

APPENDIX C
CODE OF PROFESSIONAL RESPONSIBILITY FOR INTERPRETERS

Preamble

The Georgia Supreme Court adopted the Rules on the Use of Interpreters for Non-English Speaking and Hearing Impaired Persons and created the Georgia Supreme Court Commission on Interpreters at the recommendation of the Supreme Court Commission on Equality. The Commission on Interpreters was charged to recruit, register, certify, license, and govern the work and conduct of language interpreters in the courts of Georgia in order to assure that persons of limited English proficiency as well as hearing impaired persons be provided due process, equal access and meaningful participation in all court proceedings and court support services; that the constitutional rights of criminal defendants to assistance of language interpreters be safeguarded; and, that the efficiency, quality and uniformity of court proceedings as assisted by interpreters be encouraged and preserved. This Code of Professional Responsibility is to be interpreted in accordance with these purposes.

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. These rules are applicable to all persons interpreting in the courts except for standards XV through XVIII which do not apply to uncompensated interpreters. Commentaries are intended to provide contextual guidance. Proceedings concerning violations of the enumerated standards shall be brought as provided for by general law, the regulations of the Commission on Interpreters, and the within standards.

Standards

Interpreters shall:

- I. Act strictly in the interest of the court during proceedings before the court and with fidelity to the non-English or hearing impaired speaker for whom they are interpreting.
- II. Reflect proper court decorum and act with dignity and respect to the officials and staff of the court.
- III. Avoid professional or personal conduct which could discredit the court.
- IV. Work unobtrusively so that attention is focused on the parties rather than the interpreter.
- V. Accurately state their qualifications as a court interpreter.
- VI. Interpret accurately and faithfully without indicating any personal bias. In doing so, interpreters shall:
 - 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 personal opinion in a matter before the court.
 - D. Promptly notify the court of any error in their interpretation.

Commentary: Parties to litigation have a constitutional right to test the testimony of non-English speaking or hearing impaired 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 non-English or hearing impaired 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 (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 his or her 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.

- VII. Maintain impartiality by avoiding undue contact with witnesses, attorneys, interested parties, and jurors before, during and until the case is concluded.
- VIII. Disclose to the court and parties any prior involvement with a case, private involvement with the parties or with others significantly involved in the case.

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.

- IX. Never take advantage of knowledge obtained in the performance of official duties, for the interpreter's own or another's personal gain.
- X. Protect the confidentiality of all privileged and other confidential information pertaining to court cases.
 - A. Interpreters shall not voluntarily disclose any admission or communication that is declared to be confidential or privileged under state law. Out-of-court disclosures made by a non-English or hearing impaired speaker communicating through an interpreter shall be treated by the interpreter as confidential and/or privileged unless the court orders the interpreter to disclose such communications, or the non-English or hearing impaired speaker waives such confidentiality or privilege.
 - 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.
 - C. Prior to service, every interpreter serving in the courts of the State of Georgia shall agree in writing to comply with the Code of Professional Responsibility for Interpreters.
 - D. The presence of an interpreter shall not affect the privileged nature of any discussion.

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.

- XI. Inform the presiding judge should the interpreter feel harassed or intimidated by an officer of the court.
- XII. Immediately report to the court any solicitations or efforts by another to induce or encourage the interpreter to violate any law, standard, or any part of this Code of Professional Responsibility.
- XIII. Accept no money, gift or other benefit in excess of the compensation for the performance of interpretation duties.
- XIV. Not give any kind of legal advice whether solicited or not. In all instances, the non-English or hearing impaired speaker shall be referred to the judge or counsel.

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 non-English speaking or hearing impaired 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, his or her 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 section II. (F) of Appendix A of the "Supreme Court Rules on the Use of Interpreters for Non-English Speaking and Hearing Impaired Persons."

- XV. Never act as an individual referral service for any attorney. If asked by a non-English or hearing impaired speaker to refer the speaker to an attorney, an interpreter shall direct such individual to the local bar association or to the indigent defense office. Further, no interpreter may receive any compensation or benefit, direct or indirect, for referral to an attorney.
- XVI. Continually improve their skills and knowledge through such activities as professional training and education.
- XVII. Refuse any assignment for which they are not qualified or under conditions which substantially impair their effectiveness.
- XVIII. Be permitted to advertise, but interpreters and interpreting services shall not engage in untruthful or misleading representations. In particular, interpreters and services shall never

claim that they will guarantee a specific result; interpreters and services shall not claim an ability to provide legal advice, services, or referrals; all statements as to qualifications must be accurate.

Commentary: Rules XV-XVIII are directed to interpreters for compensation, rather than unpaid, volunteer interpreters, such as acquaintances, family, and community service volunteers.

- XIX. Be required to be of good moral character, and if seeking certification, registration, or listing with the Commission on Interpreters, must comply with any regulations of the Commission adopted to ensure good character; and, must cooperate with background investigation, including criminal background checks.
- XX. Agree to be bound by this Code. Violations of this Code may result in the interpreter's removal from the interpreter registry maintained by the Commission on Interpreters, and willful violation may also result in other appropriate sanctions.