



Michigan Supreme Court

State Court Administrative Office
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Chad C. Schmucker
State Court Administrator

ADMINISTRATIVE MEMORANDUM

2013-02

DATE: September 11, 2013

TO: Judges
Court Administrators
Friend of the Court Office Directors
Probate Registers
County Clerks

FROM: Chad Schmucker, State Court Administrator

RE: SCAO Administrative Memorandum 2013-02
Adoption of Foreign Language Court Rules and Administrative Order

Today, the Court approved, with immediate effect, [two new rules](#) and an [administrative order](#) that are designed to ensure that all people, including those who are Limited English Proficient (LEP), have meaningful access to Michigan courts. MCR 1.111 establishes requirements for all courts to provide court-appointed foreign language interpreters for LEP persons. If a party is financially able to pay for interpretation costs, the court may order the party to reimburse the court at the conclusion of the case or court proceeding. The Court also passed an administrative order requiring courts to adopt language access plans specifying how they will provide LEP persons with access to court services outside the courtroom. Finally, the Court adopted MCR 8.127, which creates a board to recommend interpreter certification requirements and to review complaints against interpreters.

This administrative memorandum includes a brief overview of the new requirements for courts under MCR 1.111 and MCR 8.127 and Administrative Order No. 2013-8.

SCAO will host three conference calls on Friday, September 13, at 9 a.m., noon, and 2 p.m. for a brief discussion of the Court's action followed by an opportunity for questions and answers. All judges and court administrators are invited to call 1-866-537-1633, passcode 9262753, to participate.

If you have questions regarding language access services, please contact Daniel Bauer, Language Access Coordinator, through the language access e-mail address at LanguageAccess@courts.mi.gov, or call 517-373-6670.

Key Provisions of MCR 1.111

1. Who is entitled to an interpreter?

A court must appoint an interpreter for a party or a witness:

- when an LEP party or witness requests an interpreter,
- when a request is made on behalf of an LEP party or witness, or
- if the court has prior notice of the need for an interpreter.

A party includes both a named party and a person with legal decision-making authority in the case or court proceeding. The court may also appoint an interpreter for an LEP individual with a significant interest in the case or court proceeding.

2. How does a court appoint interpreters?

- The court must appoint a “certified interpreter” if one is reasonably available. If a certified interpreter is not reasonably available, the court may appoint a “qualified interpreter” if one is reasonably available. Qualified interpreters [MCR 1.111(A)(7)] include noncertified interpreters or employees of a company providing interpretation services (including remote interpreting companies). See the [list of certified and qualified interpreters](#).
- If neither a certified nor a qualified interpreter is reasonably available, the court may appoint a noncertified and nonqualified interpreter, after giving consideration to the gravity of the proceeding and whether the matter should be rescheduled to provide a certified or qualified interpreter. [MCR 1.111(F)(2).]

3. Do the certified interpreters or language service providers I use now comply with the rule?

The court rule requires all interpreters and interpreting companies to register with SCAO, including those that provide remote (telephonic) interpreter services. SCAO will consider any such companies that are currently used by Michigan courts to be registered for the fiscal year beginning October 1, 2013. All companies will be expected to separately register for the fiscal year beginning October 1, 2014. All individual interpreters who are certified or who have passed part of the certification test are similarly considered registered for the fiscal year beginning October 1, 2013.

4. What about an oath?

The court must administer an oath or affirmation to a foreign language interpreter substantially conforming to the following: “Do you solemnly swear or affirm that you will truly, accurately, and impartially interpret in the matter now before the court and not divulge confidential communications, so help you God?” [MCR 1.111(G).]

5. How do I know if I can require reimbursement for interpreter costs?

The court is required to pay the costs of an interpreter appointed under the rule. The court may order a party to reimburse the costs of the interpreter at the conclusion of the case if the party is financially able to reimburse the court. A person is considered financially able to reimburse the interpreter costs if the person's family or household income is 125 percent of the poverty level or more *and* if the court determines that assessment of the costs would not unreasonably impede the person's ability to defend or pursue the claims involved in the matter. [MCR 1.111(F)(4) and (5).]

Administrative Order No. 2013-8

Administrative Order No. 2013-8, requires each court to establish a language access plan by December 11, 2013, to describe how it will provide access to out-of-court services to LEP individuals. Out-of-court services include contacts at the clerk of the court, the friend of the court office, the probation department, and contacts with service providers the court uses to assist the court in enforcing its orders.

Most courts already have procedures in place for dealing with LEP persons in the courtroom and in other key service contact locations. The administrative order merely requires the court to formalize those procedures in a local administrative order (LAO). The Limited English Proficiency committee that helped draft the rule adopted by the Court today, which consisted of judges and administrators from around the state, developed a [model LAO](#) establishing a language access plan. SCAO will help courts complete and submit the LAO.

SCAO will invite courts to sign up for one of several webinars to be scheduled soon to answer questions about the court rule and language access issues, and to help courts develop their plan. During the webinar, courts will collaborate with each other and with SCAO to identify issues that may not have been considered by all courts and to help identify additional resources that may be available to provide services to LEP individuals. See a [set of questions and answers concerning issues involving the new rules and administrative order](#).