

Judicial Bench Card for Working with Interpreters

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

APPOINT AN INTERPRETER WHEN...

(42 Pa.C.S. § 4412 & 204 Pa. Code § 221.204)

1. A litigant, attorney, witness, deaf or hard of hearing person **requests** an interpreter; or
2. The court or participants have difficulty speaking to or understanding each other, **even when an interpreter is not requested.** (See “How do I determine if an interpreter is needed?” below.)

Voir Dire to Determine Limited Ability to Speak or Understand English

- Please tell me how comfortable you are speaking English.
- Please describe an important, memorable moment in your life.
- What is your favorite pastime or recreational activity?
- Please describe the kind of work that you do.
- Please describe your favorite movie or TV show.

Important

If you determine you need an interpreter, stop the proceeding and contact Court Administration to obtain an interpreter.

HOW SHOULD I INSTRUCT A NON-CERTIFIED INTERPRETER?

- You must interpret everything that is said using the first person (“I”).
- When referring to yourself, say “the interpreter.”
- Do not omit, edit, change, or polish what is said.
- Use the same language level and grammatical construction as the speaker.
- You may ask me if you want the speaker to pause, slow down, repeat, or for clarification.
- You may ask me for breaks.
- Do not have side conversations with the speaker.
- Never answer on the speaker’s behalf.

HOW DO I DETERMINE IF AN INTERPRETER IS NEEDED?

Ask open-ended questions to ascertain if the person has a limited ability to speak or understand English. Avoid questions easily answered with yes or no replies. (Please refer to “Voir Dire to Determine Limited Ability to Speak or Understand English” above for sample questions.)

Even when a person can answer simple questions, an interpreter should be appointed since legal proceedings use terminology that is often unfamiliar to people with limited ability to speak or understand English. Do not assume a level of English proficiency based on the person’s length of residence.

Individuals who are limited English proficient (LEP), deaf, or hard of hearing should not be permitted to use informal interpreters, such as family members, opposing parties, or their counsel.

Space Reserved for District-Specific Information



ADMINISTRATIVE OFFICE
of PENNSYLVANIA COURTS

rev. February 2024

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HOW DO I QUALIFY AN INTERPRETER IN COURT?

- **Master and Certified level interpreters on the AOPC Interpreter Roster** voir dire not required, but request to see their AOPC Certification ID card.
- **Non-certified interpreters** (qualified, conditional, registered and non-rostered) must be voir dired (see below) on the record to establish qualifications, if unknown to court.
- **Telephonic interpreters** must be voir dired (see below) to establish qualifications.

Voir Dire to Establish Interpreter Qualifications on the Record

- Are you a master or certified level interpreter listed on the AOPC interpreter roster? Do you have an AOPC Certification ID card? (If yes, no need to continue voir dire.)
- What credentials do you have to serve as a court interpreter?
- Do you have formal training in interpreting? If yes, when and by whom?
- Have you interpreted in a legal proceeding before? If yes, please describe it.
- Do you know the vocabulary needed to interpret in this type of case?
- How did you learn both English and (the foreign language)?
- Are you aware of any conflicts of interest you may have with this case?
- Are you familiar with the PA Rules of Professional Conduct for Judiciary Interpreters? Tell me some of its main points.
- Have you spoken with the LEP person, and were there any communication problems?

OATH TO SWEAR IN AN INTERPRETER

Do you solemnly swear or affirm that you will make an accurate, complete, and impartial interpretation from the English language into the (target language) language, and vice-versa, of all communication during this proceeding using your best skill, judgment, and ability and that you will abide by the Rules of Professional Conduct for Judiciary Interpreters, and so you do swear or affirm? 204 Pa. Code § 221.106.

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SCOPE OF WHO IS ENTITLED TO AN INTERPRETER FOR A JUDICIAL PROCEEDING

Any principal party in interest, witness, direct victim, parent or person in *loco parentis*, in any criminal or civil proceeding is entitled to an interpreter. Persons with limited English proficiency (LEP), and those who are deaf or hard of hearing face special challenges when using the judicial system and court interpreters fulfill a fundamental role in providing access to justice and guaranteeing due process rights. An interpreter may also be appointed “for an immediate family member of a principal party in interest.”

42 Pa.C.S. §§ 4402, 4412(a)&(d); 204 Pa. Code § 221.102.

Pursuant to the Americans with Disabilities Act, the court must provide an interpreter for all deaf or hard of hearing individuals who need one to effectively communicate.

WHO PAYS FOR THE INTERPRETER?

Where an individual is entitled to an interpreter (see above) the court pays for the interpreter.

204 Pa. Code § 221.107-221.108.

BEST PRACTICES WHEN USING INTERPRETERS IN THE COURTROOM

- Ensure relevant case information was shared with the interpreter before the proceeding.
- Allow the interpreter to speak briefly with the LEP person beforehand to identify the speaker’s dialect and to ensure they can communicate.
- Establish interpreter qualifications, determine whether any conflicts exist, check the interpreter ID, and administer the interpreter oath. (See reverse side.)
- Explain interpreter’s role to the parties and others (see “How do I Explain the Role of the Interpreter” on right).
- Make sure only one person speaks at a time and does so slowly, clearly, and with pauses.
- Advise participants to raise their hand if they do not understand or disagree with the interpretation.
- Monitor the interpreter’s performance and correct any problems or disputes regarding accuracy and ethical issues.
- Give the interpreter breaks at least every 30 minutes.
- Team interpreting is required to maintain accuracy in any proceedings expected to last more than 2 hours.
- Allow interpreters to determine the frequency and timing of switching while in teams.
- Inform the Language Access Coordinator or District Court Administrator if an issue negatively impacted a case.

WHO CAN I CONTACT IF THERE ARE PROBLEMS?

Questions or concerns about the interpreter’s performance: Interpreter Certification Program, 215-560-6300 or InterpreterProgram@pacourts.us.

Questions or concerns about appointment, scheduling, or payment? Contact your judicial district’s Language Access Coordinator or AOPC’s Court Access Team at LanguageAccess@pacourts.us.

LANGUAGE ACCESS RESOURCES

For links to the law, rules, regulations, and the UJS Language Access Plan please scan the QR code or visit <https://tinyurl.com/AOPC-Language-Access>.



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CAN SOMEONE WAIVE THEIR RIGHT TO AN INTERPRETER?

Yes, if the waiver process is followed and the presiding judicial officer determines (1) the waiver is knowing, voluntary, and intelligent, and (2) that the waiver will not impede the person’s communication with the court and the fact finder. 204 Pa. Code § 221.105.

Inform the person seeking to waive an interpreter: *“You have the right to have an interpreter present, at no cost, for the duration of the court proceeding to assist you in fully participating and understanding the proceeding. By waiving your right, you are choosing not to have an interpreter for the remainder of the proceeding.”*

INTERPRETER WAIVER PROCESS

1. An interpreter **must** be provided during the waiver process.
2. The waiver process must be conducted on the record (if in a court of record).
3. Counsel must be present (if the person seeking to waive an interpreter is represented by counsel).
4. The “Interpreter Waiver Form” must be completed and made part of the record.
5. The waiver should be denied where the interpreter is necessary to communicate and understand.



MDJ Waiver Form



CCP Waiver Form

HOW DO I EXPLAIN THE ROLE OF THE INTERPRETER?

The judge should explain the role of the interpreter to the parties and the jury before the start of any proceeding.

1. To All Parties, Witnesses, and Others:

“The interpreter is a neutral party who is here only to interpret the proceedings and enable communication. The interpreter will interpret everything that is said. Speak slowly and allow the interpreter to finish before continuing. Wait until the entire statement has been interpreted before you answer. Do not ask the interpreter questions. If you have a question, ask me or your attorney. Do not engage in conversations with the interpreter. The interpreter is not allowed to give legal advice. When speaking, speak directly to your attorney or to me. If you do not understand the interpreter tell me. If you disagree with the interpretation, raise your hand. Do you have any questions? Do you understand my instructions?”

If a deaf person is involved add “Please be aware that nodding by the deaf person usually means that they are understanding the interpreter, not that they agree with what is being said.”

2. To the Jury:

“An interpreter for a language other than English will be used during this proceeding. Although some of you may understand the foreign language used, it is important for all jurors to consider the same evidence. Therefore, you may only consider the testimony presented by the official interpreter[s]. You must not rely on your own interpretation of the witness’ or other parties’ words. The evidence you are to consider is only that provided through the official court interpreter.”