

CHAPTER 47

COURT INTERPRETER AND TRANSLATOR RULES

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CHAPTER 47 COURT INTERPRETER AND TRANSLATOR RULES

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

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Rule 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~~rule 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-rules~~rule 47.2(1)(a) through (d), a sign language interpreter must be licensed by the Iowa

Board of Sign Language Interpreters and Transliterators 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).

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Rule 47.3 Scheduling and appointing a court interpreter.

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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-rules~~ 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).

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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 ~~or~~ after 4 p.m. the previous workday, 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-rules~~ 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.

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47.3(8) Order appointing a court interpreter.

a. When a court interpreter is identified consistent with rule ~~47.247.3~~, 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.

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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)~~47.3(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.

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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~~ Section 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.

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47.4(4) *Unclassified oral language court interpreter.* An unclassified oral language interpreter has not met the requirements under ~~rules~~ rule 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.

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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 Translators 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)~~(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 Translators 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 who 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~~)(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)~~ 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~~)(NCSC) 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 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.

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

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

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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~~are 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.

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Rule 47.13 Written translations of court-related material.

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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)~~47.13(3)(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.

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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.

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