

POLICY NOTE: The Judicial Branch is committed to expanding state-funded foreign language access services to court proceedings for all case types using a phased implementation approach. This bench card addresses the current status of language access services provided by the Judicial Branch in accordance with the [Standards for Language Access Services in North Carolina State Courts](#), at [nccourts.org](#).

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 will provide an interpreter at state expense in the following types of court proceedings:

- All proceedings before the Magistrate
- All proceedings before the Clerk
- All criminal court proceedings
- All civil court proceedings in district court
- Child custody mediation
- Permanency mediation
- Eminent domain proceedings
- Judicial foreclosure proceedings
- Appeals from decisions by the Clerk
- Appeals from district court proceedings

In court proceedings other than those listed above, the court should require the parties to hire a qualified court interpreter from the OLAS Registry. If the parties fail to hire a qualified interpreter, the court may appoint an interpreter and apportion the costs to the parties as the court deems appropriate pursuant to NC Rules of Evidence 604 and 706(b).

EVALUATE 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?”

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 an AOC authorized court interpreter to provide interpreting services in North Carolina courts
- The court should never allow family or friends to interpret in court
- Judicial officials or court personnel should not serve as interpreters

OBTAINING A COURT INTERPRETER

Spanish court interpreter

- A [Request for Spoken Foreign Language Court Interpreter](#) should be submitted to the local Language Access Coordinator (LAC), as instructed on the form

Language other than Spanish (LOTS) court interpreter

- A [Request for Spoken Foreign Language Court Interpreter](#) should be submitted to the LAC and OLAS, as instructed on the form.

If either the LAC or OLAS is unable to locate a qualified interpreter, the court should continue the proceeding to a date on which an interpreter can be available.

LANGUAGE ACCESS SERVICES PROVIDED BY OLAS

- **In-person interpreting for court proceedings**—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*)
- **T3HD Remote Interpreting** — standalone units currently available in Brunswick, Dare, and Pitt counties for all Spanish language needs on demand. Unit provides audio and video access to AOC Staff Court Interpreters who are able to provide services remotely in all three modes of court interpreting through the machine.

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.

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?

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 NCAOC and the **Office of Indigent Defense Services (IDS)**, on behalf of public defenders and assigned counsel representing indigent parties for IDS.

- Staff court interpreters are prohibited from providing services out of court
- Spanish interpreters—District attorneys, Guardian ad Litem Program staff, public defenders, and assigned counsel must schedule a Spanish court interpreter from the Registry of Spoken Foreign Language Court Interpreters
- LOTS interpreters—District attorneys, Guardian ad Litem Program staff, public defenders, and assigned counsel must follow the FINDING AN INTERPRETER section on side 1

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 Department*.

- To ensure equal access to justice, private counsel are encouraged to privately retain the services of an NCAOC-registered and qualified court interpreter by contacting directly a contract interpreter from the Registry of Spoken Foreign Language Court Interpreters

CHECKLIST

- 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.

Online resources: www.nccourts.org/LanguageAccess