

RULE 2.565. RETENTION OF SPOKEN LANGUAGE COURT INTERPRETERS FOR NON-ENGLISH-SPEAKING AND LIMITED-ENGLISH-PROFICIENT PERSONS BY ATTORNEYS OR SELF-REPRESENTED LITIGANTS

(a) Retention of Interpreters when Certified or Other Duly Qualified Interpreters Are Available. When an attorney or self-represented litigant retains the services of an interpreter to assist a non-English-speaking or limited-English-proficient litigant or witness in a court proceeding or court-related proceeding as defined in the Rules for Certification and Regulation of Spoken Language Court Interpreters, the attorney or self-represented litigant shall, whenever possible, retain a certified, language skilled or provisionally approved interpreter, as defined in the Rules for Certification and Regulation of Spoken Language Court Interpreters. Preference shall be given to retention of certified and language skilled interpreters, then to persons holding a provisionally approved designation.

(b) Retention of Interpreters when Certified or Other Duly Qualified Interpreters Are Unavailable. If, after diligent search, a certified, language skilled, or provisionally approved interpreter is not available, an attorney or self-represented litigant may retain an interpreter who is otherwise registered with the Office of the State Courts Administrator in accordance with the Rules for Certification and Regulation of Spoken Language Court Interpreters.

(c) Retention in Exceptional Circumstances. If, after diligent search, no interpreter qualifying under subdivision (a) or (b) of this rule is available, an attorney or self-represented litigant, for good cause, may retain an interpreter who is not certified, language skilled, provisionally approved, or otherwise registered with the Office of the State Courts Administrator.

(d) Written Declaration Substantiating Good Cause. No interpreter shall be retained under subdivision (c) unless the attorney or a self-represented litigant states under oath or affirms in a verified writing that:

(1) a diligent search has been conducted;

(2) neither a certified, language skilled, provisionally approved interpreter nor an interpreter otherwise registered with the Office of the State Courts Administrator is available to interpret in person or via remote technology; and

(3) to the best of the attorney or self-represented litigant's information and belief, the proposed interpreter is competent to interpret. In addition, the written declaration shall include the full name, mailing address, and telephone number of the proposed interpreter; the non-English language interpreted; the date of the interpreted event; and nature of the interpreted event.

(e) Filing and Retention of Written Declaration. An attorney or self-represented litigant substantiating good cause under subdivision (d) shall submit via e-mail, a copy of the verified written declaration with the Court Interpreter Program Office in the Office of the State Courts Administrator. A prescribed form and dedicated e-mail address appear on the Court's website. The filer shall thereafter furnish a copy to the proposed interpreter, and shall:

(1) file the original declaration in any pending court action or administrative action and serve a copy thereof on all other parties; or

(2) if no action is pending at the time interpreter services are provided, retain the original declaration and serve a copy thereof on the non-English-speaking or limited-English-proficient person at the time interpreter services are provided. The declaration shall be made available to all other parties and to any state court or administrative judge, magistrate, or hearing officer upon request in any action later filed to which the interpreted event is relevant. The filing with the Office of the State Courts Administrator of a written declaration in substantial conformity with this subdivision shall excuse the proposed interpreter from the registration requirements under the Rules for Certification and Regulation of Spoken Language Interpreters for the delivery of the specific interpreter services for which certification is made.

(f) Time for Preparation, Submission, Filing, and Service. Verified written declarations required by this rule shall be prepared, submitted to the Office of State Courts Administrator, filed with the Clerk of Court, when required, and served on all parties in advance of the proceedings to which they are relevant. When compliance with this subdivision is impossible or impracticable due to the existence of emergency or other extraordinary circumstances, the attorney or self-represented litigant shall:

(1) comply with the preparation, submission, filing, and service requirements of this rule as soon as is practicable following the conclusion of the proceeding; and

(2) include in the verified written declaration a brief statement describing the emergency or other extraordinary circumstances justifying post-proceeding compliance.