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## FREQUENTLY ASKED QUESTIONS (FAQS) ABOUT INTERPRETERS IN SOUTH CAROLINA COURTS

Provided by the South Carolina Access to Justice Commission Language Access Committee

**WARNING:** You are strongly encouraged to seek the advice of an attorney in any legal matter. If you move forward without an attorney, it may negatively affect your legal rights. If you have questions about your legal rights or the law that affects your case, please talk with an attorney.

**DISCLAIMER:** The general information provided in these FAQs is not legal advice, cannot be cited as legal authority, and cannot replace the advice of an attorney licensed in South Carolina. The information in these FAQs is accurate as of the date of publication. If you decide to bring a lawsuit in a South Carolina court without an attorney, you are responsible for researching the law on your own. Please note that the presiding judge in each case decides what law applies in that case.

### **General Public:**

#### **When can I have a court interpreter?**

You can have a court interpreter if you are Limited English Proficient (LEP) or deaf. LEP means a person who speaks, reads, or writes English less than very well, and English is not the person's primary language.

Court interpreters are appointed by Order of a Judge for parties, witnesses, jurors, and victims in court proceedings or hearings. S.C. Code Ann. §17-1-50

(<http://www.scstatehouse.gov/code/t17c001.php>), § 15-27-15

(<http://www.scstatehouse.gov/code/t15c027.php>), and § 15-27-155

(<http://www.scstatehouse.gov/code/t15c027.php>).

#### **Who do I tell if I need a court interpreter?**

Tell the Clerk of Court, Solicitor, or your attorney that you need an interpreter as soon as you know your hearing date.

#### **Who will my court interpreter be?**

South Carolina Court Administration keeps a list of qualified court interpreters. The local Clerks of Court have this list. The Clerk of Court chooses the interpreter from the list, gets the judge's signature on an order, and tells the interpreter.

#### **May I bring my own interpreter?**

It is not recommended. Many attorneys will only work with interpreters appointed by the court.

#### **Who pays the court interpreter?**

Usually the South Carolina Judicial Department pays for the court interpreter. The court interpreter gives the necessary forms for payment to the Judge after the hearing. Court staff turns in the forms to Court Administration for payment. Usually the parties do not pay the court interpreter.

#### **Will my attorney have an interpreter when we meet outside of court?**

It depends. You have to tell your attorney you need an interpreter before you meet. Sometimes it can take up to two weeks to set up a meeting with an interpreter.

If your attorney does not know how to get or where to find an interpreter, tell your attorney about these Frequently Asked Questions: [Interpreter FAQs](#).

### **Who pays the interpreter for meetings outside of court with my attorney?**

The attorney.

### **What if my attorney does not have an interpreter at our meeting?**

Tell your attorney you do not speak, read or write English very well, and need an interpreter. If your attorney continues to meet with you without an interpreter, you can:

Complete the online Complaint Form for the South Carolina Bar Client Assistance Program (<http://www.scbar.org/PublicServices/ClientAssistanceProgram.aspx>)

File a written complaint with the Commission on Lawyer Conduct (<http://www.sccourts.org/discCounsel/howToFile.cfm>)

Tell the Judge at your hearing

Hire another attorney

### **Attorneys:**

### **When do I need to get an interpreter?**

You need an interpreter to communicate with your Limited English Proficient (LEP) or deaf client and potential witnesses, for attorney-client meetings, including phone calls, and in court.

### **How do I know if an individual is LEP?**

A person who speaks, reads, or writes English less than very well, and English is not the person's primary language is considered Limited English Proficient (LEP). If the person self-identifies as needing an interpreter or if you are unable to understand the person or if it appears that the person is not fluent in English, then you need to get an interpreter for your client.

### **What is the role of the interpreter?**

An interpreter may fill many roles:

Table interpreter – A table interpreter is contracted by an attorney for attorney-client meetings, or to attend hearings and sit at the table with the attorney and client to facilitate privileged communication. A table interpreter can act as a quality control on the court's interpreter and be available for confidential conversations with your client.

Telephone interpreter – Usually a contract service to provide interpreting services by phone. The telephone interpreter can facilitate attorney-client meetings in your office or for three way calls with your client.

Court interpreter – The interpreter appointed by the Court to provide interpreting services for the court.

Note: An individual interpreter cannot serve as both the table interpreter and the court interpreter.

### **Why do I have to provide an interpreter?**

Title III of the Americans with Disabilities Act and Title VI of the Civil Rights Act of 1964, and the Title VI regulations, prohibit discrimination based on disability and national origin. Executive Order 13166

issued in 2000 says that people who are LEP should have meaningful access to federally conducted and federally funded programs and activities.

Rule 1.4 of the South Carolina Rules of Professional Conduct requires you to communicate with your client.

(<http://sccourts.org/courtReg/displayRule.cfm?ruleID=407.0&subRuleID=RULE%201%2E4&ruleType=APP>)

Rule 1.3 of the South Carolina Rules of Professional Conduct requires you to represent all clients with diligence and promptness.

(<http://sccourts.org/courtReg/displayRule.cfm?ruleID=407.0&subRuleID=RULE%201%2E3&ruleType=APP>)

Rule 1.6 of the South Carolina Rules of Professional Conduct requires you to maintain confidentiality. Using untrained interpreters, including family members, risks destroying attorney-client privilege.

(<http://sccourts.org/courtReg/displayRule.cfm?ruleID=407.0&subRuleID=RULE%201%2E6&ruleType=APP>)

### **May I use anyone who is bi-lingual?**

Not all bi-lingual people are qualified to interpret. See Section 15-27-155, South Carolina Code of Laws Annotated 1976 as amended (<http://www.scstatehouse.gov/code/t15c027.php>) .

Rule 511 of the South Carolina Appellate Court Rules provides extensive ethical guidelines for court interpreters designed to protect LEP and deaf clients. While these rules apply specifically to court interpreters, they provide good guidance as to why just being bi-lingual does not qualify a person to be an interpreter. (<http://www.sccourts.org/courtReg/index.cfm> )

Additionally, Rule 1.6 of the South Carolina Rules of Professional Conduct requires you to maintain confidentiality. Using untrained interpreters, including family members, risks destroying attorney-client privilege.

(<http://sccourts.org/courtReg/displayRule.cfm?ruleID=407.0&subRuleID=RULE%201%2E6&ruleType=APP>)

### **How do I arrange for a table interpreter?**

You can call South Carolina Court Administration for information about qualified interpreters in your area.

Keep in mind that you need to contact the interpreter to make the arrangements and that you will be billed directly by the interpreter.

### **Do I have to pay for the table interpreter if I am appointed to represent someone?**

You will need to secure the interpreter; however, you may submit the billing to the South Carolina Commission on Indigent Defense for reimbursement.

### **Who notifies the Clerk of Court that an interpreter is needed for court?**

As the attorney for the LEP or deaf person, you do. Notify the Clerk of Court as soon as possible that you need an interpreter for court. The Clerk of Court secures the interpreter for court.

### **How much advance notice do I need to secure a court interpreter?**

Let the Clerk of Court know as soon as you know your hearing date.

### **Who pays for the court interpreter?**

South Carolina Court Administration pays for court interpreters appointed by the Court. S.C. Code Ann. §17-1-50 (<http://www.scstatehouse.gov/code/t17c001.php>), § 15-27-15

(<http://www.scstatehouse.gov/code/t15c027.php>), and § 15-27-155 (<http://www.scstatehouse.gov/code/t15c027.php>).

### **Who do I contact at SC Court Administration for more information?**

Desiree Allen at [dallen@sccourts.org](mailto:dallen@sccourts.org).

### **Where can I learn more about best practices?**

The National Association of Judicial Interpreters and Translators (NAJIT) has published best practices at <http://www.najit.org/documents/bandb/BBpowerpoint.pdf>.

The American Translators Association (ATA) has published a brochure about best practices at [http://www.atanet.org/docs/Getting\\_it\\_right\\_int.pdf](http://www.atanet.org/docs/Getting_it_right_int.pdf).

Additional resources are found on the South Carolina Bar's website Pro Bono Digital Resource Center; specifically Top Ten Practice Points for Working with an Interpreter and Working with Limited English Proficient Clients in South Carolina.

### **Court Staff:**

### **What do I do if a person who does not speak English comes to my window?**

Even if you do not speak their language, state and federal laws require the court to provide services so the person can communicate within the court system.

Check to see if you have a poster or cards to identify the language.

(<https://dss.sc.gov/content/library/forms/files/2661.pdf>) If you are unsure what language the person speaks, ask the person to point to the language on the poster or visit <http://www.lep.gov/resources/resources.html#MM>.

### **I have identified the language they speak. How do I get an interpreter to help with what they need from my office?**

Check with your Clerk of Court about your options. Some offices have contracts with a qualified interpreter service or through computer technology.

### **I work for the court and am bilingual. To what extent may I help the person?**

You may communicate directly with the person just as you would anyone coming to your office. However, you may not interpret for other staff unless you have received authorization from your Clerk of Court indicating you are qualified to interpret.

### **The person needs an interpreter for court. Do I have to obtain an interpreter?**

Yes.

### **Where do I find qualified court interpreters?**

SC Court Administration provides a list of qualified interpreters. The list is provided directly to each county Clerk of Court and Summary Court.

### **Do I have to use the interpreters on the SC Court Administration list for court proceedings?**

Yes.

### **What other resources do I have if there is no interpreter on the list available?**

Check with Desiree Allen at [dallen@sccourts.org](mailto:dallen@sccourts.org).

### **How much time will it take to arrange for an interpreter?**

It depends on a number of factors. Make arrangements as soon as you are aware an interpreter is needed.

**Does the Judge play a role in providing an interpreter?**

Yes. The judge signs the Order of Appointment of Qualified Interpreter (<http://www.sccourts.org/forms/pdf/SCCA262F.pdf>) and the Request for Payment of Qualified Interpreter (<http://www.sccourts.org/forms/pdf/SCCA263.pdf>).

You must ask the Judge to sign the Order of Appointment of Qualified Interpreter.