



National Association of Judiciary Interpreters & Translators

## NAJIT POSITION PAPER INFORMATION FOR COURT ADMINISTRATORS

**F**or court administrators and other persons charged with hiring interpreters for the court: It is hoped that this information will be useful to you in obtaining qualified, ethical interpreting services. The following list of frequent questions is not exhaustive. Please contact NAJIT if you have additional questions you wish added to the list.

The National Association of Judiciary Interpreters and Translators has prepared this brochure to provide guidance about practical aspects of the profession of court interpreting, both for interpreters and for those who use their services. Local policies and procedures will determine the ways in which specific interpreting issues will be handled. The information provided in NAJIT publications offers general guidance and does not include or replace local, state or federal policies. For more information, please contact: National Association of Judiciary Interpreters and Translators, (206) 267-2300, or visit the NAJIT website at [www.najit.org](http://www.najit.org).

### WHEN YOU NEED AN INTERPRETER... What to look for...

#### ■ *Who decides when an interpreter is needed?*

In most cases, the presiding judge will determine when interpreting services are to be provided. Generally, a party or an attorney requests the services of an interpreter for a participant who cannot speak English, or, to use the terminology of the Department of Justice Title VI Guidelines, there is an LEP (Limited English Proficiency) individual involved in the proceedings. In criminal cases, interpreters for in-court proceedings are usually hired by the court. For out-of-court interpreting services, an interpreter may be appointed by the judge when the LEP individual is indigent. If an LEP criminal defendant has a retained attorney, then interpreter services for out-of-court matters may be contracted

and paid for independently by that defendant, but interpreting for in-court proceedings is usually still the court's responsibility. In some states, the same applies to civil cases, but more often there is no legal requirement to furnish a court-appointed interpreter to the parties.

#### ■ *When do I need more than one interpreter? Do I need an interpreter for each defendant?*

Hiring more than one interpreter is advisable when a proceeding is lengthy, complicated and/or there are multiple defendants requiring interpreter services. "Lengthy" or "complicated" proceedings are ones that last more than two hours, or that will have extensive, complex legal arguments and testimony, such as suppression hearings and some preliminary and sentencing hearings. At least two interpreters should always be used in trials, so that they can work in shifts and avoid fatigue. Interpreting is a very intense activity that requires deep, continuous concentration and effort. Studies have shown that fatigue can occur after as little as 30 minutes and can cause an interpreter to lose her focus, thereby producing an inaccurate or incomplete interpretation. Since the interpreters have sworn to interpret "accurately and completely," they must avoid fatigue; and since their English interpretation becomes part of the record, the court must take all steps necessary to provide the working conditions necessary to ensure accurate, complete interpretation.

It is not necessary to hire an interpreter for each defendant. Equipment is available (many interpreters have their own) that allows one or two interpreters to "broadcast" interpretation through headsets worn by the non-English speaking participants. Nevertheless, in multiple defendant cases it may be advisable to hire one or two extra interpreters to ensure that someone is always available to interpret for attorney-client communications during the proceeding.

■ ***How/where do I find a competent interpreter?***

A good place to start is the NAJIT directory. By joining NAJIT, interpreters indicate that, at the very least, they are interested in updating and refining their skills through conferences and online consulting through our website and listserv. The NAJIT membership directory includes information about an interpreter's language pair, certifications and location. Federal court administrators also have lists of certified and otherwise qualified interpreters. Many states maintain rosters of interpreters who have passed state or consortium certification exams, have received training in ethics, and have demonstrated the locally required level of proficiency in the complex skills that must be mastered to become a court interpreter. For cases where penalties may be very serious, consider bringing certified interpreters in from out of town.

■ ***What is the difference between a translator and an interpreter?***

Interpreters provide an on-the-spot verbal conversion of speech in one language into another language, while translators work with written materials in a longer time frame and with unlimited access to reference materials. Translators and interpreters are not interchangeable since different skills and experience are needed for each of those tasks. Never assume that a translator can act as an interpreter and vice versa. Different mental processes, knowledge of vocabulary, and working methods and skills are needed in each case.

■ ***What credentials are available for court interpreters and which should I look for?***

NAJIT has developed a rigorous two-stage (written and oral) certification exam for Spanish-language court and legal interpreters, the National Judiciary Interpreters and Translators Examination: Spanish. This is a benchmark exam that requires excellent performance in all of the tasks of court interpreters. The Society for the Study of Translation and Interpretation oversees this credential; the examination is administered by Measurement Incorporated. The Administrative Office of the U.S. Courts certifies interpreters in Spanish, Haitian Creole and Navajo for work in the federal courts through written and oral exams. The Consortium for State Court Interpreter Certification, a program administered by the National Center for State Courts, provides testing in a number of languages for state certification in member states. Some states (for example, Washington and California) have their own certification training and testing programs. You may find more information by

inquiring in the AOC of the particular state or at their respective websites.

■ ***What is a "certified interpreter"?***

A certified court interpreter is one who has successfully passed tests explicitly designed to measure proficiency in court interpreting skills. Not all certification exams are equal (the NAJIT and federal exams are considered to be the most demanding) but most do test the skills of simultaneous interpreting (interpreting at the same time as the speaker is speaking, sometimes called "whisper" interpreting); consecutive interpreting (interpreting segments of speech out loud after they have been completed — this is used for interviews and testimony); and sight translation (oral interpretation of a written document), as well as proficiency in legal, general and colloquial terminology, good language skills in terms of grammar and usage, and, often, ethics. University degrees and certificates of attendance or proficiency from interpreting training events are not certifications. Possession of academic credentials does not necessarily indicate proficiency in the highly specialized skills needed to interpret in a legal setting.

**What to expect...**

■ ***Okay, I've located an interpreter, now what?***

If the interpreter is certified, you have a reasonable expectation of proficiency, but you should have the interpreter send you a resume along with pertinent information about specific training and experience in court work and some references. You should also routinely ask your interpreters if they have any reservations about their ability to interpret in the specific case you wish to assign (for example, if the case presents difficulties in terms of subject matter or very technical vocabulary).

If the interpreter is not certified (especially in the case of languages where no certification is available), speak with the interpreter personally to ensure that his accent and command of English are acceptable, and that the interpreter has some experience and knowledge of court terminology and the justice system and has worked in court before. Tell the judge that the interpreter is not certified so the judge can carry out a *voir dire* to determine the interpreter's qualifications on the record.

Send a contract or form with pertinent information to set the assignment formally. (See NAJIT's model contract if you don't already have one.)

■ **What should the interpreter be expected to do?**

The interpreter should be expected to provide competent simultaneous and consecutive interpreting and sight translation of documents (as described above in the section on certification). The interpreter should be familiar with the code of ethics for interpreters in your district, or if there is none, with the NAJIT Code of Ethics, and should be bound by those canons. (You may read the NAJIT Code of Ethics on the NAJIT website: [www.najit.org](http://www.najit.org), or contact NAJIT headquarters.) The interpreter should arrive punctually with the necessary equipment and/or reference materials in hand, be as unobtrusive as possible, and discuss beforehand with you all questions of logistics, best placement in the courtroom, rest periods that may be needed, and so on. The interpreter should also make known any case materials she will need to be provided in order to work efficiently and accurately. Interpreters should NOT be expected to: run errands; speak to parties without their attorney being present; “explain” things to parties; help people fill out forms; interpret tape-recorded material extemporaneously during a proceeding; give opinions about what other people understand or do not understand, or give any opinion about the abilities or statements of others.

■ **What kind of information do I need to give the interpreter?**

In order to interpret accurately and completely, it is useful for the interpreter to have as much background information about the case as possible. A good initial source of information is the complaint and affidavit of the arresting officer. Any available documents from investigative agencies will help as well. Copies of documents pertaining to the particular hearing are necessary (indictment, plea, plea agreement, motions, response to motions, PSR) since continued reference to their exact language is likely to be made. In the case of a trial, it is useful to provide the names and telephone numbers of defense and prosecuting attorneys so that interpreters may ask for copies of documents reflecting lists of numbers or transactions (such as bank statements, telephone logs) as well as transcriptions of tape recordings to be provided on-site. A copy of the final jury charge should be made available to each interpreter. You may also want to give the interpreter a copy of the Code of Ethics

and Oath used in your district and have him review and sign it before the proceeding.

■ **What working conditions are needed for good interpreting performance?**

An interpreter must be in a position to see and hear clearly, and be rested, ready and reasonably comfortable in order to do good work. For starters, try to provide a place where interpreters can store belongings and relax when off duty. Arrange for someone to inform the interpreter where to find bathroom and lunch or break room facilities, provide fresh water and glasses in the courtroom, and help the interpreter find the best location in the courtroom for seeing and hearing the proceedings. Provide chairs and a table, if possible, exclusively for interpreter use. Indicate which doors the interpreter can use when entering and exiting the courtroom so as not to disrupt an ongoing proceeding. Allow time for sufficient breaks if the interpreter is working alone. If your courtroom has interpreting equipment, have it ready and show the interpreter how to use it well in advance of the hearing. Take the time to introduce the interpreter to other staff and explain his role.

■ **How are interpreters paid? Is there a specific contract needed?**

How interpreters are paid depends on your court’s policies. Generally an interpreter sends an itemized invoice and/or fills out a form detailing services rendered. A judge’s order must normally accompany any invoice in order for the accounting office to pay the interpreter. If your court has a form or order that must be signed by the presiding judicial officer, tell the interpreter to make sure to get it signed before leaving. Provide the interpreter with complete information as to billing procedures in your court and where to send the invoice. It is not necessary to have a specific contract with the interpreter, but NAJIT recommends it in order to avoid misunderstandings and delays in payment. You can obtain NAJIT’s sample contract from the website, or by contacting NAJIT headquarters.

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