

GUIDELINES

Florida State Courts System

Provision of Real-Time Court Reporting Services for Attorneys with Disabilities

Real-time court reporting services will be provided at court expense in county and circuit court criminal trials for attorneys who are deaf or hard of hearing. The provision of real-time court reporting services in other county and circuit court criminal proceedings in which the court is already providing court reporting services to comply with constitutional requirements will be considered on a case-by-case basis. These services will be provided in accordance with the Florida State Courts System's "*Policy on Court Real-Time Transcription Services for Persons Who are Deaf or Hard of Hearing*" (attached).^{1, 2}

Request Procedures:

Attorneys should submit requests for real-time court reporting services as follows:

1. Requests should be made as far in advance as possible, but preferably at least five working days before the date of the courtroom proceeding.
2. Requests may be presented either orally or in written format. All requests will be reduced to writing by the ADA coordinator.

1 Providing accommodations for attorneys with disabilities who appear in the courtroom as part of their employment duties or professional practice is a responsibility that appropriately may be shared by the attorney's employer and the courts. Title I of the Americans with Disabilities Act (ADA) requires employers of 15 or more employees and Title II of the ADA requires all state and local government employers to provide reasonable accommodations to qualified employees with a disability. In addition, Section 504 of the Rehabilitation Act of 1973, as amended, covers recipients of federal funding, and requires all covered organizations to provide accommodations for their employees. These responsibilities are concomitant with the courts' responsibility under Title II of the ADA. It is to everyone's benefit when employers and the court system work together to ensure that reasonable accommodations for attorneys with disabilities are provided in the most efficient and cost effective manner.

2 In accordance with 28 C.F.R. § 35.150, the provision of real-time transcription services or other appropriate auxiliary aids or services is limited to those that do not fundamentally alter the nature of the service, program, or activity, or result in undue financial or administrative burdens.

Requests must include a description of the hearing disability that necessitates provision of real-time court reporting services.³

3. Requests should be forwarded to the local court ADA coordinator (contact information for ADA coordinators is available on the Florida Courts website, www.flcourts.org). If the request is originally presented to a judge or judge's office, the judge shall confer with the court ADA coordinator.
4. The judge, court ADA coordinator, or other court representative, as appropriate to the circumstances, may engage in an interactive process with the attorney to discuss whether provision of real-time court reporting services is appropriate.
5. After analysis, the judge, court ADA coordinator, or other court representative, as appropriate to the circumstances, will inform the attorney whether the request will be granted.
6. Attorneys may utilize the court's grievance procedure when requests for real-time court reporting services are denied.

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³ In order to fully and fairly evaluate a request, it may be necessary for the court to require the attorney to provide documentation about his or her disability, including a statement from a qualified health care provider that identifies the attorney's functional limitations and describes how the requested real-time court reporting services address those limitations.

Florida State Courts System

Policy on Court Real-Time Transcription Services for Persons Who Are Deaf or Hard of Hearing

It is the policy of the Florida State Courts System that all judges and court staff will abide by the following guidelines in those court proceedings where real-time transcription services are utilized as a reasonable and necessary method of ensuring effective participation by a party, witness, attorney, judge, court employee, juror, or other participant who is deaf or hard of hearing and entitled to auxiliary aids or services pursuant to Title II of the Americans with Disabilities Act of 1990:

1. Real-time transcription services should be performed by a court reporter who is specially trained in this skill.

2. The device selected should display text in a manner that accomplishes full access to the service and should be a non-glare, display-type computer monitor; a large-screen image from a data projection panel and overhead projector; or other device that ensures effective communication. It is recommended that the monitor be 15 inches or larger. The size of the monitor should take into account the number of persons viewing it. The display of the text should be dark letters on a light background, double spaced, with mixed case as appropriate for the context of the proceedings. The display font or type size should be a minimum of 18 points. The real-time transcription service should display not less than four (4) and no more than 17 lines of text at any one time. The display view should be limited to text that relates to the real-time transcription service; no system information should be visible to the user.

3. Text displayed on the monitor should appear within three (3) seconds from the time of steno-type input. This time frame requirement includes time for any and all related spell checks including phonetic translation for untranslates.

4. At the commencement of the proceeding, the court should determine whether effective communication is occurring. The court should instruct the person receiving the service and other participants in the proceeding to alert the court should a translation or other problem occur that impedes the person receiving the service from effectively participating in that person's appropriate role in the proceeding. Furthermore, if the court reporter becomes aware that an

unacceptable number of untranslates or other problem is occurring with the real-time transcription service, the court reporter should immediately alert the court. Should the real-time transcription service become ineffective, the court should determine the cause of the problem and implement any corrective action the court deems reasonable or necessary.

5. The reporter, prior to the beginning of the proceeding, should review the case file and build a good client/job dictionary. This same job dictionary should be used at each subsequent proceeding in a particular case. The job dictionary should be updated during the course of the proceeding to include untranslates that may be corrected by any of the parties during the proceedings. Such updates should be operable throughout the remainder of the proceeding's real-time transcription service and carried over to any future proceedings.

6. The real-time transcription service and corrections that were displayed on the screen or monitor during the proceeding must be preserved in a manner to reflect what was actually displayed. Any corrections that were not viewed but that later become a part of the official court record must be maintained separately from the record of displayed text. At the conclusion of any proceeding (other than juror deliberations) in which real-time transcription service has been provided to ensure effective communication for a person who is deaf or hard of hearing, the reporter shall preserve the record of the real-time transcription service in accordance with rule 2.075(e), Florida Rules of Judicial Administration, unless otherwise directed by the court.

7. If real-time transcription services are required for a juror who is deaf or hard of hearing, a court reporter shall be present in the jury room during jury deliberations. The role of the reporter, when in the jury room, is not as a reporter of the official record; therefore the real-time transcription service of jury deliberations must be deleted immediately upon the conclusion of jury deliberation. The reporter shall not counsel, advise, attempt to explain terms, or interject personal opinion. Furthermore, the reporter shall not read back the real-time transcription service from the proceeding or jury deliberations without express judicial approval or authorization.