

CHAPTER 48
CODE OF PROFESSIONAL CONDUCT FOR COURT
INTERPRETERS AND TRANSLATORS

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CHAPTER 48
CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS
AND TRANSLATORS
[Prior to April 1, 2008, see Chapter 15]

PREAMBLE

Effective and accurate language assistance may be necessary to ensure access to justice for all persons. Qualified interpreters and translators are highly skilled professionals who provide accurate language assistance during legal proceedings.

APPLICABILITY

The Code of Professional Conduct for Court Interpreters and Translators (Code of Conduct) governs the delivery of services by oral and sign language interpreters and translators in legal proceedings or in offices of the Iowa Judicial Branch. This Code of Conduct describes the role and defines the duties of interpreters, enhancing the administration of justice and promoting public confidence in the legal system. The canons apply to oral and sign language interpreters and translators and also to real-time court reporters providing language access to deaf or hearing-impaired persons who can read English. The comments guide the conduct of interpreters but should be read broadly to guide the conduct of translators and real-time court reporters when applicable.

DEFINITIONS

Throughout this chapter:

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

COMMENTS

The Comments describe basic principles of the Code of Conduct. If a court policy or routine practice appears to conflict with any provision of the Code of Conduct, including the Comments, the policy or practice as it applies to interpreters should be reviewed for modification.

*CANON 1**ACCURACY AND COMPLETENESS*

An interpreter must render a complete and accurate interpretation or sight translation by reproducing in the target language the closest natural equivalent of the source language message, without altering, omitting, or adding anything to the meaning of what is stated or written, and without explanation.

Comment to Canon 1.*Qualifications of an interpreter in a legal proceeding.*

To fulfill the obligation to interpret completely and accurately in a legal proceeding, an interpreter should have college-level vocabularies, including legal terms and slang, in English and at least one other language. An interpreter must also have exceptional memory and verbal skills and should have training in legal interpreting.

Role of an interpreter in a legal proceeding.

The primary role of an interpreter in a legal proceeding is twofold: To ensure that communications of an LEP participant are completely and accurately expressed in English and that communications of an English proficient participant are completely and accurately expressed in the oral or sign language the LEP participant understands.

An interpreter should apply the interpreter's best skills and judgment to preserve the meaning of what is communicated as faithfully as possible without adding or omitting words or phrases. The interpreter should express the style or register of speech, the ambiguities and nuances of the speaker, and the level of language that best conveys the original meaning of the source language, even if the LEP participant does not completely understand that level of language. Verbatim, "word for word," or literal oral interpretations are *inappropriate* when they distort the meaning of what was said in the source language. However, all spoken statements, including misstatements, should be interpreted, even if they appear non-responsive, obscene, rambling, or incoherent.

Sometimes, a speaker in a court proceeding might use a term or phrase that has no direct equivalent in the target language. When this occurs, the interpreter should ask the judicial officer's permission to explain the situation, and then offer the most accurate interpretation possible under the circumstances. If this situation arises in a legal proceeding without a judicial officer present, the interpreter should inform the attorney(s), or the supervisor of the activity if no attorney is involved, about the language issue, and then offer the most accurate interpretation possible under the circumstances.

An oral language interpreter should convey the emotional emphasis of the speaker without reenacting or mimicking the speaker's emotions, or dramatic gestures. A sign language interpreter, however, must employ all of the visual cues that the language being interpreted requires, including facial expressions, body language, and hand gestures. Judicial officers should ensure that court participants do not confuse these essential elements of the interpreted language with inappropriate interpreter conduct. Any challenge to the interpreter's conduct should be directed to the judicial officer.

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

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.

Team interpreting in a legal proceeding.

When engaging in team interpreting, but not actively interpreting, the support interpreter must remain attentive during the proceeding to assist the active interpreter as needed to ensure the accuracy of interpretation. If the support interpreter believes the active interpreter's interpretation should be corrected, the support interpreter should ask the judicial officer's permission to discuss an interpretation issue with the active interpreter. If necessary, the active interpreter should then correct the interpretation for the record.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; May 18, 2015, effective July 1, 2015; December 13, 2017, effective January 1, 2018]

CANON 2

REPRESENTATION OF QUALIFICATIONS

An interpreter must accurately and completely represent the interpreter's certification, education, interpreter training, classification on the Iowa roster of court interpreters, and interpreting experience.

Comment to Canon 2.

By accepting an interpreting assignment in a legal proceeding, an interpreter asserts linguistic competency in legal settings and familiarity with courtroom and legal proceeding protocols. Withdrawing, or being asked to withdraw, after a court proceeding has begun is disruptive and wasteful of scarce public resources. It is essential an interpreter present a complete and truthful account of the interpreter's education, interpreter training, certification, classification (if any) on the Iowa roster of court interpreters, and interpreting experience prior to appointment, so the judicial officer can fairly evaluate the interpreter's qualifications for delivering interpreting services.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*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.

The primary duty of a court interpreter is to be a neutral facilitator of accurate communication between an LEP person and the other English speaking participants in a legal proceeding.

An interpreter should avoid any conduct or behavior that presents the appearance of favoritism toward anyone during a legal proceeding. An interpreter should maintain a professional relationship with LEP participants, discourage dependence on the interpreter, and refrain from casual or personal conversation or interaction.

An interpreter should strive for professional detachment by avoiding verbal and nonverbal displays of personal attitudes, prejudices, emotions, or opinions.

An interpreter must not solicit or accept any payment, gift, or gratuities in addition to the interpreter's customary fees.

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.

The judicial officer should carefully evaluate any potential conflict, but the existence of only one of the above circumstances will not automatically disqualify an interpreter if the interpreter is able to render services objectively. The interpreter should disclose to the judicial officer any indication that the recipient of interpreting services views the interpreter as being biased. If an actual or apparent conflict of interest exists, the judicial officer should decide whether removal is appropriate based upon the totality of the circumstances.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018]

*CANON 4**PROFESSIONAL INTEGRITY AND DEMEANOR*

An interpreter must act honestly and professionally, in a manner consistent with the dignity of the court.

Comment to Canon 4.

An interpreter must be honest and trustworthy in all interactions with the court and all other participants and agencies involved in legal proceedings. For example, an interpreter must appear when scheduled to provide services, promptly report to an appropriate authority when a scheduling conflict arises, and accurately report time and expenses for interpreting services.

An interpreter should avoid personal or professional conduct that could dishonor the interpreter, the court, or the legal system. For example, an interpreter must never take advantage of knowledge obtained in the performance of duties or through access to court records, facilities, or privileges for the interpreter's or another person's personal gain.

An interpreter also should know and observe the established protocol, rules, and procedures for delivering interpreting services, and should dress in a manner that reflects the conventions of appropriate attire for professionals who appear in legal proceedings. When interpreting for an LEP witness and speaking in English, an interpreter should speak at a rate and volume that is audible and understandable throughout the courtroom. An interpreter should be as unobtrusive as possible and should not seek to attract inappropriate attention while performing the interpreter's professional duties. This includes any time the interpreter is present but not actively interpreting.

An interpreter should avoid obstructing the view of anyone involved in the proceedings, but should be appropriately positioned to facilitate communication. An interpreter who uses sign language or other visual modes of communication must be positioned so that signs, facial expressions, and whole body movements are visible to the person for whom the interpreter is interpreting. When necessary, the interpreter should be repositioned to accommodate visual access to exhibits.

An interpreter should avoid personal or professional conduct that could dishonor the court.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 5**CONFIDENTIALITY*

An interpreter must protect the confidentiality of all privileged and other confidential information. An interpreter may disclose information that would otherwise be privileged or confidential to the extent such disclosure is necessary to prevent imminent death or bodily harm.

Comment to Canon 5.

An interpreter must uphold the confidentiality of any communications between attorney and client and must refrain from repeating or disclosing information obtained in the course of the interpreter's employment.

An interpreter must accompany an LEP juror into the jury room and interpret for jury deliberations. When this occurs, the interpreter must be neutral, must not participate in jury deliberations, and must not disclose or comment upon jury deliberations.

An interpreter providing services to an LEP party may disclose information obtained while providing interpreter services if the interpreter is reasonably certain that such disclosure is necessary to prevent imminent death or bodily harm. If the LEP party is represented by an attorney, the disclosure must be made to the party's attorney. If the LEP party is not represented by an attorney, the disclosure must be made to the presiding judicial officer or other appropriate authority if the judicial officer is not available.

An interpreter providing services to an LEP person who is not a party may disclose information obtained while providing interpreter services if the interpreter is reasonably certain that such disclosure is necessary to prevent imminent death or bodily harm. The disclosure must be made to the presiding judicial officer or another appropriate authority if the judicial officer is not available.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 6**RESTRICTION OF PUBLIC COMMENT*

An interpreter must not publicly discuss, report, or offer an opinion concerning a matter in which the interpreter is or has been engaged, even when that information is not privileged or required by law to be confidential, except to facilitate training and education.

Comment to Canon 6.

Generally, an interpreter should not discuss interpreter assignments with anyone other than persons who have a formal duty associated with the case. For purposes of interpreter education and training, however, an interpreter may share information only about cases in which a final judgment has been entered and may divulge only as much information as is required to accomplish this purpose. Unless so ordered by a court or permitted under Canon 5, an interpreter must never reveal privileged or confidential information for any purpose, including training and education.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 7**SCOPE OF PRACTICE*

An interpreter for an LEP participant in any legal proceeding, or for an LEP party in a court-ordered program, must provide only interpreting or translating services. The interpreter must not give legal advice, express personal opinions to individuals for whom interpreting services are being provided, or engage in other activities that may be construed to constitute a service other than interpreting or translating.

Comment to Canon 7.

Since an interpreter is responsible only for enabling others to communicate, the interpreter should limit the interpreter's conduct to interpreting or translating. An interpreter, however, may initiate communications during a proceeding if direction from the court is necessary to perform the interpreter's duties. Examples of such circumstances include: seeking direction from the court when unable to understand or express a word or thought; requesting speakers to adjust their rate of speech or to repeat or rephrase something; correcting the interpreter's errors; or notifying the court of concerns about the interpreter's ability to fulfill an assignment competently. In such instances, the interpreter must make it clear the interpreter is speaking on his or her own behalf.

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 or contents of forms or services, or otherwise act as a counselor or an advisor, unless the interpreter is interpreting for someone who is acting in that official capacity. An interpreter may interpret or translate language on a form or instructions for the form for an LEP person who is filling out the form. However, the interpreter must not explain the form or answer questions about it, although an interpreter may interpret for a court official who is authorized to answer questions about a court form. In general, an interpreter should not perform functions that are the responsibility of attorneys or court officials.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]

*CANON 8**ASSESSING AND REPORTING IMPEDIMENTS TO PERFORMANCE*

An interpreter must assess at all times the interpreter's ability to competently and ethically deliver interpreting services. When an interpreter has any concern about the interpreter's ability to competently and ethically provide services or about interference with or impediments to providing competent and ethical services, the interpreter must immediately report that concern to an appropriate authority.

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. 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.

Impediments to ethical performance

Some users of interpreting services might ask or expect the interpreter to engage in activities that are contrary to provisions in the Code of Conduct or other law, rules, or policies governing court interpreters. In this situation, an interpreter should explain the interpreter's professional obligations. If the person continues to ask or demands that the interpreter engage in such activities, the interpreter should promptly request assistance from a judicial officer or other appropriate authority to resolve the matter.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018]

*CANON 9**DUTY TO REPORT CRIMINAL CONVICTIONS AND ETHICAL VIOLATIONS*

An interpreter must immediately report the interpreter's conviction of a felony or any lesser crime of dishonesty or moral turpitude to the Office of Professional Regulation of the Iowa Supreme Court (OPR). The interpreter must also immediately report to the OPR any public discipline entered against the interpreter in any jurisdiction. The failure to submit such a report may be an independent ground for discipline. An interpreter who observes another interpreter commit a serious violation of the Code of Conduct should submit a written complaint to the OPR.

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 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 or 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.

If an interpreter doubts whether another interpreter's conduct rises to the level of a serious ethical violation, the interpreter should consider sharing her or his concerns with the other interpreter. Collaboration among interpreters working together to improve their skills is encouraged.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018]

CANON 10

PROFESSIONAL DEVELOPMENT

An interpreter must strive to become more skillful and knowledgeable and advance the profession through activities such as professional training, education, and interaction with colleagues and specialists in related fields.

Comment to Canon 10.

An interpreter should improve the interpreter's interpreting skills and knowledge of the languages in which the interpreter works professionally, including past and current trends in slang, idiomatic expression, changes in dialect, technical terminology, and social and regional dialects.

An interpreter should keep informed of all statutes, rules of court, and policies of the judiciary that govern the performance of an interpreter's 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. An interpreter should support other interpreters by sharing knowledge and expertise.

[Court Orders December 22, 2003, and April 26, 2004, effective November 1, 2004; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015]