

Rule 16-819. COURT INTERPRETERS

(a) Definitions

The following definitions apply in this Rule:

(1) Certified Interpreter

"Certified Interpreter" means an interpreter who is certified by:

(A) the Maryland Administrative Office of the Courts;

(B) a member of the Consortium for State Court Interpreter Certification; or

(C) the Federal Administrative Office of the Courts.

(2) Interpreter

"Interpreter" means an adult who has the ability to render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written and without explanation.

(3) Interpreter Eligible for Certification

"Interpreter eligible for certification" means an interpreter who is not a certified interpreter but who:

(A) has submitted to the Administrative Office of the Courts a completed Maryland State Judiciary Information Form for Spoken and Sign Language Court Interpreters and a statement swearing or affirming compliance with the Maryland Code of Conduct for Court Interpreters;

(B) has attended the Maryland Judiciary's orientation

workshop on court interpreting; and

(C) does not have, in a state or federal court of record, a pending criminal charge or conviction on a charge punishable by a fine of more than \$500 or imprisonment for more than six months unless pardoned or expunged in accordance with law.

(4) Non-certified Interpreters

"Non-certified interpreter" means an interpreter other than a certified interpreter or an interpreter eligible for certification.

(5) Person Who Needs an Interpreter

"Person who needs an interpreter" means a party or a witness who is deaf or unable adequately to understand or express himself or herself in spoken or written English.

(b) Application for the Appointment of an Interpreter

A person who needs an interpreter may apply to the court for the appointment of an interpreter. As far as practicable, an application for the appointment of an interpreter shall be (1) presented on a form approved by administrative order of the Court of Appeals and available from the clerk of the court and (2) submitted not less than five days before the proceeding for which the interpreter is requested.

(c) Procedures to Determine the Need for Interpreters

(1) Sign Language Interpreter

The court shall determine whether a sign language

interpreter is needed in accordance with the requirements of the Americans with Disabilities Act, 42 U.S.C. §12101, et seq.; Code, Courts Article, §9-114; and Code, Criminal Procedure Article, §§1-202 and 3-103.

(2) Spoken Language Interpreter

(A) Examination of Party or Witness

To determine whether a spoken language interpreter is needed, the court, on request or on its own initiative, shall examine a party or witness on the record. The court shall appoint a spoken language interpreter if the court determines that:

- (i) the party does not understand English well enough to participate fully in the proceedings and to assist counsel, or
- (ii) the party or a witness does not speak English well enough to be understood by counsel, the court, and the jury.

(B) Scope of Examination

The court's examination of the party or witness should include questions relating to:

- (i) identification;
- (ii) active vocabulary in vernacular English; and
- (iii) the court proceedings.

Committee note: Examples of matters relating to identification are: name, address, birth date, age, and place of birth. Examples of questions that elicit active vocabulary in vernacular English are: How did you come to court today? What kind of work do you do? Where did you go to school? What was the highest grade you completed? What do you see in the courtroom? Examples

of questions relating to the proceedings are: What do you understand this case to be about? What is the purpose of what we are doing here in court? What can you tell me about the rights of the parties to a court case? What are the responsibilities of a court witness? Questions should be phrased to avoid "yes or no" replies.

(d) Selection and Appointment of Interpreters

(1) Certified Interpreter Required; Exceptions

When the court determines that an interpreter is needed, the court shall make a diligent effort to obtain the services of a certified interpreter. If a certified interpreter is not available, the court shall make a diligent effort to obtain the services of an interpreter eligible for certification. The court may appoint a non-certified interpreter only if neither a certified interpreter nor an interpreter eligible for certification is available. A person related by blood or marriage to a party or to the person who needs an interpreter may not act as an interpreter.

Committee note: The court should be cautious about appointing a non-certified interpreter and should consider carefully the seriousness of the case and the availability of resources before doing so.

(2) Inquiry of Prospective Interpreter

Before appointing an interpreter under this Rule, the court shall conduct an appropriate inquiry of the prospective interpreter on the record.

Committee note: The court should use the interpreter inquiry questions promulgated by the Maryland Judicial Conference Advisory Committee on Interpreters and published, together with suggested responses, in the October 20, 1998 Report of the Advisory Committee. The questions and suggested responses are

reprinted as an Appendix to these Rules.

(3) Oath

Upon appointment by the court and before acting as an interpreter in the proceeding, the interpreter shall solemnly swear or affirm under the penalties of perjury to interpret accurately, completely, and impartially and to refrain from knowingly disclosing confidential or privileged information obtained while serving in the proceeding. If the interpreter is to serve in a grand jury proceeding, the interpreter also shall take and subscribe an oath that the interpreter will keep secret all matters and things occurring before the grand jury.

(4) Multiple Interpreters in the Same Language

At the request of a party or on its own initiative, the court may appoint more than one interpreter in the same language to ensure the accuracy of the interpretation or to preserve confidentiality if:

(A) the proceedings are expected to exceed three hours;

(B) the proceedings include complex issues and terminology or other such challenges; or

(C) an opposing party requires an interpreter in the same language.

Committee note: To ensure accurate interpretation, after interpreting for a period of forty-five minutes, an interpreter ordinarily should be granted a reasonable rest period.

(e) Removal from Proceeding

A court interpreter may be removed from a proceeding by a judge or judicial appointee within the meaning of Rule 16-814 (e)(1), who shall then notify the Administrative Office of the Courts that the action was taken.

(f) Compensation of Court Interpreters

Compensation for interpreters shall be in accordance with Code, Criminal Procedure Article, §§1-202 and 3-103 and Code, Courts Article, §9-114.

Committee note: Code, Courts Article, §9-114 provides for the appointment of interpreters for certain parties and witnesses, generally. Code, Criminal Procedure Article, §§1-202 and 3-103 provide for the appointment of interpreters for certain defendants in criminal proceedings and proceedings under Title 3 of that Article.

Source: This Rule is new.