Self-Assessment of foreign language Reading Ability is intended to serve as a guide for people who have not taken a U.S. Government-sponsored reading test but would like to have a rough estimate of their proficiency. The self-assessment questionnaire will produce an estimate of your current foreign language reading ability but is in no way intended to be a replacement for the existing ILR Skill Level Descriptions.

Important: The term *read* as used in this self-assessment always means “*read and understand the meaning.*” It does not refer in any way to the ability to read aloud without comprehension. The term *text* refers to any example of language presented in the writing system of the language, including advertisements, weather reports, news articles, letters, lengthy essays, and literary works, among others.

For all texts at a level, it is not necessary to know all the words or understand all the details of the texts listed for that level, but it is necessary to perform the functional tasks described for the level at the indicated level of accuracy.

To estimate your level of proficiency, start at the lowest level (R-0+) and respond to each statement. For each statement, respond “yes” or “no.” If a statement describes your ability only some of the time, or only in some contexts, you should answer “no.” If you answer “yes” to every statement in the level, your ability is probably at least at that level. Move on to the descriptions at the next level. If you answer “no” to one or more statements, then you are likely not at that level.

If you answer “yes” to all the statements at one level, and have a majority of “yes” answers at the next higher level, then you may be at a “plus” level. For example, if you answer “yes” to all the statements at Level 1, but have a mixture of responses at Level 2 (almost all “yes” answers), your self-assessed ability may be at Level 1+.

Note to the user: This self-assessment instrument is posted by the ILR in provisional form for personal use by any interested individual. The final version will be posted after one year. Please send any comments or suggestions for improving the form by no later than February 15, 2010, to Dr. Frederick H. Jackson (fjackson@nflc.org).

SELF-ASSESSMENT OF READING PROFICIENCY		Yes	No
R-0+	As appropriate for the language, I can recognize and identify all the letters in the printed version of an alphabetic writing system (in languages like English, Spanish, Finnish, Russian, Greek, Vietnamese) or the elements of a syllable-based writing system (such as in Japanese kana, Korean hangul, Hebrew, Arabic, Amharic, Thai, or Hindi) or some commonly occurring characters in a character system (Chinese, Japanese kanji, Korean hanja.)		
R-0+	I can read some isolated words and phrases, such as numbers and commonplace names, that I see on signs, menus, and storefronts, and in simple everyday material such as advertisements and timetables.		
R-1	I can understand the purpose and main meaning of very short, simple texts, such as in printed personal notes, business advertisements, public announcements, maps, etc.		
R-1	I can understand simple instructions, such as in very straightforward street directions.		
R-1	I can understand very short simple written descriptions of some familiar persons, places, and things, like those found in many tourist pamphlets.		
R-2	I can understand texts that consist mainly of straightforward factual language, such as short news reports of events, biographical information, descriptions, or simple technical material.		
R-2	I can understand the main idea and some details of clearly organized short straightforward texts about places, people, and events that I am familiar with.		
R-2	I can understand very straightforward reports about current and past events.		
R-2	I can understand simple typed correspondence in familiar contexts, including descriptions of events, feelings, wishes and future plans.		
R-2	I can usually understand the main ideas of authentic prose on topics I am familiar with, either because they pertain to my work experience or to topics I am interested in.		
R-3	I can usually read and understand all of the material in a major daily newspaper published in a city or country with which I am familiar.		
R-3	In reading a newspaper or magazine that contains editorial or opinion content, I can “read between the lines” and understand meanings that are not directly stated.		
R-3	I can understand the author’s intent and follow the line of reasoning in texts that include hypothesis, persuasion, supported opinion or argument for a position (e.g., editorials,		

	debates, and op-ed pieces) with little or no use of a dictionary.		
R-3	I can understand contemporary expository essays and recent literary prose with little or no use of a dictionary,.		
R-3	I can understand the main ideas and important details of almost all material written within my particular professional field or area of primary interest (e.g., reports, analyses, letters, arguments, etc.).		
R-4	I am able to read fluently and accurately all styles and forms of the language pertinent to professional needs or personal interest without reference to a dictionary,.		
R-4	I can understand long and complex analyses, factual reports, and literary texts.		
R-4	I can understand both the meaning and the intent of most uses of idioms, cultural references, word play, sarcasm, and irony in even highly abstract and culturally “loaded” texts.		
R-4	I can understand language that has been especially adjusted for different situations, audiences or purposes, such as a political essay, humorous anecdote or joke, sermon, or inflammatory broadside, and I can appreciate distinctions in style.		
R-4	I can read virtually all forms of the written language, including abstract, linguistically complex texts such as specialized articles, essays and literary works, including prose works from earlier periods recognized as masterpieces.		
R-4	I can read reasonably legible handwriting without difficulty		

APPENDIX 5

Court Interpretation in Protection Order Hearings: Judicial Benchcard

National Center for State Courts



COURT INTERPRETATION IN PROTECTION ORDER HEARINGS JUDICIAL BENCHCARD

Judges have a critical role in ensuring access to justice in protection order proceedings. Petitioners with limited English proficiency (LEP) face special challenges when they attempt to use the judicial system. Courts should provide qualified interpreters to assist the parties in protection order proceedings to place non-English speaking and English-speaking parties of equivalent background and education on equal footing before the bench. See *Resources* for additional information.

HOW DO I KNOW IF A PARTY OR WITNESS NEEDS AN INTERPRETER?

- When an attorney or a pro se litigant advises the court that a party or witness has limited English proficiency and requests an interpreter.
- When any party involved in a case does not appear to understand court proceedings in English.
- If you are unsure, ask a few questions to determine the party's level of English understanding.

Sample Questions to Assess Understanding of English

- ❖ Please tell the court your name.
- ❖ Please also tell us how old you are.
- ❖ How did you come to court today?
- ❖ What kind of work do you do?
- ❖ How comfortable are you in proceeding with this matter in English?
- ❖ Would you like the court to provide you with free assistance in understanding this proceeding?

- Determine the language of the party using language ID cards
- *If the party cannot read, or if language ID cards are not available, contact a court interpreter or a commercial telephonic service, if you have access to one, to determine the language of the party requiring services.*

HOW DO I APPOINT AN INTERPRETER?

HOW DO I LOCATE AN INTERPRETER?

- If your local court has an interpreter services office, contact it to request an interpreter.
- If your court does not have someone responsible for securing interpreters, then: (1) Check a Federal or State certified list; (2) Check a locally accredited list; and (3) Call local universities and community-based organizations.
- Under only **very** limited circumstances, use a commercial telephonic interpreter service, if you have access to one.

HOW DO I KNOW IF THE INTERPRETER IS QUALIFIED?

- Interpreting requires **specialized knowledge of**: legal and other specialized terminology, slang, idioms and dialectal variations.
- Interpreting requires **specialized skills, such as**: memory, comprehension, attentiveness, and multi-tasking.
- *Being bilingual does not qualify a person to interpret. Children and relatives should **never** be used to interpret. Judges, attorneys, and court personnel **should not** function as interpreters.*
- If you are unsure, ask a few questions to determine the interpreter's qualifications.
- If you are assured that the interpreter is qualified, administer an oath of interpretation.

Sample Questions to Assess Interpreter Qualifications

- ❖ What training or credentials do you have as an interpreter?
- ❖ Are you certified in the State of _____?
- ❖ Are you familiar with the Code of Professional Responsibility for interpreters? What are its main points?
- ❖ How did you learn English?
- ❖ How did you learn (*non-English language*)?
- ❖ Do you have any potential conflict of interest in this case? (E.g., do you know any of the parties in this case?)

Sample Interpreter's Oath

Do you solemnly swear or affirm that you will interpret accurately, completely and impartially, follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the duties and obligations of legal interpretation and translation?

WHAT SHOULD I EXPECT FROM THE INTERPRETER?

A good interpreter will:

- Interpret in the first person and address the court in the third person, to keep a clear record.
- Interpret everything said in the courtroom, with no additions, omissions, explanations, or personal input.
- Request clarification if a phrase or word is not understood.
- Use appropriate interpreter tools such as a language dictionary and note-taking materials.
- Be as unobtrusive and professional as possible.

HOW CAN I ASSIST COMMUNICATION IN INTERPRETED PROCEEDINGS?

- Instruct all parties as to the role of the interpreter.
- Allow the interpreter to view the court file to review names, parties and unique vocabulary.
- Allow the interpreter to briefly converse with the non-English speaker to ensure understanding of dialect and pronunciation differences.
- Instruct all participants to speak loudly and clearly.
- Allow only one person to speak at a time.
- Speak directly to the party or witness, not to the interpreter.
- Speak and read slowly and clearly enough for the interpreter to keep up during simultaneous interpretation.
- Speak in logical, meaningful phrases, pausing to allow the interpreter to keep the pace, during consecutive interpretation (witness testimony).
- Do not ask the interpreter to explain or restate anything said by the party and do not allow attorneys to ask that of an interpreter.
- Allow the interpreter to take a break after 30 minutes.

RESOURCES

- U.S. Department of Justice Web Site (<http://www.lep.gov>)
- Model Code of Professional Responsibility for Interpreters in the Judiciary (http://www.ncsconline.org/wc/publications/Res_CtInte_ModelGuidePub.pdf)
- State Court Interpreter Programs (http://www.ncsconline.org/D_Research/CourtInterp.html)
- The National Association of Judiciary Interpreters and Translators (NAJIT) (<http://www.najit.org>)

