

## **ARTICLE VIII. CODE OF PROFESSIONAL RESPONSIBILITY FOR INTERPRETERS**

### **Preamble of the Code of Professional Responsibility for Interpreters**

The Judicial Council's Committee on Court Interpreters is charged to recruit, register, certify, license, and govern the work and conduct of spoken language and sign language interpreters in the courts of Georgia to assure that persons of limited English proficiency as well as deaf or hard-of-hearing persons are provided due process, equal access, and meaningful participation in all court proceedings and court support services; that the constitutional rights of criminal defendants to the assistance of language interpreters be safeguarded; and, that the efficiency, quality, and uniformity of court proceedings as assisted by interpreters be encouraged and preserved.

### **Rule 8-1. Construction**

The Code of Professional Responsibility for Interpreters in this article shall be interpreted under the purposes provided in the Preamble of this article.

### **Rule 8-2. Application**

(a) The following enumerated standards of ethical conduct to be observed by language interpreters in the courts of Georgia contain authoritative principles and directives to assist the judiciary; officers of the court; language interpreters; agencies and organizations administering, delivering, or supervising interpreting services to the courts; and the public.

(b) Interpreters subject to multiple ethical guidelines must follow the strictest applicable guideline.

(c) Commentaries are intended to provide contextual guidance.

(d) Proceedings concerning violations of the enumerated standards shall be brought as provided for by Georgia law and these rules.

### Rule 8-3. Standards<sup>8</sup>

Interpreters shall:

- (1) Act in accordance with any applicable ethical guidelines.
- (2) Reflect proper court decorum and act with dignity and respect to the officials and staff of the court.
- (3) Avoid professional or personal conduct that could discredit the court.
- (4) Work unobtrusively to keep the focus on the parties rather than the interpreter.
- (5) Accurately state their qualifications and designation as a legal interpreter using the approved format described in Rule 7-3 (2) of these rules.
- (6) Interpret accurately and faithfully without indicating any personal bias, as follows:
  - (A) Preserve the level of language used and the ambiguities and nuances of the speaker without editing;
  - (B) Request clarification of ambiguous statements or unfamiliar vocabulary from the judge or counsel;
  - (C) Refrain from expressing an opinion in a matter before the court; and
  - (D) Promptly notify the court of any error in their interpretation.
- (7) Maintain impartiality by avoiding undue contact with witnesses, attorneys,<sup>9</sup> interested parties, and jurors before, during, and until the case is concluded.

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<sup>8</sup> **Commentary:** Parties to litigation have a constitutional right to test the testimony of LEP or deaf or hard-of-hearing witnesses, just as they test the testimony of an English-speaking witness. In the courtroom, the judge or jury must evaluate the fairness of the questioning and the understanding of the witness, not the interpreter. Outside of the testimonial setting, for instance in witness interviews, probation interviews, or mediation, the interpreter may play a more active role in clarifying misunderstandings between the participants. Further, in such settings, requests for clarifications should be directed at the participants, rather than being referred to the judge.

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.

In civil cases, the courts must sometimes rely on community service groups, friends, acquaintances, and relatives of the LEP or deaf or hard-of-hearing speaker to interpret or translate during court proceedings. Even interpreters whose participation is uncompensated must understand they take an oath to faithfully interpret impartially in the courtroom setting without interference as a participant, and that the evaluation of the questions and answers must be left to the finder of fact (i.e., the judge or jury).

**Example:** If a questioner in courtroom testimony asks a question that assumes incorrect facts (such as where certain streets intersect), it would be highly improper for the interpreter to interject their own knowledge of the correct information. In contrast, if a probation officer in an intake interview, for instance, makes a mistake in giving directions as to how to get to a court-related office, it would be helpful, rather than improper, for the interpreter to point out the supposed error to the parties to the conversation.

<sup>9</sup> **Commentary:** It is not improper for an interpreter retained by one side in litigation for witness or client interviews to also interpret testimony in the courtroom. Whether such a dual role is to be permitted in a particular case is for the presiding judge to determine. It would be highly improper, however, for the interpreter to fulfill such multiple roles without disclosure to all parties and the court.

(8) Disclose to the court and parties any prior involvement with a case, or private involvement with the parties or others significantly involved in the case.

(9) Never take advantage of knowledge obtained in the performance of official duties for the interpreter's own or another's gain.

(10) Protect the confidentiality<sup>10</sup> of all privileged and other confidential information about court cases, as follows:

(A) Interpreters shall not voluntarily disclose any admission or communication that is declared to be confidential or privileged under Georgia law.

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

(11) Inform the presiding judge if the interpreter feels harassed or intimidated.

(12) Immediately report to the court and the Committee any solicitations or efforts by another to induce or encourage the interpreter to violate any law, standard, rule, or any part of this Code of Professional Responsibility.

(13) Accept no money, gift, or other benefits other than the compensation received for the performance of interpretation duties.

(14) Not give any legal advice,<sup>11</sup> whether solicited or not solicited. The LEP or deaf or hard-of-hearing speaker shall be referred to the judge or counsel in all such instances.

(15) Never act as an individual referral service for any attorney. If an LEP or deaf or hard-of-hearing speaker asks an interpreter to refer the speaker to an attorney, the interpreter shall direct such an individual to the local bar association or the indigent defense office.

(16) Not receive any compensation or benefit, direct or indirect, for a referral to an attorney.

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<sup>10</sup> **Commentary:** Confidentiality does not extend to a situation in which there are threats of imminent violence, the interpreter is a witness to criminal acts, or to information relating to a crime committed during the course of the proceedings or the interpreter's employment where the information concerning such crime does not derive from attorney-client conversations. Such information should be disclosed to a judge who is not involved in the proceeding for advice in regard to the potential conflict in professional responsibility; however, if the information was acquired during attorney-client conversations, the information should be discussed with the attorney participant. Confidentiality does not extend to disclosures to a client's attorney, so that an interpreter may freely discuss issues of client misconduct with the client's attorney. Confidentiality does not extend to the fact or dates of employment as an interpreter. Also, if a disciplinary complaint or lawsuit arising out of interpretation services is filed against an interpreter, the interpreter may testify about relevant communications.

When an interpreter is called upon to testify in court, the interpreter should request a ruling by the court upon the propriety of testimony on confidential matter. Furthermore, if the testimony concerns a conversation between attorney and client, the interpreter should request a ruling as to whether the conversation is covered by attorney-client privilege.

<sup>11</sup> **Commentary:** The interpreter is subject to the same constraints against giving legal advice as other non-lawyer court personnel. In addition, interpreters need to be mindful of the dependence of the LEP or deaf or hard-of-hearing person on their services; therefore, any erroneous information provided by an interpreter is unlikely to be questioned or corrected. Accordingly, interpreters need to be particularly cautious even in the non-legal information they provide. Interpreters regularly appearing in a given courtroom may seek and rely upon guidance from the presiding judge on how informational inquiries should be handled. If an attorney is called upon to interpret, their conduct is governed by the Georgia Rules of Professional Conduct for attorneys, but an attorney acting as an interpreter shall at all times act in conformity with Rule 8-3 of these rules.

(17) Continually improve their skills and knowledge through activities such as professional training and education, as required by these rules.

(18) Bring to the court's attention any circumstance or condition that impedes full compliance with any applicable provisions of this Code of Professional Responsibility for Interpreters, including interpreter fatigue, the need for team interpreting, inability to hear, or inadequate knowledge of specialized terminology.

(19) Refuse any assignment for which they are not qualified or under conditions that substantially impair their effectiveness or recuse themselves for any reason should they become unable to fulfill their ethical duties.

(20) Be permitted to advertise, but interpreters shall not engage in untruthful or misleading representations. In particular:

(A) Interpreters shall not claim that they will guarantee a specific result;

(B) Interpreters shall not claim an ability to provide legal advice or services for which they are not licensed; and

(C) All statements as to qualifications and designations identified using the approved format described in Rule 2-2 of these rules shall be accurate.

(21) Be required to be of a good moral character, and if seeking licensing or listing with the Committee, an interpreter shall:

(A) Comply with any rule or regulation of the Committee regarding good character; and

(B) Cooperate with background investigations, including a criminal background check.

(22) Agree to be bound by the rules of this Code of Professional Responsibility for Interpreters.

#### **Rule 8-4. Violations, Removal From Registry, and Other Sanctions**

Violations of these rules may result in discipline pursuant to Article IV of these rules.