

**THE UNITED STATES DISTRICT COURT  
for the  
NORTHERN DISTRICT OF NEW YORK**



**COURT INTERPRETER MANUAL**

(July, 2017)

**Hon. Glenn T. Suddaby**  
**Chief U.S. District Judge**

**Lawrence K. Baerman**  
**Clerk of Court**

## **STATEMENT OF PURPOSE**

The purpose of this Court Interpreter Manual is to provide interpreters with information about their role as language translators in the U.S. Federal District Court for the Northern District of New York. It is intended to provide interpreters with guidance on professional standards to enable them to carry out their functions and responsibilities within the Federal Court system. This manual also provides guidance on policy and procedure for new and existing interpreters.

The U.S. District Court for the Northern District of New York may amend the Court Interpreter Manual at any time without notice.

## **I. COURT INTERPRETERS IN THE U.S. FEDERAL COURT SYSTEM**

### **A. The Right to an Interpreter in District Court**

It is a basic right of all criminal defendants to be allowed to assist in their own defense by being present at the trial and understanding the proceedings. The Court has ruled that criminal defendants who cannot understand English are entitled to have the proceedings interpreted for them in a language that they understand. Failure to provide an interpreter where one is needed may render a criminal trial constitutionally defective.

In addition to linguistic minorities, the right to an interpreter may apply in instances involving physical disabilities, which may result in communication problems.

In order to provide accurate interpretation, the interpreter must be proficient in English and the foreign language and must have no bias or personal interest concerning the outcome of the proceedings.

**CRIMINAL MATTERS:** The Court Interpreters Act (28 USC 1827) provides for qualified interpreters to be present in court for criminal cases. Their services are paid for by the Administrative Office of the U.S. Courts.

**In-Court Criminal Matters - An Interpreter** will be present at every court appearance. A court employee will secure the services of an interpreter who speaks the language of the defendant.

**Out-of-Court Attorney-Client consultations for CJA and Retained Counsel - Interpreting** at interviews in the cell block before or after a court proceeding, or interviews with family members will be arranged by the defendants attorney.

**Government Witnesses - Interpreters** for government witnesses are scheduled and paid for by the U.S. Attorneys Office, per 28 USC 1827.

### **B. Conditions of Appointment**

Once an interpreter has been located, two additional steps are required: there must be a determination that the person is qualified for the task; and the terms and conditions of employment must be negotiated. A presiding judicial officer's selection of a person to serve as an interpreter does not constitute an appointment to that person as an employee of the United States. The relationship that is created is that of an independent contractor.

The Director of the Administrative Office will not deduct income taxes or Social Security taxes from the interpreter's compensation, Social Security benefits for the freelance interpreter will be based entirely on the interpreter's contribution as a self-employed individual and the government will make no contribution as an employer. The Clerk will prepare and transmit to each freelance interpreter an Internal Revenue Service Form 1099-G.

As a condition of employment, background checks are mandatory for all interpreters (and other vendors) that work in the court. Contract Interpreters are required to be fingerprinted every two years. Interpreters may either be fingerprinted by the federal court, or the interpreter may get

fingerprinted at their local law enforcement agency and provide the completed fingerprint cards to the court. There is no charge to the contract interpreter for this process if the fingerprinting is done at the court; however, if an individual chooses to have the fingerprinting done elsewhere, any charges will not be reimbursed by the court. Fingerprints are submitted to the FBI for a full background investigation. The results of the background investigation will be available for review by the Court. Access to the results will be strictly limited to court personnel.

The court interpreter must sign an annual contract, which specifies payment rates and policies, cancellation policies, as well as other terms and conditions. Interpreter contracts are renewed annually.

Contract Court Interpreters must maintain contemporaneous time and attendance records for all work performed. Such records, which may be subject to audit, must be retained by the contract interpreter for three years after payment of the final invoice/bill.

#### **1. No Vested Rights**

Addition to, or removal from, the federal court interpreter roster is at the discretion of the Court.

### **C. Types of Court Interpreters in District Court**

#### **1. Certified Interpreters**

Certification testing programs have been developed and are administered for three languages: Haitian Creole, Navajo, and Spanish. The Federal Court Interpreter Certification Examination (FCICE), which is administered under the supervision of the Administrative Office of the U.S. Courts, is a criterion-referenced performance examination in which the grade required for certification is based on an absolute standard rather than on the relative performance of examinees as measured against each other. The examination shall consist of written and oral parts.

#### **2. Professionally Qualified Interpreters**

The category of professionally qualified (PQ) interpreters applies to all languages, except those for which the AO has certified interpreters (Spanish, Navajo, and Haitian Creole). Credentials for professionally qualified interpreters require sufficient documentation and authentication, and must meet the criteria in one of the following:

- (a) Passed the U.S. Department of State conference or seminar interpreter test in a language that includes English and the target language. The U.S. Department of State's escort interpreter test is not accepted as qualifying.
- (b) Passed the interpreter test of the United Nations in a language pair that includes English and the target language.
- (c) Is a current member in good standing of:
  - (1) the Association Internationale des Interpretes de Conference (AIIC); or
  - (2) The American Association of Language Specialists (TAALS)

The language pair of the membership qualification must be English and the target language.

- (d) For sign language interpreters, someone who holds the Specialist Certificate: Legal (SC:L) of the Registry of Interpreters for the Deaf (RID).

### **3. Language Skilled Interpreters**

- (a) An interpreter who does not qualify as an AO certified or professionally qualified interpreter, but who can demonstrate to the satisfaction of the court the ability to interpret court proceedings from English to a designated language and from that language into English, will be classified as a language skilled/ad hoc interpreter.
- (b) This group includes all individuals not certified or professionally qualified, who, through a precisely structured voir dire process, can be deemed competent to handle simultaneous and/or consecutive interpretation and/or sight translation with sufficient language proficiency in both English and the target language.
- (c) In some instances, the presiding judge may need to take extra time and make special accommodations to ensure that the proceedings can be conveyed through the language skilled/ad hoc interpreter. For example, in some languages for which there are few interpreters, it may be difficult or impossible to find interpreters with the skills to interpret a court proceeding simultaneously. In addition, some interpreters may profess to have simultaneous skills that prove inadequate for a court proceeding. When this occurs, the presiding judge may need to instruct the parties to speak slowly in order to allow the interpreter time to interpret consecutively. The presiding judge and parties may also need to simplify the language they use, or explain the meaning of some legal terms, so that the interpreter may understand what the parties are saying and transmit it to the non-English speaker.

### **D. Proceedings Involving Persons with Communication Disabilities**

Pursuant to the policy adopted by the Judicial Conference session in September 1995, all federal courts must provide reasonable accommodations to persons with communications disabilities. This policy does not apply to spectators. This includes both civil and criminal proceedings.

The Clerk is responsible for locating certified or otherwise qualified interpreters for court proceedings, except that a United States attorney is responsible for securing interpreters for government witnesses. The "Clerk" means the Clerk of the district court, or other court employees designated by the Chief Judge to implement the Act.

Interpreters certified by the Registry of Interpreters for the Deaf and holding a Legal Specialist Certificate, or equivalent, are recognized as qualified to interpret court proceedings for hearing-impaired parties. If no person with Legal Specialist Certification is reasonably available, the presiding judicial officer is responsible for ascertaining the competency of the proposed interpreter for the hearing impaired, preferably one with a Comprehensive Skills Certificate from the Registry of Interpreters for the Deaf.

Deaf or hard of hearing people communicate in different ways, depending on several factors:

Age at which deafness began  
Language skills  
Speech reading skills

Type of deafness  
Amount of residual hearing  
Oral speaking abilities

Because of these varying communication levels, there are a variety of language modes. It is very important to ask the deaf or hard of hearing individual what communication mode they prefer to assure an appropriate interpreter is selected. Interpreting methods include Oral, Tactile, or Sign Language Interpreting.

### **Oral Interpreter**

An oral interpreter facilitates spoken communication by paraphrasing or translating the speakers' message with or without voice using natural lip movements for the deaf or hard of hearing individual. The oral interpreter may also voice for a deaf or hard of hearing person.

### **Tactile Interpreter**

A tactile interpreter is trained in communication for Deaf/Blind individuals. Tactile interpreters primarily use sign language and fingerspelling in the palm of the client's hand, but may include other communication techniques.

### **Sign Language Interpreter**

A sign language interpreter facilitates communication between both sign language and spoken language using hand gestures, fingerspelling and facial expressions. An interpreter signs everything that is spoken in the room and may also voice for the deaf person. There are three different languages of sign:

- a. American Sign Language (ASL) - a visual-gestural-spatial language with vocabulary and grammar very different from English. ASL communicates concepts, but is not a word for word translation
- b. Transliteration - uses ASL signs to express many English words, and presents those words in English word order. Transliteration is usually a word for word approach.
- c. Pidgin Sign English - a blend of ASL and Signed English. Signs are borrowed from ASL and presented in Signed English Order, but without using a word for word approach. Useful for people who are not fluent in ASL, but who do know some signs.

All sign language forms also include finger-spelled words using the manual alphabet.

## **II. PROFESSIONAL STANDARDS FOR COURT INTERPRETERS**

### **A. Purpose of Standards**

These standards are published to provide professional guidelines for the Federal District Court system and for all persons who work with court interpreters.

To assure access to court interpreting services for non-English speaking and hearing impaired persons.

To protect the constitutional rights of all criminal defendants by helping to ensure due process in all phases of litigation for non-English speaking and hearing impaired individuals.

To increase the efficiency, quality and uniformity of interpreting services in all proceedings.

To encourage the continued professional development of Court interpreters.

To give guidance to the bench, the bar and others involved in proceedings requiring the services of Court interpreters.

To ensure that professional quality court interpreting services are rendered in all proceedings before trial, during trial and in any subsequent proceedings where they may be required.

## **B. Requirements**

### **1. Accuracy**

- a. A Court interpreter shall faithfully and accurately interpret what is said without embellishment or omission while preserving the language level of the speaker.
- b. Court interpreter shall provide the most accurate form of a word in spite of a possibly vulgar meaning. Colloquial, slang, obscene or crude language, as well as sophisticated and erudite language, shall be conveyed in accordance with the usage of the speaker. An interpreter is not to tone down, improve or edit any words or statements.
- c. A Court interpreter shall not simplify statements for a non-English speaker even when the interpreter believes that the non-English speaker cannot understand the speaker's language level. The non-English speaker may request an explanation or simplification, if necessary, from the court or counsel through the interpreter.
- d. A Court interpreter shall interpret for litigants at all times. He or she will provide an interpretation of all open-court speeches; (e.g., questions, answers, court rulings, bench-counsel and counsel-counsel colloquies, etc.)

### **2. Impartiality**

A Court interpreter shall maintain an impartial attitude at all times and avoid unnecessary discussions with counsel, witnesses, interested parties, etc., either inside or outside the courtroom.

### **3. Confidentiality**

A Court interpreter shall not disclose any information deemed confidential by the court or by any concerned parties.

### **4. Proficiency**

Each Court interpreter shall provide professional services only in matters or areas in which the interpreter can perform accurately. When in doubt as to his or her ability, the interpreter shall inform a court official or the judge immediately.

A Court interpreter shall withdraw from any case in which his or her professional performance will be adversely affected due to lack of proficiency, lack of preparation, or difficulty in understanding the speaker for any reason.

A Court interpreter shall consult appropriate legal and bilingual dictionaries and glossaries as needed.

## **5. Professional Demeanor**

- a. A Court interpreter shall speak in a clear, firm, and well-modulated voice.
- b. The Court interpreter shall be positioned in full view of the person who is testifying and situated so as to assure proper communication, without obstructing the view of the judge, jury or counsel. The interpreter shall always be positioned so that the non-English speaker can hear and see everything the Court interpreter says or signs and so that the interpreter can hear and see everything that is said or signed during the proceedings.
- c. The apparel of the Court Interpreter must be consistent with reasonable standards of social acceptability, cleanliness, and decency. Dress should be appropriate to the type of work to which employees are assigned, taking into consideration such factors as courtroom decorum, public visibility, the sensitivities of fellow employees and personal comfort.
- d. Court interpreters are prohibited from consuming alcoholic beverages during the duration of contracted services by the court, as this could compromise the integrity of the interpretation resulting in a negative impact on the outcome of the court proceeding.

## **6. Case Preparation**

- a. A Court interpreter shall prepare for a proceeding whenever possible. This may involve reviewing the case material, including the charging document (complaint, information or indictment), consent forms, waivers, or any other documents to be used in the case.
- b. Whenever possible prior to the initial appearance, a Court interpreter shall instruct the non-English speaker as to the role of the Court interpreter. The Court interpreter shall become familiarized with the communication pattern, cultural background, and native language level of proficiency of the non-English speaker. Counsel representing the non-English speaker may wish to be present.
- c. The Court interpreter shall advise the non-English speaker that:
  - i The Court interpreter shall translate all statements and comments throughout the proceeding.
  - ii The non-English speaker must not ask direct questions of the Court interpreter or initiate any independent dialogue with the interpreter, including asking for legal advice or explanations of any statement made during the proceedings.
  - iii The non-English speaker must direct all questions to counsel or to the Court when necessary.
  - iv The non-English speaker must wait for the full interpretation of the English before responding to a question.

- v The Court interpreter shall also inform the non-English speaker as to the interpretation mode (or hand technique) which will be used.

## **7. Modes of Court Interpreting**

- a. The **consecutive** mode of court interpreting requires that the interpreter allow the speaker to complete a thought or statement before giving its interpretation. This mode shall be used when non-English speakers are giving testimony or when the judge, counsel, or officer of the court is in direct dialogue with the non-English speaker.
- b. The **simultaneous** mode of court interpreting requires that the interpreter speak contemporaneously with the speaker whose statements are being interpreted. Simultaneous interpretation is virtually performed within seconds of the original speech. This mode shall be used when the non-English speaker is listening to others speak during the proceeding.
- c. In some cases wireless interpreting equipment may be used, where available. This equipment is particularly useful when there are several non-English speaking defendants, who can each have headphones, or when the interpreter should not be physically close to the non-English speaking defendant for health or security reasons.

## **8. Modes of Address**

- a. Each Court interpreter shall utilize the first person singular when interpreting for a non-English speaker giving testimony or speaking to another person. Persons addressing the non-English speaker (e.g., attorneys, judges, probation officers, clerks) shall also use the first person.
- b. A Court interpreter shall address the Court using the third person singular to protect the record from confusion. (e.g., “Your Honor, the Court Interpreter requests that the question be repeated.”)

## **9. Language and/or Hearing Difficulty**

- a. Whenever the Court interpreter does not understand a word, phrase, or concept, the interpreter shall inform the Court which may, at its discretion, order an explanation, rephrasing, or repetition of the statement. The interpreter may request time to look up an unfamiliar word in the dictionary.
- b. Whenever the Court interpreter has difficulty hearing and, therefore, interpreting, the interpreter shall inform the Court. The Court may, at its discretion, order the speaker to repeat the statement, to speak louder, or change the position of the interpreter in the courtroom.

## **10. Errors**

Whenever a Court interpreter discovers an interpretation error, the interpreter shall correct the error at once. The interpreter may request a bench conference with the judge and counsel, explain the problem, and make the correction on the record.

## **11. Difficulties While Interpreting**

- a. Each Court interpreter shall interpret the exact response of the defendant/witness or speaker even if the answer seems to be non-responsive. The admissibility of the response must be determined by the Court upon the request of counsel.
- b. If a defendant/witness testifying in a foreign language occasionally uses a few words in English, the Court interpreter shall repeat those words for the record so that a person listening to the recorded proceeding may continue following the interpreter's voice. However, if the defendant/witness utters a full English response, the interpreter shall not ask the defendant/witness to respond in his or her native language. Rather, the interpreter will stand back so that the parties are aware of the English response and await the Court's direction.
- c. Whenever an objection is made, the Court interpreter shall interpret everything that was said up to the objection and instruct the defendant/witness by hand gesture not to speak until the Court has ruled on the objection.
- d. Whenever a serious communication problem arises between the interpreter and the non-English speaker (i.e., a person is being disruptive, does not allow the interpreter to speak, etc.), the Court interpreter shall bring the matter to the immediate attention of the Court or counsel.
- e. A Court interpreter shall not characterize or attempt to explain testimony. The Court or counsel will request clarification from the non-English speaker through the interpreter when necessary.
- f. A Court interpreter shall not correct erroneous facts in questions posed to non-English speakers. Similarly, the interpreter shall never correct the testimony of non-English speakers, even if the errors are obvious. The response of a non-English speaker shall never be inferred. If the witness is asked to clarify his or her previous answer, the interpreter shall pose the question as asked and not volunteer what the interpreter thought the speaker meant in the initial response.

## **12. Fatigue Factor**

A Court interpreter shall inform the Court if the quality of interpreting is about to suffer due to the fatigue of the interpreter. The Court may authorize appropriate breaks.

## **C. Relationships**

1. With the Court - The services of the Court interpreter are normally requested by the Courtroom Clerk for assignment. The Courtroom Clerk provides to the interpreter any information or administrative support needed to perform the professional services. The Court interpreter will be sworn as an officer of the court and will act in an impartial manner.
2. With the Attorneys - As the facilitator for communications, the Court interpreter will provide the necessary interpretation for the benefit of the party requiring language or sign interpretation. The Court interpreter will be impartial with all attorneys and, as a contract employee of the court, will show no favoritism to either side.

3. With the Defendant or Litigant - The Court interpreter has a responsibility to interpret on behalf of the defendant or litigant needing such service so that the proceeding can be understood by all parties. The Court interpreter is to be impartial toward all litigants and defendants and is not permitted to comment on any pending cases.
4. With the Public - The Court interpreter may have occasion to speak with members of the public who also might require interpreting services in order to approach the court for information or to understand the proceeding. The Court interpreter must be careful not to overstep the bounds of his or her authority by volunteering information that is better given by other members of the courtroom team or court agency. The Court interpreter is not permitted to comment on any pending cases.
5. With the Media - The Court interpreter is the language facilitator of the Court. It is not appropriate for the Court interpreter to conduct interviews with the media.

**D. Conflicts of Interest**

1. A Court interpreter shall not have any direct or indirect interest in any case or transaction, nor incur any obligations which are in conflict with the proper discharge of the duties of Court interpreter or which may affect the outcome of the proceeding.
2. A Court interpreter shall not derive personal profit or advantage from any confidential information acquired while acting in a professional capacity.
3. A Court interpreter shall not accept money, consideration, or favor for the performance of his or her duties from anyone other than the compensation received from the Court.
4. A Court interpreter shall not use the Court's time, facilities, equipment or supplies for private gain or advantage.
5. A Court interpreter shall not serve in any proceeding which involves an associate, friend or relative of the interpreter.
6. A Court interpreter shall disclose on the record any services previously provided on a private basis to any of the parties involved in a proceeding.
7. A Court interpreter shall not give any legal advice of any kind to anyone concerned with the proceeding, whether solicited or not. A Court interpreter shall never act as an individual referral service for an attorney.

**E. Compliance**

1. A Court interpreter who discovers anything which would preclude full compliance with these Professional Standards shall immediately report it to the Court.
2. A Court interpreter shall immediately report to the Court any solicitation or effort to induce or encourage a violation of any law, professional standard, or regulation promulgated by the Administrative Office of the Courts.
3. The Court may remove a Court interpreter from an assignment if the proceeding cannot be

interpreted accurately for any reason.

4. A Court interpreter employed on a per diem basis may be removed from the active interpreter master list for inadequate performance or for other reasons related to his or her official duties, including but not limited to the following:
  - a. Knowingly and willfully making a false interpretation while serving in an official capacity.
  - b. Knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity.
  - c. Repeated refusals to accept assignments.
  - d. Inability or unwillingness to adhere to professional standards.
  - e. Criminal background.

**F. Experience and References**

All candidates are required to complete an application which requests information about previous interpreting work and other related bilingual experience, education, ability, and background.