Supreme Court of Georgia Commission on Interpreters

Model Administrative Protocol

for the Provision of Language Assistance Services for Limited English Proficient and Deaf/Hard of Hearing Persons in Georgia Courts

2020

Judicial Council of Georgia

Administrative Office of the Courts

Chief Justice Harold D. Melton **Cynthia H. Clanton**

As Chair of the Judicial Council of Georgia, I am pleased to present this Model Administrative Protocol for the Provision of Language Assistance Services for Limited English Proficient and Deaf/Hard of Hearing Persons in Georgia Courts (MAP). Developed by the Supreme Court Commission on Interpreters with assistance from the National Center for State Courts and State Justice Institute, the MAP is a comprehensive, step-by-step guide to the provision of language assistance services to parties, witnesses, victims, and other participants in judicial proceedings and court-managed programs. In recognition of the varying circumstances of courts throughout Georgia, the MAP is fully customizable to accommodate local needs. The MAP reflects Georgia's ongoing commitment to access to justice for all, and it is our hope that it will promote the reliable and efficient provision of language assistance services as required by Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and Georgia law.

I encourage all Georgia courts to consider adopting the MAP as modified to accommodate local needs. The Commission on Interpreters and Administrative Office of the Courts stand ready to assist any local court with adoption, customization, and implementation of the MAP. I thank all who worked to make the MAP possible and encourage all Georgia Courts to use this comprehensive resource tool.

Sincerely,

Harold D. Melton
Chief Justice of the Supreme Court

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Judicial Council of Georgia Access to Justice Committee

Georgia Council of Superior Court Judges	Georgia Council of State Court Judges
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Georgia Council of Probate Court Judges	Georgia Council of Juvenile Court Judges
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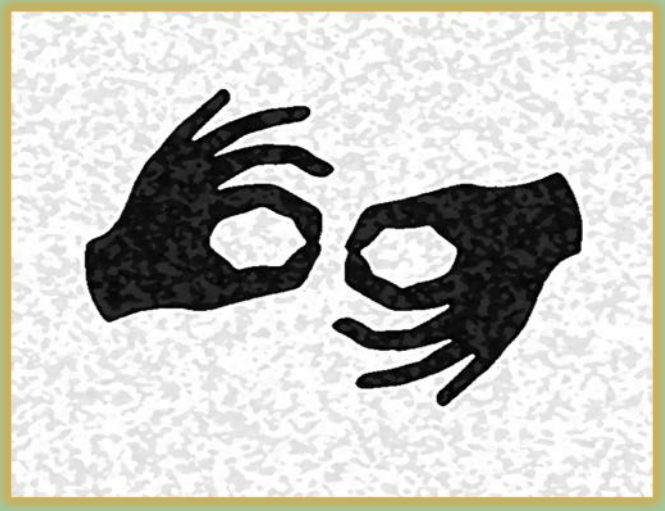
Atlanta Assoc. of Interpreters and Translators	Georgia Registry of Interpreters for the Deaf
State of Georgia ADA Coordinator's Office	Macon Judicial Circuit
Northern Judicial Circuit	Duluth Municipal Court
Middle Judicial Circuit	Cobb Judicial Circuit

MAP
Companion



Companion to the Model Administrative Protocol *Template* for the Provision of Language Assistance Services to Limited English Proficient and Deaf and Hard of Hearing Persons in the Georgia Courts

Developed By:
Supreme Court of Georgia Commission on Interpreters MAP Development Committee

I. Introduction 3

II. Legal Basis for Interpreter Provision and Language Access 7
A. Federal Law 7
B. Georgia Law 7
C. Supreme Court of Georgia Rules and Commission on Interpreters 8

III. Needs Assessment and Early Identification 9
A. Data Collection and Needs Assessment 9
B. Early and Ongoing Identification of Language Needs in the Community and the Court User Population 10
1. Designated language access office or point person 11
2. Identification of language access needs at all points of contact with the court 12
3. Identification of language access needs in court records 14
4. Additional tools for early identification of language access needs 15

IV. Provision of Qualified Interpreters in Court Proceedings and Other Court-Managed Functions 15
Court Interpreters in Georgia 16
A. Appointment of Qualified Interpreters 17
a. Preference when appointing interpreters 18
b. Safeguards when appointing non-licensed or non-credentialed interpreters 18
c. Avoidance of untrained persons to interpret and limitation to exigent circumstances 19
d. Appointment of interpreters for all relevant participants 19
B. Best Practices in the Appointment of Interpreters 20
C. Calendaring and Scheduling of Interpreters 23
D. Remote Interpreting 25
E. Appointment of Interpreters for Court-Managed Functions 26
F. Additional Courtroom Tools for Language Access 26
a. Bilingual courtroom staff 26
b. Technology in the courtroom 27
c. Signage and translation of courtroom resources 27
G. Interpreter Compensation 28

V. Strategies for Management and Monitoring of the MAP 28
A. Periodic Monitoring of Effectiveness of the MAP 28
MAP Update by the Commission on Interpreters 29
B. Local Complaint Mechanisms 30
C. Training for Judicial Branch on the MAP 30
Training Assistance by the Commission on Interpreters 31
D. Outreach and Communication of the MAP 31
Outreach Assistance by the Commission on Interpreters 32

VI. Language Access Administrative Protocol Management and Other Language Access Considerations 32

Appendix A: Georgia Language Access Resources Identified in the MAP 34

Appendix B: Map of Georgia Judicial Circuits & Districts 36

Appendix C: Language Identification Guide 37

Appendix D: Uniform Superior Court Rule 7.3 (Revised), Effective July 13, 2017 40

I. Introduction

The purpose of the Model Administrative Protocol (MAP) is to provide Georgia courts with a standardized guide for the administrative handling of the provision of court interpreters as a language access resource in the local courts. The MAP applies to the provision of language assistance services, including interpreters, for limited English proficient (LEP) court users and those who are deaf or hard of hearing (DHH). It is important to note that courts have certain obligations to all persons with sensory/communication disabilities (beyond foreign language or the deaf/hard of hearing). Courts are strongly encouraged to review the Judicial Council of Georgia Access to Justice Committee's *A Meaningful Opportunity to Participate: A Handbook for Georgia Court Officials on Courtroom Accessibility for Individuals with Disabilities (2017 Edition)* (hereafter "*ADA GA Judicial Handbook 2017*")[1] as well as the Committee's *A Meaningful Opportunity to Participate: A Mental Illness and Cognitive Disabilities Companion Guide to the Handbook for Georgia Court Officials on Courtroom Accessibility for Individuals with Disabilities*[2] to understand their obligations in providing fair and equal access to persons needing accommodations.

The MAP is provided as a template, for guidance purposes, that courts are encouraged to use or modify in any way they deem appropriate based on local needs and resources. Should courts decide to create their own administrative protocol, they can do so while still benefiting from the guidance and language access resources the MAP provides.[3]

This document serves as a companion to the MAP Template, and describes Georgia law and policy regarding the language access services in the courts and best practices in the provision of those services. It proposes guidance for courts in a manner that takes into account the great diversity among the ten judicial districts in our state while complying with Georgia law and federal law with regard to the provision of language access services in the Georgia courts.

The MAP Template and this Companion use certain common concepts as defined below (in alphabetical order):

Alternative Dispute Resolution (ADR) – alternatives to traditional litigation, including mediation, non-binding arbitration, and case evaluation.[4]

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[1] Also available directly in PDF format at http://a2j.georgiacourts.gov/sites/default/files/afptc/ADA Judicial Handbook 2017_Oct-Update.pdf. (*Note:* The Judicial Council's Access to Justice Committee was formerly known as the Access, Fairness, Public Trust and Confidence Committee.)

[2] Also available directly in PDF format at http://a2j.georgiacourts.gov/sites/default/files/afptc/ADA_Judicial_Handbook_2017_files/A Meaningful Opportunity to Participate Accessible pdf final.pdf.

[3] Appendix A provides a list of Georgia language access resources identified throughout this MAP.

[4] *See*, Georgia Commission on Dispute Resolution (www.godr.org).

Bilingual (and Multilingual) Staff [5] – staff proficient in English and a second (or more) language(s), and able to communicate effectively and accurately, orally and in writing, in all working languages. The language proficiency of bilingual and multilingual staff should be determined by the court through valid assessment tools,[6] rather than reliance on a staff person's self-evaluation.

Deaf or Hard of Hearing (DHH) – any person whose hearing is totally impaired or whose hearing is so seriously impaired as to prohibit him or her from understanding oral communication when spoken in a normal conversational tone. Pursuant to guidance from the National Association of the Deaf, DHH is the preferred term over "hearing impaired," which is widely considered to be pejorative within Deaf culture.[7]

Deaf Interpreter – a specialist, who is deaf, who provides interpreting, translation, and transliteration services in American Sign Language (ASL) and other visual and tactual communication forms used by persons who are deaf, hard of hearing, and deaf-blind. Deaf interpreters most often work in tandem with hearing sign language interpreters. The National Consortium of Interpreter Education Center (NCIEC) studies indicate that in many situations, use of a deaf interpreter enables a level of linguistic and cultural bridging that is often not possible when hearing ASL-English interpreters work alone.

Decision Maker – includes judges, magistrates, special masters, commissioners, hearing officers, arbitrators, neutrals, and mediators.[8]

Interpretation – the process of rendering **verbal communications** from one language (source language) into another language (target language) effectively, accurately, and impartially. Interpreting effectively and accurately means rendering any specialized vocabulary precisely so that the meaning of the communication is clear and conceptually correct in the target language. Additionally, interpreting effectively, accurately, and impartially means correctly expressing the voice, tone, emotion, and non-spoken message of the communication audibly and/or visually. The person who performs this task is an ***interpreter***.

Licensed Interpreter – any person on the Certified foreign-language interpreter registry of the Supreme Court of Georgia Commission on Interpreters (Commission); any person on the

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[5] For purposes of the MAP and this Companion document, the term "bilingual staff" includes staff who may be multilingual and fully proficient in more than two languages.

[6] Courts may develop their own assessment tools and/or utilize tools or standards developed by other organizations such as the Oral Proficiency Interview (OPI) administered by Language Testing International (and utilized for licensing Registered interpreters in Georgia) and the Interagency Language Roundtable (ILR).

[7] National Association of the Deaf, Frequently Asked Questions, "What is wrong with the terms "deaf-mute," "deaf-dumb," or "hearing-impaired?"

[8] *See*, *Supreme Court of Georgia Rules: Use of Interpreters for Non-English Speaking and Hearing Impaired Persons* (Rules), Appendix A, II (A).

Commission's Conditionally Approved foreign-language interpreter registry;[9] any person on the Commission's Registered foreign-language interpreter registry; or any person certified through the Registry of Interpreters for the Deaf (RID), National Association of the Deaf (NAD), or other industry-recognized credentialing entity. The Commission extends reciprocity to foreign-language interpreters licensed by any active member state of the Council of Language Access Coordinators (CLAC),[10] or by the Administrative Office of the United States Courts through its Federal Court Interpreter Certification Examination (FCICE).

Limited English Proficient (LEP) – any person who speaks English "less than very well," cannot readily understand or communicate in spoken English, and who consequently cannot equally participate in or benefit from the proceedings without an interpreter to assist him or her. The fact that a person for whom English is not a primary language knows some English does not mean that person does not need an interpreter or should not be allowed to have an interpreter.

Non-Licensed Interpreter – any person not licensed by the Commission through its established licensing requirements or through licensing reciprocity considerations as mentioned above in the definition of "Licensed Interpreter." Any person not certified through RID, NAD, or other industry-recognized credentialing entity mentioned in the definition of "Licensed Interpreter."

Qualified Interpreter – a person who is able to **orally** interpret effectively, accurately, and impartially. Interpreting effectively and accurately means rendering any specialized vocabulary precisely so that the meaning of the communication is clear and conceptually correct in the language into which it is interpreted. Interpreting effectively, accurately, and impartially also means correctly expressing the voice, tone, emotion, and non-spoken message of the communication audibly and/or visually. A qualified interpreter will also be knowledgeable of and abide by industry-recognized ethical and professional standards of conduct for interpreters.

> **NOTE:** Per O.C.G.A. § 24-6-651 (6), a *qualified* sign language interpreter means "any person certified as an interpreter for hearing impaired persons by the Registry of Interpreters for the Deaf or a court qualified interpreter."
>
> **NOTE:** Per O.C.G.A. § 24-6-651 (2), a *court qualified* sign language interpreter means "any person licensed as an interpreter for the hearing impaired pursuant to Code Section 15-1-14."

Qualified Translator – a person who can translate **written text** effectively, accurately, and impartially. A qualified translator preserves the tone and level of language used in both languages, renders specialized vocabulary precisely so that the meaning of the written communication is clear and conceptually correct, and abides by industry-recognized ethical and professional standards of conduct for translators.

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[9] The interpreter registry maintained by the Commission may be found at https://gcr.onegovcloud.com/public/directory/#/.

[10] Formerly known as the Consortium for Language Access in the Courts.

Registry of Interpreters for the Deaf (RID) – a national membership organization that plays a leading role in advocating for excellence in the delivery of interpretation and transliteration services between people who are deaf or hard of hearing and people who use spoken language. In collaboration with the Deaf community, RID supports members and encourages the growth of the profession through the establishment of a national standard for qualified sign language and deaf interpreters and transliterators, ongoing professional development and adherence to a code of professional conduct.

Source Language – the native or primary language of the individual initiating the verbal communication. For written documents, the language of the original document that requires translation. *Example*: Attorney (English speaking), through an interpreter, asks the witness (Spanish speaking) a question. English is the source language. Birth record (in Spanish) needs translation into English. Spanish is the source language for the translation.

Specialist Certificate: Legal (SC:L) – holders of this specialist RID certification have demonstrated specialized knowledge of legal settings and greater familiarity with language used in the legal system. These persons are recommended for a broad range of assignments in the legal setting. (This credential has been available since 1998, but was placed under moratorium by RID as of January 1, 2016. The SC:L credential remains fully recognized by RID, but the designation is not currently available to persons who do not already have it.)[11]

Target Language – the language into which the verbal communication needs to be interpreted. For written documents, the language into which the original document needs translating. *Example*: Attorney (English speaking), through an interpreter, asks the witness (Spanish speaking) a question. Spanish is the target language. Birth record (in Spanish) needs translation into English. English is the target language for the translation.

Translation - the process of rendering a **written communication** from the source language to the target language effectively, accurately, and impartially. Translating effectively and accurately means rendering any specialized vocabulary precisely so that the meaning of the communication is clear and conceptually correct in the target language. Additionally, translating effectively and accurately requires preserving the tone and level of language used in both languages. The person who performs this task is a ***translator***.

Transliteration – in American Sign Language (ASL), transliteration means English signing that incorporates grammatical features of ASL, and is often used for making auditory information accessible in a visual way. Transliteration is performed by a ***transliterator***.[12]

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[11] *See*, RID website "Certifications Under Moratorium" (http://www.rid.org/rid-certification-overview/certifications-under-moratorium/).

[12] *See*, https://en.wikipedia.org/wiki/Transliteration.

Vital Document – a document, paper or electronic, that contains information that is critical for executing a federal-funding recipient's mission, including pleadings and letters or notices that require a response from party, witness, or other intended individual; also, documents that inform parties or witnesses of their right to, and the availability of, free language assistance.

II. Legal Basis for Interpreter Provision and Language Access

Both federal law and Georgia law address the provision of language access in the Georgia court system for DHH persons as well as LEP persons.

A. Federal Law

Title VI of the Civil Rights Act of 1964[13] prohibits discrimination on the basis of race, color, or national origin in any program, service, or activity receiving financial assistance from the federal government. Subsequent U.S. Supreme Court decisions clarified that the prohibition against national origin discrimination includes discrimination based on an inability to speak English;[14] therefore, discrimination based on language is national origin discrimination and violates Title VI.

Executive Order 13166, issued in 2000, established that denying access to federally funded programs to LEP persons violates Title VI.[15] Corresponding implementing regulations[16] include a policy guidance document from the Department of Justice (DOJ)[17] establishing the compliance standards that recipients of federal financial assistance must follow to ensure that their programs and activities are accessible to LEP persons at no cost. As recipients of federal financial assistance, the Georgia courts are required to ensure meaningful access to their programs and activities by LEP persons. Georgia case law, as discussed below, reiterates that Georgia courts must comply with Title VI.

DHH court users are protected under the Americans with Disabilities Act (ADA) of 1990. The ADA requires courts to provide reasonable accommodations to court users. Therefore, sign language interpreters must be provided to all DHH court users at no cost, in compliance with the ADA. For comprehensive information on court accessibility requirements for DHH persons and persons with other disabilities as defined by the ADA, please review the *ADA GA Judicial Handbook 2017*.[18]

B. Georgia Law

In 2003, the Supreme Court of Georgia formed the Georgia Commission on Interpreters

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[13] 42 U.S.C. § 2000d.

[14] *Lau v. Nichols*, 414 U. S. 563 (1974).

[15] Exec. Order No. 13166, 65 Fed. Reg. 159 (Aug. 16, 2000).

[16] 28 C.F.R. Part 42, Subpart C.

[17] https://www.govinfo.gov/content/pkg/FR-2002-06-18/pdf/02-15207.pdf.

[18] Also available directly in HTML format at http://afptc.georgiacourts.gov/.

(discussed in more depth below) to address the statewide plans and procedures for providing qualified interpreters to Georgia's LEP and DHH court users in criminal and civil court proceedings. Subsequent Supreme Court decisions have reaffirmed the importance of providing qualified interpreters to ensure meaningful access to justice.

In 2005, the Supreme Court of Georgia ruled that a qualified interpreter was necessary for meaningful access[19] for LEP litigants. Five years later, in *Ling v. State*,[20] the Court found that Georgia courts, as recipients of federal funding, must comply with Title VI of the Civil Rights Act. The Supreme Court specifically addressed the need to provide meaningful access to LEP persons in all Georgia courts, including civil proceedings. As a result of the *Ling* decision, the Supreme Court of Georgia Rules regarding the use of interpreters for LEP persons was amended to ensure compliance with Title VI. In 2012, the Rules were amended again, to their current version, to include the provision of qualified interpreters for DHH persons.

Georgia statutory law[21] provides for the free provision of an interpreter for LEP and DHH litigants in actions filed under Georgia's Family Violence Act.[22] With regard to access for DHH persons, Georgia law also requires that qualified sign language interpreters be provided at no cost to the DHH person needing the service.[23]

Effective July 13, 2017, Uniform Superior Court Rule 7.3 imposes new requirements for attorneys and *pro se* litigants to notify the courts of their need for language assistance. Additionally, the revised Rule 7.3 clarifies the courts' obligations to secure and pay for interpreters in civil and criminal matters.[24]

C. Supreme Court of Georgia Rules and Commission on Interpreters

As stated above, after its decision in *Ling,* the Supreme Court of Georgia amended its *Rules on the Use of Interpreters for Non-English Speaking and Hearing Impaired Persons* (Rules).[25] The Rules confirm the existence of the Supreme Court of Georgia Commission on Interpreters (Commission) and its duties and responsibilities, and establishes a uniform rule for interpreter programs. The current Rules also require that LEP and DHH litigants and witnesses be provided an interpreter at each critical stage of a court proceeding at no cost, in all matters, criminal, civil, and juvenile.

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[19] *Ramos v. Terry*, 279 Ga. 889, 622 S.E.2d 339 (2005).

[20] 288 Ga. 299, 702 S.E.2d 881 (2010).

[21] O.C.G.A. § 15-6-77(e)(4).

[22] O.C.G.A. § 19-13-1 *et seq.*

[23] O.C.G.A. § 24-6-650 *et seq*.

[24] *See* Appendix D. Also available at http://www.gasupreme.us/wp-content/uploads/2015/05/USCR_7-3_and_31_amendments-FINAL_Order_with_ID.pdf.

[25] Available at http://coi.georgiacourts.gov/content/supreme-court-rules.

Appendix B of the Rules[26] clearly delineates the licensing powers and duties of the Commission. It includes a description of the three foreign-language interpreter designations,[27] establishes an interpreter roster, and grants the Commission the power to license, train, and discipline interpreters in the state. Appendix C of the Rules[28] provides Georgia with a Code of Professional Responsibility for Interpreters.

III. Needs Assessment and Early Identification

Courts have an affirmative duty to actively determine language access needs of court users, to notify users of the services available to meet those needs, and to offer those services at no cost to the users. An effective administrative protocol for the provision of interpreters in the Georgia courts should start with a comprehensive assessment and data collection effort regarding language needs for LEP and DHH persons throughout the state. The early identification of a person's language access needs throughout every point of contact with the court system is similarly critical for the provision of meaningful language access. It is important to note that "reasonable accommodations" for persons with disabilities, per the ADA, includes the provision of auxiliary aids and services and not just interpretation services.

A. Data Collection and Needs Assessment

Data collection and needs assessment will inform the court's provision of language access services as well as the practices described in the MAP. The judicial branch and courts must understand the demographics of the population they serve to better anticipate the need for language access services and provide these services in a timely, consistent, effective, and efficient manner. To gather this information, the branch and local courts shall establish data collection standards and determine reliable sources of data regarding the communities served by the court.

First, courts should ensure they have standards for internal data collection regarding the LEP and DHH persons accessing their court. These standards should include the collection of information regarding the court's LEP and DHH users; requests for, and use of, language access services at all points of contact with the court; and use of all language access services, including court interpreters, bilingual staff, and translations. The collection of this data should continue throughout a person's contact with the court, ongoing from initial contact until last.

To gather this information, courts should ensure that LEP and DHH court users are identified in the case management system, court file, and any other mechanism of record-keeping used by the court gathering the information (discussed in the next section below). Courts should, whenever possible, track this information by:

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[26] Id.

[27] Certified, Conditionally Approved, and Registered.

[28] Id.

- Case type and proceeding, or court service or program, for which an interpreter is needed;
- Duration of interpreting event;
- Interpreter usage and billing;
- Requests for bilingual staff at the various points of contact;
- Web "hits" on translated web pages or any other posted translated material; and
- Usage of materials, including multilingual videos, telephonic interpreting, etc.

In addition, courts should identify reliable external sources of data, at the state and local level, and collect information from these sources regarding the communities served by the court. The information gathered will help inform court efforts to deliver the most appropriate language access services given that court's LEP and DHH users. Some of these potential sources may include national data collection efforts, such as the U.S. Census and American Community Survey (ACS); state agencies and community partners, including the district attorney, public defender, legal services agencies, county jails, law enforcement, etc.; school districts, health providers, and public assistance and other social services agencies; and agencies that target refugee or immigrant groups, and may therefore be in a better position to accurately capture language trends, immigration patterns, and emerging languages. Note that language services, including, but not limited to, interpretation, translation, signage, brochures, and other information provided to the court, should not automatically be limited to English and Spanish. Courts should recognize that the communities they serve may have speakers of other languages who require the court's assistance. It is important that accessibility for all LEP and DHH persons be considered, especially in rural counties where a non-Spanish speaking LEP community may be particularly small and isolated.

B. Early and Ongoing Identification of Language Needs in the Community and the Court User Population

The early identification of language needs is critical in efforts to efficiently and effectively address language access needs in the courts. Efforts should focus on all the most common points of contact between persons and the court system in order to put in place systems to identify language needs.

Similarly, strategies for early identification should include mechanisms to ensure that when an LEP or DHH person's language need is not captured initially, or changes during his or her interaction with the court, systems are in place to allow for identification at later stages. Courts should be mindful that persons begin their interaction with the judicial system at various points of the process, not always at case initiation, and any mechanism for identification of language needs should allow and plan for that eventuality.

There are several strategies that courts may implement to address the identification of language access needs. Implementation of any number of them, and ultimately as many as are appropriate given a particular court's needs and resources, will assist courts in better addressing the language access needs of their LEP and DHH users. The following are a number of best practices that may be useful to those courts that are not currently employing them.

1. Designated language access office or point person

The designation of a language access office or point person (such as a Language Access Coordinator or Interpreter Coordinator) at each judicial district or other appropriate judicial entity[29] can assist courts in addressing requests for interpreters and other language access services, including information on the court's language access policies and resources. Multi-circuit districts may also elect to have a point person at each circuit within the district who serves as a liaison to the district designee, and assists in the facilitation of securing language assistance services for cases brought within that circuit's courts.

Given the diversity amongst Georgia courts based on geography, population, size, availability of interpreters, rural versus urban environments, and numbers of LEP and DHH residents, courts should determine how to best designate a language access office or point person that can ensure the duties and responsibilities listed below are carried out effectively and efficiently. Some possible models based on this diversity include the following:

- A language access office or point person in each level of the trial courts (superior, state, magistrate, probate, or juvenile courts), municipal courts, and appellate courts. For example, this approach may be appropriate for counties with larger populations, large LEP or DHH populations in proportion to the population overall, or many separate court locations.
- A language access office or point person at the county level. This system may be appropriate for medium-sized counties, for example.
- A language access office at the judicial district court administrator level, with language access liaisons at the judicial circuit court administrator level to address (and communicate to the main language access designee) more localized needs when they arise. Courts with very small percentages of LEP and DHH users and sporadic need for language access services may find this system sufficiently addresses their populations' needs.

However a court decides to designate a language access office or person, the duties and responsibilities of that office or person within the court[30] should include:

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[29] The Georgia court system is made up of a number of trial courts – superior, state, juvenile, probate, magistrate, and municipal – organized into judicial districts, judicial circuits, counties, and cities. See the *Map of Georgia Judicial Circuits and Districts*, attached as Appendix B. The intent of this MAP is that courts at every level, from judicial district to municipalities, adopt administrative protocols for the provision of language access services. However, given the diverse needs and composition of Georgia's judicial entities, this MAP allows for any judicial entity to choose how to best design, implement, and administer a protocol. Some courts may choose to establish protocols at the judicial district level, adopted in their entirety by lower level entities or modified in consideration of local needs and resources. On the other hand, unique local protocols may be necessary at the level of individual courts or municipalities.

[30] Court, in this context, may include several courts if the designated language access office oversees a number of courts within a judicial district, judicial circuit, or county.

1. Providing a centralized location for all LEP and DHH persons needing to access the court, as well as attorneys, justice partners, potential jurors, and other stakeholders, to request interpreters and other language assistance services and resources;
2. Providing a resource for decision makers and court staff who have questions regarding the court's available language access resources and policies;
3. Coordinating and implementing the court's community outreach and notification to the public and all stakeholders regarding the court's language access services and policies and procedures; and
4. Managing and responding to feedback from the public about the respective entity's language assistance protocol.

Once a centralized language access location is established, all relevant stakeholders should be notified of its existence and provided with contact information and availability.

2. Identification of language access needs at all points of contact with the court

Courts should identify and understand all the possible points of contact that LEP and DHH users have with the court system. Points of contact with the court include, but are not limited to the following: security screening; clerk's offices; jury department and jury summons and notices; case records; cashiers; alternative dispute resolution programs and services; courtrooms; court-managed or court-operated programs; *pro se* clinics and workshops (e.g., parenting classes, divorcing parents seminars); Family Violence Intervention Programs (FVIPs); court websites; the Georgia Judicial Council's website; and court phone systems. Identification of language needs at each of these points of contact is a key element in the provision of language access services.

a) Mechanisms for self-identification by LEP and DHH court users

Courts should establish a variety of identification mechanisms. First, courts should ensure LEP and DHH persons are able to self-identify and request specific language access services at all points of contact with the court, as early as possible in the system. Any self-identification mechanisms established must account for the fact that the need for language access services may arise at any point during a person's interaction with the court system, not just at the beginning. Similarly, these mechanisms must consider that LEP or DHH users may commence their interactions with the court at any point during the life of a case, from the beginning to the middle to the end (including post-judgment involvement).

Some possible and useful mechanisms to assist with self-identification include multilingual notices regarding the availability of language access services posted at all points of contact (including online), language identification guides,[31] notices in outreach materials, and court forms or notices sent out to parties at the commencement of and throughout proceedings.

[31] A language identification guide is included in this Companion as Appendix C. Also available at http://coi.georgiacourts.gov/content/language-identification-guide.

b) Mechanisms for identification by court staff and decision makers

Court staff and decision makers may often be the first point of contact between an LEP or DHH court user and the court system. Court staff and decision makers may determine that an interpreter is necessary for an LEP or DHH person during his or her encounter with the court, whether as part of a court proceeding or other court business.

Consequently, staff and decision makers should have tools, such as language identification guides, to assist a court user in selecting his or her preferred language and indicating the need for language access services. This allows court staff and decision makers to secure the necessary language access services, including interpreters and bilingual staff, translated materials, or remote technologies such as telephone and video-remote interpreters.

Effective language needs identification systems should also include placing an affirmative duty on court staff and decision makers to inform LEP and DHH users of the availability of free language access services and appoint an interpreter when appropriate. Therefore, when it appears that a person has difficulty communicating due to a language barrier, and can therefore not meaningfully participate in the proceeding or activity or be understood by attorneys, decision makers, staff, or other relevant participants, court staff or a decision maker should inform the LEP or DHH person of the right to have an interpreter provided by the court*.* At all times, court staff, decision makers, and other relevant court participants should keep in mind that the fact that a person speaks or understands some English does not preclude the person from the right to have an interpreter appointed by the court.

c) Mechanisms for identification by justice partners

Justice partners such as law enforcement agencies, district attorneys, public defenders, social workers, legal services programs, jails, probation departments, private attorneys, and others are often the first point of contact that LEP and DHH users have with the legal system. They are in the unique position to be able to notify the court of any upcoming language access needs for a particular person. Courts should establish protocols for justice partners to notify the court of the need for language access services as early as practicable, so the court may ensure the timely and effective provision of language access services for all court users who require them*.*

Any developed protocol should take into account the court's resources and the language access responsibilities of these agencies, which may themselves be under legal obligations to provide language access services. As discussed above, all agencies receiving federal funds are required to comply with Title VI and provide language access services. For example, law enforcement agencies are required to provide interpreters when working with civilians requiring services, and the public defender's office is required to provide interpreters to clients during investigations, trial preparation, or other agency interactions. When that is the case, the relevant agency should be charged with providing interpreters or other language access services, as to not unfairly burden the court. However, even when justice partners are involved and have their own language access responsibilities, the court still bears the responsibility for providing language access services during an LEP or DHH person's interaction with the court system. In other words, while

the public defender's office must itself provide and pay for interpreters for its clients while preparing their defense, for example, it is the court's responsibility to provide interpreters for defendants when they appear in court.[32]

3. Identification of language access needs in court records

As addressed in Appendix A, II (D) of the Rules, when a decision maker appoints an interpreter for an LEP or DHH participant, the case file "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." Since the Georgia court system does not have a statewide case management system, each court keeps case and party records in a variety of formats, from electronic case management systems to manual systems based on paper case files. Therefore, strategies for capturing data will vary given each person court's case management system capabilities.

Some courts may have more advanced case management systems that capture all relevant party and case information electronically, are reliable, and allow for tracking of language access needs and services. Other courts may have electronic case management systems that do not gather the necessary information regarding language access needs. Where possible, these systems should be modified to track relevant information. Other courts rely exclusively upon manual case management systems. These courts should consider strategies such as color-coded files and/or documentation to be included in the file.

Generally, systems developed should track interpreter needs through case and party records (i.e., interpreter or language access needs should be, where possible, noted on a particular party's record, as well as on the overall case or file record). Tracking language needs in parties' records allows for the system to track their future needs if they are involved in another case at a later time. Tracking by case or file allows for consistent provision of services in all proceedings under that case. Both language-tracking efforts (by case and by party record) ensure that information is captured by the system and can be used to anticipate language needs and requirements whenever a particular LEP or DHH person comes into contact with the court.

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[32] While trial courts must bear the financial and administrative responsibility of providing interpreters for LEP or DHH persons during their interaction with the court, regardless of the separate legal responsibilities of other agencies appearing before the court, the same is not true of the Georgia Office of State Administrative Hearings (OSAH), which is not part of the Georgia judicial branch. OSAH hears administrative cases where one of the parties is a state agency. In those matters, it is the responsibility of the state agency in question (and not OSAH) to provide an interpreter for the hearing. While OSAH may order the appointment of an interpreter, locating and paying for the interpreter are the responsibilities of the state agency itself. As an executive branch agency, OSAH must follow the provisions of Title VI of the Civil Rights Act and may wish to develop its own administrative protocol for provision of language access, using this guidance document and/or others for that purpose.

4. Additional tools for early identification of language access needs

There are other tools that may be developed or are already available to courts to assist in early identification of language access needs. In this regard, best practices explored in courts throughout the country as well as Georgia courts include:

- Training of court clerks and other staff at relevant points of contact with the public to inquire about the need for language access services for any party or witness, as a matter of course, and providing those staff members with auxiliary tools to complement their training, such as language access resources, interpreter roster information, translated resources, and others.

- Provision of information, outreach, and training to attorneys, parties, and justice partners to identify to the relevant court staff any anticipated need for language access services. All participants in the judicial system should understand the process of notifying the court of the need for language access providers. If attorneys, justice partners, and litigants themselves generally notify the court, as a standard practice, of any language needs in a particular matter, courts would be able to more effectively ensure language needs are addressed promptly and effectively.

- Where appropriate and possible, requiring parties to indicate in initial pleadings a need for language access services (their own, or another party's or witness's, if known). For example, any standardized case initiation state or local forms, such as complaints and petitions, and other first appearance forms, such as responses or answers, as well as motions and responses to motions, etc. may include a box or short section to be completed regarding the anticipated need for a court interpreter or other language access service.

- Informing parties on court summonses, court notices, and cover sheets of the availability of language access services and how to request them, including informing court users of the existence of a designated language access office.

IV. Provision of Qualified Interpreters in Court Proceedings and Other Court-Managed Functions

The Rules require the provision of qualified foreign-language and sign language or deaf interpreters to all parties and witnesses who may require those services, in all court proceedings, at no cost to the court user. The Rules, their appendices, and materials provided by the Commission address the various aspects of the provision of court interpreters in proceedings and court-managed functions. Courts are encouraged to use the Commission's searchable court professionals directory, available at http://coi.georgiacourts.gov/content/locate-interpreter, to locate qualified foreign-language and sign language or deaf interpreters in Georgia.

Court Interpreters in Georgia: Appendix B of the Rules addresses the three licensing designations of foreign-language court interpreters in the state of Georgia: Certified, Conditionally Approved, and Registered. The Commission's website further describes the licensing requirements for each of these interpreter classifications.[33]

"Certified" interpreters possess the highest level of certification in the languages for which a National Center for State Courts (NCSC) oral certification exam exists.[34] Those who obtain the requisite minimum score on all exam sections and complete other requirements become Certified interpreters. Certified interpreters are the preferred category of foreign-language interpreting in court proceedings.

Interpreters in the languages tested by the NCSC oral certification exam who have not obtained the minimum passing scores in all sections but have met other requirements are designated as "Conditionally Approved" interpreters. In spite of not having achieved the minimum score on the oral certification exam as required for Certified status, Conditionally Approved interpreters are preferable to untrained interpreters. First, they have obtained minimum scores in all sections (albeit lower scores than those required to be awarded Certified status). Second, they have completed additional licensing requirements in order to prepare for interpretation, such as passing an English written test, completing court observation hours, and attending an interpreter orientation.

The third classification of licensed foreign-language interpreters refers to "Registered" interpreters. This designation is reserved for interpreters for languages for which no NCSC oral certification exam exists who have passed a written English exam and an Oral Proficiency Interview (OPI)[35] measuring their language skills and have completed additional licensing requirements.

With respect to sign language interpreters for DHH persons, to serve as a sign language interpreter or deaf interpreter in Georgia, an interpreter must be recognized in Georgia as a "qualified" or "court qualified" sign language interpreter. In order to be recognized as "qualified" or "court qualified," the interpreter must hold certification from the Registry of Interpreters for the Deaf (RID), the National Association of the Deaf (NAD), or other industry-recognized credentialing entity. For legal proceedings, the stated preference is to use certified sign language

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[33] At http://coi.georgiacourts.gov/content/licensing-requirements.

[34] The languages for which an NCSC oral certification exam currently exists include Arabic, Cantonese, French, Haitian-Creole, Hmong, Korean, Laotian, Mandarin, Portuguese, Russian, Serbian, Somali, Spanish, and Vietnamese. The Georgia Commission on Interpreters currently employs the National Center for State Court's Oral Certification Exam to assess the bilingual interpreting skills of test takers.

[35] The OPI consists of a telephone interview during which candidates are tested in both English and the language in which they seek to become licensed. The exam is designed to evaluate the prospective interpreter's foreign language ability and levels of knowledge and education. Candidates must achieve a language scale score of "Superior" in both English and the language for which they are seeking a license to interpret.

interpreters or deaf interpreters who hold the SC:L (Specialist Certificate: Legal) credential. The SC:L credential demonstrates an interpreter's specialized knowledge of the legal system, legal terminology, and legal settings. Courts are encouraged to reference the Commission's Working with Deaf or Hard of Hearing Persons and Sign Language Interpreters in the Courtroom bench card for additional guidance. (As noted in Section I.a. above, the SC:L credential has been available since 1998, but was placed under moratorium by RID as of January 1, 2016. The SC:L credential remains fully recognized by RID, but the designation is no longer available to persons who do not already hold that credential.)

Court personnel should always verify the credentials of all interpreters, especially those who present themselves as Certified or otherwise licensed by the Commission. Verification includes requiring interpreters to present their license numbers and checking the Commission's Searchable Directory located at http://coi.georgiacourts.gov/content/locate-interpreter. For sign language and deaf interpreters, court personnel should contact the Registry of Interpreters for the Deaf:

Registry of Interpreters for the Deaf
333 Commerce Street
Alexandria, VA 22314
703-838-0030 (voice)
703-838-0454 (fax)
RIDinfo@rid.org

A. Appointment of Qualified Interpreters

Under the Rules (Appendix A, II (A)), a decision maker will appoint a qualified interpreter when an LEP or DHH person requests the assistance of an interpreter, or when the decision maker determines that an interpreter is needed because the LEP or DHH person cannot meaningfully participate due to language barrier or cannot be understood directly by counsel, the decision maker, or the jury. If there is a question as to whether a court participant is in fact LEP or DHH and faced with a language barrier, the decision maker may *voir dire* (examine) that person on the record to determine whether an interpreter is necessary. The decision maker may also conduct this *voir dire* of the possible LEP or DHH person if requested by an attorney or party to the case.

Under Appendix A, II (E) and (G), the Rules include how the decision maker should conduct the examination of the LEP or DHH person, and what to do after he or she concludes the examination.[36] The Rules also include provisions for authorizing a pre-appearance interview between the interpreter and the LEP or DHH party or witness, as well as instructions to be provided by the decision maker to counsel regarding how to conduct proceedings with an interpreter.

[36] See the Commission's brochure, Working With Foreign Language Interpreters in the Courtroom, and the Commission's bench card, Working with Limited English Proficient Persons and Foreign-Language Interpreters in the Courtroom, for sample questions for judges and court staff to assess the English proficiency of a party or witness.

1. Preference when appointing interpreters

When appointing a qualified foreign-language interpreter to interpret for a litigant in one of the languages for which certification exists (see Footnote 34 above), courts must, whenever possible, appoint an in-person Certified interpreter. If no Certified interpreter is available, courts may appoint a Conditionally Approved interpreter. When in need of interpreter services for a language for which no national certification exam exists, courts must appoint a Registered interpreter.

NOTE: When possible, courts should appoint an interpreter who speaks the same dialect (or is at least quite familiar with it) as the person needing interpretation, and not merely the same language. For example, Spanish is a widely spoken language, but Spanish varies greatly between continents and regions.

When no licensed interpreter is available locally, Rules commentary provides for consideration of a telephonic language service or a less qualified interpreter. In considering these options, courts must weigh the need for immediacy in conducting a particular proceeding against any possible negative consequences with regard to due process or injustice if a non-licensed interpreter, or a telephonic interpretation service, is inadequate.

In appointing interpreters for DHH persons, interpreters with an RID SC:L credential are preferred, as described above. However, when interpreters with the SC:L credential are not reasonably available, interpreters with other industry-recognized credentials may be used, with the recommendation that they have specialized training in legal interpreting.[37] Court personnel can easily locate qualified interpreters by visiting the Searchable Court Professional Directory located on the Commission's website at http://coi.georgiacourts.gov/content/locate-interpreter.

2. Safeguards when appointing non-licensed[38] or non-credentialed interpreters

When no Certified, Conditionally Approved, or Registered foreign-language interpreter is available and the court has to appoint a non-licensed interpreter, the Rules (Appendix A, II (F)) provides for instructions to be given to the interpreter. The model form Instructions for Use of Non-Licensed Interpreters created by the Commission provides information for the court when using a non-licensed interpreter. The Commission's brochure, Working with Foreign Language Interpreters in the Courtroom, includes, in addition to a wealth of information related to the use of interpreters in the courtroom, a sample *voir dire* for decision makers to assess a non-licensed

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[37] See the Commission's bench card, Working with Deaf or Hard of Hearing Persons and Sign Language Interpreters in the Courtroom, with information regarding the different credentials available with a RID, NAD, or other certification for sign language and deaf interpreters and how to ensure a qualified sign language or deaf interpreter is utilized.

[38] As described in the introduction, "non-licensed" foreign-language interpreters include, in addition to those not licensed by the Commission, those who have not been accredited by another Council of Language Access Coordinators member state or the United States Administrative Office of the Courts.

interpreter's qualifications, in compliance with *Ramos v. Terry.*[39]

Similar aids and informational resources have been provided for court staff and decision makers with respect to language services for DHH participants. The Commission's bench card, Working with Deaf or Hard of Hearing Persons and Sign Language Interpreters in the Courtroom, includes extensive information regarding interpreters for DHH persons, including a sample *voir dire* to help assess a sign language or deaf interpreter's qualifications.

3. Avoidance of untrained persons to interpret and limitation to exigent circumstances

When no licensed foreign-language, sign language, or deaf interpreter is available, and absent exigent circumstances, courts should not appoint as interpreters anyone with a potential conflict of interest in the case or an unqualified interpreter, including, but not limited to, minors, friends and family of the LEP or DHH person, bilingual court staff, advocates and attorneys for the LEP or DHH person, justice partner bilingual staff, or anyone else not qualified after a *voir dire* by the decision maker or his or her designated representative. Even when an LEP or DHH person prefers to use his or her own non-licensed interpreter, courts should use a licensed interpreter (or, if none is available, a qualified interpreter successfully examined through an appropriate and thorough *voir dire*). This will ensure that the interpreting services provided are appropriate, neutral, and carried out in a professional manner.

Exigent circumstances such as emergencies that cannot be resolved by continuing a matter or using other tools such as video-remote or telephonic interpreting[40] may, in the decision maker's discretion, warrant the use of non-licensed interpreters. To the extent possible, non-licensed interpreters should be used to interpret as minimally as possible to address the immediate emergency, for purposes of a continuance to obtain a qualified interpreter or, if necessary, for short non-evidentiary matters.

Whenever a remote interpreter or a non-licensed interpreter is used on a one-time basis because of exigent circumstances, courts should follow the Rules' stated preference and appoint an in-person Certified, Conditionally Approved, or Registered foreign-language interpreter or an industry-credentialed, in-person sign language or deaf interpreter for subsequent proceedings.

4. Appointment of interpreters for all relevant participants

As discussed and expressly provided for in Georgia law and the Rules, courts must appoint interpreters for LEP and DHH parties and witnesses. However, in order to ensure meaningful

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[39] In *Ramos v. Terry*, 279 Ga. 889, 622 S.E.2d 339 (2005), the Supreme Court held that it was an abuse of discretion to appoint an interpreter without making sure that the person appointed was qualified to serve as interpreter, without informing the interpreter-to-be of his or her role, without verifying his or her understanding of his or her role as an interpreter, and without having him or her agree in writing to comply with the code of professional responsibility for interpreters.

[40] Remote technologies such as video-remote and telephonic interpreting are addressed in Section IV. D below.

access to all relevant court participants and comply with Title VI[41] and the ADA, courts should also appoint interpreters for LEP and DHH persons with legal decision-making authority (such as parents or legal guardians of minors who are involved in a case but who are not parties themselves, *guardians ad litem*, and parents/guardians of minor victims of crime). Interpreters should also be appointed for LEP and DHH persons with a significant interest in the case, such as family members of a victim of crime or of the defendant on trial for serious crime, members of a class action who are not lead plaintiffs, etc.

B. Best Practices in the Appointment of Interpreters

There are extensive best practices in the appointment of interpreters in court proceedings that should be taken into consideration when working to provide comprehensive language access. Court resources may pose considerable challenges for implementation of some of the best practices provided in this Section. However, the effective administration of justice and the overarching goal of ensuring that parties participate fully and meaningfully in the judicial system must weigh heavily in decisions to provide appropriate language access services. What follows are some of the more critical best practices in the appointment of qualified court interpreters for LEP and DHH persons:

- Courts should give interpreters the opportunity for a pre-appearance interview in order to ensure language compatibility and communication between the interpreter and an LEP or DHH person. (*See*, Rules, Appendix A, II (E) and II (F) (12), (13).)

- Decision makers and court staff should understand the role of the interpreter, as well as interpreter ethical and professional standards, and be mindful not to ask the interpreter to perform a task outside the interpreter's role or ethical guidelines.

- Decision makers should explain the role of the court interpreter to LEP and DHH persons, as well as attorneys, jury members, and other relevant courtroom participants.

- Courts should appoint an appropriate number of interpreters for the proceeding in question. When proceedings are expected to take a significant amount of time, courts are encouraged to appoint more than one interpreter. According to the National Association of Judiciary Interpreters and Translators, "[i]t is unrealistic to expect interpreters to maintain high accuracy rates for hours, or days, at a time without relief. If interpreters work without relief in proceedings lasting more than 30-45 minutes, the ability to

[41] The DOJ Guidance and Letter from Thomas E. Perez, Assistant Attorney General, to Chief Justices and State Court Administrators (Aug. 16, 2010), at 2, instructs courts to provide language services to non-party LEP persons if "their presence or participation in a court matter is necessary or appropriate, including parents and guardians of minor victims of crime or of juveniles and family members involved in delinquency proceedings." *See also*, ABA Standards for Language Access in Courts (February 2012) at 48-50.

continue to provide a consistently accurate translation may be compromised."[42]

- Depending on the number of LEP or DHH persons involved, the court may need to appoint separate interpreters for the LEP or DHH participants. For example, an LEP witness should have his or her own interpreter, separate from a party's interpreter who may need to interpret for attorney-client communications during the proceeding; similarly, opposing parties in a family violence protective order matter may need to each have their own interpreter so as to guarantee a safe distance between the parties, the protection of the victim, and the safety of the interpreter.

  NOTE: There is technology available, such as headsets, that allows an interpreter to provide simultaneous interpretation for multiple parties at the same time. Use of this technology may be a helpful alternative for rural counties who may be unable to find more than one interpreter for a relatively simple matter. Some circuits in Georgia, such as the Cherokee Judicial Circuit, have opted to purchase such technology for use by the interpreters appointed by the Circuit.

- Long hearings or trials over one hour in length can easily lead to interpreter fatigue. Studies demonstrate that fatigue and possibility of error increase after 30 minutes of sustained simultaneous interpreting. Team interpreting (appointing a team of interpreters) allows for two or more interpreters to take turns interpreting every 30 minutes, or another more appropriate length of time as dictated by the nature of the proceeding and other factors, such as interpreter input. Team interpreting, when indicated, is critical to ensuring the accuracy of the interpretation throughout the proceeding.

- When LEP or DHH persons wish to waive their right to the assistance of an interpreter, the court should ensure that the waiver is knowing, voluntary, in writing, and, where applicable, on the record. If the decision maker or designated court staff, in his or her discretion, believes that the absence of an interpreter may subvert the interests of justice, or that communication will be negatively affected and the court will not be able to adequately communicate with the LEP or DHH party or witness, the waiver of an interpreter may be rejected. If an LEP or DHH person is allowed to waive the use of an interpreter, the court should inform the LEP or DHH person that the waiver is revocable at any time and allow the LEP or DHH person to later request the use of an interpreter without negative repercussions.

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[42] *See*, *National Association of Judiciary Interpreters &Translators (NAJIT) Position Paper-Team Interpreting in the Courtroom* (March 2007) *available at https://najit.org/wp-content/uploads/2016/09/Team-Interpreting_052007.pdf*.

NOTE: Although some LEP/DHH persons may be able to communicate well enough in English to knowingly waive the assistance of an interpreter, many cannot.[43] In assessing whether a waiver is knowing, a court may consider inquiring of the LEP or DHH person about the following matters:[44]

1. Does the LEP OR DHH person understand that he or she has a right to the assistance of a "qualified"[45] interpreter?
    a. Can the LEP OR DHH person effectively articulate an understanding that he or she is entitled to the assistance of a qualified interpreter during the legal proceeding in question?
    b. Can the LEP OR DHH person effectively articulate an understanding that he or she is entitled to the assistance of a qualified interpreter at no cost?
    c. Can the LEP OR DHH person effectively articulate an understanding that, if he or she chooses to have the assistance of an interpreter, the court would be responsible for securing the services of a qualified interpreter and paying for those services?
    d. Can the LEP OR DHH person effectively articulate an understanding that, if he or she chooses to have the assistance of an interpreter, the court or other decision maker cannot hold it against him or her?

2. Does the LEP OR DHH person understand the role of an interpreter?
    a. Can the LEP OR DHH person effectively articulate an understanding that an interpreter is an impartial neutral appointed by the court and does not work for any particular party?
    b. Can the LEP OR DHH person effectively articulate an understanding that an interpreter appointed by the court must be qualified?
    c. Can the LEP OR DHH person effectively articulate an understanding that the role of an interpreter is to interpret accurately (without summarizing, paraphrasing, or omitting)?
    d. Can the LEP OR DHH person effectively articulate an understanding that an interpreter is not permitted to explain what something means and can only interpret questions and responses as spoken by the LEP OR DHH person, another party or witness, attorney, or decision maker?
    e. Can the LEP OR DHH person effectively articulate an understanding that, to the extent that an interpreter assists communication between a party

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[43] As noted in the Rules, Appendix A, II (B), "[t]he 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."

[44] The guidance set forth herein is not meant to be definitive or exhaustive. In a particular case, additional or different inquiries may be appropriate. In addition, a court should tailor the inquiries to the particular role of the LEP or DHH person in the proceedings (whether the LEP or DHH person is a party, a witness, or another participant).

[45] *See*, *Ramos v. Terry*, 279 Ga. 889, 893; 622 S.E.2d 339, 343 (2005) ("[a] court abuses its discretion when it selects an interpreter who is not qualified, sworn, and impartial. *Gopar-Santana v. State*, 862 So.2d 54 (Fla.App.2003).").

and his or her counsel, the interpreter is required to maintain the confidentiality of those communications?

3. Does the LEP OR DHH person understand his or her decision to waive the assistance of an interpreter?
    a. Can the LEP OR DHH person effectively articulate an understanding that, without an interpreter, his or her limited capacity to communicate may impair the ability to fully participate in the proceedings?
    b. Can the LEP OR DHH person effectively articulate an understanding of the risks and dangers of proceeding without an interpreter?
    c. Can the LEP OR DHH person effectively articulate an understanding that a bilingual relative, friend, or attorney is no substitute for an interpreter and that the use of family, friends, or others not licensed or credentialed as interpreters is not appropriate?
    d. Can the LEP OR DHH person effectively articulate an understanding that his or her waiver is revocable at any time in the proceedings, but if he or she later decides to revoke the waiver, he or she must take steps to inform the court of this decision and to have the court then appoint a qualified interpreter?

4. Does the LEP OR DHH person understand that the court has a responsibility to ensure the fairness of the proceedings and that, if the court determines that due process requires an interpreter, the court may appoint an interpreter regardless of the desire of the LEP OR DHH person to proceed without an interpreter?

- Court personnel should always verify the credentials of all interpreters, especially those who present themselves as Certified or otherwise licensed by the Commission. Verification includes requiring interpreters to present their license numbers and checking the Commission's Searchable Directory located at http://coi.georgiacourts.gov/content/locate-interpreter. For sign language and deaf interpreters, court personnel should contact RID:

  Registry of Interpreters for the Deaf
  333 Commerce Street
  Alexandria, VA 22314
  703-838-0030 (voice)
  703-838-0454 (fax)
  RIDinfo@rid.org

C. Calendaring and Scheduling of Interpreters

Courts should consider the use of scheduling, calendaring, and other strategies to maximize the use of interpreters. Efficient use of interpreters and other language access resources will not only allow courts to provide better service, but will also save the courts money. Strategies include the

following:

- Courts may decide to batch matters for which an interpreter for a specific language is needed, such as a family violence protective order calendar for cases where one or more parties are Spanish-speaking. However, any strategies to provide access must be undertaken with caution to ensure qualified interpreters provide interpreting services in the most appropriate manner and to ensure language-specific calendars do not promote practices that discriminate based on national origin or other protected class. Similarly, considerable care must be taken so that any strategies developed do not have unintended consequences such as discriminating against LEP and DHH court users or creating the appearance of a separate system for marginalized communities.

- Coordinating calendars so an interpreter may be available for several matters in the same court location on the same day, such as having a small claims calendar held on the same day but at an earlier, or later, time than a traffic calendar so an interpreter can be available for both.

- Establishing systems so that an interpreter coordinator can easily and efficiently dispatch an interpreter from one court location to another, or one courtroom to another.

- Coordinating the use of interpreters so that when interpreters are not busy in a courtroom proceeding, they may be available in person or telephonically to assist in other court-managed services, such as clerk's offices, *pro se* clinics, etc.

- Creation of an interpreter bank, under the quality control of the court, group of courts, or the Commission, with qualified interpreters who may be available by telephone or video to assist in non-critical proceedings or other court programs, including possible sharing across court locations and counties in other parts of the state, particularly those in more rural or isolated areas where there may be fewer interpreters available.

- When feasible, court staff in charge of interpreter scheduling should provide interpreters with basic information about the case, relevant court documents, and other information that can help the interpreter better prepare for the event, including technical terminology, jargon, and other complex issues that may complicate the interpretation.

In addition to administrative and operational strategies, courts should explore collaborations with community-based providers to address particularly challenging interpreting needs, such as those of indigenous language speakers or emerging languages for which qualified interpreters are not found in the area served by the court. For example, by partnering with language departments at educational institutions, courts can identify prospective interpreters and target training efforts, utilizing the resources of the educational institutions to prepare these students for the court interpreting profession and the licensing exams for "Certified," "Conditionally Approved," or "Registered" status for foreign-language interpreters. Similarly, collaborations

with community-based programs that work with certain smaller populations, such as indigenous LEP persons, newer refugees, and other speakers of less common languages, can benefit the court by providing a pool of qualified interpreters in languages of lesser diffusion, including indigenous languages.

D. Remote Interpreting

While the preference for the provision of interpreters is that interpreters be available in person to provide the most safeguards to the accuracy and quality of interpretation and effectiveness of communication, technologies such as telephonic interpreting and video-remote interpreting (VRI) can be effective in some settings. They should be considered, but used with caution. These technologies require specialized and high quality equipment to ensure effective and accurate communication. Nevertheless, as the technology improves and becomes more cost-effective and reliable, these forms of remote interpreting may increasingly present a viable alternative to in-person interpreters for a limited number of court-related proceedings.[46]

Telephonic foreign-language interpreting should be a last resort for courtroom proceedings, and reserved for non-courtroom events or very brief non-evidentiary proceedings, such as continuances, given that non-verbal cues – not visible on the telephone – are critical for effective communication and interpretation. Courts are encouraged to be mindful that, according to the National Association of Judiciary Interpreters and Translators, telephonic interpreting can be problematic in some circumstances.[47] For example, if persons are hard of hearing or elderly, or struggling with mental illness, telephone interpreting can be too confusing.

VRI, when used appropriately with high quality equipment and trained interpreters, can be an efficient mechanism for providing language access services when an in-person interpreter is not available or when only a non-licensed interpreter is available in person (but a licensed one is available via video). VRI can be used for foreign-language interpretation as well as sign language and deaf interpretation. Courts must provide and require training for interpreters on the use of VRI, on appropriate ways to assess quality of interpretation, and on how to effectively stop a court event if an impediment to the interpreter's performance arises or the litigant's or witness's unique characteristics make him or her not suitable for remote interpreting.

Courts must also provide and require training for staff and decision makers on VRI and telephonic interpreting, how to use the technologies, how to work with the remote interpreter, and what appropriate events for VRI are. As other courts nationally have done, Georgia courts with an

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[46] As cautioned above, courts should be careful if using commercial or third-party interpreting agencies to locate telephonic or video-remote language assistance. Some agencies may have no quality control mechanisms for their interpreters, inadequate technology or technological support, or have no experience with remote interpretation in judicial settings.

[47] *See*, *National Association of Judiciary Interpreters &Translators (NAJIT) Position Paper-Telephone Interpreting in Legal Settings* (February 2009) available at http://www.najit.org/wp-content/uploads/2016/09/Telephone-Interpreting-1.pdf.

interest in video-remote technology and with the capability of properly administering the technology may consider establishing pilot projects to assist in developing guidelines for its appropriate use in court proceedings.

E. Appointment of Interpreters for Court-Managed Functions

The Rules, in Appendix A, II, provide that, outside of criminal and civil court proceedings, Title VI also applies to all other court-managed functions, including information counters; intake or filing offices; cashiers; records rooms; sheriff's offices; probation and parole offices; ADR programs; *pro se* clinics; criminal diversion programs; anger management classes; detention facilities; and other similar offices, operations, and programs managed by the court.

In order to comply with Title VI, courts should provide the most appropriate language access service for these programs or services, including qualified interpreters, bilingual staff, and translated materials and information. Where interpreters must be appointed, courts should follow the standards described above for the appointment of interpreters as set out in the Rules.

F. Additional Courtroom Tools for Language Access

1. Bilingual courtroom staff

Courts should place bilingual staff at all points of contact with the court, including courtrooms, public information offices or counters, clerk's offices, *pro se* clinics, ADR offices, and other relevant locations. Bilingual staff must be competent in all the languages in which they communicate, and courts must test their proficiency in a neutral systematic way that does not rely on the bilingual staff person's self-assessment of language skills. Courts may establish standards for the competence required of bilingual staff at different points of contact; a staff person located at a *pro se* clinic or a high-volume clerk's office may need a higher level of language proficiency and competency than a bilingual person at a cashier's office, for example. However, courts must establish a minimum competency level that all bilingual staff must meet in order to ensure meaningful access throughout the courthouse and all court programs and services.

Absent exigent circumstances, bilingual staff should not be used to interpret in the courtroom. In addition to any possible conflict of interest created by the different roles of court staff and interpreter, there are ethical concerns given the professional responsibility and ethics requirements to which interpreters are subject. More importantly, the language skills required for accurate courtroom interpretation are significantly more extensive and complex than those needed as a bilingual staff person, and the use of a bilingual staff person to interpret cannot safeguard the LEP or DHH court user's right to meaningful language access like the use of a qualified interpreter would.[48] Should bilingual staff ever be used to interpret outside the

[48] "A bilingual person may inaccurately interpret or roughly interpret a summary of communications between the court and an LEP person, they may have a conflict of interest, or they may even be adverse. Under these

courtroom, the court should ensure bilingual staff members are trained on the role of the interpreter and basic interpreting skills, and only utilize bilingual staff for basic, noncritical communications.

NOTE: Because it can be challenging to find qualified bilingual staff, especially in more rural counties, it is recommended that courts train all staff on the use of video and telephonic interpretation services as well as a model procedure for handling a language access issue when bilingual staff is not available.

2. Technology in the courtroom

In addition to possible uses of VRI for court proceedings discussed above, there are effective uses for video-remote technologies to make the courtroom process itself more linguistically accessible for LEP and DHH users. For example, a video-remote interpreter may be used to provide interpretation for general courtroom instructions or introductory remarks given by a decision maker or court staff before a calendar call.

In addition, there are several audio/visual and assistive technologies to help facilitate communication for LEP and DHH participants in the courtroom, including, but not limited to:

- Assistive listening devices to amplify sound for hard-of-hearing persons;
- Infrared hearing systems;
- Closed-captioned videos, multilingual PowerPoint presentations, and other visual aids providing information on courtroom procedure, legal information, and other topics to improve court user education and access; and
- Multilingual videos explaining courtroom procedure and providing relevant legal information.[49]

3. Signage and translation of courtroom resources

The use of translated signs as well as other translated print information may assist in the efficient management of courtrooms. Having printed translated information available in a courtroom can significantly reduce the need for oral interpretation of basic information applicable to all courtroom participants. Examples of useful translated written resources include waiver of rights and other relevant court forms or advisements; referrals to community-based organizations, treatment/counseling programs ordered by the court, or other court services or programs;

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circumstances, an LEP person is denied meaningful access to court operations in a way that a fluent English speaker is not. The [U.S.] DOJ Guidance emphasizes the importance of interpreter competency and states: 'Competency requires more than self-identification as bilingual. Some bilingual staff and community volunteers, for instance, may be able to communicate effectively in a different language when communicating information directly in that language, but not be competent to interpret in and out of English.' [U.S.] DOJ Guidance, 67 Fed. Reg. at 41,461." *See*, *U.S. DOJ Letter to NC Administrative Office of the Courts, p. 9 (March 8, 2012) available at* https://www.justice.gov/sites/default/files/crt/legacy/2012/03/08/030812_DOJ_Letter_to_NC_AOC.pdf.

[49] The use of multimedia tools, such as videos, also has the potential of providing access to low literacy LEP populations as well as benefitting low literacy English-speaking court users.

continuance forms; and standard courtroom signs used to communicate courtroom procedure to the public.

Courts should be mindful, however, not to rely exclusively on posted signs or written notices for advising court users of language access services. Some court users, including LEP and DHH persons, have low literacy skills that may prevent them from understanding written communications. Therefore, the recommendations above for court staff to proactively inform LEP and DHH users of their language access rights should be implemented together with any signage and written notification strategies.

G. Interpreter Compensation

Interpreter compensation is currently managed at the local level (*See*, Rules, Appendix A, VII), and there is no uniform, statewide compensation system at this time (*See*, Rules, Section V). However, it is important to note that licensed foreign-language court interpreters and credentialed sign language and deaf interpreters are highly skilled professionals who possess unique cognitive abilities and undergo rigorous training, education, and testing. They perform a difficult and specialized function that plays a critical role in ensuring access to justice and due process. Courts should keep this in mind when considering compensation rates for licensed court interpreters. Further guidance to local courts regarding interpreter compensation and available funds for interpreters and language access services will be included in the forthcoming Language Access Plan.

V. Strategies for Management and Monitoring of the MAP

To ensure the appropriate and successful implementation of the Model Administrative Protocol, and, where adopted, its implementation at the local level, courts must establish systems for monitoring their administrative protocol, its effectiveness in providing language access services to its LEP and DHH users, and the ongoing need for adjustments as services expand or policies change. These systems must include an effective complaint mechanism and quality control measures.

A. Periodic Monitoring of Effectiveness of the MAP

It is critical that courts implementing the MAP or other administrative protocol for the provision of interpreter services establish systems for the protocol's periodic monitoring. As the entity providing the MAP and guidance on its use, the Commission will also develop monitoring mechanisms to track the effectiveness and need for modifications of the MAP.

Courts should, on a yearly basis, analyze the effectiveness of their administrative protocol and make needed adjustments. Information gathering on the use of qualified (licensed) foreign-language interpreters, as compared to non-licensed interpreters, and of credentialed sign language and deaf interpreters, will assist courts and the Commission to analyze whether the

implementation of an administrative protocol has resulted in an increase in the use of qualified interpreters, as intended. Increases in the provision of qualified interpreters will benefit all court users as well as the court itself, with improvements in the meaningful participation of LEP and DHH users and more accurate communication and information on which decision makers must base their determinations.

Data regarding the provision of interpreters will also provide useful information. Reports on the number of interpreter hours provided, languages served, interpreter billing (by case type and proceeding), and travel-related interpreter expenses can assist courts in determining actual interpreter needs when full language access is provided. This information will allow courts to better allocate budget expenditures for language access, and develop strategies for cost-savings as well as obtaining additional funding, if needed, to guarantee every LEP and DHH user access to the court.

Courts should also track the number of continuances requested or issued in order to obtain an interpreter, together with information regarding delays in processing of cases due to language access issues. This information will assist courts in determining whether strategies for early identification of interpreter and other language services needs have resulted in efficiencies in the utilization of limited court resources and in the processing of cases. Measuring the effect of other systems put in place to address court efficiencies, such as calendaring and scheduling practices to address interpreter cost savings, will further inform court efforts to improve delivery of language access services in a cost-effective and efficient manner.

Overall, the monitoring of language access efforts by courts will enable them to identify areas in which they are successfully meeting their needs as well as areas requiring attention, such as the need for more effective interpreter provision, addition of bilingual staff, increase or improvement of translations, better communication to stakeholders regarding language access policies, better staff training, etc. It will also permit courts to formulate informed requests for assistance from the Commission in areas where statewide guidance or resources may prove particularly effective, such as translation assistance for statewide information, areas for improved interpreter training, language access planning, etc.

Finally, any monitoring and evaluation plan should include the input of justice partners and the community regarding the implementation of the administrative protocol. District attorneys' offices, public defenders, law enforcement agencies, legal services programs, private attorneys, bar associations, community-based organizations, and the public at large are all integral to a robust judicial system that is responsive to its users. Their perspectives and experiences regarding the protocol's implementation will ensure an improved system of access to justice for LEP and DHH persons, and ultimately, every court user.

<u>MAP Update by the Commission on Interpreters</u>: The Commission will establish formalized mechanisms for obtaining and analyzing yearly reports from local courts using the protocol in order to enable the Commission to make ongoing adjustments and modifications to the MAP. In addition, these reports will help the Commission identify possible modifications needed to the

Rules, and other areas under the Commission's responsibility, such as interpreter licensing and discipline, interpreter training and education, judicial branch training and education, statewide translation efforts, and overall language access planning. As the Commission begins its work toward development of a statewide Language Access Plan, information gathered by the different courts making up the Georgia judicial branch will be essential to creating a responsive and comprehensive language access policy for the state.

B. Local Complaint Mechanisms

Courts using the administrative protocol should create a local complaint mechanism for registering complaints regarding the provision of (or failure to provide) qualified interpreters or other language access services. Courts may model their complaint form and process after the Commission's complaint form for interpreter complaints,[50] but should ensure that both the process and the form are broad enough to include complaints regarding all forms of language access services, including translations, bilingual staff, web information, access to services, and other related services.

Complaint forms and instructions should be in plain language and available on the court's website, if appropriate, as well as at all court points of contact with the public. In addition to English, the complaint form and instructions should be translated into at least the top five most commonly spoken foreign languages in that court's community, unless the community demographics are such that there are fewer languages with a significant number of speakers.

Any complaint process developed should allow for any member of the public to register a complaint regarding a court's language access services or policies. Court users (not just LEP and DHH users), attorneys, justice partners, community-based organizations, legal aid offices, governmental agencies, court employees, and decision makers should all have the ability to file a complaint, if necessary.

Complaints about language access services should be addressed and resolved at the local court level. However, in order to allow the Commission to monitor the effectiveness of language access policies and of the MAP, courts should send quarterly reports to the Commission regarding the number of complaints, reason for complaints, and resolution (if any) of the complaints. Complaints regarding an interpreter's performance, or unethical or unprofessional conduct, should be filed with the Commission, which will conduct a formal investigation in accordance with the Commission's disciplinary procedures.

C. Training for Judicial Branch on the MAP

To ensure the proper implementation of the MAP and effective provision of language access services throughout the court, those courts adopting the MAP as a local administrative protocol must make sure all court staff and decision makers are properly trained on its policies and

[50] Available at http://coi.georgiacourts.gov/sites/default/files/coi/Complaint%20Form.pdf.

procedures. Similarly, training efforts must include any language access policies promulgated at the state level as well as the local level, even if not directly addressed in the MAP or adopted administrative protocol.

Additional topics that should be in court staff and judicial training include:

- Proper appointment of qualified interpreters for all court proceedings;
- How to *voir dire* a non-licensed court interpreter;
- Role of an interpreter, modes of interpreting, and interpreter ethics and professional standards;
- Use of remote technologies for interpreting, where available and used;
- Courtroom management when interpreters are used; and
- Cultural competence.

Training should include new and existing staff and decision makers, as well as staff interpreters where relevant. Together with training efforts, court staff and decision makers should have available to them resources and information regarding the administrative protocol, language access services, policies and procedures, and tools for providing language assistance (such as bench cards, language identification guides, brochures, etc.). These tools should be easily accessible to them via the court's intranet or other method for internal distribution of court information and resources.

Training Assistance by the Commission on Interpreters: The Commission should work with local courts to develop online courses or webinars to assist in training decision makers and court staff regarding the protocol and overall language access services and planning. Having the Commission lead the effort will help standardize training and information provided, and will prevent duplication of effort by courts, by more efficiently developing statewide training curricula and tools that can later be adapted for local use. In addition, the Commission should provide training on the MAP for new interpreters as part of the Orientation Workshop, as well as for existing interpreters through online courses and other available training opportunities.

D. Outreach and Communication of the MAP

Upon implementing the MAP as their own administrative protocol, courts should develop outreach and communication strategies to ensure all relevant stakeholders, justice partners, attorneys, and the public understand the existence and provisions of the administrative protocol. Courts should be mindful that any communication and outreach efforts should be ongoing and should include mechanisms to ensure LEP and DHH populations, community-based organizations, and other interested organizations receive the information.

In order to maximize dissemination and accessibility of the information, outreach materials should be in English and up to five languages, depending on the linguistic demographics of the court's community. Partners such as local bar associations, government agencies, legal services organizations, and community-based agencies can help ensure distribution of information. In

addition, reaching the relevant populations may involve the use of ethnic print and audio/TV media to effectively communicate the court's language access policies.

Outreach Assistance by the Commission on Interpreters: The Commission is in a position to assist courts with outreach and communication strategies by taking advantage of its other language access outreach activities to inform the public about the MAP. The Commission should also assist in standardizing the information provided across the state about the administrative protocol to prevent duplication of outreach efforts from all the courts using the protocol. Standardization of outreach materials will also help minimize expenditure of scarce resources on translation, avoiding the need for several courts to spend funds on the translation of local materials when one consistent statewide information packet exists, and translation costs can be shared or possibly covered by the Commission.

VI. Language Access Administrative Protocol Management and Other Language Access Considerations

In addition to the Model Administrative Protocol just described, the Language Access Plan, which will be developed by the Georgia Commission on Interpreters in the coming months, will also address, in depth, the following:

- Language Access Services Outside the Courtroom:
    - Signage
    - Bilingual staff (in person or phone access)
    - Telephonic interpreting
    - Video/audio recordings
    - Translated informational materials
    - Translated information on webpages

- Translation Standards: A translation protocol or branch-wide guidance document, to include best practices regarding standards for translators and translations and how to identify and prioritize documents for translation, ensure consistency branch-wide, etc. The translation guidance would cover:
    - Forms
    - Informational materials (jurors, address/location, self-help/*pro se* assistance services)
    - Signage
    - Audio/visual and web content
    - Dissemination of translations to all courts/districts, partners, community, and the public

- Judicial Branch Training: Best Practices in Decision Maker and Employee Training (Court Staff and Administrators):

    - How to work with/serve LEP and DHH populations (including cultural competence)
    - How to work with interpreters (bench cards and other tools)
    - How to work with available technologies

- Monitoring of the Language Access Plan and Services: Mechanism and systems for monitoring, assessing, and evaluating the plan and establishing model complaint procedures.

- Community Education and Community Outreach (including stakeholder involvement)

Appendix A: Georgia Language Access Resources Identified in the MAP[51]

Chapter 11: Appointing Qualified Interpreters, 2016 State Court Benchbook. Published by the Council of State Court Judges, this material has also been adopted for use by the Council of Superior Court Judges, Council of Magistrate Court Judges, and Council of Municipal Court Judges.

Court Access for Individuals Who Are Deaf and Hard of Hearing. A guide for courts published by the American Bar Association.

Georgia Supreme Court Commission on Interpreters Complaint Process. Includes the complaint process and form for registering a complaint against a court interpreter with the Commission on Interpreters.

Instructions for Use of Non-Licensed Interpreters. Model Form from the Georgia Commission on Interpreters for the use of non-licensed interpreters in the Georgia courts, setting forth minimum requirements for qualification of non-licensed interpreters.

Language Identification Guide. A tool for limited English proficient (LEP) persons to self-identify their spoken language. The guide enables court personnel to then seek the assistance of an interpreter in the specified language.

Rules on the Use of Interpreters for Non-English Speaking and Hearing Impaired Persons. Supreme Court of Georgia Rules.

- Appendix A – Uniform Rule for Interpreter Programs. Appendix to the Supreme Court of Georgia Rules on the Use of Interpreters for Non-English Speaking and Hearing Impaired Persons.

- Appendix B – Powers and Duties of the Georgia Commission on Interpreters; Requirement for Certification, Conditional Approval, Registration, and Training of Interpreters.

- Appendix C – Code of Professional Responsibility for Interpreters.

Working with Deaf or Hard of Hearing Persons and Sign Language Interpreters in the Courtroom. Bench card for working with DHH court users and sign language interpreters, developed by the Commission.

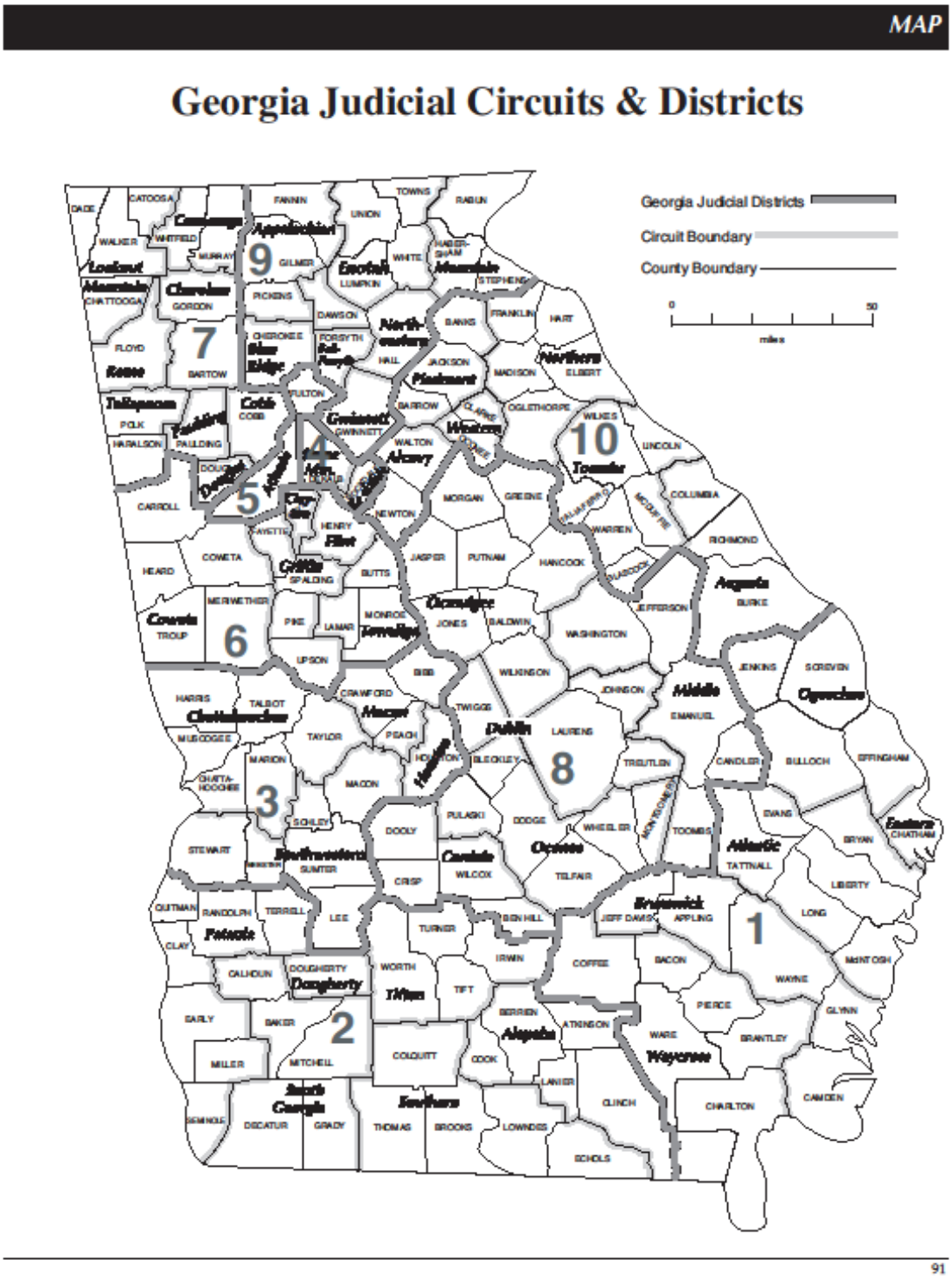
Working with Foreign Language Interpreters in the Courtroom. Provides guidance to judges and court personnel for determining the need for an interpreter, interpreter qualifications, and the

[51] Listed in alphabetical order.

role of the interpreter. It includes sample questions for judges and court staff to assess the English proficiency of a party or witness.

Working with Limited English Proficient Persons and Foreign-Language Interpreters in the Courtroom. Bench card for working with LEP court users and foreign language interpreters, developed by the Commission.

Appendix B: Map of Georgia Judicial Circuits & Districts



Appendix C: Language Identification Guide

2004 Census Test — **United States Census 2010**

LANGUAGE IDENTIFICATION FLASHCARD

ضع علامة في هذا المربع إذا كنت تقرأ أو تتحدث العربية.	1. Arabic
[illegible]	2. Armenian
যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্সে দাগ দিন।	3. Bengali
សូមបញ្ជាក់ក្នុងប្រអប់នេះ បើអ្នកអាន ឬនិយាយភាសា ខ្មែរ។	4. Cambodian
Motka i kahhon ya yangin ûntûngnu' manaitai pat ûntûngnu' kumentos Chamorro.	5. Chamorro
如果你能读中文或讲中文，请选择此框。	6. Simplified Chinese
如果你能讀中文或講中文，請選擇此框。	7. Traditional Chinese
Označite ovaj kvadratić ako čitate ili govorite hrvatski jezik.	8.Croatian
Zaškrtněte tuto kolonku, pokud čtete a hovoříte česky.	9. Czech
Kruis dit vakje aan als u Nederlands kunt lezen of spreken.	10. Dutch
Mark this box if you read or speak English.	11. English
اگر خواندن و نوشتن فارسی بلد هستید این مربع را علامت بزنید.	12. Farsi

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☐ Cocher ici si vous lisez ou parlez le français.	13. French
☐ Kreuzen Sie dieses Kästchen an, wenn Sie Deutsch lesen oder sprechen.	14. German
☐ Σημειώστε αυτό το πλαίσιο αν διαβάζετε ή μιλάτε Ελληνικά.	15. Greek
☐ Make kazye sa a si ou li oswa ou pale kreyòl ayisyen.	16. Haitian Creole
☐ अगर आप हिन्दी बोलते या पढ़ सकते हों तो इस बक्स पर चिह्न लगाएँ।	17. Hindi
☐ Kos lub voj no yog koj paub twm thiab hais lus Hmoob.	18. Hmong
☐ Jelölje meg ezt a kockát, ha megérti vagy beszéli a magyar nyelvet.	19. Hungarian
☐ Markaam daytoy nga kahon no makabasa wenno makasaoka iti Ilocano.	20. Ilocano
☐ Marchi questa casella se legge o parla italiano.	21. Italian
☐ 日本語を読んだり、話せる場合はここに印を付けてください。	22. Japanese
☐ 한국어를 읽거나 말할 수 있으면 이 칸에 표시하십시오.	23. Korean
☐ ໃນກໍລະນີທີ່ຄຸນອ່ານຫຼືປາກເວົ້າພາສາລາວ.	24. Laotian
☐ Prosimy o zaznaczenie tego kwadratu, jeżeli posługuje się Pan/Pani językiem polskim.	25. Polish

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☐ Assinale este quadrado se você lê ou fala português.	26. Portuguese
☐ Însemnați această căsuță dacă citiți sau vorbiți românește.	27. Romanian
☐ Пометьте этот квадратик, если вы читаете или говорите по-русски.	28. Russian
☐ Обележите овај квадратић уколико читате или говорите српски језик.	29. Serbian
☐ Označte tento štvorček, ak viete čítať alebo hovoriť po slovensky.	30. Slovak
☐ Marque esta casilla si lee o habla español.	31. Spanish
☐ Markahan itong kuwadrado kung kayo ay marunong magbasa o magsalita ng Tagalog.	32. Tagalog
☐ ให้กาเครื่องหมายลงในช่องถ้าท่านอ่านหรือพูดภาษาไทย.	33. Thai
☐ Maaka 'i he puha ni kapau 'oku ke lau pe lea fakatonga.	34. Tongan
☐ Відмітьте цю клітинку, якщо ви читаєте або говорите українською мовою.	35. Ukranian
☐ اگر آپ اردو پڑھتے یا بولتے ہیں تو اس خانے میں نشان لگائیں۔	36. Urdu
☐ Xin đánh dấu vào ô này nếu quý vị biết đọc và nói được Việt Ngữ.	37. Vietnamese
☐ באצייכנט דעם קעסטל אויב איר לייענט אדער רעדט אידיש.	38. Yiddish

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Appendix D: Uniform Superior Court Rule 7.3 (Revised), Effective July 13, 2017

Rule 7.3. Interpreters

(A) In all civil and criminal cases, the party or party's attorney shall inform the court in the form of a notice of the need for a qualified interpreter, if known, within a reasonable time — at least 5 days where practicable — before any hearing, trial, or other court proceeding. Such notice shall be filed and shall comply with any other service requirements established by the court. The notice shall (1) designate the participants in the proceeding who will need the services of an interpreter, (2) estimate the length of the proceeding for which the interpreter is required, (3) state whether the interpreter will be needed for all proceedings in the case, and (4) indicate the language(s), including sign language for the Deaf/Hard of Hearing, for which the interpreter is required.

(B) Upon receipt of such notice, the court shall make a diligent effort to locate and appoint a licensed interpreter, at the court's expense, in accordance with the Supreme Court of Georgia's Rule on Use of Interpreters for Non-English Speaking and Hearing Impaired Persons. If the court determines that the nature of the case (e.g., an emergency) warrants the use of a non-licensed interpreter, then the court shall follow the procedures as outlined in the Supreme Court of Georgia's Commission on Interpreters' Instructions for Use of a Non-Licensed Interpreter. Despite its use of a non-licensed interpreter, the court shall make a diligent effort to ensure that a licensed interpreter is appointed for all subsequently scheduled proceedings, if one is available.

(C) If a party or party's attorney fails to timely notify the court of a need for a court interpreter, the court may assess costs against that party for any delay caused by the need to obtain a court interpreter unless that party establishes good cause for the delay. When timely notice is not provided or on other occasions when it may be necessary to utilize an interpreter not licensed by the Supreme Court of Georgia's Commission on Interpreters (COI), the Registry for Interpreters of the Deaf (RID), or other industry-recognized credentialing entity, such as a telephonic language service or a less qualified interpreter, the court should weigh the need for immediacy in conducting a hearing against the potential compromise of due process, or the potential of substantive injustice, if interpreting is inadequate. Unless immediacy is a primary concern, some delay might be more appropriate than the use of an interpreter not licensed by the COI, RID, or other recognized credentialing entity.

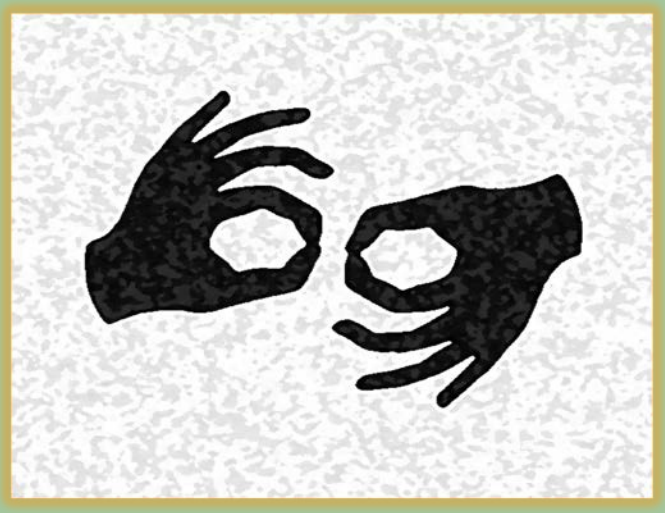
(D) Notwithstanding any failure of a party or party's attorney to notify the court of a need for a court interpreter, the court shall appoint a court interpreter whenever it becomes apparent from the court's own observations or from disclosures by any other person that a participant in a proceeding is unable to hear, speak, or otherwise communicate in the English language to the extent reasonably necessary to meaningfully participate in the proceeding.

(E) If the time or date of a proceeding is changed or canceled by the parties, and interpreter services have been arranged by the court, the party that requested the interpreter must notify

the court 24 hours in advance of the change or cancellation. Timely notice of any changes is essential in order to cancel or reschedule an interpreter, thus precluding unnecessary travel by the interpreter and a fee payment by the court. If a party fails to timely notify the court of a change or cancellation, the court may assess any reasonable interpreter expenses it may have incurred upon that party unless the party can show good cause for its failure to provide a timely notification.

MAP

Template



Model Administrative Protocol for the Provision of Language Assistance Services to Limited English Proficient and Deaf or Hard of Hearing Persons in the Georgia Courts

Developed By:
Supreme Court of Georgia Commission on Interpreters MAP Development Committee

I. Introduction

This Model Administrative Protocol (MAP) sets forth the policy and procedures of the _____ [*name of judicial entity*[1]] regarding the provision of court interpreters and other language assistance services for limited English proficient (LEP) and deaf or hard of hearing (DHH) persons accessing the court and its services.

This MAP and its Companion use certain common concepts as defined below (in alphabetical order):

Alternative Dispute Resolution (ADR) – alternatives to traditional litigation, including mediation, non-binding arbitration, and case evaluation.[2]

Bilingual (and Multilingual) Staff[3] – staff proficient in English and a second (or more) language(s), and able to communicate effectively and accurately, orally and in writing, in all working languages. The language proficiency of bilingual and multilingual staff should be determined by the court through valid assessment tools,[4] rather than reliance on a staff person's self-evaluation.

Deaf or Hard of Hearing (DHH) – any person whose hearing is totally impaired or whose hearing is so seriously impaired as to prohibit him or her from understanding oral communication when spoken in a normal conversational tone. Pursuant to guidance from the National Association of the Deaf, DHH is the preferred term over "hearing impaired," which is widely considered to be pejorative within Deaf culture.[5]

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[1] Given the various possibilities in which judicial districts, judicial circuits, and person courts may employ this MAP, the term "name of judicial entity" refers to whichever judicial administrative level is adopting this MAP.
[2] *See*, Georgia Commission on Dispute Resolution (www.godr.org).
[3] For purposes of this MAP and its Companion, the term "bilingual staff" includes staff who may be multilingual and fully proficient in more than two languages.
[4] Courts may develop their own assessment tools and/or utilize tools or standards developed by other organizations such as the Oral Proficiency Interview (OPI) administered by Language Testing International (and utilized for licensing Registered interpreters in Georgia) and the Interagency Language Roundtable (ILR).
[5] National Association of the Deaf, Frequently Asked Questions, "What is wrong with the terms "deaf-mute," "deaf-dumb," or "hearing-impaired?"

Deaf Interpreter – a specialist, who is deaf, who provides interpreting, translation, and transliteration services in American Sign Language (ASL) and other visual and tactual communication forms used by persons who are deaf, hard of hearing, and deaf-blind. Deaf interpreters most often work in tandem with hearing sign language interpreters. The National Consortium of Interpreter Education Center (NCIEC) studies indicate that in many situations, use of a deaf interpreter enables a level of linguistic and cultural bridging that is often not possible when hearing ASL-English interpreters work alone.

Decision Maker – includes judges, magistrates, special masters, commissioners, hearing officers, arbitrators, neutrals, and mediators.[6]

Interpretation – the process of rendering **verbal communications** from one language (source language) into another language (target language) effectively, accurately, and impartially. Interpreting effectively and accurately means rendering any specialized vocabulary precisely so that the meaning of the communication is clear and conceptually correct in the target language. Additionally, interpreting effectively, accurately, and impartially means correctly expressing the voice, tone, emotion, and non-spoken message of the communication audibly and/or visually. The person who performs this task is an ***interpreter***.

Licensed Interpreter – any person on the Certified foreign-language interpreter registry of the Supreme Court of Georgia Commission on Interpreters (Commission); any person on the Commission's Conditionally Approved foreign-language interpreter registry;[7] any person on the Commission's Registered foreign-language interpreter registry; or any person certified through the Registry of Interpreters for the Deaf (RID), National Association of the Deaf (NAD), or other industry-recognized credentialing entity. The Commission extends reciprocity to foreign-language interpreters licensed by any active member state of the Council of Language Access Coordinators (CLAC),[8] or by the Administrative Office of the United States Courts through its Federal Court Interpreter Certification Examination (FCICE).

Limited English Proficient (LEP) – any person who speaks English "less than very well," cannot readily understand or communicate in spoken English, and who consequently cannot equally participate in or benefit from the proceedings without an interpreter to assist him or her. The fact that a person for whom English is not a primary language knows some English does not mean that person does not need an interpreter or should not be allowed to have an interpreter.

Non-Licensed Interpreter – any person not licensed by the Commission through its established licensing requirements or through licensing reciprocity considerations as mentioned above in the

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[6] *See*, *Supreme Court of Georgia Rules: Use of Interpreters for Non-English Speaking and Hearing Impaired Persons* (Rules), Appendix A, II (A).

[7] The interpreter registry maintained by the Commission may be found at https://gcr.onegovcloud.com/public/directory/#/.

[8] Formerly known as the Consortium for Language Access in the Courts.

definition of "Licensed Interpreter." Any person not certified through RID, NAD, or other industry-recognized credentialing entity mentioned in the definition of "Licensed Interpreter."

Qualified Interpreter – a person who is able to **orally** interpret effectively, accurately, and impartially. Interpreting effectively and accurately means rendering any specialized vocabulary precisely so that the meaning of the communication is clear and conceptually correct in the language to which it is interpreted. Interpreting effectively, accurately, and impartially also means correctly expressing the voice, tone, emotion, and non-spoken message of the communication audibly and/or visually. A qualified interpreter will also be knowledgeable of and abide by industry-recognized ethical and professional standards of conduct for interpreters.

> **NOTE:** Per O.C.G.A. § 24-6-651 (6), a *qualified* sign language interpreter means "any person certified as an interpreter for hearing impaired persons by the Registry of Interpreters for the Deaf or a court qualified interpreter."
>
> **NOTE:** Per O.C.G.A. § 24-6-651 (2), a *court qualified* sign language interpreter means "any person licensed as an interpreter for the hearing impaired pursuant to Code Section 15-1-14."

Qualified Translator – a person who can translate **written text** effectively, accurately, and impartially. A qualified translator preserves the tone and level of language used in both languages, renders specialized vocabulary precisely so that the meaning of the written communication is clear and conceptually correct, and abides by industry-recognized ethical and professional standards of conduct for translators.

Registry of Interpreters for the Deaf (RID) – a national membership organization that plays a leading role in advocating for excellence in the delivery of interpretation and transliteration services between people who are deaf or hard of hearing and people who use spoken language. In collaboration with the Deaf community, RID supports members and encourages the growth of the profession through the establishment of a national standard for qualified sign language and deaf interpreters and transliterators, ongoing professional development and adherence to a code of professional conduct.

Source Language – the native or primary language of the individual initiating the verbal communication. For written documents, the language of the original document that requires translation. *Example*: Attorney (English speaking), through an interpreter, asks the witness (Spanish speaking) a question. English is the source language. Birth record (in Spanish) needs translation into English. Spanish is the source language for the translation.

Specialist Certificate: Legal (SC:L) – holders of this specialist RID certification have demonstrated specialized knowledge of legal settings and greater familiarity with language used in the legal system. These persons are recommended for a broad range of assignments in the legal setting. (This credential has been available since 1998, but was placed under moratorium by RID

as of January 1, 2016. The SC:L credential remains fully recognized by RID, but the designation is not currently available to persons who do not already have it.)[9]

Target Language – the language into which the verbal communication needs to be interpreted. For written documents, the language into which the original document needs translating. *Example*: Attorney (English speaking), through an interpreter, asks the witness (Spanish speaking) a question. Spanish is the target language. Birth record (in Spanish) needs translation into English. English is the target language for the translation.

Translation – the process of rendering a **written communication** from the source language to the target language effectively, accurately, and impartially. Translating effectively and accurately means rendering any specialized vocabulary precisely so that the meaning of the communication is clear and conceptually correct in the target language. Additionally, translating effectively and accurately requires preserving the tone and level of language used in both languages. The person who performs this task is a ***translator***.

Transliteration – in American Sign Language (ASL), transliteration means English signing that incorporates grammatical features of ASL, and is often used for making auditory information accessible in a visual way. Transliteration is performed by a ***transliterator***.[10]

Vital Document – a document, paper or electronic, that contains information that is critical for executing a federal-funding recipient's mission, including pleadings and letters or notices that require a response from party, witness, or other intended individual; also documents that inform parties or witnesses of their right to, and the availability of, free language assistance.

II. Legal Basis for Interpreter Provision and Language Access

Under Georgia law,[11] Title VI of the Civil Rights Act of 1964,[12] Department of Justice regulations and accompanying guidance documents,[13] the Americans with Disabilities Act of 1990 (ADA),[14] and Georgia Supreme Court Rules on Use of Interpreters for Non-English Speaking and Hearing Impaired Persons (Rules),[15] Georgia courts are under an obligation to provide interpreters to all LEP and DHH persons in civil and criminal court proceedings, as well as language access services in all court-managed services and programs.

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[9] *See*, RID website "Certifications Under Moratorium" (http://www.rid.org/rid-certification-overview/certifications-under-moratorium/).
[10] *See*, https://en.wikipedia.org/wiki/Transliteration.
[11] *See*, O.C.C.A. § 24-6-650 *et seq.*, *See also*, O.C.G.A. § 15-6-77(e)(4).
[12] 42 U.S.C. § 2000d.
[13] 67 F.R. 41455 (June 2002).
[14] 42 U.S.C. § 12101.
[15] Available at http://coi.georgiacourts.gov/content/supreme-court-rules.

III. Needs Assessment and Early Identification

Courts have an affirmative duty to actively determine language access needs of court users, to notify users of the services available to meet those needs, and to offer those services to users.

A. Data Collection and Needs Assessment

The _____ [*name of judicial entity*] will, on an annual basis, compile demographic data regarding the language needs of its community. The court will initially look at the most recent and relevant U.S. Census and American Community Survey (ACS) data, and conduct additional gathering from the _____ [*local*] school district(s), the county department of public health, the public defender's office, the district attorney's office, Atlanta Legal Aid Society,[16] or Georgia Legal Services Program.[17] In addition, the court will communicate with local legal services providers and community based organizations, namely, _____, that focus their service provision on immigrant and refugee populations as well as access to justice for indigent persons in this geographic area, to identify possible immigration and new language trends. This data will be analyzed annually to determine whether the court's allocation of language access resources is appropriate.

The _____ [*name of judicial entity*] will track every request by an LEP or DHH person for language access services, including but not limited to interpreters, bilingual staff, and translated materials (both written and audio visual). The court will track requests by language, case type (e.g., family law, criminal, housing, etc.), and proceeding and/or location of service request (e.g., court hearing, ADR, clerk's office, etc.). The court will also track whether the language access service requested was granted or denied and (where applicable) the reason for the denial.

In addition to mechanisms discussed under the identification of language needs section below, the _____ [*name of judicial entity*] will track this internal data in the case management system where available, and/or case files if case management is not automated. On a yearly basis, the court will analyze the data collected to identify whether services requested are in fact provided, assist in the allocation of language access resources, and identify gaps in the provision of services to address future needs.

The _____ [*name of judicial entity*] will send the final data compilation, in the form of an annual report, to the Commission, to assist the Commission in monitoring the statewide Language Access Plan, identifying interpreter training and certification strategies, and assessing the need for other tools to assist the Judicial Council's Administrative Office of the Courts and local courts in the provision of language access services.

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[16] For courts located in the counties of Clayton, Cobb, DeKalb, Fulton and Gwinnett.

[17] For courts located in the remaining 154 of Georgia's 159 counties.

B. Early and Ongoing Identification of Language Needs in the Community and the Court User Population

1. Designated language access office or point person

The _____ [*name of judicial entity*] has designated _____ [*include name of designated local Language Access Coordinator or Interpreter Coordinator*] as the court's Coordinator of Language Access Services, to whom requests for interpreters and other language access services may be addressed. The _____ [*name of designated office/position*] is available to:

- Assist LEP and DHH persons to secure an interpreter or other language access services;
- Assist attorneys, justice partners, and other relevant persons to secure interpreters and related language access services for their clients and constituents;
- Assist court staff and decision makers to secure interpreters and other language access services;
- Answer questions from LEP and DHH persons, and the public at large, regarding the court's available language access services;
- Manage and respond to feedback from the public about the court's language assistance protocol;
- Serve as a clearinghouse for the court's language access resources, including translated materials, interpreter roster, language identification cards, and other resources identified in this MAP; and
- Answer requests from decision makers and court staff regarding the court's language access policies and procedures.

LEP and DHH persons, attorneys, justice partners, government agencies, and any other entities in need of language access assistance or information for themselves or their clients, may contact:

_____*[Name of person/office designated]*
_____*[Address]*
_____*[Phone number]*
_____*[Fax/Email]*

2. Identification of language access needs at all points of contact with the court

a) *Mechanisms for self-identification by LEP and DHH court users*

There are several points of contact between LEP and DHH court users and the _____ [*name of judicial entity*]. Among them are:
[*Check all that apply*]:

☐ Security screening at courthouse entrances at the following courthouse(s):

- _____ [*Insert court location(s) where security screening exists*].

☐ Clerks' offices at the following location(s):

- _____ [*Insert court location(s) where there are clerks' offices, even if within same courthouse building, e.g., for different case types*].

☐ Jury offices and jury summons. Jury offices located at:

- _____ [*Insert court location(s) where there are jury offices*].

☐ Records offices at the following location(s):

- _____ [*Insert court location(s) where there are records offices*].

☐ Cashiers at the following location(s):

- _____ [*Insert court location(s) where there is a cashier, if different from above departments*].

☐ Alternative dispute resolution programs, including mediation, at the following location(s):

- _____ [*Insert court location(s) where there are ADR offices and/or mediation services*].

☐ Courtrooms at the following courthouse(s):

- _____ [*Insert court location(s) where courtrooms are located*].

☐ *Pro se* clinics and related services, including but not limited to parenting classes or other required classes for divorcing parents, at the following location(s):

- _____ [*Insert court location(s) where court-managed pro se services are provided*].

☐ Family Violence Intervention Programs (FVIPs).

☐ Website for the _____ [*name of judicial entity*], available at _____ [*URL for court website*].

☐ Judicial Council of Georgia, Administrative Office of the Courts website, available at www.georgiacourts.gov.

☐ The _____ [*name of judicial entity*] phone system, accessible at _____ [*main phone number*].

In order to facilitate the ability of LEP and DHH persons to identify and request their need for language access services, the _____ [*name of judicial entity*] has the following tools available at all points of contact listed above:
[*Check all that apply*]

- ☐ Language identification cards at all points of contact in 38 languages.[18]

- ☐ Multilingual notices at all appropriate points of contact notifying members of the public of their right to request an interpreter or other language assistance at any point during their contact with the court.

- ☐ A multilingual notice on the court's website at _____ [*insert URL*] informing persons of their right to language access services at any point during their contact with the court.

- ☐ Video message [with closed captioning and ASL] posted to the court's website at _____ [*insert URL*].

- ☐ Other [*add any additional mechanism for self-identification for LEP and DHH persons*]:
  _____
  _____.

b) *Mechanisms for identification by court staff and decision makers*

When it appears that a person has difficulty communicating due to a language barrier, it is the policy of the _____ [*name of judicial entity*] for the court staff person, language access designated person or office, or decision maker attempting to communicate with the LEP or DHH person to inform the LEP or DHH person of his or her right to have an interpreter provided by the courts, even absent a request for language access services by the LEP or DHH person. It is also important to note that "reasonable accommodations" for persons with disabilities, per the ADA, include auxiliary aids and services and not just the provision of interpreters.

c) *Mechanism for identification by justice partners*

To ensure the earliest possible identification of the need for court interpreters and other language access services, the _____ [*name of judicial entity*] has established internal protocols with the various justice partners which routinely interact with this court in order for these partners to communicate to the appropriate court staff the needs of LEP or DHH participants who will be coming into contact with the court. While justice

[18] *See*, http://coi.georgiacourts.gov/content/language-identification-guide.

partners themselves may be under the legal obligation to provide language access services to their clients, the court will be notified of any services that fall under the responsibility of the court as early as possible so services may be provided in a timely and efficient manner.

3. Identification of language access needs in court records

The _____ [*name of judicial entity*] maintains case and party related records in the following manner:
[*Check all that apply or add your own method of tracking language need*]

☐ An electronic court-wide case management system that includes party and case information and records, and allows tracking of a party's language needs. Therefore, the _____ [*name of judicial entity*] is able to use the case management system to track a person's language needs if he or she is involved in another case in the future, as well as track by case number and/or case name to ensure the consistent provision of services in all proceedings under that case.

☐ Electronic case files and records, not in a court-wide system, that allow for tracking language access needs by case number and/or case name as the information is input by court staff, but do not automatically cross-reference the system to track language needs by party name, in case that same LEP or DHH person is involved in another case.

- Because of the inability to track language needs by party name, the _____ _____ [*name of judicial entity*] will institute procedures for court staff to manually search the system by party name when a new case filing occurs to obtain any relevant language identification information.

- As resources permit, _____ [*name of judicial entity*] will develop policies and procedures for modifying or updating the existing electronic record system to allow for tracking of language needs by case number and party name.

☐ Paper case files and records. Because of the inability to cross-reference party information, this current system only allows the court to ensure that case records clearly identify the involvement of an LEP or DHH person in that case, so that an interpreter or other language access service is provided at every stage of the proceeding in the case, as appropriate.

- In order to facilitate identification of cases with a language access need, the _____ [*name of judicial entity*] will color code, or otherwise flag, files where there is a language access need.

- Documentation will be inserted in the case file to ensure language access needs are identified appropriately, and a written copy of that documentation will be provided

to the court's language access point person, as well as to the judge presiding over the case.

4. Additional tools for early identification of language access needs

[*Include or check all that apply and add any others*]

The _____ [*name of judicial entity*] has instituted the following additional mechanisms for the early and accurate identification of the need for language access services:
[*Check all that apply*]

☐ LEP and DHH litigants and their attorneys, as well as other entities aware of the involvement of LEP and DHH person in a case (as parties, witnesses, or other significant roles in a case), must indicate, when known, the need (or possible need) for interpreters or other language access services with the filing of all initial pleadings with the court. This requirement applies to plaintiffs, petitioners, defendants, and respondents. Failure to comply with this provision does not result in a denial of language access services but may delay the provision of services if the court does not receive adequate notice in time to provide the necessary services.

☐ The _____'s [*name of judicial entity*] notices, as well as any relevant cover sheets sent out by court staff, inform parties of the availability of language access services and how to request those services.

☐ It is the policy of the _____ [name of judicial entity] for all court clerks and other staff at relevant points of contact to inquire about the need for language access services for any party or witness.

In assessing the need for language services, _____ [*name of judicial entity*] recognizes that language services, including but not limited to interpretation, translation, signage, brochures, and other information provided by the court, should not automatically be limited to English and Spanish. _____ [*name of judicial entity*] recognizes that the LEP communities it serves may include non-Spanish speaking communities that may be particularly small and isolated that require the court's assistance. Accessibility for all LEP and DHH persons will be considered.

IV. Provision of Qualified Interpreters in Court Proceedings and Other Court-Managed Functions

It is the policy of the _____ [*name of judicial entity*], in accordance with the Rules, to provide qualified foreign-language and sign language and deaf interpreters to all LEP and DHH court participants who may require those services, in all court

proceedings, at no cost to the court user. Court participants include parties, witnesses, persons with legal decision-making authority (such as parents or legal guardians of minors who are involved in a case but who are not parties themselves, *guardians ad litem*, and parents/guardians of minor victims of crime), and persons with a significant interest in the case (such as family members of a victim of crime or of the defendant on trial for serious crime, members of a class action who are not lead plaintiffs, etc.).

When a party, witness, or other court participant, as defined above, requests the assistance of an interpreter, or when the decision maker determines an interpreter is needed because the LEP or DHH person cannot meaningfully participate due to a language barrier or cannot be understood directly by counsel, the decision maker, the jury, or other relevant courtroom participants, the decision maker will appoint a qualified interpreter for that LEP or DHH person.

A. Appointment of Qualified Interpreters

Court staff, decision makers, and any other person responsible for securing the assistance of an interpreter at the _____ [*name of judicial entity*] will follow the following order of preference in appointing an interpreter, as stated in the Rules:

1. An in-person Certified,[19] Conditionally Approved,[20] or Registered[21] foreign-language interpreter, or an in-person sign language or deaf interpreter with a RID SC:L credential, is appointed, whenever possible, pursuant to the Rules.

2. If no Certified foreign-language interpreter is available, a Conditionally Approved foreign-language interpreter is appointed, if available.

3. When no Certified, Conditionally Approved, or Registered foreign-language interpreter, or credentialed sign language or deaf interpreter, is available locally in a timely manner, the decision maker or designated court staff will weigh the following: the need for moving forward with the proceeding against any possible negative consequences to the LEP or DHH person's ability to meaningfully participate in the proceedings, as well as the court's inability to communicate effectively with the participant if a non-licensed or non-credentialed interpreter is used.

   In exercising their discretion – including the determination of whether a licensed foreign-language interpreter or credentialed sign language or deaf interpreter appearing remotely may be, given the circumstances, more or less effective than a non-licensed or non-credentialed in-person interpreter – decision makers and designated court staff will: [*Check all that apply*]

[19] In foreign languages for which a National Center for State Courts (NCSC) oral certification examination exists, namely, Arabic, Cantonese, French, Haitian-Creole, Hmong, Korean, Laotian, Mandarin, Portuguese, Russian, Serbian, Somali, Spanish, and Vietnamese.

[20] *See*, Rules, Appendix B, II (B).

[21] In foreign languages for which an NCSC oral certification examination does NOT exist.

☐ Appoint a licensed[22] foreign-language interpreter or credentialed sign language or deaf interpreter appearing remotely via video, as the first preference;

☐ Appoint a licensed foreign-language interpreter appearing remotely via telephone, as the second preference; or

☐ Consider the use of a non-licensed foreign-language interpreter or non-credentialed sign language or deaf interpreter, as a last resort.

In any instance, absent exigent circumstances, these interpreters are used only for short, non-evidentiary hearings, or for actions aimed at obtaining emergency relief followed by a continuance for time to secure an in-person licensed foreign-language interpreter or credentialed sign language or deaf interpreter, if needed.

At all times, decision makers and designated court staff exercise their discretion to ensure that the use of the remote interpreter or an in-person non-licensed foreign-language interpreter or non-credentialed sign language or deaf interpreter is consistent with the administration of justice and meaningful and equal access by all the participants.

4. When no licensed foreign-language interpreter or credentialed sign language or deaf interpreter is available, absent exigent circumstances, it is the policy of the _____ [*name of judicial entity*] **NOT** to appoint as an interpreter anyone who is unqualified or who has a potential conflict of interest in the case, including but not limited to the following: minors, friends and family of the LEP or DHH person, bilingual court staff, advocates and attorneys for the LEP or DHH person, justice partner bilingual staff, or anyone else deemed unqualified after *voir dire* by the decision maker.

   - Even when an LEP or DHH party prefers to use his or her own non-licensed or non-credentialed interpreter, decision makers and designated court staff will appoint an available licensed interpreter, or an interpreter provisionally qualified under the *voir dire* instructions provided by the Commission.

5. When a non-licensed foreign-language interpreter or non-credentialed sign language or deaf interpreter is used, decision makers or designated court staff shall follow the guidelines provided by the Rules, and the Commission's guidance and bench cards by:

   - Conducting a *voir dire*[23] with the prospective non-licensed foreign-language interpreter or non-credentialed sign language or deaf interpreter in order to assess

[22] Certified, Conditionally Approved, or Registered.

[23] Samples provided in bench cards: Working with Foreign Language Interpreters in the Courtroom and Working with Deaf or Hard of Hearing Persons and Sign Language Interpreters in the Courtroom.

that interpreter's qualifications; and

- Following the Commission's Instructions for Use of Non-Licensed Interpreters, which includes admonitions to the non-licensed or non-credentialed interpreter on the basic tenets of the code of professional responsibility addressing interpreter ethics and standards.

6. In any situation where a remote interpreter, a non-licensed foreign-language interpreter, or a non-credentialed sign language or deaf interpreter was used on a one-time basis because of exigent circumstances, the court will follow the Rules' stated preference and will appoint an in-person Certified, Conditionally Approved, or Registered foreign-language interpreter or a credentialed sign language or deaf interpreter for subsequent proceedings.

7. Court personnel will verify the credentials of all interpreters, especially those who present themselves as foreign-language interpreters who are Certified or otherwise licensed by the Commission. Verification includes requiring foreign-language interpreters to present their license numbers and checking the Commission's Searchable Directory located on the Commission's site at http://coi.georgiacourts.gov/content/locate-interpreter. For sign language and deaf interpreters, court personnel should contact RID:

   Registry of Interpreters for the Deaf
   333 Commerce Street
   Alexandria, VA 22314
   703-838-0030 (voice)
   703-838-0454 (fax)
   RIDinfo@rid.org

B. Best Practices in the Appointment of Interpreters

In appointing interpreters, decision makers and designated court staff at the _____ [*name of judicial entity*] will:

- Whenever possible, in accordance with the Rules Appendix A, II (E) and A, II (F) (12), (13), authorize a pre-appearance interview between the interpreter and the LEP or DHH person in order to ensure language compatibility and communication between the interpreter and the LEP or DHH person.

- Provide instructions to all attorneys, LEP and DHH participants, jury members, and other relevant persons regarding the role of the interpreter and how to work with an interpreter during courtroom proceedings.

- Make a determination of the appropriate number of interpreters that may be required for the proceeding in question. Depending on the number of LEP or DHH persons involved,

and the availability of interpreters, the _____ [*name of judicial entity*] shall appoint separate interpreters when the proper administration of justice so dictates. For example, the court will strive, as a best practice, to appoint an interpreter for an LEP witness separate from a party's interpreter, who may need to interpret for attorney-client communications during the proceeding. Similarly, the court will, when possible, appoint separate interpreters for opposing parties in a family violence protective order.

- Appoint, if resources allow, team interpreting (two or more interpreters) for long hearings or trials over one hour, in order to ensure accuracy by diminishing the potential of interpreting fatigue and subsequent errors.

  Only allow an LEP or DHH person to waive his or her right to the assistance of an interpreter if the waiver is knowing, voluntary, in writing, and on the record, if appropriate. If the decision maker or designated court staff, in his or her discretion, believes that the absence of an interpreter may subvert the interests of justice, that communication will be impeded, and that the court will not be able to adequately communicate with the LEP or DHH party or witness, the waiver of an interpreter may be rejected. If an LEP or DHH person is allowed to waive the use of an interpreter, the LEP or DHH person may, at a later stage, revoke the waiver and request the use of an interpreter without negative repercussions.

  NOTE: The _____ [*name of judicial entity*] recognizes that a person who is LEP or DHH will likely be unable to make a "knowing" waiver due to his or her inability to communicate effectively in English. However, the court also recognizes that it is possible that a person's ability to communicate in English may be advanced enough for him or her to inform the court that they do not wish to have an interpreter's assistance, but not advanced enough to be able to meaningfully participate in the more substantive portions of the legal proceeding down the line. This court further recognizes, as noted in the Rules, "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."[24] A decision maker with no proficiency in the LEP/DHH person's native language or preferred language of communication may consider asking the *voir dire* questions to help the decision maker assess whether or not the LEP or DHH person's waiver is knowing.[25]

C. Calendaring and Scheduling of Interpreters

The _____ [*name of judicial entity*] understands that efficiencies in the scheduling of interpreters and calendaring of matters where an interpreter

[24] *See*, Rules, Appendix A, II (B).

[25] Sample questions are provided in the *Companion to the Model Administrative Protocol for the Provision of Court Interpreters to Limited English Proficient and Deaf or Hard of Hearing Persons (MAP Companion)*, pp. 20-22.

may be required may enable the court to more effectively provide high-quality language access services where resources are limited.

To this end, in scheduling and calendaring interpreters, the _____ [*name of judicial entity*] employs the following:
[*Check all that apply*]

- ☐ Batching matters appropriately for which an interpreter for a specific language is needed and a qualified interpreter is provided, such as a _____ [*list any calendars for which batching by case type and language need exists*].[26]

- ☐ Coordinating calendars so a qualified interpreter may be available for several matters in the same court location on the same day.

- ☐ Establishing systems so that an interpreter coordinator can easily and efficiently dispatch a qualified interpreter from one court location to another, or one courtroom to another, such as:
  _____
  [*list any systems*].

- ☐ Coordinating the use of interpreters so that when an interpreter is not busy in a courtroom proceeding, he or she may be available in person or telephonically to assist in other court-managed services, such as clerks' offices, *pro se* clinics, etc.

- ☐ Establishing a pool of qualified interpreters who are available by telephone or video to assist in non-critical proceedings or other court programs.

  - ☐ The _____ [*name of judicial entity*] shares this interpreter pool with the following courts: _____
    _____
    [*check and list courts, if your court shares the pool of interpreters with other courts*].

- ☐ Providing interpreters, when feasible, with basic information about the case, relevant court documents, and other information that can help the interpreter better prepare for the event, including technical terminology, jargon, and other complex issues that may complicate the interpretation.

- ☐ The _____ [*name of judicial entity*] employs the additional strategies to maximize the use of interpreters: _____

[26] *See*, *MAP Companion*, p. 22.

_____.

D. Remote Interpreting

The _____ [*name of judicial entity*] uses the following remote interpreting technologies for the provision of language access:
[*Check all that apply*]

☐ Video-remote interpreting (VRI) with high-quality video and audio equipment that permits interpreting in the consecutive and simultaneous modes, as well as confidential communications between parties and their attorneys.

☐ Telephonic interpretation, which occurs through the use of _____ [*name of service provider, e.g., telephonic interpreter service if any, or other method of provision*].

☐ Other: [*Describe*] _____.

The policy of the _____ [*name of judicial entity*] with regard to VRI is as follows:

- VRI and telephonic interpreting are effective in some settings, but not all. They will be considered but used with caution. Generally, in-person interpreters are preferred.
- Remote technologies require specialized and high-quality equipment to ensure effective and accurate communication.
- Telephonic interpreting will be a last resort for courtroom proceedings and reserved for non-courtroom events or very brief non-evidentiary proceedings, such as continuances, given that non-verbal cues – not visible when on the telephone – are critical for communication. Telephonic interpreting can be particularly problematic in some circumstances such as for persons who are deaf or hard of hearing, the elderly, those struggling with mental illness, quiet or nonverbally communicative persons, and others.
- VRI must be used appropriately, with high-quality equipment and trained interpreters, in order to be an efficient and effective mechanism for providing language access services when an in-person interpreter is not available, or when only a non-licensed foreign-language interpreter or non-credentialed sign language or deaf interpreter is available in person (but a licensed or credentialed one is available via video).

The _____ [*name of judicial entity*] provides and requires training for staff and decision makers on VRI and telephonic interpreting, how to use the technologies, how to work with the remote interpreter, and what appropriate events for VRI and telephonic interpreting are.

E. Appointment of Interpreters for Court-Managed Functions

The policy of the _____ [*name of judicial entity*] regarding the provision of interpreters for court-managed services, programs, and operations is consistent with the Rules.[27] The Rules provide that, outside of criminal and civil court proceedings, Title VI also applies to all other court-managed functions, including:

- information counters;
- intake or filing offices;
- cashiers;
- records rooms;
- sheriffs' offices;
- probation and parole offices;
- ADR programs;
- *pro se* clinics;
- criminal diversion programs;
- anger management classes;
- detention facilities; and
- other similar offices, operations, and programs managed by the court.

The _____ [*name of judicial entity*], therefore, in compliance with Title VI, provides the most appropriate language access service for these programs and services, including qualified interpreters, bilingual and multilingual staff, and translated materials and information. When the most appropriate language access service is the appointment of a qualified interpreter, the _____ [*name of judicial entity*] will follow the standards described above for the appointment of interpreters.

F. Additional Courtroom Tools for Language Access

In addition to the provision of qualified court interpreters in all proceedings where required, the _____ [*name of judicial entity*] provides the following language access services in the courtroom to assist LEP and DHH persons:
[*Check all that apply*]

☐ Bilingual courtroom staff are located, whenever feasible, in the courtroom to assist LEP and DHH persons.

- The court ensures bilingual staff are proficient in English and a second (or more) language(s), and able to communicate effectively and accurately, orally and in writing, in all the languages in which they communicate. The court tests the proficiency of bilingual staff in a neutral, systematic way. It does not rely on the bilingual staff

[27] *See*, Rules, Appendix A, II.

person's self-assessment of language skills.

- Absent exigent circumstances, bilingual staff are not used to interpret in the courtroom because of possible conflicts between the role of interpreter and role of court staff and related ethical concerns.
- At those times when bilingual staff are used to interpret outside a courtroom proceeding, bilingual staff understand the role of the interpreter and basic interpreting skills, and are only used for basic, noncritical communications.

☐ Signage and translation of courtroom resources, such as [*list any available translated courtroom materials or signage; see MAP Companion for examples*]:
_____
_____
_____.

☐ Use of multilingual video recordings, PowerPoint presentations, or VRI for general courtroom instructions, judge's introductory remarks, courtroom orientation, or other general processes.

G. Interpreter Compensation

As stated above, the _____ [*name of judicial entity*] provides interpreters at no cost to the LEP or DHH person. The _____ [*name of judicial entity*] directly compensates the interpreters it employs. As specified under the Rules,[28] interpreter compensation is currently the responsibility of the local courts, and there is no uniform, statewide compensation system at this time.[29] Therefore, interpreter fees and costs will be paid by the _____ [*name of judicial entity*] in accordance with the agreement in place between the interpreter and the court.

V. Strategies for Management and Monitoring of the MAP

The _____ [*name of judicial entity*] has established the following systems for monitoring the court's effectiveness in providing language access services to its LEP and DHH users, and for identifying the need for adjustments and improvements:

A. Periodic Monitoring of Effectiveness of the MAP

On an annual basis, the _____ [*name of judicial entity*] will monitor the MAP's implementation by:
[*Check all that apply*]

[28] *See*, Rules, Appendix A, VII.
[29] *See*, Rules, Section V.

☐ Gathering data regarding provision of interpreters, interpreter hours, and interpreter billing, by case type and proceeding, and comparing to prior usage.

☐ Gathering data regarding the use of licensed interpreters as compared to non-licensed interpreters to ensure increases in the use of licensed interpreters.

☐ Collecting information on the number of continuances to obtain an interpreter, and delays in processing of cases, to determine efficiencies in early identification of interpreter need.

☐ Analyzing the impact of any established mechanisms, such as calendaring or scheduling efficiencies, in interpreter cost-savings and delays in case processing.

☐ Soliciting feedback from justice partners, legal services programs, attorneys and bar associations, community-based organizations, and the public regarding the implementation of the administrative protocol.

☐ Identifying areas for improvement (e.g., provision of interpreters, translations, the addition of bilingual staff, better communication to stakeholders regarding policies, better staff training, etc.) and assistance from the Commission (such as translation assistance for statewide information, areas where interpreter orientations or licensing requirements may be improved, language access planning, etc.).

☐ Other:
_____

B. Local Complaint Mechanisms

1. The _____ [*name of judicial entity*] has a complaint form and a complaint mechanism to enable LEP or DHH persons, their attorneys, justice partners, or any interested person to file a complaint for the failure to provide interpreter services and/or the quality of interpreter services provided. Complaints may also be filed regarding the provision (or the failure to provide) language access services, as well as the quality of those services, including translations, bilingual staff, web information, access to services, and other related services.

   - The complaint form and instructions are available at:
     [*Check all that apply or fill in local information*]

     ☐ The clerk's office, located at _____.

     ☐ The Language Access Coordinator/Interpreter Coordinator's Office, located at

_____.

☐ The court's website at _____ [*insert URL*].

☐ By calling _____ or mailing a request to _____.

☐ Other: _____.

- The complaint form and instructions are currently translated into _____ language(s), namely, _____ [*fill in as appropriate*].

2. Any complaints filed about language access services provided at the _____ [*name of judicial entity*] will be investigated and resolved at the local court level. Complaints about interpreter performance or ethical violations by licensed interpreters will be referred to the Commission as the entity responsible for interpreter qualifications and ethical compliance. The Commission will then conduct a formal investigation in accordance with its disciplinary procedures. Complaints regarding non-licensed interpreters or those not licensed by the Commission will be investigated and resolved at the local court level.

3. On a quarterly basis, the _____ [*name of judicial entity*] will forward a report to the Commission regarding the complaints filed, whether resolved or not, at the local level. The intent of this report is merely to allow the Commission to monitor the effectiveness of language access policies and of the administrative protocol. The quarterly report will include the number of complaints, reason for complaints, and resolution (if any) of the complaint.

C. Training for Judicial Branch on the MAP

The _____ [*name of judicial entity*] understands that, in order for the successful implementation of this administrative protocol and the effective provision of interpreter and other language access services, all court staff and decision makers must be properly trained on the policies and procedures in the protocol, as well as language access policies generally.

The _____ [*name of judicial entity*] will provide training for its court staff and decision makers on the following topics:
[*Check all that apply*]

☐ Proper appointment of qualified interpreters for all court proceedings.

☐ How to *voir dire* a non-licensed court interpreter.

☐ Role of an interpreter, modes of interpreting, and interpreter ethics and professional standards.

☐ Courtroom management when interpreters are used.

☐ Use of remote technologies for interpreting.

☐ Cultural competence.

☐ Other:
_____.

Training efforts will include new and existing staff and decision makers, as well as any staff interpreters, if applicable.

Resources and information regarding the protocol, language access services, policies and procedures, and tools for providing language assistance (such as bench cards, language identification guides, brochures, etc.) are available to all court staff and decision makers at:
[*Check all that apply*]

☐ The court's intranet.

☐ The court's Language Access Coordinator/Interpreter Coordinator's office [or other designated office].

☐ Other:
_____.

D. Outreach and Communication of the MAP

The _____ [*name of judicial entity*] has provided notice of this administrative protocol to all relevant stakeholders, justice partners, attorneys, and the public in the following manner: [*Fill in the method for notifying stakeholders of protocol*]
_____
_____
_____.

The _____ [*name of judicial entity*] will continue to communicate on an ongoing basis with stakeholders, including LEP and DHH persons, attorneys, justice

partners, community-based organizations, and other interested organizations about its provision of language access services.

To this end, the court will:
[*Check all that apply*]

- ☐ Collaborate with local bar associations, justice partners, and other relevant organizations to ensure distribution of information.

- ☐ Translate outreach materials to _____ [*insert languages with high diffusion in the court's area into which materials will be translated*].

- ☐ Use ethnic print and audio/TV media to communicate regarding its language access policies and administrative policies. The court has identified the following ethnic print and audio/TV media outlets with whom it will collaborate: _____ [*insert local, regional and or statewide media outlets].*

- ☐ Establish mechanisms for obtaining feedback from the public, attorneys, and justice partners regarding the implementation and effectiveness of the administrative protocol, and take this feedback into account at the yearly evaluation of the protocol.

- ☐ Other: _____.

VI. Language Access Administrative Protocol Management and Other Language Access Considerations

The following is/are the person(s) responsible for management of this MAP for the appointment of interpreters and other language access services for the _____ [*name of judicial entity*]:

_____*[Name of person]*
_____*[Address]*
_____*[Phone number]*
_____*[Fax/Email]*

Executed: _____
[Date]

_____

Signature

_____

[Print name/title]