

Bench Card

Courtroom Interpreting (Spoken Languages)

Limited English Proficient (LEP)

LEP individuals are those who cannot adequately understand or effectively communicate in English because it is not their native language.

Appointment of Interpreter

A. Good Cause

(1) [RCW 2.43.030](#) requires courts to appoint an [AOC court certified](#) interpreter unless “good cause” is found and noted on the record¹:

(a) given the totality of the circumstances, including the nature of the proceedings and potential penalty, a certified interpreter is not reasonably available; or

(b) the AOC list does not include an interpreter in the needed language.

B. Qualifying and Swearing in Interpreters

(2) If good cause is found for using a non-certified interpreter, the court must then appoint and qualify on the record one who:

(a) can interpret accurately;

(b) can communicate effectively with the court and the LEP individual; and

(c) has read, understands, and will abide by the Code of Professional Responsibility for Judiciary Interpreters established by court rules.

[ER 604](#) and [RCW 2.43.050](#) require an interpreter to be qualified as an expert and placed under oath.

Interpreters credentialed by AOC (certified or registered) are already qualified and permanently sworn. They need only state their names and credentials on the record.

Interpreters not credentialed by AOC must first be qualified by the court and then sworn in on the record.

Remote Interpreting

Interpreting may be provided remotely in limited circumstances. [GR 11.3](#).

Team Interpreting

A team of two interpreters is required for trials and other lengthy proceedings. It is permissible to proceed with a single interpreter only when good cause has been established and the single interpreter is given a ten-minute break after every twenty minutes of interpretation. [GR 11.4](#).

Three Interpreting Modes

- **Simultaneous**

Used for courtroom proceedings to allow LEP individuals to follow in their own language everything that is stated in English.

- **Consecutive**

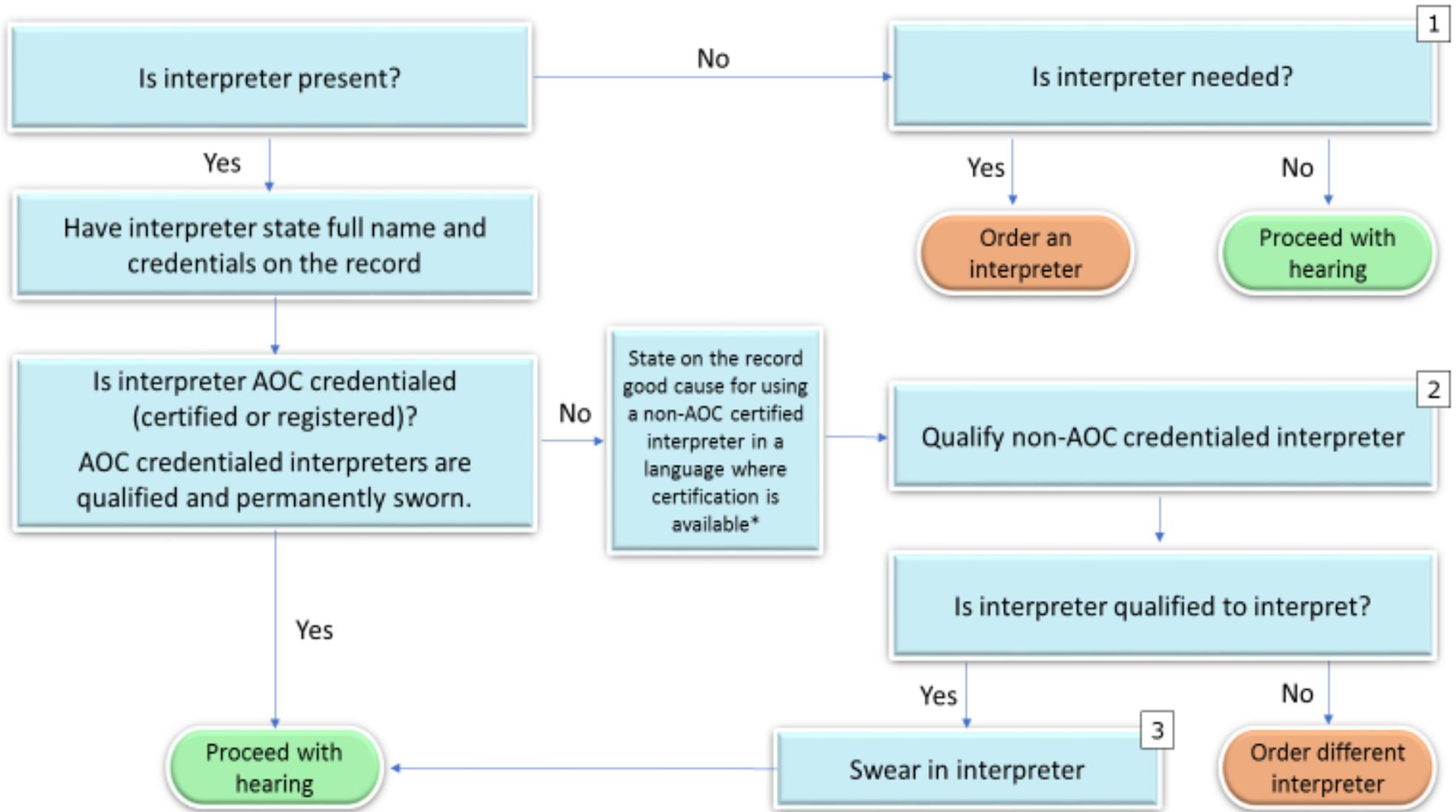
Used for question and answer sessions with LEP individuals.

- **Sight Translation**

Used to verbally render written documents from one language to another.

¹ *State v. Aljaffar*, 198 Wash.App. 75, 392 P.3d 1070 (2017).

Quick Guide for Interpreter Hearings (Spoken Languages)



*See Page 1 for Good Cause requirements

Sample scripts for reading into the record are in shaded boxes. Numbers on this page correspond to the Quick Guide numbers.

Is interpreter needed?

1

Colloquy with Limited English Proficient (LEP) individual on the record:

You have the right to a court-appointed interpreter free of charge. Do you need an interpreter?

YES: Order an interpreter

NO: Proceed. If still concerned, inquire further:

The court is still concerned that you may need an interpreter, so I will inquire.

First, it is important that you do NOT talk on the record about this case or any legal case, including immigration. I am ONLY asking you about your need for an interpreter. Do you understand?

- *How did you learn English?*
- *How do you use English in your everyday life?*
- *Are you certain you can fully understand and express yourself in court?*

If the LEP individual has difficulty answering these questions, order an interpreter.

If the court cannot understand the LEP individual's spoken English, order an interpreter.

If in doubt, the court should order a standby interpreter. A standby interpreter can help to avoid costly delay if the need for an interpreter arises mid-proceeding.

If the court is confident moving forward without an interpreter, advise the LEP individual:

If at any point you feel that an interpreter would be helpful, even on a standby basis, remember you may always request one. Do you understand?

Qualify non-credentialed interpreter

2

Non-credentialed interpreters (not certified or registered) must be qualified by the court. Sample qualification questions for interpreters who are not AOC certified or registered:

- *What language will you be interpreting?*
- *Please summarize your qualifications as an interpreter.*
- *What is your experience interpreting in court?*
- *Do you believe you can communicate effectively for the court and the LEP individual?*
- *Do you have any interest in the outcome of this matter?*
- *Have you read the Code of Professional Responsibility for Judiciary Interpreters? GR 11.2*
- *Do you promise to abide by this Code, interpreting accurately, honestly, impartially and maintaining confidentiality?*
- *Will you be interpreting simultaneously or consecutively?*

I find you qualified/I do not find you qualified to interpret for this proceeding.

Swear in non-credentialed interpreter

3

Do you swear (affirm) that you will make a true interpretation to the best of your skill and judgment?

Best Practices

Direct Speech

If an LEP witness states “I saw my aunt,” the interpreter will state “I saw my aunt,” not “He says he saw his aunt.”

Witnesses should be questioned using direct speech. For example, “State your name,” not “Ask her to state her name.”

Referring to themselves, interpreters use the third person. For example, “The interpreter cannot hear counsel.”

Slow and Steady

Everyone should speak one at a time, deliberately and clearly. Judges can set the pace by doing so themselves and monitoring the speakers throughout the proceeding.

Pauses

Interpreters need speakers to pause between questions and answers. Witnesses should wait for each question to be fully interpreted before starting their answers.

Logistics

The interpreter must be provided with a chair and a desk.

Interpreting equipment is critical for trials and other lengthy proceedings. It allows interpreters to work in simultaneous mode, to move freely around the courtroom to better hear and see, as well as to interpret for multiple LEP individuals at the same time.

Documents

Court personnel and attorneys must provide interpreters with relevant materials, such as complaints, affidavits of probable cause, witness lists, trial briefs, etc. These are necessary for

interpreters to familiarize themselves with the factual and legal issues of the case, specialized terminology and proper names. In addition, all documents read aloud in court should be provided to interpreters.

Jury Instructions

Reading aloud is much faster than normal speech. The judge should read slowly and deliberately, pausing after each jury instruction until interpreters finish their rendition. This will ensure accuracy and comprehension. Alternatively, the court can allow the interpreter to sight translate jury instructions in advance of the court’s reading, for example, during a jury break. The judge can then state on the record that the full set of instructions has already been interpreted to the defendant.

Exhibits in Languages other than English

Interpreters should not be asked to extemporaneously render audio, video or written exhibits into English on the record. Attorneys are obligated to arrange for certified transcription and translation of such exhibits ahead of time.

Interpreter on Standby

For LEP individuals with a marginal need for interpretation, the court should have a standby interpreter who is available to step in and interpret when needed. This avoids costly delay if the need for an interpreter arises mid-proceeding.

For additional information, please contact:

[AOC Court Interpreter Program](#)
interpreters@courts.wa.gov

Bench Card – Hearings with Sign Language Interpreters

Quick Overview:

Right to an Interpreter: Federal and state laws require courts to provide sign language interpreters to people who are Deaf, Deafblind, and hard of hearing (DHH) in a broad array of situations – parties, witnesses, courtroom observers, and jurors, among others. [Click here for more](#)

Finding Interpreters: In collaboration with the AOC, the DSHS Office of the Deaf and Hard of Hearing (ODHH) maintains a list of American Sign Language (ASL) and Certified Deaf Interpreters (CDIs) who are trained and tested for court proceedings. [Click here for more](#)

Individual Language Needs: Not all people who are DHH communicate in ASL. The court may need to take additional steps to provide the right communication match. [Click here for more](#)

Team Interpreting

A team of two interpreters is required for trials, proceedings lasting more than one hour, and challenging linguistic situations. A team of intermediary interpreters may also be required. A single interpreter may work alone only when good cause has been established and the interpreter is given a ten-minute break after twenty minutes of interpretation. [GR 11.4](#).

Certified Deaf Interpreters (CDI's)

An *intermediary interpreter* or Certified Deaf Interpreter (CDI) may be needed in addition to an ASL interpreter. A CDI is a professional interpreter who is Deaf, an expert in ASL linguistics, and a native user of ASL. These skills uniquely qualify them to meet the linguistic and cultural needs of a Deaf person. A CDI may be necessary if the Deaf participant is Deafblind, foreign born, has mental or cognitive difficulties, or communicates in a non-standardized sign language.

Remote Interpreting may be provided in limited circumstances. [GR 11.3](#).

Jury Members who are Deaf or Hard of Hearing

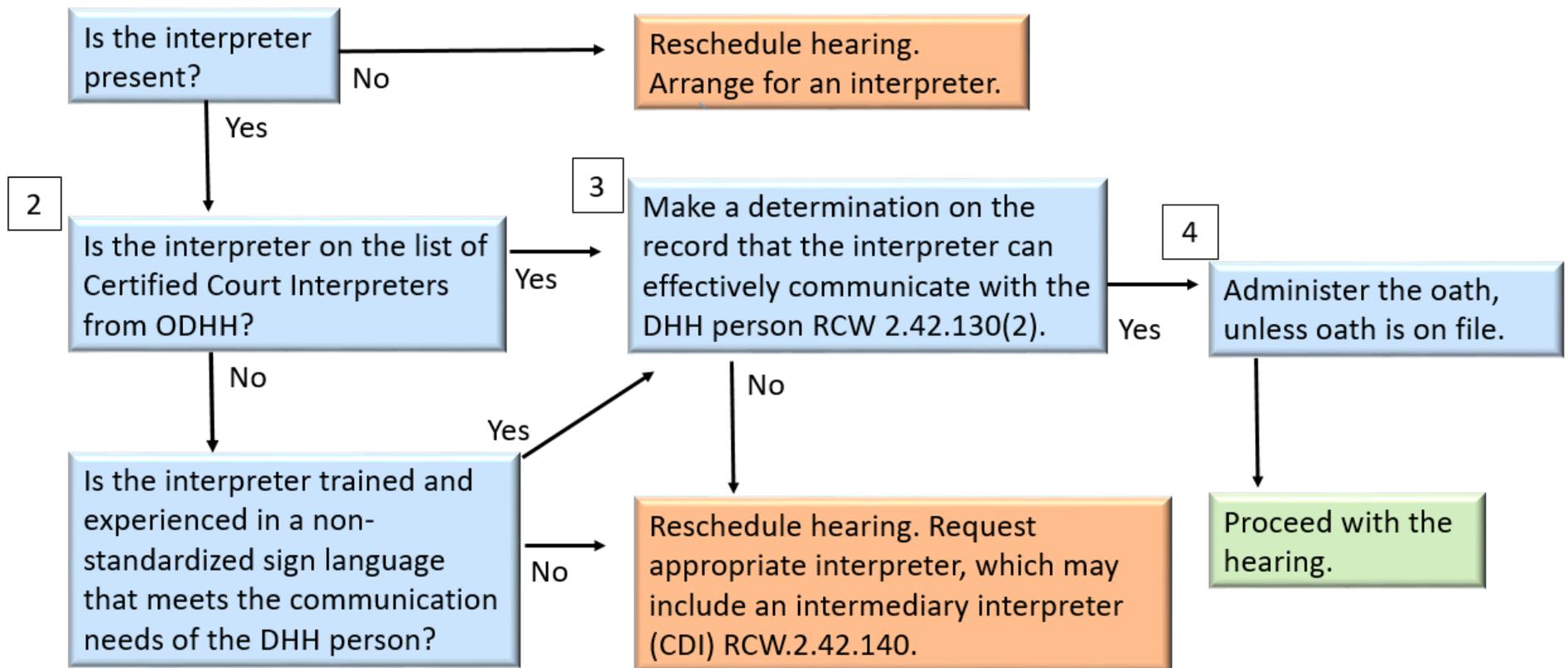
People who are DHH have an equal right and civic duty to serve on juries. A team of court interpreters must be sworn-in to interpret the proceedings and deliberations. These interpreters are impartial court officers who do not participate in nor influence the deliberations. The court should instruct the interpreters and the jury regarding the interpreter's role.

Sample Oath for Interpreting Jury Deliberations: *Do you swear that you will not participate in the deliberations, you will keep all communications in the jury room confidential, and you will not speak directly to any juror or allow a juror to speak to you but will, instead, provide communication access with fellow jurors so that the deaf juror can faithfully discharge his or her duties as a juror?*

Quick Guide for Hearings with Sign Language Interpreters

1

Right to an Interpreter: State and federal laws require courts to appointment sign language interpreters in a broad range of situations.



1 Right to an Interpreter

Deaf, Deafblind, and hard of hearing (DHH) individuals have the right to free interpreter services in many situations, including:

- as a party or witness in a criminal or civil proceeding – [RCW 2.42.120\(1\)](#)
- as a parent, guardian, or custodian of a juvenile – [RCW 2.42.120\(2\)](#)
- during communication with indigent defense counsel in case preparation - [RCW 2.42.120\(6\)](#)
- as a juror, observer, attorney - [ADA/WLAD](#)
- during interactions with programs outside of a legal proceeding, such as court-ordered programs, law enforcement interactions, and interactions at the jail - [ADA/WLAD](#)

2 Interpreter Qualifications

[RCW 2.42.130](#) requires courts to appoint sign language interpreters and intermediary¹ interpreters from a [list of court certified interpreters](#) maintained by the DSHS Office of the Deaf and Hard of Hearing (ODHH).

¹[RCW 2.42.110](#) refers to *intermediary interpreters*, who are commonly identified as Certified Deaf Interpreters (CDIs) or Deaf Interpreters (DIs). Intermediary interpreters are Deaf, experts in sign language linguistics and

Courts must also accommodate the linguistic needs of people who use non-standardized interpreting modes such as tactile ASL, cued speech, lip-reading translation, or signed exact English. Some may require accommodations such as real time transcription. [ADA/WLAD](#). The ODHH [Regional Service Centers](#) provide additional assistance in locating interpreters and answering questions about communications accommodations. For more details, see [Ensuring Equal Access for People with Disabilities](#).

3 Can the Interpreter Effectively Communicate?

[RCW 2.42.130\(2\)](#) requires an individualized inquiry that the DHH person is able to understand an interpreter. If an interpreter is unable to provide accurate, impartial, and effective communication, the court must appoint another qualified interpreter or an intermediary interpreter ([RCW 2.42.140](#)).

4 Swear In the Interpreter

Do you swear (affirm) that you will make a true interpretation to the best of your skill and judgment?

ASL, and provide a communication bridge when the DHH person is not fluent in ASL.

Best Practices

Use Direct Speech

Direct speech helps ensure a clear record of who said what. If a Deaf, Deafblind or hard of hearing (DHH) participant states, "I saw my aunt," the interpreter will state "I saw my aunt," not, "He says he saw his aunt."

Referring to themselves, interpreters use the third person. For example, "The interpreter cannot hear counsel."

Speak Slow and Steady

Everyone should speak one at a time, deliberately and clearly. Judges can set the pace by doing so themselves and monitoring the speakers throughout the proceeding.

The Importance of Pauses

Interpreters need speakers to pause between questions and answers. Participants should wait for each question to be fully interpreted before starting their answers.

Interpreter Placement

Due to the visual nature of sign language, interpreters typically stand or sit near the person who is speaking, in front of and in direct sightline of the DHH participant. As a result the DHH person is able to see both the interpreter and the speaker.

Placement for CDI and tactile interpreters will vary.

Provide chairs for interpreters to sit, and a small table for notes and water.

Documents and Exhibits for Interpreters

In advance of the hearing, court personnel and attorneys should provide interpreters with relevant written materials such as complaints, affidavits of probable cause, written motions, etc. These help interpreters familiarize themselves with the factual and legal issues, specialized terminology, and names. In addition, all documents read aloud in court should be provided to interpreters in advance.

Special Considerations for Trials:

- If DHH witness testimony is expected, provide interpreters a **microphone**.
- **Videotape** DHH witness testimony to preserve the original statements.
- If there are opposing DHH parties or DHH audience members, provide a **screen or divider** to prohibit others from viewing privileged communications at counsel table.
- Carefully pause in between **jury instructions** until the interpreter finishes. Provide a copy to the interpreter in advance.

For additional information, please contact:

[AOC Court Interpreter Program](#)
interpreters@courts.wa.gov