

BENCH CARD: WORKING WITH COURT INTERPRETERS



JUDICIAL COUNCIL
OF CALIFORNIA

HOW DO I DETERMINE IF A PERSON NEEDS AN INTERPRETER?

- Interpreter was needed at prior proceeding
- Limited-English-proficient (LEP) person requests interpreter
- Attorney requests an interpreter
- Person is not able to communicate because of an apparent language barrier
- Court staff determines there is a need

SAMPLE QUESTIONS TO ASSESS UNDERSTANDING OF ENGLISH:

(Ask on the record. Avoid questions easily answered with yes or no replies.)

- What is your name?
- How did you come to court today?
- What kind of work do you do?
- How did you learn English?
- What is the reason for you being in court today?
- You may have the right to a free interpreter to help you communicate and understand the proceedings today. Would you like the help of an interpreter?

WHAT TO DO IF I DETERMINE A PERSON NEEDS AN INTERPRETER?

1. Before the proceeding, request a certified or registered interpreter.
2. If no certified or registered interpreter is available after diligent search (form INT-120), you may for good cause appoint provisionally qualified (form INT-110) interpreter for proceeding. CRC, rule 2.893; Gov. Code, § 68560 et seq.
3. If interpreter is NOT provisionally qualified, you may appoint to prevent burdensome delay (or other unusual circumstance) only for a brief, routine matter. Indicate on record:
 - a. Party waives certified/registered and provisionally qualified interpreter;
 - b. Good cause to appoint noncertified/nonregistered, nonprovisionally qualified interpreter; and
 - c. Interpreter is qualified to interpret the proceeding.

See forms INT-100-INFO, INT-110, and INT-120 for provisional qualification process.

SAMPLE VOIR DIRE QUESTIONS TO ASSESS NONCREDENTIALLED INTERPRETER QUALIFICATIONS:

- What training or credentials do you have as an interpreter?
- How did you learn English?
- How did you learn your other language?
- What is your experience interpreting in court? What types of cases?
- Describe your familiarity with legal terminology.
- Do you know any of the parties in this case? If so, how?
- Are you able to remain neutral and impartial?
- Do you understand you are only here to facilitate communication and should not give advice or your opinion?

To the parties: Does either party have any questions for the interpreter?

Who can get an interpreter?

LEP party, witness, or person with significant interest or involvement in a case or with legal decisionmaking authority, or whose presence or participation in the matter is necessary or appropriate as determined by a judicial officer.

Examples: Victims, legal guardians, or custodians of a minor or an adult involved as a party, witness, or victim.

Who cannot serve as interpreter?

- Minors, with no exception
- Persons with conflict of interest
- Bilingual staff

The court may appoint an interpreter hired by a party

The court may exercise its discretion to appoint an interpreter hired by a party, even if a court-provided, qualified interpreter is available (Gov. Code, § 71802(b)(3).)

When appointing an interpreter hired by a party, the judge must ensure the impartiality of the interpretation and may choose to appoint a court-provided interpreter for certain aspects of the proceeding, such as witness testimony.

If the party-retained interpreter is not a certified or registered interpreter, the court will need to provisionally qualify the interpreter pursuant to the procedures in rule 2.893 of the California Rules of Court.

Waiver of the use of any interpreter by the LEP person is rare. Waiver must be:

- Knowing, intelligent, and voluntary;
- After consultation with counsel, if represented;
- Approved by judicial officer, in his or her discretion;
- Entered on record or other writing; and
- Revocable by party or judicial officer at any time.

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COMMUNICATING THROUGH INTERPRETERS

BEFORE THE PROCEEDING BEGINS

- Allow the interpreter to converse briefly with the LEP person to ensure understanding of accents, dialect, or pronunciation differences.
- Whenever possible, allow the interpreter to review the court file prior to the hearing, to become familiar with names, dates, and technical vocabulary.
- If you anticipate a long proceeding (one hour or more), consider appointing two or more interpreters.

DURING THE PROCEEDING

- Instruct all participants to speak loudly and clearly, and to speak one at a time.
- Speak directly to the LEP person, not to the interpreter.
- Speak/read slowly and clearly, avoiding compound questions, double negatives, jargon, and legalese.
- Pause during consecutive interpretation (including witness testimony) so the interpreter can keep the pace.
- Don't ask the interpreter independently to explain anything said by the party.
- Take into account the fatigue factor. Allow for breaks or alternate interpreters every 30 minutes.
- Monitor the interpreter so that side conversations with the LEP person do not take place.
- Check in periodically with the LEP person to make sure he or she understands. Do so with substantive questions, not just a simple "yes" or "no."
- Recognize that court proceedings can be confusing and intimidating for a non-English speaker since other countries' legal systems and concepts often vary from those of the U.S.

SAMPLE LANGUAGE TO EXPLAIN THE INTERPRETER'S ROLE

FOR THE PARTY/WITNESS

The court interpreter is a neutral person who is here only to interpret the proceedings and allow us to communicate. The interpreter will interpret only what is said, without adding, omitting, or summarizing anything. The interpreter will say in English everything you say in your language, so do not say anything you do not want everyone to hear.

When speaking, please speak directly to the attorney or to me. Do not ask the interpreter for advice. If you do not understand the interpreter, then tell me. If you need a question or answer repeated, please tell me. Wait until the entire question has been interpreted before you answer, even if you understand some English. And speak only in your language to avoid confusion. Do you have any questions?

FOR THE JURY

You may hear languages other than English during this trial. You must only consider the evidence provided through the official court interpreter. Some of you may understand the non-English language used, but it is important for all jurors to consider the same evidence. Therefore, you must base your decision on the evidence presented in the English interpretation. You must not rely in any way on your own interpretation of the witness' words.

REQUIRED STATEMENTS ESTABLISHING AN INTERPRETER'S CREDENTIALS ON THE RECORD

FOR CERTIFIED/REGISTERED INTERPRETERS (GOV. CODE, § 68561(g))

1. Name of interpreter (as listed on court interpreter certification or registration)
2. Current certification/registration number
3. Statement that identification was verified with badge or certification/registration documentation and photo ID
4. Language to be interpreted
5. Statement that oath was administered or on file with court

FOR NONCERTIFIED/NONREGISTERED INTERPRETERS (GOV. CODE, § 68561(f))

1. Certified/registered interpreter not available (form INT-120)
2. Name of qualified interpreter
3. Statement that good cause exists and required procedures and guidelines were followed (forms INT-110, INT-120)
4. Statement that oath was administered pursuant to required procedures and guidelines