

STATE OF MINNESOTA
IN SUPREME COURT

C9-94-1898

CX-89-1863

In Re Statewide Roster for
Court Appointed Interpreters

ORDER

WHEREAS, the qualifications of court appointed interpreters is of critical importance to the integrity of the court process, and

WHEREAS, Proposed Rule 8 of the General Rules of Practice establishes a Statewide Roster of Court Interpreters, and

WHEREAS, this Court issued an order requiring that comments to proposed Rule 8 be submitted to the Court no later than November 1, 1995, and

WHEREAS, no comments to the proposed Rule 8 were received,

IT IS HEREBY ORDERED that the attached Rule 8 of the General Rules of Practice is adopted, effective January 1, 1996.

Dated: November 9, 1995

BY THE COURT



A.M. Keith
Chief Justice

OFFICE OF
APPELLATE COURTS

NOV - 9 1995

FILED

**GENERAL RULES OF PRACTICE FOR THE DISTRICT COURTS
TITLE 1. RULES APPLICABLE TO ALL COURT PROCEEDINGS**

RULE 8. INTERPRETERS

Rule 8.01 Statewide Roster

The State Court Administrator shall maintain and publish annually a list of interpreters who have: (1) successfully completed the interpreter orientation program sponsored by the State Court Administrator; and (2) filed with the State Court Administrator a written affidavit agreeing to be bound by the Code of Professional Responsibility for Interpreters in the Minnesota State Court System as the same may be amended from time to time.

Advisory Committee Comment 1995

It is the policy of the state to provide interpreters to litigants and witnesses in civil and criminal proceedings who are handicapped in communication. Minn. Stat. §§ 611.30 - .32 (1994); Minn. R. Crim. P. 5.01, 15.01, 15.03, 15.11, 21.01, 26.03, 27.04, subd. 2; Minn. Stat. § 546.44, subd. 3 (1994); *see also* 42 U.S.C. § 12101; 28 C.F.R. Part 35, § 130 (prohibiting discrimination in public services on basis of disability).

To effectuate that policy, the Minnesota Supreme Court has initiated a statewide orientation program of training for court interpreters. Pursuant to Rule 8.01, the State Court Administrator has established a statewide roster of court interpreters who have completed the orientation program on the Minnesota court system and court interpreting and who have filed an affidavit attesting that they understand and agree to comply with the Code of Professional Responsibility for Court Interpreters adopted by the Minnesota Supreme Court on September 18, 1995. The creation of the roster is the first step in a process that is being undertaken to improve the competence of court interpreters. Inclusion on the roster only ensures that an interpreter has had minimal exposure to the requirements of court interpreting and an understanding of the court system in Minnesota. The roster does not certify or otherwise guarantee an interpreter's competence.

Rule 8.02 Appointment

Whenever an interpreter is required to be appointed by the court, the court shall appoint only those individuals included on the statewide roster of interpreters established by the State Court Administrator under rule 8.01, unless good cause is found and entered on the record by the court. For purposes of this rule, good cause includes, but is not limited to, a determination that given the totality of the circumstances, including the nature of the proceedings and the potential penalty or consequences involved, the services of an interpreter on the statewide roster are not reasonably available to the court. In all cases, the court shall make a determination, on the basis of the testimony or stated needs of the person whom the interpreter will assist, that the proposed interpreter is able to accurately interpret all communications to and from such person in that particular proceeding.

Advisory Committee Comment 1995

Rule 8.02 requires that courts use interpreters included on the roster maintained by the State Court Administrator to assure that interpreters have had a minimum level of training and orientation to the appropriate roles and responsibilities of court interpreting and to the court environment. However, Rule 8.02 recognizes that it will not always be possible to appoint an interpreter from the statewide roster. Courts should make every effort to locate an interpreter on the roster who can appear in person at the proceeding and should utilize non-roster interpreters and telephone interpreting services, such as AT & T's Language Lines Service, only as a last resort because of the limitations of such services including the lack of a minimum orientation to the Minnesota Court System and to the requirements of court interpreting. For a detailed discussion of the issues, see *Court Interpretation: Model Guides for Policy and Practice in the State Courts, chapter 8 (National Center for State Courts, 1995)*, a copy of which is available from the State Court Administrator's Office.

While a valid interpreting skills test is the only reliable way to assure court interpreter competency, until such certification program is fully implemented in Minnesota, the presiding judge will continue to bear the responsibility of determining the qualifications of an interpreter. A model voir dire to determine the qualifications of an interpreter is set forth in *Court Interpretation: Model Guides for Policy and Practices in State Courts, supra*, p. 148. A copy of the voir dire is available from the State Court Administrator's Office.

Rule 8.03 Disqualification From Proceeding

A judge may disqualify a court interpreter from a proceeding for inadequate performance or for good cause. Good cause for disqualification includes, but is not limited to, the following:

- (a) Knowingly and willfully making a false interpretation while serving in a proceeding;
- (b) Knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity;
- (c) Failing to follow applicable laws, rules of court, or the Code of Professional Responsibility for Interpreters in the Minnesota State Court System.

Advisory Committee Comment 1995

Interpreters must take an oath or affirmation to make a true interpretation to the best of their ability, to the person handicapped in communication and to officials. Minn. Stat. §§ 546.44, subd. 2; 611.33, subd. 2 (1994). Interpreters cannot disclose privileged information without consent. Minn. Stat. §§ 546.44, subd. 4; 611.33, subd. 4 (1994). These and other requirements are also addressed in the Code of Professional Responsibility for Interpreters in the Minnesota State Court System.