



ENSURING LANGUAGE ACCESS SERVICES IN N.C. SUPERIOR COURTS

JANUARY 18, 2019

EQUAL ACCESS TO JUSTICE



Using a properly trained court interpreter ensures full and fair participation and facilitates equal access to justice for Limited English Proficient (LEP) individuals in the North Carolina court system.

Equally important is



... THE ADMINISTRATION OF JUSTICE

The Court's *own* interests in ensuring effective communication, and protecting the integrity of evidence that comes into the record or is presented before the court. Our courts should appear just and well-managed. Ensuring effective language access promotes court efficiency.



WHAT DOES OLAS DO?

The **NCAOC Office of Language Access Services (OLAS)** helps facilitate equal access to justice for limited-English proficient individuals (LEP) in our court system by:

- Developing [Standards for Language Access Services in North Carolina State Courts](#) for the provision and efficient use of language access services
- Providing **support and guidance** for questions, concerns and issues involving interpreting and translating services
- Ensuring the provision of **proficient and ethical** foreign language court interpreters to the North Carolina courts
- Administering court interpreter training and certification testing** provided by the National Center for State Courts



4

WHAT ARE LANGUAGE ACCESS SERVICES ?

The full spectrum of language services available to provide meaningful access to court proceedings and court operations for LEP individuals, including, but not limited to, in-person interpreting services, telephonic and video remote interpreting services, translation of written materials, transcription-translation of non-English audio sources, and the use of bilingual staff.



5

LANGUAGE ACCESS SERVICES

In-person interpreting for court proceedings	Staff court interpreters in 9 counties: <i>Alamance, Buncombe, Chatham, Durham, Forsyth, Guilford, Mecklenburg, Orange and Wake</i> Contract court interpreters
Telephone interpreting service	Use by magistrates for initial appearances, public access, and brief, non-evidentiary matters Use by district court for first appearances and brief routine matters Use by district attorneys, public defenders, public access areas in clerks offices, child custody mediation, and family court offices
T3 HD remote court interpretation	For hearings and trials in district and superior court when certified court interpreters are not available locally. Limited availability.
Translation	Official court forms and vital court documents.
Transcription - translation	Audio/visual evidence for district attorneys and public defenders or assigned counsel Court interpreters are prohibited by their ethics from interpreting audio/visual recordings; all audio/visual recordings must be transcribed and translated prior to the court proceeding



6

WHO IS ELIGIBLE FOR STATE-FUNDED COURT
INTERPRETERS IN SUPERIOR COURT?

All LEP parties in interest in civil and criminal court
proceedings before the Superior Court Judge.

THIS MEANS: All limited English proficient (LEP) parties in
interest **must** be provided an AOC interpreter **at no cost to
the party.**



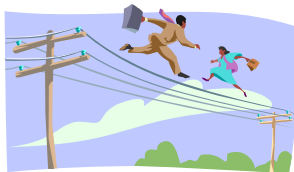
THE COURT INTERPRETER’S ROLE

- To provide equal access to justice and court proceedings by
linguistically placing the LEP individual *in the same position as an
English speaker.*
- Equal access does not mean better access.



THE COURT INTERPRETER IS A . . .

Neutral Language Conduit



WHAT IS THE COURT INTERPRETER'S JOB?

- To render everything said in court from the source language into the target language
- Accurately without any distortion of meaning
- Without omissions
- Without additions
- Without changes to style or register
- With as little delay or interference as possible...
- While speaking and listening for the next chunk of language; and
- Monitoring their own output



10

THE INTERPRETER CANNOT ...

-  To explain anything to anyone
-  To fill out forms
-  To be an advocate



11

LIMITED ENGLISH PROFICIENT (LEP) INDIVIDUALS

- **Definition:** one who speaks a language other than English as his or her primary language and has a limited ability to read, write, speak, or understand English.
- To determine whether or not an individual is LEP, the court should ask open-ended questions in English regarding such things as the person's native country, education, occupation, or the individual's understanding of the nature of the court proceedings.
- The need for a court interpreter should **not** be based upon the individual's ability to converse in basic English (*BICS - Basic Interpersonal Communication Skills*).



12

ASSESSING THE NEED FOR A COURT INTERPRETER

➤ The language of courtroom proceedings is far more complex than the linguistic interactions of every day conversation.

➤ The level of English proficiency required to *meaningfully* participate in a legal setting requires *Cognitive Academic Language Proficiency* (CALP) developed through formal education and years of exposure to the language.

➤ Be aware that the heightened anxiety of being in a court room diminishes a speaker's ability to comprehend and communicate in the second language.

➤ **Always err on the side of caution** and ensure a qualified court interpreter is used for all court proceedings for LEP individuals.



13

PROPER USE OF THE COURT INTERPRETER

➤ Speak directly to LEP individuals just as you would to English speakers. This avoids confusion on the record and for all speakers.

➤ Give instructions to parties, witnesses and jurors about the role of the court interpreter as a neutral language conduit.

➤ Do not allow multiple speakers to talk at the same time or over each other. The interpreter must interpret *everything* that is said and multiple speakers makes it impossible to perform this duty.

➤ Do not ask the interpreter to gauge whether he thinks the LEP individual understands.



14

PROPER USE OF THE COURT INTERPRETER

➤ Do not ask the interpreter to explain, restate or not interpret something that was said.

➤ Be aware that interpreters are ethically prohibited from developing any sort of rapport with the LEP individuals for whom they are interpreting.

➤ Become familiar with the Interpreter's Code of Ethics and monitor the interpreter's actions for compliance.

NOTE: Please report any inappropriate interpreter behavior to OLAS, including stepping outside the scope of service.



15

EXPECT TEAM INTERPRETING WHEN NEEDED

INTERPRETER FATIGUE:
One of the most serious impediments to court interpreter performance. Studies show that interpreter proficiency begins to plummet between 20 and 40 minutes of interpreting. EVERY interpreter suffers this proficiency breakdown, and it goes largely undetected by the interpreter.

SOLUTION:
A team of two interpreters should be scheduled for any proceeding expected to last longer than two hours. If a team has not been scheduled, please permit breaks of 10 or 15 minutes in the proceeding every 30 minutes to allow the interpreter to rest. This will allow the interpreters to maintain the level of proficiency required to ensure the LEP party has equal access to the proceeding.



16

REQUEST PROCESS FOR OBTAINING COURT INTERPRETERS FOR COURT PROCEEDINGS. . .

Spanish Language Court Interpreters

LOTS (Language Other Than Spanish) Court Interpreters

Attorneys must submit a [Request for Spoken Foreign Language Court Interpreter](#) to the local Language Access Coordinator (LAC)



17

REQUESTS ARE RECEIVED BY THE DESIGNATED LANGUAGE ACCESS COORDINATOR (LAC)

- LACs shall schedule court interpreters upon receipt and evaluation of a completed *Request for Spoken Foreign Language Court Interpreter*
- LOTS Interpreters are scheduled by OLAS staff. Many LOTS interpreters must be flown in from out of state, so advance notice is necessary, as is certainty of trial date

All court interpreters must be scheduled by the LAC or OLAS in order to be paid for services rendered in AOC-covered matters



18

OUT OF COURT LANGUAGE ACCESS FOR PRIVATE COUNSEL IN CIVIL AND NON-INDIGENT CRIMINAL DEFENDANT CASES

Civil litigants and criminal defendants who have hired privately retained counsel MUST privately retain the services of an interpreter to provide interpreting services during any *out-of-court communication* between counsel and client, and for interpreting services needed to prepare for any court proceeding.

AOC does not pay interpreters for this coverage.



19

OUT OF COURT LANGUAGE ACCESS FOR PRIVATE COUNSEL IN CIVIL AND NON-INDIGENT CRIMINAL DEFENDANT CASES

This includes settlement conferences that civil attorneys may expect to have before the start of a trial. AOC INTERPRETERS CANNOT PROVIDE THIS SERVICE AT JUDICIAL BRANCH EXPENSE!



20

JUDICIAL MANNERISMS





21