

CHAPTER 221. LANGUAGE ACCESS FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY AND FOR PERSONS WHO ARE DEAF OR HARD OF HEARING

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Source

The provisions of this Chapter 221 adopted April 1, 2010, effective May 1, 2010, 40 Pa.B. 1997, unless otherwise noted.

Subchapter 1. GENERAL PROVISIONS

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§ 101. Scope.

These regulations are enacted under the Language Access Plan for the Unified Judicial System (UJS-LAP) and 42 Pa.C.S. §§ 4411 and 4431 (relating to duties of Court Administrator) and shall govern the appointment and use of interpreters for persons with limited English proficiency and persons who are deaf or hard of hearing in all court proceedings within the Unified Judicial System (UJS).

Comment

See also Rules 250—252 and 260—263 of the Pennsylvania Rules of Judicial Administration regarding disability and language access.

Source

The provisions of this § 101 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (390519).

§ 102. Definitions.

For purposes of these regulations:

- (a) *Appellate Court Prothonotary* means the prothonotary responsible for the appellate court in which the judicial proceeding is conducted or his or her designee.
- (b) *Certified Interpreter* means a person who is certified in accordance with this chapter.
- (c) *Court Administrator* means the Court Administrator of Pennsylvania.

(d) *Deaf or hard of hearing* means a hearing loss or impairment of speech that creates an inability to understand or communicate the spoken English language.

(e) *Direct victim* means an individual against whom a crime has been committed or attempted and who, as a direct result of the criminal act or attempt, suffers physical or mental injury, death, or the loss of earnings.

(f) *District Court Administrator* means the court administrator responsible for the administration of the courts of the judicial district in which the judicial proceeding is conducted or his or her designee.

(g) *Immediate family member* means a person other than a principal party in interest who is a spouse, child, parent, grandparent, or guardian of a principal party in interest.

(h) *Interpret* means either:

(1) within the context of court interpreters for persons with limited English proficiency, to convey spoken and written English into the language of the person with limited English proficiency and to convey spoken and written statements by that person into spoken English; or

(2) within the context of court interpreters for persons who are deaf or hard of hearing, to convey spoken English in a manner understood by the deaf or hard of hearing person through, but not limited to, American Sign Language and transliteration or any other process, procedure, or means of communication used to convey the communications made by the deaf or hard of hearing person into spoken English.

(i) *Interpreter* includes both a certified interpreter and an otherwise qualified interpreter for persons with limited English proficiency and the deaf or hard of hearing.

(j) *Judicial proceeding* means an action, appeal, or proceeding in any court of the Commonwealth of Pennsylvania conducted by a presiding judicial officer as defined by subsection (o).

(k) *Notice of Language Rights* means a multilingual written notice that informs an individual of the right to an interpreter at no cost and how to request an interpreter.

(l) *Otherwise qualified interpreter* means a person who meets the pertinent requirements of this chapter. As with certified interpreters, otherwise qualified interpreters should be chosen from AOPC's Interpreter Certification Program (ICP) roster.

(m) *Person who is deaf or hard of hearing* means a principal party in interest or a witness who is deaf or hard of hearing.

(n) *Person with limited English proficiency* means a principal party in interest or a witness who speaks exclusively or primarily a language other than English and is unable to sufficiently speak and understand English so as to fully participate and be understood in a judicial proceeding.

(o) *Presiding judicial officer* includes justices, judges, magisterial district judges, and appointive judicial officers, such as arbitrators and other like officers.

(p) *Principal party in interest* means a person involved in a judicial proceeding who is:

- (1) a named party or a fiduciary for a named party;
- (2) a direct victim in a criminal proceeding or a proceeding pursuant to the Juvenile Act, 42 Pa.C.S. Ch. 63 (relating to juvenile matters);
- (3) a parent, guardian, or custodian of a minor or incapacitated person who is:
 - (i) a party;
 - (ii) a direct victim in a criminal proceeding or a proceeding pursuant to 42 Pa.C.S. Ch. 63; or
 - (iii) a witness.
- (q) *Roster* means the list of certified and otherwise qualified interpreters maintained and distributed by the Court Administrator.
- (r) *Staff Interpreter* means a certified interpreter who is an employee of the appellate court or judicial district and whose duties include providing services as an interpreter and functions related to interpreting.
- (s) *Transliteration* means to convey spoken or written English in an English-based sign language system.
- (t) *Witness* means a person who testifies in a judicial proceeding.

Comment

The Administrative Office of Pennsylvania Courts' (AOPC) Interpreter Certification Program roster is available on the Language Access & Interpreter Program page of the UJS website, <http://www.pacourts.us>.

The definition of "Certified Interpreter" set forth in subsection (b) contains the requirement that the interpreter be certified by the Court Administrator. An interpreter who is certified pursuant to another jurisdiction or organization's policies is not a certified interpreter under these regulations if that individual has not been certified by the Court Administrator. Therefore, persons charged with applying these regulations should take care to confirm that an interpreter who purports to be certified has, in fact, been certified by the Court Administrator.

A "Staff Interpreter" pursuant to subsection (r) is a full-time employee of an appellate court or judicial district whose duties include providing interpretation services. Persons employed as staff interpreters are required to be certified in their language of expertise by the Court Administrator in order to attain certified status under these regulations, if such certification is available.

References related to transliterators can be found in Schedule F (Pennsylvania Rules of Professional Conduct for Judiciary Interpreters.) Oral transliteration means conveying spoken English by using speech reading and not sign language. Please note that it differs from "transliteration," as defined above, in that it does not use sign language.

These regulations are not intended to restrict a deaf or hard of hearing person's ability pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 *et seq.*, to request a process, procedure, or means of communication other than an interpreter. Under the ADA and its regulations, a deaf or hard of hearing person may request a specific auxiliary aid and the public entity must give primary consideration to that choice unless another effective means of communication exists or it can demonstrate that doing so would fundamentally alter the nature of the service, program or activity or result in undue financial hardship. 28 C.F.R. §§ 35.160, 35.164; 28 C.F.R. Pt. 35, App. A.

See 42 Pa.C.S. § 6302, defining "custodian" as "[a] person other than a parent or legal guardian, who stands in loco parentis to the child, or a person to whom legal custody of the child has been given by order of a court." See also Pa.R.Civ.P. 76, which defines fiduciaries to include "an executor, administrator, guardian, committee, receiver, trustee, assignee for the benefit of creditors, and any other person, association, partnership, or corporation, acting in any similar capacity." Pa.R.Civ.P. 2051 defines "incapacitated person" to include "an adult whose ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that the person is partially or totally unable to manage financial resources or to meet the essential requirements for physical health and safety."

Source

The provisions of this § 102 amended February 12, 2018, effective March 1, 2018, 48 Pa.B. 1092; amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (390519) to (390521).

§ 103. Confidentiality of Communications.

As provided in 42 Pa.C.S. §§ 4415 and 4436 (relating to confidential communications in presence of court interpreter), an interpreter appointed pursuant to these regulations shall not be permitted or compelled to testify in any judicial proceeding as to any interpreted statements made by the person for whom he or she is interpreting when that person is engaged in a confidential communication as provided by any statute or general rule, including, but not limited to:

- (a) 42 Pa.C.S. § 5916 (relating to confidential communications to attorney);
- (b) 42 Pa.C.S. § 5928 (relating to confidential communications to attorney);
- (c) 42 Pa.C.S. § 5942 (relating to confidential communications to news reporters);
- (d) 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen);
- (e) 42 Pa.C.S. § 5944 (relating to confidential communications to psychiatrists or licensed psychologists);
- (f) 42 Pa.C.S. § 5945 (relating to confidential communications to school personnel);
- (g) 42 Pa.C.S. § 5945.1 (relating to confidential communications with sexual assault counselors);
- (h) 42 Pa.C.S. § 5945.2 (relating to confidential communications to crime stopper or similar anticrime program);
- (i) 42 Pa.C.S. § 5945.3 (relating to confidential communications to human trafficking caseworkers); and
- (j) 23 Pa.C.S. § 6116 (relating to confidential communications to domestic violence counsel/advocates).

Source

The provisions of this § 103 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (390521) to (390522).

§ 104. Remote Interpretation.

(a) Simultaneous audiovisual technology.—In the event that a certified or otherwise qualified interpreter for persons with limited English proficiency or who are deaf or hard of hearing cannot be found to interpret in person, one may be appointed to interpret via remote technology allowing for two-way simultaneous communication of image and sound, such as video remote interpreting (VRI), video-conferencing, closed-circuit television, or web-based camera, provided that the judicial proceeding is expected to be no more than one hour in duration. Priority should be given to interpreters from AOPC's Interpreter Certification Program (ICP) roster. Prior to utilizing the interpreter, the court must conduct a *voir dire* to determine his or her qualifications, unless the interpreter is a certified

interpreter from AOPC's ICP roster or has been previously used by, and his or her qualifications are known to, the court. The use of VRI should follow guidance issued by the AOPC.

(b) Telephonic interpretation.—If neither a certified nor otherwise qualified interpreter can be found to interpret in person or by remote technology allowing for two-way simultaneous communication of image and sound, one may be appointed to interpret remotely via telephone, provided the judicial proceeding is expected to be short, lasting no more than 30 minutes. Priority should be given to interpreters from AOPC's Interpreter Certification Program (ICP) roster. If neither a certified nor otherwise qualified interpreter can be found to interpret via telephone, the court may utilize a telephone interpreter provided by a commercial telephone interpreter service. Prior to utilizing any telephonic interpreter, the court must conduct a *voir dire* to determine his or her qualifications, unless the interpreter has been previously used by, and his or her qualifications are known to, the court.

(c) Exceptions.—Preliminary arraignments pursuant to Rule of Criminal Procedure 540 and proceedings for emergency orders under the Protection from Abuse Act (23 Pa.C.S. §§ 6101 *et seq.*), the Protection of Victims of Sexual Violence or Intimidation Act (42 Pa.C.S. §§ 62A01 *et seq.*), and the Older Adults Protective Services Act (35 P.S. §§ 10225.101 *et seq.*) may be conducted via remote technology without regard to subsections (a) and (b) above, except that a *voir dire* still must be conducted to determine the interpreter's qualifications, unless the interpreter is a certified interpreter from AOPC's ICP roster or has been previously used by, and his or her qualifications are known to, the court.

Comment

Although this regulation allows for remote interpretation, interpretation in person is strongly preferred. Pursuant to subsections (a) and (b), if an interpreter cannot be found to interpret in person, the next step should be to find one to interpret via remote means that allow for two-way simultaneous communication of image and sound. It is only after determining that an interpreter cannot be found to interpret via two-way simultaneous communication of image and sound that the court should consider an audio-only device, such as a telephone.

Moreover, courts should be cautious in their use of video remote platforms (such as Zoom and Microsoft Teams) to facilitate virtual hearings. When using remote platforms, courts should follow guidance issued by the AOPC, use interpreters from AOPC's ICP roster, do a practice run using the remote platform in advance of the hearing and, if unable to secure a rostered interpreter for the proceeding, *voir dire* the interpreter to ascertain his or her qualifications.

Source

The provisions of this § 104 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (390522) to (390523).

§ 105. Waiver of Interpreter.

(a) Waiver by a principal party in interest.—A principal party in interest with limited English proficiency or who is deaf or hard of hearing may waive the right to an interpreter, provided the waiver is conducted in the presence of the presiding judicial officer and the party seeking to waive is represented by counsel or has knowingly waived the right to counsel. The presiding judicial officer shall ascertain from the principal party in interest with limited English proficiency or who is deaf or hard of hearing whether the waiver is knowing, voluntary and

intelligent and that the waiver will not impede the party's communication with the court and the fact finder. If the judicial proceeding is conducted in a court of record, the foregoing determination shall be made on the record. The principal party in interest with limited English proficiency or who is deaf or hard of hearing must be provided with an interpreter during the waiver process. In addition, the waiver shall be in writing signed by the principal party in interest with limited English proficiency or who is deaf or hard of hearing, with a representation that the party was told of the right to an interpreter and that the party chose not to have an interpreter at the judicial proceeding. The written waiver shall be on the form provided by the Court Administrator for this purpose and shall be made part of the record of the judicial proceeding. If the presiding judicial officer subsequently determines that an interpreter is necessary, he or she shall proceed pursuant to § 204(b) (relating to determination of need for interpreter).

(b) Waiver by a non-party.—When a non-party who is entitled to an interpreter under these regulations seeks to waive the right to an interpreter, the provisions of subsection (a) above should be followed, with the exception that counsel need not be present.

Comment

When persons with limited English proficiency or who are deaf or hard of hearing waive their right to an interpreter pursuant to § 105, they are divesting themselves of an important due process safeguard. For this reason, the presiding judicial officer should take great care to ensure that the person's waiver is knowing, voluntary, and intelligent. When deciding whether to permit a waiver, the presiding judicial officer should consider not only the needs of the person with limited English proficiency or who is deaf or hard of hearing but also the needs of the presiding judicial officer and others involved in the proceedings to accurately understand that person. In the case of persons with limited English proficiency or who are deaf or hard of hearing who are witnesses, the presiding judicial officer should primarily consider the need for the finder of fact to accurately understand the witness and whether a principal party in interest wants an interpreter present to ensure the accuracy of the testimony rather than the preference of the witness. If the presiding judicial officer feels that the interpreter is necessary for the presiding judicial officer or others involved in the proceedings to accurately understand the person with limited English proficiency or who is deaf or hard of hearing, the waiver request should be denied. Waiver forms are available on the Interpreter Program page of the UJS website, <http://www.pacourts.us>.

Source

The provisions of this § 105 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (390523).

§ 106. Oath for Interpreters.

Before commencement of interpreter duties, an interpreter shall take the following oath:

Do you solemnly swear or affirm that you will make an accurate, complete, and impartial interpretation from the English language into the (target language), and vice-versa, of all communication during this proceeding using your best skill, judgment, and ability and that you will abide by the Rules of Professional Conduct for Judiciary Interpreters, and so you do swear or affirm?

Once the oath is administered, the interpreter becomes an officer of the court for the duration of his or her appointment.

Comment

See Pa.R.E. 604 (Interpreter qualifications and oaths).

Source

The provisions of this § 106 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (390524).

§ 107. Cost of Providing Interpreters for Persons with Limited English Proficiency.

(a) *General rule.*—An interpreter appointed pursuant to § 205 (relating to appointment of interpreters) for a principal party in interest or a witness is entitled to a reasonable fee for interpreter services and shall be reimbursed for actual and reasonable expenses by the county of the court or the appellate court that has jurisdiction over the judicial proceeding in accordance with the compensation schedule approved by the Court Administrator pursuant to 42 Pa.C.S. § 4411(d). In no event shall the costs of providing interpreter services be the responsibility of the person who is limited English proficient (LEP).

(b) *Assignment of costs.*—In those cases where appointment of an interpreter is discretionary as specified in § 205(d) regarding appointment of interpreters for immediate family members, the presiding judicial officer may order reimbursement by the family member to the county of the court or the appellate court that has jurisdiction over the judicial proceeding for which the interpreter was appointed for its responsibilities under this chapter. In determining the amount of actual and reasonable expenses to be paid to the interpreter, the presiding judicial officer shall follow the fee schedule for interpreters established by the Court Administrator.

Comment

A copy of the interpreter fee schedule for onsite, video, and telephonic interpreting can be found in Schedule G and on the Interpreter Program page of the UJS website, <http://www.pacourts.us>.

In a judicial district comprised of more than one county, the county of the court that has jurisdiction over the judicial proceedings is the county in which the cause of action arose.

Source

The provisions of this § 107 amended February 12, 2018, effective March 1, 2018, 48 Pa.B. 1092; amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (390524).

§ 108. Costs of Providing Interpreters for Persons who are Deaf or Hard of Hearing.

General rule.— An interpreter appointed in accordance with § 205 is entitled to a reasonable fee for his or her services and shall be reimbursed for actual and reasonable expenses by the county of the court that has jurisdiction over the judicial proceeding in accordance with the compensation schedule approved by the Court Administrator pursuant to 42 Pa.C.S. § 4431(d). Expenses related to interpreters appointed for appellate judicial proceedings shall be the responsibility of the appellate court. In no event shall the cost of providing interpreter services be the responsibility of the person who is deaf or hard of hearing.

Comment

A copy of the interpreter fee schedule for onsite, video, and telephonic interpreting can be found in Schedule G and on the Interpreter Program page of the UJS website, <http://www.pacourts.us>.

In a judicial district composed of more than one county, the county of the court that has jurisdiction over the judicial proceedings is the county in which the cause of action arose.

Source

The provisions of this § 108 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349435).

**Subchapter 2. PROCEDURES FOR NOTIFICATION
AND DETERMINATION OF THE NEED FOR, AND
FOR THE PROCUREMENT AND APPOINTMENT
OF, INTERPRETERS**

Sec.

- 201. Notices to be Provided Concerning Right to an Interpreter.
- 202. Persons to Notify Court Concerning Need for Interpreters.
- 203. Procurement of Certified or Otherwise Qualified Interpreters.
- 204. Determination of Need for Interpreter.
- 205. Appointment of Interpreters.
- 206. Replacement or Removal of Interpreter.

§ 201. Notices to be Provided Concerning Right to an Interpreter.

(a) District Court Administrators, presiding judicial officers, judicial staff, and filing offices must ensure that a Notice of Language Rights is provided to named parties and witnesses for all judicial proceedings.

(b) Every hearing notice or subpoena for any judicial proceeding must include a Notice of Language Rights. This notice shall inform the recipient of the right to a court-appointed interpreter at no cost and the process for requesting one.

(c) Information concerning language rights and services available must be conspicuously displayed on posters, cards, and brochures throughout court facilities, posted on court websites, and provided to the public, justice partners, legal aid agencies, and community-based organizations.

Comment

The Notice of Language Rights created pursuant to the Language Access Plan for the UJS provides contact information for the language access coordinator (LAC) for each judicial district and informs limited English proficient and deaf or hard of hearing individuals that they may contact the LAC to arrange for an interpreter.

Source

The provisions of this § 201 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349436) to (349438).

§ 202. Persons to Notify Court Concerning Need for Interpreters.

(a) The following persons shall give notice to the court when a person has limited English proficiency or is deaf or hard of hearing and requires an interpreter for any judicial proceeding:

- (1) For a principal party in interest in a judicial proceeding, either the principal party in interest or his or her attorney, without delay.

(2) For a witness in a judicial proceeding, the party that intends to call the person as a witness as soon as is practicable after learning of the need for an interpreter.

(3) For a crime victim whose presence is anticipated at a judicial proceeding, the affiant, law enforcement officer, or the attorney for the Commonwealth, as soon as is practicable after learning of the need.

(b) Any other person with knowledge that a principal party in interest, witness, or crime victim will require an interpreter may give notice of the need for an interpreter.

(c) Notice to the court pursuant to this section may be made to the presiding judicial officer, the language access coordinator (LAC), or, for persons who are deaf or hard of hearing, the Americans with Disabilities (ADA) coordinator, for the judicial district in which the proceeding will be held, or the Appellate Court Prothonotary/District Court Administrator or his or her designee, and should contain the information required in subsection (d)(2).

(d) *Form and content of notice.*—

(1) *Notice form.*—The notice of need for an interpreter should be given on the form provided by the Court Administrator, if practicable. If notice by way of said form is not practicable, written or oral notice may be given, provided it contains the information set forth in paragraph (2).

(2) *Content of notice.*—The notice of need for an interpreter, whether on the form specified in paragraph (1) or otherwise, must contain, at a minimum, the following information:

- (i) party and case identifying information; and
- (ii) for a person with limited English proficiency, the language spoken (specifying any particular dialect or regional version) and the country of origin; or
- (iii) for a person who is deaf or hard of hearing, the type of sign language or method of communication used, the country of origin (if a foreign sign language is used to communicate), and any other information that will help identify the person's preferred means of communication.

Comment

This section is intended to clarify those persons who are required to provide notice to the court of the need for an interpreter for an LEP or deaf or hard of hearing person. In addition, subsection (b) provides that any person may provide notice of the need for an interpreter when they have knowledge that someone appearing in a judicial proceeding is limited English proficient (LEP) or deaf or hard of hearing.

Subsection (a) requires that notice be given without delay or as soon as practicable after learning of the need. The fact that no specific time limit is given is in recognition of the fact that situations may arise in which significant advance notice is not feasible. Nevertheless, the party responsible for giving notice under these regulations or anyone aware of the need must notify the presiding judicial officer or Appellate Court Prothonotary/District Court Administrator or his or her designee as soon as the need for an interpreter is known so as to avoid unnecessary delay.

Subsection (d)(1) makes clear that notice on the form provided by the Court Administrator is the preferred method of providing notice of need for an interpreter. If use of the Court Administrator's form is not practicable, other written or oral notice is acceptable, provided it conveys the information

set forth in subsection (d)(2). The request form can be found on the Interpreter Program page of the UJS website, <http://www.pacourts.us>.

Source

The provisions of this § 202 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349438).

§ 203. Procurement of Certified or Otherwise Qualified Interpreters.

(a) Once the Appellate Court Prothonotary/District Court Administrator or his or her designee is made aware of the need for an interpreter, he or she shall procure a certified interpreter in the manner provided by the guidelines established by the Court Administrator for the appointment of certified interpreters.

(b) If the Appellate Court Prothonotary/District Court Administrator or his or her designee cannot procure a certified interpreter in the manner set forth in subsection (a), he or she shall procure an otherwise qualified interpreter in the manner provided by the guidelines established by the Court Administrator for the appointment of otherwise qualified interpreters.

(c) Courts shall utilize existing mechanisms available in statewide case management systems and shall develop mechanisms in conjunction with their filing offices to track the need for an interpreter throughout the life cycle of a case.

Comment

The regulations do not require that only one person be designated by the Appellate Court Prothonotary/District Court Administrator to handle requests for interpreters. For example, in addition to the LAC, the designee for common pleas interpreter requests may be the District Court Administrator, while for cases in the magisterial district courts, the deputy or assistant court administrator may be designated. A complete list of LACs is available on the Language Access & Interpreter Program page of the UJS website, <http://www.pacourts.us>.

In the case of a deaf or hard of hearing juror, the District Court Administrator or his or her designee should follow the judicial district's existing policies pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 *et seq.*, to ensure proper accommodation of a deaf or hard of hearing juror. Juror summonses and/or questionnaires should advise prospective jurors to give notice of need for an accommodation prior to the date they report for jury duty.

Subsection (a) requires the Appellate Court Prothonotary/District Court Administrator or his or her designee to follow the Court Administrator's guidelines for appointing a certified interpreter and to make the necessary arrangements to secure the interpreter's services for the judicial proceeding if one is found. If a certified interpreter cannot be found, subsection (b) requires the Appellate Court Prothonotary/District Court Administrator or his or her designee to obtain an otherwise qualified interpreter in the manner provided in the Court Administrator's guidelines. In procuring either a certified or otherwise qualified interpreter, and when the person requiring the interpreter is a person with limited English proficiency, the Appellate Court Prothonotary/District Court Administrator or his or her designee may obtain the services of an interpreter to interpret remotely subject to the limitations of § 104. In the event that neither a certified nor an otherwise qualified interpreter can be procured, the Appellate Court Prothonotary/District Court Administrator or his or her designee shall contact the AOPC for guidance.

The requirement in subsection (c) comes from the Language Access Plan for the Unified Judicial System (UJS-LAP), available at <http://www.pacourts.us>. UJS-LAP at 31, "Documentation of Language Needs."

Source

The provisions of this § 203 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349438) to (349440).

§ 204. Determination of Need for Interpreter.

(a) *Proceedings to determine need for an interpreter.*—Ordinarily, the presiding judicial officer must appoint an interpreter after notice of need for an interpreter is given or a request for an interpreter is made. If, after considering the notice of need, the presiding judicial officer requires additional information in order to make the determination that the person is limited English proficient or deaf or hard of hearing, or of the appropriate language or means of communication with the interpreter, he or she may request any additional filings from the parties or conduct any proceedings he or she deems necessary including, but not limited to, conducting the *voir dire* for determination of need for an interpreter for persons with limited English proficiency or who are deaf or hard of hearing established by the Court Administrator. If the Appellate Court Prothonotary/District Court Administrator or his or her designee requires additional information, he or she may request additional information and may request that the presiding judicial officer conduct proceedings to determine the need for an interpreter.

(b) If, during the course of the judicial proceeding, and without regard to whether notice of need for an interpreter was given, the presiding judicial officer determines that a principal party in interest is a person with limited English proficiency or that a principal party in interest, witness, direct victim, or juror is deaf or hard of hearing and is in need of an interpreter, he or she shall give notice to the Appellate Court Prothonotary/District Court Administrator or his or her designee as provided in § 202(d) (relating to persons to notify court concerning need for interpreters).

Comment

Presiding judicial officers, the Appellate Court Prothonotary/District Court Administrator, or the designees of the Appellate Court Prothonotary/District Court Administrator taking action under this section must do so in compliance with the non-discrimination provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and the regulations promulgated thereunder, 28 C.F.R. §§ 42.101 *et seq.*, as well as the stated purpose of 42 Pa.C.S. Ch. 44 (relating to court interpreters). See 42 Pa.C.S. § 4401 (relating to legislative findings and declaration).

Presiding judicial officers, the Appellate Court Prothonotary/District Court Administrator, or the designees of the Appellate Court Prothonotary/District Court Administrator taking action under this section must also take care not to ask questions that would violate Rules 250 through 252 of the Pennsylvania Rules of Judicial Administration or the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 *et seq.* Specifically, persons with disabilities need not submit documentation to establish proof of their disability. Furthermore, in compliance with the ADA's provisions on effective communication, judicial district ADA coordinators and judges must give primary consideration to the means of communication requested by the deaf or hard of hearing court user when making arrangements to accommodate that individual. For example, judges may ask a deaf or hard of hearing litigant whether they use American Sign Language, need a Certified Deaf Interpreter, or prefer CART (Communication Access Realtime Translation) in order to participate effectively in the proceeding.

Persons who request language access services should be provided with them. Subsection (a) covers the exceptional circumstance when the person notified of need for an interpreter may require additional information. This subsection permits a presiding judicial officer to acquire additional information in order to make the determination of need by way of supplemental filings, hearings, and any other means typically within the presiding judicial officer's power in handling the particular judicial proceeding. In the case of persons with limited English proficiency, the *voir dire* established by the Court Administrator should be used for assessing the level of English proficiency of the individual in question. The Appellate Court Prothonotary/District Court Administrator may request additional information but is not empowered to conduct any proceedings to gather information.

Subsection (b) is intended to clarify that even if notice of the need for an interpreter is not given by one of the individuals required to give notice under § 202(a), the presiding judicial officer may *sua sponte* determine the need for an interpreter and thereby start the appointment process if he or she deems it appropriate to do so under these regulations.

Source

The provisions of this § 204 added November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349440) to (349441).

§ 205. Appointment of Interpreters.

(a) *Appointment of a certified interpreter.*—The presiding judicial officer shall appoint the certified interpreter procured pursuant to § 203(a) (relating to procurement of certified interpreters) unless a certified interpreter is unavailable.

(b) *Appointment of an otherwise qualified interpreter.*—

(1) An otherwise qualified interpreter shall be appointed by the presiding judicial officer if the presiding judicial officer determines that the Appellate Court Prothonotary/District Court Administrator or his or her designee made a good faith effort to procure a certified interpreter and a certified interpreter was not available and that the otherwise qualified interpreter was properly procured pursuant to § 203(b). Otherwise qualified interpreters should also be chosen, if available, from the roster. In making the foregoing determinations, the presiding judicial officer shall consider the efforts made by the Appellate Court Prothonotary/District Court Administrator or his or her designee and whether these efforts complied with the requirements of § 203.

(i) *Persons with limited English proficiency.*—

Prior to the appointment of the otherwise qualified interpreter for a person with limited English proficiency, the presiding judicial officer shall determine the interpreter's qualifications by:

(A) verifying that the otherwise qualified interpreter is listed in the interpreter roster published by the Court Administrator. This can be accomplished in a number of ways, including but not limited to asking the interpreter to present their Interpreter Certification Program card issued by AOPC. Where the interpreter is on the roster, steps (B) and (C) below are not necessary.

(B) conducting the *voir dire* for qualifying interpreters for persons with limited English proficiency; and

(C) ascertaining that the otherwise qualified interpreter has read, understands, and agrees to abide by the Rules of Professional Conduct for Judiciary Interpreters. *See* Schedule F of these regulations.

(ii) *Persons who are deaf or hard of hearing.*—

Prior to the appointment of the otherwise qualified interpreter for a person who is deaf or hard of hearing, the presiding judicial officer shall determine the interpreter's qualifications by:

(A) conducting the *voir dire* for qualifying interpreters for persons who are deaf or hard of hearing recommended by the Court Administrator;

(B) verifying that the otherwise qualified interpreter is certified by the National Association of the Deaf (NAD) or Registry of Interpreters for the Deaf (RID), by asking to see the interpreter's membership card;

(C) ascertaining that the otherwise qualified interpreter has read, understands, and agrees to abide by the NAD-RID code of professional conduct, and the Rules of Professional Conduct for Judiciary Interpreters established by the Court Administrator;

(D) verifying that the otherwise qualified interpreter is listed in the interpreter roster published by the Court Administrator by asking them to present their Interpreter Certification Program card issued by AOPC; and

(E) verifying that the otherwise qualified interpreter has complied with the requirements of the Sign Language Interpreter and Transliterators State Registration Act, 63 P.S. §§ 1725.1 *et seq.*, and is registered with the Office for the Deaf and Hard of Hearing (ODHH) within the Pennsylvania Department of Labor and Industry.

(2) In ascertaining whether an individual is able to interpret and should be appointed as an otherwise qualified interpreter, the presiding judicial officer shall follow the guidelines established by the Court Administrator for the appointment of otherwise qualified interpreters for persons with limited English proficiency or for persons who are deaf or hard of hearing and these regulations.

(c) *Additional interpreter(s).*—After consideration of the type and length of the judicial proceeding and the number of persons requiring interpreters involved, the presiding judicial officer may appoint, as provided for in subsections (a) and (b), an additional interpreter or provide for additional interpretation in a manner deemed appropriate by the presiding judicial officer. The presiding judicial officer should appoint a team of interpreters in the following circumstances: where a bench trial, jury trial, or other judicial proceeding is expected to last longer than two hours; in capital cases; in cases involving complex subject matter and expert witnesses; or whenever three or more persons need the services of the interpreter and there is no simultaneous remote interpreting equipment available in the courtroom. In making this determination, the presiding judicial officer shall follow the guidelines established by the Court Administrator for the appointment of additional interpreters for persons with limited English proficiency or who are deaf or hard of hearing.

(d) *Interpreter for immediate family.*—The presiding judicial officer may appoint, as provided in subsections (a) and (b), an interpreter or provide for addi-

tional interpretation, as provided in subsection (c), for an immediate family member of a principal party in interest.

(e) *Persons who are not to be appointed as interpreters.*—Under no circumstances should the presiding judicial officer appoint a family member of the person with limited English proficiency or who is deaf or hard of hearing, a witness, party, or other persons who may have an interest in the outcome of a judicial proceeding or those who may be perceived to have an interest in the outcome (e.g., police officers, sheriff’s deputies, constables, lawyers in the case, advocates assisting the parties, etc.) to act as an interpreter for that person.

Comment

Subsection (a) authorizes the presiding judicial officer to appoint a certified interpreter after the steps outlined in §§ 202, 203, and 204 have been taken. If the judicial proceeding is conducted in a court of record, the formal appointment of either a certified interpreter or an otherwise qualified interpreter should always be done on the record at the first appearance of the interpreter at the proceeding.

Subsection (c) recommends the appointment of a team of interpreters if the judicial proceeding is a trial, is likely to be more than two hours in duration, or, in the case of a deaf or hard of hearing person, whenever the limitations and particularities of the person’s form of communication require it (such as when the deaf or hard of hearing person is a foreign national who does not communicate in any of the forms of sign language spoken in this country). In addition, judicial officers should be aware that accuracy of interpretation can decline substantially after 30 minutes of continuous interpretation and should provide the interpreter with regular breaks accordingly.

Source

The provisions of this § 205 added November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415.

§ 206. Replacement or Removal of Interpreter.

(a) The presiding judicial officer shall dismiss an interpreter and obtain the services of another interpreter in accordance with this chapter if the interpreter:

(1) fails to follow the standards prescribed by law, by the Rules of Professional Conduct for Judiciary Interpreters established by the Court Administrator, or the NAD-RID code of professional conduct or any other professional organization regulating the interpreter, by engaging in conduct such as, but not limited to:

- (i) knowingly and willfully making false, misleading, or incomplete interpretation while serving in an official capacity;
- (ii) knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity;
- (iii) failing to reveal potential conflicts of interest;
- (iv) misrepresenting his or her credentials; or
- (v) failing to appear as scheduled without good cause.

(2) is unable to effectively communicate with the presiding judicial officer or the person with limited English proficiency or who is deaf or hard of hearing, including where the interpreter self-reports such inability.

(b) In the event a presiding judicial officer removes an interpreter for the grounds specified in subsection (a)(1), he or she shall notify the Court Administrator.

Comment

Subsection (b) requires that a presiding judicial officer inform the Court Administrator whenever an interpreter has to be removed for failing to follow standards prescribed by law or the Rules of Professional Conduct for Judiciary Interpreters established by the Court Administrator, the NAD-RID code of professional conduct, or any other professional organization regulating the interpreter. This mandatory reporting requirement allows the Court Administrator to enforce the applicable standards and Rules of Professional Conduct for Judiciary Interpreters. In addition to reporting violations resulting in removal of a court interpreter, the presiding judicial officer is encouraged to report any other suspected violations of legal standards, the Rules of Professional Conduct for Judiciary Interpreters, failure to follow Interpreter Certification Program guidelines, the Sign Language Interpreter and Transliterator State Registration Act, 63 P.S. §§ 1725.1 *et seq.*, and the standards of the Department of Labor and Industry's Office of the Deaf and Hard of Hearing (ODHH), even if the suspected violations are not sufficient to cause the presiding judicial officer to remove the interpreter.

Source

The provisions of this § 206 renumbered from § 204 and amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349440) to (349441)

Subchapter 3. CERTIFICATION REQUIREMENTS

- Sec.
- 301. Interpreter Certification Requirements.
- 302. Registration.
- 303. Orientation Workshop.
- 304. Examinations.
- 305. Criminal Background Check.
- 306. Interpreter Classification.
- 307. Interpreter Rules of Professional Conduct.
- 308. Age Requirement.
- 309. Fees.
- 310. Renewal of Certification.
- 311. Waiver and Reciprocity of Examination Requirements.

§ 301. Interpreter Certification Requirements.

To become certified or otherwise qualified, interpreters shall meet the requirements set forth in this chapter.

Source

The provisions of this § 301 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349441).

§ 302. Registration.

All interpreters must register with the Interpreter Certification Program (ICP) by completing a registration form. Registration is free and indicates the interpreter's willingness to become certified according to program guidelines. Sign language interpreters must also register with the Office for the Deaf and Hard of Hearing (ODHH) within the Department of Labor and Industry of the Commonwealth as required by the Sign Language Interpreter and Transliterator State Registration Act, 63 P.S. §§ 1725.1 *et seq.* if they hold a Registry of Interpreters for the Deaf (RID) or National Association of the Deaf (NAD) certificate.

Comment

Only registered interpreters who have attended an orientation workshop, passed the written examination, and passed all oral examinations required for their language of expertise can work in the Unified Judicial System (UJS). Registration forms are available on the Language Access & Interpreter Program page of the UJS website, <http://www.pacourts.us>.

Source

The provisions of this § 302 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349441) to (349442).

§ 303. Orientation Workshop.

Interpreters must attend a two-day orientation workshop sponsored by the ICP. Schedule A of these regulations contains a list of the topics covered by the orientation workshop.

Source

The provisions of this § 303 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349442).

§ 304. Examinations.

(a) **Written examination.**—After completing the orientation workshop, interpreters are eligible to take the written examination. The written exam is designed to measure the interpreter's general English language proficiency and usage, knowledge of court-related terms, and familiarity with ethical and professional conduct.

(1) **Multiple choice.**—The first part of the written examination consists of multiple-choice questions. All interpreters, except those who are deaf, must take the multiple choice part of the examination, regardless of the language they interpret. Schedule B of these regulations discusses the number of questions on the multiple choice portion of the examination and the minimum number of questions that must be answered correctly for an interpreter to pass.

(2) **Foreign Language Assessment Exercise.**—Interpreters who interpret languages for which there is a full or abbreviated oral proficiency examination must also take and pass a foreign language assessment exercise. Interpreters who interpret in more than one language for which a full or abbreviated oral examination exists must take the foreign language assessment exercise for each language. Interpreters must pass both the multiple-choice examination and the foreign language assessment exercise.

If no full or abbreviated oral exam exists in any of an interpreter's working languages, he or she is not required to take the foreign language assessment exercise. Sign language interpreters are exempt from taking the foreign language assessment exercise.

Comment

Interpreters are advised to take the foreign language assessment exercise in the language in which they are most fluent first. Subsequently, when attempting to become certified in a second language, they must take the foreign language assessment exercise for that language before taking the oral exam. Schedule B of these regulations discusses the content, passing requirements, and time allotted for the

foreign language assessment exercise. Schedule C contains a list of languages for which full or abbreviated oral proficiency examinations exist.

(b) Oral proficiency examination.—

(1) Foreign language interpreters.—Interpreters who pass the written examination must next take an oral proficiency examination. The type and format of the proficiency examination depends on the language interpreted and whether there is a full or abbreviated proficiency examination available in that language. Interpreters who interpret more than one language must be certified in each language.

(i) Languages for which there is a full or abbreviated oral proficiency examination.—Interpreters who interpret languages for which there is a full or abbreviated oral proficiency examination must take and pass all available parts in order to become certified. Where there is only an abbreviated examination, the interpreter must pass the available parts and agree to take the remaining parts when available in order to remain certified. Schedule C of these regulations details the contents of the full oral proficiency examination and provides lists of languages for which there is a full or abbreviated oral proficiency examination.

(ii) Languages for which there is no oral proficiency examination.—To demonstrate linguistic proficiency, interpreters of languages for which there is no full or abbreviated oral performance examination must comply with one or more of the following requirements:

(A) pass an oral proficiency interview in their foreign language in which the interpreter's foreign language skills are evaluated by expert raters during the course of a telephone-based interview session. Details of the oral proficiency interview are contained in Schedule C of these regulations;

(B) pass an oral English proficiency exam, such as the Versant Spoken English language test. When an interpreter's English language skills are deemed insufficient, he or she may be asked to take and pass an English proficiency interview at the superior level at the discretion of the ICP; and

(C) agree to take a full or abbreviated test when available.

(iii) Administration of oral proficiency examinations.—The oral proficiency examination must be taken and passed in the manner, and within the time periods, described in Schedule C of these regulations.

(iv) Retaking the oral proficiency examination.—Interpreters who fail any portion of the oral proficiency examination may retake it in the manner described in Schedule C of these regulations.

(2) Sign language interpreters.—After attending the orientation workshop and passing the multiple-choice part of the written exam, sign language interpreters must comply with the following requirements in lieu of an oral examination:

(i) be certified by Register of Interpreters for the Deaf (RID), Texas Board for Evaluation of Interpreters (BEI), or National Association for the Deaf (NAD);

(ii) provide proof of RID, BEI, or NAD certifications (proof shall consist of a copy of the interpreter's certificates and a valid active membership card, or a letter from RID, BEI, or NAD certifying the results of the proficiency examination and status); and

(iii) hold a relevant RID, BEI, or NAD certificate for legal interpretation as determined by the Court Administrator. A list of relevant RID, BEI, or NAD certificates for legal interpretation can be found in Schedule C of these regulations.

Source

The provisions of this § 304 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349442) to (349444).

§ 305. Criminal Background Check.

All interpreters who have satisfactorily completed the oral proficiency requirements shall be subject to a criminal background check performed through the AOPC. The following constitute grounds for failing the background check:

- (a) conviction of any type of felony or a misdemeanor involving fraud, dishonesty, corruption, moral turpitude, or false statements; or
- (b) any conviction related to the functions and duties of a court interpreter.

Source

The provisions of this § 305 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349444).

§ 306. Interpreter Classification.

In general, there are two broad categories of interpreters: certified and otherwise qualified. For certification purposes, interpreters are divided into three groups: (1) those who interpret in a language for which a full or abbreviated oral proficiency examination exists; (2) those who interpret in a language for which there is no oral proficiency examination; and (3) sign language and deaf interpreters. The classifications and certification criteria are subject to modification, revision and change. Schedule D of these regulations contains tables detailing the current classification of the three certification groups.

Comment

The classifications and certification criteria are subject to modification, revision, and change based on developments such as the availability of new performance tests, the effectiveness or development of evaluation tools, reconsideration of the skill level represented by the various categories, and other related factors. Therefore, these classifications should not be viewed as definitive or permanent, especially for those in the otherwise qualified category.

Source

The provisions of this § 306 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349444).

§ 307. Interpreter Rules of Professional Conduct.

All interpreters must sign a statement that they will abide by the Rules of Professional Conduct for Judiciary Interpreters.

Comment

A copy of the Pennsylvania Rules of Professional Conduct for Judiciary Interpreters may be found in Schedule F of these regulations.

Source

The provisions of this § 307 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349444) to (349445).

§ 308. Age Requirement.

To be certified, an interpreter must be at least 18 years of age and agree to provide proof of age if requested by any court official or member of the ICP.

Source

The provisions of this § 308 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349445).

§ 309. Fees.

Interpreters shall pay all fees required during the certification process and in the future for the renewal of their certification status, and any other fees imposed for the completion of any mandated program requirements. Fees will be waived for staff interpreters employed full time by any judicial district in Pennsylvania. Schedule E of these regulations contains a table of the current ICP fees.

Source

The provisions of this § 309 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349445).

§ 310. Renewal of Certification.

All interpreters must renew their certification every two years from the date the interpreter was placed on the roster by doing all of the following:

(a) Complete 16 continuing education (CE) units within the two-year compliance period. CE units may be obtained by: taking training or skill development workshops sponsored by institutes and professional organizations; taking academic courses in accredited colleges or universities in areas relevant to court interpreting; presenting as faculty in courses, workshops, or seminars on topics related to interpreting such as skill building, ethics, and professional issues; or teaching an academic course in an accredited college or university on a subject related to courts, legal interpreting, or their language of expertise. All CE units must be approved in advance by the Interpreter Certification Program administrator.

(b) Be free of any revocation or suspension under § 402 (relating to suspension or revocation of certification and roster status) or any similar sanction in any other jurisdiction.

(c) Undergo a new criminal background check when applying for renewal. Interpreters who have been found guilty of a major felony or crime will be denied renewal of their credentials. Misdemeanor offenses will be evaluated on a case-by-case basis to determine if they constitute a violation of the Rules of Professional Conduct for Judiciary Interpreters.

(d) Pay the renewal fee.

Source

The provisions of this § 310 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349445).

§ 311. Waiver and Reciprocity of Examination Requirements.

(a) Interpreters certified in another state that is a member of the National Center for State Courts (NCSC) Language Access Services Section.—Any interpreter who has successfully completed all the requirements of the oral proficiency examination administered in accordance with the standards of another NCSC Language Access Services Section member state may apply for reciprocity. The interpreter must have obtained a minimum of 80 percent in the multiple choice written exam and 70 percent in all parts of the oral proficiency examination and obtain a letter from the state’s program manager certifying the results. These interpreters must also comply with all additional program requirements.

(b) Interpreters holding Federal certification.—Interpreters holding a valid Federal Court Interpreter credential will be granted reciprocity under the same conditions explained above with regard to other NCSC Language Access Services Section member states. These interpreters must also comply with all additional program requirements.

Source

The provisions of this § 311 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349445) to (349446).

Subchapter 4. DISCIPLINARY PROCEDURES

Sec.	
401.	Scope.
402.	Suspension or Revocation of Certification and Roster Status.
403.	Reporting of Criminal Investigation/Prosecution or Discipline.
404.	Disciplinary Procedures.
405.	Disciplinary Dispositions.
406.	Reinstatement.
407.	Confidentiality.

§ 401. Scope.

These procedures apply only to interpreters who are included on the roster maintained by the Interpreter Certification Program (ICP). Staff interpreters who are employees of their respective judicial districts may also be subject to additional personnel and human resources policies in the districts where they are employed.

These procedures apply to complaints about roster interpreters who have allegedly engaged in unethical, unprofessional, or criminal conduct in the course of performing their interpreter duties and, in some instances, of unethical conduct outside the scope of interpreting.

Comment

Separate and distinct from the procedures under this chapter is the Language Access Complaint Form, available on the Language Access & Interpreter Program page of the UJS website, <http://www.pacourts.us>. Anyone can utilize the Language Access Complaint Form to make the court aware of other language access problems, such as where no interpreter is provided.

Source

The provisions of this § 401 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349446).

§ 402. Suspension or Revocation of Certification and Roster Status.

The following shall constitute grounds for disciplinary action against interpreters registered with the ICP. Certified, otherwise qualified, or registered status may be suspended or revoked for any of the following reasons:

- (a) violation of the Rules of Professional Conduct for Judiciary Interpreters;
- (b) conviction of a felony or misdemeanor involving moral turpitude, dishonesty, or false statements;
- (c) fraud, dishonesty, or corruption related to the functions and duties of a court interpreter;
- (d) knowing misrepresentation of court certification or roster status;
- (e) knowing and willful disclosure of confidential or privileged information obtained while serving in an official capacity as a court interpreter;
- (f) unprofessional or unethical conduct;
- (g) fraud or misrepresentation in obtaining or renewing certification status;
- (h) non-compliance with continuing education requirements;
- (i) non-payment of renewal fees; or
- (j) disciplinary action taken in conjunction with the interpreter's services in another jurisdiction.

Source

The provisions of this § 402 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349446) to (349447).

§ 403. Reporting of Criminal Investigation/Prosecution or Discipline.

An interpreter who receives notice that he or she is the subject of any federal or state criminal investigation or prosecution through a target letter, a subject letter, a presentment, an indictment, an arrest, a summons, a complaint, other legal process, or any other means from the investigating or prosecuting authority, in any jurisdiction or has been disciplined by the interpreter program of any other jurisdiction shall report the notice or discipline, unless precluded by order of court, to the ICP within forty-eight hours of receiving notification or discipline and shall provide, upon request of the ICP, any pertinent information related to the notification or discipline.

Source

The provisions of this § 403 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349447).

§ 404. Disciplinary Procedures.

(a) Lodging a complaint against an interpreter subject to these procedures.—A complaint must be submitted to the ICP in writing on a standard complaint form signed by the complainant. The complaint shall include a description of the alleged improper activity and the identity of any witnesses. Any person, including the ICP Administrator, may initiate a complaint.

(b) Review of Complaint.—The ICP Administrator will review the complaint and determine whether the allegations, if true, constitute grounds for disciplinary action pursuant to § 402 (relating to suspension or revocation of certification and roster status). If the ICP Administrator determines that the complaint does not allege conduct that constitutes grounds for discipline, the complaint shall be dismissed and both the complainant and the interpreter will be notified. If the ICP Administrator determines that sufficient grounds for discipline exist, a copy of the complaint will be sent to the interpreter.

(c) Response.—Upon receipt of a copy of the complaint, the interpreter may submit a written response to the ICP Administrator within 20 days. Failure to respond will be deemed an admission of the violations alleged in the complaint. The ICP Administrator will then apply whatever sanctions are considered to be appropriate.

(d) Investigation.—When the interpreter submits a timely response to the complaint, the ICP Administrator shall conduct an investigation. The ICP Administrator may contact the interpreter, the complainant, and any other person deemed to have relevant information, and use any reasonable means necessary to ascertain the facts and investigate the allegations. The ICP Administrator may also meet with the parties in an attempt to resolve the matter informally. Such a resolution may or may not include sanctions as agreed to by the parties.

(e) Determination.—If, at the conclusion of the investigation, the ICP Administrator determines that no conduct occurred that constitutes ground for discipline, the complaint shall be dismissed and both the complainant and the interpreter shall be notified. The notification shall include an explanation of the reason(s) for the ICP Administrator's determination.

When, after an investigation, the ICP Administrator determines that a violation of the Rules of Professional Conduct for Judiciary Interpreters has occurred and that sufficient grounds exist to support the allegations in the complaint, the ICP Administrator will submit a report of the findings in writing to the complainant and the interpreter including which policies have been violated and whatever sanctions are considered to be appropriate.

(f) Petition for review.—If the interpreter disagrees with the ICP Administrator's findings and proposed sanctions and wants to contest them, the interpreter shall submit a petition for review in writing to the Court Administrator within 20 days of receiving the ICP Administrator's report and proposed sanctions. The petition shall briefly state the facts that form the basis for the initial complaint and the interpreter's reasons for disagreeing with the ICP Administrator's findings or proposed sanctions. A copy of the petition shall be provided to the ICP Administrator. Failure to file a petition for review in a timely manner will be deemed an

admission of the violations alleged in the complaint and the ICP Administrator will implement the recommended sanctions.

(g) **Hearing.**—If the interpreter contests the findings of the ICP Administrator’s report or disagrees with the recommended sanctions and submits a timely petition for review as provided in subsection (f), the interpreter may request, and shall be given, a hearing before a hearing officer designated by the Court Administrator. A request for a hearing must be included in the petition for review.

If the interpreter requests a hearing in a timely manner, the hearing shall be held within 60 days from the date on which the petition is received by the Court Administrator. The following conditions will apply at the hearing.

(i) **Legal representation.**—The interpreter may be represented by counsel. The interpreter shall be responsible for all of his or her costs and expenses including attorney’s fees.

(ii) **Pre-hearing discovery.**—Pre-hearing discovery shall not be permitted unless expressly authorized by the hearing officer in response to a written request.

(iii) **Rules of evidence.**—Strict rules of evidence shall not apply. The hearing officer may, in his or her discretion, consider any evidence presented, including affidavits, and give such evidence the weight he or she deems appropriate.

(iv) **Reporting of hearing.**—A record of the hearing shall be made.

(v) **Confidentiality.**—Hearings shall be private and confidential, except upon request of the interpreter facing the allegations. Complainants, however, shall be entitled to attend the hearing.

(vi) **Hearing procedure.**—At the hearing, both the ICP Administrator and the interpreter shall be afforded the opportunity to introduce documents and other relevant evidence and to elicit sworn testimony. The hearing officer may, at his or her discretion, call witnesses, and consider or clarify evidence presented, giving such evidence the weight he or she deems appropriate.

(h) **Decision.**—Within 60 days after the hearing, the hearing officer shall advise the interpreter and the complainant via certified United States mail of his or her action on the complaint. If the hearing officer’s action includes sanctions, the hearing officer shall specifically enumerate the sanctions and the reason for such sanctions. If the sanctions include suspension or revocation of the interpreter’s certification or roster status or placing the interpreter in a lower qualification or skill level on the roster, the hearing officer shall specify the conditions and timeframe within which the interpreter may apply for reinstatement of his or her prior certification or roster status and any conditions that must be met.

Source

The provisions of this § 404 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349447) to (349449).

§ 405. Disciplinary Dispositions.

(a) **Burden of Proof.**—If the hearing officer finds that there is clear and convincing evidence that the interpreter has violated the interpreter Rules of Professional Conduct for Judiciary Interpreters, or that there are any other grounds for discipline as stated in § 402 (relating to suspension or revocation of certification

and roster status), the hearing officer shall impose such discipline or sanctions as he or she may deem appropriate. In determining the type of sanction, the hearing officer shall consider the nature and seriousness of the violation, any pattern of improper activity, the effect of the improper activity on the court system and/or the complainant, the amount of experience of the interpreter, and any other mitigating or aggravating information presented.

(b) Notification.—All decisions of the hearing officer shall be in writing and maintained on file with the ICP and, if adverse to the interpreter, shall contain factual findings supporting the decision. A copy of the decision shall be sent to the interpreter via certified United States Mail to the latest address listed with the ICP and by mail to the complainant.

(c) Sanctions.—Sanctions may consist of, but are not limited to, one or more of the following:

- (i) issuing a private or public reprimand;
- (ii) requiring that specific remedial education courses be taken;
- (iii) requiring that one or more portions of the certification examination or the certification requirements be successfully taken or retaken;
- (iv) requiring that the interpreter's work be supervised;
- (v) limiting the scope of practice or services the interpreter can provide;
- (vi) placing the interpreter at a lower qualification or skill level on the roster;
- (vii) requiring restitution, costs, or expenses to be paid;
- (viii) suspension of certification and/or roster status for a period not to exceed one year; or
- (ix) revocation of certification or roster status.

Source

The provisions of this § 405 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349449).

§ 406. Reinstatement.

An interpreter whose certification or roster status has been suspended for a period exceeding one year, or whose certification or roster status has been revoked, may not resume work in any area related to legal interpreting within the Unified Judicial System without first applying for reinstatement.

(a) Time for filing application for reinstatement.—An interpreter whose certification or roster status has been revoked may not apply for reinstatement until the expiration of at least two years from the effective date of revocation of his or her certification or roster status, or any other specific timeframe established by the revocation decision. An interpreter whose certification or roster status has been suspended may apply for reinstatement no earlier than ninety days before the end of the suspension period. An interpreter whose certification or roster status is suspended or revoked based on disciplinary action imposed by a foreign jurisdiction may apply for reinstatement at any earlier date on which reinstatement may be sought in the jurisdiction of initial discipline.

(b) Form and content of the application for reinstatement.—The application for reinstatement shall be in writing and addressed to the ICP Administrator. The application shall explain why the interpreter believes that he or she should be

reinstated and shall include proof of compliance with any conditions imposed as a condition for reinstatement.

(c) Disposition of the application for reinstatement.—Within 60 days of receiving the application for reinstatement, and after reviewing and analyzing the merits of the case, the ICP Administrator shall make a recommendation to the Court Administrator on whether or not the interpreter should be reinstated. The recommendation should explain the basis for the recommendation. The decision to grant or deny such a request shall be at the sole discretion of the Court Administrator who can impose any additional conditions upon reinstatement as he or she may deem appropriate.

Source

The provisions of this § 406 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349450).

§ 407. Confidentiality.

(a) When a disciplinary proceeding is either dismissed or results in a private reprimand, all records of the proceeding shall remain confidential unless otherwise provided for in this chapter. Otherwise, all such records shall become public whenever the decision becomes final.

(b) Complaints submitted to the ICP Administrator shall be confidential unless they result in formal disciplinary action.

(c) All communications to the Court Administrator, ICP Administrator, hearing officers, attorneys or counsel for the parties and staff, and all testimony given during a hearing pursuant to this disciplinary procedure relating to conduct for which an interpreter could be suspended, have his or her certification revoked, or be otherwise disciplined, shall be privileged.

Source

The provisions of this § 407 amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349450) to (349462).

**Schedule A
Interpreter Orientation Workshop**

Topics Covered by the Interpreter Orientation Workshop

1. Interpreting as a Profession.
2. Description of the Pennsylvania Judicial System.
3. Rules of Professional Conduct and Professional Development.
4. Interpreting Skills and Modes of Interpretation.
5. Preparing for the Written and Oral Examinations.

Interpreters will also receive training materials, information about resources, legal glossaries, and study tips at the Interpreter Orientation Workshop.

Faculty for the Interpreter Orientation Workshop

The Interpreter Orientation workshops will be taught by qualified professional trainers who are either federally, state, Texas Board of Evaluation of Interpreters (BEI), or Register of Interpreters for the Deaf (RID) certified interpreters and possess vast experience in the field of legal interpreting.

Source

The provisions of this Schedule A amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349451).

Schedule B
Written Interpreter Certification Examination

Multiple Choice: questions; passing requirements; time allotted.

The first part of the written examination consists of 135 multiple-choice questions. In order to pass the multiple-choice part, 80 percent (108 questions) must be answered correctly. Examinees are allotted two hours and fifteen minutes to complete the multiple-choice part of the test.

Foreign Language Assessment Exercise: questions; passing requirements; time allotted.

For the Foreign Language Assessment Exercise, the interpreter must translate ten items from English into the target language. The foreign language assessment will be administered the same day, immediately after the multiple-choice part of the examination, and will be rated on a pass/borderline pass/not pass basis. Examinees will have 1 hour to translate the ten items.

Source

The provisions of this Schedule B amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial page (349451).

Schedule C
Oral Proficiency Examination

Content of the Full Oral Proficiency Examination. The full oral proficiency exam consists of three parts: simultaneous interpretation, consecutive interpretation, and sight translation. For languages in which there is only an abbreviated exam, one or more of these segments has not yet been developed.

- 1. Simultaneous interpreting.** The interpreter listens through headphones to a recording of a simulated attorney's opening or closing statement to a judge or jury, a judge instructing a jury, or the cross-examination of a witness. The interpreter interprets aloud what he or she hears over the headset. This mode of interpreting simulates many situations interpreters encounter in courtrooms while interpreting for defendants during procedural hearings and trials. The statement is approximately 800 to 850 words in length, is recorded at an approximate speed of 120 words per minute, and is about seven minutes long.
- 2. Consecutive interpreting.** The interpreter interprets English language statements into the foreign language and foreign language responses into English. In consecutive interpreting the interpreter must wait until the speaker finishes the utterance before beginning to deliver the interpretation. This is the appropriate type of interpreting for non-English speaking witnesses, and other question-and-answer situations involving limited English proficient persons. The segments are pre-recorded and the interpreter may ask to have two of the segments repeated.
- 3. Sight translation.** The interpreter is asked to interpret one document from English into the foreign language and another from the foreign language into English. Each document is approximately 225 words in length and the interpreter is allowed six minutes to interpret each document.

Languages for which there are Full or Abbreviated Oral Proficiency Examinations.

1. **Full examination:** Arabic, Cantonese, Filipino (Tagalog), French, Haitian Creole, Hmong, Khmer, Korean, Mandarin, Polish, Portuguese, Russian, Spanish, and Vietnamese
2. **Abbreviated examination:** Bosnian/Croatian/Serbian and Turkish

Oral Proficiency Interview and Versant Spoken English test for Languages in Which There is no Full or Abbreviated Oral Proficiency Examination.

Oral proficiency interviews were developed by the American Council on the Teaching of Foreign Languages (ACTFL) for evaluating the language communication skills of speakers of foreign languages and are administered by Language Testing International (LTI). There are over 50 languages available and the interpreter must perform at the superior level to pass. The interpreter travels to a location with secure access to a phone line and, after providing a valid picture ID and other verifying information, the interpreter is placed in a room where the interview is administered over the telephone. The results are reported to the Interpreter Certification Program (ICP) and the interpreter.

Candidates must also pass the Versant Spoken English language test. This test evaluates the spoken English skills of non-native speakers. It is administered in the same manner as the oral proficiency interview. Candidates must travel to a secure location where, after verifying their identity, they take the test online on a computer. The 15-minute test is automated and the candidate's responses are recorded in six areas: reading, sentence construction, vocabulary, fluency, pronunciation, and overall comprehension. The minimum passing score is 47.

Administration of Oral Proficiency Examinations.

1. **Full oral proficiency examination.** Interpreters in languages for which there is a full oral proficiency exam will first be given the simultaneous part of the examination. After passing the simultaneous part, they will sit for the consecutive and sight portions at a subsequent date. The consecutive and the sight portions of the examination must be completed within one year from the date on which they took and passed the simultaneous portion. Interpreters will be allowed to carry forward the score of any portions they have passed for a maximum of two years. The same version of the examination can be taken a maximum of two times and the examination cannot be repeated more than once in a six-month period.
2. **Abbreviated oral proficiency examination.** Interpreters in languages for which only an abbreviated examination exists will be given the simultaneous portion first, if there is one. If no simultaneous part exists, they will take whatever portions are available, either the consecutive part, the sight part, or both. The scores of any portion passed can be carried forward for a maximum of two years. The same version of the examination can be taken a maximum of two times and the examination cannot be repeated more than once in a six-month period.

Retaking Part of the Oral Proficiency Examination.

Interpreters who fail the simultaneous part may retake the examination. However, they must wait six months in order to practice and develop their skills

before attempting to retake the examination. If after passing the simultaneous part the interpreter fails either the consecutive or the sight portions, they must retake and pass whichever part they failed within one year. This is because interpreters must pass all three parts of the oral proficiency examination within one testing cycle, which consists of two years. The testing cycle requirement is not triggered until the interpreter passes the simultaneous portion.

Interpreters of languages for which there is only an abbreviated oral proficiency examination must also complete the remaining parts within one testing cycle after passing the simultaneous part, if there is one. If no simultaneous part exists, the interpreter must take whatever parts are available within one testing cycle. The testing cycle requirement is not triggered until the interpreter passes at least one part of the available parts of the oral proficiency examination that are available.

Register of Interpreters for the Deaf (RID), the Texas Board of Evaluation of Interpreters (BEI), or National Association for the Deaf (NAD) Certificates for Legal Interpretation.

- Specialist Certificate-Legal (SC-L)
- Combined Certificate of Interpretation and Transliteration (CI/CT)
- Comprehensive Skills Certificate (CSC)
- National Interpreter Certification (NIC)
- Certified Deaf Interpreter (CDI)
- Conditional Legal Interpreting Permit-Relay (CLIP-R)
- Individual CI or CT
- NAD V Master
- NAD IV Advanced
- BEI Court Interpreter Certification

Interpreters with a Court Interpreter Certification from BEI must comply with all qualifications and requirements for either hearing or deaf candidates listed in BEI Handbook Section 4.2.1 (Qualifications and Requirements for Court Interpreter Certification). *See* <https://www.hhs.texas.gov/>.

Source

The provisions of this Schedule C amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349451) to (349453).

**Schedule D
Interpreter Classification Tables**

1. Interpreters Working in a Foreign Language for Which There is a Full or Abbreviated Oral Proficiency Examination.

CRITERIA	CLASSIFICATION			
	Certified		Otherwise Qualified	
	Master	Certified	Qualified	Conditional
Written Exam	85% or higher	80% or higher	80% or higher	80% or higher
Simultaneous	85% or higher	70% or higher	60% or higher	50% or higher
Consecutive	85% or higher	70% or higher	60% or higher	50% or higher

CRITERIA	CLASSIFICATION			
	Certified		Otherwise Qualified	
	Master	Certified	Qualified	Conditional
Sight (Eng./FL)	85% or higher average but no lower than 80% in each part	70% or higher average but no lower than 65% in each part	60% or higher average but no lower than 55% in each part	50% or higher
Sight (FL/Eng.)	85% or higher average but no lower than 80% in each part	70% or higher average but no lower than 65% in each part	60% or higher average but no lower than 55% in each part	50% or higher

2. Interpreters Working in a Foreign Language for Which There is no Full or Abbreviated Oral Proficiency Examination.

CRITERIA	CLASSIFICATION	
	Otherwise Qualified	
	Registered	Conditional
Written Exam	80% or higher	80% or higher
Oral Proficiency Interview	Superior Level	No Oral Proficiency Interview available
English Oral Proficiency Test	Versant English Test Passing score 47	Versant English Test Passing score 47
Other	Pass oral proficiency test in their language when available	Pass oral proficiency test in their language when available

3. Sign Language Interpreters and Interpreters for the Deaf.

CRITERIA	CLASSIFICATION			
	Certified		Otherwise Qualified	
	Master	Certified	Qualified	Registered
Written Exam	85% or higher	80% or higher	80% or higher	80% or higher
RID Certification	SC/L	CI/CT, CDI, CLIP-R, CSC, NIC	CI or CT, or any other relevant	Any other relevant RID certificate
BEI Certification	BEI Court Interpreter Certification	N/A	N/A	N/A

CRITERIA	CLASSIFICATION			
	Certified		Otherwise Qualified	
	Master	Certified	Qualified	Conditional
NAD Certification	None	NAD V	NAD IV	Any other relevant NAD certificate
Register with ODHH	Yes	Yes	Yes	Only if holding a RID certificate
Attempt to obtain relevant legal certificate	Not applicable	As necessary	As necessary	As necessary
Provide evidence of certification	Yes	Yes	Yes	Yes

Source

The provisions of this Schedule D amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349454) to (349455).

**Schedule E
Interpreter Certification Program Fees**

EVENT	APPLIES TO	IN-STATE	OUT-OF-STATE
Registration	All interpreters	No charge	No charge
Orientation Workshop	All interpreters	\$150	\$175
Written Examination	All interpreters (except those qualifying for reciprocity)	\$50	\$75
Language Assessment Exercise Retakes	Interpreters in languages with a full or abbreviated NCSC test	\$25	\$25
Oral Exam—Simultaneous	Interpreters in languages with a full or abbreviated NCSC test (except those who qualify for reciprocity)	\$100	\$125
Oral Exam—Consecutive and Sight	Interpreters in languages with a full or abbreviated NCSC test (except those who qualify for reciprocity)	\$150	\$175
Oral Exam—Full test	Interpreters in languages with a full NCSC test (except those who qualify for reciprocity)	\$250	\$300

<i>EVENT</i>	<i>APPLIES TO</i>	<i>IN-STATE</i>	<i>OUT-OF-STATE</i>
Oral Exams Retakes— Any one part	Interpreters in languages with a full or abbreviated NCSC test (except those who qualify for reciprocity)	\$100	\$125
Oral Exams Retakes— Any two parts	Interpreters in languages with a full or abbreviated NCSC test (except those who qualify for reciprocity)	\$150	\$175
Oral Proficiency Interview	Interpreters in languages for which there is no NCSC full or abbreviated oral exam	\$139*	\$139*
Versant English Test	Interpreters in languages for which there is no NCSC full or abbreviated oral exam	\$32.95*	\$32.95*
Registration of RID, BEI or NAD certifications	Sign language interpreters only	\$25	\$25
Background check	All interpreters	No charge	No charge
Registration of out-of-state certification	Interpreters applying for reciprocity	\$25	\$25
Renewal of certification (every two years)	All interpreters	\$25	\$25

* Fees subject to change based on the agency administering the exam.

Source

The provisions of this Schedule E amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349455) to (349456).

**Schedule F
Pennsylvania Rules of Professional Conduct for
Judiciary Interpreters**

Legal Authority

In accordance with Act 172 of 2006 (42 Pa.C.S. §§ 4411(e) and 4431(e)), the Court Administrator of Pennsylvania hereby establishes these Rules of Professional Conduct for Judiciary Interpreters in the Unified Judicial System of Pennsylvania.

Preamble

Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to limited English proficiency (LEP) or because they are speech impaired or have a hearing loss. It is the Court's intention to remove this communication barrier in order to provide equal access and due process so that these persons are placed in the same position as similarly situated persons for whom there is no such impediment. As officers of the court, interpreters help assure that such persons may enjoy equal access to justice and that court proceedings and court support services function efficiently and effectively. Interpreters are highly skilled professionals who fulfill an essen-

tial role in the administration of justice. In their capacity as officers of the court, court interpreters are bound by rules of professional conduct.

Applicability and Enforcement

These rules shall guide and be binding upon all persons, agencies and organizations who administer, supervise, deliver, or attempt to become certified to deliver, interpreting services to the Judiciary. It shall govern the conduct of persons who are employed, under contract or otherwise appointed by the Judiciary to interpret, transliterate, or deliver foreign and sign language interpreting services to the judicial system. This shall include persons who offer their services free of charge or on a volunteer basis.

Violations of these rules may result in the interpreter being removed from a case, being suspended, being denied future appointments by the courts, losing certification if the interpreter has been certified pursuant to Act 172 and the Administrative Regulations Governing Language Access for Persons with Limited English Proficiency and for Persons who are Deaf or Hard of Hearing or any other sanctions deemed appropriate by the Court Administrator of Pennsylvania. The Court Administrator is authorized to adopt policies and procedures necessary to enforce these rules.

RULE 1: REPRESENTATION OF QUALIFICATIONS.

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

Comment

Acceptance of a case by an interpreter conveys linguistic competency in legal settings. Withdrawing or being asked to withdraw from a case after it begins causes a disruption of court proceedings and is wasteful of scarce public resources. It is therefore essential that interpreters present a complete and truthful account of their certification, training and experience prior to appointment so the officers of the court can fairly evaluate their qualifications for delivering interpreting services.

RULE 2: ACCURACY AND COMPLETENESS.

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

Comment

The interpreter has a twofold duty: (1) to ensure that the proceedings in English reflect precisely what was said by the LEP, speech impaired, or hard of hearing person; and (2) to place the LEP, speech impaired, or hard of hearing person on an equal footing with those who understand English. This creates an obligation to conserve every element of information contained in a source language communication when it is rendered in the target language.

Therefore, interpreters are obligated to apply their best skills and judgment to preserve faithfully the meaning of what is said in court, including the style and register of speech. Verbatim or literal oral interpretations are not appropriate when they distort the meaning of the source language, but every spoken statement, even if it appears non-responsive, obscene, rambling, or incoherent should be interpreted. This includes apparent misstatements.

Interpreters should never interject their own words, phrases, or expressions. They 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. Sign language interpreters, therefore, should ensure that court participants do not confuse these essential elements of the interpreted language with inappropriate interpreter conduct.

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

RULE 3: IMPARTIALITY AND AVOIDANCE OF CONFLICT OF INTEREST.

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

Comment

Interpreters serve as officers of the court and their main duty in court proceedings is to serve the court. This is true regardless of whether the interpreter is publicly retained at government expense or retained privately at the expense of one of the parties.

Interpreters should avoid any conduct or behavior that presents the appearance of favoritism toward any of the parties. Interpreters should maintain professional relationships with their clients and should not take an active part in any of the proceedings. The interpreter should discourage an LEP or speech impaired person or person with hearing loss's personal dependence on the interpreter.

During the course of the proceedings, interpreters should not converse with parties, witnesses, jurors, attorneys, or friends or relatives of any party, except in the discharge of their official functions. It is especially important that interpreters, who are often familiar with attorneys, courtroom staff, and law enforcement officers, refrain from casual and personal conversations with anyone in court that may convey an appearance of a special relationship or partiality to any of the court participants.

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

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

Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest. Before providing professional services in a matter, interpreters must disclose to all parties any prior involvement, whether personal or professional, that could be reasonably construed as a conflict of interest. This disclosure should not include privileged or confidential information. The following circumstances are presumed to create actual or apparent conflicts of interest for interpreters and should preclude them from serving in any proceeding in which:

1. they are a friend, associate, or relative of a party or counsel for a party involved in the proceedings;
2. they or their spouse, child, or relative is a party to the proceeding or have a financial interest or any other interest that would be affected by the outcome of the proceeding;
3. they have been previously retained by a law enforcement agency to assist in the preparation of the criminal case at issue or have served in an investigative capacity for any party involved in the case; and
4. they have been involved in the choice of counsel or law firm for that case.

Interpreters should also disclose to the court and other parties when they have previously been retained for private employment by one of the parties in the case and should not serve in any matter in which payment for their services is contingent upon the outcome of the case.

An interpreter who is also an attorney should not serve in both capacities in the same matter. Similarly, attorneys, probation officers, investigators, police officers, sheriffs, therapists, social workers, advocates, and other professionals should not interpret in any judicial proceeding or any court support service in which they are professionally involved with a party to the matter.

RULE 4: PROFESSIONAL Demeanor.

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

Comment

Interpreters should know and observe established protocols, rules, and procedures for delivering interpreting services. They should speak at a rate and volume that enables them to be heard and understood throughout the courtroom, but their presence should otherwise be as unobtrusive as possible. They should not draw undue or inappropriate attention to themselves and should dress in a manner that is consistent with the dignity of the proceedings and the court. Interpreters are encouraged to avoid personal or professional conduct that could discredit or be embarrassing to the court.

RULE 5: 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 discharge of their duties. Privileged information refers to confidential information that is protected from disclosure by law or statute, as listed in 42 Pa.C.S. §§ 4415 and 4436 and § 103 of these Regulations. They must be familiar with and understand the rules applicable to the handling of privileged and confidential information. It is especially important that interpreters understand and uphold the attorney-client privilege, which requires confidentiality with respect to any communication between attorney and client. Interpreters must also refrain from repeating or disclosing information obtained in the course of their employment that may be relevant to the legal proceeding.

In the event that an interpreter becomes aware of information that suggests imminent harm to someone or relates to a crime being committed during the course of the proceedings, the interpreter should immediately disclose the information to an appropriate authority within the judiciary who *is not* a party in the proceeding and seek advice in regard to the potential conflict in professional responsibility.

RULE 6: RESTRICTION FROM 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.

Comment

Even when communications are not privileged, interpreters should be mindful not to discuss a case while it is pending. An exemption to this rule would be if the interpreter is called upon to testify as a language expert. In such instances the interpreter should limit his or her opinion to strict matters of linguistic expertise, such as the meaning and usage of specific words or culturally bound terms. When called upon to testify in court, the interpreter should request a ruling by the court upon the propriety of testimony on confidential matters. Also, if a disciplinary complaint or lawsuit arising out of interpretation services is filed against an interpreter, he or she may testify about relevant communications.

RULE 7: SCOPE AND LIMITATIONS OF PRACTICE.

Interpreters shall limit themselves to interpreting, transliterating or sight translating and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting, transliterating or sight 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, transliterating or sight translating only. They should not take a primary role in such communications and may take a secondary role only as necessary for assuring an accurate and faithful interpretation, transliteration or sight translation.

Interpreters may assume a secondary role when they find it necessary to speak directly to the court to seek assistance in performing their duties, *e.g.*, requesting that speakers moderate their rate of communication or repeat or rephrase a statement, correcting an interpreting error, or notifying the court of their reservations about their ability to satisfy an assignment competently.

Interpreters should avoid activities that may be reasonably construed to constitute the practicing of law, *e.g.*, giving legal advice or answering parties' questions that would ordinarily be answered by an attorney. An interpreter may convey legal advice from an attorney to a person only while the attorney giving it is present.

Interpreters should not explain the purpose of forms and services or otherwise act as counselors, advisors or advocates unless they are interpreting for someone who is acting in that official capacity. The interpreter may sight translate language on a form for a person who is filling out the form, but may not explain the form or its purpose for such a person.

Interpreters should not personally serve to perform official acts that are the official responsibility of other court officials including, but not limited to, court clerks, pretrial release investigators, interviewers, probation officers, hearing officers, or counselors.

RULE 8: ASSESSING AND REPORTING IMPEDIMENTS TO PERFORMANCE.

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the court or other appropriate judicial authority.

Comment

Interpreters should immediately notify the court if the communication mode or language of the LEP person cannot be readily interpreted or if the interpreter's language of expertise does not match that of the LEP person. They should also notify the court of any environmental or physical limitation that impedes or hinders their ability to deliver interpreting services adequately (*e.g.*, too much noise in the courtroom, inability to hear the speaker or be heard by the LEP person, more than one person speaking at a time, or principals and witnesses speaking at a high rate of speed).

Sign language interpreters must ensure that they can both see and convey the full range of visual language elements necessary for communication, including facial expressions and body movement, as well as hand gestures.

Interpreters should inform the presiding officer of the need to take periodic breaks in order to maintain mental and physical alertness and prevent interpreter fatigue. They should also recommend and encourage the use of team interpreting whenever necessary.

Interpreters should refrain from accepting a case if they feel the language and subject matter is likely to exceed their skills or capacities. Even competent and experienced interpreters may encounter cases in which routine proceedings suddenly involve technical or specialized terminology unfamiliar to them. Interpreters should feel no compunction about notifying the presiding officer if they feel

unable to perform competently, due to lack of familiarity with terminology, preparation, or difficulty in understanding a witness or defendant.

Finally, interpreters should notify the court of any personal bias they may have involving any aspect of the proceedings which may prevent them from performing their duties according to these rules. For example, an interpreter who has been the victim of a sexual assault may wish to be excused from interpreting in cases involving similar offenses.

RULE 9: 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 these rules, or any other official policy governing court interpreting and legal translating.

Comment

Because users of interpreting services frequently misunderstand the proper role of the interpreter, they may ask or expect the interpreter to perform duties or engage in activities that run counter to the provisions of these rules or other laws, regulations, or policies governing court interpreting. It is incumbent upon the interpreter to inform such persons of the interpreter's professional obligations. If after having been apprised of these obligations, the person persists in demanding that the interpreter violate them, the interpreter should inform a supervisor, the judge, the court, or another official with jurisdiction over interpreter matters to resolve the situation. Interpreters should report any solicitation or effort by another to induce or encourage them to violate any law, any provision of these rules, or any other standard governing interpreting, transliteration or sight translating promulgated by the Judiciary.

RULE 10: ACCEPTANCE OF COMPENSATION.

Interpreters shall accept no remuneration, gifts, gratuities, or any other valuable consideration in excess of their authorized compensation in the performance of their official interpreting duties.

Comment

Interpreters should never accept any type of gifts, payment, or compensation other than their due payment for services rendered. They should reject any offers of favors, presents, tips (monetary or otherwise), or other acknowledgement as a "thank you" for services rendered. Neither should they accept invitations to events where their presence, admission, or participation can be construed as remuneration for professional services or assistance rendered in the course of the discharge of their duties. Interpreters should never be perceived as taking advantage of knowledge or information obtained in the performance of their official duties, or by their access to court records, facilities, or privileges, for their own or another's personal gain.

RULE 11: PROFESSIONAL DEVELOPMENT.

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

Comment

Interpreters must continually strive to increase their knowledge of the languages they work professionally, including past and current trends in technical, vernacular and regional terminology, as well as their application within court proceedings. They should also keep abreast of all statutes, rules of court, and policies of the judiciary that relate to the performance of their professional duties.

An interpreter should seek to continually elevate the standards of the profession through participation in workshops, professional meetings, interaction with colleagues, and reading current literature in the field.

RULE 12: AGREEMENT TO ABIDE BY THESE RULES.

Interpreters and transliterators working for the Unified Judicial System of Pennsylvania accept and agree to be bound by these rules, and understand that appropriate sanctions may be imposed by the ICP Administrator, hearing officer, or Court Administrator for willful violations.

Comment

Upon completion of all certification requirements, interpreters shall be sworn in and issued a certificate attesting that they have successfully completed all program requirements. At the same time they will be asked to sign a copy of these rules of conduct which will then be placed in their permanent file. They will also receive a copy of the program’s disciplinary policy.

Source

The provisions of this Schedule F amended November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415. Immediately preceding text appears at serial pages (349456) to (349462).

Schedule G

Interpreting Fee Schedule

Pursuant to 42 Pa.C.S. § 4411(d) and § 4431(d), the Court Administrator establishes the following reasonable fee schedule for onsite, video, and telephonic interpreting services rendered by certified and otherwise qualified interpreters in judicial proceedings and other court services. These fees apply to both foreign and sign language interpretation.

The compensation schedule is subject to periodic review by the Court Administrator.

Onsite, Video, and Telephonic Interpreting Fee Schedule

<i>Interpreter Classification</i>	<i>Hourly up to 3.5 Hours</i>		<i>Half & Full Day</i>	
	<i>Hourly (2 hr. min.)</i>	<i>30 Minutes Increments (1/2 hourly rate)</i>	<i>Half Day (3.5 hrs.)</i>	<i>Full Day (7 hrs.)</i>
Master	\$80	\$40	\$260	\$475
Certified	\$65	\$32.50	\$210	\$400
Qualified	\$45	\$22.50	\$140	\$270
Conditional	\$35	\$17.50	\$105	\$200
Registered	\$60	\$30	\$200	\$390
Rare or uncommon languages and interpreters from resource lists provided by the ICP	Interpreters in this category will be compensated based on their qualifications, experience, type of case, and language within the parameters of the compensation schedule and the guidelines. <i>Note:</i> Rare or uncommon languages are languages of low diffusion not listed in the ICP Roster.			

A. Onsite Interpreting Provisions

1. *Assignments.* An assignment is the contracted timeframe for which the interpreter is retained regardless of the number of cases scheduled within that timeframe. For example, when interpreters are assigned to several cases at various courts in the same judicial district/county which are scheduled sequentially on the same day, that constitutes an assignment, and compensation will be based on the total time worked in that district that day. The two (2) hour minimum applies per assignment, not on a per case basis. A half-day consists of three and a half (3.5) hours, and a full day consists of seven (7) hours.

2. *Cancellation.* Cancellations are based on business days and exclude weekends and holidays.

i. Interpreters who receive at least forty-eight (48) hours' advance notice of a cancellation, excluding weekends and holidays, are not entitled to a cancellation fee.

ii. *Hourly, half, and one day assignments.* If cancellation occurs with less than forty-eight (48) hours' notice provided to the interpreter, excluding weekends and holidays, the cancellation fee shall be equivalent to two (2) hours' pay based on the hourly rate and interpreter classification.

iii. *Multiple day assignments.* When the interpreter is hired for an assignment lasting two (2) or more days, if cancellation occurs with less than forty-eight (48) hours' notice provided to the interpreter, excluding weekends and holidays, the cancellation fee shall be equivalent to one (1) full day compensation for the first day and two (2) hours for each additional day based on interpreter classification. If a case ends before the contracted time (e.g., an interpreter is retained for a three (3) day trial, but the case settles after the first day), an interpreter will be entitled to two (2) hours pay for each canceled day.

iv. Interpreters will be entitled to reimbursement of any incurred expenses in accordance with Section 4.

v. When the interpreter cancels an assignment, there will be no compensation.

3. *Compensation, time extensions, and overtime.*

i. *Minimum compensation.* When hired at an hourly rate, interpreters are entitled to a two (2) hour minimum guaranteed compensation per assignment based on the interpreter's credentialing level.

ii. *Hourly Rate.* The first two hours are paid according to the table above. After the second hour, compensation will be paid at half (1/2) the hourly rate in thirty (30) minute increments based on the interpreter credentialing level. Judicial districts are strongly encouraged to consider hiring at the half- or full-day rate when assignments are expected to go over two (2) hours and when hiring for more than one case.

iii. *Half-day rate.* The first three and a half (3.5) hours are paid according to the table above. Assignments that exceed three and a half (3.5) hours

but are less than seven (7) hours long will be paid at half (1/2) the hourly rate in thirty (30) minute increments based on the interpreter's credentialing level.

iv. *Full-day rate.* A full-day rate consists of seven (7) hours paid according to the table above.

v. *Overtime.* Overtime will be paid only when an assignment exceeds a full day (7 hours). Overtime compensation will be in hourly increments at one and a half (1.5) times the hourly rate based on the interpreter's credentialing level.

vi. *Assignments outside normal business hours (5 pm to 8 am).* Assignments that occur outside of normal business hours will be paid at one and a half (1.5) times the hourly rate based on the interpreter's credentialing level. A two (2) hour minimum will apply. Additional time will be paid at one and a half (1.5) times the hourly rate in thirty (30) minute increments based on the interpreter's credentialing level.

4. *Mileage, parking, tolls, and travel.*

i. Mileage will be paid at the prevailing rate in the county or court whenever the interpreter travels more than twenty-five (25) miles round trip to an assignment. If no mileage rate is set locally, mileage will be paid at the prevailing Internal Revenue Service rate. Tolls will be reimbursed with proof of payment (*e.g.*, detailed bills evidencing payment, receipts, and/or canceled checks).

ii. Parking will be paid in full when no free parking exists within a five (5)-block radius of the assignment location. Parking will not be paid when free parking is provided.

iii. Travel time will be paid when the interpreter travels more than two (2) hours round trip from the interpreter's normal business address or location to an assignment. Travel time will be paid at half (1/2) the hourly compensation rate for the interpreter's classification.

iv. *Travel by public transportation.* If travel by bus, train, or plane is required, the interpreter is entitled to full reimbursement of travel costs. Courts are encouraged to make the necessary travel arrangements.

v. *Overnight accommodations.* If overnight hotel accommodations are required for the completion of an assignment, this expense is reimbursable to the interpreter. Courts are encouraged to make the necessary reservations themselves at a local hotel close to the assignment location. The interpreter is also entitled to a per diem for overnight assignments based on the prevailing federal CONUS rates.

vi. Proof of payment (*e.g.*, detailed bills evidencing payment, receipts, and/or canceled checks) must accompany all requests for reimbursement.

5. *Interpreting Equipment.* Interpreters are not allowed to charge for the use of their own interpreting equipment. Courts are encouraged to purchase interpreting equipment and make it available to interpreters.

B. *Video and Telephonic Interpreting Provisions*

1. *Assignments.* An assignment is the contracted timeframe for which the interpreter is retained regardless of the number of cases scheduled within that timeframe. For example, when interpreters are assigned to several cases at various courts in the same judicial district/county which are scheduled sequentially on the same day, that constitutes an assignment, and compensation will be based on the total time worked in that district that day. The two (2) hour minimum applies per assignment, not on a per case basis.

2. *Cancellation.* Cancellations are based on business days and exclude weekends and holidays.

i. Interpreters who receive at least forty-eight (48) hours' advance notice of a cancellation, excluding weekends and holidays, are not entitled to a cancellation fee.

ii. *Hourly assignments.* If cancellation occurs with less than forty-eight (48) hours' notice, excluding weekends and holidays, the cancellation fee shall be equivalent to two (2) hours' pay based on the hourly rate and interpreter classification.

iii. *Half- and full-day assignments.* If cancellation occurs with less than forty-eight (48) hours' notice, excluding weekends and holidays, the cancellation fee shall be equivalent to two (2) hours' pay based on the hourly rate and interpreter classification.

iv. When the interpreter cancels an assignment, there will be no compensation.

3. *Compensation, time extensions, and overtime.*

i. *Start time.* The time at which the interpreter begins to receive payment for services rendered is when the interpreter connects remotely to the courtroom or is asked to be available, not the time when the proceeding actually begins (*e.g.*, start time in the hearing notice), or when the judge takes the bench.

ii. *Minimum compensation.* When hired at an hourly rate, interpreters are entitled to a two (2) hour minimum guaranteed compensation per assignment based on the interpreter's credentialing level.

iii. *Hourly rate.* The first two hours are paid according to the table above. After the first two hours, compensation will be paid in thirty (30) minute increments at one-half (1/2) the hourly rate for the next one and a half (1.5) hours based on the interpreter's credentialing level. Judicial districts are strongly encouraged to consider hiring at the half- or full-day rate when assignments are expected to go over two (2) hours and when hiring for more than one case.

iv. *Half-day rate.* The first three and a half (3.5) hours are paid according to the table above. Assignments that exceed three and a half (3.5) hours but are less than seven (7) hours long will be paid at half (1/2) the hourly rate in thirty (30) minute increments based on the interpreter's credentialing level.

v. *Full-day rate.* A full-day rate consists of seven (7) hours paid according to the table above.

vi. *Overtime.* Overtime will be paid only when an assignment exceeds a full day (7 hours). Overtime compensation will be in hourly increments, at one and a half (1.5) times the hourly rate based on the interpreter's credentialing level.

vii. *Remote assignments outside normal business hours (5 pm to 8 am).* Remote assignments outside of normal business hours via video or phone will be paid at one and a half (1.5) times the hourly rate based on the interpreter's credentialing level. A two (2) hour minimum will apply. Additional time will be paid at one and a half (1.5) times the hourly rate in thirty (30) minute increments based on the interpreter's credentialing level.

4. *Time commitment.*

i. Interpreters should be notified about the expected length of the assignment by the court (*i.e.*, by the language access coordinator or assignment clerk) when contracted. This will be based on the best estimate available to the court at the time of hiring.

ii. Interpreters must remain available for the duration of the contracted time, including the first two hours when hired at the hourly rate unless they are released by the court prior to the expiration of their contracted time. When a case lasts less than two hours, interpreters must check with the language access coordinator or assignment clerk to see if they are needed elsewhere before being released.

iii. As a best practice, interpreters should allow at least thirty (30) minutes between cases when contracting to provide services remotely unless cases are scheduled sequentially in the same judicial district. This allows for a smooth transition between assignments.

iv. When reporting for a remote assignment, the interpreter must always advise the court if they have another matter scheduled after the expected time commitment they agreed to when hired for the case.

v. Under no circumstances will the interpreter leave an ongoing matter due to a scheduled conflict with an upcoming assignment without the consent of the presiding judicial officer. The interpreter must alert the presiding judicial officer of any possibility of a scheduling conflict and wait for the court to conclude the matter before withdrawing from the call. If necessary, the interpreter should be given an opportunity to inform their client for the next assignment that they are delayed.

vi. Any interpreter who intentionally leaves a video or telephonic assignment before the expiration of the agreed length of time for which the interpreter was contracted, without the consent of the presiding judicial officer, will not be compensated for any time worked on the case.

5. *Equipment considerations.*

i. The interpreter shall have the necessary equipment, hardware, software, and internet broadband connection, to provide effective video and telephone interpretation and will maintain such equipment in proper working order. The equipment must be compatible with the various platforms and solutions used by judicial districts. The use of an Ethernet connection, headphones, and microphones for providing video remote interpretation is preferred and considered a best practice.

ii. A fast and secure wired connection is preferred for providing telephonic interpretation during both court proceedings and conference calls and when using a separate line to provide simultaneous interpretation during video calls. This is due to security and privacy concerns and to the unreliability and vulnerability of mobile devices and wireless signals. If a mobile wireless device is used, the interpreter must make sure they are in a location with a strong signal and are working within a secure network.

iii. Interpretation should be provided from a quiet location free of noise and distraction, preferably from a designated space in the interpreter's office or home. It is considered best practice to use neutral background and noise cancellation headphones. Video remote interpretation (VRI) should never be done from a vehicle or while driving.

iv. Interpretation should not be done over speakerphone when the interpreter is in a location that does not provide privacy and a quiet, secure environment.

v. Interpreters are not allowed to charge for the use of their own interpreting equipment.

Source

The provisions of this Schedule G added November 22, 2021, effective January 1, 2022, 51 Pa.B. 7415.

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