

6.04. Interpreter

A court shall appoint an interpreter when necessary for a witness or a party to communicate or be understood or for a party to understand the proceedings, and, upon appointment, the interpreter must give an oath or affirmation to make a true translation.

Note

The portion of the rule dealing with the appointment of an interpreter is in part derived from the Uniform Rules for Trial Courts, which require that a court appoint an interpreter “[i]n all civic and criminal cases, when a court determines that a party or witness, or an interested parent or guardian of a minor party in a Family Court proceeding, is unable to understand and communicate in English to the extent that he or she cannot meaningfully participate in the court proceedings.” (Uniform Rules for Trial Cts [22 NYCRR] § 217.1 [a].)

A court through its administrative arm may employ qualified interpreters for assignment as necessary and, upon doing so, have them take an oath or affirmation to make a true translation. (*See* Judiciary Law §§ 386-390.) If the interpreter is not an employee of the court and has not been given the oath or affirmation to make a true translation, the court must swear the interpreter. *See People v Fisher* (223 NY 459, 464-466 [1918]), wherein the Court of Appeals noted that an interpreter upon his or her appointment by the court must be sworn to interpret accurately. Nothing, including this rule or rule 6.02, requires or permits the interpreter to be sworn as a witness.

A court has the discretion to determine whether the interpreter is qualified to serve and whether an interpreter, once appointed, is biased in favor of a party or witness, is not effectively communicating with a witness, or is not accurately conveying what a witness is saying, thereby necessitating removal. (*See People v Lee*, 21 NY3d 176, 179 [2013]; *People v Pavao*, 59 NY2d 282, 293 [1983].)