



# MAINE JUDICIAL BRANCH

## BENCH CARD AND BEST PRACTICES FOR WORKING WITH SPOKEN LANGUAGE INTERPRETERS



### People with Limited English Proficiency are known as LEP individuals or LEP persons.

Language Access Guidance Letter from the U.S. DOJ, Civil Rights Division, to all state courts (2010):

“Dispensing justice fairly, efficiently, and accurately is a cornerstone of the judiciary. Policies and practices that deny LEP persons meaningful access to the courts undermine that cornerstone.”

### Sources of Authority:

- ◆ Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d:
  - No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- ◆ Maine Administrative Order JB-06-3:
  - **Maine’s state courts will provide all LEP individuals who are parties or witnesses** in any type of court case, **or parents of minors** involved in juvenile actions, **with an interpreter in all court proceedings** related to that case, at the State’s expense.
  - **“All court proceedings” includes:** case management conferences, CADRES and judicially-assisted mediations, motion hearings, arraignments, commitment hearings, competency hearings, jury selection, trials, sentencing, appellate arguments, and any other court events or proceedings authorized by the presiding judge or justice.
- ◆ Maine Administrative Order JB-12-1:
  - **All proceedings in which a spoken language interpreter is utilized must be recorded** and monitored, whether or not a court reporter is present.

### Interpreter Request Process:

When need for an interpreter is identified in advance, clerks schedule the interpreter(s) for the proceeding, first from the Court Roster, then pre-approved agencies.

PLEASE DIRECT CHALLENGING OR URGENT REQUESTS TO:

**The Communications Access Specialist  
Kristina Famolare, J.D.  
207-822-0703  
interpreters@courts.maine.gov**

### Whether a Person Needs an Interpreter:

Need for an interpreter will usually be identified early, by counsel, court staff, or the LEP individual, and an interpreter will be assigned before the scheduled court proceeding.

- ❖ **When need for an interpreter is not determined prior to the proceeding** and an individual appears to have a limited ability to understand and communicate in English – the Court should conduct a brief *voir dire* on the record to determine if an interpreter is necessary.

### Sample Questions to Assess English Proficiency

*Avoid questions easily answered with yes or no replies*

- What is your name and address?
- What kind of work do you do?
- It seems you are having difficulty expressing yourself in English, do you speak another language? What language(s) do you speak?
- Please describe when, where and how you learned English.
- In what language do you feel most comfortable speaking and communicating?
- You have the right to an interpreter at no cost to you. Would you like the Court to assign you an interpreter?
- *If the individual says “no,” then ask: “Are you certain?” and “Are you refusing an interpreter?”*
- *If the individual refuses an interpreter, the offer and refusal are on the court record.*

- ❖ **When an individual has a court-assigned interpreter present and yet answers in English,** the Court should urge use of the interpreter, ask what the individual wants to do, and establish a response on the record. **Any waiver must be knowing, voluntary, and is revocable at any time.**

### Sample Language Regarding Waiver of Interpreter

- “You have a qualified court-interpreter assigned to you. I recommend that you rely on your interpreter.”
- *If the LEP individual continues to respond in English,* “Based on my experience, it seems it would be beneficial for you to use your interpreter. Would you like to continue by using the interpreter?” and “Are you certain you want to answer in English?”
- *If the LEP individual insists on responding in English, the discussion is on the court record.*



# MAINE JUDICIAL BRANCH

## BENCH CARD AND BEST PRACTICES FOR WORKING WITH SPOKEN LANGUAGE INTERPRETERS



### Spoken Language Interpreter Qualifications:

All Rostered Maine Court Interpreters have successfully passed the National Center for State Courts (NCSC) Written English Examination, the American Council for Teaching Foreign Languages Oral Proficiency Interview (OPI), and completed mandatory court interpreter training and orientation.

### Sample Questions to Assess Non-rostered Interpreter

- What training or credentials do you have as an interpreter?
- What is your experience interpreting in court?
- How did you learn English? Your other language?
- Have you met this party/witness before today?
- Are you aware of any conflicts of interest?
- Do you understand you are only here to facilitate communication and you should not give advice?

- ≠ Being bilingual does not qualify a person to interpret.
- ≠ Do not permit a minor, family member, friend, lawyer, or anyone with a conflict to serve as the interpreter.

All assigned interpreters must comply with the Judicial Branch's Standards of Professional Conduct for Interpreters Providing Services in Judicial Proceedings, which includes provisions on:

- |   |  |
|---|--|
| (1) Accuracy & Completeness                           | (6) Restriction of Public Comment                      |
| (2) Representation of Qualifications                  | (7) Scope of Practice                                  |
| (3) Impartiality & Avoidance of Conflicts of Interest | (8) Assessing and Reporting Impediments to Performance |
| (4) Professional Demeanor                             | (9) Duty to Report Ethical Violations                  |
| (5) Confidentiality                                   | (10) Professional Development                          |

### Sample Interpreter Oath or Affirmation

Do you solemnly swear or affirm that you will faithfully interpret the proceedings before this court from [the foreign language] into English and from English into [the foreign language] in an accurate manner to the best of your skills and knowledge and that you will abide by the Standards of Professional Conduct for Court Interpreters?

DIRECT QUESTIONS, CONCERNS, OR COMPLAINTS TO:

**The Communications Access Specialist**  
**Kristina Famolare, J.D.**  
**207-822-0703**  
**interpreters@courts.maine.gov**

### The Role of the Interpreter in Court:

#### Sample Language to Explain Interpreter's Role

##### For the LEP Party or Witness:

The interpreter is a neutral party who is here only to interpret the proceedings and enable communication. The interpreter will interpret everything that is said. Speak slowly and allow the interpreter to finish before continuing. Wait until the entire statement has been interpreted before you answer. Do not ask the interpreter questions. If you have a question, ask me or your attorney. Do not engage in conversation with the interpreter. The interpreter is not allowed to give advice. The interpreter may not provide opinions on cultural matters, explain the law, explain terms, provide language assessments, or act as an advocate. When speaking, speak directly to your attorney or to me. If you do not understand the interpreter, tell me. If you disagree with the interpretation, raise your hand. Do you have any questions? Do you understand my instructions?

##### For the Jury:

An interpreter for a language other than English will be used during this proceeding. Although some of you may understand the foreign language used, it is important for all jurors to consider the same evidence. Therefore, you may only consider the testimony presented by the official interpreter(s) in English. You must not rely on your own interpretation of the witness's or other parties' words. The evidence you are to consider is only that provided through the interpreter.

#### Best Practices before the Proceeding begins:

- ◆ Schedule more than one interpreter for proceedings expected to last more than 2 hours.
- ◆ Allow the interpreter to review the case file.
- ◆ Allow the interpreter to converse briefly with the LEP person to ensure understanding.

#### Best Practices during the Proceeding:

- ◆ Advise all to speak slowly, clearly, one at a time.
- ◆ Speak directly to the LEP person.
- ◆ Advise the interpreter to interrupt if the pace is too fast or the interpreter cannot hear.

#### To Assess Interpreter Performance:

- ◆ The interpreter should interpret everything said.
- ◆ The interpretation should be in the 1st Person.
- ◆ Monitor that side conversations do not occur.
- ◆ Monitor and compare the lengths of responses.