

## Statutes

### **Code 1976 § 15-27-15**

Code 1976 § 15-27-15, SC ST § 15-27-15

Code of Laws of South Carolina 1976 Annotated Currentness

Title 15. Civil Remedies and Procedures Chapter 27. Trial and Certain Incidents Thereof

Article 1. General Provisions

#### **§ 15-27-15. Interpreters for deaf person who is party to legal proceeding, witness therein, or confined to any institution.**

(A) Whenever a deaf person is a party or witness in any legal proceeding including, but not limited to, a civil or criminal proceeding, a family court proceeding, an action involving a traffic violation, or other criminal matter heard in magistrates court, or is confined to an institution, the court must appoint as many qualified interpreters or deaf relay interpreters as needed and are approved by the South Carolina Association of the Deaf. The interpreter must be approved by the deaf person and either the South Carolina Association of the Deaf and the South Carolina Registry of Interpreters for the Deaf or the National Registry of Interpreters for the Deaf to interpret the proceedings to and the testimony of the deaf person, unless the deaf person waives having a qualified interpreter, elects to use another individual of his own selection as his interpreter, or the judge finds that it is not necessary for the fulfillment of justice. If a person elects to use an interpreter other than a qualified interpreter provided for in this section, the court must first make a determination that this action is in the best interest of the individual and is in the best interests of justice. The selection, use, and reimbursement of interpreters must be determined under such guidelines as may be established by the Chief Justice of the Supreme Court. All fees for interpreting services must be paid out of the general fund of the State from funds appropriated to the Judicial Department for this purpose by the General Assembly.

(B) For purposes of this section:

(1) "Qualified interpreter" means a person eighteen years of age or older who has been certified by the South Carolina Association of the Deaf Interpreter Assessment Program (SCAD-IAP Level IV or V) or the National Registry of Interpreters for the Deaf and who has received approval from the South Carolina Association of the Deaf and who is not a family member of the deaf person.

(2) "Deaf person" means a person who cannot use his hearing for communication purposes.

In an action where the mental condition of a deaf person is being considered and where the person may be committed to an institution, all the court proceedings pertaining to the person must be interpreted to the deaf person in a language that the person understands by a qualified interpreter appointed by the court.

HISTORY: 1987 Act No. 97 § 1; 1996 Act No. 365, § 1; 1998 Act No. 390, § 3; 2001 Act No. 103, § 1.

LIBRARY REFERENCES Westlaw Key Number Searches: 110k642; 388k22.

Criminal Law 642. Trial 22. C.J.S. Criminal Law § 1152. C.J.S. Trial § 95.  
Current through End of 2004 Reg. Sess. COPYRIGHT © 2004 BY THE STATE OF SOUTH CAROLINA END OF DOCUMENT

## Code 1976 § 15-27-155

Code of Laws of South Carolina 1976 Annotated Currentness Title 15. Civil Remedies and Procedures Chapter 27. Trial and Certain Incidents Thereof Article 1. General Provisions

### **§ 15-27-155. Interpreter for party or witness unable to speak English; qualified interpreter defined; fees; centralized list; use of interpreter not on list.**

(A) Notwithstanding any other provision of law, whenever a party or witness to a civil legal proceeding does not sufficiently speak the English language to testify, the court may appoint a qualified interpreter to interpret the proceedings and the testimony of the party or witness. However, the court may waive the use of a qualified interpreter if the court finds that it is not necessary for the fulfillment of justice. The court must first make a finding on the record that the waiver of a qualified interpreter is in the best interest of the party or witness and that this action is in the best interest of justice.

(B) An "interpreter" means a person who:

- (1) is eighteen years of age or older;
- (2) is not a family member of the party or witness;
- (3) is an instructor of foreign language at an institution of education; or
- (4) has educational training or experience that enables him or her to fluently speak a foreign language and interpret the language of another person.

An "interpreter" shall not be a person confined to an institution.

(1) The selection, use, and reimbursement of interpreters must be determined under such guidelines as may be established by the Chief Justice of the Supreme Court;

(2) The fees for interpreting services may be:

- (a) paid out of the general fund of the State from funds appropriated to the Judicial Department for this purpose by the General Assembly;
- (b) paid by one or more of the parties as the court may direct; or taxed ultimately as costs based on the discretion of the court.

(D) The Division of Court Administration shall maintain a centralized list of qualified interpreters to interpret the proceedings and testimony of a party or witness. A party or a witness is not precluded from using a qualified interpreter who is not on the centralized list as long as the interpreter meets the requirements of subsection (B) and submits a sworn affidavit to the court specifying his or her qualifications.

HISTORY: 1998 Act No. 390, § 2; 2001 Act No. 103, § 2.

LIBRARY REFERENCES Westlaw Key Number Searches: 110k642; 388k22.

Criminal Law 642. Trial 22. C.J.S. Criminal Law § 1152. C.J.S. Trial § 95. Code 1976 § 15-27-155, SC ST § 15-27-155 Current through End of 2004 Reg. Sess.

COPYRIGHT © 2004 BY THE STATE OF SOUTH CAROLINA END OF DOCUMENT

## Code 1976 § 17-1-50

Code of Laws of South Carolina 1976 Annotated Currentness Title 17. Criminal  
Procedures Chapter 1. General Provisions

### § 17-1-50. Interpreters in criminal proceedings.

(A) As used in this section: (1) "Certified interpreter" means an interpreter who meets the standards contained in sub-item (A)(4) and is certified by the administrative office of the United States courts, by the office of the administrator for the state courts, or by a nationally recognized professional organization. (2) "Legal proceeding" means a proceeding in which a non-English speaking person is a party or a witness. (3) "Non-English speaking person" means a party or a witness participating in a legal proceeding who has limited ability to speak or understand the English language. (4) "Qualified interpreter" means a person who: (a) is eighteen years of age or older; (b) is not a family member of a party or a witness; (c) is not a person confined to an institution; and (d) has education, training, or experience that enables him to speak English and a foreign language fluently, and is readily able to interpret simultaneously and consecutively and to sight-translate documents from English into the language of a non-English speaking person, or from the language of that person into spoken English. (5) "Victim" means a victim as defined in Section 16-3-1110. (6) "Witness" means a person who testifies in a legal proceeding.

(B)(1) Notwithstanding any other provision of law, whenever a party, witness, or victim in a criminal legal proceeding does not sufficiently understand or speak the English language to comprehend the proceeding or to testify, the court must appoint a certified or otherwise qualified interpreter to interpret the proceedings to the party or victim or to interpret the testimony of the witness. (2) However, the court may waive the use of a certified or otherwise qualified interpreter if the court finds that it is not necessary for the fulfillment of justice. The court must first make a finding on the record that the waiver of a certified or otherwise qualified interpreter is requested by a non-English speaking party, witness, or victim in a legal proceeding; that the waiver has been made knowingly, voluntarily, and intelligently; and that granting the waiver is in the best interest of justice.

The selection, use, and reimbursement of interpreters must be determined under such guidelines as may be established by the Chief Justice of the Supreme Court. All fees for interpreting services must be paid out of the general fund of the State from funds appropriated to the Judicial Department for this purpose by the General Assembly.

(D) The Division of Court Administration must maintain a centralized list of certified or otherwise qualified interpreters to interpret the proceedings to a party and testimony of a witness. A party or a witness is not precluded from using a qualified interpreter who is not on the centralized list as long as the interpreter meets the requirements of sub-item (A)(4) and submits a sworn affidavit to the court specifying his qualifications or submits to a voir dire by the court.

HISTORY: 1998 Act No. 390, § 1; 2001 Act No. 103, § 3.

LIBRARY REFERENCES Criminal Law 642. WESTLAW Topic No. 110. C.J.S. Criminal Law § 1152. Code 1976 § 17-1-50, SC ST § 17-1-50

Current through End of 2004 Reg. Sess. COPYRIGHT © 2004 BY THE STATE OF SOUTH CAROLINA END OF DOCUMENT

# The Supreme Court of South Carolina

## RE: APPOINTMENT OF QUALIFIED COURT INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS AND PAYMENT FOR THEIR SERVICES

---

### ORDER

---

IT IS ORDERED that the Order of the Court dated May 20, 2004 providing procedures for appointment of qualified interpreters for non-English speaking persons and payment for their services is amended effective immediately:

1. The appointment of a certified or otherwise qualified interpreter pursuant to S.C. CODE ANN. Section 15-27-155 for a party or witness unable to speak English shall be by written Order of the Court making the appointment.
2. The court appointed certified or otherwise qualified interpreter shall receive payment of \$25.00 per hour, with a two-hour minimum, for interpreting services rendered. The fees for interpreting services may be: (a) paid out of funds appropriated to the Judicial Department by the General Assembly; (b) paid by one or more of the parties as the Court may direct; or (c) taxed ultimately as costs based on the discretion of the Court, with any fees over the \$25.00 per hour set by Order of this Court being the responsibility of the County. **Effective September 1, 2006**, the payment will increase to \$45.00 per hour for **certified** foreign language interpreters.
3. Application for the interpreter's fee shall be made on such forms as are prescribed and furnished by South Carolina Court Administration. Namely, SCCA/262, 263, and 264. The original Request for Payment must be submitted only upon completion of the interpreting services. Requests for Payment must be accompanied by the original Interpreter Time Sheet showing with specificity (to the nearest quarter hour) the hours spent and approved by the Court making the appointment. In addition, the Court must sign the Order of Appointment and Request for Payment.
4. The Judicial Department will not be responsible for the payment of interpreter services when funds appropriated specifically for this purpose by the General Assembly are exhausted.
5. Forms shall be available at the Judicial Department website [www.sccourts.org](http://www.sccourts.org) for use in implementing these procedures.

6. Court Administration will maintain a centralized list of certified or otherwise qualified interpreters. A party or a witness may use a qualified interpreter who is not on the centralized list as long as the interpreter meets the requirements of subsection (B), and submits a sworn affidavit to the Court specifying his or her qualifications.

IT IS SO ORDERED.

S/ Jean H. Toal  
For the Court  
Chief Justice Jean Hofer Toal

Columbia, South Carolina

August 3, 2006

# The Supreme Court of South Carolina

RE: APPOINTMENT OF QUALIFIED COURT INTERPRETERS FOR DEAF  
PERSONS AND PAYMENT FOR THEIR SERVICES

---

## ORDER

---

We find that the fee for qualified sign language interpreters set by Order dated June 16, 1992, should be increased.

Now, therefore,

IT IS ORDERED that the Order of the Court dated June 16, 1992, providing procedures for appointment of qualified interpreters for the deaf and payment for their services is vacated, and the following procedures are adopted, to be effective immediately:

1. The appointment of a qualified interpreter pursuant to S.C. CODE ANN. Section 15-27-15 for a deaf person who is a juror or a party to any legal proceeding or a witness therein, or confined to an institution shall be by written Order of the Court making the appointment. A qualified interpreter is one who has been approved by the deaf person and either the South Carolina Association of the Deaf, the South Carolina Registry of Interpreters for the Deaf, or the National Registry of Interpreters for the Deaf.
2. **The court appointed qualified interpreter shall receive payment of \$35.00 per hour, with a two-hour minimum, for interpreting services rendered.** The fees for interpreting services may be: (a) paid out funds appropriated to the Judicial Department by the General Assembly; (b) paid by one or more of the parties as the Court may direct; or (c) taxed ultimately as costs based on the discretion of the Court, with any fees over the \$35.00 per hour set by Order of this Court being the responsibility of the County. **Effective July 1, 2004, the payment will increase to \$45.00 per hour for services rendered.**
3. Application for the interpreter's fee shall be made on such forms as are prescribed and furnished by South Carolina Court Administration. Namely, SCCA/262, 263, and 264. The original Request for Payment must be submitted only upon completion of the

interpreting services. Requests for Payment must be accompanied by the original Interpreter Time Sheet showing with specificity (to the nearest quarter hour) the hours spent and approved by the Court making the appointment. In addition, the Court must sign the Order of Appointment and Request for Payment.

4. The Judicial Department will not be responsible for the payment of interpreter services when funds appropriated specifically for this purpose by the General Assembly are exhausted.

5. Forms shall be available at the Judicial Department website [www.sccourts.org](http://www.sccourts.org) for use in implementing these procedures.

6. Court Administration will maintain a centralized list of qualified interpreters. A party or a witness may use a qualified interpreter who is not on the centralized list as long as the interpreter meets the requirements of a qualified interpreter and submits a sworn affidavit to the Court specifying his or her qualifications.

IT IS SO ORDERED.

s/Jean Hoefler Toal  
Chief Justice Jean Hoefler Toal

**Columbia, South Carolina**  
**May 20, 2004**

# The Supreme Court of South Carolina

RE: Telephonic Foreign Language Interpreter Services in Magistrate  
and Municipal Courts

---

## ORDER

I FIND THAT the need and cost for foreign language interpreters in magistrate and municipal court is increasing. By previous Order dated January 9, 2002, a pilot project was initiated in the magistrates courts of Richland County authorizing the use of telephonic foreign language interpreter services in specified court proceedings. After using the service for six (6) months, the Chief Magistrate of Richland County submitted a report concerning the outcome of the pilot project. The report indicated that the project was a success and in no way infringed on the rights of the defendant, nor diminished the integrity of the proceedings. Based on the outcome of the report, I find that the use of telephonic foreign language interpreter services should be authorized for statewide use in the summary courts.

THEREFORE, pursuant to the provisions of Article V, Section 4, South Carolina Constitution,

IT IS ORDERED that the use of telephonic foreign language interpreter services may be used in the magistrate and municipal courts of this



State for non-capitol initial appearances, bond hearings, preliminary hearings, and guilty pleas, upon the following conditions:

1. The hearing must be recorded. A defendant who is in need of a foreign language interpreter must be informed that the court can provide that an interpreter be physically present in court, as opposed to using a telephonic foreign language interpreter. If the defendant requests that an interpreter be physically present in court, the proceeding must be continued until such time as the defendant's request can be accommodated. A defendant's consent or denial must be recorded and maintained as part of the record of the case.

2. The court must provide a speakerphone so the interpreter's voice will be recorded and included in the record of the proceeding. At the beginning of the proceeding, the interpreter must be sworn over the telephone, and state on the record that he/she has been certified in the required language and is qualified to interpret court proceedings. Such oath shall be substantially in the following format: "Do you swear or affirm that you shall translate from English to (indicate foreign language) and from (indicate foreign language) to English, and such translation shall be done in accordance with the standard and accepted practices of the courts of the State of South Carolina?"

3. The judge shall inform the interpreter that all interpretations shall be done in the exact translation and no legal advice shall be offered to the defendant by the interpreter in any way. Such translation shall include all words,

phrases, and expletives, regardless of their content, and be as closely translated in like emotions as may be detected by the translator.

4. The County or municipality shall bear all costs associated with telephonic foreign language interpreter services.

5. No prior approval is necessary for a County or municipality to implement this program. However, upon implementation, notification of such to the Office of Court Administration is required.

This Order shall remain in effect unless amended or revoked by Order of the Chief Justice.

---

s/Jean Hoefler Toal  
Chief Justice

February 10, 2003  
Columbia, South Carolina

# The Supreme Court of South Carolina

RE: Amendments to South Carolina Appellate Court Rules

---

## ORDER

---

Pursuant to Art. V, §4 of the South Carolina Constitution, the South Carolina Appellate Court Rules are amended as follows:

(1) The title of Part V of the Rules is amended to read: “Rules Governing the Judiciary, Employees of the Judicial Department, and Others Assisting the Judiciary.”

(2) The attached Rule 511 is added.

These amendments shall be effective immediately.

IT IS SO ORDERED.

<u>s/Jean H. Toal</u>	C.J.
<u>s/James E. Moore</u>	J.
<u>s/John H. Waller, Jr.</u>	J.
<u>s/E. C. Burnett, III</u>	J.
<u>s/Costa M. Pleicones</u>	J.

Columbia, South Carolina

June 21, 2006

**RULE 511**  
**RULES OF PROFESSIONAL CONDUCT FOR**  
**COURT INTERPRETERS**

**PREAMBLE**

Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to limited English proficiency (LEP) or a speech or hearing impairment. It is essential that this communication barrier be removed, as much as possible, so that these persons are placed in the same position as a similarly situated person for whom there is no such barrier. A non-English speaker should be able to understand just as much as an English speaker with the same level of education and intelligence.

As officers of the court, interpreters help assure that such persons may enjoy equal access to justice and that court proceedings and court support services function efficiently and effectively. Interpreters are highly skilled professionals who fulfill an essential role in the administration of justice. Anyone serving as a court interpreter should be required to understand and abide by the precepts set out in these Rules. Judges and attorneys should also become familiar with the Rules and expect conduct from interpreters that is consistent with them.

**APPLICABILITY**

These Rules shall guide and be binding upon all persons, agencies and organizations who administer, supervise use of, or deliver interpreting services to the judiciary.

## **RULE 1**

### **ACCURACY AND COMPLETENESS OF INTERPRETATION**

Interpreters shall render a complete and accurate interpretation, or sight translation, without altering, omitting or adding anything to what is stated or written, and without explanation or summarization. The interpreter shall preserve the nuances and level of formality, or informality, of the speech.

#### **Commentary**

The interpreter has a two-fold duty: (1) to ensure that the proceedings in English reflect precisely what was said by a non-English speaking person, and (2) to place the non-English speaking person on an equal footing with those who understand English. This creates an obligation to conserve every element of information contained in a source language communication when it is rendered in the target language.

Therefore, interpreters are obligated to apply their best skills and judgment to preserve faithfully the meaning of what is said in court, including the style or register of speech. Verbatim, "word for word," or literal oral interpretations are not appropriate when they distort the meaning of the source language. Every spoken statement, even if it appears non-responsive, obscene, rambling, or incoherent should be interpreted. This includes apparent misstatements.

Interpreters should never interject their own words, phrases, or expressions. If the need arises to explain an interpreting problem (e.g., a term or phrase with no direct equivalent in the target language or a misunderstanding that only the interpreter can clarify), the interpreter should ask the court's permission to provide an explanation. Interpreters should convey the emotional emphasis of the speaker without reenacting or mimicking the speaker's emotions, or dramatic gestures.

Sign language interpreters, however, must employ all of the visual cues that the language they are interpreting for requires, including facial expressions, body language, and hand gestures. Sign language interpreters, therefore, should ensure that court participants do not confuse these essential elements of the interpreted language with inappropriate interpreter conduct.

The obligation to preserve accuracy includes the interpreter's duty to correct any error of interpretation discovered by the interpreter during the proceeding. Interpreters should demonstrate their professionalism by objectively analyzing any challenge to their performance.

## **RULE 2 REPRESENTATION OF QUALIFICATIONS**

Interpreters shall accurately and completely represent their certifications, training, and pertinent experience.

### **Commentary**

Acceptance of a case by an interpreter conveys linguistic competency in legal settings. Withdrawing or being asked to withdraw from a case after it begins causes a disruption of court proceedings and is wasteful of scarce public resources. It is, therefore, essential that interpreters present a complete and truthful account of their training, certification and experience prior to appointment so the officers of the court can fairly evaluate their qualifications for delivering interpreting services.

## **RULE 3 IMPARTIALITY AND AVOIDANCE OF CONFLICT OF INTEREST**

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

### **Commentary**

The interpreter serves as an officer of the court and the interpreter's duty in a court proceeding is to serve the court and the public to which the court is a servant. This is true regardless of whether the interpreter is publicly retained at government expense or retained privately at the expense of one of the parties.

The interpreter should avoid any conduct or behavior that presents the appearance of favoritism toward any of the parties. Interpreters should maintain professional

relationships with their clients, and should not take an active part in any of the proceedings. The interpreter should discourage a non-English speaking party's personal dependence.

During the course of the proceedings, interpreters should not converse with parties, witnesses, jurors, attorneys, or with friends or relatives of any party, except in the discharge of their judicial functions. It is especially important that interpreters, who are often familiar with attorneys or other members of the courtroom work group, including law enforcement officers, refrain from casual and personal conversations with anyone in court that may convey an appearance of a special relationship or partiality to any of the court participants.

The interpreter should strive for professional detachment. Verbal and non-verbal displays of personal attitudes, prejudices, emotions, or opinions should be avoided at all times.

Should an interpreter become aware that a proceeding participant views the interpreter as having a bias or being biased, the interpreter should disclose that knowledge to the presiding judge. Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest and must be disclosed to the judge. An interpreter should not serve in any matter in which payment for their services is contingent upon the outcome of the case.

Before providing services in a matter, court interpreters must disclose to all parties and the presiding judge any prior involvement, whether personal or professional, that could be reasonably construed as a conflict of interest. This disclosure should not include privileged or confidential information.

The following are circumstances that create potential conflicts of interest that must be disclosed:

- (1) The interpreter is a friend, associate, or relative of a party or counsel for a party involved in the proceedings;
- (2) The interpreter has served in an investigative capacity for any party involved in the case;
- (3) The interpreter has previously been retained by a law enforcement agency to assist in the preparation of the criminal case at issue;
- (4) The interpreter or the interpreter's spouse or child has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that would be affected by the outcome of the case;
- (5) The interpreter has been involved in the choice of counsel or law firm for that case;
- (6) The interpreter is an attorney in the case;
- (7) The interpreter has previously been retained for private employment by one of the parties to interpret in the case;
- (8) For any other reason, the interpreter's independence of judgment would be compromised in the course of providing services.

The existence of any of the above-mentioned circumstances does not alone disqualify an interpreter from providing services as long as the interpreter is able to render services objectively. An interpreter may serve if the judge and all

parties consent. If an actual or apparent conflict of interest exists, the interpreter may, without explanation to any of the parties or the judge, decline to provide services.

Should an interpreter become aware that a non-English speaking participant views the interpreter as having a bias, or being biased, the interpreter should disclose that knowledge to the judge.

## **RULE 4 PROFESSIONAL Demeanor**

Interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.

### **Commentary**

Interpreters should know and observe the established protocol, rules, and procedures for delivering interpreting services. When speaking in English, interpreters should speak at a rate and volume that enables them to be heard and understood throughout the courtroom, but the interpreter's presence should otherwise be as unobtrusive as possible. Interpreters should work without drawing undue or inappropriate attention to themselves. Interpreters should dress in a manner that is consistent with the dignity of the proceedings of the court. Interpreters should avoid obstructing the view of any of the individuals involved in the proceedings. However, interpreters who use sign language or other visual modes of communication must be positioned so that hand gestures, facial expressions, and whole body movement are visible to the person for whom they are interpreting.

Interpreters are encouraged to avoid personal or professional conduct that could discredit the court.

## **RULE 5 CONFIDENTIALITY**

Interpreters shall protect the confidentiality of all privileged and other confidential information.



## **Commentary**

The interpreter shall protect and uphold the confidentiality of all privileged information obtained during the course of her or his duties. It is especially important that the interpreter understand and uphold the attorney-client privilege, which requires confidentiality with respect to any communication between attorney and client. This rule also applies to other types of privileged communication.

Interpreters must also refrain from repeating or disclosing information obtained by them in the course of their employment that may be relevant to the legal proceeding.

In the event that an interpreter becomes aware of information that suggests imminent harm to someone or relates to a crime being committed during the course of the proceedings, the interpreter should immediately disclose the information to the presiding judge. If the judge is not available, the interpreter should disclose the information to an appropriate authority in the judiciary.

## **RULE 6 RESTRICTION OF PUBLIC COMMENT**

Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are, or have been, engaged even when that information is not privileged or required by law to be confidential.

## **Commentary**

Generally, interpreters should not discuss outside of the interpreter's official duties, interpreter assignments, persons involved or the facts of the case. However,

interpreters may share information for training and educational purposes. Interpreters should only share as much information as is required to accomplish their purpose. An interpreter must not reveal privileged or confidential information.

## **RULE 7 SCOPE OF PRACTICE**

Interpreters shall limit themselves to interpreting or translating, and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

### **Commentary**

Since interpreters are responsible only for enabling others to communicate, they should limit themselves to the activity of interpreting or translating only. Interpreters should refrain from initiating communications while interpreting unless it is necessary for assuring an accurate and faithful interpretation. Interpreters may be required to initiate communications during a proceeding when they find it necessary to seek assistance in performing their duties. Examples of such circumstances include seeking direction when unable to understand or express a word or thought, requesting speakers to moderate their rate of communication or repeat or rephrase something, correcting their own interpreting errors, or notifying the court of reservations about their ability to satisfy an assignment competently. In such instances they should make it clear that they are speaking for themselves.

An interpreter may convey legal advice from an attorney to a person only while that attorney is giving it. An interpreter should not explain the purpose of forms, services, or otherwise act as counselors or advisors unless they are interpreting for someone who is acting in that official capacity. The interpreter may translate language on a form for a person who is filling out the form, but may not explain the form or its purpose for such a person.

The interpreter should not personally serve to perform official acts that are the official responsibility of other court officials including, but not limited to, court clerks, pre-trial release investigators or interviewers, or probation counselors.

## **RULE 8 ASSESSING AND REPORTING IMPEDIMENTS TO PERFORMANCE**

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their

ability to satisfy an assignment competently, they shall immediately convey that reservation to the presiding judge.

## **Commentary**

If the communication mode or language of the non-English-speaking person cannot be readily interpreted, the interpreter should notify the presiding judge.

Interpreters should notify the presiding judge of any environmental or physical limitation that impedes or hinders their ability to deliver interpreting services adequately (e.g., the court room is not quiet enough for the interpreter to hear or be heard by the non-English speaker, more than one person at a time is speaking, or principals or witnesses of the court are speaking at a rate of speed that is too rapid for the interpreter to adequately interpret). Sign language interpreters must ensure that they can both see and convey the full range of visual language elements that are necessary for communication, including facial expressions and body movement, as well as hand gestures. Interpreters should notify the presiding judge of the need to take periodic breaks to maintain mental and physical alertness and prevent interpreter fatigue. Interpreters should recommend and encourage the use of team interpreting whenever necessary.

Interpreters are encouraged to make inquiries as to the nature of a case whenever possible before accepting an assignment. This enables interpreters to match more closely their professional qualifications, skills, and experience to potential assignments and more accurately assess their ability to satisfy those assignments competently.

Even competent and experienced interpreters may encounter cases where routine proceedings suddenly involve technical or specialized terminology unfamiliar to the interpreter (e.g., the unscheduled testimony of an expert witness). When such instances occur, interpreters should request a brief recess to familiarize themselves with the subject matter. If familiarity with the terminology requires extensive time or more intensive research, interpreters should inform the presiding judge.

Interpreters should refrain from accepting a case if they feel the language and subject matter of that case is likely to exceed their skills or capacities. Interpreters should notify the presiding judge if they feel unable to perform competently, due to lack of familiarity with terminology, preparation, or difficulty in understanding a witness or defendant.

Interpreters should notify the presiding judge of any personal bias they may have involving any aspect of the proceedings. For example, an interpreter who has

been the victim of a sexual assault may wish to be excused from interpreting in cases involving similar offenses.

## **RULE 9 DUTY TO REPORT ETHICAL VIOLATIONS**

Interpreters shall report to the proper judicial authority any effort to impede their compliance with any law, any provision of these Rules, or any other judicial policy governing court interpreting and legal translating.

### **Commentary**

Because the users of interpreting services frequently misunderstand the proper role of the interpreter, they may ask or expect the interpreter to perform duties or engage in activities that conflict with the provisions of these Rules or other laws, regulations, or policies governing court interpreters. It is incumbent upon the interpreter to inform such persons of his or her professional obligations. If, having been apprised of these obligations, the person persists in demanding that the interpreter violate them, the interpreter should report it to the presiding judge.

## **RULE 10 PROFESSIONAL DEVELOPMENT**

Interpreters shall continually improve their skills and knowledge and advance the profession through activities such as professional training and education, and interaction with colleagues and specialists in related fields.

### **Commentary**

Interpreters must continually strive to increase their knowledge of the languages they work in professionally, including past and current trends in technical, vernacular, and regional terminology as well as their application within court proceedings.

Interpreters should keep informed of all statutes, rules of courts and policies of the judiciary that relate to the performance of their professional duties.

An interpreter should seek to elevate the standards of the profession through participation in workshops, professional meetings, interaction with colleagues, and reading current literature in the field.

~ ~ ~