



**BEFORE THE 2013 JUDICIAL COUNCIL OF GUAM**

**RESOLUTION NO. JC13-003**

**RELATIVE TO RATIFYING THE ADOPTION OF THE CODE OF CONDUCT FOR REGISTERED COURT INTERPRETERS**

**WHEREAS,** On January 17, 2013, at the monthly meeting of the Judicial Council, as part of a new Program to train, register and monitor Registered Court Interpreters, Judge Barrett-Anderson presented a Draft Code of Conduct for the Court Interpreters for the Judiciary of Guam, appended hereto as Exhibit "A;" and

**WHEREAS,** The Judicial Council considered the contents of the proposed Code of Conduct, which Judge Barrett-Anderson proposed be applied to all interpreters for indigent counsel for the Judicial Branch. After due consideration, the Judicial Council unanimously approved the attached Code of Professional Conduct for Court Interpreters for the Judiciary of Guam, and on motion duly made and seconded, **RESOLVED** to adopt the Code of Conduct.

**NOW THEREFORE BE IT RESOLVED,** that the Judicial Council hereby ratifies the adoption of the Code of Professional Conduct for Court Interpreters for the Judiciary of Guam, effective January 17, 2013.

DULY ADOPTED this 26<sup>th</sup> day of February, 2013 at a duly-noticed meeting of the Judicial Council of Guam.

A handwritten signature in blue ink, appearing to read "F. Philip Carbullido", is written above a horizontal line.

**F. PHILIP CARBULLIDO, Chairman**

Dated: \_\_\_\_\_

2/27/13

ATTEST:

A handwritten signature in blue ink, appearing to read "Joanna S. McDonald", is written above a horizontal line.

**JOANNA S. McDONALD, Assistant Secretary**

Dated: \_\_\_\_\_

2/27/2013

**THE CODE OF PROFESSIONAL CONDUCT**  
**FOR COURT INTERPRETERS OF THE JUDICIARY OF GUAM**

Section 101.Purpose. A court interpreter is the communication facilitator for the parties involved in a proceeding and, as such plays a vital role in the protection of the rights of indigent Limited English Proficient (LEP) and Deaf or Hard of Hearing (DHH) individuals engaged as parties or witness in legal proceedings in the Judiciary of Guam. This role requires understanding by the court interpreter of the complexities of the tasks to be performed. Court interpreters serve as officers of the Court and their duty in a court proceeding is to serve the Court and the public. In these tasks, court interpreters should be guided by these ethical principles and standards.

Section 102.Objective.The Code of Professional Conduct for Court Interpreters is established to accomplish the following:

- a) Ensure meaningful access to court proceedings for LEP and DHH individuals,
- b) Protect the constitutional rights of LEP and DHH individuals by providing the assistance of a court interpreter during court proceedings and other essential appointments with their attorney, counseling, etc.
- c) Ensure due process in all phases of litigation,
- d) Ensure equal protection of the law,
- e) Increase efficiency, quality and uniformity in handling proceedings that involve court interpreters, and
- f) Encourage the broadest use of professional court interpreters by all those in need of such services within the Judiciary of Guam.

Section 103.Application.This Code defines and governs the practice of court interpretation in the Judiciary of Guam and applies to all court interpreters appearing in any proceeding before the Judiciary of Guam, before any court appointed attorney in connection with any matter that is brought before the Judiciary of Guam, and in any other activity ordered by the Judiciary of Guam or conducted under the supervision of a Court.

Section 104.Required Professional Skills.

- A. Court interpreters shall render a complete and accurate interpretation, sight translation, or written translation without altering, omitting or adding any utterances, either stated or written, to the best of their skill and ability. Court interpreters shall not explain or otherwise comment upon the utterances they interpret. The obligation to preserve accuracy includes the court interpreter's duty to correct any error of interpretation discovered by the interpreter during the proceeding.
- B. Court interpreters have a twofold duty: 1) to ensure that proceedings in English reflect precisely what was said by the LEP or DHH individual on equal footing with those who speak or understand English. 2) A court interpreter is obligated to preserve every element of information contained in a source language communication when it is rendered in the target language.

- C. Court interpreters must be able to preserve legal equivalence while interpreting. To achieve legal equivalence, court interpreters must interpret the original source material without editing, summarizing, deleting, or adding, while conserving the language level, style, tone and intent of the speaker. The LEP or DHH individual may request an explanation or clarification, if necessary, through the interpreter.
- D. Court interpreters are obligated to apply their best skills and judgment to preserve 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. Therefore, every spoken statement, even if it appears non-responsive, obscene, rambling, or incoherent, should be interpreted, including apparent misstatements.
- E. When interpreting slang, idioms, or culturally-bound expressions that do not translate easily, the court interpreter must find a way to express them accurately in such a way that the speaker’s intended meaning is preserved. If that is not possible, the court interpreter should repeat the term to the Judge in the source language.
- F. Court interpreter should not interject their own words, phrases, or expressions. If the need arises to explain an interpreting problem, i.e. a term or phrase with no direct equivalent in the target language or a misunderstanding that the court interpreter can clarify, the court interpreter should ask the Judge’s permission to provide an explanation.
- G. Court interpreters who use sign language, or other visual modes of communication must employ all of the visual cues of the language they are interpreting, including facial expressions, body language and hand gestures. Sign language court interpreters should ensure that court participants do not confuse these essential elements of the interpreted language with inappropriate court interpreter conduct.
- H. The obligation to preserve accuracy includes the court interpreter’s duty to correct any error on interpretation discovered by the court interpreter or anyone else during the proceeding. Court interpreters should objectively analyze any challenge to their performance.
- I. Whenever a court interpreter discovers an error of interpretation in the course of a proceeding involving testimony from an LEP or DHH individual, the court interpreter shall correct the error at once, first identifying himself/herself for the record. If the error of interpretation is discovered after testimony has been completed, the court interpreter shall immediately request a conference with the Judge and shall follow the Judge’s direction.

Section 105. Impartiality. Court interpreters shall be impartial and unbiased in their interpretation and shall refrain from conduct that may give an appearance of bias. Court interpreters shall disclose any real or perceived conflict of interest.

- A. Court interpreters shall not accept money or consideration of favors from anyone for the performance of an act they would be required or expected to perform in the regular course of assigned duties with the Judiciary of Guam. Court interpreters shall not accept any gifts, gratuities or favors of any kind which might be construed as an attempt to influence their actions with respect to the Judiciary of Guam.
- B. Court interpreters shall not use, for private gain or advantage, the court's time or facilities, equipment or supplies or shall they use or attempt to use their position to secure unwarranted privileges or exemptions for themselves or others.
- C. Court interpreters shall treat each person equally with dignity and respect regardless of sex, race, creed, national origin, political affiliation, sexual orientation, age, handicap or socio-economic class.
- D. To maintain neutrality, court interpreters shall limit their conversations 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 court interpreters, who are often familiar with attorneys and other individuals who regularly appear in the courtroom, refrain from casual and personal conversations with anyone in court that may convey an appearance of special relationship with or partiality to any of the court participants. Verbal and non-verbal displays by the court interpreter of personal attitudes, prejudices, emotions, or opinions, should be avoided at all times.
- E. In the event that a court interpreter becomes aware that a participant in a proceeding views him/her as being biased, the court interpreter should disclose that knowledge to the appropriate court authority and counsel.
- F. Before providing services in a matter, court interpreters must disclose to all parties and judge presiding any prior involvement, whether personal or professional, and that could be reasonably construed as a conflict of interest. This disclosure should not be privileged or confidential information. Court interpreters shall disclose on the record to the court and other parties if they have previously been retained by one of the parties in the case. Any condition that interferes with the objectivity of a court interpreter constitutes a conflict of interest.
- G. The following circumstances that are presumed to create actual or apparent conflicts, which require disclosure and, in all but rare cases, require disqualification:

- a. A friend, associate or relative of a party or counsel for a party involved in the proceeding.
- b. Has served in an investigative capacity for a party involved in the case.
- c. A member of the court interpreter's immediate family has a financial interest in the subject matter in controversy or with a party in the proceeding, or any other interest that might be affected by the outcome of the case.
- d. Has been involved in the choice of counsel or law firm for the case.
- e. Payment for service is contingent upon the outcome of the case.
- f. If an attorney in the same proceeding.

Section 106. Professional Demeanor. Court interpreters shall conduct themselves in a manner consistent with the dignity of the court and with the standards that govern their profession

- A. Court interpreters should know and observe the established rules for delivering interpreting services. When speaking in English, court interpreters should speak at a rate and volume that enable them to be heard and understood throughout the courtroom. However, court interpreters should work without drawing undue or inappropriate attention to themselves.
- B. Court interpreters should avoid obstructing the view of any individual involved in the proceedings. However, court interpreters who use sign language or other visual modes of communication must be positioned so that hand gestures, facial expressions, and whole body movements are visible to the person for whom they are interpreting.
- C. Court interpreters are encouraged to avoid conduct which could discredit or reflect poorly upon the court, including, but not limited to, overly familiar behavior towards any person participating in the proceeding or court personnel.
- D. Court interpreters should dress in a manner consistent with the dignity of the court and which does not attract undue attention, thus ensuring their professional role as impartial participants. This applies also to attire or symbols that represent specific religious, political, or social affiliations that could create perception of partiality or bias on the part of the court interpreter.
- E. Court interpreters shall appear on time and report to the appropriate court personnel immediately upon arrival.
- F. Court interpreters shall not make arrangements directly with the court or counsel for a substitute in cases to which they have been assigned. Rather, a 24-hour cancellation notice shall be given to the Clerk of Court or his/her designated clerk, which will arrange a substitute.

- G. Court interpreters shall behave in an approachable and courteous manner at all times, encouraging all persons in need of their services to communicate with them and through them in ways consistent with the Code.
- H. Court interpreters shall refrain from making any religious statements, verbal or physical, that might be perceived to be personal or unprofessional in nature.
- I. Court interpreters shall wear official identification badges, issued by the Judiciary of Guam, in such a manner so as to make their presence clear to all persons in court in need of their services. The badge shall be used strictly for the sole purposes of identification in Judiciary hearing matters. Any misuse of this badge will result in action(s) to be taken against the court interpreter.

Section 107.Confidentiality and Restriction of Public Comment. Court interpreters shall protect the confidentiality of all privileged and other confidential information. They 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.

- A. The court interpreter must protect and uphold the confidentiality of all privileged information obtained during the course of his/her duties. It is especially important that the court interpreter understand and uphold the attorney-client privilege, with respect to any written or oral communications between attorney and client. They must refrain from repeating or disclosing information obtained during a case in which they are interpreting in the course of their employment.
- B. In the event a court 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 court interpreter should immediately disclose the information to the judge and seek advice in regard to the potential conflict.
- C. Court interpreters shall not take advantage of any knowledge obtained in the performance of their duties for their own or another's personal gain.
- D. Court interpreters should not discuss court interpreter assignments with anyone other than persons who have a formal duty associated with the case. However, court interpreters may share information for training and education purposes, divulging only so much information as is required to accomplish this purpose. If ordered by a court, court interpreter must never reveal privileged or confidential information for any purpose, including training and education.

Section 108.Scope of Practice. Court 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.

- A. Court interpreters are responsible only for assisting others to communicate and should limit themselves to the activity of interpreting or translating. Court interpreters should refrain from initiating communications while interpreting, unless it is necessary for ensuring an accurate interpretation.
- B. Court Interpreters should not perform acts that are the official responsibility of other court officials including, but not limited to, court clerks, investigators, interviewers, or probation officers. Such acts may include the filling out of forms or paperwork for LEP or DHH individuals.
- C. When interpreting for an LEP or DHH individual, the court interpreter should have the appropriate officer of the court or staff present while filling out forms or written statements in order to respond to any questions that the individual might have. If the court interpreter needs to write down the person's statement, the court interpreter should have the person dictate it in his/her own language and write it down verbatim. The court interpreter should then read the written statement back to the individual and provide a written translation into English of the statement, signed and dated by the court interpreter.
- D. Legal advice may be conveyed by the court interpreter from an attorney to a person only while that attorney is providing the advice. A court interpreter should not explain the purpose of forms, services, or otherwise act as a counselor or advisor unless he or she is interpreting for someone who is acting in that official capacity. The court interpreter may translate the language on a form for a person who is filing out the form, but should not explain the form or its purpose.
- E. A court interpreter shall never act as a referral service for any attorney. If asked to refer an LEP individual to an attorney, the interpreter shall refer such individual to the local bar association in civil and criminal matters if the individual indicates the ability to afford private counsel or, if not, to the Public Defender Service Corporation or Guam Legal Service Corporation.

**Section 109. Accuracy.** Court interpreters shall provide professional services only in matters which they can perform accurately. At all times, court interpreters shall assess their ability to provide their services. If they have any reservation about their ability to fulfill an assignment, they shall immediately convey that reservation to the judge presiding or the Clerk of Court.

- A. Even experienced court interpreters may encounter cases where routine proceedings unexpectedly involve slang, idiomatic expressions, regional dialect, or technical or specialized terminology unfamiliar to the court interpreter, i.e., the unscheduled testimony of an expert witness. If familiarity with the terminology requires extensive time or intensive research, court interpreters should inform the judge or clerk of the need of additional time.

- B. Court interpreters should notify the court or the Clerk of Court if they feel unable to perform competently due to their lack of familiarity with terminology, insufficient preparation, difficulty in understanding a witness or defendant, if a serious communication problem arises between the interpreter and the LEP individual (person is being disruptive, does not allow the speaker to speak, etc.), or due to a personal bias. Court interpreters shall refrain from accepting a case if they feel the language and subject matter of the case is likely to exceed their skill or capabilities.
  
- C. Whenever possible, or before proceedings that are expected to be of long duration, court interpreters should briefly communicate with the LEP or DHH individual, prior to the initial court appearance, to instruct such speaker as to the proper role of the interpreter. Approval of counsel shall be obtained by the court interpreter before attempting contact with the LEP or DHH individual. Counsel may wish to be present when the court interpreter communicates with his/her client.
  
- D. The court interpreter should advise the LEP or DHH individual as follows:
  - 1) That the court interpreter will translate any and all statements or comments.
  - 2) Not to ask any direct questions of the court interpreter or initiate any independent dialog with the court interpreter, including requests for legal advice or explanations on any statement made during the proceedings
  - 3) To direct all questions to counsel or to the court, and
  - 4) To wait for the full interpretation of the English translation before responding to a question.

Section 110. Duty to Report Ethical Violations. Court interpreters who discover anything which would impede full compliance with this Code shall immediately report to the Clerk of Court.

- A. Court interpreters shall immediately report to the Clerk of Court solicitations or efforts by another to induce or encourage an interpreter to violate any law or standard of this Code or any other provisions governing interpretation promulgated by the Judicial Council.
  
- B. Court interpreters shall report to the appropriate court authority any effort to influence the way in which the interpretation of the proceeding is being conducted. Many users of court interpreter services frequently misunderstand the proper role of the court interpreter, they may ask or expect the court interpreter to perform duties or engage in activities that are inappropriate. The court interpreter shall inform such persons of the proper role of the court interpreter. If, having been apprised of the proper role of the interpreter, the person persists in asking the interpreter to perform inappropriate functions, the court interpreter shall report such efforts to the appropriate Clerk of Court.

Professional Development. Court interpreters shall continually improve their skills and knowledge. Court interpreters shall advance their profession through activities such as professional training, education and interaction with colleagues and specialists in related fields.

- A. Court interpreters must continually strive to increase their knowledge of the languages in which they work, including past and current trends in technical, vernacular (native language or dialect) and regional terminology, as well as their application within court proceedings.
- B. Court interpreters should seek to elevate the standards of their profession through participation in workshops, professional meetings, interaction with colleagues and reading current literature in the field.

Section 111. Interpreting Protocols. Court interpreters shall interpret and translate during court related discussions using the appropriate modes of interpretation and address.

- A. Court interpreters shall use the consecutive or simultaneous mode for most proceedings. Court interpreters shall sight translate documents for LEP or DHH individuals as requested by the court.
- B. It is common for court interpreters to switch from one mode of interpretation to another, depending on the situation at hand and according to the following standards:
  - 1. The simultaneous mode of interpretation requires the court to interpret contemporaneously (at the same time) with the speakers as they speak. This mode shall be used when LEP or DHH individuals are in the position of a third person in proceedings.
  - 2. The consecutive mode of interpretation requires the court interpreters to wait for the speaker to complete his/her thought or statement before rendering an interpretation. This mode shall be used when LEP or DHH individuals are giving testimony or when the judge, counsel or clerk is in direct dialogue with such speaker.
  - 3. Sight translation means that the court interpreter will orally translate a document on the spot at the request of a judge, lawyer probation officer or clerk. Sight translation is to be used whenever an officer of the court asks the court interpreter to orally translate a written document. The same principle of accuracy applies to sight translation as it does the rest of the court interpreter's duties. The interpreter shall not add, delete or improve a written source text. The text to be translated is a sworn statement by a person with limited literacy, the court interpreter's rendition should reflect the author's style.
- C. A court interpreter shall not summarize court proceedings at any time unless instructed to do so by the Judge.

- D. A court interpreter shall address the Judge and identify himself/herself as the court interpreter by using the third person singular in order to avoid confusion on the record. For example, “the court interpreter needs to take a brief recess”.
- E. The court interpreter shall familiarize himself/herself with the speech pattern, sign language communication, cultural background, and/or native language proficiency of the individual as necessary.
- F. If there is a critical word, phrase, or concept which the court interpreter does not understand, the court interpreter shall inform the Judge, at the appropriate time, so that the Judge may request an explanation, rephrasing, or repetition of the statement. The court interpreter may request time to look up any unfamiliar words in the dictionary.
- G. Each court interpreter shall interpret the exact response of the witness or speaker even if the answer to a question is non-responsive or erroneous, and leave these issues to the Judge and counsel.
- H. If, during the taking of testimony, a speaker uses a word, phrase or concept for which the court interpreter finds no appropriate equivalent in the LEP individual’s language because there is no cultural equivalent or because it may prove ambiguous in translation, the court interpreter should inform the Judge accordingly.
- I. Whenever an objection is made to witness testimony taken through a court interpreter, the court interpreter shall interpret everything that was said up to the time the objection was made and instruct the witness, by hand gesture, not to speak until the court has ruled the objection.

Section 112. Judicial Removal from a Proceeding.

- A. A court interpreter may be removed by the Judge from his/her participation in a particular assignment if that court interpreter is unable to interpret the proceedings adequately, including an instance where the court interpreter self-reports such inability.
- B. A court interpreter may be removed from a proceeding if the Judge has found good cause for his/her removal from the proceeding. Examples of good cause are as follows:
  - 1. Knowingly and willfully making false interpretations while serving in an official capacity,
  - 2. Knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity,
  - 3. Failing to follow the standards prescribed by law and the Code of Professional Conduct for Court Interpreters.