



STANDARD PRACTICE PAPER

INTERPRETING IN LEGAL SETTINGS

Standard Practice Papers are available in brochure format through the national office. RID encourages use of these brochures for public distribution and advocacy.

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INTERPRETING IN LEGAL SETTINGS

A qualified RID certified interpreter can bridge the communication gap between legal professionals and deaf individuals they encounter. In legal settings, clear and accurate communication among all involved parties is essential. When the legal professional and the consumer of legal services do not share a common language or communication method, a hazardous gap exists. The legal professional can jeopardize an entire legal process or proceeding by using an unqualified interpreter.

Deaf individuals appear in all kinds of legal settings and on both sides of the legal fence. Whether complainants, defendants, victims, or the accused, or simply taking care of personal business that involves legal issues, deaf individuals have the right to full and clear communication. Attorney-client meetings, settlement conferences, real estate closings, administrative hearings, depositions, and the courts are some of the legal settings that may require sign language or oral interpretation by a qualified interpreter.

Who is responsible for providing interpreters?

State and local courts and administrative agencies are subject to Title II of the Americans with Disabilities Act (ADA) and other state and federal statutes. They are required to provide interpreters or other auxiliary aids and services for persons who are deaf or hard of hearing. Under Title III of the ADA, law offices are places of public accommodation that must provide interpreters when necessary to render effective communication. Neither courts nor attorneys may pass along the cost of interpreting service to the individual who is deaf, either directly or indirectly. Law offices may be entitled to an income tax credit for interpreter fees expended in compliance with the ADA.

In instances of court ordered activities, such as alcohol and drug assessment, domestic violence group sessions, and traffic school, the responsibility for providing interpreting service is not so clearly placed. The provision of interpreting services may be the responsibility of the ordering court, under Title II. Or, the agency providing the court ordered services may be responsible under their own Title III obligation. For complete information on the ADA, contact the U.S. Department of Justice, ADA Information Hotline at 1-800-514-0301 for voice or 1-800-514-0383 for TDD. ADA Technical Assistance Manuals are also available from the Department of Justice.

In addition to federal laws such as the ADA, some state and local jurisdictions may have statutory requirements relating to the use of interpreters in the legal system. Federal, state, and local statutes requiring use of interpreters may apply to legal situations in which deaf persons are not direct parties, but are related to the situation in some significant way. An example of this would be the deaf parent or guardian of a minor or person who is incompetent and becomes involved in a legal situation. In addition, people who are deaf may serve on juries and attorneys who are deaf may use interpreters in many job-related situations other than the courtroom.

What are the responsibilities of the interpreter?

An interpreter's first responsibility is to weigh the information regarding the circumstances judiciously to determine whether or not she/he is qualified for the particular situation. Some reasons for declining the assignment could be related to the communication mode of the deaf people involved or personal knowledge or bias in the case. Once the interpreter has accepted an assignment, he or she has the responsibility to facilitate communication accurately and impartially between the parties. The interpreter must execute this role with total absence of bias and must maintain strict confidentiality. Whether communications are covered by legal privilege or not, the interpreter is under professional obligation to maintain confidentiality. The professional ethics¹ of the interpreter requires that the interpreter maintain a singular role. If an interpreter in a case is asked to provide expert testimony, such as on language, deafness, or matters related to the case, or to act as advocate or consultant for any involved party, the interpreter must

either decline to do so, or withdraw as an interpreter from the case. As professionals, interpreters are responsible for making arrangements in advance for compensation.²

How many interpreters are needed?

Each situation requiring interpretation should be assessed to determine the number of interpreters needed. Often, because of the length or complexity of an assignment, interpreters will work in teams of two or more.³ Interpreting is more mentally and physically demanding than most people realize, and the first thing to suffer as a result of interpreter fatigue is accuracy. Besides fatigue, there may be legal or logistical reasons to have more than one interpreter. For example, if more than one deaf individual is involved, one team of interpreters may be interpreting for a witness while a second team is at the defense table with a deaf defendant and the defense attorney. In some instances, the communication mode of an individual who is deaf may be so unique that it cannot be accessed by interpreters who are hearing. Such cases may require the use of a Certified Deaf Interpreter who is able to meet the special communication need.⁴

How do you know if an interpreter is qualified?

In the field of interpreting, as in other professions, appropriate credentials are an important indicator of an interpreter's qualifications. The RID awards certification to interpreters who successfully pass national tests. The tests assess not only language knowledge and communication skills, but also knowledge and judgment on issues of ethics, culture, and professionalism. The most common RID certifications are:

- CI-Certificate of Interpretation
- CT-Certificate of Transliteration
- CSC-Comprehensive Skills Certification
- IC-Interpretation Certificate
- TC-Transliteration Certificate
- CDI-Certified Deaf Interpreter
- OIC:C - Oral Interpreting Certification - Comprehensive

An interpreter who obtains a CI, CT, or CSC, and meets other requirements through training and experience, and passes a rigorous testing process, can obtain the SC:L - Specialist Certificate: Legal. The best choice for any legal situation is an interpreter who possesses an SC:L. Unfortunately, the supply of SC:L interpreters cannot meet the demand. If an interpreter holding the SC:L is not available, an interpreter with previously mentioned generalist certifications and training in legal interpreting should be able to provide satisfactory service.

How do you find a qualified interpreter?

You can engage a private practice interpreter directly or through an interpreter service agency that will find an interpreter to meet your needs. If you are unable to find qualified interpreters in your area, contact the national RID, who can refer you to a contact person or agency in your area. In some instances, a person who is deaf can provide names of interpreters or agencies.

What can you do in order to work effectively with an interpreter?

As you work with an interpreter, you can facilitate communication in several ways:

- Allow the interpreter to become familiar with the matter at hand through discussion of the case and provision of materials. This preparation enables the interpreter to render a more accurate interpretation.
- Realize that there are legal requirements and codes of conduct affecting interpreters in your jurisdiction.
- Recognize that the interpreter will interpret all that is said in the presence of all individuals and will not edit out anything spoken or signed as an aside or anything that is said to others in the room.
- Realize that the interpreter is bound by a professional code of ethics not to provide any information or opinions about the individual who is deaf or about the situation, except in regard to communication issues.
- Expect that the interpreter may occasionally pause to ask you for an explanation or clarification of terms in order to provide an accurate interpretation.
- Work with the interpreter to determine the best possible physical placement for all parties in the situation.

- Speak directly to the individual who is deaf rather than saying to the interpreter, "Ask him..." or "Tell her..."

The Association believes that the only way that the legal rights of deaf people can be assured and the integrity of the legal process be safeguarded is by having qualified RID certified interpreters who have received rigorous training in legal interpreting interpret in legal settings.

RID has a series of Standard Practice Papers available upon request. Footnotes frequently reference these materials.

¹see *RID Code of Ethics*

²see *Business Practices: Billing Considerations*

³see *Team Interpreting*

⁴see *Use of a Certified Deaf Interpreter*