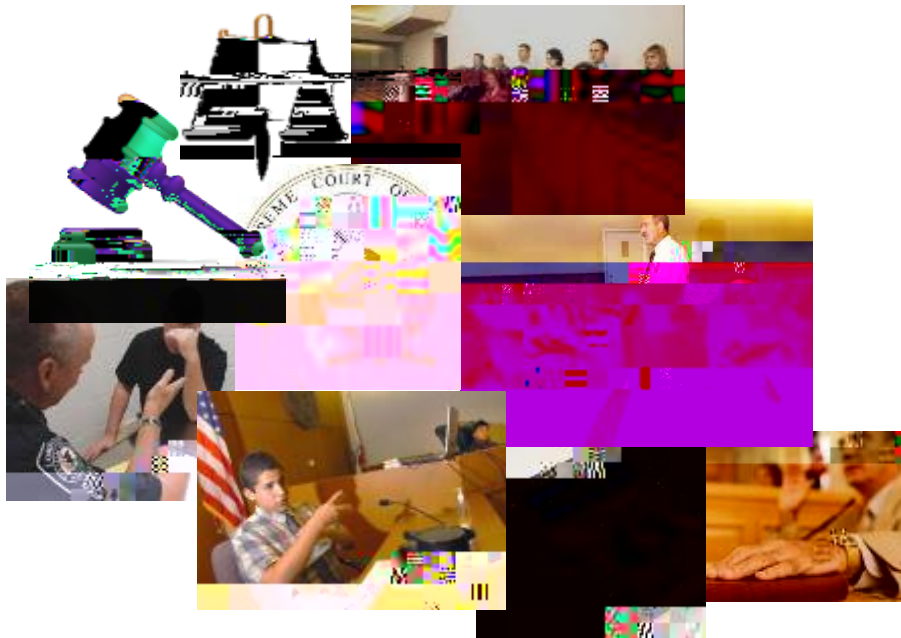


# Legal Interpreter Training

Curriculum Toolkit for Trainers

## Deaf Interpreters: Interacting with Players



Legal Interpreter Training: Curriculum Toolkit for Trainers

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# Deaf Interpreters: Interacting with the Players

## ***Overview of Module and Related Units***

### Overview

Interacting with court personnel, judges, lawyers and Deaf consumers in a professional, concise and persuasive manner is an important attribute for Deaf interpreters to develop. Interacting with the court in its simplest form occurs when the interpreter must talk to the court outside of rendering an interpretation. Interacting with the court, legal personnel or attorneys covers a range of activities from initially negotiating working conditions; to undergoing a preliminary examination to determine qualifications to interpret in a case; to making disclosures of prior contact with the parties; and to successfully obtaining case related materials in order to prepare to interpret the case, among other events. Interacting with the Deaf consumer to explain the differences between court and community interpreting in a culturally sensitive manner is important to develop and maintain a sense of trust necessary for an effective interpretation. This module covers a number of different content areas to assist in developing those skills such as the ability to explain why a Deaf interpreter might be needed in a particular case; to explain the roles and functions of the interpreters to the court; to examine the contents of a typical case file and evaluate different commonly encountered case related documents for their relative significance. The module will conclude with a discussion of several different types of cases which necessitate differing types of preparatory interaction with legal personnel.

### Purpose

Court interpreters must be able to quickly incorporate information from preparation sources and be able to make intelligent decisions in regards to the kinds of information that will most likely enhance their ability to interpret effectively, often under stark time limitations. Likewise, they must be able to concisely and clearly explain the role, function, and need for a Deaf



# ***Unit of Learning 1: Identifying the Need for a Deaf Interpreter***

## **Related Competency**

- Court and Legal Systems Knowledge
- General Legal Theory
- Court and Legal Interpreting Protocol
- Interpreting Knowledge and Skills
- Professional Development

## **Purpose**

The purpose of this unit is to provide a framework for the Deaf interpreter to be able to identify the need for a Deaf-hearing interpreting team and to articulate the reasons in persuasive and articulate manner. Also, this unit intends for the learner to understand the role and function of the Deaf interpreter and to be able to explain these items concisely and simply to people outside of the interpreting profession. This unit explores the protocol which attorneys and judges need to understand in order to conduct an interpreted proceeding efficiently and effectively. The unit examines a typical case file and critically assesses those documents which need to be reviewed by the interpreting team given sometimes tight time constraints. Through video logs, in-

## Key Questions


What preliminary discussion is necessary between the interpreting team prior to engaging in an interaction with the court explaining the need for a Deaf interpreter?

How would you explain the need for a Deaf interpreter to the court and how would that explanation differ if the reason for a Deaf interpreter was because the Deaf participant was a juvenile versus because the Deaf participant used nonstandard signs?

How would you explain the need for a Deaf interpreter if the reason was due to the skill level of the hearing interpreter? How could this be done in a way that did not disparage the hearing interpreter?

What are the advantages to having the Deaf





including a Deaf-hearing team. One of the main duties that court interpreters need to undertake is to explain to the court, in a manner it can understand and support, the need for and process of working with Deaf-hearing teams. Recognizing the power and privilege that each interpreter brings is essential to establishing effective communication with the court. The Deaf interpreter being perceived as the lead interpreter in preparation activities with attorneys and Deaf consumers serves several purposes. This approach serves to acclimate the court to the dynamic of the Deaf-hearing team and familiarize them with them with the pace and speed of this type of interaction. The added benefit of this approach is that it distinguishes the Deaf interpreter from the Deaf consumer which is essential in providing professional services to the court. Deaf interpreters, then, can be viewed as the court's lead interpreter while the interpreter who can hear interprets between the Deaf interpreter and the court. As the lead interpreter, the Deaf interpreter is charged with initiating preparation activities with the attorneys and the Deaf participants. This arrangement has a dual benefit: It permits the court to get a feel for the process and timing of interacting through an interpreter and avoids the need to attempt to sign and talk at the same time or to retain a separate interpreter for the preparation meetings.


Because courts have most experience with spoken language interpreters who rarely work in teams, the court might initially be concerned about why a team of Deaf and hearing interpreters is necessary. The first task is often interacting with the court to explain the need for the interpreting team configuration. Deaf interpreters are needed for a number of reasons. A Deaf interpreter can be required when the Deaf participant presents certain personal characteristics; when a specific setting is encountered regardless of the personal characteristics of the Deaf participant and; at times, when the characteristics of the interpreter who

Curriculum identifies several categories of types of Deaf people who Deaf interpreters work with including, semi-lingual, foreign born, international sign users, Deaf-Blind, Deaf Plus and minors. (Deaf Interpreter Curriculum, 2014).

Further certain settings, in and of itself, suggests the need for a Deaf interpreter such as mental health proceedings, law enforcement investigations, juvenile court proceedings or other proceedings involving young Deaf children. The Deaf Interpreter Curriculum also suggests that a Deaf interpreter can be indicated when working with an individual who is impaired mentally through the use of drugs or alcohol, or when the setting is highly emotionally charged such as in cases of physical or sexual assault or the loss of a loved one. (Deaf Interpreter Curriculum, 81, 2014).

Finally, in some settings, the only available interpreter who can hear may not have the fluency necessary in ASL to effectively interpret and a native language interpretation provided by a Deaf interpreter is necessary. (Deaf Interpreters in Court: An accommodation that is more than reasonable, 2009). Because cases involving Deaf interpreters are relatively rare, it is important that the parties understand the need for a Deaf interpreting team and understand how the team will function.

## Activity ay

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1. Pick a context for a court case (setting and participants) and pick a Deaf consumer with specific characteristics from the checklist created in Activity 1.
  2. You and your hearing team are hired to work as the proceedings interpreters for the case. This case is serious and requires a short meeting with the court to explain why a Deaf interpreter is needed.
  3. As a team, create an agenda for the meeting with the court to explain why a Deaf interpreter is needed in this case using your checklist as a guide. After the role play, discuss the following:
    - Were all points included that were on the checklist also included in your explanation?
    - In what areas did you find that the explanation needed clarity?
    - In what areas did you find the explanation effective?





## ***Unit of Learning 2: Case Preparation with Court Personnel***

### Related Competencies

- Court and Legal Systems Knowledge
- General Legal Theory
- Court and Legal Interpreting Protocol
- Interpreting Knowledge and Skills
- Professional Development

### Purpose

The purpose of this unit is to explore the limited nature of preparation interactions in legal settings and to appreciate various strategies that can assist in making those interactions more effective. The unit aims to give practical guidance to assist learners in understanding the preparation strategies and techniques available. The unit explores the nature and type of information Deaf interpreters need to share with attorneys about the interpreting role and process as well as the information the Deaf interpreter needs to obtain from the attorney. The purpose is to demonstrate effective methods of interacting with the parties in order to obtain and provide that information to ensure an efficient interpretation and judicial process.

### Objectives


Upon completion of this unit, learners will be able to:

- Identify the key points that need to be addressed when interacting with an attorney to obtain preparation materials;
- Identify the key points that need to be addressed when interacting with an attorney to explain the Deaf-hearing team's role and process;
- Identify the key benefits to the attorney in sharing case related materials with the interpreting team;

## Key Questions

How is preparation in a legal case different than or similar to preparation in non-legal interpreted interactions?

What strategies can be used by the Deaf interpreter to obtain critical information from the parties?



strategies. A review of certain documents contained in a case file is also an important aspect of preparing for a legal case.

Ethically, the interpreting team must also meet briefly with the Deaf consumer to determine whether any conflicts exist that require disclosure to the court, and to explain their role, among other things. As a proceedings interpreter, this preparation is necessarily limited because the court does not want the interpreters having lengthy or unsupervised conversations with the Deaf witnesses or parties. As a result, the proceedings interpreter will need to get case specific information from the attorneys and from a review of the case file (case files are discussed in more detail in Unit 4) rather than from the Deaf consumer directly.

The Deaf proceedings interpreter will be responsible for initiating contact, developing a rapport, asking appropriate case related factual questions and obtaining permission to review critical documents. It is helpful to be





5. Report your results out in large group.

## Assessment

Formative assessment:

Student responses to teacher's in-class or posted questions.

Paper or video log assignments:

Explanation of benefits to the attorney in providing interpreters with preparation information.

Agenda for interaction with the attorney to explain the interpreter's role and obtain case related information.

## Resource Materials

PowerPoint materials from course materials.

PowerPoint Deaf-hearing teams in court: Preparation essentials.

"An Attorney's Primer: Working with Interpreters." (Isabel Picado, 2000)

Russell & Humphries. (1994/2011). Interpreting Legal Discourse & Working in Legal Settings: An AVLIC Position Paper. Association of Visual Language Interpreters of Canada.






## Key Questions

participants in a legal case to assess communication styles, explain their role and determine compatibility. Ethically, interpreters need to ascertain whether they have previously met the Deaf participants and ensure that they have the opportunity to disclose the prior contact on the record. This initial interaction may take more time than a typical conversation because cases involving Deaf interpreters tend to present complex and challenging linguistic issues.

Initial meetings also present challenges for handling communication in a mixed Deaf-hearing environment. Such challenges need to be predicted and addressed in advance by the interpreting team to ensure all participants understand, to some degree, what is happening in the interaction. The interpreting team functions as proceedings interpreters and ethically should not engage in private communications with the Deaf parties unsupervised by the attorney. In a typical matter, then, the attorney should be present while the interpreting team engages in the communication assessment and role explanation. Counsel's presence for the initial meeting reduces the appearance that the interpreters are having an improper conversation with the Deaf participant. However, because counsel is not an active participant in the meeting, the communication is not privileged.

At the same time, the attorney may not have had an opportunity to consult thoroughly with the Deaf client and may be tempted to borrow the team for a conference with the client. The team should explain to the attorney that the purpose of the initial meeting is to gauge communication styles and explain roles. However, if the case is a run of the mill case, after the meeting is completed, the interpreters may provide courtesy interpreting services between the attorney and the client. If more in depth communication is needed, the interpreters should explain the need for counsel to retain separate interpreting services for the table.

There are several ways to ensure that all parties are kept involved to the appropriate level while engaging in the initial interaction. If the Deaf interpreter, as the lead, conducts the meeting, the interpreter who can hear can let the attorney know what subjects the Deaf interpreter is covering. This does not have to be a formal interpretation or the attorney is likely to be drawn into the meeting and the interpreter ends up interpreting instead of conducting a meeting. Further, if counsel is



allowed in the meeting and actively participates, it will be more difficult for the interpreting team to decline to interpret subsequent substantive attorney-client conversations.

Prior to having the conversation with the Deaf participant, the interpreting team will need to have some information and background regarding the case. This is because case-related matters should not be discussed during the meeting with the Deaf participant and in order to avoid broaching topics in issue in the case, the interpreters should already have at least a verbal summary of the issues



# ***Unit of Learning 4: Types of Cases Typically Encountered and Preparation Implications***

## **Related Competencies**

- Court and Legal Systems Knowledge
- General Legal Theory
- Court and Legal Interpreting Protocol
- Interpreting Knowledge and Skills
- Professional Development

## **Purpose**

Not all cases are created equal, nor do they offer the same amount of information that can be obtained prior to interpreting. While it is true that Deaf interpreters are typically brought in for the most serious types of cases which offer rich opportunities for pretrial preparation, Deaf interpreters are also hired for a myriad of settings that might not indicate a full meeting with the court but for which limited preparation is nevertheless required. This unit of learning will discuss several of the more commonly encountered legal cases and the types of preparation that can be garnered from each. This unit aims to provide the learner with a number of strategies and techniques for obtaining central case documentation in different types of cases such as serious criminal cases,





## Discussion:

Deaf interpreters are often provided for matters in which it is the setting that requires a Deaf interpreter rather than the specific characteristics of the Deaf participant. For example, Deaf interpreters are often used in mental health settings and in domestic matters when Deaf children are involved. Even for some routine matters such as traffic court or to take a misdemeanor plea, if the Deaf person uses a foreign sign language, then Deaf interpreters are indicated. As such, Deaf interpreters should know how to prepare in these more common scenarios.

Documentation is a significant part of all judicial cases. Each case is started by the filing of a specific document. For example a civil case such as a divorce or suit for damages is started by filing a complaint or a petition. A criminal matter may be started by the issuance of a citation, the filing of an indictment or an information by a prosecutor.

Due process requires that one sued or charged with a crime have the opportunity to be heard in response to the charges or complaint. In civil matters, a defendant files an answer to the complaint in the suit. After the case has been filed, the parties will exchange information about the allegations and defenses. In civil matters, this process is called discovery and can be quite extensive. Discovery includes interrogatories, requests for admissions, requests for production of documents, stipulations, and depositions, among other items.

In criminal cases, a defendant may file a Bill of Particulars claiming the charging document is too vague and more information is needed to defend the charges. There may also be a statement of probable cause, police reports, witness statements, autopsy reports, evidence lists, witness lists and expert reports, among other items. The interpreting team, limited in its ability to obtain preparation information from the Deaf consumer, must rely on the contents of the case file to learn the facts of the case (in addition to discussions with the attorney).

When the interpreter has limited time to review a case file, it is important to spend that time reviewing the documents that will shed the most light on the facts of the case. A complaint has much more factual content than an answer has in a civil case. In a criminal case, the facts are usually contained in the statement of probable cause rather than an indictment.





## Assessment

Formative assessment:

In class listing and discussion regarding the relevance of case file documents.

In class discussion regarding charging documents and preparation strategies.

Agenda of items to discuss in preparing with pro se Deaf defendant.

Paper or video log assignments associated with each activity.

In-class discussion and reporting out.

## Resource Materials

PowerPoint from course materials.

PowerPoint Deaf-hearing interpreters in court: Preparation essentials.