

# Colorado Legal Interpreting Requirements

## Appendix J

### **Use of the Educational Interpreter as an Intermediary Interpreter**

The educational interpreter may have knowledge of unique individual communication needs of a student and their day-to-day environment. Thus the educational interpreter may be requested to assist the legally qualified interpreters to ensure a fully accurate interpretation that is legally defensible. In this capacity, the educational interpreter works at the request of the legally qualified interpreters assisting as needed.

### **Common Quasi-Legal Situations that Educational Interpreters may interpret:**

- IEP meetings (The interpreter cannot simultaneously fulfill the role of interpreting for the IEP and also serve as a participant representing their work as a part of the educational team. Therefore, these two roles should be filled by separate interpreters. Also, for meetings addressing due process or at the request of the parents a legally qualified interpreter should be provided.)
- DARE or other educational programs that involve law enforcement or other legal personnel
- Parent-teacher conferences (if not participating as a member of the educational team)
- Counseling sessions unless intent is to take a statement for a legal proceedings

### **Circumstances where Educational Interpreters should never be used:**

- Interpreting while waiting for the legally qualified interpreter to arrive
- Accompanying the student to the police station for the purpose of interpreting
- Interpreting in any known legal situation without a qualified legal interpreter present

### **What if the Educational Interpreter is called to Testify to their Interpretation?**

It is standard ethical practice for interpreters to maintain strict confidentiality in all their work. For the educational interpreter this means that all communication outside of the educational team is confidential. However, the legal system uses a higher standard for confidentiality known as privilege and that privilege only applies when the interpreter is working for interactions deemed as privileged e.g. attorney/client, doctor/patient etc. Therefore, it is possible that an interpreter may be called to testify regarding interpreting work for interactions that are not privileged.

Privilege does not exist in any law enforcement interactions, conversations with students, or classroom interactions. Educational interpreters can be called to testify regarding their work in settings not categorized as privileged. Students who are deaf and hard of hearing should be made aware that it is possible the interpreter may be called to testify in legal situations and that interpreters must abide by this legal requirement.

### **Recommendations**

Each school should establish clear policy regarding the use of interpreters holding the Legal Credential Authorization, following the requirements of the Colorado Revised Statutes 13-90-201—210. All staff should be aware of the protocol for complying with the statute which will protect the school district and staff from legal challenges and liability. Educational Interpreters should never be placed in situations where they would be in violation of state law regarding interpretation involving the legal system.

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While waiting for a legally qualified interpreter, or if the deaf or hard of hearing student needs to be accompanied off school grounds, another staff member should be selected to accompany the student, rather than the interpreter, in order to ensure that the interpreter is not placed in a compromising situation.

Regardless of the legal matter, implications are far reaching for all parties involved. Therefore, CDE urges full compliance in legal situations