

Legal basis

Title VI of the Civil Rights Act of 1964 prohibits any person from being excluded “from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” Therefore, state courts that run using federal funds must provide interpreters to the so-called Limited English Proficient LEP individuals in cases (both civil and criminal) free of charge for defendants. Therefore, the provision of interpreter services is considered as a basic right of anyone who is a party or witness in court proceedings. Generally, an interpreter would be appointed for a person under these conditions:

- the person cannot accurately describe persons, places, and events;
- the person cannot tell the court "what happened" over a period of time;
- the person cannot request clarification when statements are vague or misleading
- the person cannot defend a position
- the person cannot make himself on an equal footing with an English-speaking person with an equivalent education and background;
- the person cannot speak or understand English;

An interpreter would also be appointed for a witness when the witness cannot speak or understand English but is required to provide testimony.

Qualifications

According to the Court Interpreters Act, 28 U.S.C. §1827, the Director of the Administrative Office of the United States Courts may prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters, when certification of interpreters is considered to be merited for the hearing impaired and persons who speak only or primarily a language other than the English language in judicial proceedings.

A certified interpreter is one who has successfully passed the Federal Court Interpreter Certification Examination (FCICE), which has been developed and administered for Spanish, Navajo, and Haitian Creole. It is a criterion-referenced performance examination but NOT a required qualification in every US state. As of the time of this writing it is said that the single greatest operational requirement in federal courts is for Spanish-language interpreters.

A professionally qualified PQ interpreter is a credential that applies to all languages other than Spanish, Navajo, and Haitian Creole. To earn this credential it is required to produce sufficient documentation and authentication plus meeting a number of criteria. An interpreter who has not been qualified as a professionally qualified interpreter but who can demonstrate to the satisfaction of the court the ability to interpret court proceedings may be classified as a language skilled/ad-hoc interpreter, which generally has a lower pay rate.

In California, the Court Interpreters (CIP) certification program strives to ensure access to the courts for persons with limited English proficiency