



LANGUAGE ACCESS SERVICES IN  
NC SUPERIOR COURTS  
JANUARY 24, 2023

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TOPICS

- Office of Language Access Services
- Types of Language Access Services
- Role of the court interpreter
- Interpreters in the courtroom
- How to work with a court interpreter



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LIMITED ENGLISH PROFICIENCY (LEP) INDIVIDUAL

- 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.
- The need for a court interpreter should not be based upon the individual's ability to converse in basic English.



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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 Proficiency individuals in the North Carolina justice system.

Equally important is...



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## THE ADMINISTRATION OF JUSTICE

The North Carolina Judicial Branch agrees “it is essential to remove remaining barriers that deny LEP individuals meaningful access to the court system and that doing so serves the Judicial Branch’s interest in ensuring accurate communications in proceedings and operations, protecting the integrity of evidence, delivering justice, and promoting public trust and confidence in the judicial system.”

- October 25, 2022, [Memorandum of Agreement](#) with U.S. Department of Justice



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## WHAT DOES OLAS DO?

The [Office of Language Access Services](#) in the NCAOC helps facilitate equal access to justice for LEP individuals by:

- Developing [Standards for Language Access Services in North Carolina State Courts](#)
- Providing support and guidance for questions or issues involving interpreting and translating services
- Ensuring qualified court interpreters are provided to the courts
- Administering court interpreter training and certification testing provided by the National Center for State Courts
- Arranging court interpreters for proceedings



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## WHO HAS THE RIGHT TO AN INTERPRETER?



The NCAOC will, “provide a free, timely, and authorized court interpreter for all LEP parties in interest in all court proceedings and appropriate language assistance to persons who are LEP in all court operations.”

- October 25, 2022, [Memorandum of Agreement](#) with U.S. Department of Justice



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## ASSESSING THE NEED FOR A COURT INTERPRETER

- The language of the courtroom proceeding 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.



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## HOW TO EVALUATE THE NEED FOR AN INTERPRETER

If you doubt an individual’s English proficiency, determine their fluency through questions.

- When is your birthday?
- How old are you?
- When were you born?
- What kind of work do you do?
- Please describe items you see here in the courtroom.
- Be aware that the heightened anxiety of being in a court room diminishes a speaker’s ability to comprehend and communicate in a 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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## WHAT ARE LANGUAGE ACCESS SERVICES?

In-Person Interpreting for Court Proceedings	Staff Court Interpreters in 9 counties: Alamance, Buncombe, Chatham, Durham, Forsyth, Guilford, Mecklenburg, Orange, and Wake Contract Court Interpreters
Telephone Interpreting	Use for out-of-court communication or court operations
Current Vendor: Propio (formerly Telelanguage)	Not used for Superior Courts
Video Remote Interpreting	Use for any proceeding conducted via Webex. (Separate audio channels for LEPS is coming)
Translation	Court Forms and vital court documents
Transcription-Translation	Audio/visual evidence for district attorneys, 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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## THE ROLE OF THE COURT INTERPRETER

To provide equal access to justice and court proceedings by linguistically placing the LEP individual on equal footing as an English speaker.

- Equal access does not mean better access.



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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 distorting the meaning
  - Without omissions
  - Without additions
  - Without changes to style of speech (registry)
  - With as little delay or interference as possible
  - While speaking and listening for the next chunk of language
  - Monitoring their own output



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## PROPERLY TRAINED COURT INTERPRETER VS. BILINGUAL PERSON

Do not allow bilingual law enforcement officers or other untrained bilingual individuals (including court personnel) to serve as interpreters for LEPS.

Why?

1. Avoid any appearance of bias or conflict of interest
2. Ensure the use of qualified, skilled interpreters
3. Ensure full and fair participation



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## INTERPRETERS IN THE COURTROOM



Three Modes of Court Interpreting

- **Simultaneous**- Appropriate form of interpreting for most court situations. The interpreter listens in the source language while simultaneously interpreting into the target language.
- **Consecutive**- Appropriate form of interpreting for question and answering situations, such as if there is an LEP on the witness stand.
- **Sight Translation**- Appropriate for short documents where the interpreter reads the document in the source language while interpreting out loud in the target language.



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## AN INTERPRETER'S TOOLS

- Interpreters might bring with them:
  - A notepad and pen
  - A bilingual dictionary (may be located on their phone)
- Interpreters may ask a speaker (LEP, attorney, or judicial officer) to repeat what they said to ensure an accurate interpretation.



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## COURT INTERPRETER ETHICS

Court Interpreters must abide by the Code of Professional Responsibility for Court Interpreter.

- Canon 1: Accuracy and Completeness
- Canon 2: Representation of Qualifications
- Canon 3: Impartiality and Avoidance of Conflict of Interest or Appearance of Conflict of Interest
- Canon 4: Professional Demeanor
- Canon 5: Confidentiality
- Canon 6: Restriction of Public Comment
- Canon 7: Scope of Practice
- Canon 8: Assessing and Reporting Impediments to Performance
- Canon 9: Duty to Report Ethical Violations
- Canon 10: Professional Development



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## THE INTERPRETER ETHICALLY CANNOT...

- Explain anything to anyone
- Fill out forms
- Advocate



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## EXPECT TEAM INTERPRETING WHEN NEEDED

### Interpreter Fatigue:

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

### Solution:

A team of two interpreters should be scheduled for any proceeding expecting to last more than two hours. If a team has not been scheduled, permit a 10-minute break every 30 minutes of the proceeding to allow the interpreter to rest. This will allow the interpreter to maintain the level of proficiency required to ensure the LEP party has equal access to the proceeding.



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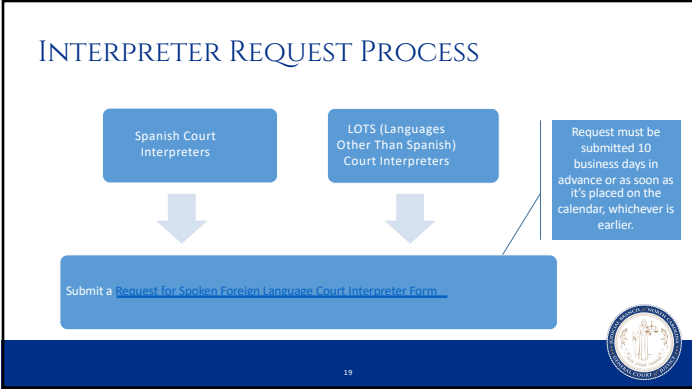
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## REQUESTS ARE RECEIVED BY THE DESIGNATED LANGUAGE ACCESS COORDINATOR (LAC)

- LACs schedule Spanish 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 DEFENSE CASES

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- Civil litigants and criminal defendants who have hired privately retained counsel **MUST** privately retain the services of an interpreter for any out-of-court communication or for any necessary case preparations.
  - This includes settlement conferences which 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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## WHAT TO EXPECT WHEN PARTIES HAVE NON-ENGLISH DOCUMENTS OR NON-ENGLISH AUDIO SOURCES



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## TRANSLATION SERVICES

- Parties must have non-English written documents translated into English by credentialed (ATA-certified and/or educational credentials) translators who submit a notarized certificate of accuracy setting forth the credentials and statement of accuracy following translation protocols.



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## TRANSCRIPTION-TRANSLATION SERVICES

- 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.
- The best evidence format for non-English audio is a properly prepared transcription-translation, accompanied by a notarized certificate of accuracy from the lead translator setting forth the lead translator's credentials.
  - This work requires an extremely high level of skill.



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## A NOTE ON TRANSLATED COURT FORMS

Select Spanish or Vietnamese



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## WHAT TO EXPECT WITH COURT ORDERED PSYCHOLOGICAL EVALUATIONS



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NCAOC does not provide court interpreters for treatment, classes, counseling, or other similar services whether or not ordered by the court.

- Prior to ordering an LEP individual to undergo treatment, you should consider whether the service provider provides language access services that eliminate barriers to accessing the treatment.

Healthcare providers have their own Title VI responsibilities to ensure LEP individuals can access healthcare services.



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## THERE IS ONE EXCEPTION...

Court interpreters will be provided for court-ordered psychological evaluations if:

- counsel is assigned or appointed;
- the appointed or assigned counsel made the motion to have their client evaluated; and
- counsel completes the interpreter request for their client if the court ordered psychological evaluation is granted

Then a court interpreter will be provided at IDS expense.



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## WHEN USING A COURT INTERPRETER



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## PROPER USE OF THE COURT INTERPRETER

- Give instructions to parties and witnesses about the role of the court interpreter as a neutral language conduit
- Be aware that interpreters are ethically prohibited from developing any sort of rapport with the LEP for whom they are interpreting
- Do not ask the interpreter to gauge if they think the LEP individual understands
- Do not allow multiple speakers to talk at the same time or over each other. The interpreter interpret everything that is said and multiple speakers make it impossible to perform this duty.
- NOTE: Please report any inappropriate interpreter behavior to OLAS, including stepping outside the bounds of their scope of service.



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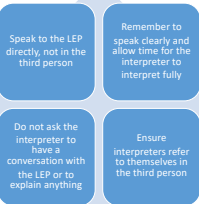
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## FINAL THOUGHTS



Language access services ensure **full and fair** participation and provides equal access to justice for LEP individuals



Language access services help you get the information you need to make decisions



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