

OREGON STATUTES RELATING TO THE USE OF AN INTERPRETER

2015 ORS 45.273

Policy

(1) It is declared to be the policy of this state to secure the constitutional rights and other rights of persons who are unable to readily understand or communicate in the English language because of a non-English-speaking cultural background or a disability, and who as a result cannot be fully protected in administrative and court proceedings unless qualified interpreters are available to provide assistance.

2015 ORS 45.275

Appointment of interpreter for non-English-speaking party, witness or victim

(1)(a) The court shall appoint a qualified interpreter in a civil or criminal proceeding, and a hearing officer or the designee of a hearing officer shall appoint a qualified interpreter in an adjudicatory proceeding, whenever it is necessary:

- (A) To interpret the proceedings to a non-English-speaking party;**
- (B) To interpret the testimony of a non-English-speaking party or witness; or**
- (C) To assist the court, agency or hearing officer in performing the duties and responsibilities of the court, agency or hearing officer.**

(b) The court shall appoint a qualified interpreter in a criminal proceeding whenever it is necessary to interpret the proceedings to a non-English-speaking victim who seeks to exercise in open court a right that is granted by Article I, section 42 or 43, of the Oregon Constitution, including the right to be present at a critical stage of the proceeding.

(2) A fee may not be charged to any person for the appointment of an interpreter to interpret testimony of a non-English-speaking party or witness, to interpret the proceedings to a non-English-speaking party or victim or to assist the court, agency or hearing officer in performing the duties and responsibilities of the court, agency or hearing officer. A fee may not be charged to any person for the appointment of an interpreter if appointment is made to determine whether the person is non-English-speaking for the purposes of this section.

(3) Fair compensation for the services of an interpreter appointed under this section shall be paid:

(a) By the county, subject to the approval of the terms of the contract by the governing body of the county, in a proceeding in a county or justice court.

(b) By the city, subject to the approval of the terms of the contract by the governing body of the city, in a proceeding in a municipal court.

(c) By the state in a proceeding in a circuit court. Amounts payable by the state are not payable from the Public Defense Services Account established by ORS 151.225 (Public Defense Services Account) or from moneys appropriated to the Public Defense Services Commission. Fees of an interpreter necessary for the purpose of communication between appointed counsel and a client or witness in a criminal case are payable from the Public Defense Services Account or from moneys appropriated to the Public Defense Services Commission.

(d) By the agency in an adjudicatory proceeding.

(4) If a party, victim or witness is dissatisfied with the interpreter appointed by the court, the hearing officer or the designee of the hearing officer, the party, victim or witness may request the appointment of a different interpreter. A request under this subsection must be made in a manner consistent with the policies and notice requirements of the court or agency relating to the appointment and scheduling of interpreters. If the substitution of another interpreter will delay the proceeding, the person making the request must show good cause for the substitution. Any party may object to use of any interpreter for good cause. Unless the court, hearing officer or the designee of the hearing officer has appointed a different interpreter for cause, the party using any interpreter other than the interpreter originally appointed by the court, hearing officer or the designee of the hearing officer shall bear any additional costs beyond the amount required to pay the original interpreter.

(5) A judge or hearing officer, on the judge's or hearing officer's own motion, may substitute a different interpreter for the interpreter initially appointed in a proceeding. A judge or hearing officer may make a substitution under this subsection at any time and for any reason.

(6) A court may allow as costs reasonable expenses incurred by a party in employing the services of an interpreter in civil proceedings in the manner provided by ORCP 68.

(7) A court, a hearing officer or the designee of a hearing officer shall require any person serving as an interpreter for the court or agency to state the person's name on the record and whether the person is certified under ORS 45.291 (Certification program). If the person is certified under ORS 45.291 (Certification program), the interpreter need not make the oath or affirmation required by ORS 40.325 (Rule 604. Interpreters) or submit the interpreter's qualifications on the record. If the person is not certified under ORS 45.291 (Certification program), the interpreter must make the oath or affirmation required by ORS 40.325 (Rule 604. Interpreters) and submit the interpreter's qualifications on the record.

(8) For the purposes of this section:

(a) "Hearing officer" includes an administrative law judge.

(b) "Non-English-speaking person" means a person who, by reason of place of birth or culture, speaks a language other than English and does not speak English with adequate ability to communicate effectively in the proceedings.

(c) "Qualified interpreter" means a person who is readily able to communicate with the non-English-speaking person and who can orally transfer the meaning of statements to and from English and the language spoken by the non-English-speaking person. A qualified interpreter must be able to interpret in a manner that conserves the meaning, tone, level, style and register of the original statement, without additions or omissions. "Qualified interpreter" does not include any person who is unable to interpret the dialect, slang or specialized vocabulary used by the party, victim or witness. [1991 c.750 §2; 1993 c.687 §8; 1995 c.273 §16; 1997 c.872 §18; 1999 c.1041 §4; 2001 c.242 §1; 2001 c.962 §§65,66; 2003 c.75 §§77,78; 2005 c.385 §2; 2012 c.107 §39; 2015 c.155 §2]

2015 ORS 40.325

Rule 604. Interpreters

Except as provided in ORS 45.275 (Appointment of interpreter for non-English-speaking party, witness or victim) (7), an interpreter is subject to the provisions of the Oregon Evidence Code relating to qualification as an expert and the administration of an oath or affirmation that the interpreter will make a true and impartial interpretation of the proceedings in an understandable manner using the interpreter's best skills and judgment in accordance with the standards and ethics of the interpreter profession. [1981 c.892 §47; 1981 s.s. c.3 §138; 1989 c.224 §7; 1991 c.750 §7; 2001 c.242 §4; 2005 c.385 §3; 2015 c.155 §5]

2015 ORS 45.285

Appointment of interpreter for party, witness or victim with disability

(1) For the purposes of this section:

(a) "Assistive communication device" means any equipment designed to facilitate communication by a person with a disability.

(b) "Hearing officer" includes an administrative law judge.

(c) "Person with a disability" means a person who cannot readily understand the proceedings because of deafness or a physical hearing impairment, or cannot communicate in the proceedings because of a physical speaking impairment.

(d) "Qualified interpreter" means a person who is readily able to communicate with the person with a disability, interpret the proceedings and accurately repeat and interpret the statements of the person with a disability to the court.

(2) In any civil action, adjudicatory proceeding or criminal proceeding, including a court-ordered deposition if no other person is responsible for providing an interpreter, in which a person with a disability is a party or witness, the court, hearing officer or the designee of the hearing officer shall appoint a qualified interpreter and make available appropriate assistive communication devices whenever it is necessary to interpret the proceedings to the person with a disability, or to interpret the testimony of the person with a disability.

(3) In any criminal proceeding, the court shall appoint a qualified interpreter and make available appropriate assistive communication devices whenever it is necessary to interpret the proceedings to a victim who is a person with a disability and who seeks to exercise in open court a right that is granted by Article I, section 42 or 43, of the Oregon Constitution, including the right to be present at a critical stage of the proceeding.

(4) A fee may not be charged to the person with a disability for the appointment of an interpreter or use of an assistive communication device under this section. A fee may not be charged to any person for the appointment of an interpreter or the use of an assistive communication device if appointment or use is made to determine whether the person is a person with a disability for the purposes of this section.

(5) Fair compensation for the services of an interpreter or the cost of an assistive communication device under this section shall be paid:

(a) By the county, subject to the approval of the terms of the contract by the governing body of the county, in a proceeding in a county or justice court.

(b) By the city, subject to the approval of the terms of the contract by the governing body of the city, in a proceeding in a municipal court.

(c) By the state in a proceeding in a circuit court. Amounts payable by the state are not payable from the Public Defense Services Account established by ORS 151.225 (Public Defense Services Account) or from moneys appropriated to the Public Defense Services Commission. Fees of an interpreter necessary for the purpose of communication between appointed counsel and a client or witness in a criminal case are payable from the Public Defense Services Account or from moneys appropriated to the Public Defense Services Commission.

(d) By the agency in an adjudicatory proceeding. [1991 c.750 §1; 1993 c.687 §6; 1999 c.1041 §5; 2001 c.962 §§67,68; 2003 c.75 §§79,80; 2007 c.70 §13; 2012 c.107 §40; 2015 c.155 §3]

2015 ORS 45.288

Appointment of certified interpreter required

(1) For the purposes of this section:

(a) "Hearing officer" includes an administrative law judge.

(b) "Non-English-speaking person" has the meaning given that term in ORS 45.275 (Appointment of interpreter for non-English-speaking party, witness or victim).

(c) "Person with a disability" has the meaning given that term in ORS 45.285 (Appointment of interpreter for party, witness or victim with disability).

(d) "Qualified interpreter" means a person who meets the requirements of ORS 45.285 (Appointment of interpreter for party, witness or victim with disability) for an interpreter for a person with a disability, or a person who meets the requirements of ORS 45.275 (Appointment of interpreter for non-English-speaking party, witness or victim) for an interpreter for a non-English-speaking person.

(2) Except as provided by this section, whenever a court is required to appoint an interpreter for any person in a proceeding before the court, or whenever a hearing officer is required to appoint an interpreter in an adjudicatory proceeding, the court, hearing officer or the designee of the hearing officer shall appoint a qualified interpreter who has been certified under ORS 45.291 (Certification program). If no certified interpreter is available, able or willing to serve, the court, hearing officer or the designee of the hearing officer shall appoint a qualified interpreter. Upon request of a party, victim or witness, the court, hearing officer or designee of the hearing officer, in the discretion of the court, hearing officer or the designee of the hearing officer, may appoint a qualified interpreter to act as an interpreter in lieu of a certified interpreter in any case or adjudicatory proceeding.

(3) The requirements of this section apply to appointments of interpreters for persons with disabilities and for non-English-speaking persons.

(4) The court, hearing officer or the designee of the hearing officer may not appoint any person under ORS 45.272 (Definitions for ORS 45.272 to 45.297) to 45.297 (Authority to enter into service contracts), 132.090 (Presence of persons at sittings or deliberations of jury) or 419C.285 (Parties to delinquency proceeding) if:

(a) The person has a conflict of interest with any of the parties, victims or witnesses in the proceeding;

(b) The person is unable to understand the judge, hearing officer, party, victim or witness, or cannot be understood by the judge, hearing officer, party, victim or witness; or

(c) The person is unable to work cooperatively with the judge of the court, the hearing officer, the person in need of an interpreter or the counsel for that person.