



WORKING WITH DEAF OR HARD OF HEARING PERSONS AND SIGN LANGUAGE INTERPRETERS IN THE COURTROOM

— A Bench Card for Judges —

The Law on Sign Language Interpreters for Participants in Court Proceedings

Under the Americans with Disabilities Act (ADA) and state law (O.C.G.A. § 24-6-650 to 658), Georgia courts must provide auxiliary aids or services – such as qualified sign language interpreters – to participants in court proceedings who are deaf or hard of hearing (DHH). They must provide these aids or services when necessary to ensure effective communication by and with DHH participants. DHH participants can include litigants, witnesses, and spectators. Court proceedings include all court services, programs, and activities. DHH participants:

- Cannot be required to arrange or pay for their own interpreters;
- Must be provided an interpreter for any criminal or civil proceeding;
- Can waive their right to an interpreter if the waiver is in writing and it is approved by the court;
- Do not waive their right to an interpreter simply because they do not request an interpreter.

Establishing the Communication Preference of the Participants

The court must ask DHH participants to identify the type of reasonable accommodation needed.¹ If a request for an interpreter is not made, but the participants could benefit from the services of an interpreter, the judge should address the need on the record:

- “Please tell the court your name.”
- “You have the right to participate and understand these proceedings. Tell the court the best way to communicate with you, so you know what is being said.”
- “Do you need an interpreter?”

Finding a Qualified Sign Language Interpreter

The Registry for Interpreters for the Deaf (RID), the national certification organization for all sign language interpreters, has a searchable database of certified members on its website, www.rid.org

Credentials of Sign Language Interpreters

An ability to sign does not equate to being able to interpret. To effectively communicate, the interpreter must possess the necessary skills to process spoken language into equivalent sign language and to process sign language into equivalent spoken language. Family members or friends of DHH participants should never be called upon to interpret court proceedings. Court personnel should not function as interpreters unless they are certified and employed as staff interpreters.

A court official or designee should assess an interpreter’s qualifications prior to scheduling the interpreter’s appearance in court. To be recognized as qualified in Georgia, an interpreter must hold a current certification from the Registry of Interpreters for the Deaf (RID). For legal proceedings, courts should first try to use certified sign language interpreters who hold this credential:

- SC:L (Specialist Certificate: Legal) *Preferred and recommended credential based on demonstrated specialized knowledge of legal system, language, and settings.*

If an SC:L interpreter cannot be located, interpreters with these RID certifications may also be used. However, it is recommended that they have additional specialized training in legal interpreting:

- NIC (National Interpreter Certification), Master
- NAD V (National Association of the Deaf: Certification –Master)
- CI and CT (Certificate of Interpretation and Certificate of Transliteration)
- CDI (Certified Deaf Interpreter)
- CSC (Comprehensive Skills Certificate)

If the court is unsure of an interpreter’s qualifications, the court should *voir dire* the interpreter:

Sample Voir Dire to Assess an Interpreter’s Qualifications

- “Are you certified by RID?”
- “What specialized training have you completed?”
- “How long have you been an interpreter?”
- “How many times have you interpreted in court?”
- “Describe the Code of Ethics as it applies to legal interpreters.”
- “How did you learn American Sign Language?”

Additional Considerations When Selecting Sign Language Interpreters

Courts should take additional steps to determine whether a particular interpreter is suited to work in a court setting. Some considerations could include:

- Prior professional and/or social contact or association with the DHH participants.
- Education, professional training, and formal legal training completed by the interpreter.
- The types of court proceedings in which the interpreter has experience.

(A full list of suggested *voir dire* questions, considerations, and acceptable answers may be requested from the Judicial Council/Administrative Office of the Courts.)

Sign Language Interpreter's Ethics

The Registry of Interpreters for the Deaf and the National Association of the Deaf (NAD) together have enacted a Code of Professional Conduct for interpreters that comprises seven ethical tenets:

1. Adhere to standards of confidential communication.
2. Possess the professional skills and knowledge required for the specific interpreting situation.
3. Conduct themselves in a manner appropriate to the specific interpreting situation.
4. Demonstrate respect for consumers.
5. Demonstrate respect for colleagues, interns, and students of the profession.
6. Maintain ethical business practices.
7. Engage in professional development.

The Code applies to RID's certified and associate members and NAD's certified members; is superseded by any local, state, or federal laws and regulations; and applies to both face-to-face and remote interpretations.

Sign Language Interpreter's Oath

The court should administer an oath prior to the start of court proceedings. Below is an example:

"Do you solemnly swear or affirm that you will interpret accurately, completely and impartially, using your best skill and judgment in accordance with the standards prescribed by law, follow all official guidelines established by this court for legal interpreting, and discharge all of the solemn duties and obligations of legal interpretation?"

Best Practices for Interacting with DHH Persons²

- DHH persons experience differing levels of hearing loss and may prefer varying methods of communication. Ask DHH persons which method they prefer.
- When speaking with DHH persons, whether through a sign language interpreter or not, speak directly to them, look directly at them, and maintain eye contact. Natural facial expressions and gestures will be helpful in facilitating your conversation.
- The role of a sign language interpreter is only to facilitate communication between DHH and hearing people. Therefore, the interpreter should never be asked to participate in any activity other than interpreter for the DHH individual.

Resources

Georgia Supreme Court Rule on Interpreters
coi.georgiacourts.gov/content/supreme-court-rules

State of Georgia ADA Coordinator's Office
<http://ada.ga.gov>

Georgia Registry of Interpreters for the Deaf
www.garid.org

Georgia Council for the Hearing Impaired
www.gachi.org

National Association of the Deaf
www.nad.org

Registry of Interpreters for the Deaf/National Assoc. for the Deaf Code of Professional Conduct
http://coi.georgiacourts.gov/sites/default/files/coi/NAD_RID_ETHICS.pdf

National Association of Judiciary Interpreters & Translators Code of Ethics and Professional Responsibilities
<http://www.najit.org/about/NAJITCodeofEthicsFINAL.pdf>

Working with Sign Language Interpreters in Texas: A Bench Card for Judges
<http://www.najit.org/asl/benchcardtexas.pdf>

U.S. Dept. of Justice/Americans with Disabilities Act
www.ada.gov

¹ As set out in the final ADA Title II rule, "[t]he type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual, the nature, length, and complexity of the communication involved, and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of individuals with disabilities." 28 C.F.R. 35.160(b)(2) (analysis).

² Best Practices when Interacting with Persons with Disabilities: A Customer Service Guide for State Government Agencies – Georgia State Financing and Investment Commission, State ADA Coordinator's Office.
http://ada.georgia.gov/sites/ada.georgia.gov/files/related_files/document/BestPractices%20Handbook%20final%20copy%20with%20Corrina%20M%20foreward.pdf