

**The Interpreter's Role:
Balancing Autonomy and
Ethical Obligations in Every
Situation**

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Ethics: It never ends

None of us are immune to doubts or ethical conundrums, no matter how experienced or well trained.

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- Usually we work alone: we have decision-making responsibilities
- We work with an unending variety of people in difficult situations, and
- Users may have expectations that go against our code of professional conduct.

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No one else is responsible...

For knowing what we are supposed to do or not do.

We must know the parameters and ethical underpinning of our own profession. Where should we look?

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The setting is important

- Staff vs. Independent Contractor
- Court v. Admin Hearings v. Depositions
- Doctor's office/ER/Psych Evals
- Community/Education/Refugee Services
- Government/Business
- Labor/Benefits/Mediation

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- Some interpreters may act as “cultural brokers”
- Others must be faithful to the message, but have an obligation to do so diplomatically.

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- Some interpreters work in adversarial settings and must remain neutral and impartial
- Some interpreters work for one of the parties and are not perceived as neutral.

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- Some interpreters are expected to facilitate the process. Others are forbidden to do so.
- Court interpreters are faithful to the speech of the speaker, while medical interpreters must pay attention to the level of understanding of the LEP person.

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Model Code – Canon 5

Interpreters shall protect the confidentiality of all privileged and other confidential information obtained during the course of her or his duties

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Canon 5: Confidentiality

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 communications.

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Canon 5: Confidentiality

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.

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Canon 5: Confidentiality

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 an appropriate authority within the judiciary who is not involved in the proceeding and seek advice in regard to the potential conflict in professional responsibility.

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NM Rules of Civil Procedure 1-103 Court Interpreters (E-12)

Removal of the court interpreter. The court may remove a court interpreter for any of the following reasons:

- (a) inability to adequately interpret the proceedings;
- (b) knowingly making a false interpretation;
- (c) *knowingly disclosing confidential or privileged information obtained while serving as a court interpreter;*

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Knowledge Check

An LEP defendant writes to the court alleging that the defense attorney intimidated and pressured them into pleading guilty by saying horrible things about the judge in his case. (Defendant wanted to withdraw guilty plea.) The judge scheduled a hearing, and asked the attorney if what was stated in the letter was true. The attorney denied it was true.

The judge found that by writing a letter describing attorney-client conversations, *the defendant had waived his right to privilege*, and the interpreter would be called to testify regarding what was said during those conversations at the jail.

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Knowledge Check

- a) What should the interpreter do if a judge asks them to reveal details about an attorney's private conversation with a client?
- b) Did writing the letter really negate the defendant's right to attorney-client privilege?
- c) Can an interpreter refuse a judge's request for information in a situation like this?

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Knowledge Check

While you are interpreting between defense attorney and defendant, before a hearing, the defendant states: "I feel so bad. I can't do this, I'm worthless. I want to kill myself. I won't be back for sentencing" The defendant cries when he pleads guilty. The attorney makes no comment, and does not mention it during the hearing. You feel the defendant is suicidal and in imminent danger. You want to report it to the judge.

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Knowledge Check

An appeal has been made on the basis of ineffective assistance of counsel, and you are subpoenaed to appear at a hearing to testify regarding attorney-client meetings that you interpreted. Should you try to find your notes from those meetings?

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Standard 3: Interpreters act strictly in the interests of the court they serve

Interpreters conduct themselves as officers of the court, upholding the dignity of the justice system. Interpreters remain impartial at all times and protect their actual and perceived neutrality.

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Model Guide: Canon 3

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.

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Legal Dictionary

n. any person who has an obligation to promote justice and effective operation of the judicial system, including judges, the attorneys who appear in court, bailiffs, clerks *and other personnel*. As officers of the court lawyers have an absolute ethical duty to tell judges the truth, including avoiding dishonesty or evasion about reasons the attorney or his/her client is not appearing, the locations of documents and other matters related to the conduct of the courts.

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As officers of the court, are we obligated to assist the court or the parties beyond our duty to accurately, faithfully and impartially interpret?

Can we provide our expert opinion as needed?

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1. Interpreters are *always* officers of the court
2. Interpreters can opine as expert witnesses *only* when qualified, and asked or hired to do so.

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Standard 2. Interpreters confine themselves to interpreting

Interpreters are fully occupied with conveying meaning from one language to another and understand that removing the linguistic barrier *is their sole function within the judicial process.*

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Model Guide Canon 7: Commentary

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 counselors.

What about other interpreters?

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Knowledge check

You are covering lengthy and complicated witness testimony for a trial, and your teammate is using clearly incorrect terminology for terms you know well, researched fully, and included in the glossary you shared with them. Do you have an obligation to inform the court?

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Federal Court Interpreter Orientation Manual

D. Challenges and Corrections to Interpretation

Corrections and disputes among **team** interpreters over interpretation should be handled privately and quietly, involving the court only if it is deemed necessary. If a correction is felt necessary, it should be whispered to the active interpreter or written down on a note passed only to that interpreter. Corrections to the interpretation should be handled in a professional, courteous manner, as soon as practically possible without disrupting the proceedings.

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Knowledge Check

During trial, the prosecution offers translated transcriptions of recorded conversations and text messages as exhibits. The exhibits contain many serious meaning errors. Who should you inform, and when?

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Standard 4: Interpreters are language access professionals

Interpreters are expected to stay abreast of evolving language use and trends in the profession of interpreting.

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Standard 4: Interpreters are language access professionals

Interpreters accept assignments using discretion with regard to skill, communication mode, setting, *and consumer needs.*

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Standard 4: Interpreters are language access professionals

Interpreters are expected to collaborate with colleagues to foster the delivery of effective interpreting services.

Interpreters recognize their role as representatives of the interpreting profession.

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QUESTIONS??

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THANK YOU

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