



THE SUPREME COURT of OHIO

Language Access Plan



MONTGOMERY COUNTY COMMON PLEAS COURT

LANGUAGE ACCESS PLAN



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Montgomery County Common Pleas Court, General Division
LANGUAGE ACCESS PLAN
August 1, 2017

I. LEGAL BASIS AND PURPOSE

This document serves as the Language Access Plan (“LAP”) for Montgomery County Common Pleas Court to provide services to limited English proficient (“LEP”) individuals in compliance with Title VI of the Civil Rights Act of 1964; 45 C.F.R. § 80 et seq; and 28 C.F.R. § 42 et seq. The purpose of this plan is to provide a framework for the provision of timely and reasonable language assistance to LEP persons who come in contact with Montgomery County Common Pleas Court.

This LAP is developed to ensure equal access to court services for LEP persons and persons who are deaf or hard of hearing. Although deaf and hard of hearing individuals are covered under the Americans with Disabilities Act (ADA) rather than Title VI of the Civil Rights Act, they have been included in this plan insofar as they relate to our policy of access to justice and equal protection under the law.

II. NEEDS ASSESSMENT

A. Statewide

The State of Ohio provides court services to a wide range of persons, including people who do not speak English and/or who are deaf or hard of hearing. Service providers include the Supreme Court of Ohio, the courts of appeals, and trial courts throughout the state.

According to the American Community Survey as released in October 2015 by the U.S. Census Bureau, the number of people in Ohio who, at home, speak a language other than English is approximately 719,095. Of that number, many individuals are described as “speaking English less than very well” as outlined below:

1. Spanish	90,725
2. German	14,196
3. Chinese	20,374
4. French	7,001
5. Arabic	11,134

6. Pennsylvania Dutch	10,900
7. Italian	4,803
8. Russian	8,416
9. Greek	2,368

Additionally, a survey conducted in 2010 by the Supreme Court of Ohio Language Services Program revealed that the most widely used languages in courts statewide are, in order, the following:

1. Spanish
2. American Sign Language
3. Somali
4. Russian
5. Arabic
6. French
7. Mandarin
8. Korean
9. Cambodian
10. Amharic

B. Montgomery County Common Pleas Court, General Division

Montgomery County Common Pleas Court, General Division will make every effort to provide services to all LEP and deaf or hard of hearing persons in its jurisdiction. The most commonly used languages in Montgomery County Common Pleas Court are the following:

- Spanish, Russian and Mandarin

III. LANGUAGE ASSISTANCE RESOURCES

A. Language Access Coordinator

Montgomery County Common Pleas Court has designated the Language Access Coordinator for the Court to be the Case Management Supervisor who reports to the Program Manager, Court Services Division. The Case Management Supervisor is responsible for ensuring that language services are delivered by the Court in accordance with this plan and the Rules of Superintendence for the Courts of Ohio, Rules 80 - 89.

The Docket Support Supervisor is Heather Fultz. Ms. Fultz can be reached at (937) 496-6690. Complaints submitted under Section VIII of this Language Access Plan will be addressed by the Language Access Coordinator within three business days. In addition to the responsibilities

already outlined in this plan, the Language Access Coordinator also has the following responsibilities:

- Ensure that qualified interpreters and translators are maintained on the Court's interpreter's list;
- Track and collect data regarding the use of interpreters, the languages needed, etc.;
- Review annually and update the Court's Policy and Procedures Manual for Interpreter Services;
- Assign qualified interpreters and translators perform language assistance functions.

B. Interpreters Used in the Courts

Under Ohio law and Supreme Court rules, there are two different instances in which a court must provide an interpreter: in a case or court function (see ATTACHMENT A: Sup. R. 80) and in connection with ancillary services (see ATTACHMENT C: Sup. R. 89). This distinction is important because the type of interpreter to be provided and the court's responsibilities differ depending on the specific situation.

By statute, Ohio courts must appoint qualified interpreters. Specifically, section 2311.14 of the Ohio Revised Code provides that courts shall provide interpreters due to hearing, speech, or other impairments of a party or a witness to a case.

Additionally, Rule 88 of the Rules of Superintendence for the Courts of Ohio (see Attachment B), requires that Montgomery County Common Pleas Court appoint an interpreter in a case or court function when a LEP or deaf or hard of hearing individual requests an interpreter or when the court determines the services of an interpreter are necessary for the meaningful participation of the party or witness.

Under Ohio law, foreign language interpreters will be provided at the Court's expense, if the party is found to be indigent. However, in order to comply with the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et. seq., the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3789d(c), and 28 C.F.R. Part 42, Subparts C and D, recipients of federal funds must provide meaningful access to limited English proficient (LEP) individuals. *Lau v. Nichols*, 414 U.S. 563 (1974). The U.S. Department of Justice advises that practices, such as charging for interpretation and translation services or seeking recoupment for those costs, significantly impair, restrict, or preclude the participation of LEP individuals in the judicial system and are inconsistent with recipients' Title VI obligations. For more information, please refer to Guidance from the U.S. Department of Justice to state court justices and administrators' letter from Assistant Attorney of the Civil Rights Division to Chief Justices and State Court Administrators (Aug. 16, 2010); Guidance to Federal Financial Assistance Recipients

Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (June 18, 2002).

In Montgomery County Common Pleas Court, sign language interpreters will be provided at the Court's expense for all deaf or hard of hearing court parties, witnesses, or jurors in compliance with the ADA.

IV. USE OF INTERPRETERS

A. Determining the Need for an Interpreter

There are various ways that Montgomery County Common Pleas Court will determine whether an LEP or deaf or hard of hearing person needs the services of a court interpreter. First, the LEP or deaf or hard of hearing person may request an interpreter.

Second, court personnel and judges may determine that an interpreter is necessary for the meaningful participation of a party or witness. Many people who need an interpreter will not request one. Because they do not realize that interpreters are available or recognize the level of English proficiency or communication skills needed to understand the court proceeding, they mistakenly think they will have to pay for the interpreter. Therefore, when it appears that an individual has any difficulty communicating, the Court must provide an interpreter to ensure full access to the Court. See Sup. R. 88(A)(2), (B)(1)(b). In legal proceedings, the Court must make a determination, on the record, as to the need for an interpreter. In court functions and ancillary services, designated staff may make a determination as to the need of an interpreter.

Third, once a party or a witness has been identified as a LEP, deaf or hard of hearing individual, the Court will exercise every effort to appoint interpreters in all future related proceedings or court functions. Furthermore, the Court will follow the requirements of Sup. R. 88 (Attachment B) to appoint an interpreter (see Section C below). If no in-person interpreter is available at the given instance, the Court will grant a continuance or if possible and appropriate, in accordance with Sup. R. 88, Appendix J, use the services of a telephonic interpreter.

B. Court Interpreter Qualifications

The Language Services Program of the Supreme Court of Ohio maintains a statewide roster of interpreters who may work in the courts. The interpreter roster can be accessed at www.sc.ohio.gov/JCS/interpreterSvc/certification/rosters/default.asp. Foreign language interpreters on the roster have passed a written examination, attended at least 24 hours of court interpreter training, and have scored within a designated range that measures their language and interpreting skill. Sign language interpreters have also met similar requirements as necessary for national certification through the Registry of Interpreters for the Deaf. The definition of each category of interpreter is set forth in [Sup. R. 80-88](#).

C. Appointment of a Court Interpreter

Montgomery County Common Pleas Court will appoint in-person and telephonic court interpreters in accordance with all criteria set forth in Sup. R. 88 (Attachment B) and will ensure that certified court interpreters are used whenever reasonably available.

Pursuant to Sup. R. 88(C), Montgomery County Common Pleas Court will make all reasonable efforts to avoid appointing foreign language interpreters or sign language interpreters if they are compensated by a business owned or controlled by a party or a witness; friend or a family or household member of a party or witness; a potential witness; court personnel employed for a purpose other than interpreting; law enforcement officer or probation department personnel; or would not serve to protect a party's rights or ensure the integrity of the proceedings or have a conflict of interest, real or perceived.

D. Language Services outside the Courtroom

In accordance with Sup. R. 89 (Attachment C), Montgomery County Common Pleas Court shall ensure that LEP individuals and individuals who are deaf or hard of hearing have meaningful access to ancillary services outside the courtroom. LEP individuals and individuals who are deaf or hard of hearing may come in contact with court personnel via the phone, counter, or other means. The Montgomery County Common Pleas Court has the following resources to assist LEP individuals and individuals who are deaf or hard of hearing:

- When a court staff member does not know what language a customer is speaking, they use an "I Speak" card which is available in 63 languages. The Language Access Coordinator is responsible for distributing cards to all staff and to any new staff.

Resource:

"I Speak" cards are available on the Supreme Court of Ohio's Language Services website at <http://sc.ohio.gov/JCS/interpreterSvcs/ISpeakCards.pdf>.

- In order to meet the needs of those who speak less-common languages, court staff may rely on telephonic interpretation or relay services to bridge communication.

Resource:

The Supreme Court of Ohio has provided each court with a code by which telephonic interpretation can be accessed via Language Line. Please contact the Supreme Court of Ohio Language Services Section for additional information on how to access telephonic interpretation. <http://sc.ohio.gov/JCS/interpreterSvcs/default.asp>

V. TRANSLATED FORMS AND DOCUMENTS

Ohio courts understand the importance of translating forms and documents so that LEP individuals have greater access to the courts' services.

Montgomery County Common Pleas Court currently do not have forms translated into commonly used languages.

When interpreters are hired for hearings, interpreters are expected to provide sight translations for corresponding documentation to LEP individuals. Additionally, the Supreme Court of Ohio has translated 27 vital forms into 5 languages: Arabic, Chinese, Russian, Somali and Spanish. These are posted on the Supreme Court of Ohio website and are available to all courts.

Montgomery County Common Pleas Court follows the process to translate material described in Appendix J of the *Interpreters in the Judicial System: A Handbook for Ohio Judges*. Appendix J identifies the steps to translate material from project management to editing, proofreading, and publishing. The section also describes the process for the selection of qualified translators. The Court will also rely on the Language Services Program at the Supreme Court of Ohio for consultation and technical assistance.

Montgomery County Common Pleas Court will assess demographics and analyze the most commonly used forms and embark in the translation of additional forms as resources allow.

VI. LOCAL RULE

Montgomery County Common Pleas Court has not adopted a local rule regarding appointment of interpreters.

VII. TRAINING

Ohio courts are committed to providing language access training opportunities for all staff members who come in contact with or may come in contact with LEP individuals and individuals who are deaf or hard of hearing. The Ohio Judicial College and the Language Services Program

provide [on-going training](#) for court staff regarding issues related to LEP populations, individuals who are deaf or hard of hearing, the use of interpreters, and other language access matters.

Montgomery County Common Pleas Court staff that has direct contact with LEP individuals or individuals who are deaf or hard of hearing will receive training on language access, to be coordinated by the Deputy Court Administrator, Court Services Division. The Deputy Court Administrator will ensure that all staff receives updated trainings on a regular basis and that all new staff are trained at the time of hire. The link below can be accessed and viewed for training purposes:

Resource:

The Supreme Court of Ohio created a brief video which outlines the requirements of Sup. R. 88. The video can be accessed on the Court's website at:

<http://www.ohiochannel.org/video/training-video-understanding-rule-88-for-judges-courtpersonnel>

VIII. COMPLAINT PROCESS

Montgomery County Common Pleas Court will ensure that all LEP individuals and individuals who are deaf or hard of hearing receive language assistance services in their primary language. To promptly address any concerns that an LEP person or an individual who is deaf or hard of hearing did not receive language assistance, the Supreme Court of Ohio has developed a process for handling such complaints.

Resource:

For more information on the complaint resolution process, please visit: <http://www.supremecourt.ohio.gov/JCS/interpreterSvcs/default.asp>.

Parties may also call 1(888)-317-3177, Monday-Friday, 8 AM to 5 PM, or send correspondence via email to: InterpreterServices@sc.ohio.gov or via US Postal Service to:

Language Services Program
Complaint Resolution
65 South Front Street
Columbus, Ohio 43215

Montgomery County Common Pleas Court employees will also provide information on this complaint process to LEP individuals or individuals who are deaf or hard of hearing upon request

or if an LEP/deaf or hard of hearing individual voices concern about the lack of language access services or the quality of services that were provided.

In addition to the Supreme Court’s complaint process, Montgomery County Common Pleas Court has developed a local complaint resolution process as well. If the Case Management Supervisor receives a language access complaint, she will document receipt of the complaint and provide information about it to the Deputy Court Administrator. Once the Deputy Court Administrator receives notice of a language access complaint, she will take prompt action to review, investigate and respond to its allegations. The Case Management Supervisor will also notify the Supreme Court of Ohio Manager of the Language Services Section of such complaint.

Montgomery County Common Pleas Court will display a sign translated into Ohio's 12 most frequently used languages which states:

You may have the right to a court-appointed interpreter. If one is not provided, call 1.888.317.3177, Monday - Friday, 8 AM to 5 PM.

Montgomery County Common Pleas Court will display this sign at common areas visible to all court users. In Montgomery County Common Pleas Court, the Deputy Court Administrator is responsible to make sure signs are visible, interpreters are provided, and our LAP plan is monitored.

Resource:

The Supreme Court of Ohio’s right to an interpreter notification poster can be accessed on the website at <http://sc.ohio.gov/JCS/interpreterSvcs/compliance/Poster.pdf>.

IX. PUBLIC NOTIFICATION AND EVALUATION OF LAP

A. LAP Approval

Montgomery County Common Pleas Court’s LAP has been approved by the Administrative Judge of the court. Any future revisions to the plan will be submitted to the Administrative Judge for approval. The Montgomery County Common Pleas Court’s LAP will be made available on the Court’s Intranet for all Court employees who may have direct contact with LEP individuals or deaf or hard of hearing individuals to access.

B. Notification

The Human Resource Specialist will ensure that any new staff is informed of how to access a copy of the plan. Copies of Montgomery County Common Pleas Court’s LAP will be provided to the public upon request. In addition, Montgomery County Common Pleas Court will post this plan on its website.

C. Evaluation of the LAP

The Deputy Court Administrator or designee will review this plan on an annual basis and make changes based on the review. The evaluation will include review of any complaints received, identification of any problem areas, development of required corrective action strategies, and input from court staff. Elements of the evaluation may include:

- Assessing the number of LEP/deaf hard of hearing persons requesting court interpreters in Ohio courts;
- Assessing current language needs to determine if additional services or translated materials should be provided;
- Assessing whether staff members adequately understand LEP policies and procedures and how to carry them out;
- Reviewing complaints received since the last review; and
- Gathering feedback from LEP/deaf hard of hearing communities around the state; using that feedback as collaboration on any revisions to the LAP.

Any revisions made to the plan will be approved by the Administrative Judge and will be communicated by posting on Montgomery County Common Pleas Court public website.

X. OFFICIAL DESIGNATION OF LANGUAGE ACCESS COORDINATOR AND BACK-UP LANGUAGE ACCESS COORDINATOR.

Language Access Coordinator

Name: Heather Fultz Title: Supervisor

Address: 41 N. Perry Street, Rm. 103

City, State, Zip: Dayton, Ohio 45422

Phone: (937) 225-6000

Email: Heather.Fultz@montcourt.oh.gov

In the event that the Language Access Coordinator is unavailable, the back-up Language Access Coordinator will serve as the substitute.

Back-up Language Access Coordinator

Name: Mary Kay Stirling Title: Director of Case Management

Address: 41 N. Perry Street, Rm. 103

City, State, Zip: Dayton, Ohio 45422

Phone: (937) 225-6000

Email: MaryKay.Stirling@montcourt.oh.gov

XI. HELPFUL RESOURCES

- Federal interagency website about language access- www.lep.gov
- American Bar Association Standards for Language Access in Courts, February 2012, available at www.americanbar.org
- Department of Justice Language Access Planning and Technical Assistance Tool for Courts, February 2014, available at www.lep.gov
- Supreme Court of Ohio's Interpreter Services Program, <https://www.supremecourt.ohio.gov/JCS/interpreterSvcs/>

XII. LAP ADMINISTRATIVE JUDGE APPROVAL

This LAP was reviewed and approved by:

Gregory F. Singer, Administrative Judge

Date of Signature

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ATTACHMENT A

RULE 80. Definitions.

As used in Sup. R. 80 through 88:

(A) Case or court function

“Case or court function” means any hearing, trial, pre-trial conference, settlement conference, or other appearance before a court in an action, appeal, proceeding, or other matter conducted by a judge, magistrate, or other court official.

(B) Consecutive interpretation

“Consecutive interpretation” means interpretation in which a foreign language interpreter or sign language interpreter waits until the speaker finishes an entire message rendered in a source language before rendering the message in a target language.

(C) Crime of moral turpitude

“Crime of moral turpitude” means any of the following:

- (1) Aggravated murder as described in R.C. 2903.01 or murder as described in 2903.02;
- (2) A sexually oriented offense as defined in R.C. 2950.01;
- (3) An offense of violence as defined in section R.C. 2901.01, if the offense is a felony of the first or second degree;
- (4) Complicity in committing an offense described in division (C)(1) of this rule;
- (5) An attempt or conspiracy to commit or complicity in committing any offense described in division (C)(1) through (4) of this rule if the attempt, conspiracy, or complicity is a felony of the first or second degree;
- (6) A violation of any former Ohio law, any existing or former law of any other state, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (C)(1) through (5) of this rule.

(D) Deaf blind

“Deaf blind” is a combination of hearing and vision loss of any varying degree that causes an individual extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives.

(E) Foreign language interpreter

“Foreign language interpreter” means an individual who, as part of any case or court function, facilitates communication between or among legal professionals and a limited English proficient or non-English speaking party or witness through consecutive interpretation, simultaneous interpretation, or sight translation.

(F) Limited English proficient

“Limited English proficient” means an individual who does not speak English as a primary language or who has a limited ability to read, speak, write, or understand English and requires the assistance of a foreign language interpreter or sign language interpreter to effectively communicate.

(G) Provisionally qualified foreign language interpreter

“Provisionally qualified foreign language interpreter” means a foreign language interpreter who has received provisional certification from the Supreme Court Language Services Program pursuant to Sup. R. 81(G)(3).

(H) Sight translation

“Sight translation” means interpretation in which a foreign language interpreter or sign language interpreter renders in a target language a written document composed in a source language.

(I) Sign language interpreter

“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, or juror through the use of sign language or other manual or oral representation of a spoken language.

(J) Simultaneous interpretation

“Simultaneous interpretation” means interpretation in which, after a brief pause to listen for or view key grammatical information, a foreign language interpreter or sign

language interpreter renders in a target language the message of a person rendered in a source language as the person continues to communicate.

(K) Supreme Court certified foreign language interpreter

“Supreme Court certified foreign language interpreter” means a foreign language interpreter who has received certification from the Supreme Court Language Services Program pursuant to Sup. R. 81.

(L) Supreme Court certified sign language interpreter

“Supreme Court certified sign language interpreter” means a sign language interpreter who has received certification from the Supreme Court Language Services Program pursuant to Sup. R. 82.

(M) Telephonic interpretation

“Telephonic interpretation” means the use via telephone of a foreign language interpreter who is in a location that is physically separate from that of the party or witness who is limited English proficient and requires the services of the interpreter for meaningful participation.

(N) Translator

“Translator” means an individual who, as part of any case or court function, takes written text composed in a source language and renders it into an equivalent written text of a target language.

ATTACHMENT B

RULE 88. Appointment of a Foreign Language Interpreter or Sign Language Interpreter.

(A) When appointment of a foreign language interpreter is required

A court shall appoint a foreign language interpreter in a case or court function in either of the following situations:

- (1) A party or witness who is limited English proficient or non-English speaking requests a foreign language interpreter and the court determines the services of the interpreter are necessary for the meaningful participation of the party or witness;
- (2) Absent a request from a party or witness for a foreign language interpreter, the court concludes the party or witness is limited English proficient or non-English speaking and determines the services of the interpreter are necessary for the meaningful participation of the party or witness.

(B) When appointment of a sign language interpreter is required

(1) A court shall appoint a sign language interpreter in a case or court function in either of the following situations:

- (a) A party, witness, or juror who is deaf, hard of hearing, or deaf blind requests a sign language interpreter;
- (b) Absent a request from a party, witness, or juror for a sign language interpreter, the court concludes the party, witness, or juror is deaf, hard of hearing, or deaf blind and determines the services of the interpreter are necessary for the meaningful participation of the party, witness, or juror.

(2) When appointing a sign language interpreter pursuant to division (B)(1) of this rule, the court shall give primary consideration to the method of interpretation chosen by the party, witness, or juror, in accordance with 28 C.F.R. 35.160(b)(2), as amended.

(C) Appointments to avoid

A court shall use all reasonable efforts to avoid appointing an individual as a foreign language interpreter pursuant to division (A) of this rule or sign language interpreter pursuant to division (B) of this rule 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 appointment of the interpreter would not serve to protect a party's rights or ensure the integrity of the proceedings;
- (8) The interpreter does or may have a real or perceived conflict of interest or appearance of impropriety.

(D) Appointment of and certification requirement for foreign language interpreters

(1) Except as provided in divisions (D)(2) through (4) of this rule, when appointing a foreign language interpreter pursuant to division (A) of this rule, a court shall appoint a Supreme Court certified foreign language interpreter to participate in-person at the case or court function.

(2) Except as provided in divisions (D)(3) and (4) of this rule, if a Supreme Court certified foreign language interpreter does not exist or is not reasonably available to participate in-person at the case or court function and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain a Supreme Court certified foreign language interpreter to participate in-person at the case or court function, a court may appoint a provisionally qualified foreign language interpreter to participate in person at the case or court function. The court shall summarize on the record its efforts to obtain a Supreme Court certified foreign language interpreter to participate in-person at the case or court function and the reasons for using a provisionally qualified foreign language interpreter.

(3) Except as provided in division (D)(4) of this rule, if a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter does not exist or is not reasonably available to participate in-person at the case or court function and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter to participate in-person at the case or court function, a court may appoint a foreign language interpreter who demonstrates to the court proficiency in the target language and sufficient preparation to properly interpret the

proceedings to participate in-person at the case or court function. Such interpreter shall be styled a “language-skilled foreign language interpreter.” The court shall summarize on the record its efforts to obtain a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter to participate in-person at the case or court function and the reasons for using a language-skilled foreign language interpreter. The language-skilled foreign language interpreter's experience, knowledge, and training should be stated on the record. Each language-skilled foreign language interpreter shall take an oath or affirmation under which the interpreter affirms to know, understand, and act according to the “Code of Professional Conduct for Court Interpreters and Translators,” as set forth in Appendix H to this rule.

(4) If a Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter does not exist or is not reasonably available to participate in-person at the case or court function and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain a Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter to participate in-person at the case or court function, a court may appoint an interpreter to participate in the case or court function through telephonic interpretation. The court shall summarize on the record its efforts to obtain a Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter to participate in-person at the case or court function and the reasons for using an interpreter who will participate in the case or court function through telephonic interpretation. In appointing the interpreter, the court shall follow the order of certification preference in divisions (D)(1) through (3) of this rule and comply with the “Standards for the Use of Telephonic Interpretation,” as set forth in Appendix J to this rule.

(E) Appointment of and certification requirement for sign language interpreters

(1) Except as provided in divisions (E)(2) through (4) of this rule, when appointing a sign language interpreter pursuant to division (B) of this rule, the court shall appoint a Supreme Court certified sign language interpreter.

(2) Except as provided in divisions (E)(3) and (4) of this rule, if a Supreme Court certified sign language interpreter does not exist or is not reasonably available and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain a Supreme Court certified sign language interpreter, a court may appoint a sign language interpreter who holds one of the following certifications:

- (a) A “National Interpreter Certification” from the National Association of the Deaf and the Registry of Interpreters for the Deaf;
- (b) A “Certification of Interpretation” and “Certification of Transliteration” from the Registry of Interpreters for the Deaf;

- (c) A “Comprehensive Skills Certificate” from the Registry of Interpreters for the Deaf;
- (d) A “Master Comprehensive Skills Certificate” from the Registry of Interpreters for the Deaf;
- (e) A “Level V Certification” from the National Association of the Deaf;
- (f) A “Level IV Certification” from the National Association of the Deaf.

(3) If the communication mode of the deaf, hard-of-hearing, or deaf-blind party, witness, or juror is unique and cannot be adequately accessed by a sign language interpreter who is hearing, a court shall appoint a sign language interpreter certified as a “Certified Deaf Interpreter” by the Registry of Interpreters for the Deaf.

(4) If the communication mode of the deaf, hard-of-hearing, or deaf-blind party, witness, or juror requires silent oral techniques, a court may appoint a sign language interpreter who possesses an “Oral Transliteration Certificate” from the Registry of Interpreters for the Deaf.

(5) A court shall summarize on the record its efforts to obtain and reasons for not using a Supreme Court certified sign language interpreter.

(F) Appointment of multiple foreign language interpreters or sign language interpreters

(1) To ensure the accuracy and quality of interpretation, when appointing a foreign language interpreter pursuant to division (A) of this rule or sign language interpreter pursuant to division (B) of this rule, a court shall appoint two or more foreign language interpreters or sign language interpreters in either of the following situations:

- (a) The case or court function will last two or more hours and requires continuous, simultaneous, or consecutive interpretation;
- (b) The case or court function will last less than two hours, but the complexity of the circumstances warrants the appointment of two or more interpreters.

(2) To ensure the accuracy and quality of interpretation, a court shall appoint two or more foreign language interpreters or sign language interpreters for a case or court function involving multiple parties, witnesses, or jurors requiring the services of an interpreter.

(G) Examination on record

(1) In determining whether the services of a foreign language interpreter are necessary for the meaningful participation of a party or witness pursuant to division (A) of this rule,

the court shall conduct an examination of the party or witness on the record. During the examination, the court shall utilize the services of a foreign language interpreter, who may participate remotely. However, in doing so the court is not required to comply with the requirements of division (D) of this rule.

(2) In determining whether the services of a sign language interpreter are necessary for the meaningful participation of a party, witness, or juror, pursuant to division (B) of this rule, the court shall conduct an examination of the party, witness, or juror on the record. During the examination, the court shall utilize the services of a sign language interpreter, who may participate remotely. However, in doing so the court is not required to comply with the requirements of division (E) of this rule.

(H) Waiver

A party may waive the right to a foreign language interpreter under division (A) of this rule or sign language interpreter under division (B) of this rule, unless the court has determined the interpreter is required for the protection of the party's rights and the integrity of the case or court function. When accepting the party's waiver, the court shall utilize the services of a foreign language interpreter or sign language interpreter, who may participate remotely. However, in doing so the court is not required to comply with the requirements of division (D) or (E) of this rule.

(I) Administration of oath or affirmation

A court shall administer an oath or affirmation to a foreign language interpreter appointed pursuant to division (A) of this rule or sign language interpreter appointed pursuant to division (B) of this rule in accordance with Evid. R. 604.

ATTACHMENT C

RULE 89. Use of Communication Services in Ancillary Services.

(A) Limited English proficient individuals

A court shall provide foreign language communication services to limited English proficient individuals in conjunction with ancillary court services. Dependent upon the significance and complexity of the ancillary court service, the following individuals may provide the communication services in person, telephonically, or via video:

- (1) An employee of the court, other than a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter, who has demonstrated proficiency in English and the target language in accordance with standards set by Supreme Court Language Services Program and who the program has determined is qualified to conduct communication services directly with a limited English proficient individual in the target language;
- (2) A Supreme Court certified foreign language interpreter;
- (3) A provisionally qualified foreign language interpreter;
- (4) A registered foreign language interpreter.

(B) Deaf, hard-of-hearing, and deaf-blind individuals

A court shall provide sign language communication services to deaf, hard-of-hearing, and deaf-blind individuals in conjunction with ancillary court services. Dependent upon the significance and complexity of the ancillary court service, the following individuals may provide the communication services in person, telephonically, or via video:

- (1) A Supreme Court certified sign language interpreter;
- (2) A sign language interpreters listed in Sup. R. 88(E)(2) through (4);
- (3) A sign language interpreter employed by a community center for the deaf.

ATTACHMENT D

STANDARDS FOR THE USE OF TELEPHONIC INTERPRETATION

Preamble.

These standards apply to courts appointing a foreign language interpreter who, pursuant to Sup. R. 88(D)(4), is participating in the case or court function through telephonic interpretation.

Due process requires courts to ensure limited English proficient individuals are able to fully participate in the proceedings of and are afforded meaningful access in case and court functions. The fundamental role of a foreign language interpreter is to provide complete and accurate interpretation services in the case or court function in order to meet these due process requirements. The best way to accomplish this, especially in complex or prolonged proceedings, is to have the foreign interpreter present on-site where the case or court function is taking place.

However, in some instances, this may prove difficult due to factors such as the interpreter's lack of proximity. In these instances, telephonic interpretation may be an appropriate alternative. However, telephonic interpretation should not be used when a Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter is reasonably available to facilitate communication in person.

Furthermore, the quality and success of telephonic interpretation depend on a variety of factors. Examples include the interpreter's quality of training, the quality of the equipment used, the length of the case or court proceeding, the number of speakers, and whether reference will be made to evidence or documents to which the interpreter does not have access. These and other factors can all have a bearing on the effectiveness of the telephonic interpretation.

Ultimately, telephonic interpretation services should aim to provide the same quality of services as in-person interpretation. To this end, these standards represent recommended practices and minimum requirements to ensure the efficient and effective administration of justice and are intended to complement court rules and federal and state laws, regulations, and standards pertaining to use of court interpretation services.

Definitions.

As used in these standards, "case or court function," "consecutive interpretation," "foreign language interpreter," "limited English proficient," "provisionally qualified foreign language interpreter," "sight translation," "simultaneous interpretation," "Supreme Court certified foreign language interpreter," and "telephonic interpretation" have the same meanings as in Sup. R. 80 and "language-skilled foreign language interpreter" means a foreign language interpreter appointed by a court pursuant to Sup. R. 88(D)(3).

Standard 1. When Telephonic Interpretation May Be Used.

A court may use telephonic interpretation in a case or court function if all of the following apply:

- (A) A Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter is not reasonably available to serve on-site;
- (B) The matter cannot be postponed or delayed;
- (C) The quality of interpretation will not be compromised.

Commentary

While it is impossible to list all situations where telephonic interpretation might be appropriate, the court may consider the following: initial appearances, arraignments, simple traffic hearings, uncontested name changes, uncontested guardianships, ex parte civil protection orders, and marriages. The court may identify any other instances where telephonic interpretation may be suitable.

Standard 2. When Telephonic Interpretation Should Not Be Used.

A court should not use telephonic interpretation in a case or court function if any of the following apply:

- (A) A Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter is reasonably available to serve on-site;
- (B) The interpretation is necessary for a proceeding that is expected to last longer than forty-five minutes, provided the interpretation may exceed forty-five minutes if the communication is clear, the proceeding is simple and routine, and the rights of the party are not compromised;
- (C) The interpretation is necessary for a proceeding that involves witness testimony or introduces complex evidence;
- (D) The limited English proficient party or witness is a child, is elderly, is an unsophisticated user of interpreter services, has profound speech or language problems, or is or is alleged to be mentally disabled or mentally ill;
- (E) It is determined that using telephonic interpretation would negatively impact access for any reason.

Standard 3. Compliance with Applicable Laws, Rules, and Standards.

A court using telephonic interpretation shall comply with all court rules and federal and state laws, regulations, and standards pertaining to use of court interpretation services.

Standard 4. Accommodating Modes of Interpretation.

(A) General

Subject to division (B) of this standard, court using telephonic interpretation should accommodate sight translation, consecutive interpretation, or simultaneous interpretation, as is necessary for proper and effective communication between the court, the parties, and the limited English proficient speaker.

(B) Sight translation

A court should not use sight translation with telephonic interpretation unless the foreign language interpreter has access to the documents beforehand and ample time to render the document from one language into the other. If sight translation is used with telephonic interpretation, the document should be short and routine.

Standard 5. Oath.

A foreign language interpreter participating through telephonic interpretation shall take an oath or affirmation that the interpreter knows, understands, and will act according to the “Code of Professional Conduct for Court Interpreters and Translators,” as set forth in Appendix H to these rules and that the interpreter will make a true translation or interpretation as required by Evid. R. 604.

Standard 6. Telephonic Interpretation Equipment.

(A) Adequacy of equipment

A court using telephonic interpretation should have adequate equipment in the courtroom and other locations where case and court functions involving the presence and participation of limited English proficient individuals take place.

(B) Quality of transmission

A court using telephonic interpretation should **ensure the telephonic interpretation equipment has the capacity to deliver clear and audible transmission of voice and**

minimizes background noise and disruptions that might affect the quality of the interpretation.

(C) Integration into existing audio speaker system

A court using telephonic interpretation may integrate the telephonic interpretation into a courtroom's existing audio speaker system using a digital audio platform device or a simple stand-alone device with amplification.

Standard 7. Coordination of Telephonic Interpretation Services.

A court using telephonic interpretation should designate one individual to arrange and monitor the provision of the service in order to ensure continuous and efficient operation.

Commentary

Having a coordinator to arrange and monitor telephonic interpretation helps to ensure an efficient operation and eliminate minor issues that can arise with the use of telephonic interpretation. Additionally, the accumulated experience of one individual produces efficiency.

Standard 8. Training on the Use of Telephonic Interpretation Services.

A court using telephonic interpretation should provide training to users of the technology, relevant support staff, and other involved individuals in order to ensure an efficient operation and the integrity in the use of the service.

Standard 9. Monitoring Telephonic Interpretation Services.

A court using telephonic interpretation should collect and analyze information regarding the performance of the service on a regular basis in order to evaluate the quality of the service, its benefits and limitations, and its cost-effectiveness.

ATTACHMENT E

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

CASE NO.

Petitioner,

-vs-

ORDER FOR INTERPRETER
SERVICES

Respondent

In accordance to Section 2311.14, Ohio Revised Code, _____ a named representative sworn by the court is hereby appointed as the language interpreter in this action. Also, pursuant to court policy the representative is not to be engaged by any other agencies to conduct any interpretation of the parties involved until the proceedings in this case are concluded.

SO ORDERED:

JUDGE

Cc: Caseflow Services

ATTACHMENT F

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

CASE NO.

Petitioner,

-vs-

OATH OF INTERPRETER

Respondent

Do you solemnly swear or affirm you will interpret accurately, completely, and impartially, using your best skill and judgment in accordance with the standards prescribed by law and follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?

INTERPRETER

Sworn to before me and subscribed in my presence by _____

this _____ day of _____, 2017.

JUDGE



The Supreme Court of Ohio



65 South Front Street, Columbus, Ohio 43215-3431