

**AMENDMENTS TO RULES
FOR USE OF INTERPRETERS
FOR NON-ENGLISH SPEAKING PERSONS**

It is hereby ordered that Rule I (B) Definitions be amended to provide for the addition of the classification of “Conditionally Approved Interpreter” and that Appendix B subsections (V) et seq. be re-designated as subsections (VI) et seq., and that new subsection (V) concerning the “Conditionally Approved Interpreter List” be inserted, effective November 5, 2008, as follows:

**USE OF INTERPRETERS FOR NON-ENGLISH
SPEAKING PERSONS**

INTRODUCTION

Pursuant to the inherent powers of the Court and the Georgia Constitution of 1983, and in order to secure the rights of non-English speaking persons, this Court now promulgates the following rules to establish a statewide plan for the use of interpreters by the Courts of Georgia.

I. DEFINITIONS

(A) “Non-English Speaker” means any party or witness who cannot readily understand or communicate in spoken English and who consequently cannot equally participate in or benefit from the proceedings unless an interpreter is available to assist him or her. The fact that a person for whom English is a second language knows some English should not prohibit that individual from being allowed to have an interpreter.

(B) “Interpreter” means any person certified as an interpreter by the Georgia Commission on Interpreters; any person on the conditionally approved interpreters’ list; any person on the registered interpreters’ list; or any person authorized by a court to translate or interpret oral or written communication in a foreign language during court proceedings.

(C) “Court Proceedings” means a proceeding before any court of this State or a Grand Jury hearing.

Commentary: Courts should make a diligent effort to appoint a Certified interpreter. If a Certified interpreter is unavailable, a

SUPREME COURT.

Conditionally Approved interpreter or a Registered interpreter is to be given preference. There will be occasions when it is necessary to utilize a telephonic language service or a less qualified interpreter. Faced with a need, where no interpreter is available locally, courts should weigh the need for immediacy in conducting a hearing against the potential compromise of due process, or the potential of substantive injustice, if interpreting is inadequate. Unless immediacy is a primary concern, some delay might be more appropriate than the use of a telephonic language service.

II. CENTRAL ORGANIZATION

There is hereby created the Georgia Commission on Interpreters for Non-English Speakers:

(A) The Georgia Commission on Interpreters for Non-English speakers will consist of: the current Chief Justice of the Georgia Supreme Court or the Chief Justice's designee, a judge of the Court of Appeals, a Superior Court Judge, a State Court Judge, a Juvenile Court Judge, a Probate Court Judge, a Magistrate Court Judge, a Municipal Court Judge, a designee of the State Bar of Georgia, one member from the Georgia General Assembly, four members of the State Bar of Georgia, and three non-lawyer public members. All members of the Commission shall be appointed by the Georgia Supreme Court. The chair of the Commission shall be designated by the Georgia Supreme Court.

(B) The first Commission will be appointed to serve terms as follows: the first term for three members will be one year, the first term for three members will be two years, the first term for four members will be three years, the first term for three members will be four years, and the first term for three members will be five years. Thereafter, the term for Commission members will be five years. A Commission member shall not succeed himself or herself, except that Commission members originally appointed to a term of two years or less would be eligible for reappointment to one additional five-year term. If the status of a Commission member chosen to represent a particular category changes during his or her term, the member will continue to serve out his or her term.

(C) Members of the Commission shall receive no compensation

AMENDMENTS TO RULES FOR USE OF INTERPRETERS.

for their services but shall be entitled to reimbursement for expenses and mileage for travel in connection with Commission business.

- (D) The Commission is charged as follows:
 - 1. To administer a statewide comprehensive interpreter program;
 - 2. To oversee the development and ensure the quality of all interpreters;
 - 3. To approve court interpreter programs;
 - 4. To develop guidelines for interpreter programs;
 - 5. To designate languages for which certification programs shall be established;
 - 6. To develop criteria for training and certification of interpreters;
 - 7. To establish standards of conduct for interpreters.
- (E) The responsibilities of the Georgia Commission on Interpreters will include the following:
 - 1. To serve as a resource for interpreter education and research;
 - 2. To provide technical assistance to new and existing interpreter programs;
 - 3. To develop the capability of providing training to interpreters in courts throughout the state;
 - 4. To implement the Commission's policies regarding qualifications of interpreters and quality of programs;
 - 5. To register interpreters and remove interpreters from the registry if necessary;
 - 6. To collect statistics from interpreter programs in order to monitor the effectiveness of various programs throughout the state.

III. CERTIFICATION PROGRAMS

The Commission shall establish programs for the purpose of certifying interpreters. The Commission shall have the authority to establish the requirements and procedures for interpreter certification. Fees for certification will be established by the Georgia Commission on Interpreters and interpreters seeking certification shall be required to pay the fee established by said Commission.

IV. DISCIPLINE

- (A) **Suspension or Revocation of Certification**
Certified, Conditionally Approved, or Registered status issued by

SUPREME COURT.

the Georgia Commission on Interpreters may be suspended or revoked for any of the following reasons:

1. Conviction of a felony or a misdemeanor involving moral turpitude, dishonesty, or false statements;
2. Fraud, dishonesty, or corruption which is related to the functions and duties of a court interpreter;
3. Continued false or deceptive advertising after receipt of notification to discontinue;
4. Knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity;
5. Gross incompetence or unprofessional or unethical conduct;
6. Failing to appear as scheduled without good cause;
7. Noncompliance with any existing continuing education requirements;
8. Nonpayment of any required renewal fees; or
9. Violation of the Code of Professional Responsibility for Court Interpreters.

Commentary: The appropriateness of disciplinary action and the degree of discipline to be imposed should depend upon factors such as the seriousness of the violation, the intent of the interpreter, whether there is a pattern of improper activity, and the effect of the improper activity on others or on the judicial system.

(B) Disciplinary Process

1. The Commission on Interpreters shall have the authority to set forth separate disciplinary procedures not inconsistent with this Rule.
2. There shall be a standard form on which all complaints shall be filed.
3. There shall be two panels comprised of five Commission members each called the "Probable Cause Panel" and the "Disciplinary Hearing Panel." The Probable Cause Panel shall make a preliminary review of all complaints to determine facial sufficiency and probable cause before any investigation or presentation to the Disciplinary Hearing Panel.
4. Once probable cause has been found upon a complaint, it shall go to the Disciplinary Hearing Panel for appropriate disposition. The interpreter is permitted to be represented by counsel at his or her own expense.

AMENDMENTS TO RULES FOR USE OF INTERPRETERS.

5. The interpreter has the right to appeal any final disciplinary decision, but any appeal is limited to a review of procedure only.
6. The Commission and their agents shall keep all proceedings herein confidential until such time as the decision becomes final. At such time, the decision shall become public but the investigation, dismissal for lack of probable cause, and the evidence and record of proceedings before the Commission shall remain forever confidential. Dismissal for facial insufficiency shall be disclosed at the request of the interpreter.
7. The Supreme Court of Georgia recognizes the actions of the Commission, the Administrative Office of the Courts, the Special Masters, the above-described Panels, and the staff to the Commission to be within its judicial and regulatory functions, and being regulatory and judicial in nature they are entitled to judicial immunity.

V. COMPENSATION OF INTERPRETERS

There shall be no uniform, state-wide compensation system at this time. Local courts will have the responsibility for developing and testing a variety of approaches to compensation consistent with guidelines that may be established by the Commission and by statute. The Commission shall evaluate the approaches to compensation developed by the local courts and determine the need for a statewide flexible compensation system. Subject to Supreme Court approval, the Commission shall implement such a system.

Commentary: Although the contribution of volunteers to interpreter programs throughout the country is inestimable, the Georgia Supreme Court believes that the comprehensive system of statewide interpreter services envisioned by these rules cannot be handled entirely by unpaid volunteers. This court is convinced that in order to build and maintain a statewide system of interpreter services of the extent and quality desired, there must be mechanisms for compensating interpreters at appropriate levels. This court also believes that the Georgia interpreter program will require a combination of volunteers, salaried in-house interpreters, and free market interpreters in order to meet the highly varied demands and circumstances of courts in urban, rural, and suburban areas.

SUPREME COURT.

VI. OATH, CONFIDENTIALITY, AND PUBLIC COMMENT

(A) Minimum standards required to become a licensed court interpreter:

1. 18 years of age;
2. Good moral character; and
3. Legal U. S. resident

(B) Prior to becoming Certified, Conditionally Approved, or Registered and prior to providing any service to a non-English speaking person, the interpreter shall subscribe to an oath that he or she shall interpret all communications in an accurate manner to the best of his or her skill and knowledge. By signing the oath form, interpreters acknowledge that they meet the minimum standard outlined above and agree to abide by the Oath and Code of Professional Responsibility.

(C) The oath shall conform substantially to the following form:

INTERPRETER'S OATH

Do you solemnly swear or affirm that you will faithfully interpret from (state the language) into English and from English into (state the language) the proceedings before this Court in an accurate manner to the best of your skill and knowledge?

(D) 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 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 speaker waives such confidentiality or privilege.

(E) 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.

(F) 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 Court Interpreters.

(G) The presence of an interpreter shall not affect the privileged nature of any discussion.

AMENDMENTS TO RULES FOR USE OF INTERPRETERS.

VII. RECORD OF INTERPRETER TESTIMONY

(A) Where a Certified interpreter is used, no record shall generally be made of the non-English testimonial statements. Where a challenge is made to the accuracy of a translation, the court shall first determine whether the interpreter is able to communicate accurately with and translate information to and from the non-English speaking person. If it is determined that the interpreter cannot perform these functions, arrangements for another interpreter should be made, unless testimony that is cumulative, irrelevant, or immaterial is involved. Where the court determines that the interpreter has the ability to communicate effectively with the non-English speaker, the court shall resolve the issue of the contested translation and the record to be made of the contested testimony in its discretion. Any transcript prepared shall consist only of the English language spoken in court.

(B) In criminal cases, whenever a Certified interpreter is not utilized, the court shall make an audio or audio-visual recording of any testimony given in a language other than English. This includes any colloquies between the court and any non-English speaking persons, statements or testimony made to the court given by a non-English speaking person, as well as all translations provided by the interpreter of such proceedings. This recording shall become part of the record of the proceeding. There is no requirement to record any translation for a non-English speaking defendant of other proceedings where the defendant does not directly participate, such as the translation of testimony of an English speaking witness when the defendant is represented by counsel. Nor shall a record be made of private conversations between defendant and counsel.

(C) In civil cases, whenever a Certified interpreter is not utilized and a party was denied the right to use an interpreter of his or her own choosing, the court shall make an audio or audio-visual recording of any testimony given in a language other than English. This includes any colloquies between the court and any non-English speaking persons, statements or testimony made to the court given by a non-English speaking person, as well as all translations provided by the interpreter in the proceedings. This recording shall become part of the record of the proceeding. There is no requirement to record the translation for a non-English speaking party of other proceedings where the party does not directly participate, such as the

SUPREME COURT.

translation of testimony of an English speaking witness when the party is represented by counsel. Nor shall a record be made of private conversations between parties and counsel.

(D) In all cases where an audio or audio-visual recording is not required, the court shall have the discretion to authorize the making of such a recording.

AMENDMENTS TO RULES FOR USE OF INTERPRETERS.

APPENDIX A

UNIFORM RULE FOR INTERPRETER PROGRAMS

I. **General Rule:** The following rules apply to all proceedings in Georgia where there are non-English speaking persons in need of interpreters.

- (A) An interpreter is needed and a court interpreter shall be appointed when the judge determines, after an examination of a party or witness, that: (1) the party cannot understand and speak English well enough to participate fully in the proceedings and to assist counsel; or (2) the witness cannot speak English so as to be understood directly by counsel, court, and jury.
- (B) The court should examine a party or witness on the record to determine whether an interpreter is needed if: (1) a party or counsel requests such an examination; or (2) it appears to the court that the party or witness may not understand and speak English well enough to participate fully in the proceedings; or (3) if the party or witness requests an interpreter. The fact that a person for whom English is a second language knows some English should not prohibit that individual from being allowed to have an interpreter.
- (C) To determine if an interpreter is needed the court should normally include questions on the following:
 - 1. Identification (for example: name, address, birth date, age, place of birth);
 - 2. Active vocabulary in vernacular English (for example: “How did you come to the court today?”, “What kind of work do you do?”, “Where did you go to school?”, “What was the highest grade you completed?”, “Describe what you see in the courtroom”, “What have you eaten today?”). Questions should be phrased to avoid “yes or no” replies;
 - 3. The court proceedings (for example: the nature of the charge or the type of case before the court, the purpose of the proceedings and function of the court, the rights of a party or criminal defendant, and the responsibilities of a witness).
- (D) After the examination, the court should state its conclusion on the record, and the file in the case should be clearly marked and data entered electronically when appropriate

SUPREME COURT.

by court personnel to ensure that an interpreter will be present when needed in any subsequent proceeding.

- (E) For good cause, the court should authorize a pre-appearance interview between the interpreter and the party or witness. Good cause exists if the interpreter needs clarification on any interpreting issues, including but not limited to: colloquialisms, culturalisms, dialects, idioms, linguistic capabilities and traits, regionalisms, register, slang, speech patterns, or technical terms.
- (F) When a Certified, Conditionally Approved, or Registered interpreter is not being used, the court or the court's designee should give instructions to interpreters, either orally or in writing, that substantially conform to the following:
 1. Do not discuss the pending proceedings with a party or witness, outside of professional employment in the same case.
 2. Do not disclose communications between counsel and client.
 3. Do not give legal advice to a party or witness. Refer legal questions to the attorney or to the court.
 4. Inform the court if you are unable to interpret a word, expression, special terminology, or dialect, or have doubts about your linguistic expertise or ability to perform adequately in a particular case.
 5. Interpret all words, including slang, vulgarisms, and epithets, to convey the intended meaning.
 6. Use the first person when interpreting statements made in the first person. (For example, a statement or question should not be introduced with the words, "He says . . .")
 7. Direct all inquiries or problems to the court and not to the witness or counsel. If necessary you may request permission to approach the bench with counsel to discuss a problem.
 8. Position yourself near the witness or party without blocking the view of the judge, jury, or counsel.
 9. Inform the court if you become fatigued during the proceedings.
 10. When interpreting for a party at counsel table, speak loudly enough to be heard by the party or counsel but not so loudly as to interfere with the proceedings.
 11. Interpret everything including objections.

AMENDMENTS TO RULES FOR USE OF INTERPRETERS.

12. If the court finds good cause under section (E), hold a pre-appearance interview with the party or witness to become familiar with speech patterns and linguistic traits and to determine what technical or special terms may be used. Counsel may be present at the pre-appearance interview.
13. During the pre-appearance interview with a non-English speaking witness, give the witness the following instructions on the procedure to be followed when the witness is testifying:
 - (a) The witness must speak in a loud, clear voice so that the entire court and not just the interpreter can hear.
 - (b) The witness must direct all responses to the person asking the question, not to the interpreter.
 - (c) The witness must direct all questions to counsel or to the court and not to the interpreter. The witness may not seek advice from or engage in any discussion with the interpreter.
 - (d) During the pre-appearance interview with a non-English speaking party, give the following instructions on the procedure to be used when the non-English speaking party is not testifying: (i) The interpreter will interpret all statements made in open court; (ii) The party must direct any questions to counsel; (iii) The interpreter will interpret all questions to counsel and the responses; and (iv) The party may not seek advice from or engage in discussion with the interpreter.

Commentary: A model written form for performing this procedure may be obtained from the Georgia Commission on Interpreters. It is recommended that when a non-professional interpreter is used that the Court personally verify a basic understanding of the interpreter's role on the record.

- (G) The court or the court's designee should give the following instructions to counsel, either orally or in writing:
 1. When examining a non-English speaking witness, direct all questions to the witness and not to the interpreter. (For example, do not say to the interpreter, "Ask him if . . .");
 2. If there is a disagreement with the interpretation, direct any objection to the court and not to the inter-

SUPREME COURT.

preter. Ask permission to approach the bench to discuss the problem;

3. If you have a question regarding the qualifications of the interpreter, you may request permission to conduct a supplemental examination on the interpreter's qualifications.

II. *Criminal Cases.*

- (A) Each non-English speaking defendant will be provided with an interpreter at each step of the proceedings; within the judge's discretion, costs can be assessed upon a defendant when appropriate.
- (B) A non-English speaking person may waive the right to the use of an interpreter. Such a waiver shall be in writing and approved by the court. The court shall determine, on the record, that the right to an interpreter has been waived knowingly and voluntarily utilizing the services of the most available interpreter. Additionally, counsel may waive the presence of an interpreter in bond hearings.
- (C) The court shall provide an interpreter to any non-English speaking person whenever the non-English speaking person is a party, or has been subpoenaed, or summoned or has otherwise been compelled to appear in a court proceeding. Within the judge's discretion, costs can be assessed upon a defendant when appropriate.

III. *Civil Cases.*

- (A) Upon request, each non-English speaking person shall be provided with the fee schedule and a list of the interpreters who have been approved for providing services within that particular court.
- (B) Each non-English speaking party shall have the right to an interpreter at each step of the proceedings at the expense of the non-English speaking person. If a fee schedule exists then one shall be given. Advance notice of use of an interpreter shall be provided to all parties and to the court.
- (C) In the event the court has approved a pauper's affidavit in any civil case and the person filing said affidavit requires the use of an interpreter, one will be provided at no cost to said person.

AMENDMENTS TO RULES FOR USE OF INTERPRETERS.

IV. *Juvenile Cases.*

- (A) Each non-English speaking person in a delinquency proceeding or whose parental rights to full custody of any minor child are challenged by any governmental unit or agency such as DFCS, shall be provided with an interpreter at each step of the proceedings.
- (B) The court shall provide a qualified interpreter to any non-English speaking person whenever such person's rights to full custody of any minor child are challenged for allegedly causing a child to be dependent, deprived, or delinquent or neglected in violation of the Georgia Juvenile Court Code of 1971, as amended, and the rules established by this court.
- (C) The provided interpreter shall be present at all times when the non-English speaking person is consulting with legal counsel should said legal counsel not be able to communicate with the non-English speaking person.
- (D) A non-English speaking person may waive the right to the use of an interpreter. Such a waiver shall be in writing and approved by the court. The court shall determine, on the record, that the right to an interpreter has been waived knowingly and voluntarily utilizing the services of the most available interpreter. In no event shall the failure to request an interpreter be deemed to be a waiver.

V. *Replacement of Interpreter.* Upon a request by the non-English speaking person, by his or her counsel, or by any other officer of the court, the court shall determine whether the interpreter so provided is able to communicate accurately with and translate information to and from the non-English speaking person. If it is determined that the interpreter cannot perform these functions, the court shall provide the non-English speaking person with another interpreter.

VI. *Interpreter's Fees and Expenses.*

- (A) Any interpreter providing service under this rule shall be compensated as directed by these rules.
- (B) The expenses of providing an interpreter in any court proceeding may be assessed by the court as costs in such proceeding.

SUPREME COURT.

APPENDIX B

**POWERS AND DUTIES OF
THE GEORGIA COMMISSION ON INTERPRETERS;
REQUIREMENT FOR CERTIFICATION, CONDITIONAL
APPROVAL, REGISTRATION, AND TRAINING OF
INTERPRETERS**

The Georgia Commission on Interpreters shall administer the training and discipline of courtroom interpreters and provide regulations that:

- I. Shall mandate classroom training for interpreters, which initially shall be no less than sixteen hours.
- II. Shall designate the languages for which interpreting skill can be tested and certified.
- III. Shall result in certification under a multi-state program for simultaneous, consecutive, and sight-reading interpretation.
- IV. A “Certified Interpreter List” shall be comprised of individuals competent in court interpretation as demonstrated by successful completion of an oral and written examination demonstrating competence in interpreting as provided for by the Georgia Commission on Interpreters and the completion of required continuing education providing familiarity with the Georgia court system and the roles and responsibilities of interpreters within that system. In lieu of the examination, the Commission may recognize federal certification or certification of states participating in the national Consortium for State Court Interpreter Certification.
- V. A “Conditionally Approved Interpreter List” shall be comprised of individuals appearing competent in court interpretation that have completed mandatory classroom training and passed a written examination demonstrating familiarity with the Georgia court system and the roles and responsibilities of interpreters within that system. Also, such individuals must have achieved a sufficient score on an oral examination as determined by the Georgia Commission on Interpreters. It is intended that a court will choose an interpreter from this category only if a Certified Interpreter is not available.

AMENDMENTS TO RULES FOR USE OF INTERPRETERS.

- VI. A “Registered Interpreter List” shall be comprised of individuals appearing competent in court interpretation that have completed mandatory classroom training and passed a written examination demonstrating familiarity with the Georgia court system and the roles and responsibilities of interpreters within that system. This list will only include those interpreters interpreting a language for which no oral examination is given. Qualification tests for this list may also test language and interpretation skills. It is intended that a court will choose an interpreter from this category only if a Certified Interpreter or Conditionally Approved Interpreter is not available.
- VII. The Commission is authorized to maintain other classification and resource lists as it deems necessary.
- VIII. The Commission shall have the authority to set expiration dates for any qualification category, to establish fees, tests, and other requirements, including continuing education requirements, for any qualification category.
- IX. The Georgia Commission on Interpreters is dedicated to the principle that interpreters serving in court programs should be of the highest possible caliber in training and experience. All interpreters serving in Georgia programs should be of good moral character. The Commission is authorized to enact reasonable regulations to ensure these ends.
- X. The Commission is authorized to pass regulations governing the procedure in disciplining interpreters, including revocation of any qualification status.
- XI. All other persons interpreting court proceedings shall be required to comply with the standards for interpreting of the Georgia Commission on Interpreters to the best of their ability. It is intended that such persons be selected by the court for interpretation only where no Certified, Conditionally Approved, or Registered Interpreters are available.

SUPREME COURT.

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 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 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 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.

AMENDMENTS TO RULES FOR USE OF INTERPRETERS.

- 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 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 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

SUPREME COURT.

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 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 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 Court Interpreters.

AMENDMENTS TO RULES FOR USE OF 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 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 person on their

SUPREME COURT.

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 I (F) of Appendix A of the “Supreme Court Rules on the Use of Interpreters for Non-English Speaking Persons.”

- XV. Never act as an individual referral service for any attorney. If asked by a non-English 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.

AMENDMENTS TO RULES FOR USE OF INTERPRETERS.

- 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.