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**TO:** Assignment Judges  
Trial Court Administrators

**Directive #01-17**

**FROM:** Glenn A. Grant, J.A.D. 

**[Supersedes Directives #03-04\*  
as well as Directives #14-01,  
#7-87, #6-86, and #10-84]**

**RE:** New Jersey Judiciary Language Access Plan

**DATE:** January 10, 2017

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The attached Language Access Plan, as approved by the Supreme Court, consolidates and updates the New Jersey Judiciary's existing language access standards and policies, sets out both existing and aspirational best practices as a mechanism for continuous self-assessment and improvement of language access services, and establishes future goals for advancing the Judiciary's language access services program to ensure equal and meaningful access for all court users to court proceedings, programs and services. The Judiciary created this Language Access Plan to ensure the Judiciary's continued compliance with the language access requirements of Title VI of the Civil Rights Act of 1964. The Language Access Plan is effective immediately.

The Judiciary's existing approach to language access has been a national model, with components set forth in a number of administrative directives, Court Rules, statutes and policies. The attached Language Access Plan consolidates, improves upon, and incorporates into one single document, all other existing language access policies. Specifically, the Language Access Plan supersedes the pre-existing language access plan equivalent, Administrative Directive #3-04 and its two supplements, as well as Directives #14-01, #7-87, #6-86, and #10-84.

The Judiciary's Language Access Plan is grounded in the basic tenets that: (1) anyone who is limited in their ability to speak and/or understand English or is deaf or hard of hearing is entitled to the same access to, and meaningful participation in, the court process and services as those who are not; (2) only qualified interpreters may interpret; and (3) all costs for interpreting are to be borne by the Judiciary, except in very limited instances. The Language Access Plan also includes updated guidance on the use of deaf jurors and the use of specialist interpreters

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\* In addition to superseding Directive #03-04, itself, this also supersedes the two supplements to Directive #03-04, specifically the May 25, 2004 supplement on Interpreting Standards – Standard 3.1 ("Interpreter Oath") and March 20, 2009 supplement on Clarification of Providing Interpreters for Court-Ordered Events Outside the Courthouse.

(Appendices 11 and 12) and incorporates (as Appendix 9), the Operational Standards for Telephone Interpreting, previously issued by Directive #14-01.

## BACKGROUND

The Language Access Plan Working Group, established in 2014, and led by Assignment Judges Travis L. Francis, and Julio L. Mendez, as Chair and Vice-Chair respectively, developed the Plan. The Working Group was comprised of 32 members -- judges, managers, staff, and interpreters -- representing all vicinages and divisions. The Plan was extensively vetted by all presiding judge and division manager conferences, the Committee on Minority Concerns, the Advisory Committee on Access and Fairness, the Administrative Council, and the Judicial Council, which recommended its approval to the Supreme Court.

As noted, the Language Access Plan incorporates standards and practices presently in use. It retains and updates the twenty-one existing standards of Directive #3-04 which include language access standards for LEP persons and deaf and hard of hearing persons as well as interpreting standards. The Language Access Plan also sets forth eleven new standards that formalize existing practices, four of which address the translation of statewide and vicinage documents as well as non-evidentiary case related documents and evidentiary submissions to the court. The remaining seven new standards relate to areas such as informing court users about language access services, the use of qualified bilingual staff, appointment of staff interpreters and the continuous pursuit of quality customer service. The Plan also explains the responsibilities of the Municipal Courts regarding language access and establishes goals for future advancements in that regard.

## NEXT STEPS

The Language Access Plan includes a number of future goals, some of which are already underway. For example, we have completed the roll-out of a new statewide system for managing interpreting services, and data collection and analysis efforts using that new system have begun.

The next major implementation step is to develop a cross-divisional visitation program to assess compliance with the provisions of the Language Access Plan. During the period that the visitation program is being developed, the vicinages should review the Language Access Plan, assess their compliance with each of the enumerated standards, and address and resolve any outstanding issues. The work of the visitation would dovetail with that, though on a more extended schedule.

To facilitate informing all judges and court staff of the many components of the Language Access Plan and its implementation throughout the Judiciary, including Superior Court and the municipal courts, train-the-trainer instruction will be provided to the Vicinage Operations Managers, Municipal Division Managers, Ombudsmen, and Vicinage Coordinators of Interpreting Services. They in turn will provide the direct instruction.

As indicated, the Language Access Plan is effective immediately. Vicinage implementation in the state level courts begins now and should be completed by June 2017. The Superior Courts visitation program is expected to begin in 2018. Implementation of the Language Access Plan in the municipal courts should be completed by December 2017.

I will also be establishing a Language Access Plan advisory committee to address on an ongoing basis language access issues raised by judges and court staff and to recommend any needed adjustments or enhancements to the Language Access Plan.

Thank you for your continuing efforts on maintaining and advancing the Judiciary's language access program. Questions or comments about this Directive may be directed to Brenda Carrasquillo, Manager, Language Services Section, at 609-984-5024.

Attachments (Language Access Plan and Appendices)

cc: Chief Justice Stuart Rabner  
Hon. Carmen Messano, Presiding Judge, Appellate Division  
Hon. Jack M. Sabatino, Deputy Presiding Judge, Appellate Division  
Hon. Patrick DeAlmeida, Presiding Judge, Tax Court  
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Matthew Sapienza, Acting Deputy Counsel  
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Municipal Court Administrators and Directors  
Vicinage Coordinators of Interpreting Services

# LANGUAGE ACCESS PLAN

The New Jersey Judiciary is committed to ensuring equal access to our courts and fairness in our procedures. The Judiciary provides language access services to ensure all people, including persons with limited English proficiency and persons who are deaf or hard of hearing, have equal access to court proceedings, programs, and services.

*New Jersey Judiciary*

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## Purpose

The Judiciary's provision of language access services is not only a legal obligation and ethical consideration, but goes to the Judiciary's core values – independence, integrity, fairness and quality service, by safeguarding the rule of law, and promoting confidence in our justice system. This Language Access Plan replaces the current language access plan equivalent Directive #3-04, and also supersedes Administrative Directives #3-04, #14-01, #7-87, #6-86, and #10-84 and incorporates into one single document all other existing language access policies. The purpose of this document is to assess and update the Judiciary's current language access program and provide both existing and aspirational best practices as the mechanism for continuous self-assessment and improvement. It illustrates the Judiciary's commitment to meaningful access to the courts for all.

## Introduction

The New Jersey Judiciary is committed to ensuring equal access to the courts by providing free and qualified language access services to all court users who are Limited English Proficient<sup>1</sup> (LEP) or who are deaf or hard of hearing<sup>2</sup>, from criminal defendants, to litigants in civil cases, witnesses, and crime victims to individuals seeking services outside the courtroom in any Judiciary offices. This Language Access Plan updates existing language access policies and standards, provides an action plan for advancing the Judiciary's language access services program, and sets out best practices to continuously improve language access services to ensure equal and meaningful access for all court users to court proceedings, programs and services.

Title VI of the Federal Civil Rights Act requires that courts that receive federal financial assistance must provide oral interpretation, written translation and other language access services to people who are LEP. Constitutional guarantees of access to the courts, due process, equal protection, and the right to counsel require that interpreters be provided. The New Jersey Code of Judicial Conduct requires that judges ensure that every person legally interested in a proceeding is afforded the full right to be heard. Canon 3.A(6). In addition, the New Jersey Rules of Professional Conduct contain provisions regarding client communications and lawyers' responsibilities in consulting with clients and keeping them informed. RPC 1.4. When individuals who are LEP do not understand and cannot fully participate in the justice process because of a language barrier or hearing disability, the courts cannot make

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<sup>1</sup> A limited English proficient (LEP) person is someone who speaks a language other than English as his or her primary language and has a limited ability to read, write, speak, or understand English. ABA Standards for Language Access in the Courts; p.11 (2012).

<sup>2</sup> The terms *deaf and hard of hearing* and *deaf and hearing impaired* are equally inclusive of any type of hearing disability. In the 1980s the term *hearing-impaired* was considered pejorative and across the country state agencies that serve people who are deaf and hard of hearing replaced the word *hearing-impaired* to *hard of hearing* in their agency names out of respect for the communities they serve. This includes the New Jersey Division on the Deaf and Hard of Hearing. Therefore, this plan uses the same expressions. For further information, see the National Association of the Deaf website's FAQ Question – *What is wrong with the use of these terms "deaf-mute," "deaf and dumb," or "hearing-impaired"?* (<https://nad.org/issues/american-sign-language/community-and-culture-faq>).

accurate factual findings. Laws intended to protect and help people may not be applied if all the facts are not accurately communicated to the court.

The standards as set forth in this plan apply to all state and municipal courts. While applicable to municipal courts, it must be emphasized that New Jersey's municipal courts are not state funded; rather, they are funded by the local municipality, which is the appointing authority. Legal responsibility for providing language access services consistent with federal and state law is the sole responsibility of the municipality. Assignment Judges act as the Supreme Court's constitutional designee for oversight of municipal court judges and judiciary personnel employed by the municipalities within their vicinages; they may advise, consistent with all applicable statutes and court rules, the municipal courts and guide, but not direct, each and every one of the day-to-day responsibilities of the municipal courts. The employees of the municipal courts are employees of the local municipalities, not state employees. While the municipal courts have made great strides in providing interpreting and related services, some continue to have difficulty providing the requisite services due to funding and other resource limitations. Assignment Judges, pursuant to their authority under R. 1:33-4, shall be responsible for monitoring overall vicinage compliance, which shall include determining whether each municipal court is meeting its obligations to the best of its ability. Where a court is not fully meeting its obligations, the Assignment Judge should work with the judge, court staff and municipal leaders to develop a plan that moves the court toward full compliance.

New Jersey is the third most diverse state in the nation, and more than 30% of the state's population, more than two and half million people, speak a language other than English at home<sup>3</sup>. This diversity is a strength of our great state, and at the same time, this diversity poses a complex challenge to our Judiciary to ensure that every person who comes into our courts can participate fully in our justice system, regardless of their language or hearing ability. Every day, the dedicated judges and staff in our organization strive to meet this challenge. In court year 2014, the New Jersey Superior Courts provided interpreters for court users in approximately 87 languages in more than 83,000 events. Spanish is the leading language for interpreting events in our courts, representing nearly 85% of the interpreted events. New Jersey is also home to approximately 850,000 individuals with varying degrees of hearing loss ranging from mild to profound. There are approximately 1,000 events annually requiring ASL interpreters.

Language access is fundamental to meaningful participation in the justice process. Justice should not be compromised because someone is unable to speak or understand English. The Judiciary's Language Access Plan sets out the framework on how we serve the great diversity of our court users every day in courthouses across the state, as well as a roadmap on how we plan to continuously improve and enhance the provision of language access services into the future.

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<sup>3</sup> The American Community Survey 3-year estimates from 2010 to 2012 show that 2,503,227 of NJ's population five years and over speak a language other than English at home (30.2%).

## A Comprehensive Language Access Program

The New Jersey Judiciary's commitment to ensuring that all court users, including limited English proficient persons and individuals who are deaf and hard of hearing, have meaningful access to court proceedings, programs and services, gained momentum in the early 1980s with the establishment of the New Jersey Supreme Court Task Force on Interpreter and Translation Services. Implementation of task force recommendations resulted in the establishment of what is now known as the Language Services Section of the Administrative Office of the Courts (AOC) to coordinate the statewide development of a language access program. In the decades since, the AOC's Language Services Section developed a comprehensive program through statutory authority, Court Rules, Administrative Directives promulgating strong language services policies and standards, a court interpreter credentialing program, a program for translating self-help documents, training for judges and staff, and most importantly, an unwavering commitment from the highest levels of the organization to provide and continuously improve language access services. See *Appendix 1, Historical Highlights* for a timeline of the development of the Judiciary's comprehensive language access program that includes the following key components:

- Language access policies including statutes, court rules, and administrative directives now consolidated into this Language Access Plan that ensure free, high quality, and timely language access services throughout all court proceedings, programs, and services.
- A strong statewide staffing structure to ensure the provision of quality language access services including the AOC's Language Service Section, vicinage interpreting units with staff interpreters and coordinators focused on meeting language access needs, and AOC statewide interpreters in multiple languages that travel around the state daily.
- A Court Interpreter Approval Program and Registry of Interpreting Resources. See *Standard 1.3 Who can Interpret*.
- Appropriate use of qualified bilingual staff outside of court. See *Standard 1.5 Use of Qualified Bilingual Staff in the Provision of Direct Services to LEP Individuals*.
- Notice of Language Services and Outreach. See *Standard 1.6 Informing the Public, Litigants, and Attorneys Regarding the Availability of Language Access Services*.
- Training Programs. See *Standard 1.7. Judiciary Training Programs*.

## A. Language Access Standards and Best Practices

### SECTION 1. Language Access Standards for Persons Who Are Limited English Proficient

#### Standard 1.1. Equal Access to the Courts.

**The Judiciary shall provide equal access to court proceedings, programs and services for all people, including persons who are limited English proficient (LEP). The Judiciary provides language access services, including court interpreters<sup>4</sup>, qualified bilingual staff, and certain translated materials, and bears all costs for these services, except in very limited circumstances as described in Standard 1.4 Responsibility for Costs Incurred for Interpreting Services.**

#### Comments

A basic tenet of justice is equal access. If a court user's ability to understand the proceeding is compromised by a language barrier, there can be no equal access. The New Jersey Code of Judicial Conduct requires that judges ensure that every person legally interested in a proceeding is afforded the full right to be heard. Canon 3.A(6). Where an individual who is LEP needs an interpreter to understand and fully participate in the justice process, a qualified interpreter shall be assigned. Because interpreters are required for the Judiciary to provide equal access and quality service and to operate efficiently and fairly, interpreting costs like court operating costs, staff salaries, and equipment, are borne by the Judiciary. Issues regarding the provision of language access services will be addressed by the trial court administrator or his or her designee in a timely manner.

#### Standard 1.2. Who Should Be Assigned an Interpreter and for Which Court Events.

**An interpreter shall be provided to any court user when either that court user or that court user's attorney represents that the person is unable to understand or communicate proficiently in English. Interpreters shall be provided for all court proceedings, programs, services or court-ordered events that take place inside the courthouse and/or court-ordered proceedings taking place outside the courthouse that involve Judiciary staff, so that an LEP person can fully participate in and have meaningful access to the justice process. The Judiciary shall assign interpreters to interpret all phases of court-connected proceedings for any LEP person who is a named party in the proceeding or who, in Family Part, is a parent or guardian of a juvenile who is a named party, or a guardian of an incapacitated person who is a named party. Interpreters shall also be provided for LEP witnesses during their testimony.**

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<sup>4</sup> Interpreting involves rendering a spoken or signed message in one language to the equivalent spoken or signed message in another language.

## Comments

Every effort shall be made to identify the need for language assistance and to notify the interpreting unit of a need or future need as early as possible. The requirement to assign interpreters pertains to all phases of court-connected proceedings, including but not limited to a dismissal on the record. In addition to court proceedings and court-ordered events, interpreters shall be provided for LEP court users participating in the following court programs and services:

### **1.2.1. Brief Attorney/Client Communications Before or After a Court Proceeding; Holding Cells:**

Attorneys are required to keep their clients reasonably informed about the status of a matter and shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. RPC 1.4 At the discretion of the court, the court's interpreters are available to interpret brief off-the-record communications between a litigant who is LEP and his/her attorney that occur immediately before, during or after court proceedings, including brief communications conducted in holding cells or other courthouse locations to efficiently move cases and prevent delays or rescheduling. Use of the interpreters pursuant to this provision should not be abused and is intended to cover only short preparatory and concluding issues. To ensure consistency with the Judiciary's core values and its unique role as an impartial arbiter of disputes, Judiciary interpreters will not be assigned to provide interpreting for attorney/client communications in the county jails where court staff is not otherwise involved.

*Note: The confidentiality of the relationship between an attorney and his/her client, as well as the ability to invoke the attorney-client privilege under N.J.R.E. 504, are not destroyed by the presence of an interpreter, who transmits communications between the attorney and his/her client. See: N.J.S.A. 34:1-69-17, which provides that any information that an interpreter gathers from a litigant that pertains to any court proceeding or administrative agency matter must remain confidential and privileged on an equal basis with the attorney-client privilege. And see: State v. Loponio, 85 N.J.L. 357 (E. & A. 1913), wherein the court held that a fellow inmate's transcription of a message for purpose of retaining an attorney for an illiterate defendant was confidential. See also Canon 6 of the Code for Interpreters and Translators (requiring interpreters to "protect from unauthorized disclosure all privileged or other confidential information that they obtain during the course of their professional duties"). Appendix to R. 1:14. This section does not apply to interpreting by approved interpreters selected and hired by pro bono counsel for case preparation, which is governed by Standard 1.4.3. See also Section 2 standards for specifics on interpreters for the deaf and hard of hearing.*

### **1.2.2. Pretrial Services:**

The Judiciary shall provide interpreters as needed for pretrial services. Interpreter services shall be provided for interviews of eligible defendants, including those necessary to determine indigence and eligibility for representation by the Office of the Public Defender. Interpreter services shall also be provided for monitoring of eligible defendants to ensure compliance with any court-ordered conditions of release. For example, interpreting services shall be provided for eligible defendants (pretrial services intake) as defined by L. 2014, c. 31, and routine pretrial services supervision reporting when no qualified bilingual staffer is available to provide direct service as described in *Standard 1.5 Use of Qualified Bilingual Staff*. Remote interpreting service should be used when no on-site interpreter or qualified bilingual staff is available. Any language barrier must be remedied to eliminate it as a reason for non-

compliance which could result in a violation of a pretrial release order. With regard to deaf and hard of hearing eligible defendants, see *Standard 2.2 Who Should Be Assigned a Sign Language Interpreter* and *Standard 2.9 Waiver of Right to a Sign Language Interpreter*.

### **1.2.3. Juvenile Waiver Hearing:**

The Judiciary shall provide interpreters for juveniles who are the subject of waiver proceedings pursuant to N.J.S.A. 2A:4A-26.1.

### **1.2.4. Court-Ordered Mediation/Arbitration that Occurs at the Courthouse:**

The Judiciary shall provide interpreters for court-ordered mediation/arbitration held at the courthouse involving a party that is LEP. Attorneys who regularly handle court-ordered mediation/arbitration in their private offices should be instructed to schedule such events at the courthouse whenever an interpreter is needed. Otherwise they should utilize an AOC approved interpreter at their own expense for matters in their private offices. Conditionally approved interpreters may be used for mediation in the municipal courts.

### **1.2.5. Court-Ordered Evaluations:**

The Judiciary shall provide interpreters for court-ordered psychological evaluations, custody evaluations and other similar court-ordered evaluations whenever the court is paying for the evaluation. When another party, agency, or organization (litigant, DCP&P, county agency, etc.) is bearing the cost of the evaluation, then that party should pay for the interpreter. If the court will be reviewing the results of such evaluations, then only approved interpreters from the Judiciary's Registry of Interpreting Resources should be used, regardless of which party is responsible for payment. See *Standard 1.3.1. Use of the New Jersey Judiciary Registry of Interpreting Resources*.

### **1.2.6. Civil Commitment Hearings:**

A Judiciary interpreter shall be provided when needed for civil commitment hearings, in a courthouse or other facility such as a psychiatric hospital, because these hearings are conducted on the record before a judge. See Standard 1.4. Responsibility for Costs Incurred for Interpreting Services.

### **1.2.7. Drug Court:**

Pursuant to N.J.S.A 2C:35-14a(8), defendants should not be denied acceptance to Drug Courts because of a language barrier. Interpreters should be provided for the duration of Drug Court proceedings before judges so that LEP participants can benefit from judicial interaction between all of the participants, a key component of the success of the program.

### **1.2.8. Grand Jury:**

The Judiciary shall provide interpreters when needed for state and county grand jury proceedings. The grand jury is a Judiciary proceeding. When a witness in a grand jury proceeding needs a spoken or sign language interpreter to testify before the grand jury, it is the Judiciary's responsibility to provide the required services. The judge supervising the grand jury shall determine whether an interpreter is required for a witness. The prosecutor should advise the supervising judge, either directly or through the grand jury clerk, that he or she believes that an interpreter is required. The judge supervising the grand jury can also make that determination *sua sponte*. The Judiciary is not obligated, however, to provide an interpreter for any sessions that the prosecuting authority may conduct in advance of the

witness' testimony before the grand jury. See *Appendix List and Links #7, R. 3:6-6. Who May be Present in Grand Jury Session.*

**1.2.9. Probation:**

Interpreter services shall be provided for post-dispositional responsibilities, which include monitoring and enforcing court orders; collecting fines, restitution and child support obligations through the Child Support Hearing Officer Program and Comprehensive Enforcement Program (CEP); and supervising adult and juvenile probationers. For example, interpreting services shall be provided for first contacts with adult and juvenile probationers (probation intake) and routine reporting when no qualified bilingual staffer is available to provide direct service as described in *Standard 1.5 Use of Qualified Bilingual Staff*. Remote interpreting service should be used when no on-site interpreter or qualified bilingual staff is available. Any language barrier must be remedied to eliminate it as a reason for non-compliance which could result in a violation of probation. With regard to deaf and hard of hearing probationers, see *Standard 2.2 Who Should Be Assigned a Sign Language Interpreter* and *Standard 2.9 Waiver of Right to a Sign Language Interpreter*.

**1.2.10. ISP/JISP hearings before judges and panels within the vicinage:**

Interpreters shall be provided for the Judiciary's Intensive Supervision Program (ISP) and the Juvenile Intensive Supervision Program (JISP). ISP provides certain carefully selected offenders, who were originally sentenced to state prison, an opportunity to become responsible and productive citizens while under close supervision. JISP is a statewide detention alternative for youth offenders deemed at risk for recidivism. See *Standard 1.4. Responsibility for Costs Incurred for Interpreting Services*.

**1.2.11. Child Placement Review Boards and Juvenile Conference Committees:**

While Child Placement Review Boards and Juvenile Conference Committees may hold events that take place off-site and may not involve Judiciary staff, because they function as an arm of the court, the Judiciary shall provide the interpreter.

**1.2.12. Public Education Programs:**

When offering education events to the public, vicinage staff should assess the need for interpreting services and translated materials, such as local signage or announcements, and coordinate with the interpreting unit staff to meet those needs.

**1.2.13. Weddings:**

Vicinages that perform weddings in the courthouse shall provide interpreting services for weddings if requested. Remote interpreting is appropriate for weddings. See *Standard 1.8. Use of Remote Interpreting*.

**1.2.14. Assistance to Court Users in Completing Court Forms:**

The same level of assistance that is provided to English-speaking court users in completing forms should be provided to court users who are LEP. Such assistance can be provided through qualified bilingual staff, remote interpreting, on-site interpreters, or translated materials. See *Section 4 Standards on Translation*.

**1.2.15. Events that Occur Outside the Court Facility that Do Not Include Court Staff:**

Unless otherwise provided, the Judiciary does not provide interpreting services for spoken language events that occur outside the courthouse and that do not include court staff. Some examples include:

- depositions (as discussed in *Standard 1.3 Who May Interpret*, attorneys should make all reasonable efforts to use the Registry of Interpreting Resources to select an AOC-approved interpreter, as the deposition may subsequently be used in court. In the event a de bene esse deposition is videotaped with the use of an interpreter, the interpreter so utilized should be approved by the AOC, or its equivalent in the jurisdiction where the deposition is taken. All issues regarding the admission of this evidence remain in the sound discretion of the court);
- private alternative dispute resolutions;
- communication between the party needing an interpreter and a person who is not connected with the Judiciary, except as these standards may otherwise provide;
- contested probate matters involving the surrogate that take place outside of court;
- court-ordered pre- or post- dispositional events not paid for or operated by the Judiciary such as counseling or anger management classes; and
- conversations between litigants and Domestic Violence or Victim/Witness advocates, unless ordered by a judge.

*NOTE: These exclusions do not necessarily apply to the provision of interpreters for the deaf and hard of hearing. Contact the ADA Coordinator with any questions.*

### **Best Practices**

**a. Ombudsman:**

Any assistance provided by an Ombudsman to court users regarding court procedures, forms, filing instructions, and other self-help information shall be provided to court users who are LEP utilizing language access services such as qualified bilingual staff, on-site or remote interpreting, and translated materials. Additionally, signage should be posted throughout a court facility in English, Spanish and other languages as needed, informing LEP court users of the existence of the Ombudsman office and how to contact the Ombudsman if they have a question or problem. See also *Standard 3.6 Reporting any policy violations by interpreters*.

**b. Language Access for All Non-Court Proceedings and the Customer Service Process:**

LEP court users should be provided the same level of service that other court users are provided. LEP court users should have the opportunity to ask questions and receive information. The preferred practice during interviews conducted by staff or at customer service or intake counters is for qualified bilingual staff to communicate with or provide information and assistance to the LEP person in their native language. If there is no qualified bilingual staff available, then court staff must use either an on-site interpreter or remote interpreting service, except that, in limited circumstances, as more fully described in *Standard 1.5.3 Use of Family and Friends in Customer Service Process* and *1.5.4 Use of Minors in Customer Service Process*, it may be appropriate for an LEP person to obtain assistance from a bilingual person that the LEP person has brought with him/her to assist him/her with communicating.

Additionally, the following specific steps should be taken to ensure LEP persons have equal access:

- i. All intake areas should have clearly posted Language Identification Cards for litigants to use to identify their language so that staff can seek the appropriate language service. See *Appendix List and Link #15, Language Identification Card*.
- ii. Every county should have Spanish qualified bilingual customer service staff available to assist LEP litigants at intake areas. Counties that have needs for languages beyond Spanish should seek to have qualified bilingual staff in those languages available to assist customers as well.
- iii. If there is no on-site interpreter reasonably available, every court should utilize remote (telephone or video) interpreting at intake counters to ensure LEP persons obtain the forms needed to move the matter forward or complete a court transaction. Phones and other equipment such as iPads or laptops and adequate quiet space should be available, at or near intake counters. A specialized conference phone with HD voice technology and noise reduction capabilities (specialized conference phone) is the preferred device for telephone interpreting. Intake staff should be trained to use remote interpreting service.
- iv. Translated and bilingual Spanish and other language materials forms and informational brochures must be readily available for litigants at intake counters. Staff at intake counters must be aware of the existence and availability of such forms. Forms are available on the Judiciary website.
- v. In support of superior customer service, each vicinage and the AOC, shall charge an existing committee with discussing and resolving LEP customer service issues. If necessary, the committee membership should be expanded to include a staff interpreter and, at the discretion of the Assignment Judge, an ombudsman.

### **Standard 1.3. Who May Interpret.**

**The Judiciary shall use interpreters obtained only from the AOC’s Registry of Interpreting Resources. Courts should where reasonably available use master and journey interpreters for court events. The judge or hearing officer should conduct a *voir dire* consistent with *New Jersey Rule of Evidence 604* when using conditionally approved, “registered” or agency interpreters. See Section 2 standards for specifics on interpreters for the deaf and hard of hearing.**

#### **1.3.1. Use of the New Jersey Judiciary Registry of Interpreting Resources:**

The AOC maintains a Registry of Interpreting Resources (Registry) to serve the courts and is available on both the Judiciary’s external ([www.njcourts.com](http://www.njcourts.com)) and internal websites. Superior and Tax Courts may purchase contract interpreting services **only** from the interpreters and agencies listed herein, except for interpreting needs that cannot be met by the resources in the Registry. Municipal Courts should also use the Registry when purchasing contract interpreting services.

The Registry constitutes the approved vendor list for contracting interpreters, whether directly with individual private contractors or agencies, whether for services to be delivered on-site or by telephone within the New Jersey Judiciary. The Registry includes AOC approved and conditionally approved interpreters as well as registered interpreters and interpreting agencies. All AOC approved, conditionally approved, and Registered interpreters have passed a written exam and attended a one-day

orientation seminar presented by the Language Services Section (LSS). See also Standard 1.9, Statewide Coordination and Continuous Pursuit of Quality. Additionally:

- **AOC Approved Interpreters** have passed an oral performance exam and are either Master (tested accuracy of 80% or higher in each part of the exam), or Journey (tested accuracy of 70% or higher in each part of the exam). To be AOC approved, the interpreter must work in one of the languages for which there is a court interpreting oral performance exam.
- **AOC Conditionally Approved Interpreters** failed the court interpreting oral performance exam (scored below 70%) but tested at 50% accuracy or higher in each part of the exam with an overall average of 55%. Conditionally approved interpreters are allowed to work at the Superior or Tax Court level only when a Master or Journey is not available. Municipal courts may use conditionally approved interpreters for all matters, including trials.
- **Registered Interpreters** work in a language for which there is no oral performance exam available and are classified according to the same categories above, but are considered “registered” interpreters. This is because there has been no objective demonstration, through a valid and reliable test, of their court interpreting skills. In addition to the requirements listed above, all “registered” interpreters have taken and passed a spoken English test.
- **Interpreting agencies** are included in the Registry; however, inclusion of an agency does not constitute any type of endorsement, approval, or certification of the agency or its interpreters. Inclusion is merely a registration and administrative process that each agency has completed.

### **1.3.2. Use of AOC Approved Interpreters and Interpreting Agencies:**

To ensure high quality services, each vicinage has an interpreting unit consisting of staff interpreters and administrative support, led by a Vicinage Coordinator of Interpreting Services (VCIS). The VCIS designation was created in the eighties to ensure that vicinages have a local expert on language services. VCISs are responsible for ensuring the highest quality of language services while balancing the needs of the court and limited interpreting resources. They are familiar with statewide language access policies and procedures, train local staff regarding statewide policies and local procedures, address service issues, and coordinate and meet regularly with LSS.

Ideally, staff with the VCIS designation are themselves an interpreter and serve as the supervisor of staff interpreters. See also *Standards 1.3. Who May Interpret, 3.7 Reporting of any Policy Violations by Interpreters, and 3.9 Appointing and Selecting Staff Who Interpret in Superior Court and Municipal Court.*

The VCIS and interpreting unit staff must use interpreters obtained through the Registry, rotating through AOC approved contract interpreters and using conditionally approved interpreters only when approved interpreters are not available (see Standard 1.3.3. Rotation). Superior courts shall make every effort to use AOC approved interpreters, i.e., Master or Journey for all matters. Master interpreters are critical for court events of great magnitude such as those involving incarceration or custody. However, a landlord/tenant matter can have life-altering consequences for an individual, and so the Judiciary should strive to hire the highest level interpreter reasonably available for all court events. Conditionally approved interpreters may be used in Superior courts only when there are no approved interpreters

available for the particular language after substantial effort has failed to locate an approved interpreter.

Agency interpreters may be used only when no AOC approved or conditionally approved interpreters are available. Additionally, when it is necessary to use agency interpreters, interpreting unit staff should determine the agency interpreter's qualifications and report any concerns to their manager and/or the court. See *Best Practices* below.

### **1.3.3. Rotation:**

The VCIS and interpreting unit staff must offer assignments to contract interpreters on a rotating basis so that assignments are offered to the next approved contract interpreter on the Registry. No one interpreter or subset of contract interpreters should be given any kind of preferential treatment in the offering of assignments, except for specific types of cases that should be served by Master interpreters. The VCIS should rotate all assignments across both Master and Journey interpreters. Conditionally approved interpreters should never be used if an AOC approved interpreter is available. Rotation ensures the use of highly qualified interpreters, a fair distribution of work, and a Registry with a large and diversified pool of AOC approved contract interpreters. Nonetheless, a VCIS may eliminate a contractor from the rotation if significant service problems arise. Staff must monitor assignments of contract interpreters through the Official Strategic Management of Statewide Interpreting Services (OSMOSIS) to ensure that assignments are made on a rotating basis.

### **1.3.4. Bilingual Individuals (e.g. Family, Friends, Law Enforcement Officers) -- Unacceptable as Interpreters:**

The use of bilingual individuals such as family members, friends, and law enforcement officers to interpret is an unacceptable solution for all but the most limited of situations. See *Standard 1.5.3. Use of Family and Friends in Customer Service Process* and *1.5.4 Use of Minors in Customer Service Process*.

### **Comments**

These standards do not limit the court's authority to determine the qualifications of a person serving as an interpreter under New Jersey Rule of Evidence 604. See *Appendix List and Links #8, R. 604 Interpreters*.

### **Best Practices**

#### **a. Conditionally approved or Agency Interpreters:**

In arranging to use conditionally approved or agency interpreters, the vicinage interpreting unit staff should use sample voir dire questions to evaluate interpreter qualifications. Sample questions can be found in the Judges Guide to Court Interpreting Services, Municipal Court Judges Bench Card on Court Interpreting Services and Operational Standards for Telephone Interpreting, Manual for Judges (Appendix List and Links #9).

#### **b. Inform the Court:**

Vicinage interpreting unit staff should inform the court when conditionally approved or agency interpreters are being provided and if they are aware of any potential concerns with the interpreter being provided.

**c. Reporting and tracking problems:**

Superior court judges should inform the interpreting unit if any issues arise, either with the interpreter, or with the quality of the communication. The interpreting unit should advise the Manager of the Language Services Section, who maintains a record of all complaints regarding interpreters and who may, based on the complaint, determine that the interpreter be prohibited from interpreting in the New Jersey Superior Courts. See also *Standard 3.6 Reporting of any policy violations by interpreters*. Municipal court judges should notify the vicinage Municipal Division, if similar issues arise in Municipal courts.

**Standard 1.4. Responsibility for Costs Incurred for Interpreting Services.**

**The Judiciary bears all costs incurred for interpreting services for state court proceedings, programs and services, except in very limited instances. Costs for municipal court interpretation are the responsibility of the municipality. The Judiciary shall seek reimbursement for all or part of the actual expenses incurred for unused or cancelled interpreting services where the attorney or litigant neglected to provide the court with reasonable advance notice.**

*NOTE: These provisions do not necessarily apply to the provision of interpreters for the deaf and hard of hearing. Contact the ADA Coordinator with any questions. See Standard 2.4. Responsibility for the Costs of ASL interpreting.*

**1.4.1. When the Court Will Seek Reimbursement:**

The Judiciary must provide notice to attorneys and litigants of the possibility of reimbursement of interpreting costs being sought and shall seek reimbursement of incurred interpreting costs from a party or attorney when:

- The matter is settled before the interpreter’s services are needed and the party who requested the interpreter could have notified the court in advance and such notice would have allowed for cancellation of the interpreting assignment at no cost or a reduced cost to the court.
- The attorney or the self-represented party who requested the interpreter failed to appear for the event for which the interpreter was requested and was negligent in failing to provide such advance notice or had no reasonable grounds for failure to appear.
- The attorney or self-represented party who requested the interpreter was negligent in not requesting an adjournment until the date the matter was scheduled and could have notified the court in advance of such request.

Matters involving self-represented parties will be reviewed on a case by case basis taking into account whether they were clearly made aware in advance of the obligation to notify the court of cancellation and considering their ability to pay.

**1.4.2. ISP/JISP hearings:**

Where possible, the vicinage that is hosting the ISP/JISP hearing should provide a staff interpreter at no

cost to ISP/JISP. However, if no vicinage staff interpreter is available, then the vicinage interpreting unit should select and hire an approved interpreter to be paid by ISP/JISP.

#### **1.4.3. Pro bono Attorney/Case Preparation:**

R. 1:13-2(b) provides in pertinent part that “no attorney [assigned to represent a person by reason of poverty] shall be required to expend any personal funds in the prosecution of the cause.” Accordingly, a pro bono attorney requiring interpreter services must use the Registry to select and hire an approved interpreter. The pro bono attorney or interpreting service shall submit a standard payment voucher to the vicinage Trial Court Administrator for payment of the fees for the interpreting services. Staff interpreters are not permitted to provide interpreting services during case preparation, and as such may not be assigned to assist the pro bono attorney prior to any court related event. Except for the use of interpreters, at the court’s discretion, to interpret brief attorney-client communications immediately before, during or after court proceedings, as forth in 1.2.1 above, interpreters who provide interpreting services during case preparation, should not, wherever practicable, interpret in court-related proceedings involving the case.

#### **1.4.4. Civil Commitment Hearings:**

The vicinage responsible for providing the judge for a civil commitment hearing is also responsible for obtaining and paying for any interpreting services that may be needed for those hearings.

### **Standard 1.5. Use of Qualified Bilingual Staff in the Provision of Direct Services to LEP Individuals.**

**The delivery of direct services to persons who are LEP shall be provided by qualified bilingual staff or by court staff with the assistance of a court interpreter. If an LEP person has communication issues with a qualified bilingual staffer, a court interpreter shall then be provided. Because the record of all statements made in a court proceeding must be reflected in English, and because it is of critical importance that all such statements must be understood by all persons in the courtroom, bilingual judges are strongly discouraged from even briefly communicating with an LEP person in a language other than English, unless the communication is immediately repeated in English.**

#### **1.5.1. Qualified Bilingual Staff:**

A qualified bilingual staffer<sup>5</sup> has passed a language proficiency exam that assessed them as proficient in a second language. They can provide direct services to court users in a language other than English, so an interpreter is not needed. It is important to note that qualified bilingual staff are not interpreters and are limited to providing direct services to the LEP court user and may not interpret except as noted in Standard 1.5.2. Direct Service.

#### **1.5.2. Direct Service:**

Qualified bilingual staff render direct service to LEP persons. Examples of appropriate use of a qualified bilingual staff to provide direct services include, a qualified bilingual probation officer speaking directly to a probationer in Spanish during routine reporting or a qualified bilingual clerk speaking directly to a

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<sup>5</sup> The New Jersey Civil Service Commission currently qualifies bilingual staff using the multiple-choice BICAT (Bilingual Communicative Ability Test), which is only available in Spanish. In order to fulfill our goal of assessing the need for more bilingual staff in Spanish and other languages, the Judiciary is exploring developing its own program to qualify Judiciary bilingual staff using language proficiency exams that measure speaking and listening skills in Spanish and other high demand languages.

court user to provide customer service in a language other than English at a Family intake counter. If no qualified bilingual staff is available to provide direct service in the court user's language, an interpreter should be assigned. Remote interpreting service may also be a logical, cost-effective, and efficient alternative. See *Standard 1.8. Use of Remote Interpreting*. Qualified bilingual staff should not be used as interpreters, except for very brief informational purposes to find out the LEP person's needs, directions to another location, etc.

It should be noted that qualified bilingual staff should be used to provide direct service to an LEP person whose language they speak. For example, it is inappropriate to use a Spanish speaking qualified bilingual staffer to provide service to a Portuguese speaking LEP person.

### **1.5.3. Use of Family and Friends in Customer Service Process:**

Use of Family and Friends to interpret is unacceptable as discussed in Standard 1.3.4., except in very limited circumstances, such as at customer service or intake counters, where adult family or friends of parties may be used to communicate information in the absence of qualified bilingual staff or interpreting services.

### **1.5.4. Use of Minors in Customer Service Process:**

Use of minors to communicate with LEP court users is not permitted except to gather basic information, like names, addresses, and phone numbers, since minors may feel undue pressure to secure a "favorable" outcome for their parents.

## **Standard 1.6. Informing the Public, Litigants and Attorneys Regarding the Availability of Language Access Services.**

**The Judiciary shall provide notification to the public, litigants and attorneys of the availability of language access services. Such notification shall inform these persons how to request and access language services and what to do if they have a problem accessing such services.**

### **Comments**

Notification of the availability of language services occurs in various ways including, but not limited to, notices on court documents, in person by court staff, announcements at the beginning of court sessions, signage, the Judiciary's website, outreach efforts, and media (e.g., radio, print, television). Notification should occur in English, Spanish and any other language a vicinage deems necessary. With regard to signage, the *Do you need an interpreter?* poster (Appendix 16) and the *Notice to the Deaf and Hard of Hearing* poster (Appendix 17) must be used at vicinage intake windows and/or other appropriate locations. Vicinage Operations Managers are responsible for routine monitoring and maintenance of signage. Every effort should be made to include all of the following forms of notification:

- a. Language identification cards visible at all customer service counters
- b. Role of the Court Interpreter [brochures](#) available at every courthouse
- c. Notice of the availability of services in posters, pro se forms and documents
- d. Information on the court's [website](#)
- e. Information displayed on courthouse or building LCD monitors
- f. Notices generated on documents emanating from case management systems
- g. eCourts filing system

- h. Building signage
- i. Ombudsmen office signage
- j. Signage at intake counters, payment offices and self-help or sign-in kiosks
- k. In person by staff
- l. At outreach events

Additionally, each vicinage will list on its page on the Judiciary's website, [www.njcourts.com](http://www.njcourts.com), case management contact telephone numbers for questions or issues related to scheduling or canceling interpreting services.

In Municipal courts, the *Notice to the Deaf and Hard of Hearing* poster (Appendix 17) must be used at intake windows and/or other appropriate locations.

### Best Practices

**a. Methods for Informing the Public of Available Language Access Services:**

Vicinages and the central office should inform the public about the availability of interpreting services, bilingual staff, and translated materials using English and non-English media including television, radio, newspaper, instructional videos, Websites and signage.

**b. Signage:**

In addition to the *Do you need an interpreter?* poster (Appendix 16) and the *Notice to the Deaf and Hard of Hearing* poster (Appendix 17) that must be used at intake windows and/or other appropriate locations if facility design and security guidelines permit, other signage that can be used include the:

- i. *Role of the Interpreter* poster (Appendix 18);
- ii. *Quality Service* poster (Appendix 19); and
- iii. *Need Help?* poster (Appendix 20) that provides information on who LEP persons can contact if help is needed or problems arise.

**c. Initial Points of Contact:**

Courthouse points of entry should have signage, staff or volunteers informing the public of available language access services. Staff and volunteers serving at initial points of entry or contact should be trained on and have access to remote interpreting services. Vicinages should also establish a bilingual (English/Spanish) automated phone service.

**d. Use of Informational symbols:**

Informational symbols should be used where appropriate to inform the public about the availability of language access services including the spoken language and sign language information symbols as shown in Appendix 2.

**e. Outreach and Collaboration with LEP Communities and Stakeholders:**

Outreach events conducted by the court, e.g., the Offices of the Ombudsman, EEO/AA Officers, and Vicinage Advisory Committees on Minority Concerns, should routinely include notifications about the court's languages access services, including how to request language access services, and who to contact with any issues.

## Standard 1.7. Judiciary Training Programs.

**A language access component shall be included in Judiciary training programs for Superior and Municipal Court judges, law clerks, court managers and staff in all divisions, and Municipal Court administrators and staff. Content of the component will vary based on training needs of the specific audience. Topics addressed may include: the language access plan, court interpreting services, appropriate use of qualified bilingual staff, working with spoken and sign language interpreters, working with diverse cultures and the existence and availability of translated materials.**

### Comments

Annual training for new judges in Superior and Municipal Court, law clerks, and Municipal court administrators (POMCA) includes a language access module. Continuing education and refresher LEP modules for judges and law clerks shall be provided as needed in vicinages and at the AOC. Training classes made available for existing and new judges, law clerks, and staff shall include the following subjects based on job responsibilities:

- a. The Language Access Plan
- b. Court interpreting services (including the proper protocol for assisting LEP customers remotely and in person)
- c. Qualified bilingual Staff – Appropriate uses and guides for them to assist LEP individuals
- d. Existence and availability of translated materials (i.e. forms, brochures, information packets, etc.)
- e. Existence and availability of all vicinage, AOC, and external language access resources (including glossaries as posted on the Internet and Infonet in Spanish, Haitian, Korean, Polish and Portuguese)
- f. Working with interpreters
- g. Working with sign language interpreters
- h. Vicinage-specific information on LEP populations
- i. Code of Conduct refresher/updated information for staff interpreters

Tools shall also be distributed to judges and staff as needed including: the Judges' Guide to Court Interpreting Services, the Municipal Court Bench Card, and the [Role of the Interpreter brochure](#) (Appendix 14).

Each vicinage shall be responsible for ensuring that all intake staff are trained on providing standard customer service to LEP litigants on the phone or in person. Intake staff shall be aware of the qualified bilingual staff in their area, and trained in the proper way to use qualified bilingual staff to provide direct service as described in *Standard 1.5 Use of Qualified Bilingual Staff in the Provision of Direct Services to LEP individuals*. Additionally, intake staff shall be trained to use Language Identification cards and remote interpreting services to ensure that LEP persons obtain the appropriate forms.

An annual overview shall be made available to mandated judiciary committees, such as the Supreme Court Committee on Minority Concerns, as well as non-judiciary entities such as the local Bar associations, community organizations serving LEP populations, and all other justice partners. The overview shall include such information as statistics, updates on LEP related projects, various types of outreach, new services or procedures, etc.

## Best Practices

### a. Continuing Education:

Continuing education and refresher language access modules for court staff should be provided as needed in vicinages and at the AOC. New Employee Orientation should also include an introductory language access module. Training classes made available for all employees and volunteers should include the following subjects based on job responsibilities:

- i. The Language Access Plan
- ii. Court Interpreting Services (including the proper protocol for assisting LEP customers remotely and in person)
- iii. Qualified Bilingual Staff – appropriate uses and guides for them to assist LEP individuals
- iv. Existence and availability of translated materials (i.e. forms, brochures, information packets, etc.)
- v. Existence and availability of all vicinage, AOC, and external resources for LEP persons (including glossaries as posted on the Internet and Infonet in Spanish, Haitian, Korean, Polish and Portuguese)
- vi. Working with diversity/cultures including cultural communications
- vii. Working with interpreters
- viii. Working with sign Interpreters
- ix. Vicinage specific LEP population information
- x. Legal systems and cultures outside the USA
- xi. Code of Conduct refresher/updated information for staff interpreters

### b. Training Grid and Infrastructure:

When all best practices are enacted, a language access training grid should be developed listing the available courses, who is required to take which courses based on their job responsibilities, the required frequency for taking each required course, whether it is a new employee vs. refresher course, methods of delivery for each course (instructor lead, Judiciary Learning Management System (JLMS), Staff College, other training venues, etc.), and whether continuing legal education (CLE) credits are offered for each course. This grid should be provided, with a brief explanation, at all initial trainings for all students at the vicinages, AOC and municipal courts including: staff court interpreters, incoming law clerks in each division, new court staff, and volunteers.

As resources permit, a language access training infrastructure should be developed to support, monitor, and ensure compliance of all language access training requirements.

## Standard 1.8. Use of Remote Interpreting.

**Remote interpreting services are to be used for emergent matters when an on-site interpreter is not available or for short non-emergent matters of 30 minutes or less. Remote interpreting services shall conform to the Operational Standards for Telephone Interpreting<sup>6</sup> and apply to both telephone and video interpreting.**

### Comments

Remote interpreting (RI) is *the provision of interpreting services using technology in a situation where*

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<sup>6</sup> See Appendix List and Links #9 for Operational Standards for Telephone Interpreting, previously issued as Directive #14-01.

*the interpreter is at a location physically separate from court users of the interpreting service.* With RI, the English speaker, the LEP speaker, and the interpreter are not all physically located in the same place (unlike on-site interpreting where the interpreter, the LEP speaker and the English speaker are physically located in the same place).<sup>7</sup> In Superior Courts, vicinage coordinators of interpreting services in coordination with interpreters make determinations on when it is appropriate to use remote interpreting services. In municipal courts, the decision to use remote interpreting service is made by the municipal court judge and/or designated court staff.

### **Best Practices**

#### **a. Ensure Proper Use of Remote Interpreting:**

Vicinages should, with guidance and support from the AOC Language Services Section:

- i. Review the criteria to determine if remote interpreting service is appropriate for a given event;
- ii. Provide training as needed to judges and staff who may need to use the service;
- iii. monitor vicinage use to ensure remote interpreting is being used only in appropriate circumstances;
- iv. Adhere to the Operational Standards for Telephone Interpreting when assessing whether video remote interpreting is an appropriate accommodation; and
- v. Use the Remote Interpreter Bench Card and a Tracking Form to ensure and confirm quality of service.

### **Standard 1.9. Statewide Coordination and Continuous Pursuit of Quality.**

**The Judiciary shall coordinate and facilitate the provision of high quality and efficient language access services through a centralized office at the AOC, the Language Services Section (LSS), and continuously strive to provide high quality language services. LSS is the principal point of contact for all issues regarding language access in the courts and supports courts in providing language services in court proceedings, programs and services.**

#### **1.9.1. Ensure Quality and Efficiency of Services:**

The Judiciary has for many years implemented and maintained various policies and programs to ensure the delivery of high quality and efficient language access services. See *Appendix 1, Historical Highlights*. Key policies and programs include the credentialing program, the interpreter code of conduct and interpreting standards, a Registry of Interpreting Resources, the Vicinage Coordinator of Interpreting Services (VCIS) designation, and a methodology to count and track interpreting activities. LSS also:

- **Maintains and coordinates** the use of and adherence to the Language Access Plan (LAP) and takes the lead in the review of the LAP and the development of any new statewide policies or procedures. See *Standard 1.9.2. Monitors Compliance*.

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<sup>7</sup> Oregon Judicial Department, Court Interpreter Services, Remote Interpreting in Oregon Courts: A Roadmap, 7/21/2008, p.12.

- **Manages** the credentialing, recruitment, and monitoring of court interpreters to ensure they possess adequate skills for the setting in which they will be providing service.
- **Coordinates** and meets quarterly with Vicinage Coordinators of Interpreting Services (VCIS) and coordinates with Operations Managers. Also coordinates with other areas such as Human Resources and Communications and Community Relations regarding qualified bilingual staff and translations, respectively.
- **Manages OSMOSIS**, the Official Strategic Management of Statewide Interpreting Services, a statewide software program developed by the Judiciary to manage requests for interpreters, schedule interpreters, generate invoices for contract and agency interpreters, and track and calculate interpreting statistics.
- **Maintains interpreting statistics** reported publicly on an annual basis. The Judiciary collects and reports the number of court interpreting events and the languages in which service is provided in the Superior Courts. LSS uses OSMOSIS for collection and analysis of interpreting statistics. A new methodology is under development to generate Municipal Court statistics on dispositions that required interpreting services.

#### **1.9.2. Monitors Compliance:**

LSS monitors compliance with existing rules, policies and procedures for providing language services and regularly reviews and updates those rules, policies and procedures. A visitation program to further assess compliance will be developed in the future, as discussed in Part B of this language access plan. LSS also receives, tracks, and addresses complaints about the lack and quality of language access services.

#### **1.9.3. Ensures Communication:**

LSS provides, facilitates, and coordinates statewide communication regarding the need for and availability of language services. Statewide communication includes LSS internal and external web pages, communication with judicial and administration leaders, court staff, and stakeholders regarding needs and performance of the language access program. Additionally, LSS participates in and communicates with members of the Council of Language Access Coordinators (CLAC) through participation in national meetings, listserv discussions and requests for information.

#### **1.9.4. Develops Resources:**

LSS ensures the development of language access providers, the development and maintenance of translated materials, and cost-effective technology and strategies to ensure high quality and efficient language access services.

#### **1.9.5. Supports Training:**

LSS coordinates and facilitates education and training about the Judiciary's language services. LSS also coordinates with stakeholders to educate the general public on the availability of language services in courts to remove possible barriers created when LEP persons are unaware of those services. See *Standard 1.7. Judiciary Training Programs*.

### 1.9.6. Staff Interpreter Feedback:

Staff interpreters may request diagnostic feedback on their interpreting skills by trained Master level interpreters on an annual basis using an Observation Tool adapted from the National Consortium of Interpreter Education Centers (NCIEC) Court Interpreting Field-based Induction Program Observation Tool.

#### Best Practices

a. **LEP Checklist:**

When serving LEP court users, case management staff may use an LEP checklist to assess and document the need for language access service and place the checklist in the case file. Additionally, a stamp or sticker may be placed on each file to more easily identify cases requiring interpreters.

b. **Voicemail, Signage, Tools:**

Vicinages should, if appropriate:

- i. Program local telephones with a speed dial option to the Operations Manager and/or interpreting unit, giving frontline staff easy access to appropriate staff to quickly address language access issues.
- ii. Use posters describing the availability of language services and the role of court interpreter. See *Appendix 16, Do you need an interpreter? poster*, *Appendix 17, Notice to the Deaf and Hard of Hearing poster* and *Appendix 18, Role of the Court Interpreter poster*.
- iii. Implement an interpreting service quality service policy. See *Appendix 19, Sample Quality Service poster*.
- iv. Use posters providing instruction to LEP persons on what to do if they need help. See *Appendix 20, Need Help? poster*.
- v. Use a Remote Interpreting Bench Card and a Tracking Form to ensure and confirm quality of service.

## SECTION 2. Language Access Standards for Persons Who are Deaf or Hard of Hearing

The following standards complement the Section 1 standards for spoken languages and ensure compliance with the American with Disabilities Act (ADA), New Jersey Law Against Discrimination (NJLAD), and N.J.S.A. 34:1-69.1 et seq. See Appendix List and Links #4.

### **Standard 2.1. Equal Access to the Courts.**

**All people, including those who are Deaf<sup>8</sup> or hard of hearing, should have equal access to court proceedings, programs, and services. The provision of sign language interpreters or other accommodations is an ADA accommodation.**

#### **Comments**

The Judiciary will provide a reasonable accommodation for a court user with a disability, enabling the individual to access and participate in court proceedings, programs, services and activities, provided that the accommodation does not fundamentally alter the nature of a Judiciary program, service or activity or impose an undue hardship upon the Judiciary. See also the publically available [Title II ADA Procedures for Access to the Courts By Individuals with Disabilities Brochure](#) or contact the ADA Coordinator. Requests for assistance and accommodations for the deaf and hard of hearing vary according to the individual's communication needs. American Sign Language (ASL) interpreters are the most commonly requested accommodation; however, other accommodations may include oral transliterators, cued speech transliterators, computer aided real time transcription service (CART), assistive listening devices, sign language interpreters for languages other than ASL since sign languages differ from country to country, or Certified Deaf Interpreters (CDI). See *Appendix 17, Notice to the Deaf and Hard of Hearing* poster and *Standard 2.5 Use of Certified Deaf Interpreters*.

### **Standard 2.2. Who Should be Assigned a Sign Language Interpreter and For Which Court Events.**

**The Judiciary shall assign a sign language interpreter or provide other accommodations for all events described in *Standard 1.2*. ASL interpreters or other accommodations shall also be provided for the following as required by law: spectators, volunteers, victims, potential petit and grand jurors, deaf probationers' contact with probation officers, attorneys, witnesses, agency representatives, deaf individuals with customer service inquiries, CDIs, and other interested persons. Such interpretation or other accommodations shall include any public exchange as needed.**

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<sup>8</sup> The term "deaf" (with the lowercase "d") refers to the audiological condition of not being able to hear. The term "Deaf" (with the uppercase "D") refers to a particular group of deaf people who share a common language (ASL) and whose cultural knowledge, values, and beliefs were historically created and are actively transmitted across generations. Padden, C., & Humphries, T. (1988). *Deaf in American: Voices from a culture*. Cambridge, Mass.: Harvard University Press.

## Comments

An ADA Accommodation Report (CN 10432) available on the Infonet must be completed every time an accommodation is requested by a supervisor who forwards the report to the vicinage Title II ADA Coordinator or by the ADA Coordinator. The ADA coordinator must forward all completed forms to the Court Access Services unit at the AOC.

### **Standard 2.3. Who May Interpret for the Deaf and Hard of Hearing.**

**The Judiciary shall use only ASL interpreters who have been certified by the National Registry of Interpreters for the Deaf, Inc. (RID), and listed by the State Division of the Deaf and Hard of Hearing in the Department of Human Services or the New Jersey Registry of Interpreters for the Deaf. Judiciary staff should seek to use ASL interpreters who have been credentialed by RID with the Specialist Certificate: Legal (SC:L) before using generalist certified ASL interpreters.**

## Comments

New Jersey statutes define who may be used by government entities for interpreting for persons who are deaf or hard of hearing. See N.J.S.A. 34:1-69.10.

### Legally Credentialed ASL Interpreters (Specialist Certificate: Legal - SC:L)

ASL interpreters with the SC:L designation have demonstrated specialized knowledge of legal settings and greater familiarity with language used in the legal system. Generalist ASL interpreters with a minimum of 60 hours of legal training should be used only if SC:L interpreters are not available. Generalist ASL interpreters without legal training should be used only when SC:L interpreters and generalist interpreters with legal training are not available.

### **Standard 2.4. Responsibility for the Costs Incurred for ASL Interpreting Services or Other Accommodations.**

**The Judiciary bears all costs incurred for ASL interpreting services or other accommodations for state court proceedings, programs and services, except in very limited instances. Costs for municipal court interpretation or other reasonable accommodation are the responsibility of the municipality. While the Judiciary may seek reimbursement as set forth in Standard 1.4; the Judiciary will not seek reimbursement from a deaf or hard of hearing self-represented litigant absent extraordinary circumstances.**

## Comments

The Judiciary is required by statute to pay for assistance given to persons who are deaf and hard of hearing under state law (N.J.S.A. 34:1-69.7 et seq.). The Judiciary is committed to providing its services, programs, and activities in a manner that assures accessibility for all users of the courts, including individuals with disabilities, in a way that comports with state law.

The Judiciary is obligated to pay for interpreting services during court-ordered outside services paid for by the Judiciary. However, if such services are not paid for by the Judiciary (for example, supervised visitation by outside agencies), the Judiciary will coordinate with the providers to ensure that the providers of such services comply with the spirit of these standards.

#### **Standard 2.5. Use of Interpreters Who Are Deaf (Certified Deaf Interpreters (CDI)).**

**A CDI shall be provided if a person who is deaf or hard of hearing requests one. A CDI shall also be assigned if an ASL interpreter meeting the requirements of Standard 2.3 or a person who is deaf or hard of hearing states that the interpretation is not satisfactory and a CDI would improve the quality of the interpretation.**

#### **Comments**

Some deaf or hard of hearing individuals have inadequate or no environmental supports and/or have functional skills and competencies significantly below average, making them the most at risk and underserved portion of the overall deaf population.<sup>9</sup> These deaf people are at greater risk for becoming involved in the legal system. In order for this segment of the deaf population to meaningfully participate in court proceedings, programs, and services, they will require the use of a specialist interpreter, a Certified Deaf Interpreter (CDI), sometimes called relay or intermediary interpreter.

The CDI is proficient in recognizing those ASL constructs that are appropriate to use with such individuals precisely because the CDI lives in an environment without meaningful access to sound; their world is organized visually. CDIs have specialized training and/or experience in the use of gesture, mime, props, drawings, and other tools to enhance communication. The deaf court user receives the same content as others in the interaction just organized in a more visual, spatial and natural manner.<sup>10</sup>

Similarly, some ASL interpreters do not have native-like competency in ASL and therefore the interpretation of complex legal concepts may have deficiencies consistent with those of a second-language learner. The CDI ensures that the interpretation achieves the level of accuracy required in legal settings.

CDIs must work in partnership with an American Sign Language (ASL) interpreter who can hear and are subject to the same rules and oaths as all other interpreters. The hearing ASL interpreter interprets from spoken English into sign language that is directed to the CDI. The CDI interprets the ASL message linguistically and culturally in the language or communication mode most readily understood by the Deaf or hard of hearing court user. The deaf or hard of hearing court user communicates information to the CDI, who then interprets the information in ASL to the hearing ASL interpreter, who renders the message into spoken English.

Characteristics of deaf court users that require the use of a CDI include but are not limited to:

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<sup>9</sup> NAD (National Association of the Deaf) Position paper, May 2004, [A Model for a National Collaborative Service Delivery System Serving Individuals Who are Low Functioning Deaf](http://www.nad.org), at [www.nad.org](http://www.nad.org).

<sup>10</sup> NCIEC (National Consortium of Interpreter Education Centers), 2009, [Deaf Interpreters in Court](http://www.interpretereducation.org) (p. 20-21), at [www.interpretereducation.org](http://www.interpretereducation.org).

- Underdeveloped ASL skills
- Mental illness
- Intellectually and developmentally disabled
- Socially isolated
- Problems caused by substance abuse, limited or inappropriate education
- Raised in another country
- Under the age of sixteen

CDIs may be required for deaf people who also:

- Are blind or have limited vision
- Have secondary disabilities

The use of CDIs is considered the ideal accommodation for ASL users, even for those who communicate in standard ASL. Therefore, in addition to the reasons listed above, CDIs may also be used in cases involving first degree crimes, when significant life and liberty is at stake, and other significant cases to ensure there are no communication issues.

Once a CDI is requested by the litigant or an ASL interpreter, a CDI must be provided for all events unless the deaf or hard of hearing person confirms in writing they longer need the CDI. See *Appendix 12, Guidelines for Using Specialist Interpreters for People Who Are Deaf and Hard of Hearing*.

## **Standard 2.6. Video Remote Interpreting May be Appropriate in Limited Circumstances.**

**While an ASL interpreter on-site is most effective, Video Remote Interpreting (VRI) may be appropriate in limited circumstances and can increase the availability of ASL interpreters while reducing costs for the courts. VRI is not appropriate for proceedings that are long or complex or that involve substantive rights, testimony, cross-examination, or production of evidence. Any request for VRI, either from a deaf litigant or court staff, must be referred to the Language Services Section via the vicinage interpreting unit to assess if VRI is an appropriate accommodation and to determine associated logistics. If at any time before or during a VRI proceeding, the deaf litigant is unsatisfied with VRI, the proceeding will be rescheduled with an on-site ASL interpreter.**

### **Comments**

VRI is the use of video conferencing technology to enable ASL interpreting to occur when the ASL interpreter is in one location and all other participants are in another location. The Language Services Section, with support from the vicinage interpreting unit, will determine the appropriateness of VRI on a case-by-case basis. Currently, all VRI is handled by staff ASL interpreters. If contract video remote ASL interpreters are to be used in the future, all such interpreters must conform to interpreter qualifications in *Standard 2.3. Who May Interpret for the Deaf and Hard of Hearing*. If a CDI and ASL team is required, the CDI should be in the same location as the deaf litigant and the ASL interpreter may appear remotely on video.

### **2.6.1. Requests by Deaf Litigants to Appear From a Remote Location:**

When a deaf litigant requests to appear from a remote location, the court will determine whether the

deaf litigant is permitted to do so or if he or she must be present in court. If the court permits the deaf litigant to participate in the court proceeding remotely, the LSS in coordination with the vicinage interpreting unit, will determine what accommodation is appropriate (i.e. VRI, coordinating with a facility and an interpreter where the deaf person is located, or another accommodation).

It should be noted that deaf litigants may request to appear remotely via phone using Video Relay Service (VRS), which is distinct from VRI. VRS is a Federal Communications Commission regulated service that allows deaf people to communicate on the telephone through an ASL interpreter using video equipment. Deaf or hard of hearing people routinely use VRS, however, the Judiciary may not use VRS to communicate with deaf court users appearing remotely for any court proceeding because the qualifications of VRS interpreters, which must comply with N.J.S.A. 34:1-69.10, are not verifiable. The Judiciary can and is encouraged to use VRS to communicate with deaf court users regarding customer service questions as well as the scheduling of court dates and times. Probation may use VRS only if a deaf probationer has been approved for telephone reporting.

**Standard 2.7. Prohibition of Holding a Deaf or Hard of Hearing Person in Custody Pending Arrival of an Interpreter.**

**A deaf or hard of hearing person who has been arrested and who is otherwise eligible for release shall not be held in custody pending the arrival of an ASL interpreter as required by N.J.S.A. 34:1-69.10.c.**

**Standard 2.8. Positioning of the sign language interpreter.**

**No proceeding shall begin until the sign language interpreter has been positioned in full view of the deaf or hard of hearing person for whom he or she is interpreting.**

**Standard 2.9. Waiver of Right to a sign language interpreter.**

**The right to a sign language interpreter shall not be waived unless the person to whom the right is accorded (and his or her attorney, if any) executes a Judiciary-approved waiver form. See Appendix 10, Sign Language Interpreter Waiver Form.**

**Comments**

Waivers of sign language interpreters are covered by statute. See N.J.S.A. 34:1-69.16. A deaf or hard of hearing individual must submit a signed waiver form to court staff (including Probation staff) in order to waive their right to a sign language interpreter.

## **Standard 2.10. Deaf or Hard of Hearing Jurors.**

**People who are deaf or hard of hearing have an equal right and a civic duty to serve as grand jurors and petit jurors. As with any other potential juror, the trial judge should determine whether a deaf or hard of hearing person is able to serve as a juror in a particular case pursuant to N.J.S.A. 2B:20-1.**

### **2.10.1. ASL Interpreters for Deaf or Hard of Hearing Jurors:**

ASL interpreters or another accommodation will be provided for all phases of the deaf or hard of hearing juror's service. If a deaf or hard of hearing person needing an interpreter is selected to be a juror, the court should refer to *Appendix 11, Guidelines for Trials Involving Deaf Jurors Who Serve with the Assistance of Sign Language Interpreters*.

### **2.10.2. Interpreter Expanded Oath:**

**When a deaf juror is selected, interpreters shall take the following interpreter's oath, as described in Standard 3.1, along with the additional part as follows:**

Standard 3.1: Do you solemnly swear or affirm that you will interpret accurately and impartially, follow all guidelines for court interpreters that are binding on you and discharge all of the solemn duties and obligations of an official interpreter?

Additionally, in this case your function is to provide communication access for a deaf juror, and in doing so, do you swear that you will not participate in the deliberations, you will keep all communications in the jury room confidential and you will not speak directly to any juror or allow a juror to speak to you but will, instead, provide communication access with fellow jurors so that the deaf juror can faithfully discharge his or her duties as a juror?

## SECTION 3. Standards on Interpreting

### Standard 3.1. Interpreter's Oath.

**All interpreters shall take the following oath at each proceeding of record for which they interpret: "Do you solemnly swear or affirm that you will interpret accurately and impartially, follow all guidelines for court interpreting that are binding on you, and discharge all of the solemn duties and obligations of an official interpreter?" No unsworn interpreter shall be permitted to interpret. Interpreters for deaf jurors shall take an expanded oath as described in Standard 2.10.2.**

#### Comments

This standard sets out the interpreter oath as required by New Jersey Rule of Evidence 604, which provides that a "judge shall determine the qualifications of a person testifying as an interpreter. An interpreter shall be subject to all provisions of [the evidence] rules relating to witnesses and shall take an oath or make an affirmation or declaration to interpret accurately."

The use of a uniform oath provides consistency to the procedure and underlines the oath's importance and the concomitant responsibility it places on an interpreter to give accurate and impartial interpretations. Oaths should be administered both to interpreters interpreting for the record and interpreters provided by the court who may be interpreting at counsel's table to ensure access to counsel. At its April 29, 2004 meeting, the Judicial Council concurred as to the requirement that an interpreter should be sworn in at the start of each proceeding of record.

### Standard 3.2. Putting Interpreters' Name and Language on the Record.

**In any proceeding in which an interpreter is used, the judge or hearing officer conducting that proceeding shall have the interpreter state on the record his or her name, language to be interpreted for that proceeding, and status as an official interpreter before beginning to interpret.**

### Standard 3.3. Speaking on the Record to Those Needing Interpreting Services.

**The judge or hearing officer conducting a proceeding on the record in which an interpreter is used should ensure that the person with limited proficiency in English or who is deaf or hard of hearing is addressed in his or her own language only by the official interpreter.**

### Standard 3.4. Team Interpreting.

**A team of two interpreters should be provided for proceedings that are projected to last more than two hours. A team may also be provided for proceedings projected to last two hours or less when they involve witness testimony, complex matters and/or multiple LEP participants.**

## Comments

Court interpreting is a taxing activity, both cognitively and physically; mental and physical fatigue will impact the accuracy of the interpretation. Team interpreting, an industry standard, is a quality control mechanism to preserve the accuracy of the interpretation process.<sup>11</sup> Team members work in close physical proximity and alternate between active and support roles. The active interpreter interprets while the support interpreter monitors the accuracy of the interpretation and assists the active interpreter.

### Best Practices

a. **Principles:**

An interpreting team includes two or more interpreters working together to produce one interpretation. Interpreting team members collaborate, support and monitor each other to achieve a faithful and accurate interpretation.

b. **Before Court, Discuss:**

Before court, team members should discuss what they know and can anticipate about the case, how and when to switch roles, how to signal each other to seek or provide help (whisper, write on pad, etc.), how to notify each other of errors, how to inform the court of corrections, and how to ensure linguistic continuity within the team.

c. **During Court:**

During a proceeding, team members should work in close physical proximity and alternate between active and support roles. The support interpreter monitors, assists, and brings substantive errors to the active interpreter's attention using neutral language. The support interpreter must be ready at a moment's notice to perform a secondary function, e.g., continuing the interpretation when the active interpreter addresses the court. Team members address allegations of errors as a team.

d. **After Court, Debrief:**

After court, team members should debrief to discuss what was and was not successful, and what the team might do differently next time.

### Standard 3.5. Handling Interpreter Error and Allegations of Interpreter Error.

**The judge or hearing officer shall use the detailed procedure below when an interpreter reports having made an interpreting error or someone alleges such an error.**

#### 3.5.1. Correction of Errors Caught by the Interpreter:

To ensure the most accurate possible interpretation on the record, judges and hearing officers should accept the correction of errors when offered by the interpreter. In a jury trial, this should generally be done during a sidebar conference. In a non-jury proceeding, this should be done by permitting the

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<sup>11</sup> NAJIT (National Association of Judiciary Interpreters and Translators) Position Paper, [Team Interpreting in the Courtroom](#), 2007, at [www.najit.org](http://www.najit.org).

record interpreter, if still interpreting, to correct the error at once, first identifying him/herself in the third person (e.g., “The interpreter wishes to correct an error”) for the record and then proceeding to make the correction. If the interpreter becomes aware of an error after the testimony has been completed, the judge or hearing officer should determine whether the error should be corrected on the record. If a jury is present, this should be done in a sidebar conference.

### **3.5.2. Handling of Allegations of Errors:**

When anyone other than the interpreter (including the team interpreter) alleges that an interpreting error has been made, the judge or hearing officer should handle resolution of the allegation outside the presence of the jury, if any. If there is a team of interpreters, the judge or hearing officer should allow the team to first confer and try to reach an agreement and the judge or hearing officer should accept any such agreed-upon correction by the team. Unless the interpreter agrees that he or she made a mistake, the interpreter or interpreting team should be presumed to have interpreted correctly. The burden of proof in any such situation should be on the person challenging the interpretation.

If the interpreter stands by the interpretation that is alleged to have been incorrect, then the judge or hearing officer should determine whether the issue surrounding the allegedly inaccurate interpretation is so substantial or potentially prejudicial as to warrant further attention. If it is not, the allegation of error should not be pursued further.

If, however, the issue is substantial or potentially prejudicial, then the judge or hearing officer should:

- 1) ask the person whose speech was allegedly misinterpreted to clarify the term or terms in question. In some situations, it may be advisable or necessary to play back the recording of what a witness has said since many perceived interpreting errors are a function of what was said in a foreign language rather than its interpretation. If that does not resolve the allegation of interpreter error, the judge or hearing officer should then hear evidence as to the correct interpretation from experts submitted by attorneys for all parties if they so wish, from the interpreter who made the alleged error, and from any other linguistic expert the judge or hearing officer may select or allow; and
- 2) make a final determination as to the correct interpretation in view of the evidence. If the determination is different from the original interpretation, then the judge or hearing officer should amend the record accordingly and, if applicable, so advise the jury.

### **Standard 3.6. Reporting of Any Policy Violations by Interpreters.**

**If a judge or staff person believes that an interpreter engaged in conduct that violates either the Code of Professional Conduct for Interpreters, Transliterators and Translators or any other judiciary policy, he or she should so advise the vicinage coordinator of interpreting services or the operations manager. If similar issues arise in municipal courts, the vicinage Municipal Division should be notified.**

## Comments

While judges or staff may form such a belief either through first-hand knowledge or otherwise (such as a complaint from an attorney), they should reasonably believe that a violation of policy has been committed before proceeding in accordance with this standard.

### **Standard 3.7. Interpreter Access to Case File Information.**

**The court should grant access to case file information necessary for court interpreters to prepare for a case. Interpreter preparation removes barriers to accurate and meaningful interpretation and ensures a more efficient and effective proceeding.**

## Comments

Court interpreters need to review case file information prior to the interpreting event. Such preparation is routine, usually quick, and is vital to accurate interpreting and efficient proceedings. It provides interpreters with context, enhances their ability to identify and research specialized vocabulary and hear and interpret accurately, and reduces interruptions. Also, interpreters should be alerted before a proceeding of the potential for emotionally charged or highly specialized/technical content. Interpreters are bound by their code of conduct to keep case file information confidential.

- For routine appearances, interpreters may need only the purpose of the proceeding and the names of the attorneys and parties.
- For more complex matters, interpreters may need to review indictment information, complaint forms and police reports.
- For trials, interpreters should be permitted to review witness lists, expert reports or summaries to identify specialized vocabulary as well as exhibits and photos.
- Note that witness lists are needed by the interpreters well in advance of the trial since interpreters must use the list to detect and disclose any potential conflicts of interest to the court.

### **Standard 3.8. Appointing and Selecting Staff Who Interpret in Superior Court and Municipal Court.<sup>12</sup>**

**Pursuant to R. 1:34-7, interpreters and translators shall be appointed and perform their duties in the manner established by the Chief Justice and shall serve at the pleasure of the approving authority. See Appendix List and Links #6, R. 1:34-7 Supporting Personnel of the Courts; Interpreters, Translators.**

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<sup>12</sup> This standard supersedes Directive #7-87.

**In Superior Court, only applicants approved by the Administrative Office of the Courts (AOC), or who have an equivalent credential as determined by the AOC, can be considered for any court interpreter position. See Appendix List and Links #13, Court Interpreter Band Specifications.**

**In Municipal Court, only applicants, both classified and unclassified, approved or conditionally approved by the AOC, or who have an equivalent credential as determined by the AOC, can be considered for any staff court interpreter position. Persons who are hired for positions other than staff court interpreter (e.g. Clerk Transcriber/Bilingual) may not interpret in court unless they have been approved or conditionally approved by the AOC.**

### **Comments**

The AOC Language Services Section provides assistance in recruiting applicants for staff court interpreting positions by providing appointing authorities with the names and scores of all applicants tested, indicating which candidates have been approved or for municipalities, conditionally approved. The appointing authority may select and appoint any applicant who has been approved (or for municipalities, conditionally approved), as required by the notice of vacancy.

### **Best Practices**

#### **a. Notices of Vacancy:**

Superior court notices of vacancy should be posted for both master and journey level classifications. Municipal court may also post for conditionally approved interpreters. The Judiciary should seek to employ the highest credentialed and qualified interpreters available.

- i. Vicinages should support journey staff interpreters in improving their skills and testing up to the master level in accordance with the interpreter code of conduct. See *Appendix List and Links #5, R. 1:14 Code of Professional Conduct for Interpreters, Transliterators, and Translators*.
- ii. Vicinages should upgrade to the master level classification staff interpreters who test at the master level unless a basis to deny the upgrade exists.

#### **b. Statewide Interpreters:**

The Judiciary shall provide centrally funded statewide interpreter positions as deemed necessary. Needs for statewide interpreter positions in a particular language will be assessed regularly based on statewide statistics. (*Assignment Judge Memorandum 10/04/06, Vicinage Based Statewide Interpreters – Protocol for Dispatch*)

#### **c. Internship Program:**

The Judiciary shall support an interpreter internship program. Recruiting highly skilled staff interpreters is an ongoing goal for the Judiciary. Demand for qualified interpreters continues to increase throughout the state. Such a program will be guided by the New Jersey Judiciary Court Interpreter Internship Program. (*Assignment Judge Memorandum 07/23/07, Interpreter Internships*)

## SECTION 4. Standards on Translation

### Standard 4.1. Translation Services.

**The Judiciary provides translation services as part of its commitment to providing language access to all court users with limited English proficiency. Services include the translation of Judiciary state and vicinage administrative documents and, in limited circumstances as described below, case related and evidentiary documents.**

#### **4.1.1. The Difference between Translation and Interpretation:**

While **interpretation** involves rendering a spoken or signed message in one language to an equivalent spoken or signed message in another language, **translation** involves rendering a written message from one language to an equivalent written message in another language. Translators may spend hours translating a single page of text, while interpreters provide a service in “real time”. Translators have the time to research, evaluate and revise their renditions before delivering a final product.

The Judiciary credentials court interpreters but does not credential translators. The differences between the skill sets, training and credentials needed for the two tasks are substantial. **Inclusion in the Registry of Court Interpreting Resources does not provide any confirmation of the ability to provide accurate translation services.** As such, court interpreters should translate only short and simple documents. The Language Services Section (LSS) tests staff interpreters to approve those who pass for vicinage-specific translation work. See *Standard 4.1.4. Limit the Use of Interpreters as Translators* and *4.2.2. Translation of Vicinage-Specific Documents*.

#### **4.1.2. Certified Translator/Certified Translations:**

A **certified translator** is an individual who has passed an exam developed and administered by a certifying body that tests professional translation skills. The American Translators Association (ATA) is the only known professional association that offers certification exams. It tests in 26 language combinations measuring the translator’s knowledge, skills, and abilities needed to provide professional translation. A translator may be certified to translate in one or both directions. Important Note: Membership in the ATA does not necessarily mean a translator is ATA-certified.

A **certified translation** is a translation accompanied by a signed statement/certification attesting that the translation is accurate and complete to the best of the translator's knowledge and ability. Any translator or translation company may "certify" a translation. Such a “certification” is no guarantee of the accuracy of the translation. A translator does not need to be "certified" to provide a "certified translation."

#### **4.1.3. Audio/Video Recording and Text Messages May Need Transcription and Translation:**

Transcription and translation of audio/video files or long or complex text messages is a two-step process. First a transcription must be prepared of the file in its original language. The transcriber listens to the audio/video file, and prepares a full written record of what is said in the source language. The translator, who may or may not be the same person as the transcriber, then uses the transcription to prepare a translation that produces an equivalent document in English. Note that the National

Association of Judiciary Interpreters and Translators (NAJIT) cites that the standard unit of measure for transcription and translation of a sound file is one hour of work for each one minute of sound.<sup>13</sup> In limited circumstances involving short and clear audio/video files or text messages interpreting may be possible; in the consecutive mode only, never the simultaneous mode<sup>14</sup>). See *Best Practices below, Protocol for Court Interpretation of Brief Audio/Video Recordings and Text Messages*.

#### **4.1.4. Limit the Use of Interpreters as Translators:**

In limited circumstances, interpreters may be used as translators. Court interpreters may not be asked to provide impromptu written translation and must be given time to evaluate if they can translate a specific document. Staff interpreters who have passed the AOC Language Services Section translation exam may translate on a limited basis. While the AOC translation exam (English to Spanish and Spanish to English) is not a translation credentialing program, it is a basic translation exam that confirms the ability of staff interpreters to translate vicinage materials and short and simple case-related documents. Contract and agency interpreters are likely not trained or credentialed as translators and should only be used to translate after translation credentials or education and experience are confirmed.

#### Documents to be Translated Must Meet Criteria

If document translation is required to move a case along or to ensure that the litigant understands critical content in a document and the translation is to be performed by an interpreter, the document must meet certain criteria to ensure the interpreter can accurately translate. Documents to be translated by interpreters must be:

- Legible
- Relatively short (one to two pages)
- Not include highly specialized or technical terminology
- Are best limited to only the critical sections of the document

Requests by the court for translation of longer or complex documents should be limited, and may require the assistance of an ATA-certified translator. Requests for such translations are best handled by discussing the options with the vicinage interpreting unit.

#### **4.1.5. Interpreting May be Appropriate:**

Sight translation is an interpreting mode in which the interpreter reads and reviews a document written in one language and then renders an oral interpretation into another language. AOC approved interpreters are tested and approved to interpret in this mode. Documents appropriate for sight translation must be legible, short (one to two pages), and simple (not involving specialized terminology that would require research and study), and the interpreter must be certain that he/she can produce a faithful and accurate sight translation. Examples of short documents that interpreters may be able to sight translate include a birth certificate, certificate of completion of a program, death certificate, a letter from an LEP defendant, victim, or family member, risk assessments and short narratives on forms

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<sup>13</sup> NAJIT Position Paper, [Onsite Simultaneous Interpretation of a Sound File is Not Recommended](#), 2006, at [www.najit.org](http://www.najit.org).

<sup>14</sup> In the simultaneous interpreting mode, the interpreter renders into another language everything that is said in English during the court proceeding at the same time the speaker is speaking.

which a party has completed. Court interpreters review a document and determine if they can sight translate it or if its length and complexity require the services of credentialed translators.

#### **4.1.6. Retain Non-English Source Documents for Appeal:**

In all cases, whenever a document is translated or sight translated for the court, all original non-English source documents must be retained in the file. An audio file that is interpreted in court should be captured on a court-approved recording device as part of the court record (i.e. Court Smart).

### **Standard 4.2. Translation of Judiciary State and Vicinage Administrative Documents.**

**The Judiciary shall translate critical and commonly used statewide court forms, brochures and other documents into Spanish and other high demand languages as necessary, to ensure equal access to the courts.**

#### **4.2.1. Translation of Statewide Documents:**

The AOC Language Services Section (LSS) is responsible for translating statewide documents including informational brochures, forms, pro se packets, signage and web content. The Judiciary relies on translators credentialed by the American Translators Association (ATA) or who are ATA members working in languages for which there is no ATA certification exam.

Vicinages and central office divisions responsible for developing and maintaining documents and web content are also responsible for coordinating with the AOC forms and translation units whenever a revision is made to ensure consistency between the English and non-English versions of the materials. All forms and brochures that have been translated into another language must be available to the public in identical form in both English and the other language. If an English version of a document is updated, the Spanish (or other language) version of the document should be removed from public access until the updated translation is completed. Alternatively, the English version may be updated but not released until the translations are completed, at which time all languages can be posted at one time. Any exceptions to this practice require prior assessment and determination to do so.

The Judiciary conducts an ongoing assessment of the need to translate court forms, brochures and other informational written materials. Priority is given to the following:

- Where the court proceeding could result in the loss of freedom or other civil liberties;
- Where the court proceeding involves application for child support or other financial support, or relief from potential domestic violence;
- Where the court proceeding could result in the loss of property;
- Where the court proceeding has a high-volume of self-represented litigants;
- Where the materials are used for emergent court proceedings; and/or
- Where the materials include critical information about court procedures, programs or services.

#### **4.2.2. Translation of Vicinage-Specific Documents:**

Determinations as to whether vicinage materials such as signs, flyers, notices to court users and forms should be translated into Spanish or other languages are made locally based on vicinage needs as determined by the court or vicinage management. Translation of vicinage materials can be completed by staff interpreters who have passed the AOC translation exam utilizing the language glossaries maintained by the Language Services Section.

#### **4.2.3. Translation Protocol:**

Documents submitted for translation must be in final form, written in plain English, and use standardized formats with sufficient white space for ease of readability and room for translated text, which is often longer than English. To ensure accurate translations a team of at least two translators must be used; the primary translator and an editor who is equally qualified as a translator. See *Standard 4.1.2. Certified Translator/Certified Translation*. The primary translator will consult with the editor to edit the work product for accuracy and completeness. The Judiciary maintains publically posted translation glossaries to ensure that terminology is consistent among translators and translations.

### **Standard 4.3. Translation of Non-Evidentiary Case-Related Documents.**

**The decision to translate non-evidentiary case-related documents is at the discretion of the Judge.**

#### **4.3.1. Translation of Case-Related Documents from English into Another Language:**

At times judges may have a need for interpreters to provide a translation of a court document or court-ordered document from English into another language to give the litigant access to the document in the litigant's language or when it may be needed for use by a court or agency in another country. For guidance, see *Standard 4.1.4 Limit the Use of Interpreters as Translators*.

#### **4.3.2. Translation of Case-Related Documents from Another Language into English:**

At times, judges may have a need to have non-evidentiary case-related non-English documents submitted to the court translated into English, such as narrative portions of an emergent application, correspondence or court-orders from another country, letters from victims, family members, or inmates, and birth, death or marriage certificates. For guidance, see *Standard above 4.1.4 Limit the Use of Interpreters as Translators*.

### **Comments**

Translation of case-related documents involves two distinct categories: 1) documents that are produced by the court in English, which are then translated into another language and 2) documents that are submitted to the court in a language other than English. The latter may involve items submitted to inform the courts such as letters or correspondence from other courts, victims, family members or the litigant him or herself. Evidentiary items are addressed in *Standard 4.4. Translation of Evidentiary Submissions to the Court*.

#### **Standard 4.4. Translation of Evidentiary Submissions to the Court.**

**Unless otherwise permitted by the court, all evidentiary documents are to be presented in English and all non-English documents intended to be introduced into evidence must be accompanied by a certified translation. In the alternative and in limited circumstances, the court may consider permitting sight translation on the record of non-English documents. If the intended evidence is in the form of a non-English audio/video recording or text message, a transcription in the original language should accompany the translation. All issues regarding the admission of evidence remain in the sound discretion of the court, as permitted by NJ Rules of Evidence and in particular, N.J.R.E. 611.**

#### **Best Practices**

**a. Identify Needs as Early as Possible:**

Requests for an interpreter and identification of any need for translation should be made by the parties as early as possible. At the time of the calendar call, the court should confirm with the parties whether any interpreter is necessary.

**b. Protocol for Court Interpretation of Brief Audio/Video Recordings and Text Messages:**

With the rise in the use of cell phones and other portable electronic devices, audio/video recordings and text messages are frequently offered into evidence in court in the form of voice mail, emails, text from social media such as Facebook and Twitter, and videos on tape or YouTube. Generally, discovery rules require parties to exchange such evidentiary material in advance of court proceedings and the judge then conducts his/her own determination as to admissibility. Audio/video recordings and text messages in a language other than English are similarly handled, with the proffering party providing a transcription and English translation of the recording or message.

However, in certain circumstances a judge may need to assess a recording or text message in a language other than English without the benefit of prior transcription and translation. For example, in an emergent domestic violence hearing, where pretrial discovery is not permitted unless good cause is shown, the judge will generally not require the victim to provide a transcript and translation of a cell phone recording. Instead, the judge may seek to have a court interpreter interpret the recording or text message during the course of the hearing. However, for reasons identified below, providing accurate interpretation of recordings or messages may be difficult or impossible, and legal and operational concerns may arise. If the file is short and clear enough, the interpreter may be able to render an interpretation if safeguards as described below are taken.

#### **Challenges to Accurate Interpreting of Audio/Video Recordings and Text Messages**

Accurate interpreting requires that an interpreter hear and understand the speaker. To understand, interpreters rely on verbal communication, nonverbal communication, and contextual information, and seek clarification from the speaker when needed. Interpreters do not have access to the speaker of an audio/video recording or the writer of a text message, potentially causing inherent challenges to accurately interpreting such files. Accordingly, only the shortest files may be handled using interpreting instead of transcription and translation as long as the guidelines below are followed. It should be noted that transcription and translation (TT) are specialized, labor intensive disciplines distinct from interpreting that require specific training and equipment.

#### **Problems with Audio/Video Recordings**

The sound quality of audio/video recordings may be poor for reasons ranging from a bad connection

on a cell message, to background noise, to the speaker's emotional state. When a sound file is in English, all of the parties in the courtroom can listen and finally agree (or agree to disagree) on what is being said. However, when the file is in a language other than English, the interpreter becomes the sole expert on its content, with no checks or balances as to accuracy.

If there are multiple parties on a recording, the interpreter may be unable to identify which party is speaking, which impacts their ability to understand and interpret accurately. Also, unlike live interpreting, an interpreter cannot ask the recorded speaker for clarification. For example, the interpreter may need clarification on the meaning of a word that has multiple meanings in the originating language.

Interpretation of audio/video recordings "on-the-spot," without the interpreter's prior review and evaluation of the recording, challenges the interpreter's ability to provide an accurate interpretation. Indeed, the National Association of Judiciary Interpreters and Translators (NAJIT) recommends that interpreters not interpret recordings "on-the-spot."<sup>15</sup>

Although both interpretation and translation involve the transfer of messages from one language into another, they are two different disciplines that require different skills, training, and credentialing. Transcription is also a distinct and specialized profession. Most Judiciary interpreters are not credentialed translators or transcribers and are not likely to have the specific training and equipment needed to properly work with audio/video recordings or text messages. Additionally, vicinages are likely not sufficiently staffed to assume these responsibilities.

#### **Problems with Text Messages**

Text messages can be difficult to interpret because they include idiosyncratic abbreviations, irregular spelling, private code words, symbols, jargon and slang, making it impossible to accurately interpret or translate the text message into English.

#### **Lengthy Audio/Video Recordings**

The proper handling of lengthy audio/video recordings requires labor intensive transcription and translation. Some experts say that as much as one hour of transcription and translation work is needed per one minute of audio.

#### **Inadvertent Damage to Recording/Message or Equipment or a Break in the Chain of Custody**

Interpreters or court staff unfamiliar with a party's cell phone or electronic recording equipment could accidentally damage or delete a recording or message that is being offered into evidence. Additionally, handling of the equipment by court staff could result in issues regarding chain of custody. [Note: Assistance with this issue is addressed further in Guideline 4, below.]

### **GUIDELINES**

**In certain limited situations when a judge must consider a non-English audio/video recording or text message immediately via court interpretation, the following guidelines should be used.**

**Guideline 1: Allow the interpreter time to evaluate the audio/video recording or text message.**

The judge should allow the court interpreter adequate time to evaluate whether an audio/video recording or text message can be interpreted and consider whether the evaluation of the recording

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<sup>15</sup> NAJIT Position Paper, [Onsite Simultaneous Interpretation of a Sound File is Not Recommended](http://www.najit.org), 2006, at [www.najit.org](http://www.najit.org).

should take place on or off the record. Optimally, the interpreter should be physically removed from the involved parties while completing the evaluation. The interpreter may need to play and replay the recording numerous times or research a word or abbreviation in a text message. Once the interpreter completes the evaluation, he/she can advise the court as to whether an interpretation can be provided or if something more is required. For example, the interpreter may find that:

- a recording is short and clear enough that a consecutive interpretation<sup>16</sup> can be provided in court, or
- a recording is short but only partly audible and he/she can provide a consecutive interpretation of what is audible and state when sound is inaudible or unintelligible, or
- a recording is lengthy and requires extensive transcription and translation work that would be better handled by a transcription/translation expert, and requires an adjournment of the proceeding, or
- a document or text message is short and clear enough that a translation or interpretation can be provided, or
- a text message includes abbreviated spellings or symbols that the interpreter does not understand.

**Guideline 2: Ensure a clear record.**

After the interpreter has completed his/her review, and assuming the interpreter has determined that the audio/video recording is short and clear enough that interpretation is possible, ensure the recording is interpreted in the consecutive mode to avoid overlapping voices on the record. This means the interpreter provides the interpretation after the recording is played.

**Guideline 3: Provide guidance to non-staff interpreters.**

Be aware that contract and agency interpreters are not likely to have experience or training in the optimal handling of audio/video recordings or text messages. As a result, judges may need to provide guidance to agency and contract interpreters. For example, a judge may need to:

- Instruct the interpreter to first evaluate the recording or text and then advise the court as to whether an interpretation can be rendered.
- Instruct the interpreter not to guess the contents of a recording or a text message, but rather to interpret only what can be interpreted accurately, and to state when audio or text is inaudible or unclear.

**Guideline 4: Ensure that recordings/messages and equipment are not damaged and chain of custody is maintained.**

To avoid inadvertent damage to an evidentiary audio/video recording or text message or to a party's equipment, and to ensure that chain of custody is maintained, judges should not ask interpreters to

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<sup>16</sup> In consecutive interpreting, the speaker must pause for the interpretation to be put on the record.

handle a party's cell phone or other equipment. Instead, vicinage operations staff should be contacted to provide technical solutions that judges can rely on to appropriately handle these files. For example:

- Court staff can instruct a party to play the audio recording next to a court-owned recorder that the interpreter can then use to evaluate the file.
- Court staff can ask the party to play the message while holding the cell phone next to a recording system microphone (i.e. Court Smart). The court interpreter can then use a court computer to evaluate the recording. Videos can be similarly handled to capture the audio message.
- Court staff can create a special purpose email address and request a party to forward a text message to that address. The court interpreter can then use a court computer to view and evaluate the message.

## **B. Building on the Judiciary's Long History of Ensuring Language Access; The Next Quarter Century and Beyond**

To ensure that the Judiciary, as an institution, embraces “Access and Fairness” as an integral part of our core values, in 2011 the Chief Justice created the Supreme Court Advisory Committee on Access and Fairness and charged it with developing a statewide campaign to focus on how to administer justice in the face of such challenges as the continued increase in the number of self-represented litigants, the economic pressures applied to litigants and to the courts, and the need to treat each case and each litigant with dignity and respect.

Without question, the Judiciary has accomplished a great deal to incorporate language access services into our everyday work and mission. As we move forward and the diverse communities that we serve grow, we place new and greater emphasis on language access to the courts and fairness in our procedures through the following goals that seek to focus on monitoring performance to improve where needed, increasing efficiencies, and identifying and addressing needs. The following strategic goals will guide our ongoing efforts:

### **Goal 1. Improve Data collection and Analysis.**

In June 2015, the Language Services Section completed the roll-out of a statewide system for managing interpreting services called the Official Strategic Management of Statewide Interpreting Services (OSMOSIS). OSMOSIS will result in improved data collection and analysis into interpreting activities statewide. Also underway is the development of a methodology to generate Municipal Court statistics on dispositions that required interpreting services and in what languages service was provided. Once these systems are in full use, we expect to develop new methods to analyze the data gathered to inform future resource decisions and improve monitoring and compliance with standards.

### **Goal 2. Improve Monitoring and Compliance to Ensure High Quality Service.**

To improve monitoring and compliance with the LAP the Judiciary will analyze OSMOSIS data at vicinage and statewide levels, establish a new visitation program, create a new statewide procedural manual, assess the need for ongoing adjustments and improvements to the LAP, and establish an internal LAP advisory panel.

OSMOSIS data including case type, appearance type, interpreter name and classification, and call log entries will allow for evaluation of adherence to policy such as the use of approved interpreters. The forthcoming visitation program focused on language access services will be the first of its kind since it must involve all trial court divisions. The visitation program will be focused on a general comprehensive review of language services provided, adherence to policies and practices, identification of good practice

that can be followed across the system, and identification of systemic weaknesses and solutions for addressing them.

A statewide procedures manual is needed to support quality services and efficient use of resources. It will also ensure coordination and consistency of efforts across all divisions (Trial court divisions, HR, Finance, IT, and Operations) while allowing for vicinage-specific needs. Development of this manual will follow completion of the roll out of OSMOSIS and the visitation program.

Lastly, a LAP advisory panel will be established to address language access issues raised by judges and court staff and approve future revisions to the LAP.

**Goal 3. Improve Notice of Language Access Services.**

The visitation program discussed above will include an evaluation of noticing methods across the state with a goal of ensuring that vicinages are providing adequate and consistent notice of services. For example, the use of bilingual signage and technology (electronic signs, kiosks) to inform LEP persons about the availability of language services will be evaluated. We also plan to explore whether early identification of language access needs can be improved.

**Goal 4. Improve Language Access Services at Points of Contact Outside the Courtroom.**

The visitation program will evaluate language access at points of contact outside of court such as customer service and intake counters. The use of qualified bilingual staff, remote interpreting services, and accessibility to and use of translated materials will be evaluated. Signage that makes a building easier for LEP persons to navigate will also be evaluated.

**Goal 5. Expand Outreach and Collaboration with LEP communities.**

In consultation with the Statewide Ombudsman Committee, the visitation program will evaluate outreach efforts to local communities, advocates, and stakeholders and set goals to improve efforts where needed.

**Goal 6. Modernize Telephone Interpreting Standards.**

Telephone Interpreting Operational Standards promulgated in 2001 must be modernized and expanded to include video remote interpreting (VRI).

**Goal 7. More Translated Materials.**

While we currently have available hundreds of translated forms, brochures, information packets, etc. in Spanish, we will seek to translate more, as resources permit, with a focus on domestic violence related materials. We also plan to translate more materials into our other high demand languages, which include Haitian, Korean, Polish and Portuguese. The infrastructure needed to support the ongoing

maintenance and expansion of translated materials must be evaluated and strengthened where needed, as resources permit, through the implementation of translation project management software and ultimately expanded staffing.

**Goal 8. Assess the Need for More Qualified Bilingual Staff In Spanish and in Other Languages.**

While the number of positions with Spanish bilingual variants has increased over the years, some may be needed in other languages as well as more in Spanish. The assessment should include a thorough inventory of existing positions and identification of positions with significant interaction with the public, as well as specific recommendations on additional positions that require bilingual variants, methods for efficiently qualifying candidates, and implementation and training.

**Goal 9. Develop Online Training Options.**

While a number of training resources exist, more training resources are needed for judges, court staff, volunteers, attorneys, and court users. As resources permit and in coordination with Judicial Education and Organizational Development and Training units, future efforts will be focused on use and/or development of online training options.

**Goal 10. Language Access Plan Review.**

Upon completion of the visitation program, the LAP will be assessed and improvements will be made as needed. Thereafter, a five-year review period or earlier if needed will be established for ongoing adjustments and improvements.

**Goal 11. Develop More Tools for Municipal Courts.**

While the Judiciary developed tools such as a Municipal court bench cards on interpreting services, a language identifications card, role of the interpreter brochures in Spanish and other high demand languages and the translated versions of “Your Day in Municipal Court” brochures, we continuously seek to improve. In the near term, staff will increase use of the language identification cards and bench cards; strengthen judge and staff training modules, expand available translated materials such as the notification of penalties, request to approve a plea agreement and the financial questionnaire to establish indigence; amend the judges’ opening statements to include a statement on the availability of language access services and if needed what to do; and explore how judges and staff improve identification of the need for an interpreter as early as possible and at all stages of proceedings from window services, to meeting with the prosecutor, to in-court meetings with a defense attorney or public defender.

As resources permit, the Judiciary will develop more tools for use by the Municipal Courts such as videos of the opening statement in Spanish and possibly other high demand languages that play in municipal court lobbies and from the Judiciary’s website; and training modules for Municipal judges and staff

made available through the Judiciary's automated learning system. The Judiciary will also explore the practicality of adding a box to the Uniform Traffic Ticket to allow law enforcement to denote whether the litigant may need language assistance; an additional fee on tickets to support growing interpreting service needs; the use of kiosks; and the use of automated phone message options in Spanish for access to information/instructions (court hours, directions, etc.).

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<b>Statutes and Rules</b>	
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5.	<a href="#">Court Rule 1:14 Code of Professional Conduct for Interpreters, Transliterators, and Translators</a>
6.	<a href="#">Court Rule 1:34-7 Supporting Personnel of the Courts; Interpreters, Transliterators, and Translators</a>
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## Appendix 1

### HISTORICAL HIGHLIGHTS

<b>1980s</b>	
1982	Chief Justice Wilentz appointed the New Jersey Supreme Court Task Force on Interpreter and Translation Services and charged it to review the availability and adequacy of services delivered by the Judiciary to persons who are limited English proficient (LEP).
1983	NJSA 34:1-69.7 et seq. Interpreters for the Deaf and Hard of Hearing. State statute required, among other things, that qualified interpreters be provided for the hearing impaired.
1984	Directive #10-84 implemented NJSA 34: 1-69.7 et seq.
1985	The Supreme Court Task Force submitted its final report to the New Jersey Supreme Court and the Court endorsed the Task Force's guiding principle of equal access.
1985	The AOC established what is known today as the Language Services Section creating a permanent institutional capacity for managing language access policies and programs. It included a manager, an ASL interpreter, and bilingual secretary.
1985-86	Cooperated with and provided assistance to the Legal Interpretation Project of the Department of Higher Education and the Consortium of Educators in Legal Interpretation and Translation (CELIT) to develop a model curriculum for training court interpreters and deliver two three-week intensive court interpreter training summer institutes at Montclair State college; provided 20 scholarships to the program each summer.
1986	Directive #6-86, promulgated as an addendum to Directive #10-84, reinforced that interpreters for the deaf and hard of hearing have to be qualified as set forth in NJSA 34: 1-69.7 et seq.
1986	Began translation of statewide forms into Spanish.
1986	Launched new a training module on Principles of Municipal Court Administration that remains in place today.
1986	Developed and administered the first oral exams. The court interpreter qualification process was established the following year as well as the requirement that only AOC-approved applicants could be hired as staff.
1986	Launched statewide initiative to hire bilingual probation officers and investigators.
1987	Directives #6 and #7-87 promulgated the standard that Superior and Municipal court staff interpreters must be AOC approved.

1987	Gave the first training to court interpreters on professional responsibility, a code of conduct seminar later renamed the orientation seminar for prospective interpreters.
1988	Formed Vicinage Advisory Group on Services to Linguistic Minorities, which subsequently became the Committee on Services for Linguistic Minorities.
1988	Launched the training module that is a part of the orientation program for new Superior Court judges.
1988	Established a tuition reimbursement program for court employees who interpreted but could not pass the new credentialing exams.
1988	Established a vicinage-based committee to ensure local expertise on LEP access issues and partner with the central office on LEP access program development.
1988-89	Delivered two two-day institutes for professional development of court interpreters (the first included both staff and freelance interpreters, the second only staff) which evolved into the annual training day for staff court interpreters.
1989	Uniform job specifications were issued for staff court interpreters.
1989	Launched the training module that is a part of the orientation program for new Municipal Court judges.
<b>1990s</b>	
1991	NJSA 2B:8-1 requires Superior Courts to provide interpreting services for cases in the Law Division and the Family Part of the Chancery Division.
1992	The Supreme Court Task Force on Minority Concerns reported replicated findings about the inadequacy of services for LEP persons.
1994	NJ Court Rule 1:14 promulgated the Code of Professional Conduct for Interpreters.
1994	The New Jersey Supreme Court adopted a prohibition of discrimination on the basis of language that was added to the Code of Judicial Conduct, the code of Conduct for Judiciary Employees, and the Rules of Professional Conduct.
1994	Issued the first listing of approved and registered court interpreters.
1995	Developed the Statistical Policy and Procedure Manual for Interpreting Services and launched a statistical reporting system.
1995	Approved and implemented the “Guidelines for Contracting Freelance Interpreters in the Superior Court.” These guidelines established the requirement that freelancers be approved, and created the first Registry of Interpreting Resources and the designation of Vicinage Coordinator of Interpreting Services (VCIS), which superseded the Committee on Services for Linguistic Minorities.

1995	A telephone court interpreting pilot was launched and conducted through 1997. The final report was released in 1998, which formed the basis of the statewide policy issued in 2001, Directive #14-01.
1996	NJ, three other states, and NCSC founded the Consortium for State Court Interpreter Certification (later known as the Consortium for Language Access in the Courts) which was created to pool state resources for development of national standards for qualifying court interpreters as well as testing instruments and methodology.
1998	Launched the annual staff interpreter training day.
<b>2000s</b>	
2001	Directive #14-01 promulgated Operational Standards for Telephone Interpreting.
2004	Directive # 3-04 promulgated Standards for Delivering Court Interpreting Services.
2006	Memo to Assignment Judges 10/4/06 announced the creation of five vicinage-based statewide interpreting positions on the Central Office payroll for assignment as needed throughout the state.
2007	Memo to Assignment Judges 7/23/07 announced the creation of a new interpreter internship program to support ongoing development and recruitment of highly skilled interpreters.
2009	Directive #3-04 Supplement March 20, 2009 provided clarification on providing interpreters for court-ordered events outside the courthouse.
2009	Modernized the court Interpreter testing program to include digital recording of oral exams and secure electronic sharing of test materials with raters using Judiciary SFTP (secure file transfer protocol) software.
<b>2010s</b>	
2010	Launched the first phase of a new statewide system for managing the interpreting services which resulted in an updated Registry of Interpreting Resources.
2011	Chief Justice Stuart Rabner established the Supreme Court Advisory Committee on Access and Fairness.
2011	Published a new “Role of the Interpreter” brochure in English and the five most frequently used languages; Spanish, Haitian Creole, Korean, Polish, Portuguese.
2011	Launched the Judiciary’s Spanish web page.
2012	Began testing Video Remote Interpreting (VRI) for deaf participants using staff ASL interpreters.
2012	Added a statement in English and Spanish that a party should call the court if they need interpreting services to 109 notices generated from the Family case management system

	(FACTS) and another 18 notices generated in the child support system (NJ Kids). Tens of thousands of FACTS and NJ Kids notices are generated each year.
2012	Judicial Council approved the Judges' Guide to Court Interpreting Services.
2012	NOTE: CCJ and COSCA approved the replacement of the Consortium for Language Access in the Courts with three new entities: a new CCJ/COSCA Language Access Advisory Committee (LAAC) to make nationwide policy determinations, a new NCSC unit called Language Access Services Section (LASS) to own, maintain, and develop exams, and the Council for Language Access in the Courts (CLAC) consisting of statewide coordinators of all 50 states and US territories to provide expertise and support to LAAC, NCSC/LASS and each other.
2013	Developed new trainings for Judicial College and Municipal Court Staff.
2013	Developed a CLE course for Judiciary staff attorneys.
2013	Participated in a new national project to develop online training modules for all court staff on the fundamentals of language access in the courts and on skills building for bilingual staff.
2014	Launched pilot of OSMOSIS (Official Strategic Management of Statewide Interpreting Services), an internally developed statewide computerized system for managing all requests, scheduling, payment, and reporting on interpreting services.
2014	Judicial Council approved the Municipal Court Judges' Bench Card on Court Interpreting Services.
2014	Established six criteria for prioritizing the large volume of translation projects: 1) involves the loss of freedom; 2) involves giving up rights of property (e.g. Plea Forms, FG Advisory Notice); 3) involves applying for relief, protection or support (e.g. Guide to NJ Child Support Enforcement); 4) high volume of pro se litigants (e.g. information for tenants); 5) Forms used in emergent Proceedings (e.g. TRO, Emergent Appellate Motion Application); and 6) Critical information about court procedures, programs or services (e.g. Foreclosure FAQ)
2014	Launched the development of a Language Access Plan (LAP) to: 1) replace the current LAP equivalent (Directive #3-04); 2) incorporate into one single document all other existing language access policies; 3) provide existing and aspirational best practices as the mechanism for continuous self-assessment and improvement; and 4) develop future goals.
2015	Completed the statewide rollout of the Official Strategic Management of Statewide Interpreting Services (OSMOSIS).
2015	Purchased translation software called TRADOS to modernize how translation projects are managed. TRADOS will be used to more efficiently maintain existing translated materials (documents, forms, webpages, etc.) and manage future translation projects.

2015	Incorporated an oral proficiency exam into the court interpreter testing program for those interpreters who work in languages for which there is no court interpreting oral performance exam.
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## Appendix 2

### INTERPRETING INFORMATIONAL SYMBOLS



#### **Australian National symbol for interpreting**

There is no international symbol for spoken interpreting. However, Australia has a national symbol for spoken interpreting: three peg people with lines of communication between them.

The logo is available as white on blue, with or without the “Interpreter” text on the bottom.



#### **American Sign Language (ASL) symbols**

The two signing hands logo is a standard symbol to indicate sign language interpreting is available. The logo is usually printed in black & white, with a white symbol on blue used for some signs, and available in a range of sizes.



#### **New Jersey Judiciary Access and Fairness Logo**

The “Ensuring an Open Door to Justice” is the logo for the Supreme Court Advisory Committee on Access and Fairness. As part of the Judiciary’s branding, this logo should be present on Access and Fairness work products when possible.

<p>_____ Plaintiff</p> <p style="text-align: center;">v.</p> <p>_____ Defendant</p>	<p style="text-align: center;"><b>Superior Court of New Jersey</b></p> <p style="text-align: center;">_____ Division - _____ Part</p> <p style="text-align: center;">_____ County</p> <p>Docket Number: _____</p> <p style="text-align: center;"><b>Sign Language Interpreter Waiver Form (Pursuant to N.J.S.A. 34:1-69.16)</b></p>
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I, \_\_\_\_\_, am the (check one)

Defendant/Respondent    
  Plaintiff/Petitioner    
  Witness    
  Victim  
 Parent/Person *in loco parentis*    
 Other (describe): \_\_\_\_\_

I have been advised by the court of my right to have a sign language interpreter present for the duration of this court proceeding to assist me in fully participating and understanding the proceeding, in order to safeguard my due process rights.

However, after consulting with my attorney, if any, and through the services of the sign language interpreter provided by the court (pursuant to *N.J.S.A. 34:1-69.1 et seq.*), I hereby knowingly, voluntarily and intelligently choose to waive my right to have a sign language interpreter to assist me during these proceedings.

I understand that if any time during the proceeding I decide that I need the services of a sign language interpreter, one will be provided if I so petition the court.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of person waiving the sign language interpreter

\_\_\_\_\_  
Attorney Signature

\_\_\_\_\_  
Sign Language Interpreter Name(s) and RID (*Registry of Interpreters for the Deaf*) Certification(s)

**SO ORDERED.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
J.S.C.

## Appendix 11

# **GUIDELINES FOR TRIALS INVOLVING DEAF JURORS WHO SERVE WITH THE ASSISTANCE OF AMERICAN SIGN LANGUAGE INTERPRETERS**

(Revised 2016)

## 1. Introduction

Jurors are an essential part of justice. People who are deaf or hard of hearing have an equal right and a civic duty to serve as grand jurors and petit jurors. These guidelines, consistent with the Bench Manual on Jury Selection, have been prepared to assist judges when a trial involves a prospective juror who indicated that he or she requires the services of an American Sign Language interpreter to serve as a juror, whether that need is made known on the Juror Qualification Questionnaire or communicated in some other way to court personnel. All other accommodation requests for communication assistance (e.g., assistive listening devices or real-time transcription) should be referred to and handled by the vicinage's Americans with Disabilities Act Coordinator.

## 2. Legal Background

In DeLong v. Brumbaugh, 703 F. Supp. 399 (W.D. Pa. 1989), the U.S. District Court found that a state trial court violated Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, when it disqualified a prospective juror "...solely because she [was] deaf." Section 504 prohibits discrimination against persons with hearing loss in any program or activity that receives federal funding.

- a. The Americans with Disabilities Act (ADA) of 1990 extended the prohibition of discrimination against persons with hearing loss to all government entities and requires them to make all their services, programs, and activities available to "qualified individuals" with disabilities. Section 202 of the ADA (42 U.S.C. §12132).
- b. Deaf<sup>1</sup> persons have successfully served as jurors on numerous occasions in New Jersey and elsewhere nationwide. The Administrative Director of the Courts issued an advisory memorandum to the Assignment Judges shortly after the first such service in New Jersey by a deaf juror ("Service by Deaf Jurors," October 1, 1984). It stated that deafness is not necessarily a limitation of the requirement to be able to read, write, and understand English and that a trial judge could find that a Deaf juror meets the statutory qualifications for jurors. Please note that the qualification statute has been revised to require only that a juror be able to read and understand English, N.J.S.A. 2B:20-1b.

## 3. Team of Interpreters

The Jury Manager, with assistance from the Vicinage Coordinator of Interpreting Services, will review all relevant factors prior to scheduling a deaf or hard of hearing juror for jury service and complete the scheduling process. Ordinarily, the two ASL interpreters employed by the Administrative Office of the Courts will be scheduled to interpret for deaf jurors on every day of the juror's service for trial continuity and efficient use of judiciary resources.

## 4. Qualification and Challenges of Jurors Who Require an ASL Interpreter

- a. No Presumption of Automatic Disqualification  
The fact that a juror is deaf or hard of hearing and requires an interpreter in order to understand the proceedings or communicate with the court is not grounds, by itself, to disqualify that juror.
- b. *Voir Dire* of Jurors Who Are Deaf or Hard of Hearing

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1 The term "deaf" (with the lowercase "d") refers to the audiological condition of not being able to hear. The term "Deaf" (with the uppercase "D") refers to a particular group of deaf people who share a common language (ASL) and whose cultural knowledge, values, and beliefs were historically created and are actively transmitted across generations. Padden, C., & Humphries, T. (1988). *Deaf in American: Voices from a culture*. Cambridge, Mass.: Harvard University Press.

As is done for every juror, the trial judge is responsible to determine, at *voir dire*, whether the juror is qualified to serve on that particular trial, including whether the juror meets the statutory qualifications for jury service.

The ADA prohibits direct questioning of an individual regarding the deaf or hard of hearing person's disability. Judges should focus on the skills required to adequately perform the duties of a juror, such as the ability to attend for long periods of time, the ability to weigh evidence, and the ability to deliberate.

It is appropriate to inquire if the juror can understand the interpreter that has been provided and if she or he has any suggestions for further facilitating successful communication in the courtroom.

c. Challenges of Jurors Who Are Deaf and Hard of Hearing

Once the trial judge determines that the deaf juror possesses the required qualifications to serve as a juror and requires interpreting services, that juror, like any other juror, can be removed from the trial panel by successful challenge, whether for cause or by means of a peremptory challenge exercised by any party.

## 5. Administration of Oath to Interpreters

The interpreter's oath, per Standard 3.1 Interpreter's Oath, should be administered to each interpreter for whom it is required prior to the delivery of any interpreting services.

**“Do you solemnly swear or affirm that you will interpret accurately and impartially, follow all guidelines for court interpreting that are binding on you, and discharge all of the solemn duties and obligations of an official interpreter?”**

Once a deaf juror is empaneled and the jury has been sworn, the judge should administer the following expanded oath, per Standard 2.10.2 Interpreter Expanded Oath, to the interpreters in the presence of the jury:

**“Additionally, in this case your function is to provide communication access for a deaf juror, and in doing so, do you swear that you will not participate in the deliberations, you will keep all communications in the jury room confidential, and you will not speak directly to any juror or allow a juror to speak to you but will, instead, provide communication access with fellow jurors so that the deaf juror can faithfully discharge his or her duties as a juror?”**

## 6. Interpreting Modes During *Voir Dire*

Interpretation most likely will be delivered in the simultaneous mode when the judge is addressing all jurors or during the questioning of the other prospective jurors. However, when the deaf or hard of hearing prospective juror is being questioned or is answering, interpretation will most likely be delivered in the consecutive mode.

## **7. Positioning of Deaf Jurors**

While sitting in the gallery, the deaf or hard of hearing juror should be in the front row or at the end of any row.

If empaneled, the deaf or hard of hearing juror should be assigned a seat that will ensure a direct line of sight to the interpreters. This can best be determined by having the interpreter work with the deaf person as well as the trial judge and judiciary staff, regarding the best possible location.

## **8. Positioning of ASL Interpreters in the Courtroom**

Positioning of ASL interpreters for *voir dire* and trial will vary depending on the configuration of the particular courtroom. The ASL interpreters will evaluate the courtroom to determine the appropriate locations at which they should be positioned throughout the deaf juror's service. Interpreters will take into consideration providing a wide enough view for the deaf juror to see both the interpreter and each speaker (including witnesses, the judge, and the attorneys) without blocking the view of the judge, attorneys, witnesses, or other jurors.

The interpreters will approach the bench to inform the court as to their proposed positioning. The interpreters will consult with the judge and deaf person to identify what seating arrangement will be optimal in the jury box.

During the trial, the interpreters will adapt their positions, if necessary, as the speakers change. During witness testimony, the interpreters will position themselves so that the deaf juror can always see the interpreters and the witness. During videotaped testimony or introduction of exhibits, the interpreters will move to a place where the juror can see both the evidence and the interpreters.

Once the jury is empaneled, the interpreters will accompany the deaf juror into the deliberation room at all times to provide communication access among the jurors.

## **9. Judicial Assistance in Access to Preparation Materials**

The court should provide access to case file information necessary for court interpreters to prepare for a case. Preparation removes barriers to accurate and meaningful interpretation and ensures a more efficient and effective proceeding, per Standard 3.7 Interpreter Access to Case File Information.

Typically an ASL interpreter will enter the courtroom before the jury pool enters to inform the court of the presence of a deaf juror and to request the case caption, complete witness lists, and the names of the attorneys and their law firms. Once the deaf juror is seated as a trial juror, the interpreting team will need to be provided with access to exhibits and experts, for which they may need the assistance of the judge to obtain. After the charge conference, the judge will provide a copy of the proposed jury instructions for the same reasons noted above.

## **10. Instructions to the Parties and Jurors About Interpreter's Role**

Once a deaf or hard of hearing juror is empaneled, the judge should instruct the jury with reference to the interpreters' role. (Additional information available in Bench Manual on Jury Selection, 5.1 Jury Service for Persons with Disabilities, p. 32-33.) The instructions should include as many of the following points as the judge deems appropriate:

- a. Do not allow yourselves to be distracted by the interpretation.
- b. The novelty of having the interpreters at trial will subside.
- c. The interpreters' role is to enable the deaf or hard of hearing juror to participate fully as a juror by giving him or her full access to everything being said.
- d. The interpreters are required to abide by the Code of Professional Conduct approved by the Supreme Court and the Code of Ethics promulgated by the Registry of Interpreters for the Deaf, Inc., which is the professional association of ASL interpreters. Among other things, these codes require the interpreter to:
  - i. Interpret everything accurately and never leave out, add, or change anything being said.
  - ii. Keep confidential everything that is ever said during the jury's conversations and deliberations.
  - iii. Be unbiased and free of conflicts of interest.
- e. Team interpreting will be used, which means that the two interpreters will be switching between roles as the primary and the supporting interpreter every twenty to thirty minutes (or whenever natural breaks occur in the proceedings).
- f. Parties and jurors, when talking among themselves, are not to talk to or try to involve the interpreter in conversation or discussion. Interpreters are not allowed to participate in conversations or in deliberations.

## **11. Charge to the Jury**

- a. **Remind Jurors of Interpreters' Role**  
The judge should remind the jury of the interpreters' role, using as many of the points in section 10 above, as the judge deems appropriate.
- b. **Give Suggestions to the Jurors Regarding How Best to Deliberate When there is a Deaf Juror Participating**  
Judges should instruct jurors to speak one at a time during deliberations and should consider assigning the jury foreperson the responsibility of ensuring that the deaf or hard of hearing juror, with the assistance of interpreters, has the opportunity to fully participate in deliberations. This can be done, for example, by having jurors take turns speaking during deliberations.

## Appendix 12

# **GUIDELINES FOR USING SPECIALIST INTERPRETERS FOR PEOPLE WHO ARE DEAF AND HARD OF HEARING**

(Revised 2016)

(Specialist Interpreters: Certified Deaf Interpreters, Deaf-Blind Interpreters, Trilingual Interpreters, and Oral Transliterators)

## 1. Introduction

These Guidelines are designed to help judges, lawyers, and others involved in the New Jersey Judiciary (1) understand the unique communication needs of people who are deaf and hard of hearing and (2) provide guidance for improving the odds of successfully accommodating those needs. There is great deal of communication diversity among court users who are deaf and hard of hearing. Over the years the Judiciary has served deaf persons who use non-standard forms of sign language, who use a sign language from another country, who have a secondary disability e.g. deaf and blind, who use sign language and speechread Spanish, or who do not know any sign language and speechread English. In these situations the traditional accommodation of providing the services of an American Sign Language (ASL) interpreter alone is insufficient for ensuring equal access to court services, and a specialist interpreter is needed.

## 2. Types of Specialized Interpreters

In the field of professional sign language interpreting there are a number of specialist interpreters that have been used in courts nationwide. These interpreters are first certified to do generalist interpreting and then take specialized training and testing to prove their abilities in a specialty area. The following four interpreting specialties identified immediately below are explained in greater detail in the remainder of this document.

- The **Certified Deaf interpreter** (CDI) is the most commonly used specialist interpreter used in the courts and has the widest range of abilities.
- The **Deaf-Blind Interpreter** provides interpretation in various modes to people who are deaf and have limited vision.
- **Trilingual Interpreters** provide interpretation between English, ASL, and Spanish.
- **Oral Transliterators** provide communication access in a way that is easily accessible to those people who do not know sign language and depend on speechreading.

## 3. Certified Deaf Interpreters (CDI)

**A CDI shall be provided if a person who is deaf or hard of hearing requests one. A CDI shall also be assigned if an ASL interpreter meeting the requirements Standard 2.3 Who May Interpret for the Deaf and Hard of Hearing or a person who is deaf or hard of hearing states that the interpretation is not satisfactory and a CDI would improve the quality of the interpretation. (N.J.S.A. 34:1-69.9)**

Some deaf or hard of hearing individuals have inadequate or no environmental supports and/or have functional skills and competencies significantly below average, making them the most at risk and underserved portion of the overall deaf population.<sup>1</sup> These deaf people are at greater risk for becoming involved in the legal system. In order for this segment of the deaf population to meaningfully participate in court proceedings, programs, and services, they will require the use of a Certified Deaf Interpreter (CDI), sometimes called relay or intermediary interpreter.

The CDI is an interpreter certified by the Registry of Interpreters for the Deaf, Inc. (RID) as proficient in recognizing those ASL constructs that are appropriate to use with such individuals precisely because the CDI lives in an environment without meaningful access to sound - their world is organized visually. CDIs have specialized training and/or experience in the use of gesture, mime, props, drawings, and other tools to enhance communication. The deaf court

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<sup>1</sup> NAD (National Association of the Deaf) Position paper, May 2004, [A Model for a National Collaborative Service Delivery System Serving Individuals Who are Low Functioning Deaf](#), at [www.nad.org](http://www.nad.org).

user receives the same content as others in the interaction just organized in a more visual, spatial and natural manner.<sup>2</sup>

Similarly, some ASL interpreters do not have native-like competency in ASL and therefore the interpretation of complex legal concepts may have deficiencies consistent with those of a second-language learner. The CDI ensures that the interpretation achieves the level of accuracy required in legal settings.

CDIs must work in partnership with an American Sign Language (ASL) interpreter who can hear and are subject to the same rules and oaths as all other interpreters. In this **Deaf-Hearing interpreting team**, the hearing ASL interpreter interprets from spoken English into sign language that is directed to the CDI. The CDI interprets the ASL message linguistically and culturally in the language or communication mode most readily understood by the deaf court user. The deaf court user communicates information to the CDI, who then interprets the information in ASL to the hearing ASL interpreter, who renders the message into spoken English.

Characteristics of Deaf<sup>3</sup> court users that require the use of a CDI include but are not limited to:

- a. Limited opportunities for acquisition of ASL. Some deaf people do not interact with the signing community and this inhibits their exposure to and acquisition of ASL or any other language.
- b. A bilingual home/school environment, e.g., deaf children born into Spanish-speaking homes who speechread Spanish until entering school where they then begin to be exposed to English, a sign language and any other mode of communication very late in their language development.
- c. The presence of a secondary factor such as limited vision, intellectual and developmental disability, a learning disability, mental illness or problems caused by substance abuse.
- d. A lack of natural language development during the crucial ages of 0-5 years, e.g., a deaf child born into a hearing family in which no one signs. Deaf court users under the age of 16 typically fall into this category.
- e. Limited or no formal education.
- f. Social isolation. Some deaf people lead their lives isolated from both the hearing and deaf worlds. They may lack the general social and cultural knowledge necessary for fluent communication in any language.
- g. Immigrants, migrants, or refugees who are fluent in their native sign language (e.g., British Sign Language, Polish Sign Language, Puerto Rican Sign Language, or Colombian Sign Language), but who have acquired little or no ASL.

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2 NCIEC (National Consortium of Interpreter Education Centers), 2009, [Deaf Interpreters in Court](#) (p. 20-21), at [www.interpretereducation.org](http://www.interpretereducation.org).

3 The term “deaf” (with the lowercase “d”) refers to the audiological condition of not being able to hear. The term “Deaf” (with the uppercase “D”) refers to a particular group of deaf people who share a common language (ASL) and whose cultural knowledge, values, and beliefs were historically created and are actively transmitted across generations. Padden, C., & Humphries, T. (1988). *Deaf in American: Voices from a culture*. Cambridge, Mass.: Harvard University Press.

The use of CDIs is considered the ideal accommodation for ASL users, even for those who communicate in standard ASL. Therefore in addition to the reasons listed above, CDIs may also be used in significant cases to ensure there are no communication issues, such as first degree crimes.

Once a CDI is requested by the litigant or an ASL interpreter, a CDI must be provided for all subsequent events unless the deaf or hard of hearing person confirms in writing they no longer need the CDI, per Standard 2.9 Waiver of Right to a Sign Language Interpreter, with an exception being the discretionary use noted above.

#### **4. Consecutive Mode Required**

Working with a Deaf-Hearing interpreting team requires the strict use of the consecutive mode in all situations. This means the ASL interpreter begins interpreting into ASL only after the English speaker has completed an utterance. Once that interpretation is completed, the CDI then begins interpreting to the deaf person using a variety of visual/gesture communication techniques. The process will be repeated in reverse when the deaf person is the source of the message to be interpreted. Therefore, simultaneous interpretation is not viable in this context.

#### **5. Unique Characteristics of Cases that use a CDI**

Each case requiring a CDI is unique and presents its own set of complex linguistic challenges. The value of the CDI lies in the ability to provide an interpretation that conveys information which conforms to the experiential and linguistic framework of the deaf litigant<sup>4</sup>. Therefore the following may occur in these types of cases:

- a. It's not unusual for the Deaf-Hearing team to consult with each other to achieve an accurate interpretation. For example, the ASL interpreter may ask the CDI for verification or clarification before rendering an interpretation into English.
- b. Judges and attorneys may become uncomfortable while they wait for the communication process to be completed. The extra time is necessary given the complexities and unique communication needs of these cases.
- c. At times the CDI may request permission to verify or clarify the testimony from the deaf party.
- d. The interpreters may request clarification from counsel periodically throughout questioning. The interpreters may need to know what the situation looked like visually in order to communicate the concept to the witness. For example, "Do you remember when the DYFS worker came to your house after school?" The interpreters may request to know the gender of the DYFS worker in order to focus the witness back in time to the day "the woman or the man" stopped by her house after school. Similarly a phrase such as "threaten with a weapon" may need clarification as to the type of weapon and the exact nature of the threatening gesture. This may necessitate sidebar discussions or can be part of the open court record, at the discretion of the trial judge.
- e. The interpreters may need to use concrete objects such as paper and pencil for drawing, calendars, clocks, pictures, and dolls to supplement their gestures and signs. Additional space may be needed to allow the deaf person to physically pantomime responses.

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<sup>4</sup> NCIEC (National Consortium of Interpreter Education Centers), 2009, [Deaf Interpreters in Court](http://www.interpretereducation.org) (p. 20-21), at [www.interpretereducation.org](http://www.interpretereducation.org).

## **6. General Suggestions when using a Certified Deaf Interpreter**

To increase the likelihood of a successful communication event, it is suggested that the court do the following:

- a. Increase the amount of time scheduled for each phase of the case.
- b. Make every effort to use the same interpreting team throughout the case.

## **7. Guidelines for Asking Questions to Deaf Persons with Limited or No Ability to Communicate in ASL**

The normal process by which attorneys and judges ask questions in a court of law will not always work successfully when this type of interpreting is necessary. The following suggestions are designed to help attorneys or judges adapt their styles of asking questions to have the greatest likelihood of succeeding in communicating effectively with these types of deaf litigants and witnesses:

- a. Keep questions brief and as specific as possible.
- b. Avoid vague or abstract questions.
- c. Avoid double negatives.
- d. Present questions in sequential time order of the actual series of events in question.  
Note: Switching back and forth between or among verb tenses can hamper communication.
- e. When the deaf party or witness is unable to answer a specific form of a question, the court should consider allowing leading questions by the direct examiner.

## **8. Instructions to the Jury When a Deaf Witness Who Has Limited or No Ability to Communicate in ASL Testifies**

One noticeable characteristic of signed communication is nodding. This signifies that the communication is received, but does not necessarily signal agreement or an affirmative response. Judges should advise juries of the following:

- a. When the deaf witness nods, it is in no way an indication that he or she understands what is being communicated. It may merely indicate a willingness to continue the conversation.
- b. Similarly, nodding is in no way an indication that the deaf person is answering "Yes" or "No."
- c. Ignore the nods and wait for the interpreters to render the complete response -before drawing any inferences about what the witness said.

## **9. Deaf-Blind Specialist Interpreter**

Court users with visual impairments will have differing degrees of vision loss and hearing loss. The amount and type of vision and hearing loss a person has determines the type of interpreting that will be most effective for that individual<sup>5</sup>. An experienced and certified Deaf-Blind interpreter can assess the appropriate method and position required to best accommodate the

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<sup>5</sup> RID Standard Practice Paper, Interpreting for Individuals who are Deaf-Blind, 2007, <http://rid.org/about-interpreting/standard-practice-papers/>

court user. Most CDI interpreters can provide this service in a Deaf-Hearing team as described in section 4.

Two common types of deaf-blind interpreting:

- a. Close visual range - The interpreter(s) and the deaf-blind consumer are positioned very close to one another and often provided with additional lighting.
- b. Tactile sign language - The sign language is received by the sense of touch with one or two hands.

Deaf-blind interpreting is physically and mentally demanding and will require a team of interpreters unless the event is under one hour, in which case one interpreter may be sufficient.

## 10. Tri-Lingual Specialist Interpreters

Trilingual interpreters are most often used for situations in which the court user is of Hispanic/Latino origin and for whom ASL is a second or foreign language<sup>6</sup>. There has been an increase in the number of court users who are deaf, speechread Spanish and may need support by using American Sign Language. In these situations a trilingual interpreter (English, Spanish and ASL) is the best accommodation. The term “trilingual interpreting” as a standalone term refers to the act of interpreting between three independent languages. For the purposes of this document “trilingual interpreting” will refer to the act of interpreting between ASL, Spanish and English.

A trilingual interpreter must be competent in these three languages and their regional varieties<sup>7</sup>. Many trilingual interpreters will incorporate signs from the sign language of the deaf person’s native country. There is a limited number of trilingual interpreters. As of 2015 only the state of Texas offers a trilingual certification. Interpreters with this certification should be used preferentially and all others need to be voir dired by the trial judge. See Standard 1.3.5 Rule of Evidence 604 Interpreters. In some cases, a CDI may be useful when a true trilingual interpreter is not available.

## 11. Oral Transliterators

**Oral Transliterators, also called oral interpreters, facilitate spoken communication between individuals who are deaf and hard of hearing and individuals who are not. Individuals who use this type of interpreter, use speech and speechreading as their primary mode of communication and may or may not know or use manual communication or sign language<sup>8</sup>.**

Oral transliterators always position themselves very close to the deaf or hard of hearing person, typically directly across from them. Courtrooms typically pose difficulties for speech readers since speakers including witnesses, the opposing attorney and judge may not be close enough for speechreading.

Oral transliterators can be located through the same agencies that provide ASL interpreters. The Registry of Interpreters for the Deaf does certify oral transliterators. It is preferable to have an interpreter with this credential. It is important to convey that the assignment needs an oral transliterator since not all ASL interpreters possess this skill set.

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6 NCIEC (National Consortium of Interpreter Education Centers), 2014, [Toward Effective Practice: Interpreting in Spanish-Influenced Settings](#) (p. 4), at [www.interpretereducation.org](http://www.interpretereducation.org).

7 NCIEC (National Consortium of Interpreter Education Centers), [ASL/Spanish/English](#), at [www.interpretereducation.org](http://www.interpretereducation.org).

8 RID Standard Practice Paper, Oral Transliteration, 2007, <http://rid.org/about-interpreting/standard-practice-papers/>

**Resources:**

**National Consortium of Interpreter Education Centers** ([www.interpretereducation.org](http://www.interpretereducation.org))

- [Deaf Interpreters in Court: An accommodation that is more than reasonable](#)
- [Toward Effective Practice: Interpreting in Spanish-Influenced Settings](#)

**Registry of Interpreters for the Deaf** ([www.rid.org](http://www.rid.org))

- [Standard Practice Paper](#) on Certified Deaf Interpreters
- [Standard Practice Paper](#) on Deaf Blind Interpreting
- [Standard Practice Paper](#) on Oral Transliteration

**Trilingual Sign Language Interpreters in the US** ([www.manoamano-unidos.org/](http://www.manoamano-unidos.org/))

# Do You Need a Court Interpreter? ¿Necesita un intérprete judicial?



**Please notify court staff immediately and one will be provided at no cost.**

**Comuníquese inmediatamente con el personal del tribunal y le daremos uno sin costo alguno.**

**[Local information]  
[Example: Directions to office]**



# Do You Need a Court Interpreter? ¿Necesita un intérprete judicial?



**Please notify court staff immediately and one will be provided at no cost.**

**Comuníquese inmediatamente con el personal del tribunal y le daremos uno sin costo alguno.**



## Do You Need a Court Interpreter?

Please notify court staff immediately and one will be provided at no cost.



## ¿Necesita un intérprete judicial?

Comuníquese inmediatamente con el personal del tribunal y le daremos uno sin costo alguno. (español/Spanish)

## Èske w bezwen yon Entèprèt?

Tanpri fè anplwaye yo konnen imedyatman epi ya va ba w yon entèprèt gratis. (kreyòl ayisyen/Haitian)

## 법정 통역사가 필요하십니까?

법정 직원에게 즉시 알려주시면 법정 통역사를 무료로 제공합니다. (한국인/Korean)

## Czy potrzebne są Panu(i) usługi tłumacza sądowego?

Jeżeli tak, proszę niezwłocznie poinformować o tym pracowników sądu. Tłumacz zostanie przydzielony Panu(i) bezpłatnie. (polski/Polish)

## Você precisa de um intérprete judiciário?

Favor informar os funcionários do tribunal de imediato e providenciaremos um intérprete gratuitamente. (português/Portuguese)



# Notice to the Deaf & Hard of Hearing:



**You have the right to a sign language interpreter or other reasonable accommodation if one is required for you to effectively communicate in Court.**

**If you require a sign language interpreter or other accommodation to communicate, please let us know.**



Aviso para los sordos  
y los que tienen  
una discapacidad auditiva:



**Usted tiene derecho a un intérprete del lenguaje de señas u otro arreglo razonable si lo necesita para comunicarse con efectividad en el tribunal**

**Avísenos si necesita un intérprete del lenguaje de señas u otro arreglo para comunicarse.**



# Role of the Court Interpreter



## THE COURT INTERPRETER CAN:

- *CAN* help you to communicate with persons in the courtroom, including your lawyer, court staff, and the judge.
- *CAN* interpret everything you say into English.
- *CAN* interpret everything said in court into your native language.
- *CAN* interpret everything that is said, without adding, omitting, or changing anything.

The interpreter will need to hear you speak in your native language and can ask you questions, such as where you are from or if you have ever used an interpreter before.

The court interpreter is bound by rules of confidentiality and will not repeat to anyone what you say privately to your lawyer.

## THE COURT INTERPRETER CANNOT:

- *CANNOT* give you legal or any other advice.
- *CANNOT* talk to you about your case.
- *CANNOT* explain what words mean or what is happening in court.
- *CANNOT* answer questions about what will happen in court.
- *CANNOT* have private conversations with you or your family.
- *CANNOT* wait until you feel you need interpretation. If you don't use the interpreter's services at all times, the interpreter might be excused from the proceeding.

## DO YOU NEED A COURT INTERPRETER?

The New Jersey Judiciary provides court interpreting services in many different languages. If you need an interpreter, notify the court or your lawyer as soon as possible.



# Quality Service/Servicio de Calidad



## Interpreting/Interpretación

We provide quality interpreting service. Comments or issues?

Damos un servicio de interpretación de calidad.

¿Comentarios o problemas?

Please speak with the (Trial Court Administrator) in room

< >

Puede hablar con el (Administrador de los Tribunales de Primera Instancia) en la oficina < > ,

**OR** the (Operations Division Manager) in room < > ,

**O** con el (Gerente de la División de Operaciones) en la oficina < > ,

**OR** the (Ombudsman) in room < >

**O** con el (Defensor del Pueblo) en la oficina < > .

Take our Customer Satisfaction Survey and let us know how we are doing.

Sírvase completar nuestra Encuesta de Satisfacción del Cliente y díganos qué tal lo estamos haciendo.



## Quality Service/Servicio de Calidad



### Interpreting/Interpretación

We provide quality interpreting service. Comments or issues?

Damos un servicio de interpretación de calidad. ¿Comentarios o problemas?

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