

**The Committee for the Administration of Interpreters for the Trial Court
Administrative Office of the Trial Court, Massachusetts, 2009
Section 4.00 of the Standards & Procedures
of the Office of Court Interpreter Services**

**The Code of Professional Conduct
for Court Interpreters of the Trial Court**

- 4.01 Purpose. A court interpreter is the communication facilitator for the parties involved in a proceeding and, as such, plays a vital role in the protection of the rights of LEP and DHH individuals engaged as parties or witnesses in legal proceedings in the Trial Court. This role requires an understanding by the court interpreter of the complexities of the tasks to be performed. In these tasks, court interpreters should be guided by the ethical principles and standards promulgated pursuant to G.L. c. 221C and c. 221, § 92A.
- (A) Court interpreters are highly skilled professionals who fulfill an essential role in the administration of justice. As officers of the court, court interpreters help to ensure that LEP and DHH individuals obtain equal access to justice and that court proceedings function effectively.
- (B) Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to their limited English proficiency or speech and hearing impairments. It is essential that the resulting communication barriers be removed, as much as possible, so that these persons are placed in the same position as similarly situated persons for whom there are no such barriers.
- (C) The Code of Professional Conduct for Court Interpreters of the Trial Court seeks to accomplish the following:
- (1) ensure meaningful access to court proceedings for LEP and DHH individuals,
 - (2) protect the constitutional rights of LEP and DHH individuals by providing assistance of a court interpreter during court proceedings,
 - (3) ensure due process in all phases of litigation for LEP and DHH individuals,
 - (4) ensure equal protection of the law for LEP and DHH individuals,
 - (5) increase efficiency, quality, and uniformity in handling proceedings that involve court interpreters, and
 - (6) encourage the broadest use of professional court interpreters by all those in need of such services within the Trial Court.
- 4.02 Applicability. The Code applies to all court interpreters providing interpretation services within any court proceeding in any department or division of the Trial Court. It shall guide and be binding upon all persons, agencies, and organizations that administer, supervise, or deliver interpreting services to the Judiciary. Court interpreters shall use their professional judgment in applying the Code.

The Code defines and governs the practice of court interpretation in the Trial Court and applies to all court interpreters appearing:

- (1) in any proceeding before any Trial Court of the Commonwealth,
- (2) before any attorney in connection with any matter that is brought before a court, and
- (3) in any other activity ordered by the court or conducted under the supervision of a court.

Court interpreters are required to sign a statement agreeing to be bound by the Code for the provision of interpretation services in any court proceeding in the Trial Court. A copy of this statement shall be filed with OCIS.

4.03 Accuracy and Completeness. Court interpreters shall render a complete and accurate interpretation, sight translation, or written translation without altering, omitting, or adding to any utterances, either stated or written, to the best of their skill and ability. Court interpreters shall not explain or otherwise comment upon the utterances they interpret. The obligation to preserve accuracy includes the court interpreter's duty to correct any error of interpretation discovered by the court interpreter during the proceeding.

- (A) Court interpreters have a twofold duty: to ensure that proceedings in English reflect precisely what was said by the LEP or DHH individual, and to place the LEP or DHH individual on equal footing with those who speak or understand English. Thus, a court interpreter is obligated to preserve every element of information contained in a source language communication when it is rendered in the target language.
- (B) Court interpreters must be able to preserve legal equivalence while interpreting. To achieve legal equivalence, court interpreters must interpret the original source material without editing, summarizing, deleting, or adding, while conserving the language level, style, tone, and intent of the speaker. The LEP or DHH individual may request an explanation or clarification, if necessary, through the court interpreter.
- (C) Court interpreters are obligated to apply their best skills and judgment to 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 the source language. Therefore, every spoken statement, even if it appears non-responsive, obscene, rambling, or incoherent, should be interpreted, including apparent misstatements.
- (D) When interpreting slang, idioms, or culturally-bound expressions that do not translate easily, the court interpreter must find a way to express them accurately in such a way that the speaker's intended meaning is preserved.

If that is not possible, the court interpreter should repeat the term to the court in the source language.

- (E) Court interpreters should not 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 the court interpreter can clarify) the court interpreter should ask the court's permission to provide an explanation. Court interpreters should convey the tone of the speaker without reenacting the speaker's gestures.
- (F) Court interpreters who use sign language or other visual modes of communication, however, must employ all of the visual cues of the language they are interpreting, including facial expressions, body language, and hand gestures. Sign language court interpreters, therefore, should ensure that court participants do not confuse these essential elements of the interpreted language with inappropriate court interpreter conduct.
- (G) The obligation to preserve accuracy includes the court interpreter's duty to correct any error of interpretation discovered by the court interpreter or anyone else during the proceeding. Court interpreters should objectively analyze any challenge to their performance.
- (H) Whenever a court interpreter discovers an error of interpretation in the course of a proceeding involving testimony from an LEP or DHH individual, the court interpreter shall correct the error at once, first identifying himself/herself for the record. If the error of interpretation is discovered after testimony has been completed, the court interpreter shall immediately request a conference with the judge and shall follow the judge's direction.
- (I) When an error of interpretation has been brought to the attention of the court by someone other than the interpreter, the court shall confer at sidebar with counsel and/or the parties and the interpreter. The court shall determine first whether the alleged error is substantial enough to warrant correction. If the court finds that the error could be prejudicial, the court shall hear evidence, out of the presence of the jury, if any, as to the correct interpretation. At the hearing on the error, evidence or argument may be offered by counsel or a pro se litigant and by the court interpreter, and testimony may be taken from any other experts as permitted by the judge. The judge shall make a final determination on the evidence as to the correct interpretation. If the correct interpretation is different from the original interpretation, then the court shall amend the record accordingly and so instruct the jury, if any.

- (J) A copy of the pertinent corrections of the record shall be sent to the Manager of Interpreter Services within two weeks of the identification of the error.
- (K) Each court interpreter must agree to be bound by the following oath before engaging in the interpretation of a proceeding (*see* Section 14.01):

“Do you solemnly swear or affirm that you will make true and impartial interpretation using your best skill and judgment in accordance with the standards prescribed by law and the ethics of the interpreter profession?” See G.L. c. 221C, § 4(a).

4.04 Impartiality and Avoidance of Conflict of Interest. Court interpreters shall be impartial and unbiased in their interpretation and shall refrain from conduct that may give an appearance of bias. Court interpreters shall disclose any real or perceived conflict of interest.

- (A) Court interpreters serve as officers of the court and their duty in a court proceeding is to serve the court and the public.
- (B) Court interpreters who are “state employees” or “special state employees” as those terms are defined in G.L. c. 268A, § 1 shall be governed by the provisions of G.L. c. 268A regarding any conflict of interest. In addition, any court interpreters who are members of a union shall be governed by the terms and conditions of the applicable collective bargaining agreement.
- (C) Court interpreters may, subject to the provisions of G.L. c. 268A and any applicable collective bargaining agreement, accept employment as court interpreters during hours or times when they are not employed by OCIS.
- (D) Court interpreters shall not engage in nor have any interest, direct or indirect, in any business or transaction, nor incur any obligation which is in conflict with the proper discharge of official duties in the court or which impairs independence of judgment in the discharge of such duties.
- (E) Court interpreters shall not accept money or consideration of favors from anyone for the performance of an act they would be required or expected to perform in the regular course of assigned duties. Court interpreters shall not accept any gifts, gratuities, or favors of any kind which might be construed as an attempt to influence their actions with respect to the court.
- (F) Court interpreters shall not use, for private gain or advantage, the court’s time or facilities, equipment, or supplies, nor shall they use or attempt to use their position to secure unwarranted privileges or exemptions for themselves or others.

- (G) Court interpreters should avoid any conduct or behavior that presents the appearance of favoritism toward any party. Court interpreters should limit themselves to professional relationships with the parties they serve and should not take a pro-active part in any of the proceedings.
- (H) Court interpreters shall treat each person equally with dignity and respect regardless of sex, race, creed, national origin, political affiliation, sexual orientation, age, handicap, or socio-economic class.
- (I) To maintain neutrality, court interpreters shall limit their conversations 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 court interpreters, who are often familiar with attorneys and other individuals who regularly appear in the courtroom, refrain from casual and personal conversations with anyone in court that may convey an appearance of a special relationship with or partiality to any of the court participants. Verbal and non-verbal displays by the court interpreter of personal attitudes, prejudices, emotions, or opinions should be avoided at all times.
- (J) In the event that a court interpreter becomes aware that a participant in a proceeding views him/her as being biased, the court interpreter should disclose that knowledge to the appropriate court authority and counsel.
- (K) Before providing services in a matter, court interpreters must disclose to all parties and presiding officers 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. Court interpreters shall disclose on the record to the court and other parties if they have previously been retained by one of the parties in the case. Any condition that interferes with the objectivity of a court interpreter constitutes a conflict of interest.
- (L) The following are circumstances that are presumed to create actual or apparent conflicts of interest for court interpreters which require disclosure and, in all but rare cases, would require disqualification:
 - (1) the court interpreter is a friend, associate, or relative of a party or counsel for a party involved in the proceeding,
 - (2) the court interpreter has served in an investigative capacity for a party involved in the case,
 - (3) the court interpreter or a member of the court interpreter's immediate family has a financial interest in the subject matter in controversy or with a party in the proceeding, or any other interest that might be affected by the outcome of the case,

- (4) the court interpreter has been involved in the choice of counsel or law firm for the case,
- (5) the court interpreter's payment for service is contingent upon the outcome of the case, or
- (6) the court interpreter is an attorney in the same proceeding.

4.05 Professional Demeanor. Court interpreters shall conduct themselves in a manner consistent with the dignity of the court and with the standards that govern their profession.

- (A) Court interpreters should know and observe the established standards, rules, and procedures for delivering interpreting services. When speaking in English, court interpreters should speak at a rate and volume that enable them to be heard and understood throughout the courtroom. However, court interpreters should work without drawing undue or inappropriate attention to themselves.
- (B) Court interpreters should avoid obstructing the view of any individual involved in the proceedings. However, court interpreters who use sign language or other visual modes of communication must be positioned so that hand gestures, facial expressions, and whole body movements are visible to the person for whom they are interpreting.
- (C) Court interpreters are encouraged to avoid conduct which could discredit or reflect poorly upon the court, including, but not limited to, overly familiar behavior towards any person participating in the proceeding or court personnel.
- (D) Court interpreters should support other court interpreters by sharing knowledge and expertise with them to the extent practicable and in the interest of the court.
- (E) Court interpreters should dress in a manner consistent with the dignity of the court and which does not attract undue attention, thus ensuring their professional role as impartial participants. This applies also to attire or symbols that represent specific religious, political, or social affiliations that could create the perception of partiality or bias on the part of the court interpreter.
- (F) Court interpreters shall appear on time and report to the appropriate court personnel immediately upon arrival.
- (G) Court interpreters shall not make arrangements directly with the court or counsel for a substitute in cases to which they have been assigned. Rather, a 24-hour cancellation notice shall be given to the Office of Interpreter Services which will arrange a substitute.

- (H) Court interpreters shall behave in an approachable and courteous manner at all times, encouraging all persons in need of their services to communicate with them and through them in ways consistent with the Code.
- (I) Court interpreters shall refrain from making any religious statements, verbal or physical, that might be perceived to be personal or unprofessional in nature.
- (J) Court interpreters shall wear their official identification badges in such a manner as to make their presence clear to all persons in court in need of their services.

4.06 Confidentiality and Restriction of Public Comment. Court interpreters shall protect the confidentiality of all privileged and other confidential information. Court 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.

- (A) The court interpreter must protect and uphold the confidentiality of all privileged information obtained during the course of his/her duties. It is especially important that the court interpreter understand and uphold the attorney-client privilege, which requires confidentiality with respect to any written or oral communications between attorney and client. This rule also applies to other types of privileged communications that may have statutory protection, such as doctor-patient, social worker-client, or priest-penitent relationships.
- (B) Court interpreters must also refrain from repeating or disclosing information obtained during a case in which they are interpreting in the course of their employment.
- (C) In the event that a court 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 court interpreter should immediately disclose the information to the judge in the proceeding and seek advice in regard to the potential conflict.
- (D) Court interpreters shall not take advantage of any knowledge obtained in the performance of their duties for their own or another's personal gain.
- (E) Generally, court interpreters should not discuss court interpreter assignments with anyone other than persons who have a formal duty associated with the case. However, court interpreters may share information for training and education purposes, divulging only so much

information as is required to accomplish this purpose. Unless ordered by a court, court interpreters must never reveal privileged or confidential information for any purpose, including training and education.

- 4.07 Scope of Practice. Court 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.
- (A) Court interpreters are responsible only for assisting others to communicate and should limit themselves to the activity of interpreting or translating. Court interpreters should refrain from initiating communications while interpreting, unless it is necessary for ensuring an accurate interpretation.
 - (B) Court interpreters should not perform acts that are the official responsibility of other court officials including, but not limited to, court clerks, investigators, interviewers, or probation officers. Such acts may include the filling out of forms or paperwork for LEP or DHH individuals.
 - (C) When interpreting for an LEP or DHH individual, the court interpreter should have the appropriate officer of the court or staff present while filling out forms or written statements in order to respond to any questions that the individual might have. If the court interpreter needs to write down the person's statement, the court interpreter should have the person dictate it in his/her own language and write it down verbatim. The court interpreter should then read the written statement back to the individual and provide a written translation into English of the statement, signed and dated by the court interpreter.
 - (D) A court interpreter may convey legal advice from an attorney to a person only while that attorney is providing the advice. A court interpreter should not explain the purpose of forms, services, or otherwise act as a counselor or advisor unless he or she is interpreting for someone who is acting in that official capacity. The court interpreter may translate the language on a form for a person who is filling out the form, but should not explain the form or its purpose.
 - (E) A court interpreter shall never act as a referral service for any attorney. When asked to refer an LEP individual to an attorney, the interpreter shall refer such individual to the local bar association in civil and criminal matters if the individual indicates the ability to afford private counsel or, if not, to the Committee for Public Counsel Services (CPCS) in criminal matters or other matters for which CPCS provides services, or the local legal services office with respect to all other matters.

4.08 Assessing and Reporting Impediments to Performance. Court interpreters shall provide professional services only in matters or areas in which they can perform accurately. At all times, court interpreters shall assess their ability to provide their services. If court interpreters have any reservation about their ability to fulfill an assignment, they shall immediately convey that reservation to the appropriate court authority.

- (A) If the communication mode or language of the LEP or DHH individual cannot be readily interpreted, the court interpreter should notify the appropriate court authority.
- (B) Court interpreters should notify the appropriate court authority of any environmental, linguistic, or physical limitations that impede or hinder their ability to deliver interpreting services. Should a court interpreter feel harassed or intimidated by an officer of the court, the court interpreter shall so inform the presiding judge and OCIS.
- (C) Court interpreters should notify the presiding judge, clerk-magistrate, or assistant clerk of the need to take periodic breaks to maintain mental and physical alertness and prevent the court interpreter from becoming fatigued. Court interpreters should recommend and encourage the use of team interpreting whenever necessary, and when resources allow.
- (D) Even experienced court interpreters may encounter cases where routine proceedings unexpectedly involve slang, idiomatic expressions, regional dialect, or technical or specialized terminology unfamiliar to the court interpreter (*e.g.*, the unscheduled testimony of an expert witness). When such instances occur, court interpreters may request a brief recess to familiarize themselves with the terminology. If familiarity with the terminology requires extensive time or more intensive research, court interpreters should inform the judge, clerk-magistrate, or assistant clerk of the need for additional time.
- (E) Court interpreters should notify the appropriate court authority and OCIS if they feel unable to perform competently due to their lack of familiarity with terminology, insufficient preparation, difficulty in understanding a witness or defendant, if a serious communication problem arises between the interpreter and the LEP individual (person is being disruptive, does not allow the interpreter to speak, etc.), or due to a personal bias. Court interpreters should refrain from accepting a case if they feel the language and subject matter of the case is likely to exceed their skills or capabilities.
- (F) Whenever possible, or before proceedings that are expected to be of long duration, court interpreters should briefly communicate with the LEP or DHH individual, prior to the initial court appearance, to instruct such speaker as to the proper role of the court interpreter. Approval of counsel

shall be obtained by the court interpreter before attempting contact with the LEP or DHH individual. Counsel may wish to be present when the court interpreter communicates with his/her client.

- (G) The court interpreter should advise the LEP or DHH individual as follows:
 - (1) that the court interpreter will translate any and all statements or comments,
 - (2) not to ask any direct questions of the court interpreter or initiate any independent dialogue with the court interpreter, including requests for legal advice or explanations on any statement made during the proceedings,
 - (3) to direct all questions to counsel or to the court, and
 - (4) to wait for the full interpretation of the English translation before responding to a question.

4.09 Duty to Report Ethical Violations. Court interpreters who discover anything which would impede full compliance with this Code shall immediately report to the court and to OCIS.

- (A) Court interpreters shall immediately report to the presiding judge any solicitations or efforts by another to induce or encourage an interpreter to violate any law or standard of this Code or any other provision governing interpretation promulgated by the judiciary.
- (B) Court interpreters shall report to the appropriate court authority any effort to influence the way in which the interpretation of the proceeding is being conducted. Due to the fact that many users of court interpreter services frequently misunderstand the proper role of the court interpreter, they may ask or expect the court interpreter to perform duties or engage in activities that are inappropriate. The court interpreter shall inform such persons of the proper role of the court interpreter. If, having been apprised of the proper role of the court interpreter, the person persists in asking the court interpreter to perform inappropriate functions, the court interpreter shall report such efforts to the appropriate court authority and to OCIS.

4.10 Professional Development. Court interpreters shall continually improve their skills and knowledge. Court interpreters shall advance their profession through activities such as professional training, education, and interaction with colleagues and specialists in related fields.

- (A) Court interpreters must continually strive to increase their knowledge of the languages in which they work, including past and current trends in technical, vernacular, and regional terminology, as well as their application within court proceedings.

- (B) Court interpreters should keep informed and updated about all statutes, rules of court, and policies of the Trial Court that relate to the performance of their professional duties, such as the Trial Court Policies and Procedures Manual.
- (C) Court interpreters should seek to elevate the standards of their profession through participation in workshops, professional meetings, interaction with colleagues, and reading current literature in the field.

4.11 Interpreting Protocols. Court interpreters shall interpret and translate during proceedings and court-related discussions using the appropriate modes of interpretation and address.

- (A) Court interpreters shall use the consecutive mode for all question and answer exchanges with LEP or DHH individuals and shall use the simultaneous mode for most other proceedings. Court interpreters shall sight translate documents for LEP or DHH individuals as requested by the court.
- (B) It is common for court interpreters to shift from one mode of interpretation to another, depending on the situation at hand and according to the following standards:
 - (1) The simultaneous mode of court interpretation requires the court interpreter to interpret contemporaneously with the speakers as they speak. This mode shall be used when LEP or DHH individuals are in the position of a third person in proceedings.
 - (2) The consecutive mode of court interpretation requires the court interpreters to wait for the speaker to complete his/her thought or statement before rendering an interpretation. This mode shall be used when LEP or DHH individuals are giving testimony or when the judge, counsel, or officer of the court is in direct dialogue with such speaker.
 - (3) Sight translation means that the court interpreter will orally translate a document on the spot at the request of a judge, lawyer, probation officer, or clerk. Sight translation is to be used whenever an officer of the court asks the court interpreter to orally translate a written document as part of the LEP or DHH individual's legal process. The same principle of accuracy applies to sight translation as it does to the rest of the court interpreter's duties. The court interpreter shall not add, delete, or improve a written source text. Therefore, if the text to be translated is a sworn statement by a person with limited literacy, the court interpreter's rendition should reflect the author's style.

- (C) The court interpreter, when appropriate, shall familiarize the LEP or DHH individual with the interpretation mode to be used and with the hand technique used for segmenting lengthy testimony.
- (D) A court interpreter shall not summarize court proceedings at any time unless instructed to do so by the court.
- (E) A court interpreter shall address the court and identify himself/herself as the court interpreter by using the third person singular in order to avoid confusion on the record. For example, “the court interpreter needs to take a brief recess.”
- (F) Each court interpreter shall utilize the first person singular when interpreting for an LEP individual giving testimony or in dialogue with another person. Persons addressing the LEP individual (e.g., attorneys, judges, probation officers, and clerks) shall use the second person.
- (G) Each court interpreter shall prepare for a case, whenever possible, and particularly with respect to lengthy and complex criminal and civil trials, by reviewing case material including the charges, police or other reports, complaints or indictments, transcripts of interviews, motions, or any other documentation to be used in the case, particularly if counsel plans to quote directly from them. Such materials may be requested from the attorney for the LEP or DHH individual or from the attorney requesting the LEP or DHH witness. The information shall be used solely for the technical preparation of the court interpreter and may not be disclosed to any person or parties.
- (H) The court interpreter shall familiarize himself/herself with the speech pattern, sign language communication, cultural background, and/or native language proficiency of the individual as necessary.
- (I) If there is a critical word, phrase, or concept which the court interpreter does not understand, the court interpreter shall inform the court, at the appropriate time, so that the court may request an explanation, rephrasing, or repetition of the statement. The court interpreter may request time to look up any unfamiliar words in the dictionary.
- (J) Each court interpreter shall interpret the exact response of the witness or speaker even if the answer to a question is non-responsive or erroneous, and leave these issues to the court and counsel.

- (K) If a witness testifying in a foreign language occasionally speaks 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 court interpreter's voice. However, should the witness utter a full English response, the court interpreter will stand back so that the parties are aware of the English response and wait for the court's instruction.
- (L) If, during the taking of testimony, a speaker uses a word, phrase, or concept for which the court interpreter finds no appropriate equivalent in the LEP individual's language because there is no cultural equivalent or because it may prove ambiguous in translation, the court interpreter should inform the court accordingly.
- (M) Whenever an objection is made to witness testimony taken through a court interpreter, the court interpreter shall interpret everything that was said up to the time the objection was made and instruct the witness, by hand gesture, not to speak until the court has ruled on the objection.

4.12 Judicial Removal from a Proceeding

- (A) A court interpreter may be removed by the court from his or her participation in a particular assignment if that court interpreter is unable to interpret the proceedings adequately, including an instance where the court interpreter self-reports such inability. *See* G.L. c. 221C, §5(d).
- (B) A court interpreter may be removed from a court proceeding if a judge has found good cause for his/her removal from the proceeding. The following are examples of good cause for removal from a proceeding:
 - (1) knowingly and willfully making false interpretations while serving in an official capacity,
 - (2) knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity,
 - (3) failing to follow the standards prescribed by law and the ethics of the court interpreter profession. *See* G.L. c. 221C, §5.