



Illinois Supreme Court
Code of Interpreter Ethics

Effective November 20, 2020

CODE OF ETHICS FOR INTERPRETERS IN THE ILLINOIS STATE COURT SYSTEM

PREAMBLE

Many persons who come before the courts are prevented from full participation in the proceedings due to limited English proficiency, or a speech or hearing impairment. It is essential that the resulting communication barrier be removed, to the extent possible, so that these persons are placed in the same position as similarly situated persons for whom there is no such barrier. 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.

PURPOSE

This code seeks to:

1. Ensure meaningful access to all courts and court services for Limited English Proficient Persons;
2. Protect the constitutional rights of criminal defendants to the assistance of court interpreters during court proceedings;
3. Ensure due process in all phases of criminal and civil litigation for Limited English Proficient persons;
4. Ensure equal protection of the law for Limited English Proficient persons;
5. Increase efficiency, quality, and uniformity in proceedings which involve a court interpreter; and
6. Encourage the broadest use of certified and registered language interpreters by all those in need of such services within the courts.

APPLICABILITY AND ENFORCEMENT

1. This code shall be binding upon all persons, and organizations who administer, supervise, use, or deliver spoken foreign or sign language interpreting services to the judicial system.
2. This code applies to court interpreters, including certified, registered, and unregistered interpreters, appearing:

- (a) In any proceeding before any court of the state;
 - (b) Before any attorney or court in connection with any matter that is brought before a court;
 - (c) In any other activity ordered by the court or conducted under the supervision of a court including but not limited to specialty courts, child custody mediations and mandatory arbitration proceedings.
3. Violations of this code may result in the interpreter being removed from a case, denied future appointments by the courts, being removed from the statewide interpreter registry maintained by the Administrative Office of the Illinois Courts, or losing credentials if the interpreter has been certified or registered pursuant to the rules of the Illinois Supreme Court.

Commentary

The use of the term “shall” is reserved for the black-letter principles. Statements in the commentary use the term “should” to describe behavior that illustrates or elaborates upon the principles. The commentaries are intended to convey what the drafters of this code believe to be probable and expected behaviors. Wherever a court policy or routine practice appears to conflict with the commentary in this code, it is recommended that the reasons for the policy or practice as it applies to court interpreters be reviewed for possible modification.

DEFINITIONS

For the purposes of this code, the following words shall have the following meaning:

“Certified interpreter” means a foreign language interpreter certified pursuant to the program established by the Administrative Office of the Illinois Courts and listed on the statewide registry maintained by the Administrative Office of the Illinois Courts.

“Cultural Fluency” means awareness and full comprehension of cross-cultural factors including but not limited to expectations, attitudes, values, roles, institutions, and linguistic differences and similarities.

“Interpretation” means the unrehearsed transmission of the spoken word or message from one language to another.

“Interpreter” means a person, who is fluent in both English and another language, who listens to a communication in one language and orally converts it into another language while retaining the same meaning. An interpreter need not be physically present to provide interpreter services.

“Limited English Proficient Person” means someone who speaks a language other than English as his or her primary language and has a limited ability to read, write, speak, or understand

English and requires the assistance of a foreign language interpreter or sign language interpreter to effectively communicate.

“Registered interpreter” means a foreign language interpreter registered pursuant to the program established by the Administrative Office of the Illinois Courts and listed on the statewide registry maintained by the Administrative Office of the Illinois Courts.

“Sign language interpreter” means an individual who, as part of any case or court function, facilitates communication between or among legal professionals and a deaf, hard of hearing, or deaf blind party, witness, juror, or spectator through the use of sign language or other manual or oral representation of a spoken language. To be listed on the statewide registry maintained by Administrative Office of the Illinois Courts, sign language interpreters must be licensed at a "Master" level with the Illinois Deaf and Hard of Hearing Commission and must meet any additional training and registration requirements pursuant to the program established by the Administrative Office of the Illinois Courts.

"Source language" means the language of the original speaker, which the interpreter interprets into a second language. The term is always relative, depending on who is speaking.

“Summarize” means to make a summary of the chief points or thoughts of the speaker, *e.g.*, summary interpretation, a non-verbatim account of the statements made by the speaker.

"Target language" means the language of the listener, into which the interpreter renders the interpretation from the source language. This term is always relative, depending on who is listening.

“Translation” means the conversion of a written text from one language into written text in another language.

“Unregistered interpreter” means a foreign language interpreter who is not certified or registered pursuant to the program established by the Administrative Office of the Illinois Courts.

CANON 1: ACCURACY AND COMPLETENESS

Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to the meaning of what is stated or written, and without explaining the statements of the original speaker or writer.

Commentary

The interpreter has a twofold duty:

1. To ensure that the proceedings reflect, in English, precisely what was said by a Limited English Proficient Person, and

2. To place the Limited English Proficient Person on an equal linguistic footing with those who understand English for communication purposes.

This creates an obligation to conserve every element of information contained in a source language communication when it is rendered in the target language. Each court interpreter shall interpret the exact response of the witness or speaker even if the answer to a question is nonresponsive, leaving issues of admissibility of the response to the court and counsel.

Therefore, interpreters are obligated to apply their best skills and judgment to faithfully preserve 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 what was said in the source language, but every spoken statement, even if it appears non-responsive, obscene, rambling, or incoherent should be interpreted. This includes apparent misstatements.

A court interpreter shall not summarize court proceedings at any time unless instructed to do so by the court (*e.g.*, sidebar conference, jury selection, charge to the jury).

Interpreters should never interject any statement, elaboration, facial expression, or body language of their own. 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. Spoken language 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 and body language, in addition to hand gestures. Any challenge to the interpreter’s conduct should be directed to the judge.

If a witness testifying in a foreign language occasionally uses a few words in English, the court interpreter shall repeat such words for the record so that a person listening to the recorded proceeding may continue following the interpreter’s voice. However, should the witness utter a full English response, the interpreter will not ask the witness to respond in his/her native language. Rather, the interpreter will stand back so that the parties are aware of the English response and await the court’s direction.

Whenever an objection is made, the court interpreter shall interpret everything that was said up to the objection and instruct the witness by hand gesture not to speak until the court has ruled on the objection.

The obligation to preserve accuracy includes the interpreter’s duty to correct any errors of interpretation discovered by the interpreter during the proceeding. Interpreter should correct errors for the record as soon as possible. Interpreters should demonstrate their professionalism by objectively analyzing any challenge to their performance.

The ethical responsibility to accurately and completely interpret includes the responsibility of being properly prepared for interpreting assignments. Interpreters are encouraged to obtain documents and other information necessary to familiarize themselves with the nature and purpose of a proceeding. Prior preparation is especially required when testimony or documents include highly specialized terminology and subject matter.

CANON 2: REPRESENTATION OF QUALIFICATIONS

When interpreters represent their certifications, credentials, education, training, or pertinent experience they shall do so accurately and completely.

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.

CANON 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 or favoritism. 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 of record 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 Limited English Proficient person's personal dependence on the interpreter.

During the course of the proceedings, interpreters of record should not converse with parties, witnesses, jurors, attorneys, or with friends or relatives of any party, except in the discharge of their official functions. It is especially important that interpreters, who are often familiar with attorneys, courtroom staff, and 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. Official functions may include an informal pre-appearance assessment to include the following:

1. A determination of variety, mode, or level of communication;

2. A determination of potential conflicts of interest; and
3. A description of the interpreter's role and function.
4. Culturally appropriate introductions;

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.

Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest and must be disclosed to the judge. The interpreter should only divulge necessary information when disclosing the conflict of interest.

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

1. The interpreter is a friend, associate, witness or relative of a party or counsel for a party 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 financial interest in a party to the proceeding, or any other interest that would be affected by the outcome of the case;
3. The interpreter has served in an investigative capacity for any party involved in the case at issue;
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 has been involved in the choice of counsel or law firm for that case at issue;
6. The interpreter is an attorney in the case at issue;
7. The interpreter has previously been retained for private employment by one of the parties to interpret in the case at issue; or
8. For any other reason, the interpreter's independence of judgment would be compromised in the course of providing services.

The existence of any one 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. Despite the existence of an actual or perceived conflict of interest, an interpreter may serve if the judge and all parties consent to the interpreter's appointment. 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 Limited English Proficient Person views the interpreter as having a bias or being biased, the interpreter should disclose that knowledge to the judge.

Interpreters shall accept no remuneration, gifts, gratuities or any other valuable consideration in excess of their authorized compensation in the performance of their official interpreting duties. Neither should they accept invitations to events where their presence, admission, or participation can be construed as remuneration for professional services or assistance rendered in the course of the discharge of their duties. An interpreter should not serve in any matter in which payment for their services is contingent upon the outcome of the case

CANON 4: PROFESSIONAL DEMEANOR

Interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible. Interpreters shall not engage in any conduct that could reasonably be perceived as sexual harassment, assault, or abuse.

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. Interpreters should work without drawing undue or inappropriate attention to themselves. If an interpreter is not actively interpreting, the interpreter should not engage in any distracting activity in the courtroom such as reading newspapers or magazines or engaging in conduct that may call inappropriate attention to the interpreter. 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, but should be appropriately positioned to facilitate communication. Interpreters who use sign language or other visual modes of communication must, however, be positioned so that signs, facial expressions, and whole body movements are visible to the person for whom they are interpreting.

Interpreters are encouraged to avoid personal or professional conduct which could discredit the court. Interpreters are prohibited from soliciting business or making legal, medical, or other referrals at any time on court premises, or to any party for whom the interpreter has provided services during a court proceeding.

Interpreters should not engage in any speech, gestures, or other conduct towards any judge, party, witness, lawyer, or any member of Court staff or a lawyer's office staff while the interpreter is on court premises or acting in their official capacity , that could be reasonably perceived as sexual harassment, assault, or abuse.

This prohibition encompasses any inappropriate or unwanted speech of a sexual nature and/or any inappropriate or unwanted gestures or other conduct of a sexual nature, including direct

physical contact. According to the Supreme Court of Illinois Non-Discrimination and Anti-Harassment Policy Section IV: Examples of Prohibited Conduct, this includes unwelcome requests for dates or for sexual activity, demands for sexual favors or promises of preferential treatment with regard to an individual's employment status accompanied by implied or overt threats concerning an individual's employment status, sexual innuendoes, flirtation, suggestive comments, jokes of a sexual nature, sexual propositions, or sexual remarks.

CANON 5: CONFIDENTIALITY

Interpreters shall protect the confidentiality of all privileged and other confidential information. Interpreters must not disclose confidential communications privileged by state or federal law and other confidential information to any person.

Commentary

Interpreters must protect and uphold the confidentiality of all privileged information obtained during the course of their duties. This includes any notes or materials that may have been taken during the course of interpreting or translation. It is especially important that the interpreter understand and uphold the attorney-client privilege that requires confidentiality with respect to any communication between attorney and client. This rule also applies to other types of privileged communications. 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 indicates probable 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 services during a court proceeding judge

CANON 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, except to facilitate training and education.

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 such purposes. An interpreter must not reveal privileged or confidential information.

Even when communications are not privileged, interpreters should be mindful not to discuss a case while it is pending or impending with any person or entity by any means.

CANON 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, including official functions as described in the commentary to Canon 3. Interpreters may be required to initiate communications with the court during a proceeding when they find it necessary to seek direction in performing their duties. Examples of such circumstances include seeking direction from the court 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 interpret 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, services, or otherwise act as counselor or advisor unless he or she is 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 should not explain the form or its purpose for such a person.

While engaged in the function of interpreting, interpreters should not personally perform official acts that are the official responsibility of other court officials including, but not limited to, court clerks, pretrial release investigators or interviewers, or probation counselors.

CANON 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 appropriate judicial authority.

Commentary

If the communication mode or language variety of the Limited English Proficient Person cannot be readily interpreted, the interpreter should notify the appropriate judicial authority, which includes a supervisory interpreter, a judge, or another official with jurisdiction over interpreter matters.

Whenever there is a word, phrase, or concept that the court interpreter does not understand, the interpreter shall so inform the court so that, at its discretion, it may order an explanation, rephrasing, or repetition of the statement. The interpreter may request time to look up an unfamiliar word in a dictionary.

Whenever the court or counsel uses a word, phrase, or concept which the court interpreter

finds may confuse the Limited English Proficient Person, particularly when a concept has no cultural equivalent in the Limited English Proficient Person's language or when it may prove ambiguous in translation, the interpreter shall so inform the court.

Interpreters should notify the appropriate judicial authority of any environmental or physical limitation that impedes or hinders their ability to deliver interpreting services adequately, *e.g.*, the courtroom is not quiet enough for the interpreter to hear or be heard by the Limited English Proficient Person, more than one person at a time is speaking, or someone is 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 judge of the need to take periodic breaks in order 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 situations where routine proceedings suddenly involve technical or specialized terminology unfamiliar to the interpreter, *e.g.*, the unscheduled testimony of an expert witness. When such situations occur, interpreters should request a brief recess in order to familiarize themselves with the subject matter. If familiarity with the terminology requires extensive time or more intensive research, interpreters should inform the 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 judge if they feel unable to perform competently, due to lack of familiarity with terminology, preparation, or difficulty in understanding a witness or defendant.

Whenever a court interpreter discovers his/her own error, the interpreter shall, , correct the error at once after first identifying himself or herself for the record. If the error is perceived after testimony has been completed, the court interpreter shall request a bench or sidebar conference with judge and counsel, explain the problem, and make the correction on the record.

Whenever an alleged error is perceived by someone other than the court interpreter, that person should, if testimony is still being taken from the stand, bring the allegation to the attention of the court. If the error occurs in a jury trial, the allegation should not be brought to the attention of the jury. A sidebar should be requested so that the matter may be brought to the attention of the court. At that time the court will determine first whether the issue surrounding the allegedly inaccurate interpretation is substantial enough to warrant correction. If the court agrees that the error could be prejudicial, then the court shall hear evidence as to what the correct interpretation should be from information submitted by both counsel, from the court interpreter, and from any

other experts selected by the judge. The judge shall make a final determination in view of the evidence as to the correct interpretation. If the determination is different from the original interpretation, then the court shall amend the record accordingly and so instruct the jury, if necessary.

CANON 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 this code, or any other official policy governing court interpreting and translating.

Commentary

Because interpreting service users frequently misunderstand the proper role of the interpreter, they may ask or expect the interpreter to perform duties or engage in activities that run counter to the provisions of this code or other law, rules, regulations, or policies governing court interpreters. It is incumbent upon the interpreter to explain his or her professional obligations to the user. If, having been apprised of these obligations, the person persists in demanding that the interpreter violate them, the interpreter should turn to a supervisory interpreter, a judge, or another official with jurisdiction over interpreter matters to resolve the situation. Interpreters should report any solicitation or effort by another to induce or encourage them to violate any law, canon, or any provision contained within this code of conduct.

CANON 10: PROFESSIONAL DEVELOPMENT

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

Commentary

Interpreters must continually strive to improve their interpreting skills and increase their cultural fluency and knowledge of the languages they work in professionally, including past and current trends in technology, , social or regional dialects related to court proceedings.

Interpreters should keep informed of all statutes, rules of court, and policies of the judiciary that govern 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, tutorials, and reading current literature in the field.

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