

CHAPTER 28-33 INTERPRETERS FOR DEAF PERSONS

28-33-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Appointing authority" means the presiding judge of any court, the chairman of any board, commission, or authority, and the director or commissioner of any department or agency before which a qualified interpreter is required pursuant to this chapter.
2. "Deaf person" means any person whose hearing is totally impaired or whose hearing is so seriously impaired as to prohibit the person from understanding voice communication, or the English language including, but not limited to, a person who is deaf, mute, deaf-mute, or deaf-blind.
3. "Principal party in interest" means a person in any proceeding in which that person is a named party or a person with respect to whom the decision or action which may be taken in any proceeding directly affects.
4. "Qualified interpreter" means an interpreter certified by the national registry of interpreters for the deaf or North Dakota association for the deaf, or an interpreter who has been approved by the superintendent of the school for the deaf, or, in the event such an interpreter is not available, any other interpreter whose actual qualifications have otherwise been appropriately determined.

28-33-02. Interpreter required.

1. At all stages of any judicial or administrative proceedings in which a deaf person is a principal party in interest, the appointing authority shall appoint a qualified interpreter to interpret or to translate the proceedings to the deaf person and to interpret or translate the person's testimony.
2. Immediately after a deaf person is arrested for any alleged violation of criminal law and penalty may include imprisonment or a fine in excess of one hundred dollars, or both, an interpreter must be appointed. No attempt to interrogate or take a statement from such person may be permitted until a qualified interpreter is appointed for the deaf person and then only through the use of the interpreter.
3. Whenever any deaf person is a party to any proceedings involving, or is receiving any services from, any agency under the authority of the state or any political subdivision, the agency shall inform the deaf person of that person's right to a qualified interpreter to interpret or translate the action of any personnel providing such service and to assist the deaf person in communicating with each other person. The interpreter must be appointed, at the expense of the agency, upon the request of the deaf person or the deaf person's parent or guardian, if the deaf person is a minor.

28-33-03. Proof of disability.

An appointing authority may require a person requesting the appointment of an interpreter to furnish reasonable proof of the person's disability when the appointing authority has reason to believe that the person is not so disabled. In no event is a failure of a party or witness to request an interpreter to be deemed a waiver of the right.

28-33-04. Oath of interpreter.

Superseded by N.D.R.Ct., Rule 6.10.

28-33-05. Compensation.

An interpreter appointed under this chapter must be compensated by the appointing authority at a reasonable rate determined by the authority, including travel expenses. This section does not prevent any state department, board, commission, agency, or licensing authority or any political subdivision of the state from employing an interpreter on a full-time basis or under contract.

28-33-06. Privileged communications.

Whenever a deaf person communicates through an interpreter to any person under such circumstances that the communication would be privileged and the deaf person could not be compelled to testify as to the communications, the privilege applies to the interpreter as well.

28-33-07. Visual recording.

In any judicial proceeding, the appointing authority, on the appointing authority's own motion or on the motion of a party to the proceedings, may order that the testimony of the deaf person and the interpretation thereof be visually recorded for use in verification of the official transcript of the proceedings.

28-33-08. Coordination of interpreter requests.

1. Whenever an appointing authority receives a valid request for the services of an interpreter or on the appointing authority's own motion, the authority shall request the superintendent of the school for the deaf to furnish the authority with a list of sources of qualified interpreters at the time and place specified by the authority.
2. When requested by an appointing authority to provide assistance in providing an interpreter, the national registry of interpreters for the deaf or the North Dakota association of the deaf or the superintendent of the North Dakota school for the deaf shall supply a list of sources and do everything necessary to assist the appointing authority in obtaining a qualified interpreter; providing, however, if the choice of qualified interpreter does not meet the needs of the deaf person, the appointing authority shall appoint another qualified interpreter.