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# Can Clarity Return Discretion to VRS Interpreters' Repertoire?

By: Daniel Maffia (<https://streetleverage.com/author/dmaffia/>)

October 27, 2015



*The FCC's "10-minute rule" and their stance on information gathering to contextualize calls in VRS have been widely misunderstood. Understanding the intent of these regulations can help return discretion to VRS interpreters.*



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A great American journalist, Margaret Fuller, once said, "If you have knowledge, let others light their candles in it." Sign language interpreters often work in isolation and have limited opportunities to interact and, therefore, limited opportunities to share knowledge. Fortunately, with technological advancements, we have platforms such as Street Leverage to disperse information throughout the community.

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My inspiration to write this comes from my discovery of information when I was preparing for a lesson on the Video Relay Service industry for my interpreting students. In addition to being a video relay interpreter for the past six years, I am also a lecturer at one of the largest interpreter training programs in the country at the National Technical Institute for the Deaf. As a colleague of mine, Brian Morrison, once said, "It takes a village to raise a sign language interpreter," so I take my job as a lecturer very seriously and work hard to ensure the information I share in my classroom is accurate. Due to the size of our program, I realize the impact I have as an educator on both the Deaf and interpreting communities.

## Revisiting FCC Regulations

While searching through some of the FCC regulations to prepare for my lecture, I came across the FCC's 2006 revision to the "10-minute rule". It had been my understanding that unless a switch was requested by the caller (either hearing or Deaf), an interpreter or Communication Assistant (CA), must remain in the call for at least 10 minutes before transferring the call to another interpreter. My understanding was incorrect. On June 16, 2006, the FCC released an order on two VRS issues: the FCC's 10-minute rule and the interpreter's role regarding asking questions to callers.

## Understanding the "10-Minute Rule"

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The first issue deals with the FCC's 10-minute rule, which requires CAs to remain with a TRS user for at least 10 minutes before transferring the call to another CA. In the 2006 order, the FCC clarifies that in the event a video interpreter handling a VRS call in sign language finds that effective communication is not taking place, the interpreter may change to another interpreter before the initial 10 minutes have passed. The FCC explained that

“there may be VRS calls during which the party using sign language, the CA, or both, find that they are unable to communicate effectively because of regional dialect differences, lack of knowledge about a particular subject matter (e.g., a technical or complex subject matter), or other reason. In these circumstances, when effective communication is not occurring, we conclude that the 10-minute in-call replacement rule is not violated if the VRS provider has another CA take over the call.”

This discovery was new information to me. After reading Richard Peterson's article “Profession in penitence”, I had been under the impression that one of our most important values as sign language interpreters, our use of discretion, is in direct conflict with the FCC regulations found in Title 47 of the Code of Federal Regulations. The regulation found on page 266 of the Mandatory Minimum Standards states: “Consistent with the obligations of telecommunications carrier operators, CAs are prohibited from refusing single or sequential calls...”

### **Can VRS Interpreters Exercise Discretion?**

According to Peterson, this rule is widely interpreted to mean that interpreters working as communication assistants must – without exception – accept any and all calls; in other words, they cannot exercise discretion, stating,

“From the frame of reference of the FCC, everything professional interpreters believe about the bedrock value

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of exercising discretion in our work is misprised, rendered inoperative."

On their Video Relay Consumer Facts page 7, the FCC states it a little differently:

"Preferential treatment of calls is prohibited. VRS ... providers must handle calls in the order in which they are received. They cannot selectively answer calls from certain consumers or certain locations."

Here the caveat from RID on the applicability of our Code seems almost prescient:

"Federal, state or other statutes or regulations may supersede this Code of Professional Conduct. When there is a conflict between this code and local, state, or federal laws and regulations, the interpreter obeys the rule of law." (RID/NAD Code of Professional Conduct 2005: 2)

If you look back to the revision of the FCC's regulation made in 2006, you can see that Peterson's argument is not necessarily true if the interpreter is aware of the revision and their ability to use discretion.

### **Lack of Understanding or Lack of Information?**

I decided to see whether this 2006 revision was widely known to video relay interpreters by talking to several interpreters representing various VRS companies across the country. I found that we all had the same misunderstanding. We were all under the impression that the FCC's 10-minute rule prohibits interpreters from using their discretion. So, in essence, Peterson's argument has some validity if we are not even aware that we CAN, in fact, exercise our right to discretion and still follow the FCC regulation. As you can see, it is not the FCC's regulation that is holding us back from adhering to that bedrock value of exercising discretion, but it is our lack of full

**interpreters-reflective-practice/)**

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understanding of our options as professional and ethical interpreters.

As I stated, knowledge truly is powerful. A recent case study on VRS interpreters' decision making revealed that one common theme interpreters cited was the focus on rules (Holcombe, 2014). One interpreter reported that she was thwarted in her intention to provide effective service in part due to her understanding of a federal regulation. When responding to a request to team, she was unable to immediately replace a struggling interpreter because of the "10-minute rule," which she believed mandated that an interpreter must remain in a call for a minimum of ten minutes. Her decision making was an example of deontological thinking with a focus on rules (Holcombe, 2014).

### **Stress and Sign Language Interpreters**

Another theme that came up during the case study was the incidence of stress. In Holcombe's findings the same interpreter stated she experienced stress due to the constraints of the "10-minute rule". The data and literature review from the study shows that the FCC's orders are not clearly understood by VRS interpreters, which can be an additional cause of stress. This added stress is a huge concern given that in a self-report study, the VRS industry had been found to be one of the top settings of occupational risk for interpreters (Dean; Pollard; & Samar, 2010). More recently the issue of occupational stress and resulting injury in the VRS setting has been addressed in a survey conducted by the by the Video Interpreter Member Section (VIMS) of the RID (Kroeger, J., 2014).

Hetherington (2011) performed a phenomenological analysis to study occupational stress in the signed language interpreting profession. Analysis of the research identified three themes related to significant causes of interpreter's stress—real and/or perceived constraints on their role by other professionals, their own understanding of the responsibilities

coupled with complexities of the role, and the feeling of powerlessness when the goal to ensure effective communication is hindered by the constraints (Hetherington, 2011).

### **Industry Standards and FCC Regulations Can Align**

RID and industry standards suggest that it is best practice for interpreters to obtain information in advance in order to be most successful (RID Standard Practice Paper, 2007). In its second ruling, the FCC clarified that a VRS interpreter may ask a VRS caller questions during call set-up when this is needed to ensure that the interpreter can effectively handle the call. The FCC explained that "in some circumstances the complexity of sign language may make it difficult for the CA to effectively relay the call if the CA does not understand the subject matter or context of the call." In addition, the Commission noted that "it is universal practice in the interpreting profession to ask customers questions prior to an assignment in order to better facilitate effective communication. As the Commission has noted, one sign can have different meanings depending on the context." However, according to the RID standard practice paper about VRS, gathering information from callers prior to phone calls being placed is not a common policy among VRS providers (RID SPP, 2007).

### **Knowledge Sharing and Reflective Practice**

Now you may ask yourself, who is responsible for ensuring that the interpreters possess this knowledge? Is it up to the individual interpreters or is it up to the companies to ensure that the interpreters are given this information? How can interpreters share their candlelight of knowledge if they are not even certain about the origin of the rules and guidelines that govern the VRS industry (Alley, 2013)? Also, how can we expect interpreters to share their knowledge with others if they lack understanding of the delineation of authority between

FCC regulations and corporate practices and policies (Alley, 2013)?

One solution I propose to reduce misunderstandings and ensure information sharing is the opportunity for interpreters to talk with one another and engage in a form reflective practice with colleagues. Reflective practice has been a common theme that has been discussed in previous Street Leverage articles. We are fortunate to have such notable supporters of this effort who share their positive experience of engaging in reflective practices. Please see Anna-Witter Merrithew's article, [Sign Language Interpreters: Breaking Down Silos Through Reflective Practice](http://www.streetleverage.com/2012/03/sign-language-interpreters-reflective-practice/) (<http://www.streetleverage.com/2012/03/sign-language-interpreters-reflective-practice/>), Kendra Keller's [Case Discussion: Sign Language Interpreters Contain Their Inner "What the...!!!"](http://www.streetleverage.com/2012/02/case-discussion/) (<http://www.streetleverage.com/2012/02/case-discussion/>), Robyn Dean's article [Ethical Development: A Sign of the Times for Sign Language Interpreters](http://www.streetleverage.com/2012/04/ethical-development-a-sign-of-the-times-for-sign-language-interpreters/) (<http://www.streetleverage.com/2012/04/ethical-development-a-sign-of-the-times-for-sign-language-interpreters/>) and Kate Block's piece, [Horizontal Violence: Can Sign Language Interpreters Break the Cycle?](http://www.streetleverage.com/2015/03/horizontal-violence-can-sign-language-interpreters-break-the-cycle/) (<http://www.streetleverage.com/2015/03/horizontal-violence-can-sign-language-interpreters-break-the-cycle/>) for more in-depth explanations of what reflective practice is and the benefits it has to the interpreting community. I have been both a participant and facilitator of reflective practice groups known as "supervision groups". The experiences I have had as a reflective practitioner have enhanced my critical thinking skills as an interpreter. If you have not participated in one of these groups, I highly recommend you do. For information on future groups and what reflective practice is, please visit this [site](http://demandcontrolschema.com/contact-us/sign-up/) (<http://demandcontrolschema.com/contact-us/sign-up/>).

### Questions to Consider

1. What do you do to help ensure the light of knowledge gets passed on throughout the interpreting community?

2. Who is ultimately responsible for ensuring the FCC rules and company policies are understood? Is it the interpreters, the VRS companies, or both?
3. How do consumer expectations impact FCC regulations, company policies and interpreter behavior?

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Daniel Maffia obtained his bachelors degree in ASL/English Interpreting from NTID in 2009 and became certified in 2010. Daniel earned his Masters in Interpreting from WOU in 2014. Currently he's a lecturer in NTID's Interpreter Training Program. Daniel served as a staff interpreter for five years at RIT and continues interpreting in the Video Relay, medical, and community settings.



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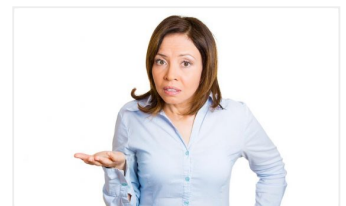
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**Desere**



It was explained to me precisely this way when the ruling was issued. However, it is not how I have seen the rule taught to interpreters hired on since then.



🕒 4 years 8 months ago

**suzanne terrio**



The facts in this article need to be included in Insite Training for pre-existing VRS Interpreters, and systemically included in the training for new VRS interpreters.



🕒 4 years 8 months ago ^



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Suzanne I couldn't agree more. I know the company I work for does have this information available as long as the interpreters look for it. That is how I started my research into this topic.



🕒 4 years 8 months ago

**Cath**



While the FCC rule reads in a way that allow VI to use their discretion, my question is – what are the rules set forth by the individual VRS companies. While it may not be an FCC rule it still may be a Company policy or rule. Thoughts?



🕒 4 years 8 months ago ^

**rose**



I have to agree Cath.  
There are FCC rules and there are company implications of the rules.



🕒 4 years 8 months ago



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Great question. I can completely understand a companies hesitation when it comes to some of these regulations. The catch all of "any other reason" is not very clear meaning interpreters could try and justify transferring many calls for reasons that fall under "any other reason" due to clarity. Very interesting topic on what is the typical protocol for the companies.



🕒 4 years 8 months ago

**rose**



Great article on a much needed topic.  
This is precisely the reason why interpreters in VRS want/need their union ASLIU. These VRS companies are not honest with them.  
How many interpreters working in VRS have also been misled by their companies to believe that the actual Average Speed of Answer time requirement from the FCC is less than 5 seconds, when the actual ASA requirement from the FCC is 120 seconds. The end result of this is the interpreters are disciplined for answering "too slow" while the company benefits from this misinformation by not being constrained to staff adequately.

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Rose I also wonder to what degree the companies allow for transfers to happen before 10 minutes. I can't speak for all companies since I haven't worked for them but would be curious to see if they allow it to happen.



🕒 4 years 8 months ago



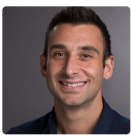
**Stephanie Criner**



Danny—thank you for offering this thoughtful article. The VRS milieu is such a relatively new and a rapidly-changing one that throwing Federal regulations into the mix creates one more layer of complexity (and stress). I'm hopeful that with dialogue and reflective practice we can get to a better understanding of the regs and how to ethically and professionally operate within them. Personally my greatest challenge has been releasing myself from some self-imposed 'rules' and mentally creating the space and time to engage with callers to not buy into the feeling I have to hurry/rush the process. I am excited to... [Read more »](#)



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Thank you so much for sharing your comments Stephanie. I couldn't agree more with you! With the regulations changing so rapidly and the VRS industry being so new it really makes it challenging for us. I truly believe reflective practice is an excellent way we interpreters can have honest and structured dialogues regarding these regulations. The idea of self-imposed rules is so true in this particular comment! I heard it time and time again when asking my colleagues. I wonder to what degree do these self-imposed rules spread not on purpose but by accident and create this confusion. Thank you... [Read more »](#)



🕒 4 years 8 months ago



## Nancy Evelyn



Thanks for the comments. The pressure that permeates many VRS environments is based on "billable time". Having managed for three different providers, these providers keep statistics and have requirements that interpreters "get to the call". The meter is not running until both parties are connected. Using discretion, asking questions regarding content, etc. is highly discouraged. Agencies keep monthly stats and if the time prior to connecting all parties is too long, the powers that be get cranky. Upon review of the stats, interpreters who don't get to the call fast enough, get punitive repercussions. The goal in the beginning days... [Read more »](#)



🕒 4 years 8 months ago

## Lindsey



Thank you for your thorough explanation. I have worked in VRS for about 12 years and was well aware of the ability to transfer a call if effective communication was not happening — for whatever reason. And, I have transferred out calls before 10 minutes probably 2 or 3 times. It is certainly frowned on by the VRS company that I worked for. However, I was totally unaware of the fact that we could ask for information. I shudder to think of the mess I've made of calls because I had no clue what was going on. Thank you for... [Read more »](#)



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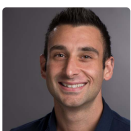
## Rico Peterson



Danny, Nice job on this. I haven't had much to do with VRS since I stopped being a communication assistant in 2010. The chapter you reference was written in 2009. In the time since, I am certain that much has changed to improve working conditions in VRS. Personally, I had never heard of this TRS ruling. According to you, neither had you till you researched it and neither had other communication assistants. Now that you've made this public, I am certain that companies will rush to revise their training materials. After all, it is the companies' responsibility to inculcate their... [Read more »](#)



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## Daniel Maffia



Rico,

Thank you so much for your response and kind words. I completely agree that we should be asking these questions and wondering what is behind the decisions. Assessing intent is not any easy task, but that doesn't mean that employees should be afraid to ask these questions. These are very important questions that interpreters need to know the answers.

Danny



🕒 4 years 8 months ago

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### Ashley Kreutz



Thank you for this article. I am currently in an Into. to Interpreting class and we talk a lot about VRS. My professor has mentioned switching interpreters if communication is not working effectively. However, I did not know of the law if was based on. Your article helped me understand the issues and resolutions to VRS. I believe this is a great article all interpreting students should read. I am going to recommend it next class. I have heard talk about there being a separate department for interpreters who specialize in legal when those calls arise and wonder how that... [Read more »](#)



🕒 4 years 7 months ago

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