

CHAPTER 48
CODE OF PROFESSIONAL CONDUCT FOR COURT
INTERPRETERS
AND TRANSLATORS

[Prior to April 1, 2008, see Chapter 15]

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DEFINITIONS

Throughout this chapter:

(1) *Court interpreter or interpreter.* A “court interpreter” or an “interpreter,” ~~as used in this chapter,~~ 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.

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

(3) *Legal proceeding.* “Legal proceeding,” ~~as used in this chapter,~~ 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.

(4) *Limited English proficient (LEP) participant or person.* An “LEP participant or 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.

(5) *Sight translation.* “Sight translation” is the act of transferring verbally, or through the use of sign language, the meaning of written text in one language into the equivalent meaning in another language.

(6) *Source language.* “Source language” is the spoken, written, or signed communication that an interpreter or translator is to transfer into the equivalent meaning in another language, which is the “target language.”

(7) *Target language.* “Target language” is the language into which a text, document, or speech is translated.

(8) *Translator.* A “translator,” ~~as used in this chapter,~~ 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.

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Preparation by an interpreter for a legal proceeding.

The ethical responsibility to interpret accurately and completely includes the responsibility of properly preparing for interpreting assignments. An interpreter is encouraged to obtain public documents and other public information necessary to become familiar with the nature and purpose of a proceeding. Prior preparation is especially important when testimony or documents are likely to include highly specialized terminology and subject matter.

To avoid any impropriety, or even the appearance of impropriety, an interpreter should seek permission of the court before conducting any preparation involving access to confidential information. Courts may grant such permission when it is necessary for the interpreter to discharge the interpreter's professional responsibilities.

Preparation may include, but is not limited to, the following:

(1) Reviewing public documents in the court file, such as motions and supporting affidavits, witness lists, and jury instructions; the criminal complaint, information, and preliminary hearing transcript in a criminal case; and the summons, petition, and answer in a civil case;

(2) Reviewing information from public sources such as dictionaries, newspapers, online case records, or internet sites;

(3) Reviewing documents in the possession of counsel, such as police reports, witness summaries, deposition transcripts, and presentence investigation reports;

(4) Contacting any other interpreters involved in the case for information on language use or style;

(5) Contacting attorneys involved in the case for additional information on anticipated testimony or exhibits;

(6) Anticipating and discussing interpreting issues related to the case with the judicial officer, but only in the presence of counsel for all parties unless the court directs otherwise.

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Canon 3 Impartiality and avoidance of conflict of interest

An interpreter must be impartial and unbiased and must refrain from conduct that may give an appearance of bias. An interpreter must disclose any real or perceived conflict of interest.

Comment to Canon 3.

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Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest and must be disclosed to the judicial officer, or if the legal proceeding is outside of court, to all attorneys involved in the proceeding. An interpreter should only divulge necessary information when disclosing the conflict of interest. The disclosure must not include privileged or confidential information. The following circumstances create potential conflicts of interest that a court interpreter must disclose:

(1) The interpreter is a friend, associate, or relative of a party, counsel for a party, a witness, or a victim (in a criminal case) involved in the proceedings;

(2) The interpreter or the interpreter's friend, associate, or relative has a financial interest in the subject matter in controversy, a shared financial interest with a party to the proceeding, or any other interest that might be affected by the outcome of the case~~;~~

(3) The interpreter has served in an investigative capacity for any party involved in the case~~;~~

(4) The interpreter has previously been retained by a law enforcement agency to assist in the preparation of the criminal case at issue~~;~~

(5) The interpreter is an attorney or witness in the case~~;~~

(6) The interpreter has previously been retained for employment by one of the parties~~;~~

(7) For any other reason, the interpreter's independence of judgment would be compromised in the course of providing services.

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Canon 8 Assessing and reporting impediments to performance

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Comment to Canon 8.

Impediments to competent performance

If the communication mode or language variety of the LEP person cannot be readily interpreted, the interpreter should notify the appropriate authority, such as a judicial officer, an attorney, or another person with authority over the proceeding.

An interpreter should notify the appropriate authority of any circumstances (e.g., environmental conditions or physical limitations) that impede the ability to deliver interpreting services adequately. For example, these circumstances may include that the courtroom is not sufficiently quiet for the interpreter to hear or be heard by the LEP person, more than one person is speaking at the same time, or a person is speaking too quickly for the interpreter to accurately interpret. A sign language interpreter must ensure that the interpreter can both see and convey the full range of visual language elements that are necessary for communication, including facial expressions and body movements, as well as hand gestures. A sign language interpreter must also ensure that the LEP person can see the interpreter clearly.

An interpreter should notify the judicial officer or other appropriate authority of the need to take periodic breaks in order to maintain mental and physical alertness and prevent interpreter fatigue. An interpreter should inform the judicial officer when the use of team interpreting is necessary.

Even a competent and experienced interpreter may encounter situations where routine proceedings unexpectedly involve slang, idiomatic expressions, regional dialect, or technical or specialized terminology unfamiliar to the interpreter ~~(e.g., the unscheduled testimony of an expert witness)~~. When such situations occur, the interpreter should request a brief recess in order to become familiar with the subject matter. If familiarity with the terminology requires extensive time or more intensive research, the interpreter should inform the judicial officer, or if the legal proceeding is outside of court, the interpreter should inform all attorneys involved in the proceeding.

An interpreter should refrain from accepting a case that has language or subject matter that is likely to exceed the interpreter’s capabilities. An interpreter should also notify the judicial officer or other appropriate authority if the interpreter is unable to perform adequately for any reason.

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Canon 9
Duty to report criminal convictions and ethical violations

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Comment to Canon 9.

Interpreters must disclose to the OPR the types of criminal convictions and disciplinary actions that potentially constitute “disqualifying misconduct” pursuant to ~~rule~~ Iowa Court Rule 47.2(1)(c)(3). An interpreter who observes another interpreter commit a serious violation of the Code of Conduct should file a written complaint with the OPR using the form provided by that office. Discretion should be exercised by the interpreter who observed the alleged unethical conduct when determining whether the alleged violation was sufficiently substantial to warrant discipline. Minor ~~of~~ infrequent interpreting errors might be technical violations of Canon 1, but they probably would not warrant discipline. Some examples of serious ethical violations by court interpreters include: frequent failures to interpret accurately or completely in court; falsification of a claim for interpreter services; publicly discussing confidential attorney-client communications; or clearly providing legal advice to an LEP person in court.

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