

APPENDIX A
UNIFORM RULE FOR INTERPRETER PROGRAMS

- I. ***Rule for Sign Language Interpreters:*** Sign language interpreters shall be governed by the Official Code of Georgia.
- II. ***Rule for Foreign Language Interpreters:*** The following rules apply to all criminal and civil proceedings in Georgia where there are non-English speaking persons in need of interpreters. See also *Ling v. State*, 288 Ga. 299 (702 SE2d 881) (2010). All other court-managed functions, including information counters, intake or filing offices, cashiers, records rooms, sheriff's offices, probation and parole offices, alternative dispute resolution programs, *pro se* clinics, criminal diversion programs, anger management classes, detention facilities, and other similar offices, operations and programs, shall comply with Title VI of the Civil Rights Act of 1964.
 - (A) An interpreter is needed and an interpreter shall be appointed when the decision maker, which would include the judge, magistrate, special master, commissioner, hearing officer, arbitrator, neutral, or mediator, determines, after an examination of a party or witness, that:
 - (1) the party cannot understand and speak English well enough to participate fully in the proceedings and to assist counsel; or (2) the witness cannot speak English so as to be understood directly by counsel, the decision maker, and/or the jury.
 - (B) The decision maker should examine a party or witness on the record to determine whether an interpreter is needed if: (1) a party or counsel requests such an examination; or (2) it appears to the decision maker that the party or witness may not understand and speak English well enough to participate fully in the proceedings, or (3) if the party or witness requests an interpreter. The fact that a person for whom English is a second language knows some English should not prohibit that individual from being allowed to have an interpreter.
 - (C) To determine if an interpreter is needed the decision maker should normally include questions on the following:
 1. Identification (for example: name, address, birth date, age, place of birth);
 2. Active vocabulary in vernacular English (for example: "How did you come to the proceeding today?", "What kind of work do you do?", "Where did you go to school?", "What was the highest grade you completed?", "Describe what you see in the room", "What have you eaten today?"). Questions should be phrased to avoid "yes or no" replies;
 3. The criminal or civil proceedings (for example: the nature of the charge or the type of proceeding, the purpose of the proceedings and function of the decision maker, the rights of a party or criminal defendant, and the responsibilities of a witness).
 - (D) After the examination, the decision maker should state its conclusion on the record, and the file in the case should be clearly marked and data entered electronically when appropriate by personnel to ensure that an interpreter will be present when needed in any subsequent proceeding.
 - (E) For good cause, the decision maker should authorize a pre-appearance interview between the interpreter and the party or witness. Good cause exists if the interpreter needs clarification on any interpreting issues, including but not limited to: colloquialisms, culturalisms, dialects, idioms, linguistic capabilities and traits, regionalisms, register, slang,

speech patterns, or technical terms.

- (F) When a Certified, Conditionally Approved, or Registered interpreter is not being used, the decision maker or the decision maker's designee should give instructions to interpreters, either orally or in writing, that substantially conform to the following:
1. Do not discuss the pending proceedings with a party or witness, outside of professional employment in the same case.
 2. Do not disclose communications between counsel and client.
 3. Do not give legal advice to a party or witness. Refer legal questions to the attorney or to the decision maker.
 4. Inform the decision maker if you are unable to interpret a word, expression, special terminology, or dialect, or have doubts about your linguistic expertise or ability to perform adequately in a particular case.
 5. Interpret all words, including slang, vulgarisms, and epithets, to convey the intended meaning.
 6. Use the first person when interpreting statements made in the first person. (For example, a statement or question should not be introduced with the words, "He says . . .")
 7. Direct all inquiries or problems to the decision maker and not to the witness or counsel. If necessary you may request permission to approach the decision maker with counsel to discuss a problem.
 8. Position yourself near the witness or party without blocking the view of the decision maker, jury, or counsel.
 9. Inform the decision maker if you become fatigued during the proceedings.
 10. When interpreting for a party at counsel table, speak loudly enough to be heard by the party or counsel but not so loudly as to interfere with the proceedings.
 11. Interpret everything including objections.
 12. If the decision maker finds good cause under section (E), hold a pre-appearance interview with the party or witness to become familiar with speech patterns and linguistic traits and to determine what technical or special terms may be used. Counsel may be present at the pre-appearance interview.
 13. During the pre-appearance interview with a non-English speaking witness, give the witness the following instructions on the procedure to be followed when the witness is testifying:
 - (a) The witness must speak in a loud, clear voice so that each participant in the entire proceeding and not just the interpreter can hear.
 - (b) The witness must direct all responses to the person asking the question, not to the interpreter.
 - (c) The witness must direct all questions to counsel, or to the decision maker, and not to the interpreter. The witness may not seek advice from or engage in any discussion with the interpreter.
 - (d) During the pre-appearance interview with a non-English speaking party, give the following instructions on the procedure to be used when the non-English speaking party is not testifying: (i) The interpreter will interpret all statements made in the proceeding; (ii) The party must direct any questions to counsel; (iii) The interpreter will interpret all questions to counsel and the responses; and (iv) The party may not seek advice from or engage in discussion with the interpreter.

Commentary: A model written form for performing this procedure may be obtained from the Georgia Commission on Interpreters. It is recommended that when a non-professional interpreter is used that the decision maker personally verify a basic understanding of the interpreter's role on the record.

- (G) The decision maker or the decision maker's designee should give the following instructions to counsel, either orally or in writing:
1. When examining a non-English speaking witness, direct all questions to the witness and not to the interpreter. (For example, do not say to the interpreter, "Ask him if . . .");
 2. If there is a disagreement with the interpretation, direct any objection to the decision maker and not to the interpreter. Ask permission to approach the decision maker to discuss the problem;
 3. If you have a question regarding the qualifications of the interpreter, you may request permission to conduct a supplemental examination on the interpreter's qualifications.

III. Criminal Cases: Foreign language interpreters.

- (A) Each non-English speaking party will be provided with an interpreter at each critical stage of the proceedings at no cost.
- (B) A non-English speaking person may waive the right to the use of an interpreter. Such a waiver shall be in writing and approved by the decision maker. The decision maker shall determine, on the record, that the right to an interpreter has been waived knowingly and voluntarily and that the person has been assisted by the services of the most available interpreter. Additionally, counsel may waive the presence of an interpreter in bond hearings.
- (C) An interpreter shall be provided at no cost to any non-English speaking person whenever the non-English speaking person is a party, or has been subpoenaed, or summoned or has otherwise been compelled to appear in a proceeding. Consultations with legal counsel, guardians, court psychologists, probation officers, doctors, or other individuals who are employed, paid, or supervised by the courts shall comply with Title VI of the Civil Rights Act of 1964.

IV. Civil Cases: Foreign language interpreters.

- (A) Upon request, each non-English speaking party shall be provided with a list of the interpreters who have been approved for providing services within that particular legal proceeding.
- (B) Each non-English speaking party shall have the right to an interpreter at each critical stage of the proceedings at no cost to the non-English speaking person. Consultations with legal counsel, guardians, court psychologists, probation officers, doctors, or other individuals who are employed, paid, or supervised by the courts shall comply with Title VI of the Civil Rights Act of 1964. Advance notice of the use of an interpreter shall be provided to all parties and to the decision maker.

V. Juvenile Case: Foreign language interpreters.

- (A) Each non-English speaking person in any juvenile proceeding (including children, parents of a minor child offender, and parents or guardians of minor victims of crime) or whose parental rights to full custody of any minor child are challenged by any governmental unit or agency such as DFCS, shall be provided with an interpreter at no cost during each critical stage of the proceedings.
- (B) The decision maker shall provide a qualified interpreter to any non-English speaking person whenever such person's rights to full custody of any minor child are challenged for allegedly causing a child to be dependent, deprived, or delinquent in violation of the Georgia Juvenile Court Code of 1971, as amended, and the rules established by this Court.
- (C) Consultations with legal counsel, child advocates, guardians, court psychologists, probation officers, doctors, or other individuals who are employed, paid, or supervised by the courts shall comply with Title VI of the Civil Rights Act of 1964.
- (D) A non-English speaking person may waive the right to the use of an interpreter. Such a waiver shall be in writing and approved by the decision maker. The decision maker shall determine, on the record, that the right to an interpreter has been waived knowingly and voluntarily and that the person has been assisted by the services of the most available interpreter. In no event shall the failure to request an interpreter be deemed to be a waiver.

VI. *Replacement of Interpreter: Foreign language interpreter.* Upon a request by the non-English speaking person, by his or her counsel, or by any other officer of the proceeding, the decision maker shall determine whether the interpreter so provided is able to communicate accurately with and translate information to and from the non-English speaking person. If it is determined that the interpreter cannot perform these functions, the non-English speaking person shall be provided with another interpreter.

VII. *Interpreter's Fees and Expenses: Foreign language interpreters.*

- (A) Any interpreter providing service under this rule shall be compensated as directed by the local court or appropriate governing body.
- (B) The expenses of providing an interpreter in any legal proceeding will be borne by the local court or appropriate governing body.