



Illinois Supreme Court Language Access Policy

Effective October 1, 2014

Amended September 20, 2016

ILLINOIS SUPREME COURT LANGUAGE ACCESS POLICY

I. PREAMBLE

The Illinois Supreme Court recognizes that equal access to the courts is essential to ensuring the strength and integrity of the judiciary and preserving trust in our legal system. Equal access to the courts, regardless of language limitations or disabilities, is an important issue in Illinois, which has a significant and growing number of people with limited English proficiency throughout the state. As such, the fair administration of justice requires that our state's courts be language accessible to all people, including those who are limited English proficient or are deaf or hard of hearing.

This policy provides a blueprint for the courts of Illinois to develop a unified approach for the provision of statewide language access services. This policy is offered to guide Illinois courts in the implementation of a comprehensive language access program and establishes standards to support the ongoing development of circuit-specific Language Access Plans.

It is the Supreme Court's vision that qualified and trained interpreters and clear and multi-lingual signage be available in both civil and criminal legal proceedings within courthouses and for court-annexed proceedings.

In support of this vision, the Supreme Court is committed to implementing and developing standards to support the development of a body of qualified and trained foreign language interpreters. Unlike foreign language interpreting, the field of sign language interpreting has nationally and locally developed standards, which Illinois adheres to, for the evaluation and certification of sign language interpreters under the Americans with Disabilities Act of 1990 and the Illinois Interpreter for the Deaf Licensure Act of 2007.

To support the development of trained foreign language interpreters, a three-tiered certification program for foreign language court interpreters statewide is established. When a court determines a foreign language interpreter is needed, the court should appoint a certified, qualified or registered interpreter when practicable.

The Supreme Court will work with all stakeholders to seek adequate funding for language access programs, which may include requests for increases in funding of judicial budgets, government grants, or other sources of funding. Recognizing the limited resources for language access, funding priority should be given to providing interpreter services to low and moderate income persons.

This policy is based on the fundamental principles of fairness, access to justice and integrity of the judicial process; the principles of due process, equal protection and judicial independence rooted in the Illinois constitution; and the legal requirements of state and federal law, including Title VI of the Civil Rights Act of 1964. With the guidance contained in the policy, it is hoped that the judiciary will be better equipped to minimize the obstacles faced by limited English proficient individuals or deaf or hard of hearing persons when they attempt to access Illinois courts.

II. DEFINITIONS

1. "Court-annexed proceeding" means court proceedings which are managed by officers of the court or their official designees (*e.g.*, mandatory arbitration or mediation, probation contacts and court-ordered evaluations).
2. "Foreign language interpreter" means a person fluent in both English and another language, who listens to a communication in one language and orally converts it into another language while retaining the same meaning. An interpreter need not be physically present to provide interpreter services. An "interpreter" differs from a "translator," who converts written text from one language into written text in another language. This policy contains rules governing interpretation in the context of court proceedings, rather than written translation.
 - a. "Certified interpreter" means a foreign language interpreter certified pursuant to the program established by the Administrative Office of the Illinois Courts and listed on the statewide registry maintained by the Administrative Office of the Illinois Courts and does not present a conflict of interest identified in Section V of this policy.
 - b. "Qualified interpreter" means a foreign language interpreter qualified pursuant to the program established by the Administrative Office of the Illinois Courts and listed on the statewide registry maintained by the Administrative Office of the Illinois Courts and does not present a conflict of interest identified in Section V of this policy.
 - c. "Registered interpreter" means a foreign language interpreter registered pursuant to the program established by the Administrative Office of the Illinois Courts and listed on the statewide registry maintained by the Administrative Office of the Illinois Courts and does not present a conflict of interest identified in Section V of this policy.
 - d. "Unregistered interpreter" means a foreign language interpreter who is not certified, qualified or registered pursuant to the program established by the Administrative Office of the Illinois Courts, but demonstrates to the court proficiency in English and the foreign language and does not present a conflict of interest identified in Section V of this policy.
3. "Language Access Services" means the full spectrum of language services available to provide meaningful access to the programs and services for Limited English Proficient Persons, including, but not limited to, in-person interpreter services, telephonic and video remote interpreter services, translation of written materials, and bilingual staff services.
4. "Legal proceeding" means (a) any court proceeding before any court of this state, civil or criminal; and (b) any court-annexed proceeding, such as a court-annexed mediation or a mandatory arbitration under Illinois Supreme Court Rules.

5. "Limited English Proficient Person" means someone 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 and requires the assistance of a foreign language interpreter or sign language interpreter to effectively communicate in a legal proceeding.
6. "Party" means, in any legal proceeding, a plaintiff or defendant, including a person who brings or defends an action on behalf of a minor or incompetent, the parent or legal guardian of a minor party, and a legal guardian of a plaintiff or defendant. In criminal and juvenile proceedings, "party" also includes the alleged victim and the parent or guardian of an alleged minor victim or of a juvenile.
7. "Sign language interpreter" means an individual who, as part of any case or court function, facilitates communication between or among legal professionals and a deaf, hard of hearing, or deaf blind party, witness, juror, or spectator through the use of sign language or other manual or oral representation of a spoken language.
 - a. "Sign language interpreter listed on the Administrative Office of the Illinois Courts' registry" means a sign language interpreter that is licensed at a "Master" or "Advanced" level with the Illinois Deaf and Hard of Hearing Commission and has met any additional training and registration requirements pursuant to the program established by the Administrative Office of the Illinois Courts.
 - b. "Qualified sign language interpreter," as defined in the Americans with Disabilities Act of 1990, means one who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

III. INDIVIDUALS ELIGIBLE TO RECEIVE INTERPRETER SERVICES

The court should provide an interpreter for any Limited English Proficient Person who is involved in a legal proceeding as a party or witness. Consistent with the Americans with Disabilities Act and Illinois state statute (735 ILCS 5/8-1402), the court shall provide a qualified sign language interpreter for deaf or hard of hearing persons who are involved in any legal proceeding as a litigant, witness, victim, juror or spectator. Consistent with the Illinois Criminal Proceeding Interpreter Act, the court shall provide an interpreter for Limited English Proficient defendants in criminal proceedings via a written order (725 ILCS 140/2). Consistent with the Illinois Code of Civil Procedure, the court shall provide an interpreter for Limited English Proficient parties and witnesses in civil proceedings via a written order, pursuant to this Policy and the judicial circuit's Language Access Plan (735 ILCS 5/8-1403).

IV. DETERMINING NEED FOR INTERPRETER SERVICES

For any legal proceeding, the court may determine that an interpreter is needed upon the request of the Limited English Proficient Person or his or her attorney or other advocate. If no such request is made, but if the court reasonably believes that an individual is a Limited English Proficient Person, the court shall examine this individual in open court. This examination shall consist of open-ended questions that will provide the court with the information necessary to

determine whether the individual has a limited ability to speak or understand English. The court should appoint an interpreter if it determines that the individual is a Limited English Proficient Person. After the examination, the court shall state its conclusion in open court.

Each circuit's chief judge shall decide how to collect and track the appointment of an interpreter for a Limited English Proficient party or witness (*e.g.*, via a written order, marking the case file, adding a notation to a case file or docket, adding information to a field in a case management system, using an electronic tracking system, or some other method deemed appropriate). The data collected should indicate, at a minimum, whether an interpreter was appointed and the requested language. The method of collecting this data shall be described in each circuit's Language Access Plan (see Section XI).

The fact that an individual for whom English is a second language knows some English should not prohibit that individual from being allowed to have an interpreter.

Currently, there is no reporting requirement for Illinois courts regarding limited English proficient litigants and interpreter usage. The lack of such data prevents meaningful determinations about the scope of need in Illinois courts and inhibits the development of programs designed to improve efficiency and fairness in the courts. To begin the collection of limited English proficient data, court personnel will be required to collect on a quarterly basis and share with the Administrative Office of Illinois Courts:

- The number of legal proceedings that included a limited English proficient party by case type and the language interpreted.
- The type of interpreter used in legal proceedings and whether the interpreter was a certified, qualified or registered foreign language interpreter listed on the Administrative Office of the Illinois Courts' interpreter registry, a sign language interpreter listed on the Administrative Office of the Illinois Courts' interpreter registry, or an unregistered interpreter.

V. TYPE OF INTERPRETER TO APPOINT

Whenever a foreign language interpreter is appointed by the court, a certified or qualified interpreter shall be provided if one is available. After the court has made reasonable efforts to provide a certified or qualified interpreter and one is not available, a registered interpreter shall be provided if one is available.

A person who is certified and in good standing by the federal courts or by a state having a certification program shall be considered a certified interpreter under this policy, so long as the certification requirements that person has satisfied have been deemed sufficient by the Administrative Office of the Illinois Courts.

An unregistered interpreter should be appointed if the court made reasonable efforts to obtain a certified, qualified or registered interpreter and a certified, qualified or registered interpreter was not reasonably available, or if good cause is otherwise shown.

If an unregistered interpreter is appointed, the court shall examine the interpreter in open court to ensure that the interpreter is qualified to interpret in legal proceedings, has proficiency in English and the foreign language, and does not present a conflict of interest as identified in this section of this policy.

Whenever a sign language interpreter is appointed by the court, a sign language interpreter listed on the Administrative Office of the Illinois Courts interpreter registry shall be provided if one is available. After the court has made reasonable efforts to provide a sign language interpreter on the registry and one is not available, a qualified interpreter shall be provided pursuant to the Americans with Disabilities Act and Illinois state statute (735 ILCS 5/8-1402).

A court shall use reasonable efforts to avoid appointing an individual as an interpreter for a legal proceeding pursuant to Section III of this policy if any of the following apply:

1. The interpreter is compensated by a business owned or controlled by a party or a witness;
2. The interpreter is a friend, or a family or household member, of a party or witness;
3. The interpreter is a potential witness;
4. The interpreter is court personnel employed for a purpose other than interpreting;
5. The interpreter is a law enforcement officer or probation department personnel;
6. The interpreter has a pecuniary or other interest in the outcome of the case;
7. The interpreter does or may have a real or perceived conflict of interest, or the appointment of an interpreter has the appearance of impropriety;
8. If for any reason, the court believes the appointment of the interpreter is not appropriate.

VI. AN OATH REQUIREMENT FOR INTERPRETERS

Before beginning to interpret in any legal proceeding, or before interpreting for several legal proceedings in one day, every unregistered interpreter shall swear or affirm in open court that he or she will make a true and impartial interpretation using his or her best skill and judgment in accordance with the standards prescribed by law and the ethics of the interpreter profession and that he or she will, in the English language, fully and accurately, repeat the statements of such person to the court before such proceeding takes place, and will repeat all statements made during such proceeding from English to sign language or a Limited English Proficient Person's native language fully and accurately.

Comment: Interpreters listed on the Administrative Office of the Illinois Courts' registry shall sign a written oath that can be maintained on file by the local court. Unregistered interpreters may sign a written oath to keep on file at the local courts' discretion. This simplifies the court's inquiries in open court during procedural hearings. It is recommended, however, that an oath be read and sworn to in open court in all proceedings conducted before a jury.

VII. CONFIDENTIAL COMMUNICATIONS IN THE PRESENCE OF AN INTERPRETER

An interpreter must not disclose confidential communications privileged by state or federal law to any person.

VIII. REMOVAL OF AN INTERPRETER

The court may use its discretion to substitute a different interpreter for the interpreter initially appointed in a proceeding. The court may make a substitution at any time and for any reason, but any substitution must be made in open court and must follow procedures laid out in Section V of this policy.

If a Limited English Proficient Person or an attorney or advocate involved in the proceeding concludes that the appointed interpreter is not interpreting communications correctly, the Limited English Proficient Person or an attorney or advocate involved in the proceeding may request the appointment of a different interpreter.

IX. PAYMENT FOR AN INTERPRETER'S SERVICES

No fee shall be charged to any Limited English Proficient Person for the appointment of an interpreter.

The cost of providing interpreter services shall be the responsibility of the county or court that has jurisdiction over the judicial proceeding for which the interpreter was appointed. In determining the amount of compensation to be paid to the interpreter, the presiding judicial officer shall follow the fee schedule for interpreters established by the chief circuit judge.

Comment: Language access services ensure that all persons have equal access to justice and that information essential for the efficiency and integrity of legal proceedings can be understood by both English speakers and those who are limited English proficient. Courts should avoid placing the burden of paying for language access disproportionately on limited English proficient individuals in a manner that discourages access to the court or inhibits requests for language services necessary for full participation in the proceedings. The Illinois Supreme Court will work with all stakeholders to seek adequate funding for language access programs, which may include requests for increases in funding of judicial budgets, government grants, or other sources of funding.

X. CERTIFICATION AND REGISTRATION PROGRAM

The Administrative Office of the Illinois Courts is charged with establishing and administering a comprehensive certification and registration program for foreign language interpreters.

The Administrative Office of the Illinois Courts is further charged with establishing and adopting standards of proficiency, written and oral, in English and the language to be interpreted.

Upon Supreme Court approval, the Administrative Office of the Illinois Courts will maintain a Code of Ethics that defines a set of principles to guide interpreter conduct and educate judges on

the level of conduct expected. All foreign language and sign language interpreters serving in any legal proceeding, whether listed on the statewide registry or not, shall abide by the Code of Ethics for Interpreters adopted by the Supreme Court of Illinois.

The Administrative Office of the Illinois Courts is charged with compiling, maintaining, and disseminating a current registry of foreign language interpreters certified, qualified and registered by the Administrative Office of the Illinois Courts.

The Administrative Office of the Illinois Courts may charge reasonable fees to foreign language interpreters, as authorized by the Supreme Court, for testing, training, certification, and registration. These fees shall be deposited into the Foreign Language Interpreter Fund.

The Administrative Office of the Illinois Courts will seek partnerships with community colleges and other private or public educational institutions and with other public or private organizations to establish a certification preparation curriculum and suitable training programs to ensure the availability of certified and qualified foreign language interpreters. Training programs may be made readily available throughout Illinois.

The Administrative Office of the Illinois Courts may conduct periodic examinations to ensure the availability of certified and qualified foreign language interpreters. Periodic examinations should be made readily available throughout Illinois.

The expenses of testing, training, and certifying foreign language court interpreters under the program, as authorized by the Supreme Court, may be paid, subject to appropriation, from the Foreign Language Interpreter Fund or any other source of funds available for this purpose.

Please note that the certification and licensure of sign language interpreters is governed by state statute under the Illinois Interpreter for the Deaf Licensure Act of 2007, federal standards under the Americans with Disabilities Act of 1990 and certifying entities, such as the National Association of the Deaf and the Registry of Interpreters for the Deaf. Sign language interpreters listed on the Administrative Office of the Illinois Courts' registry must be licensed at a "Master" or "Advanced" level with the Illinois Deaf and Hard of Hearing Commission and must meet any additional training and registration requirements pursuant to the program established by the Administrative Office of the Illinois Courts.

XI. LANGUAGE ACCESS PLAN

Each circuit must develop an annual written Language Access Plan to provide a framework for the provision of Language Access Services for Limited English Proficient Persons. Circuit-specific Language Access Plans will enable each circuit to identify their most frequently requested languages, identify practices and procedures to guide courts in the circuit as to how to provide language assistance, list all available language access resources in frequently requested languages, and identify the circuit's goals for the coming year. In multi-county circuits, courts can draft county-specific Language Access Plans at their own discretion. The Language Access Plan should include, at a minimum, the following:

- Procedures for court personnel to identify and assess the language needs of Limited English Proficient Persons using the court system.
- Procedures for ensuring that Limited English Proficient Persons are provided with interpreters during legal proceedings.
- Procedures for notifying court users of the right to and availability of interpreter services.
- Procedures for court personnel and judges to collect and track the appointment of an interpreter for a Limited English Proficient party or witness, including the language requested.
- Procedures for evaluating the need for translation of written materials, prioritizing those translation needs, and translating the highest priority materials.
- A process for providing training to judges, court clerks, and other court staff on the elements of the Language Access Plan and how to effectively access and work with interpreters.
- A list of community organizations serving Limited English Proficient Persons that can provide support in addressing language access needs.
- A process for ongoing evaluation of the Language Access Plan and monitoring of the Language Access Plan.

Each circuit should update its Language Access Plan annually to reflect changes in the language needs of court users and changes in court procedures and practices implemented to meet those needs.

Each circuit's Language Access Plan and any subsequent updates will be annually reviewed by the Administrative Office of the Illinois Courts to ensure that it accurately reflects and addresses the need for Language Access Services.