

WORKING WITH INTERPRETERS



State of Nevada Foreclosure Mediation Program



The Role of the Foreclosure Mediation Interpreter

It is important that the individual who needs language assistance understands the role of the interpreter as a neutral communication tool rather than an advocate. The mediator may instruct the mediation participant, through the interpreter, as follows:

- An interpreter's role is to listen to what is said in the mediation -- in English and subsequently to interpret it accurately and completely into the target language.
- The interpreter cannot give advice, make suggestions, or engage in private conversations with the person needing language assistance.
- The person should raise a hand if s/he has a question or does not understand what is being said during the mediation process.
- The interpreter can only interpret for one person at a time.
- The interpreter can only interpret what is being said; therefore, all responses must be verbal.

As a mediator, you are reminded to speak at a slower but steady pace, and make eye contact occasionally with the interpreter to gauge whether your pace is appropriate. A slower pace is especially important when stating dates, numbers, figures, or highly technical vocabulary.

Schedule an Interpreter Prior to Mediation

Contact the State of Nevada Foreclosure Mediation Program to secure an interpreter for mediation at (702) 486-9380.

The Need for Interpreters in Mediation

Federal mandates, specifically the Title VI of the Civil Rights Act of 1964, the Omnibus Crime Control and Safe Streets Act of 1968 as well as the Presidential Executive Order 13166 issued in 2000 emphasize a prohibition against discrimination based upon national origin.

The U.S. Supreme Court has interpreted Title VI's prohibition against national origin discrimination as, "prohibiting recipients of federal funding from denying services to individuals based on their inability to speak English."

The Guidance and subsequent technical assistance letters from the U.S. Department of Justice's (DOJ) Civil Rights Division explained that court systems receiving federal financial assistance, either directly or indirectly, must provide meaningful access to limited English proficient (LEP) persons in order to comply with Title VI, the Safe Streets Act, and their implementing regulations.

The DOJ views access to all court and court-annexed proceedings, such as foreclosure mediation, as critical. The DOJ Guidance states that every effort should be taken to ensure competent interpretation for LEP individuals during such proceedings.

Practical Tips for Conducting an Interpreted Mediation

The mediator and interpreter need to address a few logistics before the mediation begins, for instance seating arrangements (in order to hear all the parties clearly and be able to see facial expressions and body language), how to handle the need for interruptions and clarifications (in order to ensure effective communication), or the confidentiality and privileged communication issue.

In order to choose the correct mode of interpretation (consecutive or simultaneous), the mediator must understand their advantages and disadvantages.

In consecutive interpretation, the interpreter speaks after the source-language speaker has finished speaking. In simultaneous interpretation, the target language is spoken as quickly as the interpreter can formulate it from the source language.

Whichever mode is employed, a mediation requiring an interpreter will take longer than a similar mediation without an interpreter. The mediator should schedule breaks for the interpreter to preclude mental fatigue.

Whether the mediation is conducted in the consecutive or simultaneous mode, the mediator should direct all comments, instructions, and questions to the parties.

The mediator should avoid using the third person (he, she, and they). Mediators should choose their words, gestures and body language carefully when conducting interpreter-assisted mediations.

The mediator, if bilingual, should not serve as interpreter for one of the parties.



Sample questions to determine interpreter qualifications

Ethical Considerations

- Are you directly or indirectly involved with this case?
- Do you know or work for any of the mediators, parties, or witnesses in this case?
- Have you read and understood the Code of Professional Responsibility for Nevada Court Interpreters (available at <http://www.nevadajudiciary.us/index.php/viewdocumentsandforms/func-startdown/619/>)? Do you agree to abide by that code?
- Have you ever been disciplined for conduct that violates the Code of Professional Responsibility approved by the Nevada Supreme Court, another state judiciary, or any professional interpreters or translators association? If so, why?

Communicative Compatibility

- Have you had an opportunity to speak with the person for whom you will be interpreting?
- Did you have any difficulty understanding everything that the person said?
- Do you speak the same language?
- Does that person have any dialectal or idiomatic peculiarities that you do not understand or which you cannot interpret into English? Are you able to communicate despite these idiosyncrasies?

Knowledge of the Languages and General Education

- How did you learn English?
- Have you formally studied the English language in school or college? If so, please describe.
- Do you need any time to review any documents in this case? How did you learn [the foreign language]?
- Have you formally studied [the foreign language] in school or college? If so, please describe.
- What is the highest grade or degree you completed?

Interpreting and Translating Skills

- Have you passed any accreditation or certification exams for interpretation or translation? If so, please describe.
- Are you a member in good standing of any professional associations of interpreters or translators? If so, please identify them.
- Do you attend meetings, conferences, and other gatherings of professional interpreters and translators? If so, please describe how often.
- Have you ever interpreted in Nevada's jurisdiction? If so, please state when and for what types of proceedings?
- Have you ever been disqualified or removed from interpreting in any court or administrative proceedings? If so, why?

If the mediator is satisfied that the proposed interpreter has the skills and knowledge to perform the duties of a mediation interpreter, the mediator should make such findings on the record and have the interpreter sworn in.

How does the FMP and/or mediator determine a mediation participant needs the services of an interpreter?

A mediator should presume a need for a foreign language interpreter when a homeowner requests an interpreter. If a request for an interpreter is not made, but it appears a mediation participant has limited English proficiency, a mediator should ask the following questions to assess the need for an interpreter.

Sample questions to assess the English proficiency of a mediation participant

(Please avoid questions easily answered with "yes" or "no" replies.)

1. Please tell me your name.
2. How did you come to mediation?
3. How did you learn English?
4. Please tell me about your country.
5. Please explain the purpose of your mediation as you understand it.
6. In what language do you feel the most comfortable speaking and communicating?
7. You have the right to an interpreter. Would you like us to arrange for an interpreter in your language to assist you to communicate and to understand what is being said?

If the person has difficulty answering these simple questions, an interpreter is recommended. Presumably, a person unable to answer these questions is unable to communicate well in high-stress matters involving specialized and legal terminology.

Interpreter's Oath

All interpreters should be placed under oath. Requiring an oath underscores to the interpreter the importance of adhering to the principles of proper mediation interpreting.

Additionally, when the interpreter states his or her name, it is a good opportunity to inquire whether any party knows the interpreter. This question can eliminate potential conflicts or the appearance of impropriety.

Sample interpreter oath:

"Do you solemnly swear or affirm that you will interpret accurately, completely, and impartially, use your best skills and judgment in accordance with the standards prescribed by law and follow all official guidelines established by the Foreclosure Mediation Program for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?"