

Wisconsin Director of State Courts

# Freelance Court Interpreter Handbook



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This handbook is intended to be a practical guide for freelance court interpreters who work in the Wisconsin Court System. The Court Interpreter Program welcomes all feedback on its content.

## Section 1: Knowledge, Skills and Abilities for Court Interpreters

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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 which includes everything that is said, preserves the tone and level of language, and neither changes nor adds anything to the original utterance. Interpreters deliver services in a manner faithful to all canons of a Code of Ethics for Court Interpreters and policies regarding court interpreting promulgated by the judiciary.<sup>1</sup>

The ability to perform simultaneous interpreting, consecutive interpreting and sight translation in the legal setting requires specialized training and skills. Being bilingual alone 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.<sup>2</sup>

### *Linguistic Skills*

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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 to 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*

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As conduits of communication, interpreters are speaking all the time – 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:

- ◆ The ability to speak with proper pronunciation, diction, and intonation in all working languages;
- ◆ The ability to speak with a neutral 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.

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<sup>1</sup> Court Interpretation: Model Guides for Policy and Practice in the State Courts, National Center for State Courts (1995)

<sup>2</sup> 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.

## *Listening and Comprehension Skills*

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In order to interpret correctly, interpreters must completely understand all of the information that is communicated. Interpreting requires active listening skills and a high degree of concentration. Therefore, 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;
- ◆ The ability to ignore auditory distractions and focus on the source speaker;
- ◆ Develop a personalized note-taking system and other mnemonic devices to aid memory retention while listening to long statements or complex testimony; and
- ◆ Acquire skills in jotting down key words and abbreviations effortlessly so that the interpreter's attention is focused more on listening and less on the act of note-taking.

## *Interpreter's Responsibility to Prepare*

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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 Abilities*

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An interpreter's most important responsibility is **accuracy and completeness** as expressed in Canon 1 of the Code of Ethics for Court Interpreters. When performing simultaneous or consecutive mode or a sight translation the interpreter receives communication in the source language, decodes 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 content of all messages, including accurate reflection of register;
- ◆ Think and react communicatively in all working languages; and
- ◆ 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*

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Court interpreters are officers of the court and are expected to behave accordingly. 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 and to:

- ◆ Conduct business in an honest and professional manner which reflect interpreters' ethical responsibilities towards LEP, colleagues and the judiciary;
- ◆ Work professionally in various settings and collaborate with colleagues and court staff;
- ◆ Cultivate 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 mediation;
- ◆ 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;
- ◆ Exercise professional judgment consistent with professional codes of conduct and limit his or her practice to the role and functions of the interpreter.
- ◆ Establish transparent billing practices reflecting the expectation that interpreters will conduct themselves in a manner consistent with the dignity of the court in all jurisdictions.

## Section 2: Process for Certifying Court Interpreters

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Wisconsin's process for certifying court interpreters consists of a series of steps and requirements for acquiring and maintaining credentials.

### *Orientation*

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Attendance at the two-day orientation training is a mandatory first step towards obtaining certification. This training is a 14-hour introductory workshop covering the fundamentals of court interpretation. It is designed to give participants an overview of the needs and expectations of the court, with emphasis on ethical conduct, legal terminology, court procedure, and basic legal interpreting skills. The training also includes small group practice exercises to develop interpreter skills. Faculty consists of judges, court commissioners, attorneys, and certified or qualified court interpreters.

### *Written Exam*

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The written examination is the second step towards achieving certification and is generally offered four weeks after orientation. Interpreter candidates must have completed the two-day orientation to be eligible to take the written examination. The written examination serves as a screening test to determine eligibility to sit for the oral examination.

The test is in English and consists of two components: 1) multiple-choice test and 2) written language assessment. The multiple-choice part is comprised of 135 questions covering general English proficiency, court-related terms and usage, and ethics/professional conduct. Doing well on the written examination does not indicate a person is a certified interpreter. A candidate must pass either the multiple choice test OR the written language assessment in order to be eligible to take the oral examination which is considered in Step 3 in the certification process. A candidate may sign up for either the multiple choice test or the written language assessment or both.

### *Multiple-Choice Test*

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The multiple-choice test measures interpreter candidates' knowledge of three areas central to the work of a court interpreter at the level of a minimally qualified court interpreter:

**English language.** To function as a professional court interpreter, one indispensable component is a high degree of proficiency in the English language. Accordingly, the written examination assumes a high degree of literacy in the English language and familiarity with a range of language constructions. It tests comprehension of written English vocabulary and idioms.

- ◆ Sentence completion (choosing the appropriate word to finish a sentence): Items 1-9
- ◆ Synonyms in context (choosing the word/phrase closest to a chosen word/phrase): Items 10-17
- ◆ Synonyms (choosing the word/phrase closest in meaning to the chosen word/phrase): Items 18-38
- ◆ Antonyms (choosing the word/phrase opposite in meaning to the chosen word/phrase): Items 39-50
- ◆ Idioms (choosing the phrase that is closest in meaning to the underlined idiom in the idiom): Items 51-75

***Court-related terms and usage.*** A second area of knowledge essential to successful professional performance is familiarity with the terminology and procedures of the court system. Accordingly, the written examination also measures recognition of common court-related situations and vocabulary, especially in the area of criminal courts.

- ◆ Sentence completion (choosing the most appropriate phrase to complete the sentence): Items 76-111
- ◆ Court related questions (choosing the best answer to the question given): Items 112-121
- ◆ Sequences (choosing the correct order in which certain court events occur): Items 122-125

***Ethics and professional conduct.*** The third area of knowledge required of professional court interpreters encompassed in the written test is general knowledge of standards guiding the performance of duties. Accordingly, the written exam includes questions aimed at measuring candidates' knowledge of ethical behavior and professional conduct.

- ◆ Professional conduct questions (choosing the best answer to the question given): Items 126-127
- ◆ Scenarios (choosing the best response for an interpreter in this situation): Items 128-135

This exam was developed by the National Center for State Courts Consortium for Language Access in the Courts (CLAC).

### ***Written Language Assessment***

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The written language assessment measures interpreter candidates' ability to translate English into their target language. It consists of translation of ten items, which are two to three sentences in length. The language is typical of lay witness testimony.

### ***Oral Proficiency Interview (OPI)***

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For languages where no Consortium examination is available and therefore no qualified rater exists to rate the written language assessment, interpreter candidates may take an Oral Proficiency Interview (OPI).

### ***Oral Examination***

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The Wisconsin Director of State Courts offers the oral certification examination three times per year. An interpreter candidate must have passed either the multiple choice test OR the written language assessment to be eligible to sit for the oral examination.

Advanced and experienced court interpreters who have completed training and written testing requirements are encouraged to complete the certification process by passing the oral certification examination. To pass the oral exam, interpreters must possess a mastery of English language and the target language at the level of a highly educated native speaker, and have a thorough understanding of legal concepts in both languages. In addition, interpreters must be extremely proficient in specialized cognitive skills required to interpret in sight, consecutive, and simultaneous modes, and be able to convey messages accurately, completely and promptly.

A full oral test is offered in the following languages: Cantonese, French, Haitian Creole, Hmong, Ilocano, Korean, Lao, Mandarin, Polish, Portuguese, Russian, Somali, Spanish, and Vietnamese.

An abbreviated oral examination is available in the following languages: Arabic (Modern Standard) – Sight and Simultaneous only; Arabic (Egyptian Colloquial) – Consecutive only; Chuukese; German – German-English Sight and Simultaneous only; Marshallese; and Turkish.

### ***Oral Examination Description***

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***Sight translation:*** For this part of the exam, the candidate is asked to read a document written in English, while interpreting it aloud into the target language, and to read a document written in the target language, while interpreting it aloud in English. Each document is approximately 225 words in length. The candidate is given 6 minutes per document to review the content and perform the sight translation while being recorded.

***Consecutive:*** During this segment of the exam, the candidate listens to a recording of an English-speaking attorney who is questioning a non-English speaking witness. The candidate must interpret aloud the English questions into the target language and the witness' answers into English while being recorded. The questions and answers are of various lengths ranging from one word to a maximum of 50 words. The candidate is given 22 minutes to complete this portion of the test.

***Simultaneous:*** With this part of the exam, the candidate listens to a recording in English of an attorney's opening or closing statements to a jury or judge. This passage is recorded at a speed of 120 words per minute and is approximately 900 words in length. The speech continues for about 7 to 10 minutes without stopping. While listening through headphones, the candidate simultaneously interprets aloud all statements into the target language while being recorded. This segment takes about 12 minutes total including instructions and equipment preparation.

### ***Character and Fitness Requirement***

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In order to protect the integrity of court proceedings and the safety of the public, interpreters are required to meet a character and fitness standard. A court interpreter should be one whose record of conduct justifies the trust of the courts, witnesses, jurors, attorneys, parties, and the public. A record manifesting significant deficiency in the honesty, trustworthiness, diligence or reliability of an applicant is material to performance as a court interpreter and may warrant a denial of participation within the certification program or removal from the roster of interpreters.

### ***Character and Fitness Review Process***

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The CIP will conduct a criminal background check on all new participants who complete orientation through the Wisconsin Department of Justice Crime Information Bureau (DOJ-CIB) and/or the Wisconsin Circuit Court Access (WCCA) website. The CIP will conduct a criminal background check annually on all interpreters listed on the roster through WCCA.

If the CIP finds a criminal conviction that may be material to the candidate's performance as a court interpreter, but the candidate does not intend to pursue certification, no action will be taken. If upon screening, the CIP manager finds a criminal conviction that may be material to the interpreter candidate's performance as a court interpreter and the candidate intends to pursue certification, the matter will be referred to the Character and Fitness Sub-Committee. Cause for referral to the Character and Fitness sub-committee may include arrests; conviction of a felony; crimes involving dishonesty, deceit or misrepresentation; crimes requiring registration as a sex offender; arrests or convictions of similar offenses in other jurisdictions; or other illegal behavior. In making a determination whether

referral to the sub-committee is appropriate, the CIP manager may take into consideration other factors such as age of candidate when the conviction occurred, length of time from when the crime was committed, nature and seriousness of the offense, and disposition.

### *Character and Fitness Sub-Committee*

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The Character and Fitness Sub-Committee (the Sub-Committee) is a permanent sub-committee consisting of three (3) rotating members of the Committee. The composition of the Sub-Committee at all times will include at least one judge. The Sub-Committee's charge is to consider all relevant information presented and to make a recommendation to the Director as to whether the interpreter's character and fitness are sufficient to ensure the integrity and competence of interpreting services and the maintenance of high standards in the administration of justice.

### *Character and Fitness Review Process*

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If the matter is referred to the Sub-Committee, the CIP manager will gather relevant information related to the conduct in question. Relevant information may include but is not limited to search results from the DOJ-CIB, records from WCCA, criminal complaint, information, conditions of bond or release, judgment of conviction, and law enforcement investigative reports. The CIP manager will send a cover letter along with a copy of all supporting relevant information to the individual. The individual will have twenty (20) days to submit a written response to the CIP. The individual may also request an in-person hearing with the Character and Fitness sub-committee in lieu of submitting a written response or in addition to submitting a written response. If an in-person hearing is requested, a date, time and location at which all sub-committee members can meet in person will be scheduled. The CIP will provide the interpreter with written notice of the hearing. The interpreter may be represented by counsel and may present evidence. The sub-committee may request or gather additional information at the conclusion of the hearing. All hearings will be recorded and shall be private and confidential.

Within thirty (30) days of submission of a written response or within thirty (30) days of the conclusion of the investigation, the sub-committee will issue a report and recommendation to the Director as to whether the interpreter candidate possesses the character and fitness necessary to perform the duties of a court interpreter. If the individual did not provide a written response to the sub-committee for consideration, members shall make a recommendation with the supporting information alone. Members may consider the individual's lack of response when making its recommendation.

Upon receipt and review of the sub-committee's report and recommendation, the Director will issue a final decision as to whether the interpreter will be allowed to remain on the roster or whether the individual will be allowed to continue with the certification process if he or she is not currently on the roster. A letter shall be sent to the interpreter informing him or her of the Director's decision along with the report and recommendation of the Sub-Committee and copies of any information the Sub-Committee may have considered in making its recommendation.

If an interpreter has been removed from the roster or not been allowed to continue with the certification process, the interpreter may apply for reconsideration after a 2-year period from the date of denial has passed or other specified date as determined by the Director. The review process governing character and fitness evaluations, along with any supporting documents submitted on behalf of the interpreter are confidential and will be shared only with the interpreter and court officials involved. The outcome of the review is public.

## *Skill-Building Workshops*

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The CIP may offer additional language-specific or language-neutral skills-building workshops for interpreters. The purpose of the workshops is to improve interpreting skills, build vocabulary and learn techniques for self-assessment. Interpreter candidates who have attended the two-day orientation and begun the testing process are eligible to attend. Space is generally limited and preference will be given to interpreters who have attempted the oral examination at least one time and demonstrate a commitment to court work. For other languages, participation in skills-building will be at the discretion of the CIP manager.

## *Program Fees*

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The expenses for administering the Court Interpreter Program may be from paid program fees as well as from grants and other state funding. The fees are set by the Director's Office and may be revised as necessary. Unless otherwise indicated, fees must be paid in cash or check or money order payable to Wisconsin Supreme Court. Current fees are:

<i>Fee</i>	<i>Program Service</i>
\$160	Two-Day Orientation
No Fee	Multiple-Choice Examination
\$30	Written Language Assessment
No Fee	Back Interpretation Examination
\$225	Oral Certification Examination (Wisconsin Residents)
\$400	Oral Certification Examination (Out of State Residents)
\$100	Individual Section on Oral Examination for Retake Purposes
\$143	Oral Proficiency Interviews (OPIs)
No Fee	Background Check
\$200-\$250	Advanced Skill Building
No Initial Fee	Certified interpreter identification badge & lanyard
\$5	Replacement lanyard and identification badge
\$3	Replacement badge (no lanyard)
\$3	Replacement lanyard (no badge)

## *Continuing Education Incentive*

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Coming soon!

## *Oath of Office Form*

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Interpreters who wish to be listed on the roster must sign and return a notarized oath which states that the interpreter "will interpret accurately, completely, and impartially, in accordance with the standards prescribed by law, the code of ethics for court interpreters, and Wisconsin guidelines for court interpreting" (See Appendix A for Oath Form).

## *Interpreter Contact Information*

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Interpreters who are listed on the court’s roster of interpreters are required to maintain updated contact information with the program office which includes name changes, mailing address, telephone number(s) and email addresses.

### ***Roster of Interpreters***

In order to be listed on the roster of interpreters, a candidate must have completed orientation and passed certain testing requirements qualifying them to be listed on the roster as certified or otherwise qualified. Other requirements for appearance on the roster include signing an oath to abide by the Code of Ethics, keeping updated contact information on file and below an explanation of the various roster levels for spoken and sign language.

#### ***Spoken Language: Spanish***

<b><i>Testing Criteria</i></b>	<b><i>Classification Level on Roster: Spanish</i></b>	
	<b><i>Certified</i></b>	<b><i>Provisional</i></b>
<b><i>Written Exam</i></b>	Pass multiple choice test at 80% or higher OR passed the written language assessment (or both); AND	Pass multiple choice test at 80% or higher OR passed the written language assessment (or both); AND
<b><i>Oral Exam</i></b>	Pass all three parts at 70% or higher and overall score of 70%. A passing score on the Sight Translation means 65% or higher on both Sight-Foreign and Foreign-Sight sections.	Score 65% or higher on at least two out of three parts of the oral examination.
<b><i>Duration</i></b>	Not Applicable	Two years for Spanish candidates to move up to Certified level.

#### ***Spoken Language: Languages other than Spanish (LOTS)***

<b><i>Testing Criteria</i></b>	<b><i>Classification Level on Roster: LOTS</i></b>			
	<b><i>Certified</i></b>	<b><i>Provisional</i></b>	<b><i>Provisional-B</i></b>	<b><i>Authorized</i></b>
<b><i>Written Exam</i></b>	Pass Multiple Choice test at 80% or higher OR pass the written language assessment (or both); AND	Pass Multiple Choice test at 80% or higher OR pass written language assessment (or both); AND	Pass Multiple Choice test at 80% or higher OR pass written language assessment (or both); AND	Pass Multiple Choice test at 80% AND;
<b><i>Oral Proficiency Interview (OPI)</i></b>	Not Applicable	Not Applicable	Not Applicable	Achieve a “Superior” level on OPI
<b><i>Oral Exam</i></b>	Pass all three parts at 70% or higher and overall score of 70%. A passing score on the Sight Translation means 65% or higher on both Sight-Foreign and Foreign-Sight sections.	Score 65% or higher on at least two out of three parts of the oral examination.	Score 55% or higher on at least two out of three parts of the oral examination.	Not Applicable

*Sign Language (Hearing and Deaf Interpreters)*

	<i>Classification Level on Roster</i>	
	<i>Certified</i>	<i>Provisional</i>
<i>Hearing</i>	SC:L	Holds one of the following: CI/CT, CSC, NIC or NIC-Advanced; NAD IV or V; and holds a valid interpreting license from the Wisconsin Department of Regulation and Licensing
<i>Deaf</i>	CLIP-R	Holds a CDI; and a valid interpreting license from the Wisconsin Department of Regulation and Licensing

### **Section 3: The Role of the Court Interpreter and Code of Ethics**

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The role of the court interpreter is to assist the court in bringing the Limited English Proficiency (LEP) speaker to equal linguistic footing with an English speaker. In doing so, the services of an interpreter enable the court to provide equal access to justice for LEP 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, the jury, counsel and parties involved to react in the same manner to a 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 at the same time 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 anything stated to the LEP speaker must be interpreted into English.

The court interpreter may be the only bilingual person able to communicate with the LEP. This fact may further complicate 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 Ethics and associated Professional Standards has been developed.

#### ***Code of Ethics for Court Interpreters: SCR Chapter 63***

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Interpreters, judges, and attorneys are often unaware of the proper role of the court interpreter and the professional responsibilities it demands. The purpose of a code of ethics is to articulate a core set of principles to guide the conduct of a court interpreter and to educate judges on the level of conduct expected. The code addresses accuracy and completeness, representation of interpreter qualifications, impartiality and conflict of interest, professional demeanor, confidentiality and restriction of public comment, limitations on giving legal and other advice, communicating interpreter limitations to the judge, reporting ethical violations, and professional skills development.

This code of ethics has been adopted by the Wisconsin Supreme Court to guide interpreter conduct while working in the courts of Wisconsin and to serve as a basis for interpreter education. In keeping with its general practice, the court has adopted the black letter provisions; the accompanying comments are published for information purposes. This code became effective on July 1, 2002.

#### ***63.001 Citation of rules; definitions***

1. SCR 63.001 to 63.10 may be cited as the "Code of Ethics for Court Interpreters."
2. In this chapter "code" means the Code of Ethics for Court Interpreters.
3. "Shall" is used in the code to define principles to which adherence is required.

### **63.002 Preamble**

Many persons are partially or completely excluded from participation in court proceedings due to limited proficiency in the English language, as described in ss. 885.37 (1) (b) and 885.38 (1) (b), stats. Communication barriers must be removed as much as is reasonably possible so that these persons may enjoy equal access to justice. Qualified interpreters are highly skilled professionals who help judges conduct hearings justly and efficiently when communication barriers exist.

### **63.003 Applicability**

The code governs the delivery of services by foreign language and sign language interpreters working in the courts of the State of Wisconsin. Its purpose is to define the duties of interpreters and thereby enhance the administration of justice and promote public confidence in the courts. The code also applies to real-time reporters when functioning in the capacity of providing access to court users.

### **63.004 Interpretation**

The comments accompanying this code are not adopted. The comments are intended as guides to interpretation, but the text of each rule is authoritative. If a court policy or routine practice appears to conflict with any provision of the code the policy or practice should be reviewed for modification.

#### **63.01 Accuracy and completeness**

Interpreters shall render a complete and accurate interpretation or sight translation by reproducing in the target language the closest natural equivalent of the source language message, without altering, omitting, or adding anything to the meaning of what is stated or written, and without explanation.

**Comment** Interpreters have a twofold role: 1. to ensure that court proceedings reflect, in English, precisely what was said by persons of limited English proficiency; and 2. to place persons of limited English proficiency on an equal footing with persons 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 required to apply their best skills and judgment to preserve, as faithfully as is reasonably possible and without editing, the meaning of what is said, including the style or register of speech, the ambiguities and nuances of the speaker, and the level of language that best conveys the original meaning of the source language. Verbatim, "word for word," or literal oral interpretations are inappropriate when they distort the meaning of what was said in the source language. However, every spoken statement, even if it appears non-responsive, obscene, rambling, or incoherent should be interpreted. This includes apparent misstatements.

Interpreters should not interject any statement or elaboration of their own. If the need arises to explain an interpreting problem, such as 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.

Spoken language interpreters should convey the emotional emphasis of the speaker without reenacting or mimicking the speaker's emotions, or dramatic gestures. Sign language interpreters, however, must employ all of the visual cues that the language they are interpreting for requires—including facial expressions, body language, and hand gestures. Judges should ensure that court participants do not

confuse these essential elements of the interpreted language with inappropriate interpreter conduct. Any challenge to the interpreter's conduct should be directed to the judge.

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

The ethical responsibility to interpret accurately and completely includes the responsibility of being properly prepared for interpreting assignments. Interpreters are encouraged to obtain documents and other information necessary to familiarize themselves with the nature and purpose of a proceeding. Prior preparation is generally described below, and is especially important when testimony or documents include highly specialized terminology and subject matter.

In order to avoid any impropriety or appearance of impropriety, interpreters should seek leave of the court before conducting any preparation other than the review of public documents in the court file. Courts should in their discretion freely grant such leave in order to assist interpreters to discharge their professional responsibilities.

Preparation might include but is not limited to:

- review of public documents in the court file such as motions and supporting affidavits, witness lists and jury instructions, the criminal complaint, information, and preliminary hearing transcript in a criminal case, and the summons, complaint, and answer in a civil case;

- review of documents in the possession of counsel such as police reports, witness summaries, deposition transcripts, and presentence investigation reports;

- contacting previous interpreters involved in the case for information on language use/style;

- contacting attorneys involved in the case for additional information on anticipated testimony or exhibits; and

- anticipating and discussing interpreting issues related to the case with the judge, but only in the presence of counsel unless the court directs otherwise.

### ***63.02 Representation of qualifications***

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

***Comment*** Acceptance of a case by an interpreter presumes linguistic competency in legal settings. Withdrawing, or being asked to withdraw, after a court proceeding has begun is disruptive and wasteful of scarce public resources. It is therefore essential that interpreters present a complete and truthful account of their training, certifications, and experience prior to appointment so the court can fairly evaluate their qualifications for delivering interpreting services.

### ***63.03 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 to the judge and the parties.

**Comment** Interpreters serve as officers of the court. Their duties in a court proceeding are to serve the court and the public regardless of whether publicly or privately retained.

Interpreters should avoid any conduct or behavior that presents the appearance of favoritism toward anyone. Interpreters should maintain professional relationships with persons using their services, discourage personal dependence on the interpreter, and avoid participation in the proceedings other than as an interpreter.

During the course of the proceedings, interpreters of record should not converse with parties, witnesses, jurors, attorneys, or with friends or relatives of any party, except in the discharge of their official functions. Official functions may include an informal pre-appearance assessment to include the following:

- culturally appropriate introductions;
- a determination of variety, mode, or level of communication;
- a determination of potential conflicts of interest; and
- a description of the interpreter's role and function.

Interpreters should strive for professional detachment. Verbal and non-verbal displays of personal attitudes, prejudices, emotions, or opinions must be avoided at all times.

Interpreters shall not solicit or accept any payment, gift, or gratuities in addition to compensation from the court.

Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest and must be disclosed to the judge. Interpreters should only divulge necessary information when disclosing the conflict of interest. The disclosure shall not include privileged or confidential information. The following circumstances create potential conflicts of interest that must be disclosed:

- the interpreter is a friend, associate, or relative of a party, counsel for a party, a witness, or a victim (in a criminal case) involved in the proceedings;
- the interpreter or the interpreter's friend, associate, or relative has a financial interest in the subject matter in controversy, a shared financial interest with a party to the proceeding, or any other interest that might be affected by the outcome of the case;
- the interpreter has served in an investigative capacity for any party involved in the case;
- the interpreter has previously been retained by a law enforcement agency to assist in the preparation of the criminal case at issue;
- the interpreter is an attorney in the case at issue;
- the interpreter has previously been retained for employment by one of the parties; or
- for any other reason, the interpreter's independence of judgment would be compromised in the course of providing services.

The existence of any one of the above-mentioned circumstances must be carefully evaluated by the court, but does not alone disqualify an interpreter from providing services if the interpreter is able to render services objectively. The interpreter should disclose to the court any indication that the recipient of interpreting services views the interpreter as being biased. If an actual or apparent conflict of interest exists, the court must decide whether removal is appropriate based upon the totality of the circumstances.

#### **63.04 Professional demeanor**

Interpreters shall conduct themselves in a manner consistent with the dignity of the court.

**Comment** 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 enables them to be heard and understood throughout the courtroom. Interpreters should be as unobtrusive as possible and should not seek to draw inappropriate attention to themselves while performing their professional duties. This includes any time the interpreter is present, even though not actively interpreting.

Interpreters should avoid obstructing the view of anyone involved in the proceedings, but should be appropriately positioned to facilitate communication. Interpreters who use sign language or other visual modes of communication must be positioned so that signs, facial expressions, and whole body movements are visible to the person for whom they are interpreting and be repositioned to accommodate visual access to exhibits as necessary. Interpreters are encouraged to avoid personal or professional conduct that could discredit the court. Interpreters should support other interpreters by sharing knowledge and expertise with them to the extent practicable in the interests of the court.

#### **63.05 Confidentiality**

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

**Comment** Interpreters must protect and uphold the confidentiality of all privileged information obtained during the course of their duties. It is especially important that interpreters understand and uphold the attorney-client privilege that requires confidentiality with respect to any communications 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 indicates probable 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 the presiding judge. In an emergency, the interpreter should disclose the information to an appropriate authority. Interpreters shall never take advantage of knowledge obtained in the performance of duties, or by their access to court records, facilities, or privileges, for their own or another's personal gain.

#### **63.06 Restriction on 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, except to facilitate training and education.

**Comment** Generally, interpreters should not discuss interpreter assignments with anyone other than persons who have a formal duty associated with the case. However, interpreters may share information for training and education purposes, divulging only so much information as is required to accomplish this purpose. Unless so ordered by a court, interpreters must never reveal privileged or confidential information for any purpose.

### **63.07 Scope of practice**

Interpreters shall limit themselves to interpreting or translating and shall not give legal or other advice, express personal opinions to persons using their services, or engage in any other activities that may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

**Comment** Since interpreters are responsible only for enabling others to communicate, they should limit themselves to the activity of interpreting or translating only, including official functions as described in the commentary to Rule 63.03. Interpreters, however, may be required to initiate communications during a proceeding when they find it necessary to seek direction from the court in performing their duties. Examples of such circumstances include seeking direction for the court when unable to understand or express a word or thought, requesting speakers to adjust their rate of speech, 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, interpreters should make it clear that they are speaking for themselves.

Interpreters may convey legal advice from an attorney to a person only while that attorney is giving it. Interpreters should not explain the purpose or contents of forms, services, or otherwise act as counselors or advisors unless they are interpreting for someone who is acting in that official capacity. Interpreters may translate language on a form for a person who is filling out the form, but should not explain the form or its purpose for such a person.

While engaged in the function of interpreting, interpreters should not personally perform official acts that are the official responsibility of other court officials.

### **63.08 Assessing and reporting impediments to performance**

Interpreters shall assess at all times their ability to deliver their services. When an interpreter has any reservation about his or her ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the appropriate judicial authority.

**Comment** If the communication mode, dialect, or speech of the person of limited English proficiency cannot be readily interpreted, the interpreter should notify the appropriate judicial authority, such as a supervisory interpreter, a judge, or another official with jurisdiction over interpreter matters.

Interpreters should notify the appropriate judicial authority of any circumstances (environmental or physical limitations) that impede the ability to deliver interpreting services adequately. These circumstances may include that the courtroom is not quiet enough for the interpreter to hear or be heard by the person of limited English proficiency, that more than one person is speaking at the same time, or that the speaker is speaking too quickly for the interpreter to adequately interpret. Sign language interpreters must make sure that they can both see and convey the full range of visual language elements that are necessary for communication, including facial expressions and body movements, as well as hand gestures.

Interpreters should notify the judge of the need to take periodic breaks in order to maintain mental and physical alertness and prevent interpreter fatigue. Interpreters should inform the court when the use of team interpreting is necessary.

Even competent and experienced interpreters may encounter situations where routine proceedings suddenly involve slang, idiomatic expressions, regional dialects, or technical or specialized terminology unfamiliar to the interpreter such as the unscheduled testimony of an expert witness. When such situations occur, interpreters should request a brief recess in order to familiarize themselves with the subject matter. If familiarity with the terminology requires extensive time or more intensive research, interpreters should inform the judge.

Interpreters should refrain from accepting a case if they believe its language and subject matter is likely to exceed their capacities. Interpreters should also notify the judge if during the course of a proceeding they conclude that they are unable to perform adequately for any reason.

### **63.09 Duty to report ethical violations**

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

**Comment** Because the users of interpreting services frequently misunderstand the proper role of interpreters, they may ask or expect interpreters to perform duties or engage in activities that run counter to the provisions of the code or other law, rules, regulations, or policies governing court interpreters. It is incumbent upon the interpreter to explain his or her professional obligations to the user. If, having been apprised of these obligations the person persists in demanding that the interpreter violates them, the interpreter should turn to a supervisory interpreter, a judge, or another official with jurisdiction over interpreter matters to resolve the situation.

### **63.10 Professional development**

Interpreters shall 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.

**Comment** Interpreters must improve their interpreting skills and increase their knowledge of the languages they work in professionally, including past and current trends in slang, idiomatic expressions, changes in dialects, technical terminology, and social and regional dialects, as well as their applicability within court proceedings.

Interpreters should keep informed of all statutes, rules of court, and policies of the judiciary that govern the performance of their professional duties.

Interpreters 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.

## Section 4: Courtroom and Assignment Protocol

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### *When Called About an Assignment*

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**Who/What/Where/When/How Much** When an interpreter is contacted about an assignment, the interpreter should inquire about who requires the interpreting, what type of hearing or legal proceeding it involves, where the interpreter must report upon arrival at the courthouse and to whom, and what time the interpreter is expected to arrive. If a contract or formal payment policy is not in place, 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*

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**Attire:** Interpreters are expected to dress professionally to conform to courtroom culture. Dress should be somewhat 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 having difficulty finding parking will not be acceptable. If working at a court location for the first time, investigate 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 expected arrival time. 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. Statewide court forms are available online and interpreters should be familiar with the more commonly used forms in advance. Vital statewide court forms have been translated into Spanish and Hmong and are also available online. For more complex hearings that will include legal motions and witness testimony, interpreters should request copies of documents so 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. Generally, interpreters are not paid for time spent preparing for a case.

**Bring Tools of the Trade:** Court interpreters should always arrive armed with a pad of paper and pens for note-taking, a bilingual dictionary and/or legal glossary, business cards and a copy of the Code of Ethics. Additionally, the interpreter may consider bringing along a copy of his/her credentialing

certificate, identification, an invoice for the assignment, a copy of the interpreter's oath, and any other information which may be helpful.

**Cancelled:** The interpreter should always avoid cancelling an assignment upon acceptance 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; however, check with the court before undertaking this responsibility as practices vary throughout jurisdictions. Interpreters should never send a substitute interpreter without prior authorization by the court.

**Identification:** Certified interpreters in Wisconsin are issued identification which consists of a red lanyard and a plastic card and holder which states an interpreter's name, language, interpreter ID# and date of certification. Certified court interpreters are required to wear this ID whenever interpreting in any court or court-related assignment.

### **During the Assignment**

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**Check-In With Court Administration:** While practices vary from court to court, court staff will usually 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 person will usually not be the judge, who will likely be involved in other legal proceedings, or in chambers. The "check-in" person is typically the bailiff, judicial assistant, or judicial clerk. After checking in the interpreter may use any wait time to:

Introduce him/herself to the attorney representing the LEP speaker. The interpreter 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. See below for a sample introduction:

*"My name is ... and I will be the interpreter today. My job is to interpret everything that is said in court. I will interpret everything said by the judge, the lawyers, and the witnesses, exactly the way they say it.*

*I will also interpret everything that you say into English. So, if you do not want everyone to hear something you say, do not say it to me.*

*I work for the court, so I do not take sides in this case. My only job is to interpret everything. I cannot give you any explanations or advice. If you do not understand what is going on or if you have any questions you must ask the judge (or your attorney) not me.*

*Once we leave the courtroom, I will not talk to anyone about what is said here today. Do you have any questions about what I will be doing here today?"*

Inquire where the LEP speaker is from, enabling the interpreter to be prepared for any colloquialisms or idiomatic expressions from that person's country of origin; and /or

If the interpreter knows the LEP speaker will be testifying, the interpreter will tell the witness that a hand signal will be used to indicate that the speaker should pause to allow the interpreter to render the testimony into English, thereby ensuring an accurate and complete interpretation.

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 with 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 bailiff, 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. It may be necessary to clarify with the court or scheduler if this practice is allowed should an attorney request it.

**Where to Sit and Wait:** While courts expect interpreters to arrive on time, hearings rarely begin as scheduled. The interpreter should not bring newspapers or magazines to read while waiting for the hearing to start. 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 bailiff if he/she may sit in the jury box or on a chair in the inner courtroom area which is separate from the audience section. This area is referred to as “the well” and is where attorneys sit and wait for cases to be called at times. In some courts, interpreters may be expected to sit in the audience area until their case is called.

**Introductions 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 before the hearing and offer a business card so the interpreter's name is noted accurately on the record.

**Qualification, Swearing-In and Oath:** Under Wis. Stat. 906.04, judges are required to conduct a *voir dire* or ask interpreters questions on the record about their qualifications. Regardless of their credentials and experience, interpreters should not feel offended by such questions. Interpreters should be prepared for the court to swear him/her in and to 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 at counsel table. The interpreter should not position him/herself in between the LEP speaker and attorney. Instead, the interpreter 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. When interpreting for an LEP witness, the interpreter is expected to stand/sit next to the witness who is testifying on the stand without blocking the jury's view of the witness.

**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, the request must always first be directed to the judge. However, this request 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, the interpreter should 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 question, or whatever the interpreter’s request to the judge was. The interpreter will then interpret the instructions from the Judge to the LEP individual.

If the interpreter is interpreting testimony and realizes a mistake was made in the interpretation, it is the interpreter’s duty and responsibility to correct it. The interpreter 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 have been ‘sister.’” The record will be corrected and 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 the 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. If the interpreter finds it necessary to engage in a conversation with the LEP individual, it must be done in the presence of the English speaker and with an interpretation of everything provided.

**Working with a Team Member:** For trials in general or proceedings expected to last more than four hours, the interpreter should expect to work with a team member. If the interpreter is contacted by the court for a trial or long hearing, the interpreter should ask the scheduler, “*Who is the other team member?*”

The main goal in working within a team should be to assist the other teammate. Several benefits of team interpreting are that it allows the interpreting assignment to run with minimal interruptions and prevents interpreter fatigue. When one team member is interpreting, the other interpreter should be available to assist, monitor the interpretation, or provide any additional back-up as needed. Signals should be practiced among team members prior to using them in court to know when to switch off or to indicate a possible inaccuracy with the interpretation. The team should obtain as much information as possible about the assignment prior to the hearing. This task is important for the team in terms of being prepared to handle areas of concern or confusion. Any discrepancies with words or terminology should be addressed with the team member directly before raising the matter in court with the judge. If an

error in interpretation has occurred, both interpreters should approach the court outside of the presence of the jury to discuss the issue. The judge will make the appropriate determination about correcting the record.

**Remote Interpreting:** The use of technology to provide interpreting has been growing in the courts so the interpreter may be contacted to appear by telephone or other video technology if available. If technology is to be used during an assignment, the interpreter should be familiar with the equipment and be prepared to report any connectivity problems immediately to the court. Unless specialized telephone equipment is used, the interpreter should expect most interpreting to be conducted in the consecutive mode.

### ***After the Assignment***

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**More Hallway or Front-Counter Interpretation:** Typically, at the conclusion of many hearings, parties are expected to complete additional 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 with the court 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 and Parole), the interpreter should check in with the court staff member who originally scheduled him/her in order to clarify the time commitment as well as to whom invoices should be directed.

**Check-Out:** The interpreter should not leave the courthouse without verifying with the appropriate judge or other court official that the scheduled time has expired or that no other matters require 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 will 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 or until the appropriate person releases the interpreter. 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 interpreter 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 that the particular case be called first (or as soon as it is convenient for the court). When the case is called the judge will determine whether or not the interpreter's services will be needed. At that time the interpreter may ask to be excused. At the end of the assignment, the interpreter should request that the appropriate court official sign the invoice or timesheet.*

## Section 5: Ethical Challenges in the Profession

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The challenges an 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 4 the interpreter is given the tools by which to remove these barriers to allow him/her to request a repetition or 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 answer 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 his/her professional role. Therefore, it is imperative the interpreter have a complete knowledge and comprehension of each of the canons on the Code of Ethics for Court Interpreters. Because the interpreter is usually interpreting for a defendant, witness or victim it is perceived, erroneously, that the interpreter is working for the LEP person. However the court interpreter is an officer of the court who works 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. Remember 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

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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 the 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 interpreters, and certainly shouldn't serve as witnesses testifying to the content of the interpretation.

However, in situations such as confessions which may 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, the interpreter's level of experience and credentialing is strongly relevant.

**Recommended Course of Action:** Interpreters should never ignore a subpoena. Contact the attorney to determine the information being sought and the nature of the questions that will be posed in court. If the attorney intends to inquire about the contents of the interrogation, explain the conflict with the Code of Ethics. If the attorney is insistent that the interpreter testify, bring extra copies of the Code to court. When asked about the contents of the interrogation the interpreter should state "I'm not sure that my Code of Ethics permits me to answer this question." This statement allows the judge to make a judgment call. Follow the directions of the judge.

## Scenario #2

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An interpreter is called to interpret in court for a litigant who has no attorney and is representing himself. Before the proceeding begins, the interpreter introduces him/herself to the litigant, as the interpreter. The litigant proceeds to ask 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 the interpreter for information about the court, legal process etc., the interpreter should reply with “I’m sorry, I’m not able to answer that question, but let’s find someone who can answer it, and I’ll be happy to interpret for you.”

## Scenario #3

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An interpreter is 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 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 a fully equivalent message 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 length of the utterances which may make it 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**

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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. Interpreter Z 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. Interpreter Z 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 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, that 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 participants. 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, Interpreter Z 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 to 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. Interpreter Z should not express personal thoughts and opinions aloud.

## Section 6: Program Policies and other Requirements

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This section addresses policies and procedures regarding scheduling, payment and discipline of freelance interpreters.

### *Scheduling Protocol*

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Interpreters are typically scheduled by the individual circuit court needing the services so scheduling protocols will vary by county. In some jurisdictions, the staff from the clerk of court's office will make arrangements, while in other jurisdictions the request may come from a judicial assistant or interpreter coordinator/scheduler.

### *Payment Policy*

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Freelance interpreters in Wisconsin are hired by the circuit courts at rates negotiated between the interpreter and the court; therefore the rates may vary between jurisdictions. Counties are reimbursed by the state quarterly for eligible interpreter services and mileage at set rates established by statute.

Most counties in the state require interpreters to use standardized invoices that have been created by the Director of State Courts Office of Management Services. Interpreters are generally required to use this format unless a different format is used by a particular county. It is important for interpreters to submit their invoices promptly to avoid delays in payment. (See Appendix B: Form CS-225)

### *Disciplinary Policy*

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The opportunity to provide interpreter services to the courts under the direction of the Director of State Courts office is at the Director's complete and continuing discretion because of the critical reliance the courts must have on the skills, performance, and integrity of the interpreter in performing duties for the court. This discretion applies to any person who appears on the Director's Roster of court interpreters, whether the interpreter is certified or otherwise.

### *Possible Reasons for Discipline*

Complaints may be filed against interpreters who have been certified by the Director through the CIP or who are listed on the Roster and who are actively working in court. Possible reasons for discipline include:

- a. Violation of the Code of Ethics for Court Interpreters;
- b. Conviction of any felony or misdemeanor; in particular, crimes involving moral turpitude, fraud, corruption, dishonesty, misrepresentation, or false statements;
- c. False or deceptive advertising after receipt of notification to discontinue;
- d. Knowing and willful disclosure of confidential or privileged information obtained while serving in an official capacity;
- e. Gross incompetence;
- f. Non-compliance with the program's policies and procedures;
- g. Incapacity to perform the duties of a court interpreter which may include but is not limited to medical incapacity or incarceration;
- h. Engaging in action that calls into question the interpreter's ability to work effectively in court.

### ***Complaint Process***

Any person may initiate a complaint against an interpreter by filing it with a Judge, Clerk of Court, District Court Administrator (DCA) or CIP. All complaints must be in writing, must be signed, and must describe the alleged inappropriate conduct. Within twenty (20) days of receipt of a complaint, the CIP manager will commence review of the complaint to determine its merit. If further review is required, the interpreter will be provided with written notice of the allegation(s), and will be asked to provide a written response to the complaint within twenty (20) days of receipt of notification of the allegation(s).

Upon receipt of the interpreter's response, the CIP manager will forward the complaint, response and any supporting documentation to the Sub-Committee. The Sub-Committee shall confer within twenty (20) days to determine whether further action is required. Members of the sub-committee may consider information obtained from sources other than the complaint and response. If the complaint is found to be insufficient, the complaint shall be dismissed and the complainant and interpreter shall be notified in writing that no further disciplinary action will take place.

If it is determined by the Sub-Committee that an ethical violation probably occurred, or if no response is filed by the interpreter, members of the sub-committee may determine what further action is required. The sub-committee may set a hearing to review the complaint, or review the matter by considering all information as submitted. If no hearing is set, the sub-committee will issue a recommendation to the Director as to a possible disposition and proposed sanctions, if any.

If a hearing is set, the interpreter shall be notified by mail of the time and date of the hearing, which shall be set no later than thirty (30) days after a determination that probable cause exists. The interpreter shall receive a copy of any additional materials the sub-committee may have considered in making a determination that an ethical violation probably occurred. While a disciplinary proceeding is pending, the Director may suspend the interpreter's certification or appearance on the roster if it appears the interpreter's continued practice as an interpreter poses a substantial threat or harm to the public or to the integrity of the court system

### ***Informal Resolution***

Efforts to resolve the complaint informally may be initiated by the interpreter and the complainant at any time. Any resolution reached must be submitted in writing to the sub-committee for approval. Upon approval of any resolution reached informally, or subsequent to any review without a hearing, the sub-committee will notify the complainant and the interpreter of its written approval of the informal resolution.

### ***Voluntary Resignation by the Interpreter***

An interpreter who desires not to contest or defend himself/herself against an allegation of unethical conduct may at any time voluntarily resign his or her certification in lieu of further disciplinary proceedings.

### ***Hearings***

All hearings will be recorded and shall be private and confidential. The sub-committee may, in its discretion, call witnesses, consider or clarify any evidence presented, giving such evidence the weight it deems appropriate. The interpreter may be represented by counsel, and shall be able to testify, comment on the allegations, and call witnesses. All testimony taken shall be under oath.

### *Recommendation by the Sub-Committee to the Director*

Within thirty (30) days of the hearing, the Sub-Committee will issue a recommendation to the Director as to a possible disposition and proposed sanctions if members find the interpreter committed any of the actions described in Sec. 14.1.

### *Final Determination by the Director*

Upon receipt and review of the sub-committee's recommendation, the Director will issue a final determination as to whether the interpreter committed any of the actions described in Sec. 14.1. A written letter shall be sent to the interpreter with the decision and proposed sanctions if applicable along with all supporting material the sub-committee or the Director may have considered in making their decision. The complainant will receive a copy of the decision letter.

### *Possible Sanctions*

Possible sanctions the sub-committee and the Director may consider include but are not limited to one or more of the following:

- a. Private or public reprimand (see Sec. 14.10 Notification to the Courts)
- b. Imposition of costs and expenses incurred by the sub-committee related to the proceeding;
- c. Restitution;
- d. A requirement that specified education courses be taken;
- e. A requirement that one or more parts of the oral certification examination be retaken;
- f. A modification of or suspension from the list of interpreters eligible to work in court;
- g. A requirement that work be supervised or monitored over a period of time;
- h. A suspension of certification for a specified period of time;
- i. Permanent revocation of certification;
- j. A refusal to confer certification to a non-certified interpreter for a specified period of time or under certain circumstances, permanently;
- k. Denial of state reimbursement to county or counties where interpreter's services are used for a specified period of time or under certain circumstances, permanently;
- l. Notice to the affected court for possible contempt action;
- m. Referral to law enforcement or district attorney for prosecution where 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 effect of the improper activity on others or on the judicial system and the existence of aggravating or mitigating factors.

Aggravating factors may include prior disciplinary action against the same interpreter; experience as an interpreter; intentional, premeditated, knowing, grossly incompetent or grossly negligent act; bad faith or obstruction; a pattern of misconduct, multiple offenses; failure to cooperate during disciplinary proceeding; refusal to acknowledge conduct; vulnerability of victim; or illegality of conduct.

Mitigating factors may include absence of prior disciplinary action; good faith effort to rectify consequences of misconduct; nature of conduct and likelihood of reoccurrence; isolation of event; experience as an interpreter; implementation of remedial measures to mitigate harm or risk of harm; self-reporting; voluntary admission of violation; or temporary circumstances outside of interpreter's control.

### ***Reinstatement by the Director***

A court interpreter whose certification or roster status has been suspended or revoked may apply in writing to the Director for reinstatement pursuant to any timeframes established in the final decision. This request shall explain why the applicant believes reinstatement should occur. The Director shall have the sole discretion whether to grant or deny reinstatement or to impose conditions upon reinstatement as deemed appropriate.

### ***Notification to the Courts***

If an interpreter has been disciplined for an ethical violation, the CIP manager may notify all clerks of circuit court and District Court Administrators of the results. The CIP manager may also notify municipal courts, federal courts or any other agency deemed appropriate by the Director of the results.

### ***Duty to Self-Report***

An interpreter who has been sanctioned for discipline by the Director has a duty to report the disciplinary outcome within 30 days of the imposition of the sanctions to all other jurisdictions where the interpreter's certification may be recognized. Failure to self-report may be considered by the Director when determining if reinstatement is appropriate.

## Section 7: Federal and state statutes, regulations and case law

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*Disclaimer: This compilation of statutes, court rules, and case law has been provided for the convenience of the reader. It is not intended to be comprehensive. Where the law has been paraphrased or summarized, it does not represent the official position of the Wisconsin Supreme Court or Director of State Courts.*

### Federal Statutes and Regulations

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#### Americans with Disabilities Act

The Americans with Disabilities Act (ADA) and the ADA Amendments Act of 2008, 42 USC §§12101-12213, require that state and local government facilities, including courts, be accessible to individuals with disabilities and provide reasonable accommodations to qualified persons. The U.S. Department of Justice has published regulations implementing the ADA, found in 28 CFR Part 35. The regulations under ADA Title II require that courts and other public entities take "appropriate steps to ensure the communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others." (28 CFR 35.160(a)). State and local governments are required to "furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, companions, and members of the public, an opportunity to participate in, and enjoy the benefits of, a service, program, or activity." 28 CFR 35.160(b)(1).

"Auxiliary aids and services" are defined in 28 CFR 35.104 to include:

- (1) Qualified interpreters on-site or through video remote interpreting (VRI) services; note takers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
- (2) Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;
- (3) Acquisition or modification of equipment or devices; and
- (4) Other similar services and actions.

The ADA specifically calls for the use of "qualified" sign language interpreters. 42 USC §12102(1)(a). The regulations define "qualified" to mean "an interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued-language transliterators." 28 CFR 35.104. The ADA focuses on the interpreter's actual ability to make communication effective in a particular circumstance.

The regulations require that auxiliary aids and services be provided at public expense regardless of the disabled person's ability to pay. 28 CFR 35.130(f) provides: "A public entity may not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by the Act or this part." The court may not charge any party with the cost of the interpreter.

### ***Title VI of the Civil Rights Act of 1964***

Section 601 of this act, 42 U.S.C. Section 2000d et. seq, provides that "No person in the United States shall on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

The executive branch of the federal government has undertaken to improve compliance with Title VI with respect to language services. **Executive Order 13166** requires federal funding recipients to address the needs of persons who, due to limited English proficiency, cannot fully and equally participate in federally funded programs without language assistance. The U.S. Department of Justice (USDOJ) has issued policy guidance on the responsibility of courts to provide language services. The USDOJ guidance is posted at <http://www.usdoj.gov/crt/cor/13166.htm>.

The USDOJ has the right to investigate complaints against any agency that does not provide free language services when necessary to participate in the program. An agency's federal funding may be withheld until the complaint is resolved. Circuit courts with high limited English proficiency populations and courts that receive direct federal funding for court programs need to be particularly cognizant of the Title VI requirements. Under the guidance, if funding for increased services is limited, courts may provide interpreter services beginning with the most critical services and the most commonly used languages. Where important rights or personal safety are at stake, interpreters should be provided.

### ***Court Interpreters Act***

28 USC 1827 sets forth the requirements of the Director of the Administrative Office of the United States Courts to establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States. A defendant in a criminal action or a witness (while testifying) who speaks only or primarily a language other than the English language or suffers from a hearing impairment (whether or not suffering also from a speech impairment) in any criminal or civil action initiated by the United States in a U.S. District Court is entitled to interpreter services. This includes grand jury proceedings.

### ***Federal Case Law***

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The right to an interpreter is not explicit in the United States Constitution. However, the constitutional right to an interpreter may arise under the Sixth Amendment as part of the right to counsel (effective communication between attorney and client), or as part of the right to confront witnesses. *United States ex rel Negron*, 434 F. 2d 386, 389 (2d Cir. 1970). The right may also arise under the due process clause of the Fifth and Fourteenth Amendments requiring that a defendant be able to participate in his own defense. When a trial court has notice of a defendant's language deficiency, it is required to communicate clearly to the defendant the right to a competent interpreter, at government expense if the defendant is unable to afford one. The right to an interpreter may be waived only through intentional relinquishment or abandonment of a known right. *Id.*

*Feruz Ememe v. John D. Ashcroft, Attorney General of the United States* (7th Cir. 2004). Without any assessment of Petitioner's language skills, the immigration judge's characterization of her testimony as not credible was not supported by reasonable, substantial and probative evidence. Feruz Ememe is an ethnic Oromo from Ethiopia whose first language is Amharic. She is in the United States seeking asylum on the basis of her ethnicity and her fear of government persecution. During her credible fear interview with an INS officer, Ememe had requested an Amharic interpreter, but it was determined that none was available. She was provided with an Italian interpreter and answered the questions in Italian. At Ememe's subsequent hearing in front of an immigration judge, she testified in Amharic and as the Court of Appeals noted, gave "verbose" testimony as opposed to her "constrained" testimony in Italian. The immigration judge denied her application for asylum deeming her testimony unbelievable, mainly because of perceived inconsistencies between her credible fear interview and her testimony at the immigration hearing. The Court concluded that without any attempt to determine her language proficiency, the testimonial inconsistencies, alone, did not provide adequate support for the conclusion that Ememe's testimony was not credible.

## ***Wisconsin Statutes and Regulations***

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### ***20.625 Circuit courts***

(1)(c) Court interpreter fees. The amounts in the schedule to pay interpreter fees reimbursed under [s. 758.19 \(8\)](#) and 2009 Wisconsin Act 28, section 9109 (1).

### ***46.295 Interpreters for the hearing-impaired***

(1) The department may, on the request of any hearing-impaired person, city, village, town or county, or private agency, provide funds from the appropriation under §20.435 (6) (a) and (hs) to reimburse interpreters for hearing-impaired persons for the provision of interpreter services.

(2) The department shall grant priority to requests to pay fees charged by interpreters for the following, in the following order:

(a) Emergencies.

(b) Medical, mental health, alcohol and drug abuse, psychiatric and psychological services.

(c) Legal services and civil court proceedings.

(d) Matters concerning law enforcement personnel.

(e) Matters concerning any federal, state, county, or municipal agency.

(3) The department shall maintain lists of qualified interpreters under §885.37 (5) (b).

(4) The department may use as an interpreter for hearing-impaired persons only the following:

(a) An interpreter for hearing-impaired persons who is certified by the national registry of interpreters for the deaf.

(b) If an interpreter under par. (a) is unavailable, an interpreter for hearing-impaired persons whose qualifications have been determined appropriate by the department.

(5) The department may bill any public or private agency at the rates established by the department for interpreter services for hearing-impaired persons commensurate with the certification or qualification level of the interpreter providing services if the department determines that the agency is required under state or federal law to provide interpreter services to a hearing-impaired person or if the agency agrees to pay for the services.

(6) The department shall promulgate rules to implement this section.

HFS 77 contains the regulation governing the provision of sign language interpreting services.

### ***48.315 Delays, continuances, and extensions***

(1) The following time periods shall be excluded in computing time requirements within this chapter:

(h) Any period of delay resulting from the need to appoint a qualified interpreter.

#### **440.032 Sign language interpreting.**

(1) Definitions. In this section:

(a) "Client" means a deaf or hard of hearing person for whom a person provides interpretation services.

(b) "Council" means the sign language interpreter council.

(c) "Support service provider" means an individual who is trained to act as a link between a person who is deaf and blind and the person's environment.

(d) "Wisconsin interpreting and transliterating assessment" means a program administered by the department of health services to determine and verify the level of competence of communication access services providers who are not certified by the Registry of Interpreters for the Deaf, Inc., or its successor, the National Association of the Deaf or its successor, or other similar nationally recognized certification organization, or a successor program administered by the department of health services.

(2) License required.

(a) Except as provided in [pars. \(b\)](#) and [\(c\)](#), no person may, for compensation, provide sign language interpretation services for a client unless the person is licensed by the department under [sub. \(3\)](#).

(b) No license is required under this subsection for any of the following:

1. A person interpreting in a court proceeding if the person is certified by the supreme court to act as a qualified interpreter in court proceedings under [s. 885.38 \(2\)](#).

2. A person interpreting at any school or school-sponsored event if the person is licensed by the department of public instruction as an educational interpreter.

3. A person interpreting at a religious service or at a religious function, including educational or social events sponsored by a religious organization. This subdivision does not apply to a person interpreting for a religious organization at a professional service provided or sponsored by the religious organization.

4. A support service provider interpreting for the purpose of facilitating communication between an individual who provides interpretation services and a client of the individual.

5. A person who, in the course of the person's employment, provides interpretation services during an emergency unless the interpretation services are provided during a period that exceeds 24 hours.

(c) 1. The council may grant a temporary exemption to an individual who is not a resident of this state that authorizes the individual to provide interpretation services for a period not to exceed 20 days, if the individual is certified by the Registry of Interpreters for the Deaf, Inc., or its successor, or the National Association of the Deaf or its successor. The council may not grant an individual more than 2 temporary exemptions under this subdivision per year.

2. The council may grant a temporary or permanent exemption to an individual who is a resident of this state that authorizes the individual to provide interpretation services for a period specified by the council or for persons specified by the council.

(3) Licensure requirements.

(a) *Renewable licenses.*

1. The department shall grant a license as a sign language interpreter to an applicant who submits an application on a form provided by the department, pays the fee determined by the department under [s. 440.03 \(9\) \(a\)](#), and submits evidence satisfactory to the department that the applicant has received an associate degree in sign language interpretation or has received a certificate of completion of an education and training program regarding such interpretation, and the applicant has one of the following:

a. Any valid certification granted by the Registry of Interpreters for the Deaf, Inc., or its successor.

b. A valid certification level 3, 4, or 5 granted by the National Association of the Deaf or its successor.

c. Any valid certification granted by any other organization that the department determines is substantially equivalent to a certification specified in [subd. 1. a.](#) or [b.](#)

2. The department shall grant a license as a sign language interpreter to an applicant who submits an application on a form provided by the department and pays the fee determined by the department under [s. 440.03 \(9\) \(a\)](#), if the applicant has a certification specified in [subd. 1. a.](#) and if the applicant provides to the department satisfactory evidence of a diagnosis by a physician that the applicant is deaf or hard of hearing.

3. The department shall grant a license as a sign language interpreter to an applicant who has not received an associate degree in sign language interpretation or a certificate of completion of an education and training program regarding such interpretation, but who otherwise satisfies the requirements in [subd. 1. \(intro.\)](#), if, within 24 months after establishing residency in the state, the applicant provides evidence satisfactory to the department that the applicant holds one of the certifications specified in [subd. 1. a.](#), [b.](#), or [c.](#), that the applicant obtained the certification prior to establishing residency in the state, and that the applicant held the certification at the time the applicant established residency in the state.

*(b) Restricted licenses.*

1. The department shall grant a license as a sign language interpreter to an applicant who submits an application on a form provided by the department, pays the fee determined by the department under [s. 440.03 \(9\) \(a\)](#), and submits evidence satisfactory to the department of all of the following:

a. The applicant has received an associate degree in sign language interpretation or has received a certificate of completion of an education and training program regarding such interpretation.

b. The applicant is verified by the Wisconsin interpreting and transliterating assessment at level 2 or higher in both interpreting and transliterating.

c. The applicant has passed the written examination administered by the Registry of Interpreters for the Deaf, Inc., or its successor.

d. The applicant is an associate or student member of the Registry of Interpreters for the Deaf, Inc., or its successor.

2. The department shall grant a restricted license as a sign language interpreter, authorizing the holder to provide interpretation services only under the supervision of an interpreter licensed under [par. \(a\)](#), to an applicant who submits an application on a form provided by the department, pays the fee determined by the department under [s. 440.03 \(9\) \(a\)](#), and submits evidence satisfactory to the department of all of the following:

a. The applicant has been diagnosed by a physician as deaf or hard of hearing.

b. The applicant has completed 8 hours of training sponsored by the Registry of Interpreters for the Deaf, Inc., or its successor, on the role and function of deaf interpreters.

c. The applicant has completed 8 hours of training sponsored by the Registry of Interpreters for the Deaf, Inc., or its successor, on professional ethics.

d. The applicant has obtained letters of recommendation from at least 3 individuals who have held national certification for at least 5 years and who are members in good standing of the Registry of Interpreters for the Deaf, Inc., or its successor, if the letters together document that the applicant has completed at least 40 hours of mentoring, including at least 20 hours observing professional work and at least 10 hours observing certified deaf interpreters.

e. The applicant has completed at least 40 hours of training consisting of workshops sponsored by the Registry of Interpreters for the Deaf, Inc., or its successor, or other relevant courses.

f. The applicant is an associate or student member of the Registry of Interpreters for the Deaf, Inc., or its successor.

g. The applicant has a high school diploma or an equivalent.

3. A license granted under [subd. 1.](#) or [2.](#) may be renewed twice and is not valid upon the expiration of the 2nd renewal period.

(4) Notification required. A person who is licensed under [sub. \(3\)](#) shall notify the department in writing within 30 days if the person's certification or membership specified in [sub. \(3\)](#) that is required for the license is revoked or invalidated. The department shall revoke a license granted under [sub. \(3\)](#) if such a certification or membership is revoked or invalidated.

(5) License renewal. The renewal dates for licenses granted under [sub. \(3\) \(a\)](#) are specified in [s. 440.08 \(2\) \(a\) 68c](#). Renewal applications shall be submitted to the department on a form provided by the department and shall include the renewal fee determined by the department under [s. 440.03 \(9\) \(a\)](#) and evidence satisfactory to the department that the person's certification or membership specified in [sub. \(3\)](#) that is required for the license has not been revoked or invalidated.

(6) Council. The council shall do all of the following:

(a) Make recommendations to the department regarding the promulgation of rules establishing a code of ethics that governs the professional conduct of persons licensed under [sub. \(3\)](#).

(b) Advise the department regarding the promulgation and implementation of rules regarding the practice of sign language interpreters.

(c) Advise the legislature regarding legislation affecting sign language interpreters.

(d) Promulgate rules establishing a process and criteria for granting exemptions under [sub. \(2\) \(c\) 2](#).

(e) Assist the department in alerting sign language interpreters and the deaf community in this state to changes in the law affecting the practice of sign language interpreters.

(7) Rule making.

(a) The department may not promulgate rules that impose requirements for granting a license that are in addition to the requirements specified in [sub. \(3\)](#).

(b) After considering the recommendations of the council, the department shall promulgate rules that establish a code of ethics that governs the professional conduct of persons licensed under [sub. \(3\)](#). In promulgating rules under this paragraph, the department shall consider including as part or all of the rules part or all of the code of ethics established by the Registry of Interpreters for the Deaf, Inc., or its successor. The department shall periodically review the code of ethics established by the Registry of Interpreters for the Deaf, Inc., or its successor, and, if appropriate, revise the rules promulgated under this paragraph to reflect revisions to that code of ethics.

(8) Disciplinary proceedings and actions. Subject to the rules promulgated under [s. 440.03 \(1\)](#), the department may make investigations and conduct hearings to determine whether a violation of this section or any rule promulgated under this section has occurred and may reprimand a person who is licensed under [sub. \(3\)](#) or may deny, limit, suspend, or revoke a license granted under [sub. \(3\)](#) if it finds that the applicant or licensee has violated this section or any rule promulgated under this section.

(9) Penalty. A person who violates this section or any rule promulgated under this section may be fined not more than \$200 or imprisoned for not more than 6 months or both.

#### ***756.001 State policy on jury service; opportunity and obligation to serve as juror***

(1) Trial by jury is a cherished constitutional right.

(2) Jury service is a civic duty.

(3) No person who is qualified and able to serve as a juror may be excluded from that service in any court of this state on the basis of sex, race, color, sexual orientation as defined in s. 111.32 (13m), disability, religion, national origin, marital status, family status, lawful source of income, age or ancestry, or because of a physical condition.

#### ***756.02 Juror qualifications***

Every resident of the area served by a circuit court who is at least 18 years of age, a U.S. citizen, and able to understand the English language is qualified to serve as a juror in that circuit unless that resident has been convicted of a felony and has not had his or her civil rights restored.

### **757.18 Process, etc., to be in English.**

All writs, process, proceedings and records in any court within this state shall be in the English language, except that the proper and known names of process and technical words may be expressed in the language heretofore and now commonly used, and shall be made out on paper or parchment in a fair, legible character, in words at length and not abbreviated; but such abbreviations as are now commonly used in the English language may be used and numbers may be expressed by Arabic figures or Roman numerals in the usual manner.

### **758.19 Director of state courts**

(8)(a) From the appropriation under [s. 20.625 \(1\) \(c\)](#), the director of state courts shall reimburse counties up to 4 times each year for the actual expenses paid for interpreters required by circuit courts to assist persons with limited English proficiency under [s. 885.38 \(8\) \(a\) 1](#). The amount of the maximum hourly reimbursement for court interpreters shall be as follows:

1. Forty dollars for the first hour and \$20 for each additional 0.5 hour for qualified interpreters certified under the requirements and procedures approved by the supreme court.
2. Thirty dollars for the first hour and \$15 for each additional 0.5 hour for qualified interpreters, as defined in [s. 885.38 \(1\) \(c\)](#).

(b) To receive reimbursement under par. (a), a county must submit, on forms provided by the director of state courts, an accounting of the amount paid for expenses related to court interpreters that are eligible for reimbursement under par. (a). The forms must include expenses for the preceding 3-month period and must be submitted within 90 days after that 3-month period has ended. The director of state courts may not reimburse a county for any expenses related to court interpreters that are submitted after the 90-day period has ended. Reimbursement under par. (a) first applies to court interpreter expenses incurred on July 1, 2002.

### **807.14 Interpreters**

On request of any party, the court may permit an interpreter to act in any civil proceeding other than trial by telephone or live audiovisual means.

### **814.67 Fees of witnesses and interpreters**

(1) The fees of witnesses and interpreters shall be as follows:

(a) For attending before a municipal judge, an arbitrator, or any officer, board, or committee:

1. For witnesses, \$5 per day.
2. For interpreters, \$10 per one-half day or such higher fees as the municipality or county board may establish.

(am) For witnesses attending before a circuit court, \$16 per day.

(b) For attending before the court of appeals or the supreme court:

1. For witnesses, \$16 per day.
2. For interpreters, a fee determined by the supreme court.

(c) For traveling, going and returning from his or her residence if within the state; or, if without the state, from the point where he or she crosses the state boundary to the place of attendance, and returning by the usually traveled route between such points:

1. For witnesses, the rate of 20 cents per mile.
2. For interpreters, the mileage rate set under [s. 20.916 \(8\)](#).

(2) A witness or interpreter is entitled to fees only for the time he or she is in actual and necessary attendance as such; and is not entitled to receive pay in more than one action or proceeding for the same attendance or travel on behalf of the same party. A person is not entitled to fees as a witness or

interpreter while attending court as an officer or juror. An attorney or counsel in any cause may not be allowed any fee as a witness or interpreter therein.

***868.01(7) Uniform Probate of foreign wills act. Authentication and translation***

Proof contemplated by this section may be made by authenticated copies of the will and the records of judicial proceedings with reference thereto. If the will has not been probated but is otherwise established under the laws of the jurisdiction where the testator died domiciled, its contents and establishment may be proved by the authenticated certificate of the notary or other official having custody of the will or having authority in connection with its establishment. If the respective documents or any part thereof are not in the English language, verified translations may be attached thereto and shall be regarded as sufficient proof of the contents of the documents unless objection is made thereto. If any person in good faith relies upon probate under this section the person shall not thereafter be prejudiced because of inaccuracy of such translations, or because of proceedings to set aside or modify the probate on that ground

***885.37 Interpreters in municipal courts and administrative agency contested cases***

(1) (b) If a municipal court has notice that a person who is a juvenile or parent subject to Ch. 938, or who is a witness in a proceeding under Ch. 938, has a language difficulty because of an inability to speak or understand English, has a hearing impairment, is unable to speak or has a speech defect, the court shall make a factual determination of whether the language difficulty or the hearing or speaking impairment is sufficient to prevent the individual from communicating with his or her attorney, reasonably understanding the English testimony or reasonably being understood in English. If the court determines that an interpreter is necessary, the court shall advise the person that he or she has a right to a qualified interpreter and that, if the person cannot afford one, an interpreter will be provided for him or her at the public's expense. Any waiver of the right to an interpreter is effective only if made voluntarily in person, in open court, and on the record.

(2) A municipal court may authorize the use of an interpreter in actions or proceedings in addition to those specified in sub. (1)(b).

(3)(a) In this subsection:

1. "Agency" includes any official, employee, or person acting on behalf of an agency.
2. "Contested case" means a proceeding before an agency in which, after a hearing required by law, substantial interests of any party to the proceeding are determined or adversely affected by a decision or order in the proceeding and in which the assertion by one party of any such substantial interest is denied or controverted by another party to the proceeding.

(b) In any administrative contested case proceeding before a state, county, or municipal agency, if the agency conducting the proceeding has notice that a party to the proceeding has a language difficulty because of the inability to speak or understand English, has a hearing impairment, is unable to speak, or has a speech defect, the agency shall make a factual determination of whether the language difficulty or hearing or speaking impairment is sufficient to prevent the party from communicating with others, reasonably understanding the English testimony or reasonably being understood in English. If the agency determines that an interpreter is necessary, the agency shall advise the party that he or she has a right to a qualified interpreter. After considering the party's ability to pay and the other needs of the party, the agency may provide for an interpreter for the party at the public's expense. Any waiver of the right to an interpreter is effective only if made at the administrative contested case proceeding.

(3m) Any agency may authorize the use of an interpreter in a contested case proceeding for a person who is not a party but who has a substantial interest in the proceeding.

(4) (a) The necessary expense of furnishing an interpreter for an indigent person in a municipal court shall be paid by the municipality.

(b) The necessary expense of furnishing an interpreter for an indigent party under sub. (3) shall be paid by the unit of government for which the proceeding is held.

(c) The court or agency shall determine indigency under this section.

(5) (a) If a municipal court under sub. (1)(b) or (2) or an agency under sub. (3) decides to appoint an interpreter, the court or agency shall follow the applicable procedure under par. (b) or (c).

(b) The department of health and family services shall maintain a list of qualified interpreters for use with persons who have hearing impairments. The department shall distribute the list, upon request and without cost, to courts and agencies who must appoint interpreters. If an interpreter needs to be appointed for a person who has a hearing impairment, the court or agency shall appoint a qualified interpreter from the list. If no listed interpreter is available or able to interpret, the court or agency shall appoint as interpreter another person who is able to accurately communicate with and convey information to and receive information from the hearing-impaired person.

(c) If an interpreter needs to be appointed for a person with an impairment or difficulty not covered under par. (b), the court or agency may appoint any person the court or agency decides is qualified.

### ***885.38 Interpreters in circuit and appellate courts***

(1) In this section:

(a) "Court proceeding" means any proceeding before a court of record.

(b) "Limited English proficiency" means any of the following:

1. The inability, because of the use of a language other than English, to adequately understand or communicate effectively in English in a court proceeding.

2. The inability, due to a speech impairment, hearing loss, deafness, deaf-blindness, or other disability, to adequately hear, understand, or communicate effectively in English in a court proceeding.

(c) "Qualified interpreter" means a person who is able to do all of the following:

1. Readily communicate with a person who has limited English proficiency.

2. Orally transfer the meaning of statements to and from English and the language spoken by a person who has limited English proficiency in the context of a court proceeding.

3. Readily and accurately interpret for a person who has limited English proficiency, without omissions or additions, in a manner that conserves the meaning, tone, and style of the original statement, including dialect, slang, and specialized vocabulary.

(2) The supreme court shall establish the procedures and policies for the recruitment, training, and certification of persons to act as qualified interpreters in a court proceeding and for the coordination, discipline, retention, and training of those interpreters.

(3) (a) If the court determines that the person has limited English proficiency and that an interpreter is necessary, the court shall advise the person that he or she has the right to a qualified interpreter and that an interpreter will be provided at the public's expense if the person is one of the following:

1. A party in interest.

2. A witness, while testifying in a court proceeding.

3. An alleged victim, as defined in s. 950.02 (4).

4. A parent or legal guardian of a minor party in interest or the legal guardian of a party in interest.

5. Another person affected by the proceedings, if the court determines that the appointment is necessary and appropriate.

(b) The court may appoint more than one qualified interpreter in a court proceeding when necessary.

(c) If a person with limited English proficiency, as defined in sub. (1) (b) 2., is part of a jury panel in a court proceeding, the court shall appoint a qualified interpreter for that person.

(d) If a person with limited English proficiency requests the assistance of the clerk of circuit courts regarding a legal proceeding, the clerk may provide the assistance of a qualified interpreter to respond to the person's inquiry.

(e) A qualified interpreter appointed under this subsection may, with the approval of the court, provide interpreter services outside the court room that are related to the court proceedings, including during court-ordered psychiatric or medical exams or mediation.

(f) The court may authorize the use of a qualified interpreter in actions or proceedings in addition to those specified in par. (a).

(4) (a) The court may accept a waiver of the right to a qualified interpreter by a person with limited English proficiency at any point in the court proceeding if the court advises the person of the nature and effect of the waiver and determines on the record that the waiver has been made knowingly, intelligently, and voluntarily.

(b) At any point in the court proceeding, for good cause, the person with limited English proficiency may retract his or her waiver and request that a qualified interpreter be appointed.

(5) Every qualified interpreter, before commencing his or her duties in a court proceeding, shall take a sworn oath that he or she will make a true and impartial interpretation. The supreme court may approve a uniform oath for qualified interpreters.

(6) Any party to a court proceeding may object to the use of any qualified interpreter for good cause. The court may remove a qualified interpreter for good cause.

(7) The delay resulting from the need to locate and appoint a qualified interpreter may constitute good cause for the court to toll the time limitations in the court proceeding.

(8) (a) Except as provided in par. (b), the necessary expenses of providing qualified interpreters to persons with limited English proficiency under this section shall be paid as follows:

1. The county in which the circuit court is located shall pay the expenses in all proceedings before a circuit court and when the clerk of circuit court uses a qualified interpreter under sub. (3) (d). The county shall be reimbursed as provided in s. 758.19 (8) for expenses paid under this subdivision.

2. The court of appeals shall pay the expenses in all proceedings before the court of appeals.

3. The supreme court shall pay the expenses in all proceedings before the supreme court.

(b) The state public defender shall pay the expenses for interpreters assisting the state public defender in representing an indigent person in preparing for court proceedings.

#### ***887.27 Depositions, translations of.***

When the witness is unable to speak the English language, the judge of the court from which the commission issues may appoint some competent and disinterested person to translate, at the expense of the noticing person, the subpoena, rules, and deposition questions and answers, or any part thereof as may be necessary, from English into the language used by the witness or vice versa; and the translation shall be transcribed and maintained as part of the deposition transcript. The translator shall append to all translations the translator's affidavit that the translator knows English and the language of the witness, and that in making such translation the translator carefully and truly translated the proceedings from English into the witness's language or from the witness's language into English, and that the translation is correct. A translation under this paragraph shall have the same effect as if all the proceedings were in English, but the circuit court, upon the deposition being offered in evidence, may admit the testimony of witnesses learned in the language of the deposed witness for the purpose of correcting errors therein; and, if it shall appear that the first translation was in any respect so incorrect as to mislead the witness, the court may, in its discretion, continue the cause for the further taking of testimony.

#### ***901.09 Submission of writings; languages other than English.***

(1) The court may require that a writing in a language other than English offered in evidence be accompanied by a written translation of the writing into English with an attached affidavit by the

translator stating his or her qualifications to perform the translation and certifying that the translation is true and correct.

(2) A party may object to all or parts of a translation offered under [sub. \(1\)](#) or to the qualifications of the translator. The court may order a party objecting to all or part of a translation to submit an alternate translation of those parts of the original translation to which the party objects, accompanied by a translator's affidavit as described in [sub. \(1\)](#). If an objection is made to the qualifications of the translator and the court finds that the translator is not qualified the court may reject the offered translation on that ground alone without requiring an alternative translation by the objecting party.

(3) The court may require a party offering into evidence a translation under [sub. \(1\)](#) or an alternative translation ordered by the court under [sub. \(2\)](#) to bear the cost of the translation.

***Comment, 2010:** This rule is not intended to apply strictly to evidence in documentary form. Parties often offer evidence not contained in documents that consists of or contains statements made in a foreign language, for example, recordings of telephone calls to 911 operators, recordings of police interrogations, and surveillance recordings. The better practice when offering such evidence is for a party to offer a written transcript of the recording, to aid the jury or the court in understanding the recording. Sometimes the transcript is received as evidence, but not always, and in any event the recording is considered primary and the transcript merely an aid. If a party offers in evidence a recording accompanied by a transcript, this rule governs the transcript.*

#### **905.015 Interpreters for persons with language difficulties or hearing or speaking impairments**

If an interpreter for a person with a language difficulty, limited English proficiency, as defined in s. 885.38(1)(b), or a hearing or speaking impairment interprets as an aid to a communication which is privileged by statute, rules adopted by the supreme court, or the U.S. or state constitution, the interpreter may be prevented from disclosing the communication by any person who has a right to claim the privilege. The interpreter may claim the privilege but only on behalf of the person who has the right. The authority of the interpreter to do so is presumed in the absence of evidence to the contrary.

#### **906.04 Interpreters**

An interpreter is subject to the provisions of chs. 901 to 911 relating to qualification as an expert and the administration of an oath or affirmation that the interpreter will make a true translation.

#### **938.315 Delays, continuances and extensions**

(1) The following time periods shall be excluded in computing time requirements within this chapter:  
(h) Any period of delay resulting from the need to appoint a qualified interpreter.

#### **967.09 Interpreters may serve by telephone or video**

On request of any party, the court may permit an interpreter to act in any criminal proceeding, other than trial, by telephone or live audiovisual means.

### **Wisconsin Case Law**

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**State v. Neave, 117 Wis. 2d 359, 344 N.W. 2d 181 (1984)** The Wisconsin Supreme Court has held that the right to an interpreter exists “as a matter of judicial administration,” concluding that in the interest of fairness and justice, interpreters should assist defendants where necessary. The assistance of an interpreter promotes judicial economy by reducing the risk of appeal on grounds of inaccurate interpretation or failure to appoint an interpreter. The right to an interpreter can only be waived by the defendant personally, in open court, and on the record. If the court determines that an interpreter is

necessary, the court must inform the defendant of the right to an interpreter and that one will be provided at public expense if the defendant is unable to afford one. See also *State v. Besso*, 72 Wis. 2d 335, 240 N.W. 2d 895 (1976).

***State v. Xiong Yang*, 201 Wis. 2d 721, 549 N.W. 2d 769 (Ct. App. 1996)** When a trial court is put on notice that a defendant has a “language difficulty,” the court must make a factual determination whether the defendant needs an interpreter because such difficulty prevents the defendant from communicating with counsel, reasonably understanding English testimony, or reasonably being understood in English. The trial court's factual determination does not require an elaborate hearing.

***State v. Tai V. Le*, 184 Wis. 2d 860, 517 N.W. 2d 144 (1994)** The selection of a qualified interpreter is within the discretion of the trial court. If the defendant is indigent, the expense for an interpreter is allocated to the Director of State Courts for in-court proceedings, and to the State Public Defender for out-of-court proceedings.

***State v. Santiago*, 206 Wis.2d 3, 556 N.W.2d 687 (1996)** A defendant is deprived of the ability to present his case to the circuit court and preserve it for appeal when testimony given in Spanish is not translated into English for the record. Without an English translation, the court cannot evaluate whether the substance of a Miranda warning in Spanish was sufficient that the defendant could knowingly and intelligently waive his right to an attorney. When both the accused and the witnesses require an interpreter, the better practice may be to have two interpreters, one for the accused and one for the court.

***State v. Patino*, 177 Wis.2d 348, 502 N.W.2d 601 (Ct. App. 1993)** When a person relies on a translator, the statements of the translator are regarded as the speaker's for hearsay purposes.

***State v. Hindsley*, 2000 Wi. App. 130, 14-15, 614 N.W. 2d 48 (2000)** Expert witnesses testified that for the concept “rights,” the interpreter used the sign for “all right” or “okay,” and the defendant's responses showed he understood the sign as “all right” or “okay.” The interpreter interpreted the defendant's nodding of his head to mean “yes,” but in American Sign Language a head nod, by itself, may mean “I understand,” “I'm waiting for clarification” or “go ahead,” and does not necessarily mean “yes.” At no time, one expert testified, did the defendant express that he understood his rights. Another expert characterized the communication between defendant and interpreter as “disconnected.” Under these circumstances, the trial court properly concluded that the defendant's waiver of the right to counsel was not knowing and intelligent.

***State v. Douangmala*, 2002 WI 62, (2002)** As Wisconsin's immigrant population grows, obtaining qualified interpreters for an ever-growing, diverse, and multi-language population remains a high priority for the court. This case “illustrates the necessity of the legislative, executive, and judicial branches of government of this state working together to provide qualified interpreters for persons who cannot, hear, speak, or understand English to preserve their meaningful access to the legal system.”

***State v. Begicevic*, 270 Wis.2d 675, 678 N.W.2d 293 (2004)** Despite officer's knowledge that English was not Begicevic's first language, she made no attempt to locate an interpreter to assist her and when she read the Informing the Accused form to Begicevic, there was no verbatim translation in German of what was being read nor was there any explanation of rights on the form in German to Begicevic. The appellate court said the issue was not a subjective determination of whether the officer believed

Begicevic understood what was being said to him, but rather an objective test of whether the officer used reasonable methods to convey the implied consent warnings.

***State v. Luis Flores*, 275 Wis.2d 275, 683 N.W.2d 93 (2004)** Defendant's inability to speak English does not entitle him to a mental competency hearing, see *State v Haskins* (139 Wis. 2d 257, 407 N.W.2d 309 (Ct. App. 1987))

***State v. Amani Beni*, 285 Wis.2d 807, 701 N.W.2d 652 (2005)** With an allegation of inadequate interpreting, the burden is on the appellant to show the interpreter was deficient. A trial court's discretion in the choice of an interpreter will not be upset unless there is a showing a defendant has been prejudiced by the interpreter's performance. While the trial court has a duty to choose the most competent and the least biased person available, the defendant must also show that some injustice has resulted because of the appointment of the interpreter.

***State v. Lavelle W.*, 288 Wis.2d 504, 708 N.W.2d 698 (2005)** While not a case involving an interpreter, the appellate court said a parent in a TPR case was denied meaningful participation when he was hooked up via telephone from a remote location rather than be personally present. The court said although Lavelle W. may have been able to hear significantly more than he was unable to hear, it was not sufficient because "periodic or sporadic inaudibility," significantly truncated his ability to *fully* comprehend what was going on and hindered his ability to get a feel for the proceedings.

***State v. Russ*, 709 N.W.2d 483 (2005)** Russ was shackled during his plea and sentencing hearing and said his restraints impeded his ability to communicate by sign language. He introduced expert testimony who explained 4 factors critical to effective communication through sign language. The appellate court said he had to show he was in fact unable to communicate not just that he "theoretically" might have had some difficulty to communicate. The burden is on him, not the state to prove an actual communication lapse.

***State v. Revesteijn*, 727 N.W.2d 53 (2006)** Citing *State v Neave*, the appellate court said the trial court's obligation to make a factual determination about the need for an interpreter is triggered only when the court is put on notice the defendant has a language barrier. Defendant alleged the court was obligated to consider whether he needed an interpreter and obtain his personal waiver of his right to an interpreter. There was nothing in the transcript suggesting defendant had a language barrier or was unable to understand the plea colloquy or that the court was made aware of any language problem.

***State v. Yang*, 290 Wis.2d 235, 712 N.W.2d 400 (2006)** Court erred when it limited questioning of defendant's ex-wife during cross-examination, who testified through an interpreter. Thirteen times during her 31-page testimony, witness asked the interpreter for clarification or help which evidenced her lack of comprehension. Appellate court said defendant was denied his right to confront witnesses.

***State v. Christopher L*, 278 Wis.2d 812, 691 N.W.2d 926 (2006)** Defendant, who had made known to the court his hearing difficulties, used an Assisted Listening Device (ALD) during trial. While there was some evidence at trial he had problems hearing while using the device, when he turned up the volume on the ALD, it seemed to fix the problem. Appellant never complained about any inconvenience during the trial. Appellate court said there is no due process right to an interpreter, there is only a right to a *necessary* interpreter.

***State v. Velazquez-Perez* 303 Wis.2d 743, 735 N.W.2d 192 (2007)** Appellate court said trial court erred in not granting an evidentiary hearing on his claim that his plea was not entered knowingly, voluntarily, and intelligently. Defendant moved to withdraw his guilty plea because the interpreter spoke too fast and may have been speaking a different dialect. The motion contained enough factual allegations to warrant holding an evidentiary hearing to see whether he could prove his claim.

***Strook v. Kedinger* 316 Wis.2d 548, 766 N.W.2d 219 (2009)** When a person who must appear in court at a substantive proceeding, seeks an accommodation because of physical disability, and self-identifies in as reasonable a time as possible before the hearing, circuit courts who believe they need more information before deciding whether and what accommodation to give should make a factual determination before the date of the substantive hearing. The determination may be either by informal means or by a formal hearing with notice to the person alleging a disability. Appellate Court reversed because the circuit court maintained silence about the accommodation request and decided the request at the substantive hearing. Appellate court said that process prejudicially affected the person with a disability's right to a fair hearing.



# Supreme Court of Wisconsin

Appendix A

DIRECTOR OF STATE COURTS  
110 E. MAIN STREET, SUITE 410  
MADISON, WISCONSIN 53703

A. John Voelker  
Director of State Courts

Shirley S. Abrahamson  
Chief Justice

Sara Ward-Cassady  
Deputy Director for Court Operations  
Telephone (608) 266-3121  
Fax (608) 267-0911

## Oath of Office for Court Interpreters

I solemnly swear [or affirm] that in all proceedings in the courts of Wisconsin to which I am appointed as an interpreter, I will interpret truly, accurately, completely, and impartially, in accordance with the standards prescribed by law, the code of ethics for court interpreters, and Wisconsin guidelines for court interpreting.

**For sign language interpreters only:** If a person with limited English proficiency due to a disability is part of a jury panel, the court shall appoint a qualified interpreter for that person. §§885.38(1)(b)(2), 885.38(3)(c).

- If I am appointed as an interpreter for a juror, I also swear [or affirm] that I will not participate personally in the jury's deliberations, nor make any comment about my personal recollections of the evidence or my opinions about the outcome of this case. I will not disclose or comment upon anything that I hear in jury deliberations unless ordered to do so by the court.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Date

Subscribed and sworn to before me  
on: \_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Wisconsin/  
Person Authorized to Administer Oath

My commission expires: \_\_\_\_\_

**DAILY RECORD OF APPOINTMENT OF INTERPRETER AND AUTHORIZATION FOR PAYMENT**

County Interpreter Services Provided To:			Date Services Provided:		
Interpreter name:	Interpreter ID#:	SSN/Tax ID number:	Certified with WI Supreme Court?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Invoice #
Name of agency:		Mailing address:		City traveling from:	
Language: <input type="checkbox"/> Spanish <input type="checkbox"/> Hmong <input type="checkbox"/> American Sign Language <input type="checkbox"/> Other:					

Interpreters may interpret for multiple cases in various court locations within the county on the same day. The appointing court official must initial EACH entry to approve payment. Interpreters must submit completed form CS-225 to the county Clerk of Circuit Courts for payment. Only interpreter services provided for court-related activity should be recorded on CS-225 - do not use this form to bill for interpreter services provided to the DA or SPD. **ONLY ONE DAY SHOULD BE RECORDED ON EACH FORM AND ONE CASE ON EACH LINE. USE MORE THAN ONE FORM PER DAY AS NEEDED.**

Date	Branch	Judge/Commissioner	Case #	Client/Defendant	Start Time	Stop Time	Total Minutes	Court Approval

NOTES:	<b>[A] Total minutes for court-related interpreting</b> (col. 1 on CS-148)							<b>County Use Only:</b> Signature & date for payment approval
	<b>[B] Charges for interpreting</b> (col. 2 on CS-148)							
	<b>[C] Mileage</b>		x rate	<b>\$0.485</b>	=	(col. 3 on CS-148)		
	<b>[D] Other Charges</b> (provide detail):							
	<b>Total billed for day</b>							

I certify the above is a true and correct accounting of my billable hours for providing interpreter services to the county's circuit court for the day.  
 Signed: \_\_\_\_\_ Date: \_\_\_\_\_