

ADMINISTRATIVE DIRECTIVE NO. 107

This 4th day of April, 1996,

IT APPEARS THAT:

(1) The Delaware justice system is based upon the guiding principle that all persons, regardless of age, color, gender, national origin, physical or mental disability, race, religion, sexual orientation, or socioeconomic status, should have equal access to the judicial system.

(2) Bias or invidious discrimination with respect to age, color, gender, national origin, physical or mental disability, race, religion, sexual orientation or socioeconomic status, is inimical to the proper functioning of the judicial system.

(3) In recognition of the diversity of persons who appear in and utilize the Delaware courts, it is important to institute minimum requirements related to the use of court interpreters in Delaware courts.

(4) Court interpretation for foreign language speaking and deaf or hearing impaired individuals is a highly specialized form of interpreting that should be performed by persons who have specialized training and skills.

(5) Court interpreters act as officers of the court while providing interpretative services and, as a consequence, must abide by ethical considerations to ensure the proper administration of justice.

NOW, THEREFORE, IT IS DIRECTED, with the unanimous approval of the members of the Supreme Court, pursuant to Del. Const. Art. IV, 13(1), that:

(1) A certification program should be developed and implemented for court interpreters providing foreign language interpretative services in Delaware, with priority given to certification of court interpreters providing services in the most commonly utilized languages, including Spanish. Towards that end, the Administrative Office of the Courts (AOC) shall explore all options for obtaining access to approved oral certification/proficiency language tests and interpreter training programs being developed through a consortium of states under the auspices of the National Center for State Courts.

(2) The AOC shall develop and maintain a list of qualified court interpreters located in all counties based upon the following criteria: criminal history background evaluations and other background information, including feedback from courts or others who have utilized the interpreter's services, and certification status (once the certification program is implemented). This list shall include sign language interpreters who have registered with the Delaware Registry of Interpreters for the Deaf.

(3) The AOC shall develop a systematic method for recording costs and data related to the use of court interpreters by court and county.

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(4) To be included on the list of qualified court interpreters, a court interpreter must complete an orientation session presented by AOC personnel, or demonstrate that he or she has satisfactorily completed comparable training in legal or court interpreting. Orientation sessions will include presentations on the role of the interpreter in the court process, ethical issues related to court interpretation, the structure of the Delaware court and justice system, social and cultural diversity issues and basic legal terminology, among other topics, and will be given on a regular basis. The implementation date of this provision will be six months from the effective date of this Administrative Directive to allow a reasonable time for court interpreters to satisfy this requirement.

(5) Interpreters included on the list maintained by the AOC should be utilized for the provision of interpretative services in court proceedings, unless none of the listed interpreters are willing or available to provide services at the time or date those services are needed by the Court.

(6) To guide the professional conduct of court interpreters, the annexed Code is adopted and promulgated as "The Delaware Court Interpreters' Code of Professional Responsibility".

(7) Each court interpreter employed by the Judiciary to provide interpretative services in connection with a proceeding before any court in Delaware or any other activity ordered by a court or conducted under the supervision of a court shall swear, under oath, that they will comply with the provisions set forth in the Delaware Court Interpreters' Code of Professional Responsibility.

(8) An oath shall be administered to court interpreters providing interpretative services in connection with court proceedings at the commencement of each proceeding, unless the interpreter is a full or part-time court employee. An example of an appropriate oath is: "Do you solemnly swear that you will interpret accurately, completely and impartially, using your best skill and judgment in accordance with the Code of Professional Responsibility for Court Interpreters?" Full or part-time court employees providing interpretative services in court proceedings shall take an oath once as an oath of office, which shall bind the employee throughout his or her employment with the Judiciary. A notarized copy of the executed oath shall be maintained in the employee's personnel file.

(9) Judicial officers should meet with the court interpreter prior to a court proceeding, or otherwise ensure that the interpreter is familiar with court procedures and legal terminology likely to be used in the proceeding.

(10) Appropriate notice of the role of the court interpreter should be provided to parties and witnesses in court proceedings in which court interpreters are providing services. An example of an appropriate notice is as follows:

I want you to understand the role of the court interpreter. The court interpreter is here only to interpret the questions that you are asked and to interpret your responses. They will say only what we or you say and will not add to your testimony, omit anything you say, or summarize

what you say. They are not lawyers and are prohibited from giving legal advice.

If you do not understand the court interpreter, please let me know. If you need the interpreter to repeat something you missed, you may do so.

Do you have any questions about the role or responsibilities of the court interpreter?

(11) Appropriate explanation of the role of an interpreter should be provided to the jury in trials involving juries. An example of an appropriate explanation is as follows:

Proceedings Interpretation

This court seeks a fair trial for all regardless of the language they speak and regardless of how well they may or may not use the English language. Bias against or for persons who have little or no proficiency in English because they do not use English is not allowed. Therefore do not allow the fact that the party requires an interpreter to influence you in any way.

Witness Interpretation

Treat the interpretation of the witness's testimony as if the witness had spoken English and no interpreter were present. Do not allow the fact that testimony is given in a language other than English affect your view of the witness's credibility.

(12) A standard fee schedule for court interpreters should be adopted once certification/proficiency testing for court interpreters is implemented in Delaware. Interpreters included on the list maintained by the AOC should be paid an hourly minimum, including travel time, as established by the AOC for the provision of interpretive services at court proceedings.

E. Norman Veasey
CHIEF JUSTICE

cc: The Honorable Joseph T. Walsh
The Honorable Randy J. Holland
The Honorable Maurice A. Hartnett, III
The Honorable Carolyn Berger
Members of Judicial Conference
Mr. Lowell L. Groundland
Court Administrators
Clerk of Supreme Court

COURT INTERPRETERS CODE OF PROFESSIONAL RESPONSIBILITY

Applicability. This code shall be binding on all persons employed by the Judiciary to provide interpretative services in connection with a proceeding before any court in Delaware or any other activity ordered by a court or conducted under the supervision of a court or its agent.

Canon 1: Accuracy and Completeness. Court interpreters must provide an accurate interpretation of what is said, without altering, omitting or adding anything to what is stated or written, (i.e., epithets or apparent misstatements should be interpreted as well), and without explanations. The role of the interpreter is to provide a simple exchange of question and answers between the questioner and the witness, or party, as if there were no language barrier. However, in the interest of justice, the court may authorize the interpreter to alter or add to what is stated or written in order to ensure that a party fully comprehends what is occurring during the proceeding.

(A) Interpreters should never characterize or give a gratuitous explanation of testimony and should not interject or reveal their own feelings, moods, attitudes, or beliefs while they are providing interpretative services.

(B) If interpreters do not understand what is being said, they must inform the court and request permission of the court to have the statement repeated or clarified.

(C) If counsel or the court utilize a term or phrase which the interpreters believe may confuse the non-English speaking witness, the interpreter should so inform the court.

Canon 2: Impartiality. Court interpreters fulfill a special duty to interpret accurately and faithfully without evidencing any personal bias, avoiding even the appearance of partiality. Interpreters should avoid unnecessary discussions with counsel, parties, witnesses or other interested parties, inside and outside the courtroom.

Canon 3: Compensation. Interpreters may accept no remuneration, gifts, gratuities, favors, loans, valuable consideration or other benefits, in excess of the authorized compensation in performance of their official interpreting duties.

Canon 4: Avoidance of Conflict of Interest. Interpreters shall disclose any real or perceived conflict of interest or bias, including circumstances in which the interpreter has had any prior involvement with the case, parties, jurors, or others significantly involved in the proceedings, is a friend, associate or relative of a party or counsel involved in the proceedings or is biased based upon the parties' personal characteristics like race, sex, religion, national origin, disability, age, sexual orientation or socio-economic status. No court interpreter shall render services in a case in which the interpreter has a stake, financial or otherwise, in the outcome.

Canon 5: Professional Demeanor. Court interpreters should dress and conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.

(A) Interpreters shall be positioned in the courtroom to ensure that he or she can hear everything that is said during the proceedings, but shall not block the view of, or otherwise interfere with communications between, the judge, jury, parties or counsel.

Canon 6: Assessing and Reporting Impediments to Performance. Interpreters shall assess at all times their ability to deliver their services. Prior to the outset of the proceedings and with the knowledge and consent of counsel, the interpreters should briefly interview the non-English speaking person in order to become familiar with speech patterns, communication modes, and linguistic traits of the person. When interpreters have any reservation about their ability to satisfy an assignment competently at any time before or during the proceedings, they shall immediately convey that reservation to the appropriate judicial authority.

Canon 7: Correction of Errors. When interpreters perceive that they have committed an error, they shall immediately correct the error for the record.

Canon 8: Confidentiality. Court interpreters should not disclose any information of a confidential nature about court cases obtained while performing interpreting duties, except upon court order.

Canon 9: Restriction of Public Comment. Interpreters should 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.

Canon 10: 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.