



Vermont Bar Association
139th Annual Meeting Seminar Materials

**Educating Attorneys on Assisting
Deaf Clients**

October 13, 2017
Hilton Burlington
Burlington, VT

Speakers:

Kari Darling, VT Interpreter Referral Service
Laura Siegel, VT Interpreter Referral Service

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Considerations when serving People who are Deaf or hard or hearing in the Court System

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DEAFINITIONS

- Deaf
- Deaf-blind
- hard of hearing
- hearing impaired
- Late-deafened
- Age related hearing loss



COMMUNICATION WITH DEAF/ HARD OF HEARING/LATE DEAFENED/DEAF-BLIND PEOPLE

American Sign Language (ASL)



COMMUNICATION WITH DEAF/ HARD OF HEARING/LATE DEAFENED/DEAF-BLIND PEOPLE

Oral/lip reading (Exercise)



COMMUNICATION WITH DEAF/ HARD OF HEARING/LATE DEAFENED/DEAF-BLIND PEOPLE

Writing (Samples)



IT IS BEST TO ASK THE DEAF OR HARD OF HEARING PERSON DIRECTLY AS TO WHAT WILL BEST MEET THEIR COMMUNICATION NEEDS.

+ Lawyers and Legal Services

The American with Disabilities Act (ADA) requires attorneys to provide equal access to their services by providing accommodations necessary to ensure effective communication with individuals who are deaf and hard of hearing. These accommodations include qualified interpreters, CART, and assistive listening devices.



+ Public Attorneys

Public attorneys must ensure that communication with deaf or hard of hearing clients and members of the public are as effective as communications with others.

A public attorney must provide appropriate accommodations when necessary to provide an equal opportunity to participate in and enjoy the benefits of the lawyer's services.

A public attorney must give primary consideration to the accommodation requested by the individual who is deaf or hard of hearing.

+ Private Attorneys

Private attorneys may be unfamiliar with their obligations under the ADA. Some private attorneys may be unwilling to provide and pay for the necessary communication access services.

The ADA recognizes that private lawyers do not have to provide a specific type of auxiliary aid or service if they can demonstrate that doing so would be an undue burden (a significant difficulty or expense).

To demonstrate an undue burden, lawyers must show that the cost to provide accommodations would significantly impact their practice and financial resources, which may be difficult for most law offices.

+ CAF Communication Access Funds

Recognizing that many deaf people are denied access to legal services, a few bar associations have begun to pool resources to make access more readily available to this community and to ensure that no one attorney bears a disproportionate burden in providing communication access services.

The CAF should reimburse the full cost of providing auxiliary aids and services without a cap.

The CAF should be funded in a manner that is readily renewable, rather than from grants that have no guarantee of renewal.

The CAF should cover any necessary communication access service, such as interpreters, and CART and listening devices.

+ UNDERSTANDING THE ROLE OF CERTIFIED INTERPRETERS

- Communication is a two-way street
- Interpreting is a profession with national standards, a code of ethics and role guidelines
- The interpreter Code of Ethics prohibits sharing of work-related information
- The interpreter will interpret everything that is said
- The interpreter attempts to take on the persona of the person speaking
- The interpreter's responsibility is to transmit information accurately and clearly

+ DIFFERENCES BETWEEN A CERTIFIED INTERPRETER AND SIGNER/FAMILY MEMBER

- Certified professional
- Code of Ethics
- Professionally trained and credentialed
- Understands the interpreter's role
- Fluent in American Sign Language
- Knowledge and understanding of the Deaf Community

DO NOT USE A DEAF PERSON'S CHILDREN/FAMILY MEMBERS TO INTERPRET!

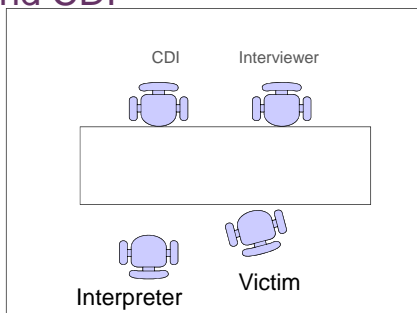
+ WORKING WITH A CERTIFIED SIGN LANGUAGE INTERPRETER

- Position
- Lighting
- Address the Deaf person directly
- Speak at a normal pace and volume
- Allow time for questions
- Check to be sure

What is a Certified Deaf Interpreter? (CDI)

- Individual who is Deaf or Hard of Hearing
- Has proficient communication skills and received general interpreting training
- CDI has knowledge & understanding of deafness, Deaf community & Deaf culture
- CDI possesses native or near native fluency in ASL.

+Set up with hearing Interpreter and CDI



Where to find interpreters?

Either by using Emergency list provided that lists all interpreters by county.

OR

Call or contact VIRS
Vermont Interpreter Referral Service
802 254 3920

Email VIRS@sover.net

Business hours Monday – Friday 8:30am- 4:30 pm

Resources related to Interpreters

- Benchmark card for Judges/lawyers
- Working with Sign Language Interpreters in Contested Matters
- Interpreter list
- CART info and list of providers

(handouts)

CART-

Computer Aided Realtime Translation

- Provides communication access
- Spoken words are translated into text displayed on a computer monitor or projection screen



+ WHO PAYS?

STEP IN:

- Court
- Police
- Hospital
- Lawyers office
- Shelters
- Etc...

DO'S AND DON'TS OF COMMUNICATING WITH DEAF AND HARD OF HEARING PEOPLE

- To get the Deaf person's attention



- Maintain eye contact with the Deaf person

- Speak clearly and at a moderate pace

- Make sure environment around is quiet as possible

DO'S AND DON'TS

- If paper and pen are needed (SSS)



- If there is difficulty getting the idea across

- Use body language and facial expressions



- Check to see if understood



DO'S AND DON'TS

- Position yourself so that window light is not behind you



- If you change the subject, make sure the person knows



- Talk TO the person, not their partner

- Use a computer or laptop for short conversations



+ VIDEO REMOTE INTERPRETING (VRI)

The diagram shows a 'NEW USER' icon, a 'SIGN UP!!' icon, and a 'Deaf and hearing consumers' icon. A double-headed arrow labeled 'COMMUNICATE' connects the 'Deaf and hearing consumers' icon to the 'Interpreter' icon. A photograph shows a woman using a video phone.

- A PAID service - Combines video conferencing technology with a live remote (off-site) sign language interpreter. (e.g. use a Video Phone, MSN Messenger, Skype, Polycom, etc.)

- 2-way Web-based Video Application, with computer, webcam & broadband connection.
- Computer, webcam, broadband connection, Videoconferencing Software
- Video Phone and broadband connection.
- Traditional Videoconferencing equipment (Polycom, Tandberg, Sony.)

+ Contact Information

KERI DARLING
keridvas@gmail.com

If you would like to see how Video relay works you can call 802 661 4091 the relay operator will explain process



National Consortium of Interpreter Education Centers

FACT SHEET

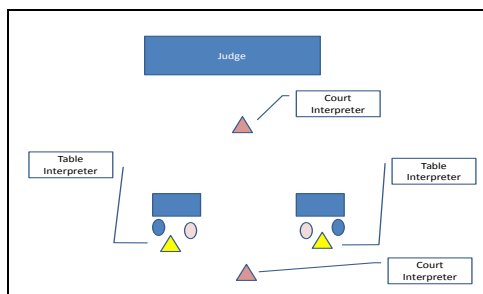
Working with Sign Language Interpreters in Contested Matters

When a deaf individual is involved in a court cases, a single sign language interpreter may be sufficient to interpret many proceedings, including scheduling, discovery disputes, motions hearings and other pre-trial conferences, and plea, sentencing, or settlement hearings. However, more than one sign language interpreter may be necessary in contested matters where evidence will be presented. In these matters, the court should hire two court interpreters – a **proceedings interpreter** to interpret all of the witness testimony and other open proceedings commentary and a **table interpreter** (sometimes referred to as a “party interpreter” in civil matters) placed at counsel table between the attorney and the client to facilitate privileged communications.

Proceedings interpreters should be sworn to interpret accurately for the record and to ensure the full participation of deaf participants. Proceedings interpreters will be placed in the well, facing counsel table for the bulk of the proceedings. Their positioning will be modified if a deaf person takes the stand to testify. (See Fact Sheet, Placement of Sign Language Interpreters in Court).

The table interpreter is not a court interpreter sworn to interpret the proceedings; rather, this interpreter assists counsel with the preparation and defense of the case. Most of the table interpreter’s work is done behind the scenes, privately, with counsel and the deaf client to ensure they are able to effectively communicate with each other in developing case strategy, theory and design. During the proceedings, the table interpreter provides immediate access to counsel to assist in the presentation of the case by interpreting privileged communications. Additionally, the table interpreter watches the sworn court interpreters’ interpretations. If errors are made, the interpreter at the table alerts counsel to the nature of the error in order for the attorney to be able to object to errors in the interpretation, thereby preserving the issue for appeal.

If there are multiple deaf parties and the case is contested, each table can be expected to need an interpreter seated at the table to perform these functions. Hence, in contested matters with two deaf parties, there may be four interpreters in the room – 2 team proceedings interpreters (See Fact Sheet, The Use of Interpreting Teams in the Courtroom) and a table interpreter for each deaf party. See diagram below.



Court interpreters are prepared to function as a resource to the court on the proper number, placement and functioning to ensure that the proceedings will be conducted fairly, efficiently and effectively. Should you have more questions, further information is available from the NCIEC at www.nciec.org, on the Consortium's Work on Legal Interpreting subpage under the Legal Specialization link.

The contents of this Fact Sheet were developed under grant funds from the Department of Education. However, those contents do not necessarily represent the policy of the Department of Education, and you should not assume endorsement by the Federal Government.

The National Consortium of Interpreter Education Centers is funded from 2010 – 2015 by the U.S. Department of Education, Rehabilitation Services CFDA #84.160A and B, Training of Interpreters for Individuals Who Are Deaf and Individuals Who Are Deaf- Blind. Permission is granted to copy the materials enclosed herein, provided that National Consortium of Interpreter Education Centers is credited as the source and referenced appropriately on any such copies.

BENCH CARD FOR JUDGES

REGARDING THE USE OF AMERICAN SIGN LANGUAGE INTERPRETERS IN THE COURTROOM

COURT INTERPRETERS: The Americans with Disabilities Act (ADA) Titles II and III require that the courts provide effective communication to deaf people during their court proceedings. For deaf people who use American Sign Language (ASL), effective communication during court proceedings can only be achieved via qualified interpreters specially trained to interpret in court and legal settings. Depending on the linguistic needs of the deaf person/s and the nature of the case, these specially trained interpreters may be standard ASL/English interpreters (“hearing interpreters” or HIs) or they may be standard ASL/English interpreters who work in tandem with Certified Deaf Interpreters (CDIs). CDIs are Deaf language specialists, who are native users of ASL, familiar with the broad spectrum of deaf people both US and foreign born. If it is determined that a case or deaf person requires the use of a CDI or CDIs, then effective communication cannot be guaranteed unless a team (CDI/Hi or multiple CDIs and HIs) is provided.

INTERPRETERS AT THE TABLE: The United States Constitution’s Sixth Amendment guarantees a defendant access to his/her attorney, the ability to aid in his own defense and to make contemporaneous objections on the record. This can only be done for a deaf person if a qualified interpreter is assigned to sit at the table with defense counsel to interpret privileged communications, and to monitor the accuracy of the court interpreters’ interpretation for the record. Further, if the State has its own deaf witness/es, she may want to employ her own interpreter to meet with and prepare her witness for a proceeding as well as to monitor the court interpreters’ interpretation. These interpreters are called Table Interpreters (TIs). If the case requires the use of a CDI, then a CDI/Hi team would become the TIs.

QUALIFIED INTERPRETERS WILL FUNCTION IN THE COURTROOM ACCORDING TO THE FOLLOWING STANDARDS:

ADVANCE PREPARATION REQUIRED: In order to ensure the accuracy of the record when interpreting a court proceeding, and in accordance with the Federal Court Interpreters Code of Professional Conduct, as well as most states’ codes of professional conduct, court interpreters must have advance access to the full court file, motions, list of witnesses, photographs, reports, etc., and must be allowed to familiarize themselves with all the evidence that will be used in the proceeding/s. Court interpreters must also meet with deaf defendants, as well as any other deaf people who may be testifying, prior to the proceedings to establish communication. This is done in the presence of counsel and the TI/s and nothing about the case will be discussed. A court proceeding cannot go forward until the interpreting team confirms that they can establish communication with the deaf party or parties and that they will be able to provide effective communication during the proceedings.

DURING THE PROCEEDINGS: Court interpreters take an oath to interpret the proceedings accurately, completely, and impartially. In order to uphold this oath and to ensure the accuracy of the record, there will be times throughout the proceedings that the court interpreters will confer with each other about the interpretation. Also, as the TI/s monitor/s the court interpreters’ interpretation, counsel may make an objection regarding the accuracy of the interpretation on the record. In either case, the court interpreters may have to make corrections to the record from time to time. This will be done timely and efficiently, in accordance with the court’s preferences so as to minimize interruptions to the proceedings. To further ensure the accuracy of the record and effective communication, while maximizing efficiency, the court interpreters will employ both simultaneous and consecutive modes of interpreting: simultaneous for testimony being rendered from English into ASL for the benefit of the deaf parties, and consecutive for testimony being rendered from ASL into English for the record. Depending on the nature of the testimony,

the linguistic needs of the deaf parties, whether CDIs are present, etc., there are times when the court interpreters may need to employ the consecutive mode, even when the testimony is being rendered from English into ASL. This will be determined by the interpreting team, which may or may not include input from the TI/s, in accordance with best practice to ensure effective communication. The court interpreters will inform the court timely if/when the consecutive mode or other linguistic or interpreting-related accommodations are required so as to minimize interruptions to the proceedings while maximizing effective communication. Lastly, court interpreters must be allowed to stand or sit so that sightlines between the deaf people utilizing the interpreters and the interpreters are unimpeded.

JURY SELECTION AND INSTRUCTION: Jurors should be asked if they know ASL and if they do, then they should be instructed to rely solely on the interpretation when determining the value and weight of all witness testimony. Jurors should not rely on their own knowledge of ASL. This ensures that all jurors will be weighing the same evidence. Further, jurors should be instructed to either disregard or refrain from assigning meaning to a deaf witness's head nodding. While receiving a message being rendered into ASL, a deaf person will nod throughout to indicate understanding but not necessarily agreement. This is called back channeling and is a required element of ASL. Also, it is imperative that jurors rely on the English interpretation and not assign meaning to certain gestures a deaf witness may use. For example, because the grammar of ASL is more like Chinese than English, in response to the interpretation, it is possible that a deaf person will shake his head "no" but the correct interpretation for the record is "yes." Jurors should not draw any conclusions in instances like this example.

INTERPRETER'S OATH

Do you solemnly swear or affirm you will interpret these proceedings accurately, completely, and impartially, in accordance with the rules of this court and the tenets of interpreter profession, to the best of your ability, so help you God?

Communication Access Realtime Translation (CART) in the Courtroom

CART is a word-for-word speech-to-text interpreting service. A CART provider uses a court reporter's stenograph machine, special translation software and a notebook computer to render instant speech-to-text translation on a computer monitor or other display for the benefit of an individual or larger group in a variety of settings. CART can allow people with hearing loss to fully participate in a variety of meetings, trainings or events by reading the computer screen as the session is occurring. CART can be especially beneficial for people who are fluent in English and not ASL. This can be common for people who are, for example, Late-Deafened, oral Deaf, Hard of Hearing, or who have cochlear implants.

A CART provider's role is to facilitate communication. A CART provider should decline any invitation or suggestion to comment, interject, advise, respond to inquiries, or in any way become involved in the proceedings outside the role of the CART provider.

A CART provider may be asked to step out of the role to answer questions about the service or to demonstrate equipment during a break. Deviations from the role should be the exception and should be discouraged but may occur with the approval of the judge.

In a court proceeding a CART consumer may be a litigant, juror, judge, attorney, witness, or other participant. The CART provider will have general knowledge of and will understand that the preferred communication mode of a person with a hearing loss will differ based on a variety of factors.

The official court reporter and the CART provider perform different functions. For example, a CART provider may accompany a consumer into the jury room or into confidential discussions with attorneys. A CART provider should attempt to refrain from working in the dual capacity of official reporter of proceedings and CART provider. However, when no other option exists, the role performed is that of the official reporter of the proceedings. The CART consumer may then read the unedited testimony as it appears on a laptop computer or other monitor, keeping in mind that in certain situations, such as bench conferences, the official reporter is responsible for ensuring that the realtime feed will not be available.

The CART provider should discuss with the judge his or her role before the proceedings begin. The CART provider should be sworn in in the same manner as a foreign language interpreter. The CART provider must exercise discretion in situations that may warrant interrupting the proceedings in order to ensure the integrity of the CART translation. Care should be taken not to call undue attention to the consumer or the provision of CART services.



For more general information on CART
go to

www.cartinfo.org

Court Reporters Associates (CRA):

[802-862-4593](tel:802-862-4593) Tim Masse

cra@craofvt.com

OR

Norma Miller [802-233-3747](tel:802-233-3747)

norma@whitecoatcaptioning.com

EMERGENCY LIST OF NATIONALLY CERTIFIED SIGN LANGUAGE INTERPRETERS

LEGAL (SC:L)/LEGALLY TRAINED INTERPRETERS						
		INTERPRETER	HOME TOWN	PHONE	PAGER/CELL PHONE	
	Lesley	Richardson, SC:L	Derry, NH	603-759-9534	603-759-9534	4lesleyrichardson@gmail.com
	Lianne	Moccia	Lebanon, NH	603-448-1411	603-398-4783	lianne.moccia@gmail.com
	Toni	Robbins, SC:L	Derry, NH	603-437-8621	603-231-6231	terp_toni@yahoo.com
	Erin	Thompson-Foote, SC:L	Warner, NH	603-456-3726	603-475-7605	etnd91@tds.net
	Barbara	Walker, SC:L	St. Johnsbury, VT	802-748-8905	802-535-5613	hagbarb@aol.com
	Joan	Wattman, SC:L	Pittsfield, MA	413-634-0044	617-371-6306	jwattman@crocker.com
	Amy	Williamson, SC:L	Montpelier, VT		802-279-1321	williamson.loga@gmail.com
NATIONALLY CERTIFIED INTERPRETERS						
<i>Interpreters in bold italics live in the county. Others may be willing to travel to that county but may charge more for mileage & travel time.</i>						
COUNTY		INTERPRETER	HOME TOWN	PHONE	PAGER/CELL PHONE	EMAIL
Addison	<i>Wendy</i>	<i>Schneider</i>	<i>Ripton, VT</i>	<i>802-388-9360</i>	<i>802-598-0243</i>	<i>wendybethschneider@yahoo.com</i>
	<i>Eliza</i>	<i>Goodhue</i>	<i>Lincoln, VT</i>		<i>802-777-1256</i>	<i>elizagoodhue@gmail.com</i>
	Lindsey	Bixler	Colchester, VT	802-878-7738	802-318-0900	lindseybixler@yahoo.com
	Lisa	Bixler	Colchester, VT		802-238-2521	Leesahbixler@yahoo.com
	Cory	Brunner	Middletown Springs, VT	802-235-1343	802-236-8409	corybrunner@gmail.com
	Stephanie	Cramer	Waitsfield, VT	802-496-9598	802-734-7343	stephaniecramer@gmavt.net
	Janet	Dattilio	S. Burlington, VT		802-999-4884	j2dat1@comcast.net
	Patrick	Galasso	Burlington, VT		503-371-0391	pglso@mac.com
	Kristal	Hier	Middletown Springs, VT	802-235-1297	802-309-8202	kristalhaynes@hotmail.com
	Joe	Loga	Montpelier, VT		802-595-0766	waderightin@hotmail.com
	Joan	Pellerin	Waterbury Center, VT		802-999-6254	joanpellerin@hotmail.com
	Lynette	Reep	Burlington, VT	802-658-9507		lreep@uvm.edu
	Barbara	Walker	St. Johnsbury, VT	802-748-8905	802-535-5613	hagbarb@aol.com
	Amy	Williamson	Montpelier, VT		802-279-1321	williamson.loga@gmail.com
Bennington	<i>Laurie</i>	<i>Benjamin</i>	<i>North Pownal, VT</i>	<i>802-823-4014</i>	<i>413-441-6878</i>	<i>Laurie.Benjamin@williams.edu</i>
	Lisa	Bixler	Colchester, VT		802-238-2521	Leesahbixler@yahoo.com
	Elizabeth	Bjerke	Brattleboro, VT		802-272-0370	apuddlejumper@gmail.com
	Christine	Bricault	Dummerston, VT	802-254-4050	603-327-7136	christinebruby@yahoo.com
	Cory	Brunner	Middletown Springs, VT	802-235-1343	802-236-8409	corybrunner@gmail.com
	Lori	Calka	Albany, NY	518-459-7985	518-469-3549	loricalka@yahoo.com
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Caledonia	<i>Lealani</i>	<i>Arnold</i>	<i>Lyndon, VT</i>	<i>802-748-3537</i>		<i>greenecresfarm@yahoo.com</i>

EMERGENCY LIST OF NATIONALLY CERTIFIED SIGN LANGUAGE INTERPRETERS

	Jennifer	Raney	St. Johnsbury, VT	802-748-8799	jcraney565960@gmail.com	jraney@vtlink.net	
	Barbara	Walker	St. Johnsbury, VT	802-748-8905	802-535-5613	hagbarb@aol.com	
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	Patrick	Galasso	Burlington, VT		503-371-0391	pglso@mac.com	
	Joe	Loga	Montpelier, VT		802-595-0766	waderightin@hotmail.com	
	Joan	Pellerin	Waterbury Center, VT		802-999-6254	joanpellerin@hotmail.com	
	Barbara	Walker	St. Johnsbury, VT	802-748-8905	802-535-5613	hagbarb@aol.com	
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Chittender	Lindsey	Bixler	Colchester, VT	802-878-7738	802-318-0900	lindseybixler@yahoo.com	
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