

GR Rule 11.2. Code of Conduct for Court Interpreters

With State Court Interpreter Task Force Comments (1986)

Preamble. All language interpreters serving in a legal proceeding, whether certified or uncertified, shall abide by the following Code of Conduct:

(a) A language interpreter, like an officer of the court, shall maintain high standards of personal and professional conduct that promote public confidence in the administration of justice.

Comment – Court Interpreter Task Force (1986)

The Code of Judicial Conduct (CJC) Canons 1 and 3(B)(2) require high standards of conduct by judges and their staff and court officials. As officers of the court, such standards apply to interpreters as well. Interpreters are the vital link in communications between litigants and the court. Conflicts of interest may consciously or subconsciously affect the quality or substance of an interpretation or translation. The need for unquestioned integrity among interpreters is obvious. These canons apply to interpreters and translators for both the hearing-impaired and for individuals who speak a language other than English.

CJC 3(B)(2) requires court personnel and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge.

(b) A language interpreter shall interpret or translate the material thoroughly and precisely, adding or omitting nothing, and stating as nearly as possible what has been stated in the language of the speaker, giving consideration to variations in grammar and syntax for both languages involved. A language interpreter shall use the level of communication that best conveys the meaning of the source, and shall not interject the interpreter's personal moods or attitudes.

Comment – Court Interpreter Task Force (1986)

The interpreter should utilize the same level of language used by the speaker. This means that the interpreter will interpret colloquial, slang, obscene or crude language as well as sophisticated and erudite language, in accordance with the exact usage of the speaker. It is not the interpreter's task to tone down, improve or edit phrases.

Unless the interpreter is faithful to this concept of accurate interpretation, he or she may act as a filter or buffer in the communication process. This could damage the integrity of the trial process which is based on an adversarial system with vigorous examination and cross-examination. Consequently, the substance of questions posed and answers given during the testimony should not be altered more than absolutely necessary to assure comprehension.

The interpreter should not assume that it is his or her duty to simplify statements for a witness or defendant whom the interpreter believes cannot understand the speaker's statements. Like witnesses who do not use an interpreter, interpreted witnesses can and should request counsel or the court to explain or simplify matters if necessary.

An interpreter should never characterize or give a gratuitous explanation of testimony. The court or attorneys will request clarification from the speaker if necessary. The court and counsel should be sensitive to possible confusion by the witness. During testimony, the interpreter may volunteer to the court his or her belief that the witness does not understand a particular question or comment.

Idioms, proverbs and sayings rarely can be interpreted literally. The interpreter should seek an equivalent idiom or relate the meaning of the original idiom or saying.

While interpreting a non-English spoken language, the interpreter should not offer an explanation or repeat a witness' gesture or grimace which has been seen by the trier of fact.

Interpreters for the deaf or hearing-impaired should use the method of interpreting most readily understood by the deaf or hearing-impaired witness. For example, the witness may be more articulate in American Sign Language than in Manually Coded English or finger-spelling.

(c) When a language interpreter has any reservation about ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the parties and to the court. If the communication mode or language of the non-English speaking person cannot be readily interpreted, the interpreter shall notify the appointing authority or the court.

Comment – Court Interpreter Task Force (1986)

A court interpreter or legal translator is often faced with new technical terms, slang, regional language differences, and other problems posing difficulty in accurate interpretations or translations.

The interpreter or translator must take time, and be given appropriate time by the court, to determine an appropriate and accurate interpretation or translation of the materials. If unable to interpret or translate the material, the parties and the court must be advised so the court can take appropriate action. When necessary, another, better qualified interpreter should be substituted. Before such substitution, the court may determine whether another linguistic approach can be used for the same result in communication. For example, a different choice of words to be interpreted may solve the problem.

(d) No language interpreter shall render services in any matter in which the interpreter is a potential witness, associate, friend, or relative of a contending party, unless a specific exception is allowed by the appointing authority for good cause noted on the record. Neither shall the interpreter serve in any matter in which the interpreter has an interest, financial or otherwise, in the outcome. Nor shall any language interpreter serve in a matter where the interpreter has participated in the choice of counsel.

Comment – Court Interpreter Task Force (1986)

The purpose of this canon is to avoid any actual or potential conflict of interest. CJC Canon 3(C) requires similar disqualification of a judge because of a conflict of interest. Interpreters should maintain an impartial attitude with defendants, witnesses, attorneys and families. They should neither conceive of themselves nor permit themselves to be used as an investigator for any party to a case. They should clearly indicate their role as interpreters if they are asked by either party to participate in interviews or prospective witnesses outside of the court. Interpreters should not “take sides” or consider themselves aligned with the prosecution or the defense.

See comments to Canon 6 which discusses the use of interpreters in client and witness interviews. Care must be taken to avoid exposing an interpreter unnecessarily to the conflict of becoming a potential witness on the merits.

Both court interpreters and jurors should be apprised of the identity of each during voir dire to help determine whether any juror knows the interpreter.

The fees and remuneration of a court interpreter or legal translator shall never be contingent upon the success or failure of the cause in which she or he has been engaged.

Interpreters and translators shall not interpret in any matter in which his or her employer has an interest as an advocate, litigant or otherwise.

Interpreters shall be limited to the role of communication facilitators.

No interpreter who has served as an investigator assisting in preparation for litigation shall serve as a court interpreter in that cause.

(e) Except in the interpreter's official capacity, no language interpreter shall discuss, report, or comment upon a matter in which the person serves as interpreter. Interpreters shall not disclose any communication that is privileged by law without the written consent of the parties to the communication, or pursuant to court order.

Comment – Court Interpreter Task Force (1986)

To promote the trust and integrity of the judicial system, it is important that court officials, including interpreters and translators, refrain from commenting publicly regarding an action. Interpreters and translators shall not offer an opinion to anyone regarding the credibility of witnesses, the prospective outcome of a case, the propriety of a verdict, the conduct of a case, or any other matter not already available by public record.

(f) A language interpreter shall report immediately to the appointing authority in the proceeding any solicitation or effort by another to induce or encourage the interpreter to violate any law, any provision of the rules which may be approved by the courts for the practice of language interpreting, or any provisions of this Code of Conduct.

(g) Language interpreters shall not give legal advice and shall refrain from the unauthorized practice of law.

Comment – Court Interpreter Task Force (1986)

The interpreter shall never give legal advice of any kind to the non-English speaking person or to any other person, whether solicited or not. In all instances, the non-English speaking person should be referred to counsel. The interpreter may give general information to a non-English speaking person regarding the time, place and nature of court proceedings. However, in matters requiring legal judgment, the individual should be referred to an attorney.

The interpreter should never function as an individual referral service for any particular attorney or attorneys. This kind of activity has the appearance of impropriety. When asked to refer a non-English speaking person to a particular attorney, the interpreter should refer such individual to the local bar association or to the Office of the Public Defender.