**South Carolina**

**RULE 511
RULES OF PROFESSIONAL CONDUCT FOR
COURT INTERPRETERS**

**PREAMBLE**

Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to limited English proficiency (LEP) or a speech or hearing impairment. It is essential that this communication barrier be removed, as much as possible, so that these persons are placed in the same position as a similarly situated person for whom there is no such barrier. A non-English speaker should be able to understand just as much as an English speaker with the same level of education and intelligence.

As officers of the court, interpreters help 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. Anyone serving as a court interpreter should be required to understand and abide by the precepts set out in these Rules. Judges and attorneys should also become familiar with the Rules and expect conduct from interpreters that is consistent with them.

**APPLICABILITY**

These Rules shall guide and be binding upon all persons, agencies and organizations who administer, supervise use of, or deliver interpreting services to the judiciary.

**RULE 1
ACCURACY AND COMPLETENESS OF INTERPRETATION**

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 or summarization. The interpreter shall preserve the nuances and level of formality, or informality, of the speech.

**Commentary**

The interpreter has a two-fold duty: (1) to ensure that the proceedings in English reflect precisely what was said by a non-English speaking person, and (2) to place the non-English speaking person on an 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 preserve faithfully 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 non-responsive, 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 court'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 they are interpreting for 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.

**RULE 2
REPRESENTATION OF QUALIFICATIONS**

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

Commentary

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 and experience prior to appointment so the officers of the court can fairly evaluate their qualifications for delivering interpreting services.

**RULE 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.

**Commentary**

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.

During the course of the proceedings, interpreters should not converse with parties, witnesses, jurors, attorneys, or with friends or relatives of any party, except in the discharge of their judicial 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 non-verbal 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 presiding judge. Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest and must be disclosed to the judge. An interpreter should not serve in any matter in which payment for their services is contingent upon the outcome of the case.

Before providing services in a matter, court interpreters must disclose to all parties and the presiding judge 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 create potential conflicts of interest that must be disclosed:
(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;
(3) The interpreter has previously been retained by a law enforcement agency to assist in the preparation of the criminal case at issue;
(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;
(6) The interpreter is an attorney in the case;
(7) The interpreter has previously been retained for private employment by one of the parties to interpret in the case;
(8) For any other reason, the interpreter’s independence of judgment would be compromised in the course of providing services.

The existence of any of the above-mentioned circumstances does not alone disqualify an interpreter from providing services as long as the interpreter is able to render services objectively. An interpreter may serve if the judge and all parties consent. If an actual or apparent conflict of interest exists, the interpreter may, without explanation to any of the parties or the judge, decline to provide services.

Should an interpreter become aware that a non-English speaking participant views the interpreter as having a bias, or being biased, the interpreter should disclose that knowledge to the judge.

**RULE 4
PROFESSIONAL DEMEANOR**

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

**Commentary**

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 any of the 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 movement are visible to the person for whom they are interpreting.

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

**RULE 5
CONFIDENTIALITY**

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

**Commentary**

The interpreter shall protect and uphold the confidentiality of all privileged information obtained during the course of her or his 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 communication.

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 presiding judge. If the judge is not available, the interpreter should disclose the information to an appropriate authority in the judiciary.

**RULE 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 or required by law to be confidential.

**Commentary**

Generally, interpreters should not discuss outside of the interpreter’s official duties, interpreter assignments, persons involved or the facts of the case. However, interpreters may share information for training and educational purposes. Interpreters should only share as much information as is required to accomplish their purpose. An interpreter must not reveal privileged or confidential information.

**RULE 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.

**Commentary**

Since interpreters are responsible only for enabling others to communicate, they should limit themselves to the activity of interpreting or translating only. 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 repeat or rephrase something, correcting their own interpreting errors, or notifying the court of reservations about their ability to satisfy an assignment competently. 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 that attorney is giving it. An interpreter should not explain the purpose of forms, 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, pre-trial release investigators or interviewers, or probation counselors.

**RULE 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 presiding judge.

**Commentary**

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

Interpreters should notify the presiding judge of any environmental or physical limitation that impedes or hinders their ability to deliver interpreting services adequately (e.g., the court room 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 movement, as well as hand gestures. Interpreters should notify the presiding judge 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 match more closely 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 judge.

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 notify the presiding judge 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 judge 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.

**RULE 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 these Rules, or any other judicial policy governing court interpreting and legal translating.

**Commentary**

Because the users 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 conflict with the provisions of these Rules 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 apprised of these obligations, the person persists in demanding that the interpreter violate them, the interpreter should report it to the presiding judge.

**RULE 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.

**Commentary**

Interpreters must continually strive to increase their knowledge of the languages they work in 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.

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.