

## **Remote Interpreting Best Practices during the COVID-19 Emergency**

During the court response to the COVID-19 pandemic, as courts limit the type of hearings being held and as most hearings are held remotely – through telephone and video services, where available – it is important that courts continue to be accessible to individuals who are limited English proficient (LEP). Best practices for providing remote interpreter services to Deaf, Hard-of-Hearing, and DeafBlind individuals will be provided in a separate document.

Washington Court Rule [GR 11.3](#) generally restricts the use of telephone interpreter services to brief, non-evidentiary hearings. However, during this global pandemic, as Governor Inslee has issued a stay-at-home order and as the Washington Supreme Court has issued a court order requiring court hearings to be conducted remotely via video or telephone connections, unless it is impossible to do so, courts need to utilize remote interpreter services to continue to provide access for LEP speakers. With some planning and adherence to best practices, courts can continue to provide meaningful access to LEP individuals by working with Washington Court credentialed interpreters over the telephone or by video. Here, we offer information for courts to consider when providing remote interpreter access in this new era where most of the parties are also appearing remotely:

### **General Considerations for Remote Interpreting of Court Hearings**

- Courts must continue to comply with [RCW 2.43](#) regarding the interpreter’s qualifications and [GR 11.2](#), (the Court Interpreter Code of Professional Responsibility). **Interpreters** appointed to interpret for a legal proceeding **must be Washington Court certified or registered** or the court must find good cause, on the record, for using a non-credentialed interpreter. [RCW 2.43.030](#).
- Courts are encouraged to continue to **work via remote means with the interpreters with whom they were previously working with in-person**. This allows courts to work with interpreters who are credentialed in Washington State courts and who are familiar with the local court procedures. **Courts should also continue to pay the interpreters at the same rates previously paid for in-person interpretation.**
- Courts must ensure that **the non-English speaking person and the interpreter can hear** all statements made by all participants during the hearing. This will require extra care and attention to the process of interpretation.
- Courts must allow for **consecutive interpretation which requires more time** than what courts may be accustomed to. Typically, most in-person interpreting is done simultaneously – the interpreter interprets while others speak. Remote interpreting cannot be accomplished simultaneously without specialized technology. Therefore, remotely interpreted hearings must be slowed down for interpreters to interpret each statement.
- Courts must ensure that **attorney-client consultations are interpreted confidentially.**
- **Written documents** which would normally be orally translated by the interpreter **must be read aloud** to allow full oral translation of the material by the interpreter.
- As required by General Rule 11.3 (f), courts must ensure that a record is made of the hearing. **An audio recording shall be made** of all statements made on the record during

the interpretation, and the same shall be preserved.

- Because telephonic interpreting is not compatible with sign language, courts must find out from the Deaf person (through written communication or telephone relay services) how best to accommodate their communication needs in a video remote hearing. In addition, courts should work with the sign language interpreter to determine which video platform to use, and should verify that it also works for the Deaf person.
- Because telephonic interpreting is not compatible with sign language, courts must find out from the Deaf person (through written communication or telephone relay services) how best to accommodate their communication needs in a video remote hearing. In addition, courts should work with the sign language interpreter to determine which video platform to use, and should verify that it also works for the Deaf person. For expert assistance, contact the Office for the Deaf and Hard of Hearing Sign Language Contracts & Resources Program Manager Berle Ross, who can be reached at 360-359-4559 or at [Berle.Ross@dshs.wa.gov](mailto:Berle.Ross@dshs.wa.gov)
- To *find sign language interpreters qualified to work in Washington Courts*: <https://fortress.wa.gov/dshs/odhhapps/Interpreters/CourtInterpreter.aspx>

Additional guidance for remote hearings and sign language interpretation will be provided in a separate document.

## ***When Scheduling the Interpreter***

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- Book a Washington State credentialed (certified or registered) court interpreter.
- Indicate the anticipated duration of the assignment ahead of time if possible.
- Provide the interpreter with the necessary background information in advance. Remote interpreting can be particularly challenging, and knowing this information in advance preserves accuracy:
  - Case name and number;
  - Names of the Judge and all attorneys involved;
  - Names of all litigants and LEP speakers, if civil;
  - Copies of documents to be discussed at the hearing, for example, complaint form, arraignment rights, police report (depending on the technology available, these documents can be emailed or shared through the remote platform);
  - Type of hearing;
  - If the interpreter has little or no courtroom experience, provide the interpreter with information about courtroom protocol, terminology to prepare or anticipate, and acronyms that may arise;
  - If the interpreter is not certified or registered by the Washington AOC, provide a link to GR 11.2, the Code of Professional Responsibility for Judiciary Interpreters;
  - Remind the interpreter that when interpreting between counsel and litigants during the hearing, they are to be in a quiet, private location to ensure confidentiality.

## ***Notification to the LEP Participant***

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Litigants are used to appearing in-person at their scheduled hearing date and having an in-person interpreter provided to them. If this process is changing, it is incumbent upon the court to communicate this to all parties involved, in a language they understand. When a court moves to a remote hearing, the court must provide notice to the litigants about how to participate in that hearing and that free interpreter services will be provided. The court can provide this information in translated form, through direct communications of qualified bilingual staff, or through the use of telephone interpreter services. Below is a sample script of information to communicate to LEP litigants:

**Due to the COVID 19 pandemic, your hearing will take place by telephone.  
Please provide us with a phone number you can be reached at for your hearing.  
The court will assign an interpreter to interpret the hearing at no cost to you.**

This script can be modified to reflect the local court process. For example, if your court is using a video platform, the script should reflect that information and include how to participate and the provision of free interpreter services.

## ***During the Hearing***

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Understand that this is a unique situation for all parties involved. Most court hearings are typically conducted in-person. Occasionally, one participant – a witness, an expert, or an interpreter - will join the otherwise in-person hearing by remote access either by phone or by video connection. That is not the case during the COVID-19 pandemic. Now, for most hearings, all parties and court personnel are joining the hearing via remote means. This situation is almost unprecedented in Washington courts. Given that, it is important to practice a new normal for these all-remote hearings, particularly when not everyone at the hearing shares a language. To promote access, we recommend the following procedures:

- Judge: ask the interpreter to state their qualifications or credentials for the record. If the interpreter is not WA court certified or registered, refer to the [bench card](#) on courtroom interpreting:
  1. The court must make a good cause finding on the record for using a non-certified court interpreter.
  2. If good cause is found, qualify the interpreter. Ask questions to determine whether the interpreter is capable of accurately interpreting all communications to and from the LEP person, and has read, understand, and will abide by the Court Interpreter Code of Conduct.
- Remind all parties that they must:
  1. Speak one at a time and a sentence/short phrase at a time;
  2. Identify themselves before each utterance/change of speaker;
  3. Pause for consecutive interpretation to allow interpreting of each statement;
  4. Speak loudly and clearly;

5. Limit background noise or interference such as typing or background conversations, rustling of papers – these sounds are often audible and amplified over the receiver to the remote interpreter, making it difficult to understand what is being spoken.
6. Speak slowly when providing numbers, names, amounts, etc.
7. Check in with the LEP litigant and the interpreter from time to time to ask if the process is working for them. Identify any changes needed.

## ***Remote Interpreting Script***

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Below is a list of statements and questions that if read at the beginning of the session, will make things go more smoothly. Begin by allowing the interpreter and the LEP person to greet each other in their language to establish that the language or dialect is a correct match. Next, read each statement, making sure to pause after each one so that the interpreter may interpret.

1. We are going to communicate through an interpreter who will be interpreting by telephone/video.
2. The interpreter will interpret everything you say into English and everything I [we] say into \_\_\_\_\_ (client's language).
3. The interpreter cannot participate in the conversation. The interpreter's only job is to interpret what each of us says.
4. If you do not understand something, ask me, not the interpreter. Please talk directly to me, not to the interpreter.
5. If you have a long question or a long answer, please pause frequently so that the interpreter can interpret everything accurately.
6. Please speak loudly and pronounce your words clearly so that we can hear you easily.
7. It may take longer to say everything you need to say through an interpreter. Please say everything you need to say.
8. If you have any difficulty hearing the interpreter or understanding something during this conversation, please tell me.
9. Madam/Mister interpreter, are you ready to proceed? Are you hearing and understanding everyone adequately?

## ***Other Considerations***

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The Washington State Supreme Court order requires hearings to be conducted remotely, “unless impossible.” With proper planning and use of local Washington Court certified or registered interpreters, it is possible to provide quality interpreter services via a remote technology. The involvement of an interpreter alone should not be grounds for requiring an LEP litigant to appear in-person for a hearing. If the LEP speaker has additional barriers and cannot appear by remote means, the hearing could be conducted in-person while observing safe distancing protocols. In so

doing, the court can allow the LEP person to appear in-person, but should still schedule the interpreter to appear remotely. In rare circumstances, if both the LEP person and the interpreter must appear in-person to provide meaningful access, courts should provide electronic interpreting equipment to allow the interpreter to be a safe distance from the LEP speaker or litigant. This equipment involves a transmitter and receiver with a headset and a microphone. If a court does not have the necessary equipment, an appropriate alternative is to have the interpreter interpret consecutively at a safe distance between the interpreter and other individuals.