



U.S. Citizenship  
and Immigration  
Services

January 17, 2017

PM-602-0125.1

## Policy Memorandum

**SUBJECT:** The Role and Use of Interpreters in Domestic Field Office Interviews

### Purpose

To advance consistent standards for interpretation in interviews conducted by U.S. Citizenship and Immigration Services (USCIS), this Policy Memorandum (PM) provides guidance regarding the role and use of interpreters in certain interviews conducted in USCIS domestic field offices in the absence of agency-provided interpretation.<sup>1</sup> It is the goal of USCIS, in light of legal, operational and financial factors, to expand its capacity to provide language assistance services during USCIS-conducted interviews. However, until such time as USCIS is able to provide such services, the guidance in this PM ensures the quality and accuracy of interpretation.

### Scope

This PM applies to all USCIS-conducted interviews requiring interpretation, with the exception of asylum interviews,<sup>2</sup> credible fear screening interviews, reasonable fear screening interviews, interviews to determine eligibility for relief pursuant to provisions of the Nicaraguan Adjustment and Central American Relief Act (NACARA), refugee interviews, interviews conducted in a USCIS overseas office, and interviews for which USCIS provides an interpreter. Further, this PM does not apply to translators.<sup>3</sup>

This PM replaces Chapter 15, Part 7, of the Adjudicator's Field Manual (AFM).

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<sup>1</sup> The policy does not apply to InfoPass appointments or other general, customer service inquiries (*e.g.*, when a customer requests a form or a similar non-substantive inquiry at an immigration office).

<sup>2</sup> Interpreter guidelines for Asylum interviews, credible fear screening interviews, reasonable fear screening interviews, NACARA interviews, refugee interviews, and interviews conducted in a USCIS overseas office are set by policies governed by USCIS' Refugee, Asylum, and International Operations Directorate (RAIO). To the extent practical, the guidelines in this policy memorandum are synchronized with existing RAIO guidance.

<sup>3</sup> A translator interprets written text, while an interpreter translates orally.

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### **Authority**

- Executive Order 13166, 65 FR 50121 (Aug. 18, 2000)
- Attorney General Memorandum to All Federal Agencies Regarding the Federal Government's Renewed Commitment to Language Access Obligations Under Executive Order 13166 (February 17, 2011)
- Immigration and Nationality Act (INA) §103(a); 8 U.S.C. §1103(a)
- 8 CFR 103.2(b)(9)
- 8 CFR 312.4
- USCIS Representation and Appearances and Interview Techniques Policy Memorandum, PM-602-0055.1 (May 23, 2012)
- Department of Homeland Security Language Access Plan (February 28, 2012)

### **Background**

This PM provides guidance to ensure the consistent use of interpreters during certain interviews conducted in domestic USCIS field offices in the absence of agency-provided interpretation. Although this PM does not apply to asylum and refugee interviews or interviews conducted in USCIS overseas field offices, it refers to and draws from some of the policies established for the use of interpreters during asylum interviews, such as the qualifications for serving as an interpreter. *See* 8 CFR §208.9(g). Additionally, unless the interviewee qualifies for an exception, the PM shall not apply to naturalization interviews because one of the criteria for establishing eligibility for naturalization includes demonstrating adequate proficiency in reading, writing, and speaking English. *See* INA §312 (a)(1) and INA §312(b); 8 CFR §312.1(b) and 8 CFR §312.3.

USCIS is committed to maintaining the integrity of the immigration system, as well as the confidentiality and privacy of petitioners and applicants, in accordance with appropriate law, when they request immigration benefits or other assistance. In conjunction with the release of this PM, USCIS is introducing a “Declaration for Interpreted USCIS Interview” form that shall be used when interpretation is not provided by USCIS. The “Declaration for Interpreted USCIS Interview” informs the interviewee about the importance of using a competent interpreter. See the attached Form G-1256. The form includes an attestation that all parties understand the guidelines that apply to interpretation, including that the interpreter must accurately, literally, and fully interpret for both the interviewee and the interviewer/officer. The form also notifies the interviewee that an interpreter may hear confidential information shared between the interviewee and the interviewing officer, even when that confidential information may be prohibited from certain disclosure under law and regulation. In interviews to which this PM applies, Form G-1256 must be signed by both the interviewee and the interpreter at the beginning of the interview. In addition to obtaining signatures on the Form G-1256, the interviewing officer must put both the interpreter and the interviewee under oath before the interview begins.

### **Policy**

Effective immediately, USCIS Immigration Services Officers will follow the amendments to Chapter 15, Part 7, of the AFM made by this PM.

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### Implementation

Chapter 15, Part 7, of the AFM is revised as follows:

### Chapter 15.7 The Role and Use of Interpreters in Domestic Field Office Interviews without USCIS-Provided Interpretation

**Applicability:** Chapter 15.7 applies to all USCIS-conducted interviews requiring interpretation, with the exception of asylum interviews, credible fear screening interviews, reasonable fear screening interviews, interviews to determine eligibility for relief pursuant to provisions of the Nicaraguan Adjustment and Central American Relief Act (NACARA), refugee interviews, interviews conducted in a USCIS overseas office, and interviews for which USCIS provides an interpreter.

#### **(a) Core Qualifications to Serve as an Interpreter**

Officers must determine whether a proposed interpreter meets the interpreter qualifications, including whether to grant exceptions for good cause when such are available. An interpreter is “a person who provides an oral translation between speakers who speak different languages.”<sup>4</sup> In order to qualify as an interpreter for purposes of an immigration interview conducted in a USCIS domestic field office, an individual must be sufficiently fluent in both English and in the interviewee’s language, able to interpret competently between English and the interviewee’s language, and able to interpret impartially and without bias. If the officer determines either before or during the interview that an individual cannot meet these standards, the officer must disqualify the individual from being an interpreter.<sup>5</sup>

Additionally, some individuals are restricted from serving as an interpreter. These include minors under age 18, witnesses, and attorneys and representatives for the interviewee. An exception for good cause may be granted if the proposed interpreter is age 14-17. See Section (c), “Exceptions for Good Cause.” A witness in a case also cannot serve as an interpreter unless an exception is made for good cause.<sup>6</sup>

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<sup>4</sup> See Interpreter. Dictionary.com. *Dictionary.com Unabridged*. Random House, Inc. <http://dictionary.reference.com/browse/interpreter> (accessed: January 28, 2014).

<sup>5</sup> See Section (e), “Disqualifying an Interpreter.” In those rare instances when evidence is presented **after the interview concludes**, or a USCIS officer discovers evidence **after the interview concludes**, which indicates that the interpreter has not adequately met these described standards, the officer should discuss with his or her supervisors the appropriate action to take (*e.g.*, potentially giving notice to the interviewee and rescheduling the interview, or rescinding or revoking a previously approved grant or approval of a benefit, whatever is appropriate based on the disposition of the benefit at the conclusion of the interview).

<sup>6</sup> For purposes of an immigration interview, a witness is anyone who, during the interview, gives a firsthand account of something seen, heard, or experienced, or who, prior to or during the interview of the case-at-hand, provides written testimony in the relevant case.

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Individuals under age 14 cannot serve as interpreters. The attorney or accredited representative of the interviewee also cannot serve as an interpreter *during* the interview. There are no exceptions to these two restrictions.

### 1. Fluency

The interpreter must demonstrate proficiency in both English and in the interviewee's language to the satisfaction of the officer, meaning that the interpreter is sufficiently fluent in both languages. Fluency is the ability "to speak or write smoothly, easily, or readily without difficulty or great effort."<sup>7</sup> To be proficient, the interviewer must be able to communicate effectively in both languages about the subject areas to be covered in the interview. Please note that while fluency is a component of being a competent interpreter, it does not always guarantee such competence.

### 2. Competency

The interpreter must communicate information accurately in both English and in the interviewee's language. The interpreter must give a full and accurate interpretation of the entire interview.

Competency of the interpreter is not always easy to determine. Competency requires more than self-identification as an interpreter in the relevant language. Some individuals may communicate effectively in a different language when communicating information directly in that language (*i.e.*, fluent), but may not be competent to interpret into and out of English. There are a number of signs that indicate that an individual is not competent to interpret.<sup>8</sup>

With regard to minors, one consideration for determining competency is the interpreter's age. Minors, generally, are not considered to be capable of fully understanding or weighing the consequences of contracts or oaths, particularly those regarding confidentiality, which may undermine the validity of the Declaration that the interviewee and interpreter must sign before the interview. Moreover, minors may not be capable of handling the sensitive content of some interviews, which may adversely affect the accuracy and reliability of their interpretations during interviews. Given these considerations, minors less than 18 years of age will be restricted from serving as interpreters. Minors who are 14 through 17 years of age are restricted from serving as interpreters unless an exception for good cause has been established.<sup>9</sup> Minors less than 14 years of age are not deemed competent to serve as interpreters during

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<sup>7</sup> See fluency. Dictionary.com. *Dictionary.com Unabridged*. Random House, Inc. <http://dictionary.reference.com/browse/fluency> (accessed January 28, 2014).

<sup>8</sup> See Section (e), Disqualifying an Interpreter, for examples.

<sup>9</sup> See Section (c), Exceptions for Good Cause.

interviews and must be disqualified.<sup>10</sup> As with any interpreter, a minor who is permitted to serve as an interpreter must demonstrate fluency, competency, and impartiality before and throughout the course of the interview.

Some individual organizations certify interpreters as competent to interpret in a designated language; however, an interpreter may be competent absent such certification, and certification does not always guarantee competency.<sup>11</sup> USCIS recognizes that not all interviewees are able to secure the services of a professional interpreter. Regardless of certification, all interpreters must demonstrate to the officer that they can interpret competently.

### **3. Impartial and Unbiased Individual**

The interpreter must be impartial and able to interpret without bias. An impartial and unbiased individual is one who does not have a predisposition or preconceived opinion about a matter. A predisposition or preconceived opinion may prevent the individual from interpreting information accurately, literally, and fully or making a reliable interpreter declaration.

Officers must consider potential conflicts of interest between an interviewee and his or her proposed interpreter, as well as any other circumstances that might interfere with the interpreter's ability to provide an accurate, literal, and full interpretation. Interpreters and the interviewees must disclose any relationship, predisposition, or preconceived opinion that could affect the interpreter's objectivity and consequently his or her ability to provide impartial and objective interpretation during the interview. For example, some friends, family members, or persons with financial connections to the interviewee (e.g. business partners) could have either actual conflicts of interest with the interviewee or have a strong personal interest in the interviewee obtaining the immigration benefit at issue such that the proposed interpreter is not able to provide impartial and unbiased interpretation services.<sup>12</sup> As such, family members will generally be disfavored as interpreters if there is another qualified interpreter available to the customer. Upon disclosure, the officer must use his or her discretion in making a determination as to whether the circumstances will interfere with the interpreter's ability to interpret objectively and provide an accurate and truthful interpretation of the information conveyed during the interview. If the officer determines that despite the relationships or

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<sup>10</sup> Immigration laws typically permit the parents or guardians of minors under 14 years of age to act on their behalf. To illustrate, minors under 14 can have their parents or guardians sign immigration benefit forms or appear for naturalization interviews. Additionally, minors under age 14 are not required to submit to fingerprinting.

<sup>11</sup> The interviewing officer always monitor for indications of interpretation problems between the parties regardless of certification.

<sup>12</sup> For example, if the proposed interpreter may derive a financial benefit from approval of (or suffer detriment due to denial of) an immigration benefit for the interviewee, the proposed interpreter might not be permitted to interpret due to a potential conflict of interest.

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other circumstances disclosed, the interpreter *can* still provide competent, impartial and unbiased interpretation, then the interpreter may normally be accepted.<sup>13</sup>

Where the proposed interpreter is a derivative (e.g., spouse or child) of the interviewee and could obtain an immigration benefit if the interviewee's application or petition is granted, the officer should be particularly vigilant in making his or her determination as to whether the derivative may, nevertheless, be able to meet the impartiality and unbiased requirement. The officer should continue such vigilance throughout the interview for any signs that the interpreter is violating the interpreter's Declaration.<sup>14</sup> However, the officer must not predetermine that a derivative beneficiary is disqualified from serving as an interpreter, due to a conflict of interest, solely because he or she is a derivative beneficiary.

Interpreters who are witnesses in the case-at-hand constitute a special subset of individuals who are likely to be inherently partial and biased, and, therefore, may be less likely to be able to provide accurate, literal and full interpretation. For this reason, witnesses are restricted from serving as interpreters. However, exceptions may be made at the discretion of the officer if there is good cause. See section (b), Restricted Individuals, and, Section (c), Exceptions for Good Cause. As with any interpreter, a witness who is permitted to serve as an interpreter must demonstrate fluency, competency, and impartiality before and throughout the course of the interview.

Please note that some family derivatives may be witnesses, but not all derivatives are witnesses. Similarly, witnesses may also be non-derivatives. An exception for good cause is only required if the family derivative is also a witness in the case and the interviewee wishes to have his or her derivative interpret at the interview. However, officers must carefully consider whether the derivative is capable of interpreting impartially and without bias.

Attorneys and representatives who have filed a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative ("G-28"), to represent the applicant, petitioner or beneficiary in connection with the benefit request are inherently partial and biased toward their client's interest. As such, conflicts of interest are likely to arise between the attorney's or representative's duty to his or her client and his or her ability to serve as an impartial and competent interpreter in accordance with the Declaration. Therefore, such individuals are disqualified from serving as interpreters at the interview. The officer cannot make exceptions for good cause.

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<sup>13</sup> *But see* discussion below of witnesses in the case where a "good cause" exception is necessary and the prohibition of an interviewee's attorney or representative simultaneously serving as an interpreter during the interview.

<sup>14</sup> *See* Declaration for Interpreted USCIS Interview, Form G-1256.



#### **4. “Declaration of Interpreted USCIS Interview” Form**

It is mandatory for both the interpreter and the interviewee to sign the “Declaration of Interpreted USCIS Interview” form (“Declaration”). See *attached* Form G-1256. There are no exceptions to this requirement. See *also* Section (d), The Interview, and, Section (e), Disqualifying an Interpreter.

##### **(b) Restricted Individuals**

1. In order to ensure the integrity of the interview, bolster interpreter accountability, decrease incidences of fraud, eliminate potential conflicts of interest, and provide consistent application of interpretation policies and procedures, the following individuals are restricted from serving as an interpreter, unless an exception for good cause applies:
  - Individuals who are 14 through 17 years of age
  - Witnesses
2. The following individuals may not serve as interpreters; there is no exception for good cause:
  - Attorneys or accredited representatives for the applicant, petitioner or beneficiary who have properly signed the G-28;
  - Individuals under the age of 14.
3. Description of restricted individuals

##### **i. Minors under 18 years of age**

Individuals who are under 18 years of age are generally restricted from interpreting.

Officers may allow minors who are 14 through 17 years of age to serve as interpreters if there is good cause.<sup>15</sup> As with any accepted interpreter, minors age 14 through 17 must be fluent, competent, and impartial and unbiased throughout the interview, even if an exception for good cause is allowed. Officers must discuss with their supervisor(s) whether to allow a minor who is 14 through 17 years of age to serve as an interpreter. Supervisory approval should be documented in the A-File. Minors under the age of 14 may not serve as interpreters at interviews.<sup>16</sup>

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<sup>15</sup> See Section (c), Exceptions for Good Cause, table.

<sup>16</sup> If the interpreter is less than 14 years old, the officer must disqualify the interpreter. See *also* Section (e)(2), Procedures for Disqualifying an Interpreter”.

**ii. Witnesses**

For purposes of an immigration interview, a witness is anyone who, during the interview, gives a firsthand account of something seen, heard, or experienced, or who, prior to or during the interview of the case-at-hand, provides written testimony in the relevant case.<sup>17</sup> Witnesses are restricted from serving as interpreters, unless the officer determines that there is an exception for good cause. Witnesses may include, but are not limited to persons who:

- Are the petitioners in the case (but are not the “interviewee” *per se*)
- Provide affidavits in connection with the case
- Provide oral testimony at an interview or other immigration proceeding
- Provide letters of support for the case<sup>18</sup>

Where there is good cause, the interviewing officer has the discretion to allow the use of an interpreter who is a witness. Officers must discuss with their supervisors whether to allow the use of an interpreter who is a witness even in instances when there is good cause. Supervisory approval should be documented in the A-File.

**Please Note:** Some, *but not all*, derivative beneficiaries may also be witnesses in the case. If the derivative is a witness, then there must be good cause before he or she can serve as interpreter. If the derivative is *not* a witness and does not fall within any of the other restricted categories, then he or she may serve as the interpreter without the need to demonstrate good cause. However, he or she must still meet all qualifications to serve as an interpreter, including being fluent, competent, and impartial and unbiased. See Section (a), Core Qualifications to Serve as an Interpreter, 1 - 3.

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<sup>17</sup> Written testimony is documentation relevant to the case-at-hand (*i.e.*, signatory on the application or petition; providing an affidavit or other recorded statement related to the case-at-hand). Oral testimony must be collected or taken during the interview (*i.e.*, giving a firsthand account of something seen, heard, or experienced).

<sup>18</sup> The following are examples of situations where certain relatives are and are not witnesses in the case: **Example #1:** A U.S. citizen petitioner cannot interpret for his or her spouse, absent an exception for good cause, because he or she will be providing oral testimony during the interview and is a signatory on the I-130 Petition. **Example #2:** The interviewee’s cousin, age 19, wants to serve as an interpreter and the cousin is not a signatory on the application or petition, has not provided an affidavit in the case-at-hand, and is not giving oral testimony during the interview. The cousin may serve as an interpreter, provided he/she meets the core qualifications to serve as an interpreter, because the cousin is not defined as a witness for purposes of witnesses being excluded as interpreters. As noted in the earlier discussion of impartial and unbiased individuals, the officer will always need to determine whether the cousin can be sufficiently objective in his or her interpretation, despite the familial relationship. **Example #3:** The interviewee’s neighbor wishes to serve as the interviewee’s interpreter during an immigration interview wherein the interviewee is seeking permanent resident status based on marriage to a U.S. citizen. The neighbor does not give oral testimony during the interview, but the neighbor previously provided an affidavit attesting to the bona fides of the interviewee’s marriage to her U.S. citizen husband. Because the neighbor fits the definition of a witness, the neighbor is disqualified from serving as an interpreter unless a good cause exception applies.



**iii. Representatives**

Attorneys, accredited representatives, authorized/requested associates of attorneys or accredited representatives, and law students or law graduates working under the direct supervision of the attorney or accredited representative may not serve in their roles as an attorney, accredited representative, or associated representative for the party to the case while *simultaneously* serving as an interpreter for the interviewee. There is no exception.

If the attorney/representative wishes to serve as an interpreter, he or she must withdraw Form G-28 and cannot serve as the attorney/representative *during* the interview. Upon withdrawal of the G-28, the officer must determine that the individual can still competently serve as the interpreter without bias or partiality, which is required for all qualified interpreters. See Section (a), 3, Impartial and Unbiased individual. An officer is not required to permit an attorney/representative to serve as an interpreter when the G-28 is withdrawn. Officers must obtain supervisory approval prior to allowing a former G-28 noticed attorney/representative to serve as an interpreter. Further, the use of an individual who was formerly serving as the interviewee's attorney or accredited representative should be documented in the A-File. Upon receipt of supervisory approval, the officer must also ensure that the individual signs the Declaration for Interpreted USCIS Interview, and is informed of and accepts his/her obligations as an interpreter, including but not limited to, the duty to interpret exactly what the officer and the interviewee say verbatim without attempting to paraphrase, summarize, or clarify what is said by those parties. Finally, the individual must also agree not to provide advice to the interviewee during the interview.

**Note:** Where the applicant, petitioner, or beneficiary's attorney or representative is *not* serving as the interpreter, the attorney/representative may request that the interviewing officer clarify or repeat a question posed to the interviewee that the attorney/representative believes the interpreter did not interpret correctly or that the interviewee did not understand.

**(c) Exceptions for Good Cause**

Some "restricted individuals," such as witnesses or persons 14 through 17 years old, may still be used by the interviewee as an interpreter if the officer finds that there is good cause to do so. See Section (b), Restricted Individuals, (3)(i)(ii). In these instances, the interviewee, or his/her representative, may request an exception for good cause to allow the use of an otherwise restricted interpreter. Alternatively, the officer may find that there is good cause without a specific request. As with any interpreter, a restricted individual who is permitted to serve as an interpreter must demonstrate fluency, competency, and impartiality before and throughout the course of the interview.

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The interviewing officer will consider the request based on the totality of the circumstances and may permit the use of an otherwise restricted interpreter at his or her discretion, in consultation with and subject to approval by his or her supervisor. In making this determination, the officer should consider whether the reasons for permitting the use of a restricted interpreter outweigh the reasons why the individual is restricted.

The interviewing officer must annotate the interviewee's request to use an otherwise restricted interpreter and/or his or her decision to grant an exception for good cause and include the supporting documentation that he or she found or that was volunteered by the interviewee or interpreter in the A-File. If there is no supporting documentation applicable or available to support the exception, the officer may inquire about the efforts undertaken to find a qualified interpreter and document the efforts in the A-file, including the inability to find a qualified interpreter.

The table below includes general examples of good cause and the types of records that may support the request. The records listed are examples of what may be found in the file. Documents cannot be requested to be produced by the interviewee or interpreter to request or prove they should receive a good cause exception. The examples do not limit what may be considered good cause, nor does the list include every type of acceptable document or record. The officer will consider all requests for an exception for good cause using a totality of circumstances analysis and on a case-by-case basis. Additionally, the officer may find that there is good cause without a specific request made by the interviewee.<sup>19</sup>

USCIS will not grant requests to use an interpreter less than 14 years of age or to allow attorneys or accredited representatives to act as both representative *and* interpreter *simultaneously* during the interview. Exceptions for good cause are not available in these two circumstances.

If a good cause request is denied, the officer should follow the procedure for disqualifying an interpreter described in section (e)(2).

<b>EXAMPLES OF GOOD CAUSE</b>		
<b>Cause</b>	<b>Explanation</b>	<b>Possible Records or Documents that may already be contained in</b>

<sup>19</sup> The officer must notate his or her decision for the exception.

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		<b>the A-file or volunteered by the interviewee or the interpreter<sup>20</sup></b>
<b>Prejudicial Delay</b>	A delay that may prevent the interviewee from qualifying for a benefit or when the delay may harm an interviewee with a documented, serious medical condition ( <i>e.g.</i> , interviewee may age out prior to rescheduling an interview; a pregnant interviewee who is due to give birth imminently).	Birth certificate for those aging out; medical documentation of interviewee’s due date.
<b>Lives in Rural/Remote/Sparsely Populated Areas</b>	Interviewees who live in rural areas where there are few individuals who speak the interviewee’s language may not have access to qualified interpreters in the community. <sup>21</sup>	Interviewees may access the U.S. Census Bureau website, <a href="http://www.quickfacts.census.gov">www.quickfacts.census.gov</a> , to get information on whether the type of area he or she resides in is a “rural” area; documentation verifying the population of his or her residence. (Other reliable sources supporting the rural, remote, or sparsely populated nature of the interviewee’s residence may also be considered.)
<b>Rare Dialect or Language</b>	Interviewees may only speak a language for which an interpreter is extremely difficult to obtain. <sup>22</sup>	Evidence/Records in the file may include documentation that the interviewee’s language is considered rare

<sup>20</sup> This column lists examples of documents that may already exist in the A-file or from public sources. Documents are not to be requested or required from the interviewee or interpreter.

<sup>21</sup> Interviewees who live in a geographic area designated by the U.S. Census Bureau as “rural,” which is defined as areas with less than 2,500 residents. *See* [www.quickfacts.census.gov](http://www.quickfacts.census.gov), which gives the most recent estimate of population/rural determinations based on state, county, or city. Note, however, that the fact that an area is rural does not necessarily establish in all cases that there are few individuals there who speak the interviewee’s language, as some of these areas are home to significant concentrated populations of certain immigrant groups.

<sup>22</sup> For example, certain interviewees may communicate only (or best) in Chamicuro; Mam; Ixil; or Alsatian. However, officers should be attuned to situations where an interviewee may be able to communicate fluently in a second language for which a qualified interpreter may be more readily available. For example, Mayans are often fluent in Spanish, and Alsations can often speak German, French or both. Officers may consider whether the interviewee is fluent in a second language and could obtain a

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		or the officer may consult a book or website about rare languages or dialects.
<b>Confidential Medical Conditions</b>	Interviewees with certain medical conditions may not want to share sensitive information with an unfamiliar interpreter. <sup>23</sup>	I-693, Report of Medical Examination and Vaccination Record; <sup>24</sup> letter from medical doctor or health provider documenting medical condition.
<b>Confidential/Protected Information</b>	VAWA interviewees may not want to disclose sensitive abuse information or personal information with an unfamiliar interpreter.	Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, and supporting documentation.
<b>Interviewees with certain physical or mental disabilities including developmental disabilities</b>	Interviewees with certain physical or mental disabilities including developmental disabilities may be more responsive to a familiar interpreter, such as their typical support person. <sup>25</sup>	Statement from medical doctor or social service provider indicating that the interviewee is unable to communicate through an unfamiliar interpreter due to the disability; court ordered legal guardianship or conservator documents.

**(d) The Interview**

*(1) Interpreter’s Role and Standards of Conduct*

*(A) General*

In an interview requiring the use of an interpreter, the role of the interpreter is crucial to ensure that the record reflects precisely what was said by the non-English speaking interviewee. Misinterpretations can have a significant impact on the outcome of a case by impeding the interviewing officer’s ability to elicit accurate information. It is important for the interviewing officer to explain the roles of all parties present at the

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qualified interpreter in that language. However, if the interviewee credibly indicates that he or she would have difficulty participating fully in the interview if he or she had to use the second language, officers should not encourage the interviewee to do so.

<sup>23</sup> For example, HIV/AIDS, sexually transmitted diseases.

<sup>24</sup> If this form is not already in the A-File, it should not be specifically requested; rather, this form is listed as an example of the type of evidence that could be produced to support a good cause exception based on a “Confidential Medical Condition.”

<sup>25</sup> For example, Alzheimer’s disease or Down syndrome.

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interview to help ensure those roles are understood and abided by, and misinterpretations are avoided. As the interviewing officer explains to the interpreter his or her role, the officer should have the interpreter interpret to the interviewee(s) this explanation. This will allow the interviewee to also understand the role of the interpreter.

The interpreter and interviewee must read and complete the Declaration form and sign it in the officer's presence, before beginning the interview. The Declaration form reminds all parties that the interpreter must accurately, literally, and fully translate for both the interviewee and the interviewer. The form also notifies the interviewee that an interpreter may hear confidential information, shared between him or her and the interviewing officer. **Please note:** Although the interpreter and interviewee may read the Declaration form in the waiting area, the interviewee and interpreter may not sign the Declaration form in the waiting area or any place outside of the presence an officer. **The Declaration must be signed after being placed under oath and in the presence of an officer.**

### *(B) Interpreter Conduct and Confidentiality*

An interviewee who brings his or her own interpreter to an immigration interview necessarily consents to that interpreter's exposure to any personal information shared during the interview. The Declaration form reminds the interviewee that the use of an interpreter may expose the interpreter to the confidential information discussed at the time of the interview. It also requires the interpreter to agree to not disclose or share any of the information discussed or learned as a result of serving as the interpreter during the interview.

### *(C) Consecutive Interpretation*

USCIS requires that the interpreter provide consecutive interpretation to ensure that the interpretation is as close to verbatim as possible. In consecutive interpretation, the speaker asks a question or makes a statement and immediately thereafter (or with the occurrence of natural pauses or when a pause is requested by the interviewee or interviewing officer) the interpreter interprets what was said for the other language speaker.

### **Other Forms of Interpretation (Which are not Permitted)**

Other forms of interpretation include simultaneous interpretation and summarization, which raise problems for both the interviewee and the

interviewer in fully understanding the information being interpreted. Neither simultaneous interpretation nor summarization is permitted during immigration interviews.

- Simultaneous interpretation occurs when interpretation is done at the same time as the interviewee or interviewer is speaking. This form of interpretation is problematic, and is not permitted, because the interpreter may not hear some words from the interviewee or interviewer over his or her own voice. This form of interpretation is also problematic in situations where a telephonic interpreter monitor is being utilized. The interpreter monitor needs to hear each party's words to evaluate the quality of interpretation.
- Summarization is a non-literal form of interpretation, in which only a summary of the statements made by each party is interpreted for the other language speaker. Testimony summation is not permitted during immigration interviews because relevant details, which are crucial to make a determination on the case, may be overlooked by the interpreter.

## *(2) Conducting the Interview*

The officer should begin the interview by introducing himself or herself to the interviewee(s) and to the interpreter, as well as, stating, in non-technical terms, the purpose of the interview.

Next, the officer should explain the role of the interpreter. Specifically, the officer should remind the interpreter that he or she is not to impose his or her own thoughts or own interpretation of what is being said to either party. The interpreter must also be informed not to assist the interviewee in giving his or her answers to the officer.

Additionally, the officer should explain consecutive interpretation and instruct the interpreter to interpret consecutively, verbatim, and without adding or omitting any information (*i.e.*, what the officer is saying to the interviewee and what the interviewee is saying to the officer). The officer should also tell the interpreter that if the officer's questions are getting too long, compound, or otherwise difficult for the interpreter to interpret effectively, the interpreter should let the officer know immediately so that the officer can assess whether to rephrase, repeat, or take other steps to facilitate better interpretation, while also maintaining the integrity of the interview.



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The officer should advise the interviewee to speak slowly, clearly, and in short sentences. The officer should tell the interviewee that the officer will try to do the same. The officer should emphasize that the interviewee should let the officer know, *at any time*, if the officer's questions are not clear, getting too long or otherwise cannot be understood by the interviewee. The officer should also tell the interviewee to let the officer know if there is any point in the interview when the interviewee cannot understand the interpreter.

The interpreter must read and translate the Declaration form to the interviewee at the time of the interview, or the interpreter must attest, under oath, that he has already read and translated the Declaration form to the interviewee (e.g., the interpreter may read and translate the Declaration form to the interviewee while in the waiting area). After placing the interviewee and interpreter under oath, the officer must request that the interviewee and interpreter sign the Declaration form. The interviewee and interpreter may not sign the Declaration form in the waiting area or any place outside of the presence of an officer. The Declaration form must be signed after the interviewee is placed under oath and in the presence of an officer. The officer may choose to review the statements in the Declaration to confirm the parties' understanding of the content.

After the interpreter has interpreted the Declaration form to the interviewee, the officer should confirm the interpreter's agreement not to disclose any personal information about the interviewee that the interpreter may learn in the interview, and confirm that the interpreter will accurately, literally, and fully interpret the content of the interview.

This introduction to the interview and review of the Declaration form allows the interviewee to understand the role of the interpreter and become familiar with consecutive interpretation. Additionally, these preliminary steps provide the interviewing officer an opportunity to assess the interpreter's fluency, competency, and impartiality in interpreting for the interviewee(s) and officer.

(3) *Communicating Effectively and Facilitating the Interpretation*

(A) *The Interpreter's Role and Conduct During the Interview*

These are general guidelines on the interpreter's role and conduct during the interview:

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- The interpreter must interpret verbatim, using the officer's and the interviewee's choice of words, rather than the interpreter's choice of words.
- The interpreter must not adopt the role of interviewer or take on the primary questioning role.
- The interpreter must not provide his or her own opinion, commentary, or answer.<sup>26</sup>
- The interpreter must not rephrase the officer's or interviewee's sentences with his or her own choice of words.
- The interpreter must not engage in conversation with the interviewee during the interview. The interpreter should advise the officer if a follow up question or explanation may be needed to clarify the officer's original question. It is the officer's decision, however, whether to do so.
- The interpreter must not try to resolve ambiguities or to paraphrase or summarize an exchange with the interviewee.
- The interpreter must advise the officer if certain terminology cannot be interpreted verbatim and that an interpretation that will accurately convey the meaning of what is being said will be used instead. The officer may also choose to rephrase the question in terms that can be more easily translated, if he or she wishes.
- The interpreter must use the same grammatical voice as the speaker. To illustrate, if the interviewer asks a question in the past tense, the interpreter should also ask the question using the past tense.
- The interpreter must, at all times, try to maintain a neutral reaction, both verbally and non-verbally, to what the interviewee says during the interview.
- The interpreter must not offer his or her opinion of what the interviewee is saying.
- An interpreter may provide an oral translation of a form(s) or document(s) if the interpreter is competent to do so.

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<sup>26</sup>If an interviewee asks the interpreter a question, the interpreter must immediately translate that question for the officer's response rather than answering the question him/herself.

*(B) The Interviewing Officer's Role and Conduct During the Interview*

These are general guidelines on the interviewing officer's role and conduct when conducting an interview with an interpreter. These guidelines will aid the officer in communicating effectively and facilitating the interpretation:

- Address the interviewee directly, not the interpreter, when speaking to the interviewee.
- Avoid conversations with the interpreter. The interpreter must interpret to the interviewee exactly what the officer says. When necessary, remind the interviewee and the interpreter of the interpreter's role and that conversations between the interviewee and the interpreter are not allowed.
- Speak slowly, clearly, and in short sentences. Remember to pause after every one or two questions or sentences to give the interpreter time to communicate your words to the interviewee. Even the best interpreters will likely forget some of an officer's words if the officer speaks too long before allowing for interpretation.
- Ask one specific question at a time. Avoid compound or long questions.
- Ask the interviewee to speak slowly and to break up his or her statements. The officer should explain that this will help the interpretation go smoothly for all parties.
- Use common, uncomplicated words as much as possible, unless the officer's meaning would be distorted. If use of an uncommon, technical or legal term that may not be clear is necessary, the officer must ensure that the interpreter is able to translate the term appropriately.
- Be conscious of speech patterns and geographical dialects that may be unfamiliar or confusing to the interviewee or the interpreter. Always be prepared to offer an alternative word for interpretation should the word or words that you are saying appear to give the interpreter difficulty when interpreting for the interviewee. For example, if you normally refer to the beverage "soda" as "pop" and the interpreter or interviewee does not understand what "pop" is, the officer should offer another word, such as "soda", to clear up any confusion.

- Repeat the question slowly or rephrase if the interpreter seems not to understand the question or requests that it be repeated or rephrased.
- The officer should rephrase or repeat a question if he or she suspects that the interviewee did not understand the question as it was interpreted or the interviewee requests that it be repeated or rephrased.
- If the officer is uncertain about anything that the interviewee says, the officer should repeat back to the interviewee what the officer understood the interviewee to have said. The officer should also stress, again, to the interpreter, to translate the officer's words verbatim to the interviewee and vice versa so that all parties are clear as to what was actually said.

**(e) Disqualifying an Interpreter**

*(1) Exercising Discretion and Disqualifying an Interpreter Prior to the Interview*

Prior to the interview, the officer must determine whether an individual qualifies as an interpreter pursuant to Section (a), Core Qualifications to Serve as an Interpreter. The officer must also determine whether an individual is restricted as an interpreter pursuant to Section (b), Restricted Individuals. In making a determination as to whether an interpreter should be disqualified, officers must make the determination carefully and support their decisions with solid reasoning and facts. The same is true when an officer decides that an exception for good cause exception should apply, where one is permitted under this guidance. Local field office management must be consulted and notified in those rare instances when an officer and his or her supervisor(s) have determined that a restricted individual does not appear to have grounds for an exception for good cause, but who nevertheless meets the core qualifications in Section (a) and should serve as an interpreter. Please remember that the table of possible grounds for the exception is not an exhaustive list of examples.

*(2) Exercising Discretion and Disqualifying an Interpreter During the Interview*

During the interview, the officer must continue to consider whether the interpreter remains fluent, competent, and impartial in his or her capacity as an interpreter pursuant to Section (a), Core Qualifications to Serve as an Interpreter.

A list of indicators and examples is provided below to assist officers in determining whether to exercise their discretion to disqualify an interpreter for failure to maintain the core requirements of competency, impartiality, and ability to remain unbiased in providing interpretation during the interview. **Note:** this list of indicators and examples is not exhaustive.

**Examples Where Officers May Exercise Discretion to Resolve Interpreter Issues**

The officer may attempt to resolve or correct these scenarios/examples by counseling the parties about their behavior or reminding the parties of their respective role(s). However, if the officer's efforts to resolve or correct are not successful, and the officer determines that the interpreter is no longer competent to interpret or is no longer maintaining impartiality, then the officer should exercise his/her discretion to disqualify the interpreter.

- The response to the officer's question does not answer the question or only partially answers the question.
- The officer recognizes words not being interpreted.
- The interpreter uses many more words to interpret the question than the question appears to have, or vice versa. Note: Some questions will require more or fewer words in one language than in another. This phenomenon alone does not always indicate that the interpretation is faulty.
- Lengthy response from the interviewee is interpreted from the interpreter as a very brief response, or vice versa.
- There is back-and-forth dialogue between the interpreter and the interviewee.
- The interviewee provides non-verbal signs that he or she is confused or concerned.
- Interviewee appears to understand some of the interpreter's translation to the officer and indicates, verbally or otherwise, that the interpreter is not conveying the interviewee's response correctly.

### **Examples Where Officers Should Disqualify an Interpreter**

The following are examples of situations where officers should disqualify the interpreter for failure to meet or maintain the core requirements for competency, impartiality and/or ability to give unbiased interpretation. If any of the following circumstances occur, *but* the officer decides that the problem has been resolved and determines the interpreter should not be disqualified, the officer must first obtain supervisory approval and also document the reasons for his or her decision in the A-file. In these situations, it will be rare that an interpreter will be allowed to continue participating in the interview.

- The interpreter is clearly testifying for the interviewee and refuses to cease and interpret only what the interviewee states.
- The interpreter is obviously coaching the interviewee.
- The interpreter is embellishing or changing answers, or altering the questions and refuses to cease doing so when the officer requests.
- The interpreter and the interviewee clearly appear to be consulting or collaborating on the responses to the officer's questions and refuse to cease at the officer's request.
- The interpreter appears to be inhibiting the interviewee's testimony.
- The officer has good reason to suspect that the interpreter alone, or the interpreter in collusion with the interviewee, is engaging in fraud when providing responses to the officer's questions.<sup>27</sup>

When the officer determines to disqualify the interpreter in these instances listed above, the officer must consult with his or her supervisor and follow the procedures for disqualification below.

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<sup>27</sup> If the officer has good, supported reason(s) to suspect the interpreter is personally engaging in fraud, the interpreter must be disqualified absent strongly compelling reasons, approved by the officer's supervisor, for non-disqualification. If the interview continues with the same interpreter, the officer and supervisor must ensure that the interpreter's negative behavior ceases or the officer must terminate the interview. **Please note:** If the interpreter is interpreting exactly what the interviewee states, but the officer has good reason to suspect the interviewee's testimony is fraudulent, that does not necessarily mean the interpreter has "engaged in" fraud him/herself. The interpreter could merely be providing fluent and competent, verbatim interpretation. The officer must determine whether the interpreter is independently providing fraudulent information or is colluding with the interviewee to provide fraudulent testimony before the officer can find that the interpreter is "engaging in" fraud. If the interviewee alone is providing the fraudulent testimony (albeit through the interpretation) or is colluding with the interpreter in providing the fraudulent testimony, then the officer should take the same appropriate steps the officer would take in any other interview where the interviewee gives fraudulent answers.



*(2) Procedures for Disqualifying an Interpreter*

USCIS reserves the right to disqualify an interpreter provided by the interviewee if an officer determines that the integrity of the examination is compromised by the interpreter's participation. The officer must consult with his or her supervisor prior to disqualifying an interpreter.

At any time before or during the interview, the officer may disqualify an interpreter because he or she is unqualified to serve as an interpreter under the standards described herein.<sup>28</sup>

If the officer determines that disqualification is necessary, the officer must stop the interview and discuss his or her concerns with his or her supervisor and recommend that the interview be rescheduled per local procedures. With the supervisor's approval, the officer must explain to the applicant or petitioner the general reason(s) for the interpreter disqualification, as well as provide the interviewee with the following options: 1) permit the interviewee to continue with the interview using another qualified interpreter; 2) reschedule the interview per local procedures in order to give the interviewee an opportunity to bring a qualified interpreter; or 3) continue the interview without an interpreter if the interviewee voluntarily desires to do so.

If necessary, and if the disqualified interpreter is generally competent in his or her language interpretation skills, the officer may use the interpreter to help explain the reason(s) for the disqualification and the options available to the interviewee. The officer must properly annotate the A-File with the reason for disqualification (e.g., lack of competency, bias, serving as attorney/representative during the interview) of the interpreter and whether an exception for good cause has been requested and rejected.

The USCIS officer should only permit an interviewee to continue the interview without the assistance of an interpreter if the officer is confident that he or she is able to communicate effectively with the interviewee in English. If the officer has concerns about the interviewee's fluency in English, the officer may ask some open-ended questions with the purpose of assessing the interviewee's ability to communicate in English, such as the following:

- How did you learn English?
- What is the purpose of your interview today?
- Please describe for me some of the things you see in this office.

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<sup>28</sup>See fn. 5 *infra* regarding discovery of post-interview evidence that the interpreter has not met described standards.

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If the USCIS officer has determined that the interviewee is sufficiently fluent in English that the officer and interviewee will be able to effectively communicate, before proceeding with the interview, the officer should ask the interviewee the following questions and record the questions and answers in the interview notes:

- Do you understand that you may choose to reschedule this interview so that you can bring a qualified interpreter with you instead of proceeding today in English?
- Do you want to go forward with this interview today in English, without the help of an interpreter?

If the interviewee answers the above questions in the affirmative and chooses to continue the interview without the assistance of an interpreter, the officer should proceed with the interview, notating any inability of the interviewee to communicate and understand questions. The officer should proceed to adjudicate or continue the case as appropriate under existing guidance for the benefit, *e.g.*, grant, deny, issue NOID, issue Request for Evidence, etc.

Note that in cases governed by 8 CFR 312.4 (naturalization cases) “Selection of Interpreter,” USCIS’ obligations to the applicant upon disqualifying an interpreter provided by the applicant differ from the disqualification obligations for interviews conducted pursuant to 8 CFR 245. Specifically, 8 CFR 312.4 states that if USCIS disqualifies an interpreter provided by the applicant for use pursuant to 8 CFR 312.2, USCIS must provide another interpreter for the applicant in a timely manner.”<sup>29</sup> This obligation to provide an interpreter for the applicant at a cost to USCIS is only applicable to interviews conducted pursuant to 8 CFR 312.4 and does not apply to other interviews.

### **Use**

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

### **Contact Information**

Questions or suggestions regarding this PM should be addressed through appropriate channels to your Directorate.

Attachment:

### **(A) Declaration for Interpreted USCIS Interview, Form G-1256**

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<sup>29</sup> 8 CFR 312.2 addresses the requirements and applicable exceptions regarding the mandatory knowledge of history and government of the United States as part of the educational requirements for naturalization under 8 CFR 312.4.