

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

IN RE: AMENDMENTS TO RULES 41 AND 42: RULES OF ETHICS FOR SPOKEN FOREIGN LANGUAGE  
INTERPRETERS IN TENNESSEE COURTS; STANDARDS FOR COURT INTERPRETERS

**Filed April 27, 2005**

**ORDER**

This Court published proposed amendments to Tennessee Supreme Court Rules 41 and 42 and solicited public comments upon the proposed amendments. Upon due consideration of the comments received, the Court hereby amends Rules 41 and 42 by deleting the current rules in their entirety and by substituting instead amended Rules 41 and 42 set out in [Appendix A](#) to this order.

IT IS SO ORDERED.

FOR THE COURT:

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FRANK F. DROWOTA, III, CHIEF JUSTICE

APPENDIX A

Filed April 27, 2005

**RULES OF THE SUPREME COURT OF THE STATE OF TENNESSEE**

**RULE 41. RULES OF ETHICS FOR SPOKEN FOREIGN LANGUAGE INTERPRETERS IN  
TENNESSEE COURTS**

**PREAMBLE**

Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to limited English proficiency ( A LEP @ ). It is essential that the resulting communication barrier be removed, as far as possible, so that these persons are placed in the same position as similarly situated persons for whom there is no such barrier. 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.

**APPLICABILITY AND ENFORCEMENT**

This code shall guide and be binding upon all persons, agencies and organizations who administer, supervise use, deliver, or attempt to become credentialed to deliver spoken foreign language interpreting services to the judicial system. The Canons and any subparts are mandatory upon persons who are bound by this code. The commentary is not mandatory and exists to provide guidance in interpreting the code. Interpreters for the deaf and hard of hearing are not covered by this code. See Tenn. Code Ann. ' 24-1-211 regarding guidelines for such interpreters.

Violations of this code may result in the interpreter being removed from a case, being denied future appointments by the courts, losing credentials if the interpreter has been credentialed pursuant to the rules of the Supreme Court, or any other sanctions deemed appropriate by the Administrative Director of the Courts.

The Administrative Director of the Courts is authorized to adopt policies and procedures necessary to enforce the code.

**TERMINOLOGY**

- (1) Consecutive Interpretation--providing the target-language message after the speaker has finished speaking.
- (2) Sight Translation--oral translation of a written text.
- (3) Simultaneous Interpretation--providing the target-language message at approximately the same time the source-language message is being produced.
- (4) Source Language--the input language requiring interpretation.
- (5) Target Language--the output language into which the utterance is being interpreted.

**CANON 1 Accuracy and Completeness**

Interpreters shall render a complete and accurate interpretation or translation without altering, omitting, or adding anything to what is stated or written, and without explanation.

A. The interpreter has a twofold duty: 1) to ensure that the proceedings in English reflect precisely what was said by the LEP person, and 2) to place the LEP person on an equal footing with those who understand and speak 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.

The obligation to preserve accuracy includes the interpreter's duty to correct any error of interpretation discovered by the interpreter during the proceeding. Interpreters shall demonstrate their professionalism by objectively analyzing any challenge to their performance.

#### Commentary

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, but 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.

### **CANON 2 Representation of Qualifications**

Interpreters shall accurately and completely represent and document their credentials, training, and pertinent experience, and make such documentation available to each and every court to be maintained on file by such court, if desired.

#### Commentary

Acceptance of a case by an interpreter is a representation to the court of 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, credentials and experience prior to appointment so the officers of the court can fairly evaluate their qualifications for delivering interpreting services.

The Administrative Office of the Courts distributes photo identification cards to all state certified and registered interpreters. A court can determine an interpreter's credentialing status by viewing this card, which differentiates between registered and certified interpreters, and by consulting the credentialed interpreter roster, which can be found on the AOC's website ([www.tncourts.gov](http://www.tncourts.gov)).

### **CANON 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.

A. Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest. Before providing services in a matter, court interpreters shall disclose to all parties and presiding officials any prior involvement, whether personal or professional, that could be reasonably construed as a conflict of interest. Such disclosure(s) shall include, but not be limited to, the fact that the interpreter has previously been retained by one of the parties for private employment. Such disclosure(s) shall not include privileged or confidential information.

B. Whenever an interpreter has an actual or apparent conflict of interest, the interpreter shall declare in open court before appointment such conflict and the court shall determine whether the interpreter may serve in the case. Situations, including but not limited to the following, shall be presumed to create an actual or apparent conflict of interest:

- (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 or any party to assist in the preparation of the case at issue;
- (4) The interpreter or the interpreter's spouse or child has a financial interest in the subject matter in controversy or is 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; or
- (6) Any other situation in which the interpreter thinks his or her impartiality may be questioned or compromised.

C. Interpreters shall not serve in any matter in which payment for their services is contingent upon the outcome of the case.

#### 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. Although an interpreter must disclose the fact that the interpreter interpreted for a party during out-of-court meetings, interviews, or other proceedings in the case at issue, ethical considerations do not preclude the interpreter from serving as the interpreter for multiple parties or for both the court and one or more parties in that case.

An individual who is, or may become, a witness is not permitted to serve as an interpreter in that same matter.

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 official 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.

An interpreter who is also an attorney should not serve in both capacities in the same matter.

#### **CANON 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 interpreting testimony or making comments to be included in the record, interpreters should speak at a rate and volume that enable 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.

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

#### **CANON 5 Confidentiality**

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

## Commentary

The interpreter must 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 understands and upholds the attorney-client privilege, which requires confidentiality with respect to any communication between attorney and client. It is equally important for the interpreter to be aware that when the attorney is not present, there is no attorney-client privilege and the interpreter may be held to divulge any information gained. The interpreter, therefore, must avoid any such situation. This rule also applies to other types of privileged communications.

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 the threat of 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 an appropriate authority within the judicial system and seek advice in regard to the potential conflict in professional responsibility.

### **CANON 6 Restriction of Public Comment**

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.

### **CANON 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 at all times except as set out below.

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 refer to themselves in the third person as "the interpreter," making it clear and on the record that they are speaking for themselves.

At no time can an interpreter give advice, but an interpreter may interpret legal advice from an attorney to any party while that attorney is giving it. An interpreter should not explain the purpose of forms, services, or otherwise act as counselors or advisors. The interpreter may translate language on a form in the presence of an attorney or authorized legal personnel 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, pretrial release investigators or interviewers, or probation officers, except as required by and in the presence of such officials.

### **CANON 8 Assessing and Reporting Impediments to Performance**

Interpreters shall familiarize themselves as thoroughly as possible with the nature and length of a proceeding

beforehand, to assess their ability to deliver adequate services. When interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the appropriate judicial authority even when the proceeding is in progress.

#### Commentary

If the communication mode or language of the LEP person cannot be readily interpreted, the interpreter should notify the appropriate judicial authority.

Interpreters should notify the appropriate judicial authority 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 LEP 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).

Interpreters should notify the presiding officer 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, such as trials, complex and technical proceedings, proceedings over two hours in length and testimony lasting one hour or more (keeping in mind that the consecutive interpreting mode doubles the length of time of the testimony). See the commentary to Section 3 of Tennessee Supreme Court Rule 42 for additional information.

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 officer.

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 feel no compunction about notifying the court if they feel unable to perform competently due to lack of familiarity with terminology, preparation, or difficulty in understanding a witness or defendant. Court personnel and parties are encouraged to provide interpreters with copies of all documents referred to in a proceeding, such as witness lists, indictment, exhibit lists, criminal complaint, investigative reports, tape transcripts, telephone logs and bank records.

Interpreters should notify the court 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.

#### **CANON 9 Misconduct**

An interpreter shall not commit a criminal act that reflects adversely on the interpreter's honesty, trustworthiness, or fitness as an interpreter in other respects. Likewise, an interpreter shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

#### Commentary

This language is intended to put interpreters on notice that inappropriate conduct before, during, and after successful completion of the credentialing process may have professional ramifications. The conduct at issue includes, but is not limited to, inappropriate behavior in which an interpreter engages during one or more of the required credentialing examinations.

## **CANON 10 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 this code, or any other official 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 run counter to the provisions of this code or other laws, regulations, specific instructions from the bench, 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 request the judge or appropriate official with jurisdiction over interpreter matters to resolve the situation.

## **CANON 11 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 in which they professionally interpret, 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 judicial system 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.

## **RULES OF THE SUPREME COURT OF THE STATE OF TENNESSEE**

### **RULE 42. STANDARDS FOR COURT INTERPRETERS**

#### **Section 1. Scope**

This rule shall apply to all courts in this state, including without limitation, municipal court, general sessions court, juvenile court, probate court, circuit court, chancery court, and criminal court.

### **Commentary**

This rule recognizes that for most people living in the United States, English is their native language, or they have learned to read, speak, and understand English. There are others for whom English is not their primary language. For them language can be a barrier to understanding and exercising their legal rights, and to securing meaningful access to the judicial system.

This rule is promulgated to assist the courts in this state in providing equal access to the courts to participants who have a limited ability to speak or understand the English language.

## **Section 2. Definitions**

- (1) State Certified Court Interpreter--an interpreter who possesses the qualifications outlined in Section 5(b) of this rule.
- (2) State Registered Court Interpreter--an interpreter who possesses the qualifications outlined in Section 5(a) of this rule.
- (3) Interpretation--the unrehearsed transmission of a spoken message from one language to another.
- (4) Limited English Proficient ( A LEP @ ) Person--a participant in a legal proceeding who has limited ability to speak or understand the English language.
- (5) Non-Credentialed Interpreter--a court interpreter who is not certified or registered as provided in this rule.
- (6) Participant--a party, witness, or other person in a legal proceeding.
- (7) Sight Translation--oral translation of a written text.
- (8) Written Translation--the rendering of a written document from one language into a written document in another language.
- (9) Audio or Video Transcription and Translation B written transcription of the entire verbal content and translation of the non-English verbal content of an audio or video recording.

## **Section 3. Determining Need for Interpretation**

- (a) Appointing an interpreter is a matter of judicial discretion. It is the responsibility of the court to determine whether a participant in a legal proceeding has a limited ability to understand and communicate in English.
- (b) Recognition of the need for an 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 of the person to understand and communicate in English.
- (c) The court shall appoint an interpreter according to the preference listed below:
  1. State certified court interpreter;
  2. Stateregistered court interpreter;
  3. Non-credentialed court interpreter.
- (d) The court may appoint an interpreter of lesser preference (i.e., registered instead of certified or non-credentialed instead of registered) only upon a finding that diligent, good faith efforts to obtain the certified or registered interpreter, as the case may be, 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.
- (e) Before appointing a non-credentialed interpreter, the court shall make the following findings:
  - (i) that the proposed interpreter appears to have adequate language skills, knowledge of interpreting techniques, familiarity with interpreting in a court setting; and
  - (ii) that the proposed interpreter has read, understands, and will abide by the Rules of Ethics for Spoken Foreign Language Interpreters in Tennessee Courts.



(f) A summary of the efforts made to obtain a certified or registered interpreter and to determine the capabilities of the proposed non-credentialed interpreter shall be made in open court.

(g) The court shall use the services of multiple interpreters where necessary to aid interpretation of court proceedings.

### Commentary

The Administrative Office of the Courts distributes photo identification cards to all state certified and registered interpreters. A court can determine an interpreter's credentialing status by viewing this card, which differentiates between registered and certified interpreters, and by consulting the credentialed interpreter roster, which can be found on the AOC's website ([www.tncourts.gov](http://www.tncourts.gov)).

Section 3(g). The court may wish to consider using multiple interpreters in legal proceedings where one or more of the following situations exist:

(1) Legal proceedings lasting more than 2 hours--Generally, 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 by allowing 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 during relatively short hearings.

(2) Multiple defendants--One or more interpreters may be appointed (apart from the interpreter(s) who are interpreting 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. Moreover, the Administrative Office of the Courts has provided many courts with simultaneous interpreting equipment, which will allow one interpreter to interpret for multiple defendants during a single proceeding.

See the commentary to Canon 8 of Tennessee Supreme Court Rule 41 for additional information regarding circumstances in which it may be advisable to use multiple interpreters.

### Section 4. Procedures

(a) Waiver of Interpreter. The LEP participant may at any point in the proceeding waive the services of an interpreter. The waiver of the interpreter's services must be knowing and voluntary, and with the approval of the court. Granting such waiver is a matter of judicial discretion.

(1) Procedure.

(i) The waiver is approved by the court after explaining in open court to the LEP person through an interpreter the nature and effect of the waiver; and

(ii) the court determines in open court that the waiver has been made knowingly, intelligently, and voluntarily.

(iii) If the LEP person is the defendant in a criminal matter, the court must further determine that the defendant has been afforded the opportunity to consult with his or her attorney.

(2) At any point in any proceeding, for good cause shown, the LEP person may retract his or her waiver and request an interpreter.

(b) Interpreter Oath. All interpreters, before commencing their duties, 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:

"Do you solemnly swear or affirm that you will interpret accurately, completely and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the Rules of Ethics for Spoken Foreign Language Interpreters in Tennessee Courts; that you will follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?"

#### Commentary

Section 4(b). Comment 1. It is common practice for interpreter oaths to be sworn to and maintained on file for all interpreters who are regularly employed by a court. This simplifies the court's inquiries in open court during procedural hearings. It is recommended, however, that an oath be read and sworn to in open court in all proceedings conducted before a jury.

Section 4(b). Comment 2. The Rules of Ethics for Spoken Foreign Language Interpreters in Tennessee Courts address the various ethical responsibilities of interpreters for accuracy and completeness, impartiality, confidentiality, and other matters relating to the professional conduct of interpreters. The court should be alerted to potential conflicts of interest or other violations of the Rules of Ethics. The sanction of removal from the case is justified for any violations of the Rules of Ethics. See Tennessee Supreme Court Rule 41 for additional information.

### **Section 5. State Certified and Registered Court Interpreters**

(a) To receive designation as a state registered court interpreter, the candidate shall:

(1) Submit to a criminal background check. Convictions for any felony or for 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 Tennessee Rule of Evidence 609;

(2) Attend an approved ethics and skill building workshop;

(3) Pass an approved criterion-referenced written examination;

(4) Provide verification of United States citizenship or the legal right to work and remain in the United States;

(5) Complete any required forms and pay any required fees; and

(6) Complete any additional requirements established by the Administrative Director of the Courts pursuant to subsection (d).

If an oral performance examination is available, a registered court interpreter must sit for the examination at least once every twelve months from the date he/she is designated as a registered court interpreter until he/she receives a passing grade to become a certified court interpreter. Failure to sit for the oral examination as required by this section shall result in the loss of designation as a registered court interpreter and the interpreter shall be required to begin the credentialing process anew.

(b)(1) To receive designation as a state certified court interpreter, the candidate shall:

(i) Successfully meet the requirements to be designated as a state registered court interpreter;

(ii) Pass an approved criterion-referenced oral performance examination; and

(iii) Complete any additional requirements established by the Administrative Director of the Courts pursuant to subsection (d).

(2) Interpreters with certification as a federal court interpreter shall be granted reciprocity as a state certified court

interpreter after successfully meeting the requirements of (a)(1), (a)(2), (a)(4), (a)(5), and (a)(6) above. Interpreters with any other type of certification will be reviewed on a case-by-case basis to determine what steps the interpreters must take to be granted state court interpreter certification.

(c)(1) Once credentialed, certified and registered court interpreters shall be required to renew their credentials every three years. The three-year effective period begins on July 1 following the date of credentialing. Renewals are from July 1 of one year to June 30 of the third year for three-year periods.

(2) Renewing credentials requires the following:

(i) Providing documentation of 18 hours of approved continuing education (CE) credits received during the three-year period. A CE credit is equal to one contact hour in the classroom. A minimum of 12 of the 18 hours must consist of foreign language or interpreting skills training. The Administrative Director of the Courts is authorized to adopt policies and procedures necessary to implement this provision of the rule; and

(ii) Completing any required forms and paying any required fees.

(d) The Administrative Director of the 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 Director of the 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 director is authorized to adopt policies and procedures necessary to implement this provision of the rule.

### Commentary

Comment 1. Court interpretation is a specialized and highly demanding form of interpreting. It requires skills that few bilingual individuals possess, including language instructors. 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, the Court has promulgated this rule to adopt uniform qualifications for interpreters serving in Tennessee's courts.

Comment 2. 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.

Comment 3. Interpreters are responsible for familiarizing themselves with the credentialing and renewal requirements. For additional information, interpreters should consult the interpreter page of the Administrative Office of the Courts' website, which can be accessed at [www.tncourts.gov](http://www.tncourts.gov), or contact the Administrative Office of the Courts.

## Section 6. Removal of an Interpreter in Individual Cases

Any of the following actions shall be good cause for a judge to remove an interpreter from a case:

- (1) Incompetence;
- (2) Being unable to interpret adequately, including where 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 other standards prescribed by law and the Rules of Ethics for Spoken Foreign Language Interpreters in Tennessee Courts.

#### Commentary

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. This section authorizes the court to remove interpreters who are not competent to interpret for this or any other reason, or who violate the Rules of Ethics for Spoken Foreign Language Interpreters in Tennessee Courts.

#### **Section 7. Cost of Interpreter Services**

(a) Generally, the costs of interpreter services in both civil and criminal cases shall be taxed as court costs pursuant to Tenn. R. Crim. P. 28 and Tenn. R. Civ. P. 54.

(b) Interpreter services may be assessed against the indigent defense fund pursuant to Tennessee Supreme Court Rule 13 in appropriate circumstances.

#### Commentary

Interested persons should consult Tennessee Supreme Court Rule 13 or contact the Tennessee Administrative Office of the Courts to determine the circumstances in which interpreter services may be assessed against the indigent defense fund.