



Bench Card 2.0 WORKING WITH INTERPRETERS FOR DEAF & HARD OF HEARING PERSONS IN THE COURTROOM

Complying with the Americans with Disabilities Act (ADA) and Ohio Superintendence Rule 88

The Americans with Disabilities Act (ADA) assures equal access to justice for people who are deaf, deaf-blind, or hard of hearing. Courts must work closely with interpreters, parties, and witnesses to determine effective communication methods. Possible accommodations may include sign language interpreters, specialized interpreter services, computer-assistive transcription services, and assistive listening devices.

Case or Court Function

“Case or court function” can include a hearing, trial, pretrial conference, settlement conference, or other appearance before a court in an action, appeal, proceeding, or other matter conducted by a judge, magistrate, or other court official.

UNDER SUP.R. 88(B)(1):

Courts shall appoint a sign language interpreter when:

1. A deaf, hard of hearing, or deaf-blind party, witness, or juror requests an interpreter.
2. Absent a request, the court concludes an interpreter is necessary for meaningful participation.

The court shall give primary consideration to the method of interpretation chosen by the party, witness, or juror. Sup.R. 88(B)(2).

Deaf, deaf-blind and hard of hearing people may not be charged for the costs of such auxiliary aids or services. 28 C.F.R. 35.130(f).

APPOINTMENT OF CERTIFIED INTERPRETERS IN CASE OR COURT FUNCTION [SUP.R. 88(E)]

1. The court shall appoint a Supreme Court certified interpreter.
2. If a certified interpreter does not exist or is not reasonably available and after considering the gravity of the matter and whether it could be rescheduled to obtain a certified interpreter, the court may appoint one of the following certifications:
 - (a) National Interpreter Certification (NIC)
 - (b) Certification of Interpretation and Certification of Transliteration (CI/CT)
 - (c) Comprehensive Skills Certificate (CSC)
 - (d) Master Comprehensive Skills Certificate (MCSC)
 - (e) Level V Certification from the National Association of the Deaf (NAD)
 - (f) Level IV Certification from the National Association of the Deaf (NAD).
3. If the communication method cannot be adequately established by a sign language interpreter who is hearing, the court must then bring a deaf person who holds the credential of “Certified Deaf Interpreter” (CDI) to help with the communication. A CDI will act as an intermediary between the deaf party and the sign-language hearing interpreter.
4. If the communication method required silent oral techniques, the court must appoint a certified interpreter who holds an Oral Transliteration Certificate.

When Satisfied with the Interpreter's Qualifications, the Oath shall be Given

INTERPRETER OATH:

Do you solemnly swear or affirm you will interpret accurately, completely, and impartially, using your best skill and judgment in accordance with the standards prescribed by law and follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?

For more information, contact the Supreme Court of Ohio's Language Services Program at 614.387.9403.

HOW CAN I FACILITATE COMMUNICATION IN AN INTERPRETED PROCEEDING?

- Advise everyone in the courtroom of the presence and role of the interpreter.
- Instruct participants to speak loudly and clearly. Allow only one person to speak at a time.
- Allow the interpreter to converse with the deaf or hard of hearing person prior to the proceedings to ensure effective communication and identify possible signing differences or other concerns. Additionally, deaf persons with minimal language skills, blindness, or who rely upon lip reading may require specialized interpreting services. In these instances, the court may need to provide such an interpreter.
- Ask the deaf or hard of hearing person if he or she is able to understand and communicate through the interpreter. Instruct the person to raise a hand if something is not understood.
- Allow the interpreter to view court files prior to the proceedings to become familiar with names and technical vocabulary. Allow the interpreter to view all exhibits, photos, or other records prior to their introduction into evidence.
- Speak directly to the party or witness, not to the interpreter. Do not ask the interpreter to explain or restate anything the party or witness says. The interpreter will interpret in the first person in order for the record to be accurate. The interpreter will convey all questions, answers, and courtroom dialogue. Therefore, the interpreter is always working. Advise the interpreter to notify the court when breaks are needed.
- If the proceeding will last longer than two hours or has multiple deaf or hard of hearing persons involved, then require the presence of two interpreters who can switch as needed. Sup.R. 88(F)(1)(a).
- Proper interpreter positioning and close proximity to the speaker allow optimal access to communication.

CLARIFYING THE ROLE OF THE INTERPRETER

Before the start of courtroom proceedings, it is highly recommended the judge clarify the role of the interpreter for the defendant, witnesses, and jury members. Judges may use the following language for this purpose.

For the Defendant/Witness

I want you to understand the role of the interpreter. The court interpreter is impartial and here only to interpret the proceedings. The interpreter will interpret only what is said without adding, omitting, or summarizing anything. The interpreter will interpret everything you state, so do not say anything you do not want everyone to hear. You are here to listen and/or give testimony to this court. When speaking, 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 statement has been interpreted before you answer. Do you have any questions?

For the Jury

Modes of communication other than spoken English may be used during this trial. The evidence you are to consider is only that provided through the official court interpreters. Although some of you may understand the deaf or hard of hearing person, it is important for all jurors to consider the same evidence. Therefore, you must base your decision on the evidence presented in the interpretation. You must not rely in any way upon your own interpretation of the witness' words.