

On December 12, 2018, the Nebraska Supreme Court adopted the following rule amendments to Neb. Ct. R. § 6-701 et seq., “Interpreters in Court,” and adopted new rule Neb. Ct. R. § 6-710, “Criminal history and revocation or suspension of certification reporting requirement”:

CHAPTER 6: TRIAL COURTS

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Article 7: Interpreters in Court.

§ 6-701. Scope and effective date.

These rules become effective on September 20, 2000, and will, as amended, govern the use of interpreters in all courts of the State of Nebraska.

§ 6-702. Interpreter register.

The State Court Administrator will publish and maintain a statewide register of interpreters which will consist of the following:

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(E) Sign Language Court Interpreters. Sign language interpreters must be licensed, as required by Neb. Rev. Stat. § 20-151 and must possess either a Legal Specialist Certification (SC:L) awarded by the Registry of Interpreters for the Deaf, a Conditional Legal Interpreting Permit-Relay, or a Level II or Level III classification awarded by the Nebraska Commission for the Deaf and Hard of Hearing, as set forth below:

Certified Sign Court Interpreters – Interpreters with current Legal Specialist Certification from the Registry of Interpreters for the Deaf (SC:L) or a CLIP-R (Conditional Legal Interpreting Permit-Relay) and a signed oath on file with the Administrative Office of the Courts.

Non-Certified Sign Court Interpreters –

Level II – Interpreters with current generalist certification from the Registry of Interpreters for the Deaf (CI/CT, CSC, NIC Master, NIC Advanced, NIC, and Deaf interpreters certified by the Registry of Interpreters for the Deaf-CDI).

Level III - ~~Interpreters~~ Interpreters with either a CI or CT certification from the Registry of Interpreters for the Deaf, or Nebraska state certification of QAST 5/5 or 4/4 or a combination of both, or Nebraska licensed Intermediary Interpreters (Deaf Interpreters).

Sign interpreters with Legal Specialist Certification (SC:L) or Level II credentials shall be paid at the rate for certified language interpreters. Level III sign interpreters shall be paid at the registered rate.

Diligent efforts must be made to obtain an interpreter with the highest level of certification before allowing an interpreter with a lower level of certification to interpret.

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§ 6-704. Examination for interpreter certification.

(A) Submission of Application. An individual who is desirous of being considered for certification as a certified, provisionally certified, or a registered interpreter as defined in these rules, in a particular language, must submit an application, on form(s) approved by the State Court Administrator, to the office of the State Court Administrator.

~~(B) Evaluation of Application. The State Court Administrator will evaluate the application and determine if the applicant meets the initial qualification requirements of §§ 6-705, 6-706, or 6-707 (minimum age and absence of criminal convictions and/or pending charges based on criminal history record check). If initial qualification requirements are met, applicants will be required to take a 2-day orientation. In order to protect the integrity of court proceedings and the safety of the public, a court interpreter should be one whose record of conduct justifies the trust of the courts, witnesses, jurors, attorneys, parties, and the public.~~

(1) Upon Application for Interpreter Orientation, the State Court Administrator will evaluate the application and determine if the applicant meets the initial qualification requirements of §§ 6-705, 6-706, or 6-707, including minimum age.

(2) Upon Application for the Interpreter Written Examination after successful completion of interpreter orientation, the applicant shall execute a criminal history record check release form, and the State Court Administrator will evaluate the application and conduct a criminal background check to verify the absence of criminal convictions and/or pending charges. A felony conviction of an applicant shall warrant denial of participation within the certification program, or removal from the roster of court interpreters. A misdemeanor conviction in the preceding 5 calendar years manifesting a significant deficiency in the honesty, trustworthiness, diligence, or reliability of an applicant may warrant denial of participation within the certification program, or removal from the roster of court interpreters.

(C) Revocation or suspension of certification as a court interpreter in any other jurisdiction will preclude certification as a Nebraska court interpreter.

~~(D)~~ (D) Orientation for interpreters will include an introduction to Nebraska Courts and court proceedings, the ethics of a court interpreter, vocabulary, and the skills needed to assume the responsibilities of a court interpreter and meet the requirements for certification or provisional certification as outlined in §§ 6-705 and 6-706. After completing orientation, applicants will be required to take a written examination.

~~(E)~~ (E) Written Examination. The written examination to qualify to take the oral examination of § 6-705(D) or be considered for provisional certification pursuant to § 6-706(F), shall require no fee and shall consist of three parts: general English language vocabulary, court-related terms and usage, and ethics and professional conduct. The written examination will be administered at such times and places as the State Court Administrator may designate. The State Court Administrator shall waive this requirement for any interpreter who has previously taken the oral interpreter competency examination of § 6-704(E). If the applicant achieves a passing score (80 percent or higher) on the written examination, the applicant shall then be required to take an oral examination, if available for the interpreter's language, or provide documentation to support consideration for provisional certification.

~~(F)~~ (F) Oral Examination. Oral examinations in specific languages will consist of three components: sight interpretation, consecutive interpretation, and simultaneous interpretation. Such examinations will be administered at such times and places as the State Court Administrator may designate. Results of the

oral certification examinations will be e-mailed or mailed by regular U.S. Mail to the applicant, per applicant's request.

~~(F)~~ (G) Confidentiality. All information relating to the examination is treated as confidential by the State Court Administrator and test administrators except that statistical information relating to the examinations and applicants may be released at the discretion of the State Court Administrator.

§ 6-705. Certified court interpreter requirements.

A certified court interpreter must be able to interpret simultaneously and consecutively and provide sight translation from English to the language of the non-English-speaking person and from the language of that person into English. An interpreter will be eligible for certification upon establishing to the satisfaction of the State Court Administrator that he or she has:

(A) Reached the age of 19;

~~(B) Had no past convictions or pending criminal charges, either felony or misdemeanor, which are deemed by the Supreme Court to evidence moral turpitude, dishonesty, fraud, deceit, or misrepresentation. Disposition of criminal charges other than by acquittal or dismissal (e.g., pretrial diversion) may also be the basis for denial of certification;~~ Had no past felony convictions or pending felony criminal charges. In addition, in the preceding 5 years had no misdemeanor convictions or pending charges manifesting a significant deficiency in honesty, trustworthiness, diligence, or reliability. Disposition of any felony charges less than 5 years in the past other than by acquittal or dismissal (e.g., pretrial diversion) shall be the basis for denial of certification. Disposition of misdemeanor charges manifesting a significant deficiency in honesty, trustworthiness, diligence, or reliability less than 5 years in the past other than by acquittal or dismissal (e.g., pretrial diversion) may be the basis for denial of certification;

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§ 6-706. Provisionally certified court interpreter requirements.

In languages for which no oral certification examination is available, an applicant may be provisionally certified upon establishing to the satisfaction of the State Court Administrator that he or she has:

(A) Reached the age of 19;

(B) Filed with the State Court Administrator a resume, a completed questionnaire regarding his or her experience and work education and work history, and permission for the State Court Administrator to do a criminal records check on the applicant;

~~(C) Had no past convictions or pending criminal charges, either felony or misdemeanor, which are deemed by the Supreme Court to evidence moral turpitude, dishonesty, fraud, deceit, or misrepresentation. Dispositions of criminal charges other than by acquittal or dismissal (e.g., pretrial diversion) may also be the basis for denial of certification;~~ Had no past felony convictions or pending felony criminal charges. In addition, in the preceding 5 years had no misdemeanor convictions or pending charges manifesting a significant deficiency in honesty, trustworthiness, diligence, or reliability. Disposition of any felony other than by acquittal or dismissal (e.g., pretrial diversion) shall be the basis for denial of provisional certification. Disposition of misdemeanor charges manifesting a significant deficiency in honesty, trustworthiness, diligence, or reliability less than 5 years in the past other than by acquittal or dismissal (e.g., pretrial diversion) may be the basis for denial of certification;

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§ 6-707. Registered court interpreter requirements.

(A) A registered court interpreter must be able to interpret simultaneously and consecutively and provide sight translation from English to the language of the non-English-speaking person and from the language of that person into English, only when a certified interpreter is not available. See § 6-703(B).

(B) An interpreter will be eligible for registration as a registered interpreter upon establishing to the satisfaction of the State Court Administrator that he or she has:

(1) Reached the age of 19;

(2) ~~Had no past convictions or pending criminal charges, either felony or misdemeanor, which are deemed by the Supreme Court to evidence moral turpitude, dishonesty, fraud, deceit, or misrepresentation. Dispositions of criminal charges other than by acquittal or dismissal (e.g. pretrial diversion) may also be the basis for denial of certification;~~ Had no past felony convictions or pending felony criminal charges. In addition, in the preceding 5 years had no misdemeanor convictions or pending charges manifesting a significant deficiency in honesty, trustworthiness, diligence, or reliability. Disposition of any felony charges or those misdemeanor charges less than 5 years in the past other than by acquittal or dismissal (e.g., pretrial diversion) shall be the basis for denial of registered court interpreter status;

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§ 6-708. Investigation of complaints and imposition of sanctions.

The opportunity to provide interpreter services to the courts under the direction of the State Court Administrator is at the Administrator's complete and continuing discretion because of the critical reliance the courts must have on the skills, performance, and integrity of the interpreter in performing duties for the court. This discretion applies to any interpreter who is certified or registered with the Administrative Office of the Court. A court interpreter should be one whose record of conduct justifies the trust of the courts, witnesses, jurors, attorneys, parties, and the public. In order to protect the integrity of court proceedings and the safety of the public, the Supreme Court authorizes the State Court Administrator to investigate complaints and impose sanctions.

(A) Grounds for Imposition of Sanctions. Any of the following may be grounds for imposition of sanctions against a certified or registered interpreter:

(1) Unprofessional or unethical conduct that violates the Code of Professional Responsibility (see Appendix 1);

(2) ~~Conviction of a any felony criminal charge,. Conviction, within the past 5 years, of a misdemeanor criminal charge manifesting a significant deficiency in honesty, trustworthiness, diligence, or reliability. either misdemeanor or felony, which is deemed by the Supreme Court to evidence moral turpitude, dishonesty, fraud, deceit, or misrepresentation.~~ Dispositions of either felony or misdemeanor criminal charges other than by acquittal or dismissal (e.g., pretrial diversion), or the filing of a probation violation or the revocation of probation may also constitute grounds for suspension or revocation; and

(3) Incompetence as an interpreter.

(4) Failure to report in writing to the Statewide Language Access Coordinator any misdemeanor or felony charge, or motion to revoke probation within 5 business days.

(5) Failure to report in writing to the Statewide Language Access Coordinator within 5 business days any revocation or suspension of certification as a court interpreter in any other jurisdiction.

(B) Investigation and Notification of Grounds for Imposition of Sanctions. Upon receipt by the State Court Administrator of a complaint in writing against a certified or registered interpreter, or upon the initiation by the office of the State Court Administrator itself of a complaint, such complaint shall be investigated, ~~to determine if the complaint warrants formal action by the State Court Administrator.~~ Upon receipt and initial investigation of any such complaint, if the State Court Administrator determines formal action is necessary, the Administrator may take any of the following formal actions: ~~In any case where formal action is deemed necessary, written notice of the complaint shall be sent by certified mail to the interpreter, and that interpreter shall have 15 days to file a written response with the Office of the State Court Administrator. Upon receipt and review of any such written response, the State Court Administrator may take any of the following actions:~~

~~(1) immediately suspend the certification of the interpreter and schedule a hearing;~~

~~(2) (1) dismiss the complaint; or~~

~~(3) (2) allow the interpreter to retain certification for the pendency of the process and schedule a hearing to consider the complaint formally; or~~

(3) immediately suspend the certification of the interpreter and schedule a hearing to consider the complaint.

In any case where the State Court Administrator deems a hearing necessary, written notice of the complaint shall be sent by certified mail to the interpreter, and that interpreter shall have 15 days to file a written response with the Office of the State Court Administrator.

In any case where the State Court Administrator dismisses the complaint, written notice of the complaint and notice of its dismissal shall be sent by certified mail to the interpreter and the complainant.

(C) Scheduling of ~~Formal~~ Hearing. If the State Court Administrator at the Administrator's complete and continuing discretion elects to schedule a ~~formal~~ hearing, such hearing shall be held within ~~30~~ 45 days of the receipt by the State Court Administrator of the interpreter's written response. A panel of three individuals appointed by the Chair of the Language Access Committee shall be responsible for the conduct of the ~~formal~~ hearing. On the hearing panel, one of the judge members of the Interpreter Advisory Language Access Committee shall preside over the hearing, together with two one certified interpreter member of the Language Access interpreters from the Interpreter Advisory Committee, and one court staff member of the Language Access Committee, to be appointed by the judge presiding over the hearing. If requested, any individual whose attendance is sought at the ~~formal~~ hearing shall be permitted to appear telephonically ~~and/or by video connection~~. Notice of the time and place of the ~~formal~~ hearing shall be given by certified mail to the interpreter under complaint, at least 15 days prior thereto.

(D) Conduct of ~~Formal~~ Hearing. The hearing panel shall receive such information and/or documentation as it sees fit, including, if deemed appropriate by the panel, the taking of testimony. The rules of evidence do not apply to these hearings, and the interpreter is not entitled to representation by counsel. At the conclusion of the hearing, the panel shall within 45 days of the date of the hearing ~~may take any such~~

~~action as recommend in writing to the State Court Administrator any § 6-708(E) sanctions it determines appropriate, including the immediate suspension or revocation of the interpreter under complaint, the dismissal of the complaint, or the imposition of any of the other sanctions described in § 6-708(E) below. The rules of evidence do not apply to these hearings.~~

(E) Sanctions. If the State Court Administrator, based upon the information and documentation provided in the complaint, the interpreter's response, and the hearing panel recommendation, determines sufficient cause exists, the State Court Administrator may within 45 days of receipt of the Hearing Panel's recommendation impose one or more of the following sanctions in order to protect the integrity of court proceedings and the safety of the public:

(1) Issue a written reprimand;

(2) Specify corrective action with which the interpreter must fully comply in order to remain on the statewide register of interpreters, including the completion of educational courses and/or re-taking one or more parts of the legal interpreting competency examination;

(3) Suspend the interpreter from serving as an interpreter in the Nebraska courts or Probation Services for a specified period of time, or until corrective action is completed; and

(4) Revoke the standing of and permanently prohibit the interpreter from serving as an interpreter in Nebraska courts or Probation Services.

(F) No interpreter who has been suspended or revoked shall be utilized as an interpreter in any State judicial proceeding in the State of Nebraska, nor shall such interpreter be entitled to any compensation from the State Court Administrator's Office, during his or her suspension or revocation.

(G) Complaints made against a sign language interpreter shall be processed pursuant to the procedure set forth in Rules and Regulations Relating to Sign Language Interpreters adopted by the Nebraska Commission for the Deaf and Hard of Hearing.

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§ 6-710. Criminal history and revocation or suspension of certification reporting requirement.

The opportunity to provide interpreter services to the courts under the direction of the State Court Administrator is at the Administrator's complete and continuing discretion because of the critical reliance the courts must have on the skills, performance, and integrity of the interpreter in performing duties for the court. This discretion applies to any interpreter who is registered with the Administrative Office of the Court. A court interpreter should be one whose record of conduct justifies the trust of the courts, witnesses, jurors, attorneys, parties, and the public. All interpreters and those seeking certification shall comply with the following:

(A) Any applicant seeking certification or registration as a Nebraska court interpreter must report in writing to the Statewide Language Access Coordinator any misdemeanor or felony charge or conviction incurred during the course of the certification process.

(B) All certified, provisionally certified, registered, or other interpreters on the Nebraska court interpreter roster shall report in writing to the Statewide Language Access Coordinator any misdemeanor

or felony charge or conviction, or motion to revoke probation within 5 days and shall acknowledge this responsibility on their biannual Continuing Education Report form.

(C) Any certified, provisionally certified, registered, or other interpreter on the Nebraska court interpreter roster who fails to report in writing to the Statewide Language Access Coordinator any misdemeanor or felony charge or conviction, or motion to revoke probation within 5 days may be subject to imposition of sanctions pursuant to § 6-708.

(D) All certified, provisionally certified, registered, or other interpreters on the Nebraska court interpreter roster shall report in writing to the Statewide Language Access Coordinator any:

(1) Revocation or suspension of certification as a court interpreter in any other jurisdiction;

(2) Acts that indicate abuse of or disrespect for the judicial process.

(E) Any certified, provisionally certified, registered, or other interpreter on the Nebraska court interpreter roster who fails to report in writing to the Statewide Language Access Coordinator any revocation or suspension of certification in any other jurisdiction or acts that indicate abuse of or disrespect of the judicial process within 30 days may be subject to imposition of sanctions pursuant to § 6-708.