

FILED

MAR 09 2020

CLERK SUPREME COURT

CHAPTER 47
COURT INTERPRETER AND TRANSLATOR RULES

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

1
2
3
4

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

6

7 **47.3(2) Application for appointment of a court interpreter.**

8 a. Cases in district court. An attorney must file an application for appointment
9 of a court interpreter with the clerk of court as soon as the attorney learns that
10 the attorney's client or a witness for a client needs an interpreter for a district
11 court proceeding. A self-represented party should file an application for
12 appointment of a court interpreter with the clerk of court as soon as possible
13 after the party learns that the party or a witness for the party needs an
14 interpreter for a court proceeding. Court personnel should obtain the assistance
15 of an interpreter by telephone or in-person while helping an unrepresented LEP
16 party complete the form.

17 b. Cases in the appellate courts. When an attorney represents an LEP party in
18 a case on appeal, the attorney must file an application for appointment of a court
19 interpreter in the district court where the case originated.

20

21 **47.3(6) Exceptions to the priorities for selecting a court interpreter.**

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

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

9 *c. ~~Unavailability of~~ No reasonably available certified court interpreter resides*
10 *within 150 miles of the courthouse.*

11 (1) If court personnel are unable to locate a reasonably available certified
12 court interpreter for a legal proceeding in an indictable criminal case or
13 termination of parental rights case within 150 miles of the courthouse, court
14 personnel will conduct a regional or national search.

15 (2) If court personnel are unable to locate a reasonably available certified
16 court interpreter for cases other than indictable criminal or termination of
17 parental rights within 150 miles of the courthouse, court personnel may conduct
18 a regional or national search.

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

1 **47.3(7)** *Interpreter services through remote audio or video communications*
2 *technology.*

3 a. For a ~~brief court proceeding expected to last 30 minutes~~ approximately two
4 hours or less, a court may appoint an appropriate interpreter available through
5 a remote audio or video interpreter service.

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

8 c. A remote video sign language interpreter must be a Class A certified
9 interpreter or Class B noncertified interpreter as defined in rule 47.4(1) or
10 47.4(2).

11 d. For a ~~brief court proceeding expected to last 30 minutes~~ approximately two
12 hours or less, a court may appoint a remote Class A certified interpreter or Class
13 B noncertified interpreter instead of a less qualified interpreter available to
14 interpret in person.

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

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

21 g. Before or at a court proceeding for which a remote interpreter is appointed
22 to facilitate communication with an LEP participant, the court will enter an order
23 appointing the remote interpreter consistent with rule 47.3(8). For an initial
24 appearance in a criminal case, the court may orally appoint the interpreter prior
25 to the proceeding and enter an order appointing the interpreter after the
26 proceeding has been concluded, if necessary.

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

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

9 *a.* When a court interpreter is identified consistent with rule 47.3, the court
10 will enter an order appointing the interpreter prior to the legal proceeding, unless
11 the court has previously entered an order appointing the interpreter for all
12 subsequent proceedings in the case.

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

20 *c.* An order appointing an interpreter must specify whether the interpreter is
21 appointed for a specific court proceeding or all court proceedings in the case and
22 whether an interpreter also is appointed to assist with attorney-client
23 communications, settlement communications, or depositions prior to the
24 scheduled court proceeding or proceedings for which the interpreter has been
25 appointed.

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

6

7 **47.3(12) Number of court interpreters.**

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

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

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

21 d. When two or more parties with adverse interests in a case need an
22 interpreter of the same language, the court will appoint a separate interpreter
23 for each party, unless the parties knowingly and voluntarily waive the right to
24 separate interpreters on the record.

25 e. When the court appoints two or more interpreters for a proceeding, only
26 one interpreter at a given time may provide the simultaneous interpretation of

1 the general court proceedings and the consecutive interpretation of witness
2 testimony for the LEP parties, while any additional interpreter will provide
3 interpretation for attorney-client communications during the proceeding. In this
4 situation, the proceedings and witness interpreter will use a mobile microphone
5 and transmitter, and the LEP parties will use mobile receivers with headphones.
6 The interpreters must rotate the duty of interpreting the proceedings and witness
7 testimony at least once per hour.

8 f. When a proceeding will be more than four hours, and two or more LEP
9 parties or LEP parties and witnesses need an interpreter, the court may appoint
10 fewer than two interpreters for each LEP party and direct the interpreters to work
11 as a team to provide interpreting services for attorney-client communications
12 and for general proceedings and witness interpretation as described in rule
13 47.3(12)(e).

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

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

22

23 **Rule 47.8 Application; and test registration; continuing education fees.**

24 **47.8(1)** The application fee to be an oral or sign language court interpreter is
25 \$25. This fee cannot be waived or refunded.

1 **47.8(2)** The registration fee for the two written examinations identified in rule
2 47.4(1)(a) is \$50 for Iowa residents and \$100 for nonresidents. If the applicant
3 has already passed at least one of the two examinations, the registration fee is
4 \$25 for Iowa residents and \$50 for nonresidents.

5 **47.8(3)** The registration fee for each oral proficiency interview examination is
6 \$65 for Iowa residents and \$130 for nonresidents.

7 **47.8(4)** The registration fees for the three-part oral interpretation certification
8 examination approved by the NCSC's Language Access Services Section is \$250
9 for Iowa residents and \$500 for nonresidents.

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

11 ~~**47.8(6)** All fees set forth in this rule must be paid to the OPR. The interpreter
12 application fee is due at the time the application is filed. Test registration fees are
13 due on or before the registration deadline established by the OPR. The annual
14 continuing education reporting fee is due by May 15 of each year beginning in
15 2017.~~

16

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

18

19 **47.13(5)** *Application for written translation of court-related materials.* When a
20 party or attorney in a case involving an LEP person wants a written translation
21 of court-related material from English into another language, or from another
22 language into English, and the court or other government entity will be
23 responsible for paying the translator, the LEP person or the LEP person's
24 attorney must file with the court a timely application for a written translation of
25 court-related material. The application must include:

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

4 ~~b. The name, contact information, qualifications, and certifications of the~~
5 ~~proposed translator. If the court-related material is a written document, the~~
6 ~~application must also include:~~

7 ~~(1) A brief description of the document's content.~~

8 ~~(2) The language in which the document is written.~~

9 ~~(3) The language into which the document should be translated.~~

10 ~~(4) The number of words in the document to be translated.~~

11 c. If the court-related material is an electronic recording of communications
12 with an LEP person, the application must also include:

13 ~~(1) A brief description of the nature of the communications.~~

14 ~~(2) The number of persons involved in the communications.~~

15 ~~(3) The languages spoken by the persons involved in the communications.~~

16 ~~(4) Whether a language interpreter was one of the persons involved in the~~
17 ~~communications.~~

18 ~~(5) The number of minutes of recorded communication involving one or more~~
19 ~~LEP persons, the hourly fee or fee per word to be paid to the translator, and the~~
20 ~~total translation fee to be paid to the translator.~~

21 ~~(6) Whether the applicant is requesting only a transcript of what the English~~
22 ~~speaking person said and a translation into English of what the LEP person said~~
23 ~~during the communication or a transcript of what the English-speaking person~~
24 ~~said and a translation of what the LEP person said and an evaluation of the~~
25 ~~accuracy of the interpretation of an interpreter involved in the communication,~~
26 ~~if applicable.~~

1 **47.13(6)** *Court approval of written translation and translator.* The court may
2 approve the application for the written translation of court-related material only
3 if an oral or sign language interpretation of the material would not be sufficient
4 to ensure due process under the circumstances. If the court approves a written
5 translation of court-related material, the court ~~may approve the translator~~
6 ~~identified in the application if the translator meets the criteria in rule 47.13(3),~~
7 ~~or the court may decline to appoint the translator identified in the application~~
8 ~~and appoint a substitute translator by applying the criteria in rule 47.13(3) will~~
9 direct district court administration staff to locate a translator who meets the
10 criteria in rule 47.13(3) and to comply with the policies for locating and paying
11 translators as established by state court administration. After district court
12 administration staff has located a qualified translator and agreed upon a fee for
13 the translation service, the court will enter an order approving a written
14 translation of court-related material and appointing the translator.

15 **Rule 47.14 Interpretation of legally binding documents submitted to the**
16 **court.**

17 **47.14(1)** *Legally binding documents.* For the purpose of this rule, “legally
18 binding documents” include but are not limited to settlement agreements,
19 consent decrees, and guilty pleas.

20 **47.14(2)** *Selection of an interpreter to interpret a legally binding document*
21 *outside a court proceeding.* When an interpreter is required to interpret a legally
22 binding document outside a court proceeding, attorneys must use the highest
23 classified interpreter consistent with the priorities for selecting an oral language
24 interpreter in rule 47.3(4) or the priorities for selecting a sign language
25 interpreter in rule 47.3(5) and may seek assistance from district court
26 administration staff to locate an interpreter who meets these qualifications.

1 **47.14(3) Remote interpreters.** Attorneys may use a remote interpreter via
2 telephone or video conference to interpret a legally binding document for an LEP
3 party and must give preference to an interpreter the court has already appointed
4 to interpret for the LEP party.

5 **47.14(4) Certification of interpretation of a legally binding document.**

6 When a party or attorney submits to the court a legally binding document
7 that involves an LEP party, the person submitting the document to the court
8 must also submit a court-approved “Certification of Interpretation of a Legally
9 Binding Document” form in which the interpreter who interpreted the legally
10 binding document for the LEP party includes:

11 a. A statement that the interpreter completely and accurately interpreted the
12 legally binding document from English into the LEP party’s primary language to
13 the best of the interpreter’s ability and in the presence of the LEP party.

14 b. The interpreter’s classification as determined by rule 47.4 or 47.5.

15 c. If the interpreter is certified, the interpreter must also indicate the state or
16 organization that awarded the certification and the date the interpreter obtained
17 the certification. If the interpreter is not certified, the interpreter must state their
18 classification on Iowa’s roster of court interpreters or on another state court
19 system’s roster of court interpreters as well as the interpreter’s educational
20 background, including a listing of all degrees obtained and the name of the
21 institution that awarded each degree.

1 d. A certification pursuant to Iowa Code section 622.1 using substantially the
2 following form:

3 “I certify under penalty of perjury and pursuant to the laws of the state of
4 Iowa that the preceding is true and correct.

5 _____
6 Date Signature”

7 **~~Rule 47.14~~Rule 47.15 Application of rules to administrative agency**
8 **proceedings.** To the extent an administrative agency is subject to these rules
9 pursuant to Iowa Code section 622A.7 or 622B.1(2), the agency is responsible
10 for appointing interpreters to appear in agency proceedings and for approving
11 interpreters’ claims for compensation.

12 **~~Rule 47.15~~Rule 47.16 Administration.**

13 **~~47.15(1)~~47.16(1)** The OPR assistant director for admissions will serve as the
14 principal executive officer for matters pertaining to the qualifications,
15 classification, examination, continuing education, and discipline of court
16 interpreters. The OPR director may, subject to the approval of the supreme court,
17 employ such other employees as may be necessary to carry out the duties of this
18 chapter of the Iowa Court Rules.

19 **~~47.15(2)~~47.16(2)** At least 60 days prior to the start of each fiscal year, the
20 director of the OPR will submit to the supreme court for consideration and
21 approval a budget for the upcoming fiscal year covering the operations provided
22 for in this chapter. The supreme court’s approval of the budget authorizes
23 payment as provided in the budget. A separate bank account designated as the
24 court interpreter operating account must be maintained for payment of
25 authorized expenditures as provided in the approved budget. Fees or other funds
26 received or collected as directed in this chapter or in accordance with an

1 approved interagency agreement will be deposited in the court interpreter
2 operating account for payment of the expenditures authorized by the approved
3 budget.

4 ~~Rule 47.16~~**Rule 47.17 Immunity.**

5 ~~47.16(1)~~**47.17(1)** *Claims.* Claims against the OPR director, assistant
6 directors, and staff, or against members of the advisory committee, are subject
7 to the State Tort Claims Act set forth in Iowa Code chapter 669.

8 ~~47.16(2)~~**47.17(2)** *Immunity.* The OPR director, assistant directors, and staff
9 and members of the advisory committee are immune from all civil liability for
10 damages for the conduct, communications, and omissions occurring in the
11 performance of and within the scope of their official duties under these rules.

12 ~~47.16(3)~~**47.17(3)** *Qualified immunity.* Records, statements of opinion, and
13 other information regarding an interpreter that are communicated by an entity,
14 including any person, firm, or institution, without malice, to the OPR director,
15 assistant directors, and staff, and the members of the advisory committee are
16 privileged; civil suits for damages predicated thereon may not be instituted.