ADMINISTRATIVE DIRECTIVE NO. 163

This 4th day of September 2007,

IT APPEARS THAT:

(1) Competent and ethical court interpreters are critical to ensuring a defendant's right to be present at trial for those who do not speak English or who are deaf or hearing impaired.

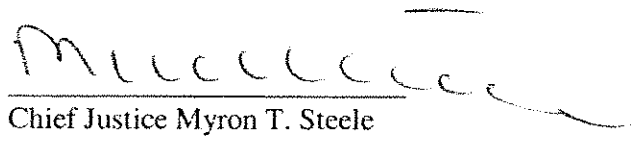
(2) Although Delaware court interpreters are independent contractors, they act as officers of the court while providing interpretive services and, thus, are subject to the certification requirements and Code of Professional Responsibility prescribed by the Delaware Supreme Court.

(3) There is a need for an advisory board to:

- (a) Develop and administer a certification program for court interpreters, including continuing education requirements and programs.
- (b) Develop fiscal policies and procedures with regard to the court interpreter program.
- (c) Conduct studies and make recommendations concerning matters relating to court interpreters.
- (d) Exercise jurisdiction over disciplinary matters with regard to court interpreters as set forth in these Rules, and
- (e) Perform such other functions as may be required for the benefit of the court interpreter program.

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 the following rules of the court interpreter program be adopted and become effective immediately:

BY THE COURT:



Chief Justice Myron T. Steele

c: The Honorable Ruth Ann Minner
The Honorable Randy J. Holland
The Honorable Carolyn Berger
The Honorable Jack B. Jacobs
The Honorable Henry duPont Ridgely
Members of the Judicial Conference
The Honorable Joseph R. Biden, III
The Honorable Lawrence Sullivan
State Court Administrator
Court Administrators
Clerk of the Supreme Court
Counsel to the Governor
Chair Senate Judiciary Committee
Chair House Judiciary Committee

RULES OF THE COURT INTERPRETER PROGRAM

Scope. The following Rules build upon Supreme Court Administrative Directive 107 to establish a comprehensive structure and procedures to ensure the quality of interpretation in the Delaware courts.

Rule 1. Establishment of Advisory Board

There is established an Advisory Board on Court Interpreters. The Board shall consist of not less than 5 members appointed by the Supreme Court. Members shall be appointed for four year terms. From among the members, the Supreme Court shall appoint one member to be the Chair and one member to be the Vice-Chair. The Board shall be staffed by the Administrative Office of the Courts which shall also be responsible for the day to day administration of the Program.

Rule 2. Meetings of the Board

The Board shall meet at least one time a year and may otherwise meet as frequently as necessary at such times and places as the Board may designate.

Rule 3. Powers of the Board

The Board shall have the authority, subject to review by the Delaware Supreme Court to:

(1) Develop and administer a certification program for court interpreters, including continuing education requirements and programs.

(2) Develop fiscal policies and procedures with regard to the court interpreter program.

(3) Conduct studies and make recommendations concerning matters relating to court interpreters.

(4) Amend the Court Interpreters Code of Professional Responsibility adopted by Supreme Court Administrative Directive 107.

(5) Exercise jurisdiction over disciplinary matters with regard to court interpreters as set forth in these Rules, and

(6) Such other functions as may be required for the benefit of the court interpreter program.

Rule 4. Grounds for Interpreter Discipline.

Disciplinary complaints may be filed against any interpreter in the Administrative Office of the Courts' Court Interpreter Registry, or any interpreter, serving as a freelance interpreter in the Delaware courts for, but not limited to, the following reasons:

(a) Conviction of a felony or a misdemeanor during the time that they are eligible to serve as an interpreter that reflects adversely on the interpreter's honesty, trustworthiness or fitness as an interpreter in other respects;
(b) Fraud, dishonesty, or corruption which is related to the functions and duties of court interpreter;
(c) Continued false or deceptive advertising after receipt of notification to discontinue;
(d) Purposeful disclosure of confidential or privileged information obtained while serving in an official capacity;
(e) Incompetence;
(f) Repeated failure to appear as scheduled without good cause;
(g) Failure to comply with any existing continuing education requirements;
(h) Failure to comply with any and all disciplinary sanctions imposed by the Manager of the Court Interpreter Program;
(i) Any other violations of the Court Interpreter's Code of Professional Responsibility.

Rule 5. Possible Sanctions.

All disciplinary sanctions imposed shall become public unless dismissed, resolved informally and/or by stipulation, or if the sanction is a private admonition. The Manager shall issue the decision, including its findings and the sanctions to be imposed, if any, within 30 days from the date of notification of complaint to the interpreter. Time limits may be extended by mutual agreement, in writing, when an extension is necessary to ensure the fairness and/or sufficiency of the process. Sanctions may consist of but are not limited to one or more of the following:

1. Private admonition;
2. Public reprimand;
3. Imposition of costs and expenses incurred by the Administrative Office of the Courts in connection with the proceeding, including investigative costs, if any;
4. Restitution;
5. Requiring that specific education courses be taken;
6. Requiring that one or more parts of the interpreter certification examination be retaken;
7. Reassignment or removal from the Court Interpreter Registry;
8. Requiring that work be supervised;
9. Suspension of certification for a specified period of time;
10. Revocation of certification; or

11. Imposition of any other condition that the Board deems appropriate.

The specific disciplinary action and the degree of discipline to be imposed should depend upon factors such as the seriousness of the violation, the intent of the interpreter, whether there is a pattern of improper activity, and the effect of the improper activity on others or on the judicial system.

Rule 6. Complaint Process.

Upon receipt of a complaint, the Manager of the Court Interpreter Program will review the complaint to determine its merit. All complaints must be in writing, must be signed, and must describe the alleged inappropriate conduct. If the information regarding the interpreter, on its face, does not raise a reasonable inference of misconduct, the Manager shall dismiss the complaint with notice to complainant.

If the Manager determines that the complaint, on its face, raises a reasonable inference of misconduct, the Manager shall conduct a review. The interpreter shall be given notice of the complaint, and the opportunity to respond in writing within 10 days of date of notification. The Manager may consider information obtained from sources other than the complaint and interpreter's response to the same. If after review of the response and any additional information the Manager decides there is no reasonable inference of misconduct, the Manager shall dismiss the matter with notice to all parties, i.e. the complainant and the interpreter.

If after investigation pursuant to a complaint and examination of the interpreter's response to notice of complaint, if any, the interpreter program Manager decides there is reasonable inference of misconduct and believes imposition of disciplinary measures is justified, Manager shall take action and shall sanction the interpreter, up to and including revocation of his/her certification, based upon Manager's determinations with respect to the severity of the offense. All disciplinary sanctions to be imposed shall be presented in writing to the interpreter and the complainant.

Rule 7. Appeals.

The Manager's decision and the sanctions imposed remain in effect during the appeal process.

The sanctioned interpreter may appeal the Manager's decision to the Court Interpreter Advisory Board no later than 20 days after the decision is mailed to the interpreter. The appeal shall include the interpreter's written objections to the decision. The Chair of the Board will name a Review Panel of three hearing officers who shall review the existing record and determine whether their decision will be on the papers presented or whether they will consider additional evidence- on the paper or through a hearing. The Review Panel will also determine if the decision reached and the sanctions imposed by the Manager were appropriate. If the Review Panel finds that there is clear and convincing evidence that grounds for disciplinary action exist, it shall report its findings in writing, in

a final order, and let stand any and all sanctions imposed by the Manager of the Court Interpreter Program. The Court Interpreter Advisory Board is the only avenue for appeal. The Manager of the Court Interpreter Program will not participate as a Board member on disciplinary appeal hearings. The Review Panel's decision is final.

Hearings- The Board Review Panel will determine if a hearing is necessary to obtain additional information. Any hearing will be reported or recorded electronically and shall be private and confidential, except upon request of the interpreter facing the allegations. Strict rules of evidence shall not apply. The Panel may, in its discretion, call witnesses, consider any evidence presented (including affidavits), giving such evidence the weight it deems appropriate. At the hearing, the interpreter may be represented by counsel at his or her own expense.

Rule 8. Reinstatement.

A court interpreter whose certification or registry status has been revoked or reassigned may apply in writing to the Board for reinstatement pursuant to time frames established in the final order. The request shall explain why the applicant believes the reinstatement should occur. The Board shall have the sole discretion whether to grant or deny reinstatement, or to impose conditions upon reinstatement as it deems appropriate.

Rule 9. Permanent file of findings

All written findings and sanctions whether presented by the Manager of the Court Interpreter Program or the Review Panel of the Advisory Board will shall be maintained in a permanent file at the Administrative Office of the Court.