

Missouri Foreign Language Court Interpreter Handbook



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Professional court interpreters are individuals who possess educated, native-like mastery of both English and a second language; display wide general knowledge characteristic of what a minimum of two years of general education at a college or university would provide; and perform the three major types of court interpreting: sight translation, consecutive interpreting, and simultaneous interpreting. Court interpreters must perform each type of interpreting in a manner that includes everything that is said, preserves the tone and level of language, and neither changes nor adds anything to what is said. Interpreters deliver services in a manner faithful to all canons of the Code of Professional Responsibility and policies regarding court interpreting promulgated by the judiciary.¹

The ability to perform simultaneous interpreting, consecutive interpreting and sight translation in the legal setting requires specialized training and skills. Being bilingual is an insufficient qualification for court interpreting. To understand court interpreting as a profession, one must first understand the knowledge, skills, and abilities (KSA's) that define the specific measurable skills or competencies that persons seeking to fill the role of interpreter must possess.²

Linguistic Skills: Prospective court interpreters must have superior linguistic skills in both English and all working languages. Court proceedings involve an infinite array of complex matters, ranging from constitutional arguments, DNA analyses, to medical analyses. As such, interpreters must possess:

- Native or native-like proficiency in all working languages;
- Knowledge and use of a broad range of vocabulary, including legal terminology, subject-specific terminology, and slang; and
- Knowledge and use of cultural nuances, regional variations, idiomatic expressions, and colloquialisms in all working languages.

Speaking Skills: As conduits of communication, interpreters are speaking at all times – either in English or the target language. They must speak clearly to be understood, and at the appropriate volume required by the circumstances. While strong speaking skills sometimes develop naturally, many prospective interpreters must work to develop these skills, especially if challenged with pronunciation difficulties. Examples of speaking skills include:

¹ Court Interpretation: Model Guides for Policy and Practice in the State Courts - NCSC

² The KSA's identified in this section were assembled based on input from Robert Joe Lee, formerly of Court Executive Language Service Section, Administrative Office of the New Jersey Courts, and a research report commissioned by the Judicial Council of California.

- The ability to speak with proper pronunciation, diction, and intonation in all working languages;
- The ability to speak with a neutralized and easily understandable accent in all working languages; and
- The ability to modulate volume appropriate to the setting by either projecting his/her voice or speaking softly.

Listening and Comprehension Skills: In order to interpret correctly, interpreters must completely understand all of the information that is communicated. This requires active listening skills and a high degree of concentration. Interpreters must have:

- The ability to listen to and comprehend various registers and specialized domains in all working languages.
- The ability to listen to and comprehend various regional accents and/or differences in all working languages; and
- The ability to ignore auditory distractions and focus on the source speaker.

Interpreter’s Responsibility to Prepare: Court interpreters are frequently called upon to read and provide sight translation of texts associated with court hearings. Such texts can include hand-written notes, police reports, medical records, and/or highly technical legal documents from local or foreign jurisdictions. Court interpreters should request and take sufficient time to adequately prepare when given such documents with little or no advance notice. As such, the interpreter must possess:

- The ability to read and comprehend overall meaning and specific details of written text in all working languages.
- The ability to read and recognize various written contexts, including formal and informal text, subject-specific vocabulary, idiomatic expressions, and colloquialisms; and
- The ability to read quickly and comprehend with limited preparation.

Interpreting Skills: An interpreter’s most important responsibility is ACCURACY AND COMPLETENESS, as expressed in Canon 1 of the Code. When performing simultaneous or consecutive mode or a sight translation the interpreter receives communication in the source language; dissects the meaning and finds equivalents in the target language in order to maintain the integrity of the message and deliver it within a matter of seconds. Interpreters are not afforded the luxury of time to consider how to best phrase words or build sentences. The process of interpreting requires skills and techniques that continually develop over years of training and work experience. A competent interpreter will have the ability to:

- Think analytically and make quick linguistic decisions regarding wording or terminology selection;

- Concentrate and focus;
- Apply short-term memory skills in retaining manageable units of information;
- Use effective note-taking techniques to supplement short-term memory.
- Provide transference from one language to another and select appropriate equivalents for vocabulary or phrases;
- Accommodate for lack of equivalents in vocabulary or phrases;
- Perform case preparation;
- Self-monitor and self-correct – on the record if necessary;
- Switch back and forth among the various modes of interpretation appropriately;
- Preserve intent, tone, style, and utterances of all messages, including accurate reflection of register
- The ability to think and react communicatively in all working languages; and
- The ability to listen to and comprehend different rates of speech in all working languages; monitoring environmental factors such as fast speech or auditory distractions.

Interpreter Responsibilities and Protocol: Court interpreters are officers of the court and are expected to behave as such. They work in a highly professional environment where standards and expectations are held to a high degree. They are entrusted with highly sensitive information and are thrust into the middle of communications concerning life and death matters. Most often, interpreters work independently and are not actively supervised by managers. It is therefore incumbent upon them to adopt the strictest of professional standards, such as:

- Conduct business in an honest and professional manner which reflect interpreter’s ethical responsibilities towards LEP, colleagues and the judiciary ;
- Work professionally in various settings and collaborate with colleagues, consumers and court staff;
- Self-awareness as to whether he/she is appropriate for a certain job;
- Actively pursue knowledge and information on social, technological, cultural and legal changes that affect language;
- Confidently exercise situational control appropriately, such as articulating to a judicial officer when impediments to performance occur;
- Work effectively and productively as part of a team of interpreters;
- Request appropriate information prior to assignments so that necessary preparation can be carried out;
- Use electronic equipment appropriately, especially simultaneous and telephone interpreting devices; and
- Exercise professional judgment flowing from the code of professional responsibility and conform one’s practice to the role and functions of the interpreter.

The Missouri Court Interpreter Certification Program consists of three phases that must be completed in the order explained below.

Orientation

The first phase must be completed before any other part of the program. The 16 hour workshop is open to any person at least 18 years of age with a native-like mastery of English and a second language. This is an introductory workshop that covers the interpreter's role and professional ethics, the modes of interpreting used in court, legal terminology and court protocol.

Registering for this course requires candidates to get fingerprinted by the Missouri Highway Patrol or other police department and complete an application form. Candidates also sign an affidavit indicating that they will adhere to the Code of Professional Responsibility for Court Interpreters.

Written Exam

After completing orientation, candidates may register to take the written exam. The three hour exam covers English proficiency, legal terms, court protocol, ethical situations, and includes translation from English to a second language. The written test must be passed with 80% or greater before a candidate may schedule the oral exam.

Oral Exam

Candidates who have passed the written test may take the 1 hour oral exam testing their proficiency in sight translation, consecutive, and simultaneous interpreting. Each part of this exam must be passed with 70% or greater for a candidate to receive certification.

Oral Proficiency Interview

In the event a candidate speaks a language that OSCA does not have a full oral exam, candidates that pass the multiple-choice written exam may schedule an oral proficiency interview.

The oral proficiency interview is a standardized procedure for the global assessment of functional speaking ability. This means that an OPI is a testing method which measures how well a person speaks a language by comparing their performance of specific language tasks, not with some other person's, but with the criteria for each of ten proficiency levels described in the ACTFL Revised Proficiency Guidelines-Speaking, revised by ACTFL in 1999.

The ACTFL OPI takes the form of a carefully structured conversation between a trained and certified interviewer and the person whose speaking proficiency is being assessed. A ratable speech sample is elicited from the interviewee by an individually determined series of questions or comments, which follow the established ACTFL protocol of "probes" and "level-checks."

Upon passing an oral proficiency interview (OPI) at the highest possible rating by a company selected by the Office of State Courts Administrator, you will be given a "registered" status.

Skills Building Workshop

Candidates interested in developing their interpreter skills and receiving more practice through exercises and shadowing are offered this 16 hour **optional** skills building course. The course strengthens dual-tasking skills necessary for simultaneous interpreting through shadowing (talking and listening at the same time), shadowing while performing other tasks (writing, counting, etc.), and shadowing while writing hard to remember items. The course is also designed to broaden the interpreter's vocabulary, enhance professional conduct and understand ethical obligations.

Section 3 **The Role of the Court Interpreter and Ethical Considerations**

The role of the court interpreter is to assist the court in bringing the Limited English Proficient (LEP) speaker to equal linguistic footing with an English speaker. In doing so, the service of an interpreter enables the court to provide equal access to justice for LEP speaking witnesses, victims and defendants.

A court interpreter plays a critical role in the administration of justice as he/she transfers a message from one language to another thus ensuring access, due process and participation of all parties involved. The goal of a court interpreter is two-fold: to enable the judge, jury, counsel and parties involved to react in the same manner to an LEP speaker as they would to an English speaker and to enable the LEP defendant to ‘hear’ everything and therefore participate as an English speaker would.

The court interpreter must interpret the original source material without editing, summarizing, deleting, or adding; while conserving the language level, style, tone, and intent of the speaker. If it appears appropriate to provide an explanation to the LEP speaker, it must only be done in the presence of the English speaker and interpret into English anything stated to the LEP speaker.

The court interpreter may be the only bilingual person able to communicate with the LEP. This fact may complicate further the interpreter’s role by creating expectations from both the LEP and the party with whom he/she needs to communicate as to what the interpreter may bring to the interaction. It is common for either party to relinquish control of the conversation and pass that control on to the interpreter. Such expectations and actions present ethical challenges that the interpreter needs to address. It is therefore important for the interpreter to remember that his/her **ONLY** role is to remove the language barrier by allowing true communication between the parties. To this end and to keep the interpreter on check, a generally accepted Code of Professional Responsibility have been developed.

CODE OF PROFESSIONAL RESPONSIBILITY FOR INTERPRETERS IN THE MISSOURI COURT SYSTEM

PREAMBLE

Many persons who come before the courts are partially or completely excluded 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, as far as possible, so that these persons are placed in the same position as similarly situated persons for whom there is no such barrier.³ 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.

APPLICABILITY

This code shall guide and be binding upon all persons, agencies and organizations who administer, supervise use, or deliver interpreting services to the judiciary within the Missouri state court system.

Commentary:

The use of the term "shall" is reserved for the black letter principles which are principles of general application that are unlikely to conflict with specific requirements of rule or law in the state. Statements in the commentary use the term, "should" to describe behavior that illustrates or elaborates the principles. The commentaries are intended to convey what are believed 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 as it applies to court interpreters be examined.

CANON 1: ACCURACY AND COMPLETENESS

Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation.

Commentary:

The interpreter has a twofold duty: 1) to ensure that the proceedings in English reflect precisely what was said by a non-English speaking person, and 2) to place the non-English speaking person on an equal footing with those who understand English. This creates an obligation to conserve every element of information contained in a source language communication when it is rendered in the target language. Therefore, interpreters are obligated to apply their best skills and judgment to preserve faithfully the meaning of what is said in court, including the style or

³ A non-English speaker should be able to understand just as much as an English speaker with the same level of education and intelligence.

register of speech. Verbatim, "word for word," or literal oral interpretations are not appropriate when they distort the meaning of the source language, but every spoken statement, even if it appears non-responsive, obscene, rambling, or incoherent should be interpreted. This includes apparent misstatements.

Interpreters should never 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 only the interpreter can clarify), the interpreter should ask the court's permission to provide an explanation. Interpreters should convey the emotional emphasis of the speaker without reenacting or mimicking the speaker's emotions, or dramatic gestures.

The obligation to preserve accuracy includes the interpreter's duty to correct any error of interpretation discovered by the interpreter during the proceeding. Interpreters should demonstrate their professionalism by objectively analyzing any challenge to their performance.

CANON 2: REPRESENTATION OF QUALIFICATIONS

Interpreters shall accurately and completely represent their certifications, training and pertinent experience.

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. 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 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 non-English speaking party's personal dependence.

During the course of the proceedings, interpreters 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 or other members of the courtroom work group, including 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.

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.

Should an interpreter become aware that a proceeding participant views the interpreter as having a bias or being biased, the interpreter should disclose that knowledge to the appropriate judicial authority and counsel.

Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest. Before providing services in a matter, court interpreters must disclose to all parties and presiding officials 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.

The following are circumstances that are presumed to create actual or apparent conflicts of interest for interpreters where interpreters should not serve:

- 1. The interpreter is a friend, associate, or relative of a party or counsel for a party involved in the proceedings;*
- 2. The interpreter has served in an investigative capacity for any party involved in the case;*
- 3. The interpreter has previously been retained by a law enforcement agency to assist in the preparation of the criminal case at issue;*
- 4. The interpreter or the interpreter's spouse or child has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that would be affected by the outcome of the case;*
- 5. The interpreter has been involved in the choice of counsel or law firm for that case.*

Interpreters should disclose to the court and other parties when they have previously been retained for private employment by one of the parties in the case.

Interpreters should not serve in any matter in which payment for their services is contingent upon the outcome of the case.

An interpreter who is also an attorney should not serve in both capacities in the same matter.

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.

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 enable them to be heard and understood throughout the courtroom, but the interpreter's presence should otherwise be as unobtrusive as possible. Interpreters should work without drawing undue or inappropriate attention to themselves. 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. However, interpreters who use sign language or other visual modes of communication must be positioned so that hand gestures, facial expressions, and whole body movement are visible to the person for whom they are interpreting. Interpreters are encouraged to avoid personal or professional conduct that could discredit the court.

CANON 5: CONFIDENTIALITY

Interpreters shall protect the confidentiality of all privileged and other confidential information.

Commentary:

The interpreter must protect and uphold the confidentiality of all privileged information obtained during the course of her or his duties. It is especially important that the interpreter understand and uphold the attorney-client privilege, which 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 suggests 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 an appropriate authority within the judiciary who is not involved in the proceeding and seek advice in regard to the potential conflict in professional responsibility.

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.

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. Interpreters should refrain from initiating communications while interpreting unless it is necessary for assuring an accurate and faithful interpretation.

Interpreters may be required to initiate communications during a proceeding when they find it necessary to seek assistance in performing their duties. Examples of such circumstances include seeking direction 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 convey legal advice from an attorney to a person only while that attorney is giving it. An interpreter should not explain the purpose of forms, services, or otherwise act as counselors or advisors unless they are 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 may not explain the form or its purpose for such a person.

The interpreter should not personally serve to 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 of the non-English-speaking person cannot be readily interpreted, the interpreter should notify the appropriate judicial authority.

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 court room is not quiet enough for the interpreter to hear or be heard by the non-English speaker, more than one person at a time is speaking, or principals or witnesses of the court are speaking at a rate of speed that is too rapid for the interpreter to adequately interpret).

Interpreters should notify the presiding officer of the need to take periodic breaks 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 cases where routine proceedings suddenly involve technical or specialized terminology unfamiliar to the interpreter (e.g., the unscheduled testimony of an expert witness). When such instances occur, interpreters should request a brief recess to familiarize themselves with the subject matter. If familiarity with the terminology requires extensive time or more intensive research, interpreters should inform the presiding officer.

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 feel no compunction about notifying the presiding officer if they feel unable to perform competently, due to lack of familiarity with terminology, preparation, or difficulty in understanding a witness or defendant.

Interpreters should notify the presiding officer of any personal bias they may have involving any aspect of the proceedings. For example, an interpreter who has been the victim of a sexual assault may wish to be excused from interpreting in cases involving similar offenses.

CANON 9: DUTY TO REPORT ETHICAL VIOLATIONS

Interpreters shall report to the proper judicial authority any effort to impede their compliance with any law, provision of this code, or other official policy governing court interpreting and legal translating.

Commentary:

Because the users of interpreting services 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 laws, regulations, or policies governing court interpreters. It is incumbent upon the interpreter to inform such persons of his or her professional obligations. 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.

CANON 10: PROFESSIONAL DEVELOPMENT

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

Commentary:

Interpreters must continually strive to increase their knowledge of the languages they work in professionally, including past and current trends in technical, vernacular, and regional terminology as well as their application within court proceedings.

Interpreters should keep informed of all statutes, rules of courts and policies of the judiciary that relate to 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, and reading current literature in the field.

When Called About an Assignment

Who/What/Where/When/How Much: When an interpreter is contacted about an assignment, the interpreter should inquire into who requires the interpreting, what type of hearing or legal proceeding it involves, where the interpreter must report upon arrival at the courthouse, what time the interpreter is expected to arrive, and how long the assignment will last. The interpreter should also confirm the hourly rate, hourly minimum, travel reimbursement and cancellation policy.

Obtaining this information helps the interpreter determine what degree of preparation is necessary; identify whether potential conflicts of interest exist; avoid confusion when arriving for the assignment; and avoid disagreement when submitting an invoice for what the court or the contracting parties may consider an unexpected amount.

Before the Assignment

Dress: Interpreters are expected to dress professionally to conform to the courtroom culture. Dress should be both conservative in style and color, and bright colors or casual clothing should be avoided. As conduits of communication, interpreters must assure that focus is placed on the courtroom participants.

Driving/Transportation/Parking: Courts expect interpreters to arrive on time, and excuses for tardiness due to being lost, stuck in traffic, or difficulty finding parking will not be acceptable. If working at a court location for the first time, investigate into the best driving directions, bus lines, etc., as well as parking availability and costs. Interpreters should always carry a cell phone with them, as well as contact numbers for the courthouse. If it appears that a delay is unavoidable and the interpreter will be late for any reason, he/she must notify the court as soon as possible and keep them informed as to their status. Be aware that if a hearing was continued to a later date due to tardiness of the interpreter, the interpreter may not be paid for the assignment.

Case Preparation: With experience, court interpreters will require less time for hearings which they frequently encounter, such as arraignments or plea hearings. However, new interpreters should take time to prepare, even for these routine matters. Most courts provide copies of their frequently used forms and statements of rights online, and interpreters should be familiar with these in advance. For more involved hearings that will include legal motions and witness testimony, interpreters should request copies of documents so that they can better understand the context of the proceeding, and have the opportunity to look up unfamiliar vocabulary. If

such preparation cannot occur in days prior to the assignment, it is advisable that interpreters appear early for the assignment, and use time at court to review documents and prepare accordingly.

Bring Your Tools: Court interpreters should always arrive armed with a pad of paper and pen for note taking, a bilingual dictionary and/or legal glossary and business cards. Additionally, the interpreter may consider bringing along a copy of his/her credentialing certificate, an invoice for the assignment, a copy of the interpreter's oath, and any other information which may be helpful.

Cancellations: The interpreter should always avoid cancelling an assignment he/she has accepted and should immediately contact the court if, for unforeseen reasons he/she is unable to keep the assignment. Depending on how much advance notice is possible, the interpreter may consider offering to assist the court in locating another interpreter. Interpreter should never send a substitute interpreter without prior authorization by the court.

During the Assignment

Check-In With Court Administration: While practices vary from court to court, court staff frequently expect court interpreters to check in with them prior to proceeding to a courtroom. The court may want to verify start time, and can frequently provide last minute information about the proceeding(s) for which the interpreter was hired, and any other relevant information that would be helpful.

Check-In at the Courtroom: When arriving at the courthouse the interpreter should also check in with the appropriate person in charge of the calendar or schedule. This frequently is not the judge, because he/she is likely either involved in other legal proceedings, or is in chambers. If the interpreter is new to a courthouse, he/she can likely receive assistance from the courtroom clerk, a bailiff, judicial assistant or sheriff's deputy. After checking in the interpreter may use any wait time to:

- Introduce him/herself to the attorney representing the LEP speaker. He/she may ask the attorney's permission to inform the LEP speaker that he/she will be interpreting and will repeat in English, for the attorney's benefit, exactly what is being said in the target language
- Inquire where the LEP speaker is from; this will enable the interpreter to be prepared for any colloquialisms or idiomatic expressions from that person's country of origin.
- If the interpreter knows the LEP speaker will be testifying, he/she will tell the witness that a hand signal will be used to indicate that they should pause to allow the interpreter to render the testimony into English, thereby ensuring an accurate and complete interpretation of what he/she has just said.

The interpreter will repeat to the attorney, in English, all remarks that have been made to the LEP speaker to avoid the appearance of side conversations between interpreter and the LEP speaker. If the LEP speaker is not represented by an attorney, the interpreter may have this brief conversation in the presence of a courtroom clerk or sheriff's deputy, or may wait until the case is called and request that it be done briefly at the beginning of the case.

“Hallway” Interpretation: It is frequently expected that court interpreters will interpret for attorney/client conversations immediately preceding and following courtroom hearings, as many decisions and important conversations occur at this time.

Where to Sit and Wait: While courts expect interpreters to arrive on time, they rarely begin all hearings as scheduled. The interpreter should not bring newspapers or magazines to read while waiting for the hearing to begin. The interpreter should not sit next to the LEP speaker, as that is often an invitation for conversation which can lead to the appearance of unethical conduct. The interpreter should sit far away from the LEP speaker, or ask the courtroom clerk or sheriff's deputy if he/she may sit in the jury box or on a chair in the inner courtroom area referred to as “the well,” an area typically where attorneys sit and wait for cases to be called.

Introduce Yourself to the Court Reporter: Court reporters are expected to get a full record of the proceedings. If given the opportunity, the interpreter should briefly introduce him/herself to the court reporter and give him/her a copy of the interpreter's business card so that the interpreter's name is noted accurately on the record.

Qualification, Swearing-In and Oath: Judges may ask interpreters questions on the record regarding their qualifications, and, regardless of their credentials and experience, interpreters should not feel offended by such questions. The judge may also swear in the interpreter and administer an oath requiring the interpreter to provide a complete and accurate interpretation.

Positioning and Volume: Unless electronic simultaneous interpreting equipment is provided, an interpreter is expected to stand/sit close to the LEP speaker. The interpreter should not position him/herself in between the LEP speaker and his/her attorney. Instead, he/she should stand or sit to the side, and slightly behind the LEP speaker. When simultaneously interpreting to the LEP speaker, the interpreter's voice should be quiet enough to avoid unnecessary noise pollution in the courtroom, yet loud enough so that the LEP speaker can clearly hear what is being interpreted.

Requesting Assistance from a Judge: Remember that judges manage and control courtroom proceedings. If the interpreter needs time to consult a dictionary, request a repetition, ask that a person speak more loudly or slowly, he/she must always direct the statement or request to the judge. However, this must be done in a respectful way in accordance with courtroom decorum. Should the court interpreter need to make a request or ask a question, the

interpreter must always refer to him/herself in the third person; for example, state loudly and clearly, “Your honor, for the record the interpreter requests...” When an interpreter speaks in the first person using “I” or “me”, the court record will inaccurately reflect that these statements/questions came from the LEP speaker.

The judge then will instruct the witness or attorney to speak louder, to repeat the questions, or whatever the interpreter’s request to the judge was. The interpreter will then interpret the instructions from the judge.

If the interpreter is interpreting testimony and realizes that a mistake was made in the interpretation, it is the interpreter’s duty and responsibility to correct it. He/she will direct such a request directly to the judge in the same manner as above; “Your honor, for the record, the interpreter would like to make a correction”, the judge will instruct the interpreter to voice the correction, “the interpreter interpreted ‘brother’ when it should be ‘sister’”. The record will be corrected and the testimony will proceed.

Appropriate Use of the First and Third Person During the Proceeding: When interpreting, the interpreter must accurately interpret what is stated rather than restate on behalf of someone. When an LEP speaker states to his/her attorney “what will happen to me?” the interpreter will look at the attorney and say in English “what will happen to me?” and not “he wants to know what will happen to him.” If an attorney, judge or other courtroom professional directs questions to the interpreter instead of the LEP speaker (“ask the defendant where he lives”), politely instruct them to direct the questions directly to the LEP speaker to avoid confusion. If the LEP speaker directs questions or statements to the interpreter (“tell the lawyer that I have to get back to work this afternoon”), accurately and completely interpret this information to the English speaker. Interpreters must avoid any type of conversation with the LEP speaker. But if the interpreter finds it necessary to engage in a conversation with the LEP, he/she must be sure to do so in the presence of the English speaker and interpret everything being said.

After the Assignment

More Hallway or Front-Counter Interpretations: Following many hearings, parties are expected to complete paperwork, receive new hearing dates, make arrangements for payments, etc. It is crucial that all of these conversations are also interpreted so that LEP speakers can fully understand and participate in the court process. Once the courtroom hearing is done, the interpreter should verify whether his/her services will be necessary for any such exchanges. If, alternatively, the interpreter is requested to provide additional interpreting for a time period exceeding the originally scheduled time, and/or interpreting for a non-court agency (e.g., the court asks the interpreter to accompany a defendant to undergo an alcohol evaluation at the department of probation), the interpreter should check-in with the court staff to clarify their time commitment and to whom to direct any /all invoices.

Check-Out: The interpreter should not leave the courthouse without verifying with the appropriate judge or court staff that the scheduled time has expired, and/or that there are no other matters requiring the interpreter's assistance. Court staff may want to note the departure time for billing purposes. If possible, the interpreter may provide an invoice at this time. Court staff appreciate timely submission of an interpreter's invoices.

Note: If the interpreter arrives in court for an assignment and one of the court clerks or another staff member informs him/her that services will probably not be needed because the LEP speaker is not coming to court (deported, hospitalized, incarcerated elsewhere, etc.), the interpreter must remember that the case is still on the docket, or court list. Therefore, the interpreter must remain in the court until that case is called and/or the appropriate person excuses (releases) him/her. There may also be another unforeseen matter that requires interpreting services. Depending on the payment arrangements, there is usually a minimum fee paid whether the services are rendered or not. It is important for the court to document that the interpreter did arrive as requested. If appropriate, the interpreter may request if the particular case can be called first (or as soon as it is convenient for the court). When the case is called the judge will determine if the interpreter's services will be needed. At that time the interpreter may ask to be excused.

The challenges the interpreter encounters are of two main types: The first type has to do with difficult or complex terminology, idioms, inaudible or very rapid speech and other language-related difficulties. In Section IV the interpreter is given the tools by which to remove these barriers to allow him/her to request a repetition, a clarification, or to review the case prior to the proceeding.

The second challenge is a more difficult one as ethical dilemmas are not always black and white and the answers cannot be found in a dictionary. Many times court staff, attorneys, and LEP speaking parties - who may not be familiar with the proper role of the interpreter - ask interpreters to do things that are outside their professional role. Therefore, it is imperative that the interpreter have a complete knowledge and comprehension of each of the canons on the Code of Professional Responsibility for the Interpreter in the Missouri Court System. Because the interpreter is usually interpreting for a defendant, witness or victim it is perceived, erroneously, that the interpreter is working for the non-English person. However the court interpreter is an officer of the court working for the judge. Keeping this in mind may be helpful in clarifying how to handle certain situations.

This section provides ethically challenging scenarios, all taken from real-life situations, with brief analysis and possible solutions. Some of the following examples could appropriately be resolved in other ways, particularly if the facts were modified even slightly. Keep in mind that each situation will be different. There is a fine line regarding ethical dilemmas; if in doubt it is best to err on the side of caution.

Scenario #1: An interpreter has interpreted for a police interrogation, which is not tape recorded. The suspect is later charged with a crime, and the matter goes to trial. The prosecutor subpoenas the interpreter, requesting that he/she testify about statements made by suspect during the interrogation.

Analysis: The process of interpretation requires fast cognitive processing of information, relying on short-term memory. While there may be exceptions, interpreters are typically unable to remember the specific nuances of matters for which they interpret. Even if details are retained, the Code of Professional Responsibility prohibits interpreters from publicly discussing or reporting on matters for which they have served as interpreters, and certainly shouldn't serve as witnesses testifying to the content of the interpretation.

However, in situations such as confessions which make constitute strong evidence in proving a defendant's guilt, it is appropriate for the parties to call the interpreter of the interrogation as a

witness, for purposes of putting his/her credentials in the record. If a defendant confesses in an interpreted interrogation, it is strongly relevant whether the interpreter was experienced and credentialed.

Recommended Course of Action: Interpreters should never ignore a subpoena. Contact the attorney and ask what specifically he/she intends to question you about in court. If the attorney wants you to testify about the contents of the interrogation, explain the conflict you have with the Code of Professional Responsibility. Let him/her know that the interpreter cannot repeat anything he/she hears while interpreting. If you are still required to testify, bring extra copies of the Code with you to court. When asked about the contents of the interrogation state, “I’m not sure that my Code of Professional Responsibility permits me to answer this question.” This allows the judge to make a judgment call. Follow the directions of the judge.

Scenario #2: You are called to interpret in court for a litigant who has no attorney and is representing himself. Before the proceeding begins, you introduce yourself to the litigant, identifying yourself as the interpreter. The litigant then proceeds to ask you questions requiring legal information, such as what to expect in the courtroom, how to behave in front of the judge, etc.

Analysis: While the temptation may be great to provide people with additional information and assistance, interpreters play the specific role of interpreting for the court. Interpreters are strictly forbidden from providing legal advice, and sometimes providing legal information can lead to many problems: conversations between the interpreter and litigant may give the appearance of bias; discussions about “legal information” inevitably lead to questions for “legal advice.” Court personnel and judicial officers are responsible for providing legal information about court proceedings, not interpreters.

Recommended Course of Action: If a non-English speaker asks you for information about the court, legal process etc., reply with, “I’m sorry, I’m not able to answer that question, but let’s find someone who can answer it. I’m happy to interpret for you.”

If at all possible, in order to avoid the conflict stated above, before you introduce yourself to the plaintiff ask someone from the court staff to accompany you; such as the bailiff, court clerk, maybe one of the attorneys. Follow the process you would of always interpreting everything that is being said.

Scenario #3: You are interpreting consecutively for a witness at a jury trial. While testifying the witness becomes enraged – he shouts, makes strong hand gestures to emphasize his points, uses profanity towards the attorney, and speaks in long utterances.

Analysis: Interpreters are sworn to provide complete and accurate interpretations, ensuring that their renditions reflect precisely what was stated in the source language. Interpreters shall not omit, edit or embellish what was originally stated. If witnesses use foul language, no matter how offensive, the interpreter is expected to convey that same in the target language. While there may not be a direct equivalent between the two languages, the interpreter should use foul language with the same meaning. Even if it is offensive to others in the room, the interpreter shall not, under any circumstance, edit or soften what was stated.

When a witness is speaking with great emotional expression, those non-verbal cues are part of the message being communicated. However, interpreters should be careful of the degree that they include such non verbal elements in their rendition. The interpreter's rendition should include these non-verbal elements *only* to the degree that is necessary for the message to be accurately conveyed, and to the degree that it is necessary for others to understand. If, for example, a witness shouts for a full utterance, others already hear that tone of voice. The interpreter may speak in a louder voice, but need not shout at the same volume level. Alternatively, if the witness shouts a specific word to emphasize it, the interpreter too should emphasize that word by using the appropriate voice inflection.

As a general rule, interpreters should not repeat the witness' hand gestures or facial expressions in their renditions. During consecutive interpreting, interpreters are typically not physically positioned to the side or slightly behind the speaker, and do not have a clear view of all non verbal communications.

Accurate consecutive interpretation depends heavily on the memory skills of the interpreter, and the longer the utterances, the more difficult to interpret the meaning with complete accuracy. When a speaker in the source language makes utterances that are too long for the interpreter to retain, the interpreter must ask the court for a repetition, and/or request the court to instruct the speaker to pause more frequently.

Recommended Course of Action: Always provide a complete and accurate interpretation. Include the same equivalent foul language in the target language, use voice inflection to indicate which words were shouted by the defendant. When the witness pauses, the interpreter should begin interpreting and continue interpreting the previous utterance up to the pause. If the previous utterance was so long that the interpreter needs part to be repeated, the interpreter should say to the judge, "Your Honor, for the record, the interpreter was unable to retain the last part of the witness' testimony. Interpreter requests that it be repeated." The judge will then instruct the witness, in English, to repeat the statement. The interpreter will interpret the judge's instructions. During testimony, it is appropriate for the interpreter to use a hand signal indicating that the witness should pause.

Scenario #4: A young and attractive female defendant is charged with a minor driving offense. The evidence against her is strong. She speaks no English, and is from the country of ABC. An interpreter has been hired to interpret.

The prosecutor makes a standard offer in exchange for a guilty plea. The defense attorney explains this “deal” to the defendant, and she refuses it without explanation. Before the hearing, the defendant briefly leaves the courtroom. The defense attorney shakes her head in frustration. The interpreter leans over and states: “You know, I’ve lived in country ABC. Their legal system is extremely corrupt. Typically, if a *deal* is offered to someone who looks like her, there’s an expectation of sexual favors. That might be the cause for her hesitation.”

The defense attorney explains this to the prosecutor. When the female defendant returns, the prosecutor clarifies aloud that this is the same offer that’s made to all defendants with similar charges, there are no other expectations, and that the prosecutor is bound to follow a code of ethics. The female defendant pleads guilty pursuant to the plea agreement.

Analysis: The role of the court interpreter is to provide complete and accurate interpretation, and to eliminate the language barrier faced by limited English proficient court customers. While some interpreters may have backgrounds and experiences that give them insight into different cultures, traditions and legal systems, as interpreters, they are not to play the role of cultural experts. Interpreters are tested and trained on their interpreting abilities, and not their knowledge of the countries and customs of the groups of people who speak the language. Interpreters are not verifiable experts on these topics. And while some interpreters may have great insight and experience, their offering of such information creates a standard and expectation that all interpreters also play the role of “culture broker.”

Recommended Course of Action: In this case, the interpreter is overstepping his/her bounds by intervening in the matter and offering a personal opinion. The interpreter has no personal knowledge as to the reason for the defendant’s hesitation and is making assumptions. It is the attorney’s responsibility to speak to her client about the deal, and understand the source of the hesitation. And even if the attorney fails to do, that attorney’s failure doesn’t give the interpreter authorization to overstep his/her boundaries. The interpreter should keep these thoughts to him/herself.

Scenario #5: You were called in to interpret for a trial. Upon entering the courtroom, you see the defendant and you have an immediate feeling that you have met him somewhere before. You don’t remember his name and you don’t remember exactly where you have seen him, but the defendant definitely looks familiar to you. What do you do?

Analysis: Under no circumstances should you, as the interpreter, talk to the defendant and their attorney to find out where he/she might have met them before. Under no circumstances

should the interpreter decide for herself whether to recuse herself or not. Only the judge in the proceeding can make such a decision. Simply state the facts and let the Court decide

Recommended Course of Action: When the judge enters the courtroom and the trial begins, request the judge's permission to approach the bench (the defense attorney and state's attorney may approach the bench with you too). Inform the judge that you think you may be familiar with the defendant and to what extent you are familiar with the defendant. The judge will make a decision as to whether this could be considered as a conflict of interest or not. The defense attorney and state's attorney may provide their opinions on the situation as well.

Scenario #6: You have completed your assignment in the courtroom, signed out with the court staff, and are leaving the building. Outside the courthouse, the witness for whom you were interpreting, an older lady who looks very nervous and lost, asks you if you could take her to the nearest train or bus station. Her attorney is no longer with her. What do you do?

Analysis: If you encounter the parties you interpreted for outside the courthouse upon completion of your court assignment, you should avoid getting involved with the parties in any situation. Even if you are outside the courtroom, you are still bound by the Code of Professional Responsibility to avoid a conflict of interest.

Recommended Course of Action: Explain to the witness that the Code of Professional Responsibility does not permit you to give her a ride in your car, but you will be happy to call a cab for her.

Vendor Input Form

Each interpreter that provides service to the court shall complete a Vendor Input Form. This allows OSCA to input the interpreter's personal identification and banking information into the State of Missouri's financial system that produces payment.

Interpreter Payment Policy

The interpreter shall be paid on an hourly basis. Charging a two-hour minimum is the standard practice by agencies and certified interpreters. The hourly price begins at the scheduled time of the interpreting assignment as requested and authorized by the court, (provided the interpreter is present at the scheduled time), and shall be prorated to the quarter hour to correspond to the actual time of delivered service.

The interpreter bills the court of assignment (handwritten invoices are discouraged) and the invoice must contain the following information:

- Date and time of service
- Case number/name
- Hourly rate and time billed
- Invoice number
- If billing for a cancellation, invoice must indicate the cancellation fee. If billing for reduced hours, invoice must indicate hours scheduled and hours worked. (See information below regarding cancellations and reduced hours.)
- Additional allowable expenses (See below.)
- Name, address, and tax ID for payment

Additional allowable expenses:

- Two-hour minimum charge for assignments.
- Mileage at the state rate at the time of the assignment
- Meals up to the maximums allowed by OSCA for county of assignment if in travel status 12 hours or more and with receipts. Early departure and/or late return must be documented on the invoice if overnight stay is not included and meals are claimed. Breakfast is not reimbursable if the hotel offers breakfast to guests at no charge.
- Lodging, if overnight stay approved by OSCA and not set up as direct bill.
- Parking, with receipts.

Cancellation fees:

- If the court provides at least 24 hours notice of a cancellation or rescheduling to the interpreter no payment is due.
- Canceling an assignment without at least 24 hours notice to the interpreter entitles the interpreter to bill for two hours of service. If an interpreter arrives as scheduled but the

court releases them without anything interpreted, they may bill for a cancellation without at least 24 hours notice – 2-hour cancellation fee.

In the event an interpreter provides fewer hours of service than originally requested by the court, the interpreter may bill as follows:

- If eight hours or less service were requested, the interpreter shall be paid for the amount of service requested. For example, if the interpreter was scheduled for seven (7) hours but was dismissed after interpreting anything less than seven (7) hours, they may invoice for seven (7) hours.
- If more than eight hours of service are requested but eight hours or less are provided, the interpreter shall be paid for eight hours. For example, if the interpreter was scheduled for a two-day trial, but was dismissed after eight (8) hours or less – say the defendant changes to a plea during the trial – the interpreter may invoice for eight (8) hours.

Interpreter Complaint Form

Foreign language interpreters have a code of professional responsibility to adhere to and courts expect professionalism out of interpreters in court. If the court feels an interpreter is not adhering to the code or acts inappropriately, they may complete and submit to OSCA an Interpreter Complaint Form. We will in turn investigate and take necessary action.