



Interpreters

WHEN AND WHY A HEARING OFFICER NEEDS THEM

PRESENTED BY:

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Terminology



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TRANSLATOR (Written Language)
“Translators work with the written word, converting text from a source language into a target language. This is far more than replacing one word with another. The translator must also convey the style, tone, and intent of the text, while taking into account differences of culture and dialect. The finished document should read as if it had originally been written in the target language for the target audience.”



Terminology

INTERPRETER (Spoken Language)

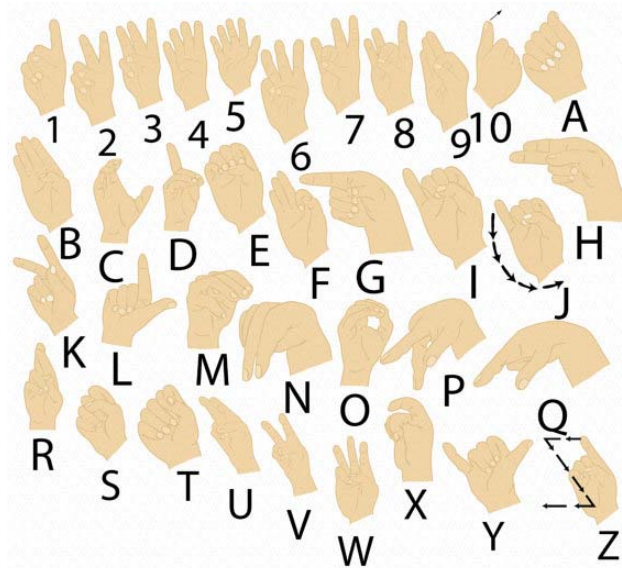
“Interpreting is the process of fully understanding, analyzing, and processing a spoken message and then faithfully rendering it into another spoken language.”

Interpreters must be able to accurately convey the meaning from one language into another in a culturally appropriate manner, mindful of the setting in which they are rendering their services.



Terminology

INTERPRETER (Signed Language) “Interpreting is the process of fully understanding, analyzing, and processing a spoken or signed message and then faithfully rendering it into another spoken or signed language.” Interpreters must be able to accurately convey the meaning from one language into another in a culturally appropriate manner, mindful of the setting in which they are rendering their services.





Right to an Interpreter



Right to an Interpreter



Nationally, the Court Interpreters Act was enacted in 1978. [Title 28 USC §1827](#) is the federal law that establishes appointment and qualification procedures for interpreters in judicial proceedings instituted by the United States.

In addition the Civil Rights Act of 1964, and Executive Order 13166, issued in 2000, requires all recipients of federal assistance, including state courts, to implement plans to ensure that limited English proficient individuals have access to services.



Right to an Interpreter

The Americans With Disabilities Act may require an interpreter for litigants with hearing impairments:
ADA Considerations:

<http://www.ada.gov/effective-comm.htm>

The Federal Rules of Evidence, Rule 604 provides as follows “An interpreter must be **qualified** and must give an **oath or affirmation** to make a true translation.



Right to an Interpreter

Certification: The National Center for State Courts has a certification program for court interpreters. <http://www.ncsc.org/Education-and-Careers/State-Interpreter-Certification.aspx>

California has a certification program for interpreters who interpret at administrative hearings: <http://curtisdraves.org/resources/other-california-certifications>

As does Pennsylvania <http://www.pacourts.us/judicial-administration/court-programs/interpreter-program/administrative-proceedings-interpreters>





Practical Implications



Practical Implications



- When a witness is unable to speak or understand the English language, an interpreter is needed.
- As far as possible in advance of the hearing, it should be ascertained whether an interpreter will be needed.
- Arrangements can then be made to utilize the services of a person who has sufficient linguistic ability to be used as an interpreter. Make sure the interpreter is qualified.



Manual for Administrative Law Judges, by Morell E. Mullins, 23 J. of NAALJ 1 (January 5, 2004)

Practical Implications

- It is inadvisable for the HO or any agency representative participating in the hearing to act as an interpreter. Such practice provokes criticism and charges of partiality.
- On the other hand, the party calling that witness may bring an interpreter, and it is proper to use that interpreter.
- In such instances, the HO must be satisfied that the interpreter is able to translate to and from English and the other language.



Practical Implications

It is necessary that an oath or affirmation be administered to the interpreter before the interpretation begins. The oath or affirmation will declare that the interpreter is making a true translation, i.e., communicating exactly what the witness is expressing in the witness's testimony.

For the interpreter, the following form is suggested: "Do you solemnly swear (or affirm) that you will truthfully and accurately translate all questions put and all answers given, to the best of your ability (so help you God)?"



Practical Implications

It may be appropriate for the HO to caution the interpreter to listen carefully to the questions in English and then to translate them intelligibly, word for word, to the party or witness and then to translate the answers into English, using the exact, definitive words.

The interpreter cannot be allowed to edit the questions or answers. The answers must always use the first person. If the question is "Did you speak to Mr. White?" the answer must be "I did (or did not)" not "He did (or did not)." The interpreter must not use individual concepts of translation to and from the foreign language.

Furthermore, the interpreter must not paraphrase, summarize or amplify questions or answers; must not use the cloak of the foreign language to aid or harm the person questioned by changing the questions or answers; and must translate literally, word for word, including colloquialisms, slang, etc.



Practical Implications



NOTE: Bilingual hearing officers, lawyers, and agency staff should yield to qualified interpreters.

If the HO is fluently conversant in the foreign language being used, and detects a faulty translation or volunteered statements made by the interpreter, the HO should admonish the interpreter on the record, to translate correctly and literally all questions and answers.

Any party or attorney or witness present who also knows well the language being used, has the right to object to faulty translations or volunteered statements by the interpreter. The HO should then consult the interpreter to ascertain the validity of the objection and then act accordingly.





Practical Implications

If the foreign language speaking witness has a little knowledge of English but not sufficient to understand all the questions and give all the answers, such witness should not be allowed to answer some questions in English and some in the witness's native language.

This may lead to confusion and create some doubt that there has been full comprehension of the questions in their entirety. In such instances, the foreign language speaking witness should be instructed to await translation of all questions and then answer them in the witness's own language.



Practical Implications

In instances where the witness is deaf, mute, or suffers from a physical speaking impairment, there will be a need for specialized interpreters who can accommodate the needs of the witness.

In such instances, the HO should establish that the interpreter can understand and communicate with the witness.



Practical Implications

When scheduling the hearing, generally allow approximately twice the amount of time for any case involving an interpreter.

Remember that the interpreter must give a verbatim- or word-for-word interpretation of the testimony. Summaries are not acceptable.

Interpret all words: DZ v. Bethelehem Area Sch Dist 54 IDELR 323 (Penna Commonwealth Ct 7/27/10) Court rejected parent argument that HO improperly used a foreign language **interpreter** for all words rather than just the specific words selected by the parent.



Practical Implications

English record: Most state and federal agencies require that the transcript or hearing record be in English. For example, see Torres-Serrant v Dept of Educ of Puerto Rico 65 IDELR 171 (DPR 4/20/15) Court ruled that because SEA had the duty of supplying a complete and accurate copy of the administrative record on appeal, SEA therefore was required to translate the Spanish language administrative record into an English language copy; and Bethlehem Area Sch Dist v. Zhon 976 A.2d 1284, 53 IDELR 24 (Penna Commonwealth Ct 7/24/9) Parent whose primary language was Mandarin Chinese was provided an interpreter for the hearing and a translated order and opinion, but she had no right to a translated copy of the hearing transcript.



Summary



Resources



Resources

The Bilingual Courtroom: Court Interpreters in the Judicial Process, by Susan Berk-Seligson
(book on Google)

https://books.google.com/books?id=D-inAwAAQBAJ&pg=PA32&lpg=PA32&dq=US+ex+rel+Negron&source=bl&ots=2WryUNxkVE&sig=RGcbRw0nF9k_tr91K6Fr15nBAOY&hl=en&sa=X&ved=0ahUKEwje2c_W8evMAhVVDaD4KHRYMB90Q6AEIQjAI#v=onepage&q=US%20ex%20rel%20Negron&f=false

What judges and attorneys need to know about interpreters in the legal process, Judith Kenigson Kristy, Language & Litigation (Winter 2009-2010) p3

http://www.najit.org/publications/proteus_articles/2009LanguageLitigation.pdf

Law Review Article: re ELLs and school interpreters but not for admin hearings:

<http://sogpubs.unc.edu/electronicversions/pdfs/slb1002.pdf>

Texas Health and Human Services Fraud and Fair Hearing Handbook:
Sections 1514, 1562.1, 1580 -1588

<http://www.dads.state.tx.us/handbooks/ffhh/>



