

VIDEO REMOTE INTERPRETING PROCEDURES ADOPTED BY REGION 2

Issued by Region 2 on May 6, 2022

Effective July 1, 2022 Unless Otherwise Specified

Introduction and General Overview

These Procedures will apply to Region 2 Trial Courts and the interpreter employees covered by the Memorandum of Understanding (“MOU” or “labor agreement”) between Region 2 and the California Federation of Interpreters, Local 39000 (“Union” or “CFI”), and concern the use of Video Remote Interpreting (VRI), as defined below, to facilitate the prompt availability of language access services to Limited English Proficient (“LEP”) court users. When a Region 2 Court determines it would be appropriate to provide interpreting services for a LEP court user through VRI, rather than in-person interpretation, the Court will first determine whether an interpreter employee of the Court in the needed language pair is available to perform the VRI assignment. When a Region 2 Court does not have its own interpreter employee(s) available to provide the interpreting service, the Region 2 Court will submit a request to the Region 2 Courts covered by the Region 2 – CFI MOU that employ interpreter employees in the needed language pair to determine whether any of those Courts has an interpreter employee in the needed language pair available for the VRI assignment. If so, an interpreter employee from the other Region 2 Court (the “Provider Court”) will be assigned to perform the VRI assignment for the other Region 2 Court in need of the VRI services (the “Receiver Court”).

In order to transition from the Region 2 Courts’ use of remote proceedings under Rule 3 of the Emergency Rules Relating to COVID-19 issued by the Chief Justice of the California Supreme Court, and to enable the Region 2 Courts to obtain the equipment consistent with these Procedures and take the various steps needed to comply with these Procedures, the below requirements and guidelines will take effect July 1, 2022, except that those Region 2 Courts seeking to implement VRI under these Procedures may provide the 45-days’ notice of implementation to the Union as provided in Section II, para. 4 below, and commence training prior to July 1, 2022.

Definition of VRI

For the purposes of these Procedures, the definition of Video Remote Interpreting (VRI) is when the interpreter employee is rendering spoken language interpreting services by means of an audiovisual delivery system, such as Zoom, Microsoft Teams or similar platform, and when both the audio and video features of the audiovisual delivery system are used simultaneously to conduct the interpreting services. The use of telephone equipment (such as a cell phone, land line or speaker phone) and/or the use of the audio on an audiovisual delivery system to perform spoken language interpreting services is not VRI. For instance, when a person participating in the proceedings appears by using only the audio portion of an audiovisual platform (rather than by phone) and the other participants, including the interpreter, have appeared in-person at the proceeding, the interpreter is not performing VRI. The Courts shall not direct any participant to appear by using only the audio portion of the audiovisual platform with the intent of avoiding the application of these Procedures. In the event a participant appearing remotely has technical difficulties while using the visual component of an audio-visual platform, and is directed by the Court to turn off the remote camera, that proceeding shall still constitute a VRI assignment for purposes of these Procedures. Except as addressed in the terms of these Procedures, the use of spoken language VRI shall not otherwise modify the contractual or statutory requirements of the Trial Court Interpreter Employment and Labor Relations Act or the terms of the Memorandum of Understanding between Region 2 and the Union (“MOU”).

These Procedures are not intended to restrict or otherwise limit the Region 2 Courts' use of remote interpreting that does not otherwise meet the definition of VRI above. Such use may continue consistent with existing policies and/or procedures of a Court.

Section I

1. **Labor Management Committee** - A VRI Labor Management Committee will be established by the Region to review and attempt to resolve operational issues, including but not limited to technology issues, that may arise as the result of the implementation of VRI. The Committee may recommend a process for evaluating the VRI events and may make recommendations to the applicable Courts' Chief Executive Officer(s) regarding ways to make the VRI more effective. The Committee will develop a short survey for the five main languages spoken in the area for LEPs to include overall level of satisfaction from 1-5 and any comments/suggestions.

The Committee shall meet quarterly (or more often by mutual agreement). Each side shall submit a written agenda to the other not less than ten working days before the meeting. If neither party submits any agenda items, there shall be no meeting. Based upon the submitted agenda, the Region 2 Chair at its discretion shall determine the appropriate composition of Region 2's representatives for the Committee meeting. For instance, if the requested agenda item concerns a matter applicable to a specific Region 2 Court only, the composition of the Region's representatives at the Committee meeting may be limited to a Region representative and a representative from the specific Region 2 Court that is the subject of the requested agenda item. In the event the requested agenda item concerns multiple Region 2 Courts, the Region Chair may appoint up to three representatives to attend the Committee meeting. The Union may appoint up to three representatives to attend the Committee meeting.

The Committee shall sunset eighteen months after implementation. Thereafter, VRI will be a topic discussed at each local Court's labor management committee meeting as needed; reviewing and attempting to resolve operational matters including but not limited to technology issues.

2. **Compensation** – Region 2 Interpreter employees who are assigned by their employer Court (“Home Court”) to perform spoken language VRI for another Region 2 trial court (“Receiver Court”) shall receive a 25% stipend for any day in which they perform spoken language VRI for the Region 2 Receiver Court. For instance, if a full-time interpreter employee of a Region 2 trial court who works 8 hours in a day is assigned by his/her Home Court to perform and does perform VRI for 10 minutes within that day for a Region 2 Receiver Court, the interpreter employee will receive a 25% stipend for the 8 hours, even though the interpreter employee does not perform VRI for the entire 8 hours. The stipend for part-time interpreters shall be based upon the number of hours they were assigned to work on that day. For instance, if the part-time interpreter employee of a Region 2 trial court is assigned by his/her Home Court to work and does work for four hours on the day, including performance of interpretation on assignment(s) for his/her Home Court and the interpreter's performance of VRI for a Region 2 Receiver Court, the part-time employee shall receive a 25% stipend for the four hours.

When an interpreter is performing VRI on behalf of their Home Court, the interpreter is **not** eligible for the stipend.

An interpreter employee who is working on cross-assignment at a Region 2 trial court or a trial court in another Region, and who performs VRI on behalf of the cross-assigned trial court is not eligible for the stipend. Instead, his/her compensation shall be governed by Article 20 (Cross-Assignment Procedures) of the MOU.

3. **Reporting of VRI events** – Each court will maintain a record of VRI events including the date, case name and number, language, case type, event type, duration, Interpreter assigned, whether the Interpreter assigned is an employee or independent contractor, the location of the interpreter while performing the VRI event (courtroom, VRI room, or facility/location other than the Court), any difficulties encountered, and whether the interpreter is certified, registered or provisionally qualified. The Region Chair will provide a report to the Union of VRI events upon request at reasonable intervals, not to exceed quarterly reports.
4. **Technical Minimums for VRI Equipment**
 - a. The following are minimum specifications for equipment at a Region 2 Home Court/Provider Court for its Interpreter employees to use to provide VRI for a Receiver Court, and/or to provide VRI on behalf of their Home Court when the Interpreter employee is remote from both the proceeding/event and the individual(s) for whom the interpreter employee is rendering the interpreting services.
 - (1) Computer with processor that is dual core 2Ghz or higher, has at least 4Gb of memory, has two flat panel displays/monitors, each with screen size of at least 19 inches and resolution of at least 1280 x 720 PPI (pixels per inch), has a wired Internet connection with bandwidth for group video calling that is, at a minimum, for 720p HD video – 2.6 Mbps/1.8Mbps (up/down);
 - (2) A webcam (integrated or external) with minimum 720p (1280 x 720 pixels) and 30 FPS (frames per second); and
 - (3) Integrated headset (speakers and microphone) that is wired , USB 2.0 connectivity or other appropriate cabling to connect the headset to the computer, and with a noise cancelling microphone.
 - b. Minimum Specifications for Equipment at the Region 2 Receiver Court or Region 2 Home Court under the Circumstances Identified in 4.a. above:
 - (1) At least one webcam to capture the view of the Judicial Officer, and both counsel tables; with minimum 720p (1280 x 720 pixels) and 30 FPS (frames per second);
 - (2) Webcam, or tablet/laptop/other device with integrated webcam with minimum 720p (1280 x 720 pixels) and 30 FPS, so that Provider Court interpreter employee can view the LEP litigant or witness who needs the interpreter services and is present within the Courtroom;
 - (3) Audio equipment sufficient in the courtroom for all courtroom participants (Judicial Officer, legal counsel, litigants, witness, and court reporter) to hear the interpreter employee and for the interpreter employee to hear the Judicial Officer, legal counsel, litigants and witness.

The Courts have the discretion to change the audiovisual platform used and to upgrade and/or change the equipment and/or technology used, provided they meet the above minimum specifications.

Section II

1. VRI Guidelines

- a. In addition to the guidelines set forth below, the Region adopts the attached provisions from the Judicial Council of California (“JCC”) Recommended Guidelines and Minimum Specifications for Video Remote Interpreting (VRI) for Spoken Language Interpreted Events, dated May 21, 2021, as an addendum to these Procedures. Where or if the JCC guidelines are determined to conflict with the guidelines below, the guidelines in Section II shall prevail.
- b. A Court should conduct an individual analysis of the language and legal demands of the case before recommending VRI for the assignment. Except in those matters in which a Judicial officer has determined that a witness, attorney and/or litigant will be allowed to appear remotely, the interpreter coordinator/manager will perform an analysis of whether the use of VRI for the assignment is appropriate based on the following guidelines:
 - i. Events that are expected to last less than 30 minutes in duration.
 - ii. Events that are not complex, or events of a routine nature.
 - iii. Events that are generally non-evidentiary (meaning hearings or other matters without testimony or hearing or matters that are uncontested).
 - iv. Events involving uncontested infractions that require no testimony, like traffic cases.
 - v. Events of a nature that cannot be delayed such as arraignments for in-custody defendants, bond review hearings, bail reductions, O.R. hearings (own recognizance hearings), and temporary restraining orders, including domestic violence and civil harassment restraining orders.
 - vi. Out-of-court communications such as attorney-client conference/interviews, court-mandated or appointed services (such as mediation or family court services), probate investigation interviews, self-help centers, post-court services, review of probation conditions, pre-trial services, and language access services in other facilities that are required for a court case (examples include but are not limited to hospitals, clinics, psychiatric facilities, and incarceration/detention facilities).
- c. If the Region 2 Court determines that the assignment is appropriate for VRI and the Court’s own interpreter employees in the needed language pair are not available for the assignment, the Region 2 Court will submit a request to the Region 2 Courts that employ interpreter employees (who are covered by this Procedure) in the needed language pair to determine whether any of those Courts has an interpreter employee in the needed language pair available for the VRI assignment. An available interpreter employee from the other Region 2 Court (the “Provider Court”) will be assigned to perform the VRI assignment for the other Region 2 Court in need of the VRI services (the “Receiver Court”) (See paragraph j below concerning the procedures for the Region 2 Provider Court to follow in making the assignment).

In the event an interpreter employee from a Region 2 Provider Court is not reasonably available for the VRI assignment at the Region 2 Receiver Court, the Region 2 Court in need of the interpreter services has the option, but is not required, to seek an interpreter employee from a Provider Court in another Region. Otherwise, the Region 2 Court in need of the interpreter services will follow the applicable cross-assignment procedures in Article 20 of the labor agreement between Region 2 and CFI.

- d. If the Region 2 Court determines VRI is not appropriate and an on-site interpreter is needed other than its own interpreter employee, the Region 2 Court in need of the interpreter services will follow the applicable cross-assignment procedures in Article 20 of the labor agreement between Region 2 and CFI.
- e. **Training**: prior to implementing VRI, training will be provided to Judicial Officers, interpreters and court staff on the use of these guidelines, the checklist to be used (See Section III below), as well as the use of the Court's VRI equipment, including but not limited to, an explanation and demonstration as to how the equipment works.
- f. **Modes of Interpretation**: generally, remote interpreting shall be performed in the consecutive mode, unless the audiovisual platform used provides for both consecutive and simultaneous mode. In such circumstance, the Judicial Officer determines which mode of interpretation should be used.

Initial instructions will be reviewed with participants prior to each VRI event and should include a brief instruction on the protocols for the consecutive and/or simultaneous mode(s) in the proceeding.

- g. **Sight Translation**: sight translation may be performed over VRI for appropriate events provided the interpreter has a clear and readable copy of the document(s). The documents may be provided by the document share function in the audio-visual platform, email or other digital scanning device.
- h. **Confidential Communications**: the Court will ensure a reliable method is in place for attorney-client privileged communications and instruct all parties, including the interpreter, on a method for confidential communications.
- i. **Ethics**: interpreters using VRI are bound by the same professional standards as on-site court interpreters (CRC Rule 2.890) and the *Judicial Council of California Professional Standards and Ethics for California Court Interpreters*, 5th edition, May 2013. When necessary, the interpreter shall inform the Judicial Officers of any impediments to performance.
- j. **Assignments**: to the extent feasible, VRI interpretations will be prescheduled. All interpreters performing VRI shall be trained on the use and protocol of VRI, prior to the assignment. Interpreters shall be assigned to VRI based upon the needs of the Court.

A Region 2 Provider Court will solicit volunteers to participate in the VRI rotation in each language pair for VRI assignments at Receiver Courts. In making VRI assignments, a Region 2 Provider Court will use reasonable efforts to rotate assignments among employee interpreters in the needed language pair who have volunteered to perform VRI assignments. However, if there are no volunteers, interpreters will be assigned on a rotation based upon need.

Whether the VRI interpretation is in a single event or multiple events, interpreters performing the VRI assignment(s) will have a minimum of a five-minute break between VRI events lasting more than five minutes. In the event an interpreter becomes fatigued during interpretation of a VRI event, the interpreter shall notify the Judicial Officer and request a break. A break shall be granted at Judicial Officer discretion.

2. **End Point Conditions:** This provision is applicable when a Region 2 Provider Court has assigned its interpreter employee to perform VRI for a Receiver Court, and/or a Region 2 Home Court has assigned its own Interpreter employee to perform VRI on behalf of the Home Court and the interpreter employee is remote from both the proceeding/event and the individual(s) for whom the interpreter employee is rendering the interpreting services. Such Courts will provide a separate room (with walls and a closable door), in a courthouse or other Court facility, where the interpreter performing VRI will not be interrupted or overheard. Notice should be posted outside of the room to encourage a quiet environment. It shall be the responsibility of the interpreter, at their choice, to post or not post the Notice. The Notice shall be provided by the Provider/Home Court as applicable. The room will include a workstation/desk with a chair for the interpreter to perform the VRI, and a computer set up that meets the minimum specifications in Section I, paragraph 4 above.

Although these Procedures contemplates that the interpreter employee will perform the VRI assignment(s) at a Court facility, the Procedure is not intended to preclude a Region 2 Court from providing VRI assignments to its interpreter employee(s) as a reasonable accommodation for disability or other serious medical condition, or in the event of an emergency, such as a natural disaster, fire, epidemic or pandemic which renders interpreter employees unable to report to work.

3. **Unit Work and Contracting Out:** use of VRI in spoken language shall not modify the contractual or statutory requirements related to bargaining unit work or contracting out unit work. Specifically, prior to utilizing an independent contractor, to perform spoken language VRI, the Court will ensure that there are no employee interpreters available to perform the spoken language VRI. See Government Code Section 71802.
4. **Notice of Implementation:** A Court seeking to implement VRI will provide 45 days' advance written notice to the Union that the Court plans to implement VRI as a Receiver Court and/or Provider Court. The notice will include the anticipated date of implementation, a brief description of the technology set up and anticipated dates of trainings. The Union will have the option of sending a representative to observe such interpreter training.
5. **Preparation and Protocols:** prior to beginning the interpretation in a VRI event, the remote interpreter will have an opportunity to confirm a clear view of speakers and to confirm a good audio and video connection has been established. Prior to or at the start of the proceeding, the interpreter will be notified of the nature of the proceeding, and the names of the participants, and will be provided any applicable documents relevant to the proceedings that may be reasonably available. Prior to beginning the interpretation in a VRI event, the Judicial Officer will confirm that all participants can hear the interpreter, the Judicial Officer, the parties, counsel and court reporter. The court should make clear that if for any reason VRI is not facilitating effective communication, any participant can request that the matter be suspended and/or rescheduled. The decision to continue and/or reschedule the matter shall rest with the Judicial Officer.
 - a. The following individuals must hear the remote interpreter's voice clearly and have clear access to one or more microphones to ensure that the interpreter can hear all their voices clearly.
 - i. Judicial Officer
 - ii. Defendant/Respondent
 - iii. Plaintiff/Petitioner
 - iv. Counsel for all parties
 - v. Prosecutor
 - vi. Any other LEP participant

- b. All parties and the interpreter need to check microphone and camera clarity before beginning interpretation.
- c. Courts and interpreters should have technical support easily available.
- d. Clear and concise operating instructions should be posted with the VRI equipment.

Note: it is critical that prior to the start of a VRI event, all parties, Judicial Officers, court staff, and officers of the court, know how to allow for confidential conferencing when needed.

Section III

1. Checklist

The interpreter coordinator or courtroom clerk, Judicial Officer, and remote interpreter should go through a checklist to ensure everything is in place prior to starting the hearing. An example of a checklist is as follows:

- Set meeting using Outlook or similar software that can provide all participants with logon details for hearing.
- Position and adjust webcams, phones, and headsets to ensure clear picture and sound for all courtroom participants.
- Make sure equipment is operational.
- Initiate a test with the assigned remote interpreter.
- Have an action plan to assist if a confidential attorney-client communication is requested.
- Share the confidential communication action plan with the interpreter.
- Upon completion of the test of the equipment and readiness:
 - i. Stand by for the Judicial Officers to request interpretation or for the hearing to begin.
 - ii. Confirm visibility and audibility for the Judicial Officer of both the court user and the interpreter.
 - iii. Inform Judicial Officer immediately if any technical difficulties arise.
 - iv. Remain present throughout the hearing until the Judicial Officer releases the interpreter.
 - v. Assist as needed with requests for confidential communication.
- After the hearing:
 - i. End meeting, which will drop all participants automatically.
- Remote Interpreter Responsibilities:
 - i. Make sure equipment is turned on and operational before the scheduled test.
 - ii. Be ready to answer when the Court representative initiates the equipment test.
 - iii. Check that your location is suitable for VRI - such as adequate lighting, no distracting background noises or objects, etc.
 - iv. Adjust your equipment for clear picture and sound on all incoming and outgoing signals and devices.
 - v. Stand by for the Judicial Officer to request interpretation or call the hearing to order.
 - vi. Assist as needed to affirm visibility and audibility of the court user(s) and interpreter.
 - vii. Inform Judicial Officer immediately if there are any technical difficulties.
 - viii. Remain in place until released by the Judicial Officer.

ADDENDUM REGARDING JCC RECOMMENDED GUIDELINES

The JCC has adopted Recommended Guidelines and Minimum Specifications for VRI, dated May 21, 2021. The Region 2 Courts will implement the following based upon the JCC Guidelines:

REGARDING JCC GUIDELINES FOR USING VRI IN COURT PROCEEDINGS

1. Need to Interrupt or Clarify, and Suspend and Reschedule

When using VRI, the court should consult with the interpreter to determine how best to facilitate interruptions or clarifications that may be needed. The court should suspend and reschedule a matter if, for technology or other reasons, VRI is not facilitating effective communication, or if the interpreter finds the communications to be ineffective.

2. VRI and VRI Challenges

The court shall be mindful of the particular challenges involved in remote interpreting, including increased fatigue and stress. Events involving remote interpreting should have shorter sessions and more frequent breaks.

3. Participants Who Must Have Access

The remote interpreter's voice must be heard clearly throughout the courtroom, and the interpreter must be able to hear all participants.

4. Visual/Auditory Issues, Confidentiality, and Modes of Interpreting

VRI is generally preferred over other methods of remote interpreting that do not provide visual cues, such as telephonic interpreting. However, there will be situations where VRI is not possible or is not necessary. (See below for visual/auditory issues and requirements for confidentiality that must be considered and accounted for when implementing VRI.)

5. Documents and Other Information

The court shall ensure the availability of technology to communicate written information to the interpreter including a copy of exhibits being introduced, as well as information after a proceeding, such as an order, so the interpreter can provide sight translation to the Limited English Proficient (LEP) individual if needed.

6. Professional Standards and Ethics

The same rules for using qualified interpreters apply to assignments using VRI. It is the intent of the language access plan to expand the availability of certified and registered interpreters through the use of VRI. All interpreters performing VRI should be familiar with – and are bound by – the same professional standards and ethics as onsite court interpreters.¹

7. Data Collection

- a. Courts using VRI in the courtroom should monitor the effectiveness of their technology and equipment, and the satisfaction of participants.
- b. For purposes of supporting funding requests, courts should track the benefits and resource savings resulting from VRI on an ongoing basis (e.g., increased certified/registered interpreter availability to assist with additional events due to the use of VRI, and any cost savings).

¹ The requirements for provisionally qualifying an Interpreter can be found In Government Code section 68651(c) and California Rules of Court, Rule 2.893.

SUGGESTED LANGUAGE FOR THE JUDICIAL OFFICER WHEN CONSIDERING OBJECTIONS RELATED TO REMOTE INTERPRETING

We will have a court certified/registered _____ (insert language) interpreter help us with these proceedings.

The interpreter is at a remote location and will appear in court via video- (or audio-) conference. Please remember to speak slowly and clearly and not speak at the same time as each other.

Do parties and counsel have any objections to the interpreter participating by remote interpreting for today's proceedings?

[Judge rules on objections, if any, or assists in resolving concerns.]

If proceeding with VRI (or audio):

Parties and counsel had no objections to the use of remote interpreting, so the court will proceed with today's hearing.

[or]

Parties and counsel objected to the use of remote interpreting, but the court has overruled those objections, so the court will proceed with today's hearing.

If not proceeding with VRI (or audio):

Parties and counsel objected to the use of remote interpreting. The court will not continue with today's hearing at this time and will reset this matter for a qualified (insert language) language interpreter to be available in person.

Suggested Language to Include in the Minutes:

Interpreter (insert name) _____ is present by video remote conferencing (or audio) and sworn to interpret _____ (insert language) language for _____ (insert name) (if appropriate)

Sworn oath on file with the Superior Court of California, County of _____

Visual/Auditory Issues, Confidentiality, and Modes of Interpreting When Working Remotely

1. A clear view of the LEP court user is more important than a view of every speaker. Although cameras on all stakeholders may be beneficial, they may not be essential. A speakerphone is not recommended unless it accommodates the other requirements of these guidelines, including the ability to be part of a solution to allow for simultaneous interpreting when needed.
2. To ensure the opportunity for confidential attorney-client conferencing, the attorney should have available an individual handset, headset, or in-the-ear communication device to speak with and listen to the interpreter.
3. Interpreting in the courtroom regularly involves both simultaneous and consecutive modes of interpreting. This can be achieved in a variety of ways using existing and emerging technologies. In longer matters, failure to have a technical solution that can accommodate simultaneous interpreting will result in delays of court time and may cause frustration with remote interpreting. Courts should use a technical solution that will allow for simultaneous interpreting. However, there may be proceedings (for example, very short matters) in which consecutive interpreting is adequate to ensure language access.
4. Recognizing that courts may implement very different technical solutions for VRI, it is critical that prior to the start of an interpreted event all parties, judicial officers, court staff, and officers of the court (including attorneys and interpreters) know how to allow for confidential conferencing when needed.
5. All participants, including the LEP party and the interpreters, need to check microphone and/or camera clarity before beginning interpretation.
6. Both VRI interpreters and courts should have technical support readily available.
7. Clear, concise operating instructions should be posted with the VRI equipment.