

Working with American Sign Language Interpreters and the Deaf/hard of hearing/hearing impaired Community

As an attorney working with, interviewing, and questioning clients, individuals, and witnesses creates a host of important considerations: did I gather all the information needed, did I ask all the questions I wanted, was the interviewee/witness honest, how reliable is his memory, is she too anxious to focus, etc. One consideration which is rarely listed, and usually taken for granted, is language. When an individual who does not speak English or has limited English proficiency interacts with the legal system, the simple act of adding an interpreter adds an additional layer of complexity the entire process. All of the natural factors we subconsciously use to gauge our interactions with someone are now being presented to us from another person. Vocabulary choices, confidence, hesitation, hedging, and body language are just some of the subtle message characteristics that we may not think about when we are getting a message from an interpreter.

Interacting with Deaf/hard of hearing/hearing impaired individuals in legal settings requires an awareness of the large variety of cultural, linguistic, and communication needs of those in the community. It also requires Attorneys and the court to be knowledgeable and understand the difference between interpreters' certifications, level of experience, as well as the different roles in the legal system and how all of this can influence the process and possibly the outcomes of given interactions.

Terminology

Understanding how and why a people choose to themselves is important, not only to being respectful, but to understanding how one's culture and history may impact an interaction with the legal system. The National Association of the Deaf (NAD) website explains the difference between the various terms used to label people with different level of hearing ability and cultural identity.

The deaf and hard of hearing community is diverse. There are variations in how a person becomes deaf or hard of hearing, level of hearing, age of onset, educational background, communication methods, and cultural identity. How people "label" or identify themselves is personal and may reflect identification with the deaf and hard of hearing community, the degree to which they can hear, or the relative age of onset. For example, some people identify themselves as "late-deafened," indicating that they became deaf later in life. Other people identify themselves as "deaf-blind," which usually indicates that they are deaf or hard of hearing and also have some degree of vision loss. Some people believe that the term "people with hearing loss" is inclusive and efficient. However, some people who were born deaf or hard of hearing do not think of themselves as having lost their hearing. Over the years, the most commonly accepted terms have come to be "deaf," "Deaf," and "hard of hearing."ⁱ

The website, listed in the end notes, is a great source for understanding the nature and impact of many of the labels used.

Not all Deaf people were born deaf, and not all people who use sign language as their primary mode of communication use American Sign Language. American Sign Language is as distinct from English as many foreign spoken languages; yet, some people who sign use a manually coded form of English. In addition, sign language not universal and many countries have their own.

Sign Language Interpreter Certifications

Sign language interpreter certifications are awarded by The Registry of Interpreters for the Deaf (RID) and National Association of the Deaf (NAD). Certifications Awarded by NAD are listed on RID's website when searching for an interpreter. However, the number of current and previously offered certifications are numerous and can create confusion when trying to staff a legal assignment. Below is a short list of some relevant certifications.

General Certifications:

General Certifications are entry level certifications into the field of interpreting. Understanding that while an interpreter with a general certification should be natively fluent in both English and American Sign Language, some of the certifications were not comprehensive and did not encompass both American Sign Language signs/grammar and more English based manual signs/grammar. Further, just as legalese is a language unto itself and not all native English speakers understand legalese, sign language interpreters holding only a general certification and not a legal certification may not understand legalese in either English or American Sign Language.

Comprehensive Skills Certificate (CSC)

Holders of this certification have demonstrated the ability to interpret between American Sign Language (ASL) and spoken English and to transliterate between spoken English and an English-based sign language. Holders of this certification are recommended for a broad range of interpreting and transliterating assignments. This credential was offered from 1972 to 1988.ⁱⁱ

Master Comprehensive Skills Certificate (MCSC)

The MCSC examination was designed with the intent of testing for a higher standard of performance than the CSC. Holders of this certification were required to hold the CSC prior to taking this exam. Holders of this certification are recommended for a broad range of interpreting and transliterating assignments. This credential was offered until 1988.ⁱⁱⁱ

Certificate of Interpretation (CI)

Holders of this certification are recognized as fully certified in interpretation and have demonstrated the ability to interpret between American Sign Language (ASL) and spoken English for both sign-to-voice and voice-to-sign tasks. The

interpreter's ability to transliterate is not considered in this certification. Holders of the CI are recommended for a broad range of interpretation assignments. This credential was offered from 1988 to 2008.^{iv}

Certificate of Translation (CT)

Holders of this certification are recognized as fully certified in transliteration and have demonstrated the ability to transliterate between English-based sign language and spoken English for both sign-to-voice and voice-to-sign tasks. The transliterator's ability to interpret is not considered in this certification. Holders of the CT are recommended for a broad range of transliteration assignments. This credential was offered from 1988 to 2008.^v

National Interpreter Certificate (NIC)

Holders of this certification have demonstrated general knowledge in the field of interpreting, ethical decision making and interpreting skills. Candidates earn NIC Certification if they demonstrate professional knowledge and skills that meet or exceed the minimum professional standards necessary to perform in a broad range of interpretation and transliteration assignments. This credential has been available since 2005.^{vi}

National Interpreter Certificate Advanced (NIC Advanced)

Individuals who achieved the NIC Advanced level have passed the NIC Knowledge Exam, scored within the standard range of a professional interpreter on the interview portion of the NIC Interview and Performance Exam and scored within the high range on the performance portion of the NIC Interview and Performance Exam.^{vii}

National Interpreter Certificate Master (NIC Master)

Individuals who achieved the NIC Master level have passed the NIC Knowledge Exam and scored within the high range on both portions of NIC Interview and Performance Exam.^{viii}

The NIC with levels credential was offered from 2005 to November 30, 2011.^{ix}

Reverse Skills Certificate (RSC)

Holders of this certification have demonstrated the ability to interpret between American Sign Language (ASL) and English-based sign language or transliterate between spoken English and a signed code for English. Holders of this certification are deaf or hard-of-hearing and interpretation/transliteration is rendered in ASL, spoken English and a signed code for English or written English. Holders of the RSC are recommended for a broad range of interpreting

assignments where the use of a (sic) interpreter who is deaf or hard-of-hearing would be beneficial. This credential was offered from 1972 to 1988.^x

NAD III (Average Performance)

Holders of this certification possess above average voice-to-sign skills and good sign-to-voice skills. Holders have demonstrated the minimum competence needed to meet generally accepted interpreter standard. Occasional words or phrases may be deleted but the expressed concept is accurate. The individual displays good grammar control of the second language and is generally accurate and consistent, but is not qualified for all situations.^{xi}

NAD IV (Above Average Performance)

Holders of this certification possess excellent voice-to-sign skills and above average sign-to-voice skills. Holders have demonstrated above average skill in any given area. Performance is consistent and accurate and fluency is smooth, with few deletions; the viewer has no question to the candidate's competency. Holders of this certification should be able to interpret in most situations.^{xii}

NAD V (Superior Performance)

Holders of this certification possess superior voice-to-sign skills and excellent sign-to-voice skills. Holders have demonstrated excellent to outstanding ability in any given area. The individual had minimum flaws in their performance and have demonstrated interpreting skills necessary in almost all situations.^{xiii}

This is not an exhaustive list of the current and previously offered general certifications, which shows how many possible credentials with which interpreters may hold.

Specialty Certifications:

There are several specialty credentials which cover performing arts interpreting, oral interpreting, and legal interpreting. The specialized certification applicable to the legal field is the Specialty Certificate: Legal (SC:L).

Specialty Certificate: Legal (SC:L)

This credential is fully recognized by RID, but the designation is no longer awarded by RID. This designation went into moratorium effective January 1, 2016.

Description: Holders of this specialist certification demonstrated specialized knowledge of legal settings and greater familiarity with language used in the legal system. These individuals are recommended for a broad range of assignments in the legal setting. This credential was offered from 1998 to 2016.^{xiv}

Interpreter Roles in Legal Settings

All interpreters who interpret in any role related to a legal proceeding should not only be fluent in both English and American Sign Language, but legalese in both languages, as well as knowledgeable of court procedures and best practices for staffing cases.

Proceedings Interpreter

These proceedings interpreters are interpreters are neutral parties to the case and charged with interpreting for the actual court proceedings. These interpreters will interpret all of the communication of the court and those who interact with the court. This includes all statements made by the judge, attorneys, witnesses, and even those who speak out from the gallery.

Interpreter for Counsel (IFC) *Formally known as Table Interpreter

The Interpreter for Counsel, while still a neutral person in terms of the communication between attorney and client, is an agent of the attorney and a member of the attorney's team. This individual interprets between the attorney and client as well as the attorney and witnesses during witness prep but not during witness testimony. This interpreter offers guidance on language issues that may arise during trial and depositions as well as language issues that may have arisen during the circumstances leading to a Deaf person's involvement with the legal system. He also monitors the proceedings interpreters during trial for the attorney to allow for contemporaneous objections to substantive interpreter errors.

A proceedings interpreter may become an interpreter for counsel during a given case, but an interpreter for counsel would be conflicted out, barring some limited exceptions, of interpreting the proceedings of a matter to which he was involved as the interpreter for counsel.

ⁱ <https://www.nad.org/resources/american-sign-language/community-and-culture-frequently-asked-questions/>

ⁱⁱ <https://www.rid.org/rid-certification-overview/certification-archives/previously-offered-rid-certifications/>

ⁱⁱⁱ Id.

^{iv} Id.

^v Id.

^{vi} <https://www.rid.org/rid-certification-overview/available-certification/nic-certification/>

^{vii} <https://www.rid.org/rid-certification-overview/certification-archives/previously-offered-rid-certifications/>

^{viii} Id.

^{ix} Id.

^x Id.

^{xi} Id.

^{xii} Id.

^{xiii} Id.

^{xiv} <https://www.rid.org/rid-certification-overview/certifications-under-moratorium/>