



Working with Sign Language Interpreters in Court

FACT SHEET

Just like with spoken language interpreters, in most of your cases, there will be a single sign language interpreter because the nature of the case requires no more. However, certain types of cases require more than one sign language interpreter. The purpose of this paper is to assist you in understanding why more than one interpreter is used in certain cases and how to most effectively use their services.

Proceedings Interpreters and Party Interpreters

The court will normally hire two court interpreters – proceedings interpreters – to interpret all of the witness testimony and all of the proceedings in a contested case. These proceedings interpreters will be sworn to interpret accurately for the record and to ensure the participants are present. Proceedings interpreters will be placed in the well, facing counsel table for the bulk of the proceedings. Their positioning will be modified if a deaf person takes the stand to testify.

If the matter is contested, and if counsel does not sign, an additional sign language interpreter should be placed at counsel table between the attorney and the client to facilitate privileged communications. This party interpreter is not a court interpreter sworn to interpret the proceedings; rather, this interpreter assists counsel with the preparation and defense of the case. Most of the party interpreter's work is done behind the scenes, privately, with counsel and the deaf client to ensure they are able to effectively communicate with each other in developing case strategy, theory and design. During the proceedings, the party interpreter provides immediate access to counsel to assist in the presentation of the case by interpreting privileged communications. Additionally, the party interpreter watches the sworn court interpreters' interpretations. If errors are made, the interpreter at the table alerts counsel to the nature of the error in order for the attorney to be able to object to errors in the interpretation, thereby preserving the issue for appeal.

If there are deaf parties, and the case is contested, then each party can be expected to need an interpreter seated at the table to perform these functions. Hence, in contested civil or criminal matters with multiple deaf parties, often there will be four interpreters in the room.



While this scenario presents the normal interpreter configuration for a contested civil or criminal case, at times, there are other deaf participants which present unique circumstances for the court. Today, it is common to see deaf Americans serving on juries and when they do, two court interpreters are sworn to assist them by interpreting the proceedings and the jury's deliberations. These interpreters are impartial court officers who do not participate in nor influence the deliberations in any manner. When you have a deaf juror, it is helpful to instruct the interpreters and the jury regarding the interpreter's role in the proceedings and in deliberations. Likewise, at the conclusion of the deliberation, it is customary to poll the jury on whether or not the interpreters maintained their role as interpreters during the deliberation process. A sample instruction and polling question might look like the following:

Instruction to the Interpreter for a Deaf Juror¹

Mr. or Ms. _____, your function in the jury room is only to interpret. You are instructed not in any way to express any ideas that you may have, any opinions that you may have, or any observations that you may have. You are strictly to interpret. Do you understand that?

Post-deliberation Polling and Question

Could you tell me whether you took any part in the deliberations other than just to interpret to and from sign language? I now ask each juror individually whether the interpreters took part in any manner in the deliberations other than just to interpret to and from sign language. (poll jurors individually).

Deaf Audience Members

At times, there may be deaf individuals in the audience who are exercising their right to access to government and are simply observing proceedings that may or may not involve other deaf people. In those cases, the interpreter is considered a reasonable accommodation under Title II of the Americans with Disabilities Act. Normally the 'accommodation interpreter' will want to stand or sit along the wall with his or her back to the court and interpret the proceedings to the deaf audience members. At times,

¹ Adapted, in part, from *United States v. Dempsey*, 830 F.2d 1084, 1087-88 (10th Cir. 1987).

bailiffs or clerks might misunderstand the interpreter's signing as having improper conversations during court. It is helpful to remind the bailiff not to order the interpreter to stop signing and explain that the interpreter is simply making the court proceedings accessible to deaf members of the public.

Juvenile Matters

Finally, juvenile proceedings pose separate challenges for courts in staffing cases. Deaf youths often present unique linguistic patterns that necessitate a special type of interpreter, called a deaf interpreter, to work with the court interpreter to ensure the presence of the deaf youth. The term Deaf Interpreter is used to refer to an individual who is deaf and viewed as a specialist who possesses unique mastery of ASL and use of visual-gestural language features that enables her or him to be able to work effectively in settings where communication issues are complex and/or high risk. Most of the work of Deaf interpreters is done in collaboration with sign language interpreters who can hear and are engaged in assignments where a communication specialist is required to provide effective and accessible interpreting service. When a Deaf interpreter is needed, the court interpreters will work with you to ensure that placement and pacing is effective for communication purposes. You should anticipate that the court interpreters will want a few minutes with you and counsel to discuss logistical and procedural issues that arise when a matter is being interpreted by the deaf specialist and the court interpreter.

Also, many times the young person involved is not deaf but has parents who are and who are afforded a statutory right to be present and participate in the adjudication. In this case, the interpreters function as court interpreters and should be sworn and placed in the well even though the parents are often in the audience. This positioning preserves the role of the interpreter as the proceedings interpreter versus the personal interpreter of the parents. However, in order for the parents to be able to see the interpreters, identifying an appropriate and stationary location for the interpreters is important and can be determined by the court in cooperation with the parents.

More and more frequently, deaf individuals are involved in legal proceedings whether as parties, witnesses, jurors, interested persons or audience members. The interpretation configuration will be slightly different depending on the deaf person's role. The court interpreters are prepared to function as a resource for you to advise on the proper number, placement and functioning to ensure that the proceedings will be conducted fairly, efficiently and effectively. Should you have more questions, further information is available from the NCIEC at www.nciec.org, under the Projects tab at the Legal Interpreting Work Group link.

The National Consortium of Interpreter Education Centers is funded from 2005 – 2010 by the U.S. Department of Education, Rehabilitation Services CFDA #84.160A and B, Training of Interpreters for Individuals Who Are Deaf and Individuals Who Are Deaf- Blind. Permission is granted to copy the materials enclosed herein, provided that National Consortium of Interpreter Education Centers is credited as the source and referenced appropriately on any such copies.

