

**+AMENDMENTS TO THE
RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO**

Amendments to Rules 80 through 87 and Appendix H of the Rules of Superintendence for the Courts of Ohio were adopted by the Court and become effective January 1, 2010. The history of these amendments is as follows:

December 15, 2008	Initial publication for comment
November 2, 2009	Final adoption by conference
January 1, 2010	Effective date of proposed amendments

RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO

RULE 80. Definitions.

As used in Rules 80 through 87 of the Rules of Superintendence for the Courts of Ohio:

- (A) “Consecutive interpretation” means interpretation in which a foreign language interpreter waits until the speaker finishes an entire message rendered in a source language before rendering the message in a target language.
- (B) “Consortium for Language Access in the Courts” means the multi-state partnership dedicated to developing foreign language interpreter proficiency tests, making tests available to member states, and regulating the use of the tests.
- (C) “Foreign language interpreter” means an individual who, as part of any case or court function, facilitates communication between or among legal professionals and a limited English proficient or non-English speaking party or witness through consecutive interpretation, simultaneous interpretation, or sight translation.
- (D) “Limited English proficient” means an individual who does not speak English as a primary language or who has a limited ability to read, speak, write, or understand English and requires the assistance of a foreign language interpreter to effectively communicate.
- (E) “Program” means the Supreme Court Interpreter Services Program.
- (F) “Provisionally qualified foreign language interpreter” means a foreign language interpreter who has received provisional certification from the Program pursuant to Sup. R. 81(G)(3).

(G) “Sight translation” means interpretation in which a foreign language interpreter reads aloud in a target language a written document composed in a source language.

(H) “Sign language interpreter” means an individual who, as part of any case or court function, facilitates communication between or among legal professionals and a deaf, hard of hearing, or deaf blind party, witness, or juror through the use of sign language or other manual or oral representation of a spoken language.

(I) “Simultaneous interpretation” means interpretation in which, after a brief pause to listen for or view key grammatical information, a foreign language interpreter or sign language interpreter renders in a target language the message of a person rendered in a source language as the person continues to communicate.

(J) “Supreme Court certified foreign language interpreter” means a foreign language interpreter who has received certification from the Program pursuant to Sup. R. 81.

(K) “Supreme Court certified sign language interpreter” means a sign language interpreter who has received certification from the Program pursuant to Sup. R. 82.

(L) “Translator” means an individual who, as part of any case or court function, takes written text composed in a source language and renders it into an equivalent written text of a target language.

RULE 81. Certification for Foreign Language Interpreters.

(A) Certification

A foreign language interpreter may receive certification from the Program and be styled a “Supreme Court certified foreign language interpreter” pursuant to the requirements of this rule.

(B) General requirements for certification

An applicant for certification as a Supreme Court certified foreign language interpreter shall satisfy each of the following requirements:

- (1) Be at least eighteen years old;
- (2) Be a citizen or legal resident of the United States or have the legal right to remain and work in the United States;
- (3) Have not been convicted of any crime involving moral turpitude.

(C) Application for certification

An applicant for certification as a Supreme Court certified foreign language interpreter shall file an application with the Program. The application shall include each of the following:

- (1) Verification the applicant is at least eighteen years old;
- (2) Verification the applicant is a legal resident or citizen of the United States or has the legal right to remain and work in the United States;
- (3) A copy of a completed criminal background check showing no conviction of a crime involving moral turpitude;
- (4) A nonrefundable application fee in an amount as determined by the Program.

(D) Orientation training

An applicant shall attend an orientation training session conducted or sponsored by the Program providing an introductory course to interpreting and addressing ethics, legal procedure and terminology, modes of interpretation, and other substantive topics. The Program may waive this requirement upon demonstration by the applicant of equivalent experience or training. The Program shall charge the applicant a nonrefundable fee in an amount as determined by the Program for attendance at a Program-sponsored training session.

(E) Written examination

- (1) An applicant for certification as a Supreme Court certified foreign language interpreter shall take the written examination of the Consortium for Language Access in the Courts. The examination shall be administered by the Program in accordance with the standards described in the test administration manuals of the Consortium.
- (2) To pass the written examination of the Consortium for Language Access in the Courts, an applicant shall receive an overall score of eighty percent or better in the English language and grammar, court-related terms and usage, and professional conduct sections of the examination.
- (3) An applicant who fails the written examination of the Consortium for Language Access in the Courts shall wait one year before retaking the examination.
- (4) An applicant who has taken the written examination of the Consortium for Language Access in the Courts in another Consortium member state within the past twenty-four months may apply to the Program for recognition of the score. The Program

shall recognize the score if it is substantially comparable to the score required under division (E)(2) of this rule.

(F) Post-written examination training course

Upon compliance with the written examination requirements of division (E) of this rule, an applicant for certification as a Supreme Court certified foreign language interpreter shall attend a training course sponsored by the Program focusing on simultaneous, consecutive, and sight translation modes of interpretation in English and the target language of the applicant. The Program may charge the applicant a nonrefundable fee in an amount as determined by the Program for attendance at the training course.

(G) Oral examination

(1) After attending the post-written examination training course pursuant to division (F) of this rule, an applicant for certification as a Supreme Court certified foreign language interpreter shall take the oral examination of the Consortium for Language Access in the Courts. The examination shall be administered by the Program in accordance with the standards described in the test administration manuals of the Consortium.

(2) To pass oral examination of the Consortium for Language Access in the Courts, an applicant shall receive a score of seventy percent or better in each of the sections of the examination.

(3) An applicant who receives a score of less than seventy percent but at least sixty percent in each of the sections of the oral examination of the Consortium for Language Access in the Courts shall receive provisional certification from the Program and be styled a “provisionally qualified foreign language interpreter.” The applicant may maintain provisional certification for up to twenty-four months following the examination. If the applicant fails to receive an overall score of at least seventy percent in the sections of the examination within this time frame, the provisional certification of the applicant shall cease.

(4) An applicant who receives a score of at least seventy percent in two of the sections of the oral examination of the Consortium for Language Access in the Courts may carry forward the passing scores for up to twenty-four months or two testing cycles, whichever occurs last. If the applicant fails to successfully pass any previously failed sections of the examination during the time period which passing scores may be carried forward, the applicant shall complete all sections of the examination at a subsequent examination. An applicant may not carry forward passing scores from an examination taken in another Consortium member state.

(H) Written and oral examination preparation

The Program shall provide materials to assist applicants for certification as Supreme Court certified foreign language interpreters in preparing for the written and oral examinations of the Consortium for Language Access in the Courts, including overviews of each examination. The Program also shall provide and coordinate training for applicants.

(I) Reciprocity

An applicant for certification as a Supreme Court certified foreign language interpreter who has previously received certification as a foreign language interpreter may apply to the Program for certification without fulfilling the training and examination requirements of division (D) through (G) of this rule as follows:

(1) An applicant who has received certification from the federal courts shall provide proof of certification and be in good standing with the certifying body.

(2) An applicant who has received certification from another member state of the Consortium for Language Access in the Courts shall provide proof of having passed the oral examination of Consortium. The Program may verify the test score information and testing history before approving certification.

(3) An applicant who has received certification from the National Association of Judiciary Interpreters and Translators shall provide proof of having received a score on the examination of the Association substantially comparable to the scores required under divisions (E)(2) and (G)(2) of this rule. The Program may verify the test score information and testing history before approving reciprocal certification.

(4) Requests for reciprocal certification from all other applicants shall be reviewed by the Program on a case-by-case basis, taking into consideration testing criteria, reliability, and validity of the examination procedure of the certifying body. The Program shall verify the test score of the applicant after accepting the certification criteria of the certifying body.

(J) Oath or affirmation

Each Supreme Court certified foreign language interpreter and provisionally qualified foreign language interpreter shall take an oath or affirmation under which the interpreter affirms to know, understand, and act according to the Code of Professional Conduct for Court Interpreters and Translators, as set forth in Appendix H to this rule.

RULE 82. Certification for Sign Language Interpreters.

(A) Certification

A sign language interpreter who has received a passing score on the “Specialist Certification: Legal” examination of the Registry of Interpreters for the Deaf may receive certification from the Program and be styled a “Supreme Court certified sign language interpreter” pursuant to the requirements of this rule.

(B) General requirements for certification

An applicant for certification as a Supreme Court certified sign language interpreter shall satisfy each of the following requirements:

- (1) Be at least eighteen years old;
- (2) Be a citizen or legal resident of the United States or have the legal right to remain and work in the United States;
- (3) Have not been convicted of any crime involving moral turpitude.

(C) Application for certification

An applicant for certification as a Supreme Court certified sign language interpreter shall file an application with the Program. The application shall include each of the following:

- (1) Verification the applicant is at least eighteen years old;
- (2) Verification the applicant is a legal resident or citizen of the United States or has the legal right to remain and work in the United States;
- (3) A copy of a completed criminal background check showing no conviction of a crime involving moral turpitude;
- (4) Proof of having received a passing score on the “Specialist Certification: Legal” examination;
- (5) A nonrefundable application fee in an amount as determined by the Program.

(D) Oath or affirmation

Each Supreme Court certified sign language interpreter shall take an oath or affirmation under which the interpreter affirms to know, understand, and act according to the Code of Professional Conduct for Court Interpreters and Translators, as set forth in Appendix H to this rule.

RULE 83. Revocation of Certification.

The Program may revoke the certification of a Supreme Court certified foreign language interpreter or a Supreme Court certified sign language interpreter or the provisional certification of a provisionally qualified foreign language interpreter for any of the following reasons:

- (A) A material omission or misrepresentation in the application for certification from the interpreter;
- (B) A substantial breach of the Code of Professional Conduct for Court Interpreters and Translators, as set forth in Appendix H to this rule;
- (C) Noncompliance with the applicable continuing education requirements of Rule 85 of the Rules of Superintendence for the Courts of Ohio.

RULE 84. Code of Professional Conduct for Court Interpreters and Translators.

Supreme Court certified foreign language interpreters, Supreme Court certified sign language interpreters, provisionally qualified foreign language interpreters, and translators shall be subject to the Code of Professional Conduct for Court Interpreters and Translators, as set forth in Appendix H to this rule.

RULE 85. Continuing Education.

(A) Requirements

- (1) Each Supreme Court certified foreign language interpreter and Supreme Court certified sign language interpreter shall complete and report, on a form provided by the Program, at least twenty-four credit hours of continuing education offered or accredited by the Program for each two-year reporting period. Six of the credit hours shall consist of ethics instruction and the remaining eighteen general credit hours shall be relevant to the work of the interpreter in the legal setting. The interpreter may carry forward a maximum of twelve general credit hours into the following biennial reporting period.
- (2) Each provisionally qualified foreign language interpreter shall complete and report, on a form provided by the Program, at least twenty-four credit hours of continuing education offered or accredited by the Program within twenty-four months after the date of the last oral examination of the Consortium for Language Access in the Courts administered by the Program.

(B) Duties of the Program

In administering the continuing education requirements of this rule, the Program shall do both of the following:

(1) Keep a record of the continuing education hours of each Supreme Court certified foreign language interpreter, Supreme Court certified sign language interpreter, and provisionally qualified foreign language interpreter, provided it shall be the responsibility of the interpreter to inform the Program of meeting the continuing education requirements;

(2) Accredite continuing education programs, activities, and sponsors and establish procedures for accreditation, provided any continuing education programs or activities offered by the Consortium for Language Access in the Courts, the National Association of Judiciary Interpreters and Translators, the Registry of Interpreters for the Deaf, and the National Interpreter Council shall not require accreditation. The Program may assess a reasonable nonrefundable application fee in an amount as determined by the Program for a sponsor submitting a program or activity for accreditation.

RULE 86. Certification Roster.

The Program shall maintain a list of each Supreme Court certified foreign language interpreter, Supreme Court certified sign language interpreter, and provisionally qualified foreign language interpreter who is in compliance with the applicable continuing education requirements of Rule 85 of the Rules of Superintendence for the Courts of Ohio and shall post the list on the website of the Supreme Court.

RULE 87. Establishment of Procedures by the Program.

The Program may establish procedures as needed to implement Rules 80 through 86 of the Rules of Superintendence for the Courts of Ohio.

RULE 99. Effective Date.

(NN) The amendments to Sup. R. 80 through 87 and Appendix H, adopted by the Supreme Court on November 2, 2009, shall take effect on January 1, 2010.

APPENDIX H

CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS AND TRANSLATORS

Preamble.

Foreign language interpreters, sign language interpreters, and translators help ensure that individuals enjoy equal access to justice, including case and court functions and court support services. Foreign language interpreters, sign language interpreters, and translators are highly skilled professionals who fulfill an essential role by assisting in the pursuit of justice. They act strictly in the interest of the courts they serve and are impartial officers of those courts, with a duty to enhance the judicial process.

Definitions.

As used in this code, “provisionally qualified foreign language interpreter,” “Supreme Court certified foreign language interpreter,” “Supreme Court certified sign language interpreter,” and “translator” have the same meanings as in Rule 80 of the Rules of Superintendence for the Courts of Ohio.

Applicability.

This code applies to Supreme Court certified foreign language interpreters, provisionally qualified foreign language interpreters, Supreme Court certified sign language interpreters, and translators. This code shall bind all agencies and organizations that administer, supervise, use, or deliver interpreting or translating services in connection with any case or court function.

A court may use this code to assist it in determining the qualifications of any individual providing services as an interpreter under Rule 702 of the Rules of Evidence.

Canon 1. High Standards of Conduct.

Interpreters and translators shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible, consistent with the ends of justice.

Commentary

Interpreters and translators should maintain high standards of conduct at all times to promote public confidence in the administration of justice.

Canon 2. Accuracy and Completeness.

Interpreters and translators shall render a complete and accurate interpretation or translation without altering, omitting, or adding anything to what is spoken or written, and shall do so without explaining the statements of the original speaker or writer.

Commentary

In order to preserve the record of the court and assist in the administration of justice, interpreters should completely and accurately interpret the exact meaning of what is said or written without embellishing, explaining, omitting, adding, altering, or summarizing anything. This includes maintaining accuracy of style or register of speech, as well as not distorting the meaning of the source language, even if it appears obscene, incoherent, non-responsive, or a misstatement. Interpreters and translators have a duty to inform the court of any error, misinterpretation, or mistranslation so that the record may be promptly corrected. The terms “accurately,” “completely,” and “exact” do not signify a word-for-word or literal interpretation, but rather mean to convey the exact meaning of the discourse of the speaker or writer.

Canon 3. Impartiality and Avoidance of Conflicts of Interest.

Interpreters and translators shall be impartial and unbiased. Interpreters and translators shall refrain from conduct that may give the appearance of bias and shall disclose any real or perceived conflict of interest.

Commentary

Interpreters and translators must disclose to the court any prior involvement with a case or court function, parties, or witnesses that creates or could be viewed as creating a conflict of interest, provided such disclosure must not include anything that is privileged or confidential. The court must then determine whether the interpreter or translator may continue on the case or court function. Counsel for either party may petition the court for appointment of a different interpreter or translator on the basis of a conflict of interest and the court must determine on the record whether to release the interpreter or translator from the case or court function.

Canon 4. Confidentiality.

Interpreters and translators shall protect from unauthorized disclosure all privileged or other confidential communications, documents, or information they hear or obtain while acting in a professional capacity.

Commentary

Interpreters and translators must maintain confidentiality with respect to any communication, document, information, or other type of confidential matter, including police and medical records and attorney-client privileged communications protected under section 2317.02 of the Revised Code. Interpreters and translators must not derive, either directly or indirectly, any profit or advantage from any confidential communication, document, or information acquired while acting in a professional capacity.

Canon 5. Representation of Qualifications.

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

Commentary

Interpreters and translators have a duty to present accurately and completely any applicable credentials, certifications, training, references, and pertinent experience, consistent with Canon 6 of this code. It is essential that interpreters and translators present a complete and truthful account of their qualifications before appointment to allow the court to fairly evaluate their qualifications for delivering interpreting or translating services.

Canon 6. Proficiency.

Interpreters and translators shall provide professional services only in matters in which they can proficiently perform.

Commentary

By accepting an assignment, interpreters and translators warrant they have the skills, training, and understanding of terminology to interpret or translate accurately and effectively in the given setting, are fluent in the required languages, and have the ability to understand regional differences and dialects. Interpreters have a duty to request from the court and the parties all pertinent information and materials necessary to prepare for the case or court function.

Interpreters and translators should strive continually to improve language skills and knowledge of specialized vocabulary and familiarize themselves with the judicial system and any applicable court rules. Interpreters and translators are responsible for having the proper dictionaries and other reference materials available when needed.

Canon 7. Assessing and Reporting Impediments to Performance.

Interpreters and translators shall at all times assess their ability to perform effectively and accurately. If an interpreter or translator discovers anything impeding full compliance with the oath or affirmation of the interpreter or translator and this code, the interpreter or translator shall immediately report this information to the court.

Commentary

Interpreters and translators must immediately inform the court of any condition interfering with their ability to provide accurate and complete interpretation or translation. This may include excessively rapid, quiet, or indistinct speech, physical interference such as inability to see exhibits, noise in their surroundings, or any other interfering factor.

Interpreters and translators must inform the court if they are having difficulties obtaining pertinent information or materials required to prepare for a case or court function that may impede their ability to perform adequately. If at the time of a hearing or trial the interpreter or translator has not been provided with necessary information or materials, the interpreter or translator must inform the court on the record and request a recess to review such information or materials.

Interpreters and translators should withdraw from an assignment if they are unable to understand or satisfactorily communicate with the non-English speaking, limited English proficient, deaf or hard-of-hearing party, witness, or juror, or if they lack required skills, preparation, or terminology to perform effectively in the case or court function for which they have been summoned.

Canon 8. Duty to Report Ethical Violations.

Interpreters and translators shall report to the court any efforts to impede their compliance with any law, this code, or other official policy governing interpreting or translating. Interpreters and translators shall promptly report to the appropriate legal or disciplinary authority if they observe another interpreter or translator improperly performing an assignment; accepting remuneration apart from authorized fees; disclosing privileged or confidential communications, documents, or information; or otherwise committing a breach of this code.

Commentary

Interpreters and translators must report to the court any ethical violation, action, or information that refers to the persistence of a party demanding that an interpreter or translator violate this code, subject to any applicable privilege.

Canon 9. Scope of Practice.

Interpreters and translators shall not give legal advice, communicate their conclusions with respect to any answer, express personal opinions to individuals for whom they are interpreting or translating, or engage in any other activity that may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

Commentary

Since interpreters and translators are only responsible for enabling others to communicate, they should exclusively limit themselves to the activity of interpreting and translating. Interpreters and translators should refrain from initiating communications while interpreting or translating or at all times except as set out below.

Interpreters may be required to initiate communications during a case or court function 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 the interpreter should refer to him or herself in the third person, making it clear and on the record that the interpreter is speaking for him or herself.

At no time may an interpreter give advice. An interpreter should not explain the purpose of forms, services, or otherwise act as counselor or advisor. The interpreter may sight translate language on a form, but may not provide independent legal advice as to the purpose of the form or instruct the litigant as to the proper manner of completing the form.

Interpreters and translators should not personally serve to perform acts that are the official responsibility of other court officials including, but not limited to, court clerks, pretrial release investigators or interviewers, or probation officers, except as required by and in the presence of such officials.

Canon 10. Restrictions from Public Comment.

Consistent with Canon 4 of this code, interpreters and translators 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.

Commentary

Interpreters and translators must refrain from making public comments or giving opinions or reports concerning any particulars of a case or court function in which they are or have provided professional services, regardless whether the information is privileged or confidential. This restriction does not apply to general public comments or reports concerning the interpreting or translating professions.