



ILLINOIS JUDICIAL BRANCH

Bench Card: Courtroom Interpreting for In-Person and Virtual Proceedings

Is the Court required to provide an interpreter?

YES. All Illinois courts are responsible for providing and paying for interpreters (some reimbursement available for using interpreters on the AOIC Registry).

- **A Court is required to appoint an interpreter in criminal proceedings** for limited English proficiency (LEP) defendants in misdemeanor and felony cases via a written order. Criminal Proceeding Interpreter Act, 725 ILCS 140/2.
- **A Court is required to appoint an interpreter in civil proceedings** for LEP parties and witnesses via a written order. Code of Civil Procedure, 735 ILCS 5/8-1403.
- **A Court is required to provide a qualified sign language interpreter** for deaf and hard of hearing persons who are involved in any legal proceeding as a party, witness, victim, or juror. Code of Civil Procedure, 735 ILCS 5/8-1402.
- **A Court should appoint an interpreter for LEP parties and witnesses for any legal proceeding**, including criminal and civil cases, and any court-annexed proceeding such as mediation or arbitration. Illinois Supreme Court Language Access Policy, effective Oct. 1, 2014.

How do I determine whether a person needs an interpreter?

Assume a person needs an interpreter if they request one or their lawyer or advocate requests one.

If a request is not made, but it appears a party or witness has LEP, a judge should ask the person if they would like an interpreter and provide one.

If the Court cannot understand a person's spoken English, consider using a certified interpreter. Request that the person speak in their native language, so that the interpreter can interpret into English.

According to Illinois case law, a need for interpreter services will be found when "it appears from the record that the witness was not 'understandable,' 'comprehensible' or 'intelligible' such that the lack of an interpreter deprived the defendant of a basic right." *People v. Bragg*, 68 Ill. App. 3d 622, 630 (1979).

What type of interpreter should I appoint?

- (1) Courts must make reasonable efforts to appoint a certified or qualified language interpreter from the AOIC Interpreter Registry ("Registry").
- (2) If none is available, the Court must appoint a "registered" interpreter from the Registry.
- (3) If none is available from the Registry, the Court may appoint an unregistered interpreter and must examine the interpreter in open court to ensure minimum qualifications and impartiality.

Sample qualification questions:

- Are you a certified interpreter? If you are not certified, are you on the AOIC Interpreter Registry?
- Is your dialect compatible with _____?
- Do you understand that as an interpreter you must interpret everything, and that you may not summarize the testimony or other proceedings?
- What is your experience interpreting in court?
- Have you ever interpreted for any of the people involved in this case?
- Are you able to remain fair and impartial?
- **To all parties:** Do you have any questions for the interpreter?



Scan for more resources, including hiring interpreters eligible for AOIC reimbursement and sample questions to help assess the need for an interpreter when a person says they do not want one.

Interpreter oaths

- According to **Illinois statute**, an interpreter must be **sworn to truly interpret** in criminal and civil cases. Criminal Proceeding Interpreter Act, 725 ILCS 140/2; Code of Civil Procedure, 735 ILCS 5/8-1403.
- According to **Supreme Court Policy**, an interpreter must swear or affirm the following oath in open court before **any legal proceeding** or before interpreting for several legal proceedings in a courthouse in one day, unless a signed oath is on file with the Court. A signed oath is on file with the AOIC for all interpreters listed on the AOIC Registry.

Sample oath

Do you swear or affirm that you will make a true and impartial interpretation using your best skill and judgment in accordance with the standards prescribed by law and the Illinois Interpreter Code of Ethics and that you will repeat the statements of such person to the Court and all statements made from English to the party's native language fully and accurately?

Interpreter role admonishment

- To ensure that all participants understand the role of the interpreter, consider reading the below at the start of a court proceeding:

Before we move on, I would like to talk about the interpreter's role in today's proceedings.

- *The interpreter can only interpret for one person at a time. Therefore, please do not speak or interrupt while someone else is speaking. The interpreter can only interpret testimony that is spoken. All responses must be verbal. You are reminded to speak at a slower, but steady pace, and make eye contact occasionally with the interpreter to gauge whether your pace is appropriate. A slower pace is especially important when stating dates, numbers, figures or highly technical vocabulary.*
- *As for the interpreter(s), you are bound by the Illinois Interpreter Code of Ethics, and you are expected to follow its canons. You must interpret everything that is said in this courtroom, including this information. You are not allowed to engage in any conversation with the party/defendant/witness. You are not allowed to give any legal advice or express personal opinions about this matter to the party/defendant/witness. You are expected to maintain confidentiality and not publicly discuss this case. If for some reason you need to pause the proceedings so that you can refer to a dictionary or if you need to take a break, please raise your hand and speak up.*
- *Are there any questions or concerns?*

Tips for communicating through interpreters:

- Instruct all participants to speak loudly and clearly and to speak one at a time.
- Allow the interpreter to speak briefly with the non-English speaker to ensure understanding of accents, dialects, or pronunciation differences.
- Let the interpreter and the person who has LEP know the best way to communicate or signal any issues or questions.
- Speak directly to the non-English speaking person.
- Don't ask the interpreter to independently explain/restate anything said by the party.
- The interpreter must convey all questions, answers and courtroom dialogue, and therefore, is constantly working. Advise the interpreter to notify the Court when breaks are needed.
- Allow the interpreter to review the court file prior to the hearing, to become familiar with names, dates and technical vocabulary.
- Monitor the interpreter so that side conversations with the non-English speaking person are eliminated.
- Recognize that court proceedings can be confusing and intimidating for a non-English speaker since other countries' legal systems and concepts often vary from those of the U.S.

NOTE: If a hearing or trial is expected to take several hours or days, the Court should consider appointing **two interpreters**. Due to the level of concentration required to accurately interpret court proceedings, interpreters require frequent breaks. If the Court appoints two interpreters, they can conduct a continuous interpretation by alternating, thereby allowing the Court to conduct the proceedings without unnecessary delays or interruptions.

For additional assistance, please contact:

Administrative Office of the Illinois Courts

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ILLINOIS SUPREME COURT COMMISSION

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