

# CODE OF PROFESSIONAL CONDUCT FOR INTERPRETERS IN MICHIGAN COURTS

All court interpreters, whether certified or not, must understand and abide by the Code of Professional Conduct for Court Interpreters.

The purpose of this Code of Professional Responsibility is to establish and maintain high standards of conduct, to preserve the integrity and independence of the adjudicative system, and to promote public confidence in the administration of justice.

## PREAMBLE

Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to limited English proficiency or a speech or hearing impairment. It is essential that the resulting communication barrier be removed, as much as possible, so that these persons are placed in the same position as similarly situated persons for whom there is no such barrier. An interpreter is sworn in as an officer of the court. As an officer of the court, the interpreter helps assure that such persons may enjoy equal access to justice and that court proceedings and court support services function efficiently and effectively. Interpreters are highly skilled professionals who fulfill an essential role in the administration of justice.

A criminal defendant who does not speak English or has a hearing loss has a due process right to an interpreter to interpret the proceedings for them so that they can participate effectively in his or her own defense.

## APPLICABILITY

This code shall guide and shall apply to all persons, agencies, and organizations who administer, supervise use, or deliver interpreting services to the judiciary. Violations of this code may result in the interpreter being deleted from a court's list of qualified and/or certified interpreters.

## CANON 1: ACCURACY AND COMPLETENESS

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

The interpreter has a two-fold duty: 1) to ensure that the proceedings precisely reflect in English what the non-English-speaking person said and 2) to place the non-English-speaking person on 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 faithfully preserve the meaning of what is said in court, including the style or register of speech. Verbatim, "word for word," or literal oral interpretations are not appropriate when they distort the meaning of the source language. Every spoken statement, even if it appears nonresponsive, obscene, rambling, or incoherent, should be interpreted. This includes apparent misstatements.

Interpreters should never interject their own words, phrases, or expressions. If the need arises to explain an interpreting problem (e.g., a term or phrase with no direct equivalent in the target language or a misunderstanding that only the interpreter can clarify), the interpreter should ask the judge's permission to provide an explanation. Interpreters should convey the emotional emphasis of the speaker without reenacting or mimicking the speaker's emotions or dramatic gestures.

Sign language interpreters, however, must employ all of the visual cues that the language for which they are interpreting 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 demonstrate their professionalism by objectively analyzing any challenge to their performance.

## **CANON 2: REPRESENTATION OF QUALIFICATIONS**

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

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

## **CANON 3: IMPARTIALITY AND AVOIDANCE OF CONFLICT OF INTEREST**

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

The interpreter **serves as an officer of the court**, and the interpreter's duty in a court proceeding is to serve the court and the public to which the court is a servant. This is true regardless of whether the interpreter is publicly retained at government expense or retained privately at the expense of one of the parties.

The interpreter should avoid any conduct or behavior that presents the appearance of favoritism

toward any of the parties. Interpreters should maintain professional relationships with their clients and should not take an active part in any of the proceedings. The interpreter should discourage a non-English-speaking party's personal dependence.

The interpreter should never accept gratuities or gifts of any kind from a litigant, the family of the litigant, or anyone for services rendered. If such a gift is offered, the interpreter should politely explain that the court pays for interpreter services and that acceptance of gifts, gratuities, or honoraria is not allowed.

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 or other members of the courtroom work group, including law enforcement officers, refrain from casual and personal conversations with anyone in court that may convey an appearance of a special relationship or partiality to any of the court participants.

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

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

A condition that interferes with the objectivity of an interpreter could constitute a conflict of interest. Before providing services in a matter, court interpreters must disclose to all parties and presiding officials any prior involvement, whether personal or professional, that could be reasonably construed as a conflict of interest. This disclosure should not include privileged or confidential information.

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

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

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

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

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

#### **CANON 4: PROFESSIONAL DEMEANOR**

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

Interpreters should know and observe the established protocol, rules, and procedures for delivering interpreting services. When speaking in English, interpreters should speak at a rate and volume that enables them to be heard and understood throughout the courtroom, but the interpreter's presence should otherwise be as unobtrusive as possible. Interpreters should work without drawing undue or inappropriate attention to themselves. Interpreters should dress in a manner that is consistent with the dignity of the proceedings of the court.

Interpreters should avoid obstructing the view of individuals involved in the proceedings. However, interpreters who use sign language or other visual modes of communication must be positioned so that hand gestures, facial expressions, and whole body movements are visible to the person for whom they are interpreting.

Interpreters are encouraged to avoid personal or professional conduct that could discredit the court.

#### **CANON 5: CONFIDENTIALITY**

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

The interpreter must protect and uphold the confidentiality of all privileged information obtained during the course of his or her duties. It is especially important that the interpreter understand and uphold the attorney-client privilege, which requires confidentiality with respect to any communication between attorney and client. This rule also applies to other types of privileged communications.

Interpreters must also refrain from repeating or disclosing information obtained by them in the course of their employment that may be relevant to the legal proceeding.

In the event that an interpreter becomes aware of information that suggests imminent harm to someone or relates to a crime being committed during the course of the proceedings, the interpreter should immediately disclose the information to the court administrator, who is not involved in the proceeding, and seek advice with respect to the potential conflict in professional responsibility.

**CANON 6: RESTRICTION OF PUBLIC COMMENT**

**Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged by law to be confidential.**

**CANON 7: SCOPE OF PRACTICE**

**Interpreters shall limit themselves to interpreting or translating and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.**

Since interpreters are responsible only for enabling others to communicate, they should limit themselves to the activity of interpreting or translating. Interpreters should refrain from initiating communications while interpreting unless it is necessary for assuring an accurate and faithful interpretation. Interpreters may be required to initiate communications during a proceeding when they find it necessary to seek assistance in performing their duties. Examples of such circumstances include seeking direction when unable to understand or express a word or thought, requesting speakers to moderate their rate of communication or to repeat or rephrase something, correcting their own interpreting errors, or notifying the court of reservations about their ability to competently satisfy an assignment. In such instances, they should make it clear that they are speaking for themselves.

An interpreter may convey legal advice from an attorney to a person only while the attorney is giving it. An interpreter should not explain the purpose of forms or services or otherwise act as counselors or advisors unless they are interpreting for someone who is acting in that official capacity.

The interpreter may translate language on a form for a person who is filling out the form but may not explain the form or its purpose for such a person.

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

**CANON 8: ASSESSING AND REPORTING IMPEDIMENTS TO PERFORMANCE**

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

If the communication mode or language of the non-English-speaking person cannot be readily interpreted, the interpreter should notify the appropriate judicial authority.

Interpreters should notify the judge or court administrator of any environmental or physical limitation that impedes or hinders their ability to adequately deliver interpreting services (e.g., the courtroom is not quiet enough for the interpreter to hear or be heard by the non-English speaker, more than one person at a time is speaking, or principals or witnesses of the court are speaking at a rate of speed that is too rapid for the interpreter to adequately interpret). Sign language interpreters must ensure that they can both see and convey the full range of visual language elements that are necessary for communication, including facial expressions and body movements, as well as hand gestures.

Interpreters should notify the presiding officer of the need to take periodic breaks to maintain mental and physical alertness and prevent interpreter fatigue.

Interpreters should recommend and encourage the use of team interpreting whenever necessary.

Interpreters are encouraged to make inquiries as to the nature of a case whenever possible before accepting an assignment. This enables interpreters to more closely match their professional qualifications, skills, and experience to potential assignments and more accurately assess their ability to satisfy those assignments competently.

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

Interpreters should refrain from accepting a case if they feel the language and subject matter of that case is likely to exceed their skills or capacities. Interpreters should feel no compunction about notifying the presiding officer if they feel unable to perform competently due to lack of familiarity with terminology, preparation, or difficulty in understanding a witness or defendant.

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

## **CANON 9: DUTY TO REPORT ETHICAL VIOLATIONS**

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

Because consumers of interpreting services frequently misunderstand the proper role of the interpreter, they may ask or expect the interpreter to perform duties or engage in activities that run counter to the provisions of this code or other laws, regulations, or policies governing court interpreters. It is incumbent upon the interpreter to inform such persons of his or her professional obligations. If, having been apprized of these obligations, the person persists in demanding that the interpreter violate them, the interpreter should turn to a judge or another official with jurisdiction over interpreter matters to resolve the situation.

**CANON 10: PROFESSIONAL DEVELOPMENT**

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

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

Interpreters should keep informed of all statutes, rules of courts, and policies of the judiciary that relate to the performance of their professional duties. In addition, interpreters should provide documentation of their certification or credentials upon request.

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