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## CHAPTER 47

### COURT INTERPRETER AND TRANSLATOR RULES

[Prior to April 1, 2008, see Chapter 14]

**Rule 47.1 Definitions.** As used in this chapter:

*Certified deaf interpreter (CDI).* A “CDI” is an interpreter who is deaf, has obtained a Certified Deaf Interpreter certificate or a Certified Legal Interpreter Provisional—Relay (CLIP-R) certificate from the Registry for Interpreters for the Deaf (RID), and who provides interpreting services to deaf persons with linguistic differences that prevent them from fully utilizing a traditional American Sign Language (ASL) interpreter.

*Court interpreter or interpreter.* A “court interpreter” or “interpreter” means an oral or sign language interpreter who transfers the meaning of spoken or written words or signs into the equivalent meaning in another oral or sign language during a legal proceeding.

*Court-ordered program.* A “court-ordered program” is a predisposition program in which a court has ordered a party to participate.

*Court personnel.* “Court personnel” includes clerk of court staff and district court administration staff.

*Court proceeding.* A “court proceeding” is any action before a state court judicial officer that has direct legal implications for any person.

*Legal proceeding.* A “legal proceeding” includes any court proceeding, any deposition conducted in preparation for a court proceeding, any case settlement negotiation in an existing court case, and any attorney-client communication necessary for preparation for a court proceeding in an existing court case.

*Limited English proficient (LEP) participant or person.* An “LEP participant” or “LEP person” has a limited ability to speak, read, write, or understand English because the person’s primary language is not English or because the person is deaf, deaf-blind, or hard-of-hearing.

*Participant in a legal proceeding.* A “participant in a legal proceeding” is any of the following: a party or witness in a court or legal proceeding; a party participating in a court-ordered program; a parent, guardian, or custodian of a minor party involved in a juvenile delinquency proceeding; a deaf, deaf-blind, or hard-of-hearing attorney; or a deaf, deaf-blind, or hard-of-hearing person summoned for jury duty or grand jury duty.

*Reasonably available interpreter.* Subject to the exceptions identified in rule 47.3(6), a “reasonably available interpreter” is an interpreter available and willing to provide in-person services at the time and location of the legal proceeding and who resides within 150 miles of the location where the legal proceeding will occur. A reasonable distance could be more than 150 miles when an interpreter of an uncommon language is needed or the case could result in serious consequences for one of the parties, including but not limited to termination of parental rights, a sentence to serve time in a state correctional facility, or substantial financial damages.

*Translator.* A “translator” accurately transfers the meaning of written, oral, or signed words and phrases in one language into the equivalent meaning in written words and phrases of a second language, or accurately produces a written transcript in English of electronically recorded testimony or other court communication in which one or more of the participants has limited English proficiency.

**47.2 Minimum qualifications of a court interpreter.**

**47.2(1) Qualifications.**

*a. Minimum age.* A court interpreter must be at least 21 years old.

*b. Education.* A court interpreter must have completed at least the equivalent of two years or

48 credit hours of college courses or must have completed the requirements in rules 47.4 or 47.5 to qualify for the Iowa roster of court interpreters.

*c. Approval of office of professional regulation.*

(1) *Court interpreter application form.* A court interpreter must complete an application form, developed by the director of the Office of Professional Regulation of the Iowa Supreme Court (the OPR), on which the interpreter provides information about the interpreter's education, experience, prior misconduct, and references to assist the court in determining the interpreter's qualifications for court interpreting.

(2) *Criminal records search.* A criminal records search will be completed by the OPR or a designee of the OPR at the time the application to be a court interpreter is filed with the OPR. The criminal record search may be waived for an interpreter who has had a criminal records search completed by the OPR or a designee of the OPR within six months of the filing date of the application.

(3) *No prior disqualifying misconduct.* The OPR will review the applicant's application and criminal background check for possible disqualifying misconduct as identified in rule 47.2(1)(c)(3)(1) through (2). When reviewing possible disqualifying misconduct, the OPR will weigh any mitigating or aggravating factors identified in rule 47.10(6) and the applicant's candor in the application process. The OPR may determine whether the misconduct disqualifies the applicant from being a court interpreter. Possible disqualifying misconduct includes:

1. A felony or any lesser crime of dishonesty or moral turpitude for which the applicant was convicted in any jurisdiction. An offense is a felony if it was classified as a felony in the jurisdiction where the conviction was entered at the time of the conviction.
2. Ethical misconduct that resulted in the bar or suspension of the interpreter from interpreting in any jurisdiction.

*d. Oath or affirmation.* At the start of a court proceeding or a deposition in which an interpreter is present to facilitate communication with an LEP participant, the judicial officer presiding at the court proceeding or an attorney involved in taking the deposition must ask the interpreter on the record to swear or affirm that the interpreter has the knowledge and skills to interpret completely and accurately in a legal proceeding, understands and will abide by the Code of Professional Conduct for Court Interpreters and Translators in Chapter 48 of the Iowa Court Rules, and will interpret in court to the best of the interpreter's ability.

*e. Sign language interpreter qualifications.* In addition to meeting the minimum qualifications in rule 47.2(1)(a) through (d), a sign language interpreter must be licensed by the Iowa Board of Sign Language Interpreters and Translators pursuant to Iowa Code chapter 154E, except as allowed under Iowa Code section 154E.4, and must meet the qualifications to be at least a Class B interpreter in rule 47.5(2).

**47.2(2) Waiver of minimum qualifications for oral language court interpreters.**

*a. Waiver only in extraordinary circumstances.* A court may waive minimum qualifications for an oral language court interpreter only in extraordinary circumstances.

(1) For court proceedings expected to last approximately 30 minutes or less, extraordinary circumstances exist when there is no reasonably available interpreter to provide in-person services and when there is no qualified interpreter available through a remote audio or video interpreter service consistent with rule 47.3(7).

(2) For court proceedings expected to last more than approximately 30 minutes, extraordinary circumstances exist when there is no reasonably available interpreter to provide in-person services. In this circumstance, the court may waive the minimum requirements in rules 47.2(1)(a) through (c) subject to the following limitations:

1. If waiving the minimum age requirement in rule 47.2(1)(a), the court may approve an interpreter who is not less than 18 years old.
2. If waiving the minimum education requirement of rule 47.2(1)(b), the court may approve an interpreter who has at least a high school diploma or its equivalent.
  - b. Before waiving minimum qualifications.* Before waiving minimum qualifications, the court should reschedule a court proceeding if it is likely that the additional time will allow court personnel to obtain the services of an interpreter who meets at least the minimum qualifications and the delay will not result in a failure to meet a statutory or constitutional deadline for conducting the court proceeding.
  - c. Waiver of interpreter qualifications on the record.* Whenever the court waives one or more of the qualifications under rule 47.2(1), the court must explain the reasons for the waiver on the record.

**Rule 47.3 Scheduling and appointing a court interpreter.**

**47.3(1) *Persons who qualify for appointment of a court interpreter.*** When the court or court personnel have a reasonable basis to believe a person has limited English proficiency, unless the court determines that another reasonable accommodation is appropriate, the person qualifies for appointment of a court interpreter if the LEP person is a participant in a legal proceeding.

**47.3(2) *Application for appointment of a court interpreter.*** An attorney must file an application for appointment of a court interpreter with the clerk of court as soon as the attorney learns that the attorney's client or a witness for a client needs an interpreter for a court proceeding. A self-represented party should file an application for appointment of a court interpreter with the clerk of court as soon as possible after the party learns that the party or a witness for the party needs an interpreter for a court proceeding. Court personnel should obtain the assistance of an interpreter while helping an unrepresented LEP party complete the form.

**47.3(3) *Responsibility for selection and appointment of a court interpreter.*** When a court or court personnel learn that an interpreter is needed for an LEP participant in a court proceeding, court personnel will contact and select the most qualified interpreter who is reasonably available using the priorities established in rules 47.3(4) through (7). This responsibility cannot be delegated to an attorney or party involved in the case.

**47.3(4) *Priorities in the selection of an oral language interpreter.*** Subject to exceptions identified in rule 47.3(6), the court or court personnel must select the highest classified interpreter who is reasonably available for the court proceeding, giving preference to interpreters who are on Iowa's roster of court interpreters and using the following classification order:

- a.* Class A certified interpreter, defined in rules 47.4(1) and 47.4(5)(a).
- b.* Class B noncertified interpreter, defined in rule 47.4(2).
- c.* Class C noncertified interpreter, defined in rule 47.4(3) and 47.4(5)(b).
- d.* Oral language interpreter on the list of approved interpreters in another jurisdiction. When there is no interpreter on Iowa's roster of court interpreters who is reasonably available, court personnel must seek an interpreter who is on an official list of certified or qualified interpreters approved by another state court system before selecting an unclassified interpreter as defined in rule 47.4(4).
- e.* Unclassified noncertified interpreter, defined in rule 47.4(4). An unclassified interpreter will be selected only when there is no reasonably available interpreter who meets the minimum qualifications of rule 47.2(1).

**47.3(5) *Priorities in the selection of a sign language interpreter.*** Subject to exceptions identified in rule 47.3(6), the court or court personnel will select the highest classified interpreter

who is reasonably available for a court proceeding using the following classification order, and within each classification, will give preference to interpreters who are on Iowa's roster of court interpreters:

- a. Class A certified interpreter, as defined in rule 47.5(1).
- b. Class B noncertified interpreter, as defined in rule 47.5(2).

**47.3(6) *Exceptions to the priorities for selecting a court interpreter.***

a. *Court proceedings within a magistrate's jurisdiction.* For any court proceeding within a magistrate's jurisdiction, except a court proceeding involving a simple misdemeanor domestic assault charge, the court may appoint a reasonably available Class B or Class C noncertified interpreter on Iowa's roster of court interpreters before seeking the services of a Class A certified interpreter.

b. *Interpreter required on short notice.* If a court receives notice for the need of an interpreter after 4 p.m. the previous workday or on the day the court proceeding is scheduled to occur, and the court determines that rescheduling the court proceeding would not be appropriate under the circumstances, the court may appoint the highest classified interpreter who is available to interpret at the required time and location. A Spanish interpreter, however, must be at least a Class C interpreter and an American Sign Language interpreter must be at least a Class B interpreter.

c. *Unavailability of certified court interpreter.*

(1) If court personnel are unable to locate a reasonably available certified court interpreter for a legal proceeding in an indictable criminal case or termination of parental rights case, court personnel will conduct a regional or national search.

(2) If court personnel are unable to locate a reasonably available certified court interpreter for cases other than indictable criminal or termination of parental rights, court personnel may conduct a regional or national search.

(3) If court personnel are unable to locate an available certified court interpreter after a regional or national search, court personnel will attempt to locate a noncertified interpreter who is on the Iowa roster of court interpreters or who is on a list of qualified noncertified interpreters maintained by another state court system.

(4) If court personnel are unable to locate an available certified or a qualified noncertified interpreter under rule 47.3(6)(c)(1) through (3), court personnel may appoint an interpreter who is not on a list of qualified interpreters maintained by any state court system.

(5) Court personnel may request assistance from state court administration in conducting a regional or national search for a court interpreter.

d. *Civil pretrial proceedings.* For any proceeding other than a trial, the court may appoint a reasonably available Class B noncertified interpreter.

**47.3(7) *Interpreter services through remote audio or video communications technology.***

a. For a brief court proceeding expected to last 30 minutes or less, a court may appoint an appropriate interpreter available through a remote audio or video interpreter service.

b. A court may appoint a remote audio or video interpreter only from a service the state court administrator has approved.

c. A remote video sign language interpreter must be a Class A certified interpreter or Class B noncertified interpreter as defined in rule 47.4(1) or 47.4(2).

d. For a brief court proceeding expected to last 30 minutes or less, a court may appoint a remote Class A certified interpreter or Class B noncertified interpreter instead of a less qualified interpreter available to interpret in person.

e. The court will enter into the record of the court proceeding the interpreter's name, the interpreter services company that provided the interpreter (if applicable), and the interpreter's formal education, interpreter testing and training, experience as an interpreter, and experience as a court interpreter.

f. A court may approve a remote interpreter only if the court concludes that the interpreter has the qualifications to be a competent court interpreter.

g. Before or at a court proceeding for which a remote interpreter is appointed to facilitate communication with an LEP participant, the court will enter an order appointing the remote interpreter consistent with rule 47.3(8).

h. If the court declines to appoint an interpreter who appears at a court proceeding or discontinues use of an interpreter after a court proceeding has begun and the hearing will be approximately 30 minutes or less, the court may obtain an interpreter through a remote interpreter service approved by the state court administrator; otherwise the court may postpone the court proceeding to allow time for court personnel to procure the services of a qualified interpreter consistent with the criteria in rules 47.3(4) through (6).

**47.3(8) Order appointing a court interpreter.**

a. When a court interpreter is identified consistent with rule 47.2, the court will enter an order appointing the interpreter prior to the legal proceeding, unless the court has previously entered an order appointing the interpreter for all subsequent proceedings in the case.

b. When the court appoints an interpreter for an LEP defendant at an initial appearance, whether the interpreter appears in person or through a remote interpreter service, the order appointing the interpreter must also include the appointment of a qualified interpreter for all subsequent proceedings in the case consistent with rules 47.3(4) through (7), or the order must direct the district court administrator to schedule a qualified interpreter for all subsequent proceedings in the case consistent with rules 47.3(4) through (7).

c. An order appointing an interpreter must identify the interpreter's classification under rule 47.4, identify the sign or oral language for which the interpreter is needed, and set the level of compensation for the interpreter consistent with the state court administrator's standard statewide fees and policies for compensation.

**47.3(9) Examination of court interpreter qualifications.**

a. At the start of any court proceeding for which an interpreter will be providing services, the court will question the interpreter on the record regarding the interpreter's classification. If the interpreter is not a Class A or Class B interpreter, the court will inquire on the record about the interpreter's education, knowledge of English and the other language, and interpreting experience.

b. If the court finds that the interpreter meets the minimum qualifications in rule 47.2(1), is the highest classified interpreter who is reasonably available consistent with rules 47.3(4) through (7), and has no disqualifying conflict of interest, the court may approve an existing order appointing the interpreter or may enter an order appointing the interpreter.

c. At any time during the court proceeding, if the court finds a reasonable basis to believe that an interpreter does not have the appropriate knowledge, skills, or experience to competently interpret the court proceeding, or that the interpreter has a disqualifying conflict of interest, the court must discontinue use of the interpreter.

**47.3(10) Persons prohibited from appointment as a court interpreter.** A court may not appoint a person to be a court interpreter in a legal proceeding if that person is a family member or personal friend of any of the parties or of the person needing an interpreter, or of any person involved in the legal proceeding, including but not limited to: a domestic abuse advocate,

attorney, court-appointed special advocate (CASA), juvenile court officer, law enforcement officer, or social worker.

**47.3(11)** *Disclosure of conflicts of interest and objections to a court interpreter.*

a. A court interpreter must promptly inform the court of any known factors that could constitute a conflict of interest for the interpreter in the legal proceedings.

b. Objections regarding a court interpreter's competence or conflict of interest must be made within a reasonable time after the grounds for the objection become apparent.

c. Class A and Class B court interpreters, as defined in rule 47.4 and rule 47.5, are presumed competent to interpret in all legal proceedings.

d. The court will make rulings on objections on the record.

**47.3(12)** *Number of court interpreters.*

a. A court may appoint more than one interpreter if it finds a reasonable basis for multiple interpreters for the court proceeding.

b. When a party needs an interpreter and the court expects the interpreted event on a given day to be complex or to last more than four hours, the court must appoint more than one interpreter to serve as a team or as relay interpreters during the court proceeding and may appoint more than one interpreter for a deposition.

c. When determining whether a court proceeding that is expected to be less than four hours is complex, the court may consider the following: the number of parties or participants who will need an interpreter; whether both a witness and a party will need an interpreter at the same time; whether technical or specialized terms will be used frequently in the court proceeding; and whether the gravity of the court proceeding enhances concern for the accuracy of the interpretation.

d. When two or more parties with adverse interests in a case need an interpreter, the court will appoint a separate interpreter for each party, unless the parties waive the right to separate interpreters.

e. When an appointed American Sign Language (ASL) interpreter reports difficulty communicating with an LEP participant, the court may appoint a certified deaf interpreter (CDI) to work as a relay interpreter with the ASL interpreter.

f. Whenever a government entity will be responsible for paying the interpreters, more than one interpreter will be paid for services during the same court or legal proceeding only if a court enters an order appointing more than one interpreter.

**47.3(13)** *Interpreter cancellation and substitution.* When a court interpreter learns that the interpreter will be unable to fulfill the terms of an appointment or agreement to interpret during a court proceeding, the interpreter must:

a. Promptly arrange for a substitute interpreter who resides in the county where the court proceeding is scheduled to occur, or a county contiguous to that county, and who has a classification under rule 47.4 that is equal to or greater than the original interpreter's classification. When a substitute interpreter has been secured, the original interpreter must promptly inform the district court administrator's office or the clerk of district court where the court proceeding is scheduled and the attorney whose client needs an interpreter, if applicable, regarding the substitution.

b. If the original interpreter is unable to secure a substitute interpreter consistent with rule 47.2(13)(a), the original interpreter must promptly inform the district court administrator's office or the clerk of district court where the court proceeding is scheduled that a substitute interpreter is needed for the court proceeding.

**Rule 47.3(14)** *Reimbursement of oral language interpreter fees paid by state court administration.*

a. For purposes of rule 47.3(14), “interpreter” applies only to oral language interpreters and translators.

b. When state court administration pays an interpreter for services provided to an LEP participant in a court proceeding, the court will apportion costs according to the following provisions:

(1) In a criminal case in which an interpreter provided services for a non-indigent defendant, the court will order the defendant to pay the total amount of interpreter fees to the court.

(2) In a child in need of assistance or termination of parental rights case in which an interpreter provided services for a parent, guardian, or custodian who was represented by a privately retained attorney, the court will order the person who needed the interpreter to pay the total amount of interpreter fees to the court.

(3) In a juvenile delinquency case in which an interpreter provided services for a parent whose child was the subject of a delinquency petition, the court will order the parent who needed an interpreter to pay the total amount of interpreter fees to the court.

(4) In a civil case other than child in need of assistance or termination of parental rights, the court will tax the total amount of interpreter fees as court costs pursuant to Iowa Code sections 622A.3(2) and 625.1.

c. This rule does not limit the authority of the court to order the repayment of interpreter fees paid by another public agency, such as the state public defender, pursuant to any applicable statute or rule that authorizes or requires the repayment.

**Rule 47.4 Classification of oral language court interpreters.**

**47.4(1)** *Class A oral language court interpreter.* A Class A oral language court interpreter is a certified interpreter who has met the requirements in rule 47.6 to be on the Iowa roster of court interpreters and has done one of the following:

a. Satisfied all certification requirements for an oral language interpreter established by the Federal Court Interpreter Certification Program or the National Association of Judiciary Interpreters and Translators.

b. Taken oral interpretation examinations for court interpreter certification approved by the Language Access Services Division of the National Center for State Courts (NCSC) and achieved a passing score of at least 70 percent correct on each of the three parts of the oral examination (sight interpretation of written documents, consecutive interpretation, and simultaneous interpretation) in a single test session.

**47.4(2)** *Class B oral language court interpreter.* A Class B oral language court interpreter is a noncertified interpreter who has met the requirements in rule 47.6 to be on the Iowa roster of court interpreters and has done one of the following:

a. Taken one of the court interpreter certification examinations identified in rule 47.4(1)(b) and did not meet the test score requirements for certification, but achieved an average score of at least 65 percent correct on the three parts of the oral interpretation examination in one test session.

b. Met the oral interpretation examination score requirements for court interpreter certification in a state that uses the oral interpretation examinations approved by the NCSC, but did not achieve scores of at least 70 percent correct on all three parts of the oral examination in a single test session.

c. Completed a college-level court interpreter training program approved by the director of the

OPR with a grade point average of at least 3.0.

**47.4(3)** *Class C oral language court interpreter.* A Class C oral language court interpreter is a noncertified interpreter who has met the criteria under rule 47.6 to qualify for the Iowa roster of court interpreters, but has not met the criteria under rule 47.4(1) or (2) to be a Class A or B oral language court interpreter.

**47.4(4)** *Unclassified oral language court interpreter.* An unclassified oral language interpreter has not met the requirements under rules 47.4(1), (2), or (3) to be a Class A, Class B, or Class C oral language interpreter and has not met the requirements to be on an official list of qualified court interpreters in another state.

**47.4(5)** *Oral language interpreters on a list of qualified interpreters approved by another state.*

*a.* Interpreters who have met the testing requirements for certification in rule 47.4(1)(a) or (b) by taking those examinations in another state, will be classified as certified court interpreters and receive the same hourly fee as Class A certified court interpreters in Iowa. These interpreters must still meet the requirements in rule 47.6 to be on the Iowa roster of court interpreters, and certified interpreters on the roster will receive preference for appointments over certified interpreters who are not on the roster.

*b.* Interpreters who have met testing and training requirements to be included on a list of qualified court interpreters in another state, but who have not met the testing requirements in rule 47.4(1)(a) or (b), will be comparable to Class C interpreters in Iowa. These interpreters must still meet the requirements in rule 47.6 to be on the Iowa roster of court interpreters, and interpreters on the roster will receive preference in appointments over interpreters who are not on the roster.

#### **Rule 47.5 Classification of sign language court interpreters.**

**47.5(1)** *Class A sign language court interpreter.* A Class A sign language court interpreter is a certified interpreter who:

*a.* Holds a permanent license issued by the Iowa Board of Sign Language Interpreters and Translitterators and a “specialist certificate: legal (SC:L)” or a conditional legal interpreting permit—relay (CLIP-R) from the National Testing System of the Registry of Interpreters for the Deaf (RID); or

*b.* Is a licensed sign language court interpreter in a state other than Iowa that has licensing requirements comparable to the requirements in Iowa Code section 154E.3 and holds a valid SC:L from the RID. Pursuant to Iowa Code section 154E.4(2)(a), an interpreter who meets these requirements may interpret in Iowa for up to 14 days per year without obtaining an Iowa license.

**47.5(2)** *Class B sign language court interpreter.* A Class B sign language court interpreter is a noncertified interpreter who:

*a.* Holds a permanent license issued by the Iowa Board of Sign Language Interpreters and Translitterators and has at least one of the following certificates: a certificate based on the National Interpreter Certification (NIC) examination; an advanced (NAD IV) or master (NAD V) certificate from the National Association for the Deaf (NAD); a valid comprehensive skills certificate (CSC), a master comprehensive skills certificate (MCSC), both a certificate of interpretation (CI) and a certificate of transliteration (CT), or a certified deaf interpreter (CDI) certificate from the National Testing System of the RID; or

*b.* Is a licensed sign language court interpreter in a state other than Iowa that has licensing requirements comparable to the requirements in Iowa Code section 154E.3, and holds one of the certificates or qualifications identified in rule 47.5(2)(a), and is on a list of noncertified sign language interpreters (without an SC:L) approved by the state court interpreter program in

another state. Pursuant to Iowa Code section 154E.4(2)(a) an interpreter who meets these requirements may interpret in Iowa for up to 14 days per year without obtaining an Iowa license.

**Rule 47.6 Iowa roster of court interpreters.**

**47.6(1) Management.** The director of the Iowa Supreme Court Office of Professional Regulation (the OPR) will maintain and publish the Iowa roster of court interpreters and may determine the order in which interpreters must complete the testing and training requirements in rule 47.4 to qualify for the roster.

**47.6(2) Testing and training requirements.** To be included on the roster, an interpreter must meet the qualifications in rule 47.4 and the following requirements:

*a. Ethics exam.* All interpreters must take a written exam on the Code of Professional Conduct for Court Interpreters and achieve a score of at least 75 percent correct, unless the interpreter has taken the same or a similar exam in another state within the past five years and achieved a score of at least 75 percent correct.

*b. Written exam approved by the NCSC.* Interpreters must achieve a score of at least 80 percent correct on a written exam for court interpreters that the National Center for State Courts (NCAC) has approved and that includes at least the following areas: general English vocabulary, legal terminology, and legal procedures. This requirement may be waived by the director of the OPR if the interpreter has taken the same test in Iowa or another jurisdiction within the past five years, achieved a score of 80 percent correct, and has regularly provided court interpreter services each year since taking the exam.

*c. Oral proficiency interview exam.* Under the supervision of OPR staff or a designee of the of the OPR director, an oral language interpreter must complete an oral proficiency interview exam offered by ALTA Language Services in the interpreter's non-English language and achieve a score of at least 11 on a scale of 12. Interpreters classified as class A or B before July 1, 2015, are not be required to take this exam. Class C interpreters on the Iowa roster of court interpreters before July 1, 2015, must pass this exam within six months after that date to remain on the roster. Interpreters not on the roster before July 1, 2015, must pass ALTA's oral proficiency interview exam to be listed on the roster.

*d. Court interpreter orientation program.* An interpreter must complete the court interpreter orientation program approved by the director of the OPR. The director of the OPR may waive this requirement for an interpreter who has completed a similar training program in another jurisdiction within the past three years, and who has regularly provided court interpreter services each year since completing that program.

**Rule 47.7 Mandatory continuing education.** Interpreters on the Iowa statewide roster of court interpreters must satisfy continuing education requirements to remain on the roster and to maintain a certified status.

**47.7(1) Annual report deadline, fee, and hours required.**

*a. Annual report deadline.* Beginning in 2017, by May 15 of each year, interpreters on the Iowa roster of court interpreters must report to the OPR continuing education hours for the previous calendar year, using a form the OPR provides.

*b. Annual report fee.* Upon the filing of the annual continuing education report, interpreters on the statewide roster must pay a fee of \$10 to the OPR.

*c. Required hours of continuing education.* Beginning in 2016, during each calendar year interpreters on the Iowa roster of court interpreters must attend at least six hours of continuing education that contributes directly to the professionalism and competency of the court interpreter.

At least one of the six hours must address court interpreter ethics. Court interpreters on the Iowa roster of court interpreters do not have to meet these continuing education requirements during the first calendar year the interpreters are on the roster, but they must file the annual continuing education report and pay the annual continuing education fee by May 15 of the following calendar year.

**47.7(2) *Education program requirements.*** Either live on-site or live interactive computer-based education may be used to fulfill the continuing education requirements. Up to three hours of the continuing education requirements may be fulfilled by unmoderated activity. “Unmoderated activity” means continuing education activity presented by delayed or on-demand transmission or broadcast, in pre-recorded media such as audiotape, videotape, CD, podcast, CD-ROM, DVD, self-paced computer-based instruction, or another format, which has an interactive component and is approved by the OPR. The Language Access in the Courts Advisory Committee will develop guidelines governing approved unmoderated activity. The OPR may request additional information on a program for which continuing education credit is sought, and may refer the program to a panel of the Language Access in the Courts Advisory Committee for a decision as to whether the program should be approved.

**47.7(3) *Carryover of continuing education hours.*** Up to six hours of continuing education may be carried over from one reporting period into the next reporting period. There will be no carryover of hours beyond one reporting period, and ethics credits may not be carried over except as regular credit hours.

**47.7(4) *Late filing of report; penalty and suspension.*** Interpreters who miss the May 15 deadline may file their annual reports on or before August 15, but they must assert good cause for failing to meet the deadline and pay the annual report fee in rule 47.7(1)(b) plus a late fee of \$35. Court interpreters who fail to file their reports on or before August 15 will have their names removed from the Iowa roster of court interpreters and their certified status, if any, suspended.

**47.7(5) *Agreement on extension; suspension.*** Court interpreters who file a report on or before August 15 but cannot report sufficient continuing education hours, may apply to the OPR for permission to complete the missing continuing education hours on or before November 15. Court interpreters who do not report sufficient continuing education hours under this rule and do not complete any required continuing education under an agreement with the OPR will have their names removed from the Iowa roster of court interpreters and their certified status, if any, suspended.

**47.7(6) *Application for reinstatement.*** An interpreter who has been suspended for failure to comply with the reporting requirements of rule 47.7(1) may file an application for reinstatement of the interpreter’s name to the Iowa roster of court interpreters and of the interpreter’s certified status, if applicable. The application must be filed with the OPR and include payment of a \$100 reinstatement fee. The interpreter must file all missing reports, show that all required continuing education hours have been obtained, and pay any unpaid filing fees. The interpreter must also swear or affirm that the interpreter did not provide interpreting services in any legal or court proceeding during the suspension period. The OPR may determine whether any additional conditions for reinstatement are necessary.

**47.7(7) *Certificate of exemption.*** An interpreter may request a certificate of exemption from the continuing education requirements of this rule. When a certificate of exemption is issued, the interpreter’s name will be removed from the Iowa roster of court interpreters. The interpreter may seek reinstatement following exemption under the provisions of rule 47.7(6). If the exemption period exceeds five years, the interpreter may be required to retake the interpreter orientation program and any testing the OPR determines is necessary for reinstatement.

**Rule 47.8 Application, test registration, and continuing education fees.**

**47.8(1)** The application fee to be an oral or sign language court interpreter is \$25. This fee cannot be waived or refunded.

**47.8(2)** The registration fee for the two written examinations identified in rule 47.4(1)(a) is \$50 for Iowa residents and \$100 for nonresidents. If the applicant has already passed at least one of the two examinations, the registration fee is \$25 for Iowa residents and \$50 for nonresidents.

**47.8(3)** The registration fee for each oral proficiency interview examination is \$65 for Iowa residents and \$130 for nonresidents.

**47.8(4)** The registration fees for the three-part oral interpretation certification examination approved by the NCSC's Language Access Services Division is \$250 for Iowa residents and \$500 for nonresidents.

**47.8(5)** The annual continuing education reporting fee is \$10.

**47.8(6)** All fees set forth in this rule must be paid to the OPR. The interpreter application fee is due at the time the application is filed. Test registration fees are due on or before the registration deadline established by the OPR. The annual continuing education reporting fee is due by May 15 of each year beginning in 2017.

**Rule 47.9 Language Access in the Courts Advisory Committee.** The Iowa Supreme Court will appoint a Language Access in the Courts Advisory Committee (advisory committee) to provide guidance to the state court administrator regarding language access policies in the courts and to assist the OPR in administering the continuing education and disciplinary systems for court interpreters and translators.

**Rule 47.10 Complaint and disciplinary process.**

**47.10(1) Purpose.** These rules establish a complaint and disciplinary process that ensures due process for court interpreters and translators formally accused of misconduct under rule 47.10(5).

**47.10(2) Applicability.** These rules apply to the delivery of services by oral and sign language interpreters or translators in any legal proceeding, court-ordered program, or office of the Iowa Judicial Branch. These rules also apply to real-time reporters when providing language access to court users.

**47.10(3) Procedures for complaints against oral language court interpreters or translators.**

*a. Complaints.* A complaint against a court interpreter or a translator must be filed with the OPR on a form available from that office or through the Iowa Judicial Branch website. A complaint must be signed by the complainant, provide the complainant's full address, telephone number, and email address, if any, and contain substantiating evidence supporting the complaint.

*b. Review of complaints.* The OPR will review all complaints and may seek additional information from the complainant if necessary. The OPR will refer the complaint to the chair of the advisory committee. The chair will appoint a panel of at least three advisory committee members to consider the complaint.

*c. Dismissal of complaints.* The advisory committee panel may dismiss the complaint without further action if it appears the complaint wholly lacks merit, alleges conduct that does not constitute misconduct or rise to the level of a disciplinary violation under the Code of Professional Conduct for Court Interpreters and Translators, or does not comply with the requirements for a complaint or is not supplemented as requested. In such instances, the OPR will notify the complainant of the advisory committee panel's decision. The advisory committee panel's summary dismissal is not subject to review.

*d. Responses to complaints.* If the advisory committee panel does not dismiss the complaint, the OPR will notify the interpreter or translator of the complaint and direct the interpreter or translator to provide a written response to the complaint within 21 days after notice of the complaint is issued. A failure to file a timely response or obtain an extension of time in which to do so will be deemed an admission of the interpreter or translator to the facts alleged in the complaint. The OPR may forward the interpreter's or translator's response to the complainant and allow the complainant to file a reply within 14 days after service of the response. After all responses have been received, or the time for filing responses has expired, the advisory committee panel may summarily dismiss the complaint pursuant to rule 47.10(3)(c) or assign the matter for further investigation. If the complaint is dismissed, the OPR will notify the complainant and the interpreter or translator of the advisory committee panel's decision.

*e. Advisory committee action.* If the advisory committee panel does not dismiss the complaint, the panel will review the complaint upon the papers filed unless the interpreter or translator requests a hearing or the panel determines that a hearing is necessary.

*f. Hearing and decision.*

(1) *Time and format of hearing.* A hearing will be scheduled to occur within 60 days after the complaint is assigned to the advisory committee panel. The hearing will be informal and strict rules of evidence will not apply. During the hearing, the interpreter or translator has the right to be represented by counsel at the interpreter's or translator's expense, to confront and cross-examine witnesses, and to present evidence. The attorney general or the attorney general's designee may present evidence in support of the complaint at the hearing, except to the extent that facts have been deemed admitted under rule 47.10(3)(d).

(2) *Location, subpoenas, and recording.* The hearing will be held in the county where the interpreter or translator resides or where the alleged violation occurred unless the OPR and the interpreter or translator agree otherwise. An advisory committee panel member, the interpreter or translator, or the attorney general or the attorney general's designee may request the clerk of the district court of the county in which the disciplinary hearing is to be held to issue subpoenas in connection with the matter, and the clerk will issue the subpoenas. Any member of the advisory committee panel is empowered to administer oaths or affirmations to all witnesses. The hearing will be recorded electronically, unless the interpreter or translator pays for a court reporter and the subsequent transcript, if necessary.

(3) *Burden of proof.* Any grounds for discipline under rule 47.10(5) must be shown by a convincing preponderance of the evidence.

(4) *Advisory committee panel actions.* The advisory committee panel may:

1. Dismiss the complaint.
2. Impose a private admonition.
3. Enter into a stipulated disposition with the interpreter.
4. Impose a public reprimand.
5. Require the interpreter to refund fees to a client for court interpreter services.
6. Require that the interpreter take specified education courses.
7. Suspend or revoke the interpreter's roster status or certification, if any.
8. Suspend or bar the interpreter from interpreting in legal proceedings or court-ordered programs, or both.

(5) *Advisory committee panel decision.* Within 60 days after the hearing, the advisory committee panel will file a written decision with the OPR. The OPR will promptly serve a copy of the decision on the interpreter or translator by restricted certified mail.

*g. Petition for review.* The interpreter or translator may file a petition for review of the advisory committee panel's decision with the Iowa Supreme Court. The petition for review must be filed with the clerk of the supreme court within 30 days after the OPR serves the decision on the interpreter or translator. The interpreter or translator must serve a copy of the petition and any attachments on the OPR and any attorneys appearing in the disciplinary proceeding. The petition must state all claims of error that were raised before the panel and the reasons for challenging the panel's determination before the supreme court. The petition must be accompanied by a \$150 filing fee. The OPR will transmit the complete record in the case to the clerk of the supreme court.

*h. Submission and decision on review.* Unless the supreme court orders otherwise, the petition will be submitted based upon the record previously made and without oral argument. After considering the record, the court may sustain or deny the petition or enter such other appropriate order. The court's order is conclusive, and no petition for rehearing is permitted.

*i. Costs.* Costs of the disciplinary proceeding will be assessed against the interpreter or translator for any private admonition, public sanction, or any agreed disposition that taxes costs against the interpreter or translator. For purposes of this rule, costs include those expenses normally taxed as costs in state civil actions pursuant to Iowa Code chapter 625, including but not limited to expert witness fees, and translation, transcription, and interpreter fees. The interpreter or translator must pay the costs as a condition for reinstatement.

*j. Application for reinstatement.* An interpreter or translator may file an application for reinstatement from an order suspending or revoking a certification, roster status, or privilege of interpreting or translating in court. The application must be filed with the OPR and include payment of a \$100 reinstatement fee. The application must be served upon the clerk of the supreme court, all attorneys appearing in the underlying disciplinary proceeding, the state court administrator, and the chief judge of the judicial district in which the interpreter or translator resides. The application must show that all conditions for reinstatement imposed in the panel's decision or any resulting supreme court decision have been satisfied, the interpreter or translator is currently fit to interpret or translate in court, and all costs have been paid. The interpreter or translator must also swear or affirm that the interpreter or translator did not provide interpreting or translating services in any legal or court proceeding during the suspension period.

*k. Reinstatement decision.* The OPR will forward the application for reinstatement to the full advisory committee. The committee may direct that reinstatement be granted, set the matter for hearing, or enter such other disposition or order as the matter requires.

*l. Confidentiality.*

(1) All records, papers, proceedings, meetings, and hearings of the advisory committee panel are confidential, unless the panel imposes the following: a public reprimand; a suspension or revocation of a certification, roster status, or privilege to interpret or translate before the courts; a requirement that fees be refunded to a client for court services; or a form of discipline that the panel and the interpreter or translator agree should be made public.

(2) If the advisory committee panel imposes public discipline, the decision and the complaint filed with the OPR will become public documents upon filing with the clerk of the supreme court.

(3) Any other records and papers concerning any complaint against an interpreter or translator will remain privileged and confidential and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the interpreter or translator, the attorneys, or the attorneys' agents involved in the disciplinary proceeding before the advisory committee panel. The interpreter or translator, the attorneys, or the attorneys' agents involved in the disciplinary proceeding before the panel may not disclose to any third parties any

records and papers of the advisory committee or advisory committee panel concerning any complaint unless disclosure is required in the prosecution or defense of disciplinary charges. The confidential records and papers concerning any complaint are not admissible as evidence in a judicial or administrative proceeding other than the formal interpreter or translator disciplinary proceeding under this rule.

(4) Every witness in every disciplinary proceeding under rule 47.10 must swear or affirm to tell the truth and not to disclose the existence of the disciplinary proceedings or the identity of the interpreter or translator until the disciplinary proceeding is no longer confidential under these rules.

(5) Any communications, papers, and materials concerning any complaint that may come into the possession of a committee member is confidential, and the member must keep such confidential material in a safe and secure place.

(6) Nothing in this rule prohibits the advisory committee or an advisory committee panel from releasing any information regarding possible criminal violations to appropriate law enforcement authorities, wherever located, or to interpreter or translator disciplinary and admission authorities in other jurisdictions.

*m. Temporary suspension.* Notwithstanding the provisions of this rule, the state court administrator may temporarily suspend the right of any interpreter or translator to interpret or translate in legal proceedings, court-ordered programs, and offices of the Iowa Judicial Branch upon a showing of a clear violation of the Iowa Code of Professional Conduct for Court Interpreters and Translators and of exigent circumstances demonstrating that the interpreter or translator currently lacks the capacity to interpret court proceedings or translate court documents. Any order suspending an interpreter's or translator's right to interpret or translate in Iowa courts must provide the interpreter or translator with an opportunity to appear before the supreme court and show cause why the temporary suspension order should be lifted.

**47.10(4) Procedures for complaints against sign language court interpreters.**

*a. Complaints.* A complaint against a sign language court interpreter must be filed with the Iowa Board of Sign Language Interpreters and Translators (board) and must follow the procedures outlined in Iowa Administrative Code 645—Chapter 363, Discipline for Sign Language Interpreters and Translators.

*b. Notice to the OPR.* A sign language interpreter who receives a notice from the board that a complaint has been filed against the interpreter must promptly provide written notice to the director of the OPR that a complaint has been filed against the interpreter, including the date the complaint was filed and a description of the alleged misconduct. The interpreter also must promptly provide written notice to the director of the OPR after the disciplinary process has been concluded, including the date and type of disposition. A sign language interpreter's failure to provide these notices will be considered grounds for disciplinary action and a disciplinary process may be commenced under procedures in rule 47.10(3).

**47.10(5) Grounds for discipline.** The following actions may constitute misconduct for which a court interpreter may be subject to discipline:

*a.* Violation of the Code of Professional Conduct for Court Interpreters and Translators.

*b.* Conviction of a felony in this state or any other jurisdiction or conviction of a lesser crime that involves dishonesty or moral turpitude. A crime is a felony if it is so defined in the jurisdiction where the conviction was entered at the time of the conviction.

*c.* Disciplinary action involving the interpreter's services in another jurisdiction.

*d.* Discipline by the Board of Sign Language Interpreters and Translators pursuant to Iowa Administrative Code section 645—Chapter 363.

e. Providing incompetent interpretation, which includes, but is not limited to, repeated incomplete or inaccurate interpretation that significantly inhibits or distorts communications between an LEP person and the court or between an LEP person and that person's attorney.

f. Dishonest billing for interpreter or translator services.

g. Engaging in prohibited interpreting while suspended. This action may subject an interpreter to additional discipline.

**47.10(6) *Aggravating or mitigating circumstances.*** When determining the appropriate discipline for interpreter misconduct, the advisory committee panel may consider factors that include, but are not limited to, the following:

a. *Aggravating circumstances.* Aggravating circumstances that may justify an increase in the degree of discipline imposed include, but are not limited to:

- (1) Prior disciplinary offenses.
- (2) Dishonest or selfish motive.
- (3) A pattern of misconduct.
- (4) Multiple offenses.
- (5) Bad faith obstruction of the disciplinary proceeding.
- (6) Submission of false evidence, false statements, or other deceptive practices during the disciplinary process.
- (7) Refusal to acknowledge wrongful nature of misconduct.
- (8) Harm caused by the misconduct.
- (9) Substantial experience as a court interpreter.

b. *Mitigating circumstances.* Mitigating circumstances that may justify a reduction in the degree of discipline imposed include, but are not limited to:

- (1) Absence of a prior disciplinary record.
- (2) Absence of a dishonest or selfish motive.
- (3) Personal or emotional problems contributed to the misconduct.
- (4) Timely good faith effort to rectify consequences of the misconduct.
- (5) Full and free disclosure to the advisory committee panel or cooperative attitude toward proceedings.
- (6) Inexperience as a court interpreter.
- (7) Character or reputation.
- (8) Physical or mental disability or impairment.
- (9) Interim rehabilitation.
- (10) Remorse.
- (11) Substantial time since the prior offense(s).

**47.10(7) *Duty to disclose.*** A court interpreter or translator must disclose to the OPR any potentially disqualifying criminal or ethical misconduct as defined in rule 47.2(1)(c)(3).

#### **Rule 47.11 Recording of court proceedings.**

**47.11(1) *Interpreted testimony and communication with a judicial officer.*** The court will make appropriate electronic recordings of those portions of court proceedings when an interpreter is required for testimony that is given in a language other than English and when an interpreter is required for communication between a judicial officer and a participant who speaks a language other than English.

a. *Oral language interpreters.* For court proceedings involving oral language interpretation, the court will use an electronic audio or audio-video recorder to meet this recording requirement.

b. *Sign language interpreters.* For court proceedings involving a sign language interpreter, the

court will make an audio-video recording of a full and clear view of the sign language interpreter and the LEP deaf, deaf-blind, or hard-of-hearing person.

**47.11(2) *Retention of recordings.*** For small claims, civil infractions, simple misdemeanors, and uniform traffic citation cases, the recording must be maintained for one year after entry of judgment or sentence in district court or, if the judgment is appealed, one year after entry of the final judgment on appeal. For all other cases, the recording must be maintained for the same duration as court reporters' notes as set forth in the Iowa Code section 602.8103.

**Rule 47.12 Court interpreter and translator compensation.**

**47.12(1) *Claims for compensation.*** After providing services in any legal proceeding or court-ordered program for which an interpreter or translator will be paid by a state or county office, the interpreter or translator must submit a claim for compensation to the court using a fee claim form approved by the state court administrator. Upon review and approval of the claim, the court will enter an order setting the maximum amount of compensation that may be paid to the interpreter or translator.

**47.12(2) *Policies for compensation of court interpreters and translators.*** The state court administrator will establish standard statewide fees and policies for compensation of court interpreters and translators who are paid by government entities. Government entities other than the courts that pay court interpreters and translators may adopt compensation policies that do not conflict with state court administrator policies.

**Rule 47.13 Written translations of court-related material.**

**47.13(1) *Definition of court-related materials.*** As used in rule 47.13, "court-related material" includes written documents that are relevant to the court case and electronically recorded oral or sign communications in which one or more of the participants has limited English proficiency and the communications are relevant to the court case.

**47.13(2) *Definition of a certified translator.***

*a.* A certified translator has met the requirements for translator certification established by the American Translators Association (ATA) or the National Association of Judiciary Interpreters and Translators (NAJIT).

*b.* A Class A certified court interpreter under rule 47.4(1) is not a certified translator of written documents unless the interpreter has also completed the requirements established by the ATA or NAJIT to be a certified translator.

**47.13(3) *Priorities in the appointment of a translator of court-related material.*** When a translator of court-related material is needed, the court will appoint a translator in the following order of preference:

*a.* Certified as a translator by the ATA or NAJIT in the required language combination (e.g., Spanish to English translation);

*b.* A Class A certified oral language court interpreter as defined in rule 47.4(1); and

*c.* If there is no person available who meets the qualifications in rule 47.12(2)(a) or (b) and who could deliver the translated material through regular or electronic mail by the required date, the court may approve a translator who has a degree from a four-year college or university and has sufficient knowledge and experience as a translator of English and the other required language to provide a complete and accurate written translation of the court-related material.

**47.13(4) *Compensation of a translator.*** A translator whom the court appoints under rule 47.13(3) will receive the standard fee per word or per hour depending on the material to be translated. The standard translation fees will be established in an administrative directive by the state court administrator pursuant to rule 47.12(2). The court may approve a higher fee only if the

court is unable to locate a qualified translator who is able to send and receive court-related materials via electronic mail, can perform the requested translation services by the required date, and will provide the translation service for the standard fee established by the state court administrator. A translator approved under this rule must submit a claim for compensation consistent with rule 47.12(1).

**47.13(5)** *Application for written translation of a court-related material.* When a party or attorney in a case involving an LEP person wants a written translation of court-related material from English into another language, or from another language into English, and the court or other government entity will be responsible for paying the translator, the LEP person or the LEP person's attorney must file with the court a timely application for a written translation of the court-related material. The application must include:

*a.* An explanation of the need for a written translation of the court-related material and why an oral or sign language interpretation of the court-related material would not be sufficient to ensure due process under the circumstances.

*b.* The name, contact information, qualifications, and certifications of the proposed translator.

*c.* The number of words in the document to be translated, or the number of minutes of recorded communication involving one or more LEP persons, the hourly fee or fee per word to be paid to the translator, and the total translation fee to be paid to the translator.

**47.13(6)** *Court approval of written translation and translator.* The court may approve the application for the written translation of court-related material only if an oral or sign language interpretation of the material would not be sufficient to ensure due process under the circumstances. If the court approves a written translation of court-related material, the court may approve the translator identified in the application if the translator meets the criteria in rule 47.13(3), or the court may decline to appoint the translator identified in the application and appoint a substitute translator by applying the criteria in rule 47.13(3).

**Rule 47.14 Application of rules to administrative agency proceedings.** To the extent an administrative agency is subject to these rules pursuant to Iowa Code section 622A.7 or 622B.1(2), the agency is responsible for appointing interpreters to appear in agency proceedings and for approving interpreters' claims for compensation.

**Rule 47.15 Administration.**

**47.15(1)** The OPR assistant director for admissions will serve as the principal executive officer for matters pertaining to the qualifications, classification, examination, continuing education, and discipline of court interpreters. The OPR director may, subject to the approval of the supreme court, employ such other employees as may be necessary to carry out the duties of this chapter of the Iowa Court Rules.

**47.15(2)** At least 60 days prior to the start of each fiscal year, the director of the OPR will submit to the supreme court for consideration and approval a budget for the upcoming fiscal year covering the operations provided for in this chapter. The supreme court's approval of the budget authorizes payment as provided in the budget. A separate bank account designated as the court interpreter operating account must be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter or in accordance with an approved interagency agreement will be deposited in the court interpreter operating account for payment of the expenditures authorized by the approved budget.

**Rule 47.16 Immunity.**

**47.16(1) Claims.** Claims against the OPR director, assistant directors, and staff, or against members of the advisory committee, are subject to the State Tort Claims Act set forth in Iowa Code chapter 669.

**47.16(2) Immunity.** The OPR director, assistant directors, and staff and members of the advisory committee are immune from all civil liability for damages for the conduct, communications, and omissions occurring in the performance of and within the scope of their official duties under these rules.

**47.16(3) Qualified immunity.** Records, statements of opinion, and other information regarding an interpreter that are communicated by an entity, including any person, firm, or institution, without malice, to the OPR director, assistant directors, and staff, and the members of the advisory committee are privileged; civil suits for damages predicated thereon may not be instituted.