



# LANGUAGE ACCESS BENCH CARD



**POLICY NOTE:** The North Carolina Judicial Branch is committed to removing barriers that hinder equal access to justice by individuals with limited English proficiency (LEP). This bench card addresses the language access services provided by the N.C. Judicial Branch in accordance with the [Standards for Language Access Services in North Carolina state courts](#).

## WHEN SHOULD THE COURT REQUIRE AN INTERPRETER?

The court should require a qualified interpreter for any court proceeding that involves a party in interest who speaks a language other than English as the primary language and has a limited ability to read, speak, or understand English.

## WHO IS A PARTY IN INTEREST?

Parties in interest may be any of the following:

- A party
- A victim
- A witness
- The parent, legal guardian, or custodian of a minor party
- The legal guardian or custodian of an adult party

## WHO PAYS FOR THE INTERPRETER?

The Judicial Branch provides interpreters at state expense in all civil and criminal court proceedings before a magistrate, clerk of superior court, district court judge, superior court judge, the Court of Appeals, or the Supreme Court of North Carolina.

The costs for interpreting services shall not be charged to the parties.

The Judicial Branch will provide an interpreter at state expense for child custody mediation, permanency mediation, and child planning conferences.

The Judicial Branch will not provide an interpreter at state expense for probation and parole functions, and for private mediations and arbitrations.

## LANGUAGE ACCESS SERVICES PROVIDED BY THE NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS OFFICE OF LANGUAGE ACCESS SERVICES (OLAS)

- In-person interpreting for court proceedings — Judicial Branch staff court interpreters in nine counties: Alamance, Buncombe, Chatham, Durham, Forsyth, Guilford, Mecklenburg, Orange, and Wake; and contract court interpreters
- Telephone interpreting service — use for brief routine matters in district court; use by magistrates and DAs; use in public access areas in clerks' and family court offices
- Translation of court forms and vital court documents
- Transcription-translation of audio / visual evidence for district attorneys and public defenders or assigned counsel (court interpreters are prohibited by their ethics from interpreting audio / visual recordings; upon request to OLAS, all audio / visual recordings must be transcribed and translated *prior to the court proceeding*)

## 1 EVALUATING THE NEED FOR A COURT INTERPRETER

To help determine whether to require a court interpreter, the court should ask open-ended questions that cannot be answered with a simple yes or no. For example:

- "Please tell me about your country of origin."
- "What kind of work do you do?"
- "What is the purpose of your court hearing today?"

## 2 ASSIGNMENT OF A COURT INTERPRETER

If the court determines that the party has limited English proficiency (LEP), the court should require a court interpreter. Any doubts should be resolved in favor of the LEP individual, and an interpreter should be required.

- The court should only allow a Judicial Branch authorized court interpreter to provide interpreting services in court
- The court should never allow family or friends to interpret in court
- Judicial officials or court personnel should not serve as interpreters

## 3 OBTAINING A COURT INTERPRETER

A [Request for Spoken Foreign Language Court Interpreter](#) should be submitted electronically to the local Language Access Coordinator (LAC) at least 10 business days prior to the scheduled proceeding, or as soon as the proceeding is placed on the court calendar, whichever occurs first.

Counsel is responsible for submitting the request form for their LEP clients or witnesses. Court personnel should assist self-represented litigants with submitting the request form.



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## CLARIFYING THE INTERPRETER'S ROLE TO THE JURY\*

This court seeks a fair trial for all regardless of the language they speak and regardless of how well they may or may not speak English. Bias against or for persons who have little or no proficiency in English is not allowed. Therefore, do not allow the fact that the party requires an interpreter to in any way influence you.

*\*There is no pattern jury instruction on this matter. This form is recommended for your consideration.*

## CLARIFYING THE INTERPRETER'S ROLE TO THE WITNESS

I want you to understand the role of the interpreter. The interpreter is here only to interpret the proceedings. The interpreter will say only what is said in your language and will not add, omit, or summarize anything. The interpreter will say in English everything that you say in your language, so do not say anything you do not want everyone to hear. If you do not understand a question asked of you, request clarification from the person who asked it. Do not ask the interpreter.

You are giving testimony to this court; therefore please speak directly to the attorney or to me (the court). Do not ask the interpreter for advice. Speak in a loud clear voice. If you do not understand the interpreter, please tell me. If you need the interpreter to repeat, please make your request to me, not to the interpreter. Please wait until the entire statement has been interpreted before you answer. Do you have any questions?

**THE INTERPRETER'S OATH\*\*:** Do you solemnly swear or affirm that you will interpret accurately, completely, and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the Code of Professional Responsibility for Court Interpreters, follow all official guidelines established by the North Carolina Administrative Office of the Courts for legal interpreting and translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?

*\*\*There is no statutory or judicially approved oath. This form is recommended for your consideration.*

## USE OF INTERPRETER OUTSIDE OF COURT PROCEEDING

Judicial Branch funds are provided for interpreting services for out-of-court communications on behalf of the district attorney, Guardian ad Litem Program, and, pursuant to a memorandum of understanding between the Judicial Branch and the Office of Indigent Defense Services (IDS), on behalf of public defenders, assigned counsel, and guardians ad litem representing indigent parties for IDS.

- Staff court interpreters are prohibited from providing services out of court.
- Authorized Spanish interpreters are listed on the [Registry of Spoken Foreign Language Court Interpreters](#).
- Authorized LOTS interpreters will be assigned upon the submission of a [Request for Spoken Foreign Language Court Interpreter](#) electronically.

Language access services required for all out-of-court communications involving private counsel, including all interviews, investigations, and other aspects of general case preparation, are outside the scope of services provided or funded by the Judicial Branch.

To ensure equal access to justice, private counsel are encouraged to privately retain the services of a Judicial Branch registered and qualified court interpreter by contacting directly a contract interpreter from the [Registry of Spoken Foreign Language Court Interpreters](#).

## QUICK GUIDE

- Evaluate the need for an interpreter.
- Require an authorized court interpreter approved by OLAS.
- Allow the interpreter to meet with the LEP individual briefly prior to the proceeding to confirm the ability to communicate, and to view the court file prior to the proceeding to become familiar with case terminology, names, and dates.
- Allow the interpreter to review any documents that will need to be sight translated during the proceeding.
- Make sure that the interpreter is located in a position that allows the interpreter to see and hear everything that happens in the courtroom.
- Administer the interpreter's oath.
- Have the interpreter state his / her name and qualifications on the record.
- Explain the role of the interpreter to the parties, witnesses, and the jury on the record.
- Advise witnesses to speak clearly and at a moderate pace.
- Emphasize that the record produced by the court reporter or court recorder is the official record of the proceeding.
- Provide breaks every 30 minutes for the interpreter or require a team of two interpreters for proceedings expected to last longer than two hours.
- Observe the interpreter's conduct, communication, and interaction with participants; if problems arise, use a sidebar conference with attorneys and the interpreter or a recess to address and correct the problems.
- Keep in mind that the interpreter may be needed in other courtrooms.