

Practical and Ethical Considerations and Reminders when Working with Translators and Interpreters

The CILA team has compiled a list of some reminders, tips, and considerations to keep in mind as you work with a translator or interpreter in the context of a legal case, as well as some select ethical tips and considerations. This information is not exhaustive, and it does not constitute as legal advice.

Providing a child client with access to an interpreter or translator at any point in their case, so that they can communicate in their preferred language, is necessary to ensure that the child client is “enjoying all other rights and services.” (ABA Commission on Immigration, [The Standards for the Custody, Placement and Care; Legal Representation; and Adjudication of Unaccompanied Children in the United States](#) § III-G (last updated August 2018) [hereinafter *ABA Standards*]).

PRACTICAL TIPS AND CONSIDERATIONS

CILA's [Pro Bono Guide: Working with Children and Youth in Immigration Cases](#) (*Pro Bono Guide*) and CILA and COI's [Pro Bono Program Resources & Templates Toolkit](#) (*Pro Bono Program Toolkit*) provide information, resources, guidance, and considerations to pro bono practitioners working on migrant children's cases. Section II.D. on page 29 of CILA's *Pro Bono Guide* shares practical tips and reminders for attorneys when working with interpreters and translators. Additionally, starting on page 19 of the *Pro Bono Program Toolkit*, practitioners can access more tips on working with translators and interpreters, as well as helpful resources. You can check out several of those tips below—compiled with other tips learned in practice and from other practitioners—and check out the *Pro Bono Guide* and *Pro Bono Program Toolkit* for more information.



- **Determine your client's preferred/best language:**
 - While you may think you know your client's language based off an intake form or other paperwork that you receive, it is good practice to double-check the information.
 - Your client may speak multiple languages, but it is important to ask them what language they may feel most comfortable speaking and understand the best.
 - Keep in mind that your client's preferred spoken language may be different from their preferred written language.
- **If you are requesting the assistance of an interpreter or translator who is volunteering:**
 - Keep in mind that the volunteer may be volunteering for the first time. Be prepared to:
 - introduce yourself and your client and the context of the request for interpretation/translation services,

- remind the volunteer of their role in the case and the importance of their role,
 - set expectations—especially regarding deadlines—at the outset, and
 - give clear instructions as to the translation/interpretation request.
- Engagement letters may be a helpful tool to use when working alongside volunteer interpreters and/or translators to communicate the goals of the assignment, establish duties, and convey expectations.
- Explain confidentiality to both your client and the interpreter and/or translator to help develop a trusting relationship. Ask the interpreter/translator to sign a statement regarding confidentiality and your client to sign a release of confidential information before you get started.
- **Practical tips if you are working with an interpreter:**
 - If possible, in-person, face-to-face interpretation is best.
 - Remember that you will need additional time for interpretation during meetings. Be patient and plan accordingly.
 - Inform your client that an interpreter will be assisting or joining meetings and introduce the client to the interpreter and explain why the interpreter is assisting with the meeting (*Note: this is also an ethical duty to the client, see more information below*).
 - Remind the client to speak clearly for the interpreter.
 - Use simple, clear language.
 - Remind the interpreter that they are only interpreting what the client is saying, from the client's point of view. The interpreter should not converse with the client or influence the client. For example, if the client is telling their story or facts about their life, then the interpretation should be from the client's point of view.¹
 - Remind the interpreter that they can ask for clarification or repetition to ensure accurate interpretation. Word-for-word interpretation is key.
 - Give the interpreter and your client opportunities to take breaks.
 - Speak directly to your client. Give your client eye contact and engage with your client rather than the interpreter. Make sure the setup of the room helps facilitate dialogue directly with your client.
- **When you are working with a client who has experienced trauma and are requesting the assistance of an interpreter:**
 - Set aside more time for the meeting than you would think necessary. Interpretation adds time to a meeting, and adding additional time for breaks during difficult conversations may help your client.

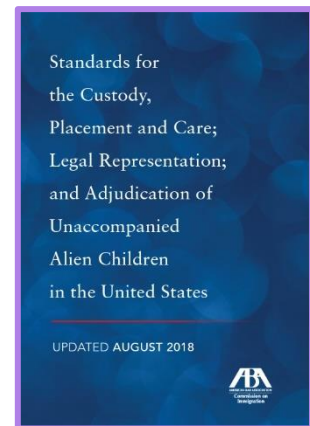
¹ “The accepted standard for legal interpretation is to ensure “direct speech,” using the same grammatical person as the speaker. This method allows the Attorney and the client to build a trusting relationship despite the inability to communicate directly. This requires the interpreter to avoid unnecessary interference and to say exactly what the speaker is saying, for example, “[P]lease state your name,” instead of “she wants you to state your name.” See Comments to Rule V.A.1.i. ABA Commission on Immigration, *The Standards for the Custody, Placement and Care; Legal Representation; and Adjudication of Unaccompanied Children in the United States* Comments to Rule V.A.1.i.

- Try to work in-person with both the client and the interpreter. This can help prevent technical problems that may arise during the meeting, but this may also help the client feel more at ease.
- As you request the interpreter, consider asking the interpreter or the interpretation service provider if the interpreter has undergone trauma-informed training.
- Consider asking your client whether they would prefer to work with an interpreter of a specific gender.
- **Practical tips if you are working with a translator:**
 - Documents supplied to the U.S. Citizenship and Immigration Services (USCIS) and immigration court must be in English with a certificate of translation. Remind the translator to attach a certificate of translation at the end of each translated document. Translators themselves do not need to be certified.
 - If you have the time, capability, and capacity, read through the translated documents or have another individual review the translation to check for accuracy, client's voice, and word-for-word translation.
 - Emphasize the necessity of word-for-word translation to the translator—even with usages of slang, misspellings, and incorrect grammar.
 - As with interpretation, remind the translator to use first person narration for translation, if applicable. For example, if the client has written a personal declaration in their native language, and the translator is translating the document into English, the translated declaration should still be from the client's point of view and in their voice.

ETHICAL TIPS AND CONSIDERATIONS

The ABA [Standards](#) provides guiding rules of general applicability that apply to unaccompanied children in the United States. In working on a child's legal case and seeking the assistance of a translator or interpreter, attorneys and pro bono coordinators alike should consult the ABA *Standards* and ensure that their unaccompanied child clients are receiving services and treatment in line with the *Standards*.

As mentioned above in the *Practical Tips* section, CILIA's *Pro Bono Guide* contains information and considerations for practitioners to remember as they work on unaccompanied children's cases. The *Pro Bono Guide* also lists ethical considerations and duties—pointing to the American Bar Association's [Model Rules of Professional Conduct](#) (ABA *Model Rules*).



Here, the CILIA team has compiled some select ethical tips and considerations, as listed in the ABA *Standards* and in the ABA *Model Rules*, for practitioners to remember in their practice and advocacy as they work with interpreters and translators.

Children have a right to interpretation and translation.

- **Rule:** "Children have the right to language access by means of an interpreter and translated documents throughout all stages" of their legal proceedings. (See ABA *Standards*, Rule III.G.).

- **Comment:** The provider of the interpretation or translation service “has the obligation to provide a trained and independent interpreter or translator.” (See *ABA Standards*, Comments to Rule III.G).
- **Comment:** When a practitioner is choosing an interpreter or translator to assist them in the child’s case, it is important to “choose one who speaks not only the Child’s language, but his specific dialect.” (See *ABA Standards*, Comments to Rule III.G).

Attorneys have a duty to the child regarding working with translators and interpreters.

- **Rule:** “The Attorney for the child is a lawyer who provides legal services for the Child and who owes the Child the same duties, including undivided loyalty confidentiality, and competent representation as would be owed to an adult client.” (See *ABA Standards*, Rule V.A.1.i).
- **Rule:** “The Attorney shall take reasonable steps to communicate with her client in a language and manner the client understands and to ensure that any interpreter or translator used in her communications with the Child understands the Attorney’s and her own confidentiality obligations.” (See *ABA Standards*, Rule V.A.1.i).
 - **Comment:** Attorneys have an “ethical obligation to take reasonable steps to communicate with their clients in a language they understand or be subject to disciplinary action.” (See *ABA Standards*, Comments to Rule V.A.1.i).
 - **Comment:** “To the extent that the Child may be having problems with expressing a preference because of linguistic difficulties, the Attorney should ensure that the interpreter recognizes the importance of understanding the Child’s wishes”—where the Attorney conveys these wishes accurately and “refraining from attempting to influence the Child in any way.” (See *ABA Standards*, Comments to Rule V.A.1.i).

Attorneys must explain the presence, role, and duties of an interpreter to the child.

- If an interpreter is present when the attorney and the child are meeting, the attorney should explain to the child client why the interpreter is present and their role. The attorney should also explain the interpreter’s confidentiality obligations. (See *ABA Standards*, Comments to Rule V.C.1. See also *ABA Standards*, Rule V.A.1.i).

Attorneys should explain the duty of confidentiality to translators and interpreters.

- **Rule:** The attorney should “ensure that the interpreter/translator and the Child understand the ethical duty of confidentiality of both the Attorney and the interpreter/translator to maintain confidentiality of the information.” (See *ABA Standards*, Rule V.C.3.d).
- See **Rule 1.6 Confidentiality of Information** of the *ABA Model Rules*. Maintain confidentiality to your client by having a confidentiality agreement with any interpreters and translators assisting on the case, and consider asking your client to sign a release when working with interpreters and translators.

Attorneys should assess the translator and interpreter’s skills and impartiality.

- **Rule:** “The Attorney should ascertain the interpreter/translator’s background to ensure impartiality.” (See *ABA Standards*, Rule V.C.3.b).
- **Rule:** The attorney shall ensure that the interpreter/translator is fluent “in English and in the Child’s best language and dialect” and that the interpreter/translator understands legal or specialized terminology. (See *ABA Standards*, Rule V.C.3.c).
- **Rule:** Regarding interpreters specifically, the attorney shall make sure that the interpreter “employs words appropriate to the Child’s age and abilities; that the interpreter is, and



appears to the Child to be, impartial; that the interpreter communicates with Children in general, and, where applicable, with traumatized Children; and that the interpreter employs direct speech.” (See *ABA Standards*, Rule V.C.3.c).