

Rules on Standards for Foreign Language Court Interpreters

State of Mississippi

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Interpreters for the hearing impaired are not covered by these rules. See Miss. Code Ann. §§ 13-1-301 to 13-1-315 regarding guidelines for interpreters for the hearing impaired.

Rule 1: Scope

These rules shall apply to all courts in Mississippi, including without limitation, municipal court, justice court, youth court, county court, circuit court, chancery court, and grand jury proceedings.

Comment

This rule recognizes that many individuals living in the United States readily read, speak, and understand English. However, this rule also acknowledges that there are others for whom English is not their primary language and for whom English is not readily understood. For those individuals with limited English proficiency (LEP), the failure to comprehend the English language can be a barrier to understanding and exercising their legal rights and may result in the deprivation of meaningful access to the judicial system by those individuals. This rule is promulgated to assist all courts in this state in providing equal access to the courts for LEP participants.

The Mississippi Code of Ethics for Court Interpreters addresses the various ethical responsibilities of court interpreters for accuracy and completeness, impartiality, confidentiality, and other matters relating to professional conduct. The court should be alerted to potential conflicts of interest or other violations of the Mississippi Code of Ethics for Court Interpreters. The sanction of removal from a case is justified for any violations of the Mississippi Code of Ethics for Court Interpreters.

Rule 2. Definitions

- (A) A court interpreter is a highly skilled bilingual or multilingual person, authorized by a court, who is competent to interpret oral or translate written communication in a foreign language during court proceedings.
- (B) A certified court interpreter is an interpreter who has successfully met all requirements promulgated by the Administrative Office of Courts to be designated a registered court interpreter and has scored at least seventy percent (70%) on each of the three (3) sections of an approved criterion-referenced oral performance

examination.

- (C) A registered court interpreter is an interpreter who has:
 - (1) attended an approved two-day, fourteen-hour ethics and skill building workshop;
 - (2) passed an approved criterion-referenced written examination with a minimum overall score of eighty percent (80%).
 - (3) submitted to a criminal background check;
 - (4) provided verification of legal right to work in the United States;
 - (5) executed the Interpreter Oath; and
 - (6) satisfied any additional requirements that the Administrative Office of Courts may establish in order to be listed as a registered court interpreter on the roster.
- (D) A non-credentialed interpreter is an interpreter who has not met the requirements promulgated by the Administrative Office of Courts to be classified as a registered or certified court interpreter.
- (E) Interpretation is the accurate and complete unrehearsed transmission of an oral message from one language to an oral message in another language. Interpretation may be one of the following:
 - (1) consecutive interpretation, which means providing the target language message after the speaker has finished speaking;
 - (2) sight translation, which means oral translation of a written document;
 - (3) simultaneous interpretation, which means providing the target language message at approximately the same time the source language message is being produced.
- (F) Source language means the input language requiring interpretation.
- (G) Target language means the output language into which the utterance is being interpreted.
- (H) Translation means the process of translating text from one language to another language to maintain the original message and communication. Translators are not certified by the AOC.
- (I) Audio or video transcription and translation means producing a written transcription of the entire verbal content and translation of the non-English verbal content of an audio or video recording.
- (J) A Limited English Proficiency (LEP) individual is any party or witness who

cannot readily understand or communicate in spoken English or who does not speak English as his or her primary language and who consequently has a limited ability to read, speak, write or understand English and cannot equally participate in or benefit from the proceedings unless an interpreter is available to assist the individual. The fact that a person for whom English is a second language knows some English does not prohibit that individual from being entitled to the services of an interpreter.

- (K) A participant is a party, witness, or other person involved in a legal proceeding.
- (L) A court proceeding means a proceeding before any court of this state or a grand jury hearing, including all civil and criminal hearings and trials.

Rule 3. Determining Need for Interpretation

- (A) A Limited English Proficient (LEP) individual is entitled to use an interpreter in any instance arising out of or pertaining to the individual's involvement in litigation. The expenses of providing an interpreter in any court proceeding or instance arising out of litigation must be payable out of the county or municipal treasury at no cost to the litigant.
- (B) The fact that a person for whom English is a second language knows some English does not prohibit that individual from being allowed the assistance of an interpreter.
- (C) In all criminal cases in which the defendant is a Limited English Proficient (LEP) individual, the court shall appoint a qualified interpreter at no cost to the defendant.
- (D) It is the responsibility of the court to perform an examination to determine whether a participant in a legal proceeding has a limited or nonexistent ability to understand and communicate in English thereby requiring the services of an interpreter.
- (E) After the examination, the court should state its conclusion on the record, and the file in the case shall be clearly marked and data entered electronically when appropriate by court personnel to ensure that an interpreter will be present when needed in any subsequent instance arising out of the litigation.
- (F) Recognition of the need for a court interpreter may arise from a request by a party or counsel, the court's own voir dire of a party or witness, or disclosures made to the court by parties, counsel, court employees, or other persons familiar with the ability or inability

of the person to understand and communicate in English.

- (G) Upon a request by the LEP individual, by counsel, or by any other officer of the court, the court shall determine whether the interpreter provided is able to communicate accurately with and translate information to and from the LEP individual. If it is determined that the interpreter cannot perform these functions, the court shall provide the LEP individual with another interpreter.

Comment

If any doubt exists regarding the ability of a person to comprehend proceedings fully or to adequately express himself or herself in English, an interpreter must be appointed.

Rule 4. Appointment of Interpreter

(A) Order of appointment

- (1) The court shall appoint an interpreter according to the preference listed below:
 - (a) Certified court interpreter; followed by
 - (b) Registered court interpreter; followed by
 - (c) Non-credentialed court interpreter.
- (2) The court may appoint an interpreter of lesser preference (i.e., registered instead of certified, or non-credentialed instead of registered) only upon an on the record finding that diligent, good faith efforts to obtain an interpreter of higher preference have been made and none has been found to be reasonably available. A non-credentialed interpreter may be appointed only after the court has evaluated the totality of the circumstances including the gravity of the judicial proceeding and the potential penalty or consequence involved.

(B) Appointment of a non-credentialed interpreter

- (1) Before appointing a non-credentialed interpreter, the court shall make the following findings in open court and place those findings on the record:

- (a) that the proposed interpreter appears to have adequate language skills, knowledge of interpreting techniques, and familiarity with interpreting in a court setting; and
 - (b) that the proposed interpreter has read, understands, and agrees to abide by the Mississippi Code of Ethics for Court Interpreters and the Mississippi Rules on Standards for Court Interpreters.
- (2) A summary of the efforts made to obtain a certified or registered interpreter, as well as a summary of the efforts to determine the capabilities of the proposed non-credentialed interpreter, shall be made in open court and placed on the record.
- (C) The court shall use the services of multiple interpreters where necessary to aid in the interpretation of court proceedings.

Comment

A court can determine an interpreter's credentialing status by consulting the interpreter roster, which can be found on the website of the Administrative Office of Courts: <https://courts.ms.gov/aoc/courtinterpreter/registry.php>

Rule 4(C). The court may wish to consider using multiple interpreters in legal proceedings in which one or more of the following situations exist:

Legal proceedings lasting more than two hours - In legal proceedings lasting more than two hours, a team of two interpreters should be designated to ensure the accuracy and completeness of the record. This will allow interpreters to alternate work and rest in short shifts, thus avoiding fatigue. Although it may not be necessary to use multiple interpreters for short hearings, studies have shown that interpreters' accuracy rates greatly decrease after 20-30 minutes of continuous interpretation. Therefore, courts should be aware that interpreters may need breaks even during relatively short hearings.

Multiple parties - One or more interpreters may be utilized (apart from the interpreter(s) who are appointed to interpret the legal proceedings) in order to provide interpreting services for attorney-client communications during the proceeding. However, courts should be aware that ethical

considerations do not preclude interpreters from facilitating in-court and out-of-court communication for both the court and one or more parties in the same proceeding. If an attorney or litigant wishes to utilize an additional interpreter who is not appointed as the official Court Interpreter, the costs of fees of hiring the additional interpreter must be paid by the litigant or attorney.

See the commentary to Canon 8 of the Mississippi Code of Ethics for Court Interpreters for additional information regarding circumstances in which it may be advisable to use multiple interpreters.

Rule 5. Waiver

The LEP individual may at any point in a proceeding waive the services of a court interpreter. The waiver of the interpreter's services must be in writing in the person's native language. In addition, the waiver must be knowing and voluntary and with the approval of the court. Any deliberations made on matters of waiver or the retraction of a waiver should be made on the record. Granting such waiver is a matter of judicial discretion.

- (A) The waiver may be approved only after:
 - (1) the court explains in open court to the LEP individual, through an interpreter, the nature and effect of the waiver; and
 - (2) the court determines in open court that the waiver has been made knowingly, intelligently, and voluntarily; and
 - (3) if a criminal matter, the court must further determine that the defendant has been afforded the opportunity to consult with his or her attorney regarding the waiver.
- (B) At any point in any proceeding, the LEP individual may retract the waiver and request an interpreter.

Rule 6. Interpreter Oath

All interpreters, before commencing their duties as court interpreters, shall take an oath that they will make a true and impartial interpretation using their best skills and judgment

in accordance with the standards and ethics of the interpreter profession. The court shall use the following oath:

"I solemnly swear or affirm that I will interpret from (state the language) into English and from English into (state the language) accurately, completely and impartially, using my best skill and judgment in accordance with prescribed law, the Mississippi Rules on Standards for Foreign Language Court Interpreters, and the Mississippi Code of Ethics for Court Interpreters and discharge all the solemn duties and obligations of legal interpretation and translation."

Rule 7. Certified and Registered Court Interpreters

(A) Registered Interpreters

- (1) To receive designation as a registered court interpreter, the candidate shall:
 - (a) attend an approved two-day (14 hour) ethics and skill-building workshop;
 - (b) pass an approved criterion-referenced written examination with a minimum overall score of 80%;
 - (c) submit to a criminal background check. Convictions for any felony or a misdemeanor involving dishonesty or false statement shall disqualify a candidate from certification if such conviction is ten years old or less as provided in Mississippi Rules of Evidence 609. Convictions for any felony or misdemeanor older than ten years will be addressed on a case-by-case basis;
 - (d) provide verification of the legal right to work in the United States;
 - (e) execute the Interpreter Oath pursuant to Rule 6; and
 - (f) complete any additional requirements established by the Administrative Office of Courts.
- (2) To be designated as a registered interpreter, the interpreter must complete

the steps in the order in which the steps are listed. If the interpreter does not complete all steps within one (1) year of the date the interpreter attends the workshop, the interpreter must begin the credentialing process anew after obtaining written permission from the Administrative Office of Courts.

(B) Certified Interpreters

- (1) To receive designation as a certified court interpreter, the candidate shall:
 - (a) successfully meet the requirements to be designated as a registered court interpreter;
 - (b) score at least 70% on each of the three sections of an approved criterion-referenced oral performance examination; and;
 - (c) complete any additional requirements established by the Administrative Office of Courts.
- (2) To be designated as a certified interpreter, the interpreter must complete the steps in the order in which the steps are listed. If the interpreter does not complete all steps within three (3) years of the date the interpreter attends the workshop, the interpreter must begin the credentialing process anew after obtaining written permission from the Administrative Office of Courts.

(C) The Administrative Office of Courts shall determine appropriate examination registration fees as well as examination eligibility requirements, requirements for successful completion of examinations, and penalties for unsuccessful completion of examinations. The Administrative Office of Courts also has the authority to impose additional requirements for an interpreter to earn, retain, or reinstate status as a registered or certified interpreter. The Administrative Office of Courts is authorized to adopt policies and procedures necessary to implement this provision of the rule.

(D) After being designated as registered or certified, the court interpreter is required to submit signed quarterly reporting forms to the Administrative Office of Courts.

Comment

A "criterion-referenced" performance examination is one in which the required score is based on an absolute standard rather than one on the relative performance of examinees as measured against one another.

Court interpretation is a specialized and highly demanding form of interpreting. It requires skills that few bilingual individuals, including language instructors, possess. The knowledge and skills of a court interpreter differ substantially from or exceed those required in other interpretation settings, including social service, medical, diplomatic, and conference interpreting. Due to the highly specialized knowledge and skills required in this profession, this rule has been promulgated to adopt uniform qualifications for interpreters serving in Mississippi's courts.

Interpreters are responsible for familiarizing themselves with the credentialing requirements. For additional information, interpreters should consult the interpreter page of the AOC's website which may be accessed at:

<https://courts.ms.gov/aoc/courtinterpreter/courtinterpreter.php>

Rule 8. Reciprocity

Interpreters possessing out-of-state court interpreter credentials or federal court interpreter credentials may apply for state reciprocity with the AOC. Reciprocity is considered on a case-by-case basis for out-of-state interpreters possessing Federal Certification or state court interpreter credentials.

To be considered for reciprocity, the following requirements/conditions must be met:

- (1) The applicant must file an "Application for Reciprocity" as well as tender the required non-refundable application fee.
- (2) The applicant must provide proof of attendance at a two-day or fourteen (14) hour orientation, criterion-referenced written examination scores. Proof of test scores must accompany the supporting documentation.
- (3) The out-of-state credentials must be current in the issuing state or federal program at the time of the request.
- (4) The applicant must complete any additional requirements or forms set forth by the Administrative Office of Courts. In addition the applicant must

tender any required fees mandated by the Administrative Office of Courts.

If tentatively approved for reciprocity, then the applicant must:

- (1) successfully pass a criminal background check;

(NOTE: Convictions for any felony or a misdemeanor involving dishonesty or false statement shall disqualify a candidate from certification if such conviction is ten years old or less as provided in Mississippi Rule of Evidence 609. Convictions for any felony or misdemeanor older than ten years will be addressed on a case-by-case basis.)
- (2) submit a signed interpreter oath; and
- (3) certify that the applicant is a U.S. Citizen or that the applicant may legally work in the U.S.

After the applicant has complied with the above requirements/conditions, the Administrative Office of Courts will make the final determination as to whether the applicant will receive reciprocity.

Rule 9. Renewal of Credentials

- (A) All credentialed court interpreters shall be required to renew their credentials every three years.
- (B) Renewal Criteria for “Registered” Interpreters:
 - (1) The interpreter must receive a passing score of 70% or higher on at least one section of the oral examination and must have a minimum of 60% or higher on each of the remaining sections at some point during the renewal period.
 - (2) The interpreter must provide documentation of twelve (12) hours of approved continuing interpreter education (CIE) credits received yearly. A CIE credit is equal to one hour in the classroom. A minimum of six (6) of the twelve (12) hours required yearly *must* consist of non-English language or interpreting skills training.

- (3) The interpreter must submit an application for renewal along with a certificate or letter from the sponsoring CIE agency for each course taken as well as a renewal fee.
- (C) Renewal Criteria for “Certified” Interpreters:
- (1) The interpreter must provide documentation of twelve (12) hours of approved continuing interpreter education (CIE) credits received yearly. A CIE credit is equal to one contact hour in the classroom. A minimum of six (6) of the twelve (12) hours required yearly *must* consist of non-English language or interpreting skills training.
 - (2) The interpreter must submit an application for renewal along with a certificate or letter from the sponsoring CIE agency for each course taken as well as a renewal fee.
- (D) The Administrative Office of Courts has the authority to impose additional requirements for an interpreter to renew credentials. The Administrative Office of Courts is authorized to adopt policies and procedures necessary to implement this provision of the rule.

Comment

Interpreters are responsible for familiarizing themselves with the renewal requirements. For additional information, interpreters should consult the interpreter page of the AOC’s website which may be accessed at:

<https://courts.ms.gov/aoc/courtinterpreter/courtinterpreter.php>

Rule 10. Removal of an Interpreter

Any of the following actions shall be good cause for removal of an interpreter from a case and/or from the Administrative Office of Courts Interpreter Roster:

- (1) Incompetence;
- (2) Being unable to interpret adequately, including instances in which the interpreter self-reports such inability;
- (3) Knowingly and willfully making false, misleading, or incomplete interpretation while serving in an official capacity;

- (4) Knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity;
- (5) Misrepresentation of credentials;
- (6) Failure to reveal potential conflicts of interest; or
- (7) Failing to follow these and other standards prescribed by law and the Mississippi Code of Ethics for Court Interpreters.

Comment

It is important to recognize that interpreters are sometimes called to court to interpret for someone who speaks a different language or dialect from that spoken by the interpreter. Rule 10 authorizes the court to remove interpreters who are not competent to interpret for this or any other reason or who violate the Mississippi Code of Ethics for Court Interpreters.