




ENSURING LANGUAGE ACCESS SERVICES IN N.C. SUPERIOR COURTS
JANUARY 2021


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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



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... 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.



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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



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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.



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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
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 <i>prior to the court proceeding</i>




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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.**



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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.



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THE COURT INTERPRETER IS A . . .

Neutral Language Conduit

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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



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IDIOMATIC EXPRESSIONS

- | | |
|---|---|
| <ul style="list-style-type: none"> • Spill the beans • Brew tea from dirt under another's fingernails • To turn around the pot • To hang noodles on one's ears • Don't chop my teakettle | <ul style="list-style-type: none"> • English: tell a secret • Japanese: to learn a bitter lesson • French: avoid • Russian: to tell lies / talk nonsense • Yiddish: stop annoying me |
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RELAY INTERPRETING...



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THE INTERPRETER CANNOT ...

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




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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*).




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ASSESSING THE NEED FOR A COURT INTERPRETER

- The language of courtroom proceedings is far more complex than the linguistic interactions of everyday 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.



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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.



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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.



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LANGUAGE ACCESS BENCH CARD



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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.



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WHAT JUDGES SHOULD EXPECT WHEN PARTIES HAVE NON-ENGLISH DOCUMENTS OR NON-ENGLISH AUDIO SOURCES THEY INTEND TO PRESENT AS EVIDENCE



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TRANSLATION AND TRANSCRIPTION-TRANSLATION SERVICES

- **Non-English Written Documents:** Parties should have documents translated into English by credentialed (ATA-certified and/or educational credentials) translators who submit a notarized certificate of accuracy setting forth credentials and statement of accuracy following translation protocols.
- **Transcription-Translation:** This work requires an extremely high level of skill. For example, OLAS limits Spanish T-T assignments to teams of federally certified court interpreters. The best evidence of non-English audio is a properly prepared transcription-translation, accompanied by a notarized certificate of accuracy from the lead setting forth the lead's credentials. Court interpreters are prohibited by their ethics from trying to interpret audio recordings in court because it is impossible to do so accurately, which would threaten the integrity of the evidence.




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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)




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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 a 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




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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.



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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.



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LANGUAGE ACCESS ACCOMMODATIONS FOR DEAF AND HARD OF HEARING INDIVIDUALS

- The governing legal requirements for ADA accommodations:
 - NCGS Chapter 8B, and
 - Title II of the federal Americans with Disabilities Act (ADA)
- **Bottom line:** Courts are required to appoint a qualified (licensed) interpreter for any deaf or hard of hearing party or witness in any proceeding, including juvenile proceedings, special proceedings, and proceedings before the court.

Disability and special needs information can be found online:

- JUNO for court officials and employees that covers all types of ADA requests: <https://juno.nccourts.org/resources/references/disability-access-what-judicial-employees-need-know-about-public-requests>
- Public site: <https://www.nccourts.gov/help-topics/disability-and-special-needs/disability-access>



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LANGUAGE ACCESS ACCOMMODATIONS FOR DEAF OR HARD OF HEARING INDIVIDUALS

Scheduling ADA accommodations is a local court function. Requests for ADA accommodations are made by:

- Contacting the designated [Disability Access Coordinator \(DAC\)](#);
- Submitting the completed [AOC-G-116](#), which is the applicable all-inclusive AOC form which includes the Motion, Order of Appointment, Certification and Order Authorizing Payment.

NCAOC's Disability Access Coordinator, Lori C. Cole, Lori.C.Cole@nccourts.org, reviews Grievances and is available to assist with any ADA related questions.



TRAINING AVAILABLE: *Disability Access in the Courts* is a one-hour webinar that covers key ADA points plus the statewide protocol for disability access requests in courts. Recording and transcript are available on-demand through Juno and nccourts.gov.



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JUDICIAL MANNERISMS



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THANK YOU

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