

Administrative Office of the Courts

Supreme Court of New Mexico

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To: District Court Judges
Metropolitan Court Judges
Magistrate Court Judges
Court Executive Officers
Administrative Office of the Courts Program Staff

From: Freda Valdez, Language Access Services

Date: November 22, 2024

RE: Revised on-the-spot translation guidelines for audio/video recordings and written materials in languages other than English

Demands on spoken and signed language interpreters to provide on-the-spot interpretations of foreign language audio and video materials have greatly increased.

The guidelines herein seek to balance respect for the ethical and professional duties of interpreters with the challenges a court faces when confronted with recorded or written foreign language audio/video materials that will require on-the-spot translation during a hearing or trial.

On-demand sight translation of complex written foreign language materials and on-demand interpretation of foreign language audio/video recordings often conflict with the Codes of Professional Conduct of the interpreting profession, as well as the N.M.R.A Rules of Evidence, Criminal Procedure, and Civil Procedure. These guidelines are designed to create the greatest degree of accuracy in interpretations and translations provided by certified court interpreters and in accordance with the Court Interpreter Rules approved by the Supreme Court.

Materials in a Language Other than English

To ensure accuracy, sound and video files that a party will use in court must first be transcribed in its source language and then translated to English by the party. Materials presented in signed language require the same steps in the opposite order – they must first be interpreted into spoken English, then the interpretation transcribed. This process must take place before the presentation of the materials. The case participants wishing to use the materials are responsible for assuring the materials are properly prepared in English and for paying the cost of such preparation.

In accordance with the N.M.R.A Rules of Evidence, the offering party must establish its translation witness' expertise in both English and the other language and demonstrate the witness' ability to translate from one to the other. If the party fails to provide testimony attesting to the accuracy of the translation, the court may not admit the translation.

Once approved by the parties and ruled admissible by the court, the written English rendition and a copy of the original material shall be provided to the court interpreter, if any, assigned to the court proceeding at which it will be introduced.

NOTE: Domestic violence order of protection proceedings often see scenarios in which a pro se petitioner has video or text material they wish to present to the court and where translation has not previously occurred. Judges may choose to utilize on-demand sight translation where an interpreter is available.

Materials in English

Audio and video files recorded in *English* that will be played in open court for a case involving a Limited English Proficiency (LEP) party or juror should be reviewed by the interpreter(s) providing language services for that hearing before the proceeding. Court interpreters assigned to a given proceeding shall inform the judge if they are unable to provide an on-site interpretation of audio or video recordings, or sight translations of written documents in English. This may be due to:

- Length of material
- Quality of recording or legibility of written document
- Number of speakers or signers
- Variety of accents or regional variations
- Sufficiency of contextual information
- Degree of deviation from standard forms of language
- Level of audio or video intrusions and distractions
- Degree of technicality or specialization of vocabulary and content

The judge will consider the interpreter's opinion and decide how to proceed with the case. The factors listed above are the type of considerations that should be taken into account when determining if materials presented in the English language are brief and/or non-complex and allow for on-site interpretation. If necessary, consideration should also be given to ensuring the interpreter is given a reasonable amount of time to address such materials.

Interpreters as Expert Witnesses

Court Interpreters assigned to interpret during a given proceeding shall not be used as expert witnesses to evaluate, during that proceeding, the quality of a previously completed interpretation or translation provided for audio, video, or written material originally in a language other than English. The party wishing to question or evaluate the quality of an interpretation or translation

for the record shall arrange for a qualified translator to serve as an expert witness during the proceeding in accordance with NM rules of evidence.

If you have any questions regarding this matter or Language Access Services please contact me at (505) 231-9229 or aocfev@nmcourts.gov.

[Freda Valdez](#)

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