STATE OF DELAWARE
ADMINISTRATIVE OFFICE OF THE COURTS
COURT INTERPRETER PROGRAM
LANGUAGE ACCESS PLAN

I. Legal Background.

The obligation to provide services to persons with limited English proficiency (LEP) in the court system arises from the constitutional requirements of equal protection and due process of law, as well as Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. § 2000d, and the Omnibus Crime Control and Safe Streets Act of 1968, as amended (Safe Streets Act), 42 U.S.C. § 3789d(c)(1). Limited English proficient (LEP) individuals are persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English.

Title VI and the Safe Streets Act prohibit recipients of Federal financial assistance from discriminating on the basis of national origin (among other bases) in funded programs or activities. As a result, and as explained in the United States Department of Justice (DOJ) regulations implementing Title VI and the Safe Streets Act, recipients of Federal financial assistance have a responsibility to ensure meaningful access to their programs and activities by LEP persons. *See* 28 C.F.R. §§ 42.104(b)(2), 42.203(a). The implementing regulations of Title VI and the Safe Streets Act also provide for enforcement of these statutory requirements. If there appears to be a failure or threatened failure to comply with the regulations and if the noncompliance or threatened noncompliance cannot be corrected by informal means, the responsible official may suspend or terminate, or refuse to grant or continue, Federal financial assistance, or use any other means authorized by law, to induce compliance with these requirements. *See id.* §§ 42.108, 42.210.

Executive Order 13166 directs every Federal agency that provides financial assistance to recipients to publish guidance about how those recipients can ensure meaningful access to their programs and activities by individuals who, due to their national origin, are LEP. Exec. Order No. 13166, 65 Fed. Reg. 50121 (Aug. 16, 2000). Pursuant to Executive Order 13166, on June 18, 2002, DOJ published a guidance document for recipients regarding LEP issues. *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 Fed. Reg. 41455 (June 18, 2002) (DOJ Guidance). Courts receiving Federal financial assistance are specifically covered by the DOJ Guidance's provisions.

Recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. In an effort to assist recipients in satisfying this standard, the DOJ Guidance emphasizes the importance of balancing the following four factors: 1) the number or proportion of LEP persons served or encountered in the eligible service population; 2) the frequency with which LEP individuals come in contact with the program; 3) the nature and importance of the program, activity, or service provided by the program; and 4) the resources available to the recipient and costs. The DOJ Guidance further notes that recipients should develop a written plan to address the identified needs of the LEP populations they serve.

In response to the DOJ Guidance, the Courts and the Administrative Office of the Courts (AOC) implemented this Language Access Plan (LAP) which reflects the policy of the Judicial Branch to take reasonable steps to provide meaningful access to all individuals in any encounters with the Delaware Judiciary regardless of their national origin or limited ability to read, write, speak, or understand English. The LAP describes existing and contemplated programs and policies to provide language services to LEP persons to allow for meaningful access to the court system; it does not addressed services provided by the Court Interpreter Program to the Deaf and hard of hearing community because these services are not covered by Title IV or the Safe Street Act.

II. Historical Background.

In 1995, the Delaware Supreme Court appointed a Racial and Ethnic Fairness Task Force. The Task Force received testimony on the need for consistent and accurate language interpretation in the courts and, as part of its final report, recommended that a statewide court interpreter certification program be established. Based on this recommendation, then-Chief Justice E. Norman Veasey issued Delaware Supreme Court Administrative Directive No. 107, dated April 1996, which established the Court Interpreter Program under the Administrative Office of the Courts (AOC). The AOC worked with the newly formed National Center for State Courts' Consortium of State Court Interpreter Certification (now the Consortium for Language Access in the Courts) to develop the program. (Delaware was the sixth state to join the Consortium in 1996. The Consortium now includes 43 member states.) The first orientation session for prospective interpreters was held in each county in Delaware in the fall of 1996. The first interpreter test was administered in Spanish in 1997. The Supreme Court appointed an Advisory Board to assist in the development of policies and procedures for the program. In 2004, the Advisory Board and the Delaware Supreme Court adopted a comprehensive policy that serves as the operational policy for the program. This policy has been revised as necessary to reflect changes in provision of services and efforts to ensure compliance. In 2006, the Chief Justice approved the creation of a full-time Court Interpreter Coordinator position. The position was filled in February 2007. The Delaware Court Interpreter Program recently celebrated 25 years of service and now provides certified and otherwise qualified interpreters in fifty (50) foreign languages.

III. LEP Population Needs Assessment.

The 2019 U.S. Census Bureau – American Community Survey – language spoken at home estimated the Delaware population five years or older at 919,503. Within this total population, 5 percent reported speaking English "less than very well". Fourteen percent of the population speaks a language other than English. Of this 14 percent, 7.1 percent speak Spanish, 3.8 percent speak other Indo-European language, 2.2 percent speaks an Asian or Pacific Island language and 0.9 percent speaks other languages (Table 1). Data shows that 36 percent of those who speak a language other than English do not speak English very well.

Table 1. Characteristics of People in Delaware by Language Spoken at Home, 2019				
Subject	Total # of speakers	% of Total Population (1 year)	Speak English Less Than "Very Well"	% of Total Population (1 year)
Population 5 years and over	919,503	(X)	46,225	5%
Speak only English at home	790,950	86%	(X)	(X)
Speak a language other than English at home	128,553	14%	46,225	36%
Spanish	65,085	7.1%	27,500	42.3%
Other Indo-European languages	34,973	3.8%	9,924	28.4%
Asian and Pacific Island languages	20,425	2.2%	7,851	38.4%
Other languages	8,070	0.9%	950	11.8%

Source: U.S. Census Bureau, 2019 American-Community Survey.

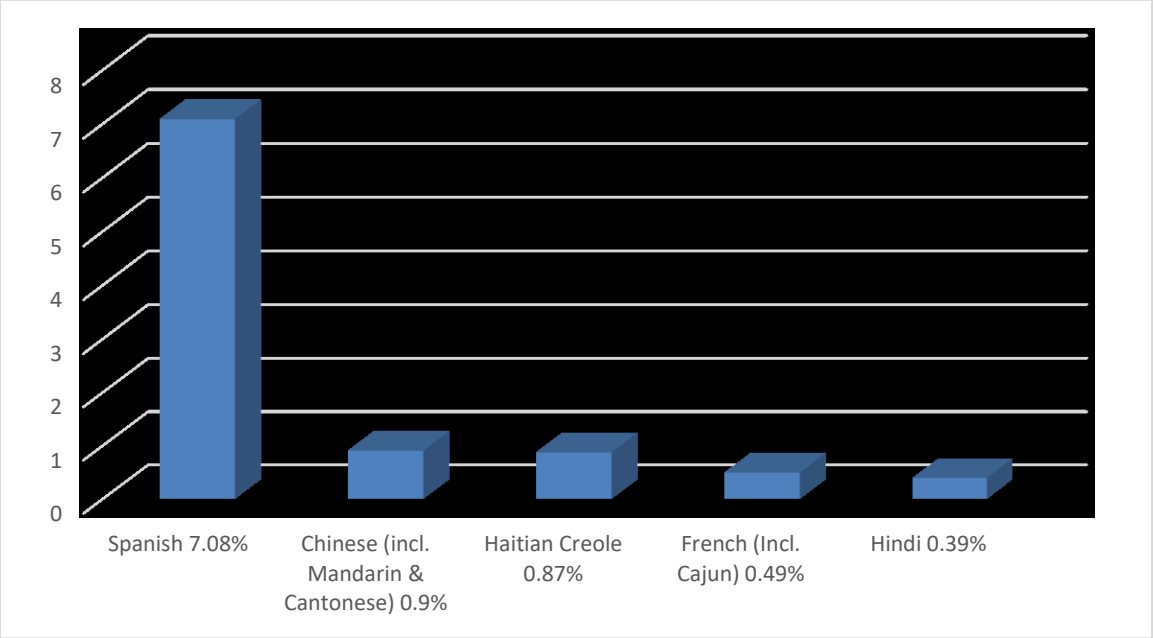
Notes

[1] Aggregate estimates are unrounded. Detailed-language estimates may not sum to aggregate estimates because of rounding. Data is based on a sample and are subject to sampling variability. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability. The effect of nonsampling error is not represented in these tables.

Spanish is the predominant language of LEP individuals living in Delaware (Table 2).

Table 2. Most frequently spoken languages for the population 5 years and over in Delaware, 2019.		
Language	**# of Speakers**	**% Total Population[1]**
Spanish:	65,085	7.08%
Chinese (incl. Mandarin, Cantonese):	8,299	0.9%
Haitian Creole:	8,028	0.87%
French (incl. Cajun):	4,463	0.49%
Hindi:	3,623	0.39%
Gujarati:	3,272	0.36%
Yoruba, Twi, Igbo, or other languages of Western Africa:	2,909	0.32%
Tagalog (incl. Filipino):	2,711	0.29%
Arabic:	2,622	0.29%
Korean:	2,334	0.25%
Vietnamese:	1,921	0.21%
Italian:	1,756	0.19%
Swahili or other languages of Central, Eastern, and Southern Africa:	1,680	0.18%
Urdu:	1,581	0.17%
Tamil:	1,474	0.16%
Telugu:	1,390	0.15%
Persian (incl. Farsi, Dari):	1,302	0.14%
Nepali, Marathi, or other Indic languages:	1,197	0.13%
Portuguese:	1,089	0.12%
German:	1,077	0.12%
Ukrainian or other Slavic languages:	1,055	0.11%
Russian:	1,050	0.11%
Greek:	1,031	0.11%
Other languages of Asia:	1,026	0.11%
Yiddish, Pennsylvania Dutch or other West Germanic languages:	1,819	0.2%
Polish:	916	0.1%
Bengali:	817	0.09%
Malayalam, Kannada, or other Dravidian languages:	801	0.08%
Other Indo-European languages:	591	0.06%
Amharic, Somali, or other Afro-Asiatic languages:	415	0.05%
Serbo-Croatian:	292	0.03%
Thai, Lao, or other Tai-Kadai languages:	289	0.03%
Hebrew:	271	0.03%
Japanese:	135	0.01%
Other and unspecified languages:	129	0.01%
Ilocano, Samoan, Hawaiian, or other Austronesian languages:	45	0%
Other Native languages of North America:	44	0%
Punjabi:	14	0%
Source: U.S. Census Bureau, 2019 ACS 1-Year Estimates Detailed Tables, American Community Survey		

Table 3. Graphic representation of top five languages spoken at home from Table 2.



IV. Languages requested in the Delaware Courts.

As a data collection tool, the AOC created a Request for Payment form which is used in all foreign language and American Sign Language interpreter assignments. Interpreters complete the form immediately after the assignment and record all pertinent information related to a particular interpreting event. (Events include, but are not limited to, proceedings such as: arraignments – including Spanish-only arraignment nights; child support; contempt hearings; criminal; criminal delinquency; custody; dependency, neglect, and termination of parental rights; domestic violence and protection from abuse; driving under the influence; drug diversion; entries of pleas; guardianship; imperiling family relations; preliminary hearings; traffic court; truancy; and violations of probation.) Data contained in these forms is collected and tabulated into a fiscal year Excel spreadsheet. A summary page captures the most important data regarding language services.

In FY 2020 a total of 4,138 court events required 6,776 foreign language interpreter hours. These events provided language assistance to an estimated 8,104 LEP individuals of which 404 involved juvenile litigants, their parents, witnesses or victims. The overall increase in the number of LEP litigants requiring language access services since FY17 appears in Table 4. Table 5 lists the top twelve foreign languages for which interpreter services were utilized and indicates the number of LEP persons served statewide by court and language.

Table 4. Overall increase in the number of LEP litigants who required language services in Delaware in FY 2017 to FY2020.

Category	**FY2017**	**FY2018**	**FY2019**	**FY2020** (anomaly due to the pandemic)	**Growth FY17 to FY19**
LEP Litigants	8,756	9,323	9,524	8,104	8.77%

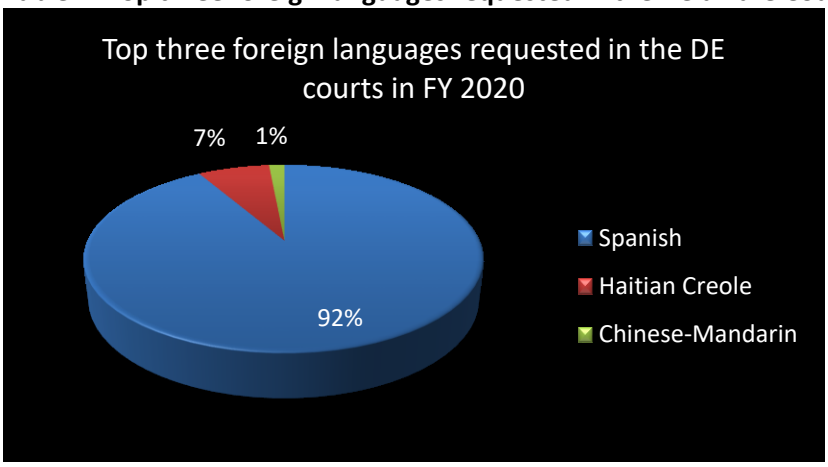
Tables 5. Statewide Number of LEP Litigants who Received Court Interpreter Services in FY 2020 (top 12 languages).

LANGUAGE	*Justice of the Peace Court*	*Court of Common Pleas*	*Family Court*	*Superior Court*
Spanish	3,,860	1,042	1,997	236
Haitian Creole	268	59	138	33
Chinese -Mandarin	60	22	12	6
Arabic	28	8	19	1
Turkish	19	5	9	1
Portuguese	8	2	12	2
Korean	7	2	2	1
Vietnamese	16	5	8	1
Hindi	0	8	3	10
Russian	0	3	0	3
Urdu	1	4	0	2
French	0	3	5	5

Table 6. Six most requested languages in FY 2019 compared to the same languages in FY 2018 (represented by number of events).

Language	**FY 18**	**Language**	**FY19**
Spanish	2,743	**Spanish**	2,838
Haitian Creole	355	**Haitian Creole**	376
Mandarin	103	**Mandarin**	110
Arabic	49	**Arabic**	63
Portuguese	31	**Portuguese**	36
Turkish	29	**Turkish**	33

Table 7. Top three foreign languages requested in the Delaware Courts in FY 2020



Tables 8a - 8b. Below are Delaware's six most requested foreign languages in (a) FY 2019 and (b) FY 2020 (represented by number of litigants).

Table 8a.

	FY2019 FOREIGN LANGUAGES BY COUNTY AND COURT (NUMBER OF LITIGANTS)												
LANGUAGE	NC-CCP	NC-FC	NC-JP	NC-SUP	KENT-CCP	KENT-FC	KENT-JP	KENT-SUP	SUSSEX-CCP	SUSSEX-FC	SUSSEX-JP	SUSSEX-SUP	TOTAL
Spanish	907	1534	2003	205	108	197	327	25	410	776	1883	94	8469
Haitian Creole	8	14	16	5	23	76	91	5	56	64	199	8	565
Chinese-Mandarin	29	18	38	3	1	0	8	0	0	1	2	0	100
Arabic	14	12	19	0	4	2	1	1	2	0	1	0	56
Turkish	0	8	4	0	2	0	2	0	5	5	12	0	38
TOTAL	958	1586	2080	213	138	275	429	31	473	846	2097	102	9228

Table 8b.

	FY2020 FOREIGN LANGUAGES BY COUNTY AND COURT (NUMBER OF LITIGANTS)												
LANGUAGE	NC-CCP	NC-FC	NC-JP	NC-SUP	KENT-CCP	KENT-FC	KENT-JP	KENT-SUP	SUSSEX-CCP	SUSSEX-FC	SUSSEX-JP	SUSSEX-SUP	TOTAL
Spanish	433	1046	1272	95	52	125	302	26	307	729	1679	90	6156
Haitian Creole	1	11	9	2	21	54	106	27	34	49	142	8	464
Chinese-Mandarin	17	12	42	4	2	0	12	1	3	0	6	1	100
Arabic	8	19	21	1	0	0	3	0	0	0	4	0	56
Turkish	5	5	9	1	0	0	3	0	0	4	7	0	34
TOTAL	464	1093	1353	103	75	179	426	54	344	782	1838	99	6810

V. The Court Interpreter Program.

The Delaware Judicial Branch has provided court interpreter services since 1997 through the Court Interpreter Program. The Program is managed by the AOC under the direction of the Court Interpreter Advisory Board. The Advisory Board is comprised of 4 Delaware judges and staffed by the Court Interpreter Program Coordinator. The Coordinator is responsible for the daily administration of the program. Additionally, the Coordinator is responsible for the recruitment, testing, and certification of interpreter candidates, and maintains a Court Interpreter Registry for the Delaware Judiciary that lists certified and qualified foreign language interpreters. All interpreters in the Registry have entered into service agreements with the AOC and signed and notarized a copy of the Interpreter's Oath.

A. Court Interpreter Qualifications.

There are three foreign spoken language interpreter categories in Delaware as they appear in the Court Interpreter Registry: (1) Certified Interpreter; (2) Conditionally-Approved Interpreter; and

(3) Registered Candidate. All interpreters in these three categories have:

- Attended a one or two-day Orientation seminar.
- Successfully completed a criterion-based, English-only written examination.
- Passed a criminal background check.
- Submitted the AOC application with a copy of their most recent CV.
- Submitted copies of a W-9 form and Delaware business license for Professional Services (and renew said license on a yearly basis).
- Additionally, interpreters in the Registry are required to:
  - Comply with the continuing education requirements described in the AOC's Continuing Education Policy for Court Interpreters.
  - Comply with the Court Interpreter Code of Professional Ethics.
  - Sign an Oath Form.
  - Sign acknowledgement of receipt and agreement with Court Interpreter Policies and Procedures Sheet.

The Registry classification is based on certification exam scores as follows:

A *Certified Interpreter* is an individual who passed a 3-part oral performance examination in their language combination with a minimum score of 70 percent overall and in each of the 3 sections independently. State court interpreter certification information and an overview of the standardized nationwide oral performance examination are available on the National Center for State Courts – Court Interpreter Resources webpage. Certified Interpreters from other jurisdictions who have attained certification through another Consortium member state or the Administrative Office of the United States Courts and who wish to work in Delaware may apply for reciprocity.

A *Conditionally-Approved Interpreter* is an individual who sat for the 3-part performance examination in their language combination and obtained a minimum overall score of 60 percent by scoring 70 percent in at least one section, and scores of or above 55 percent in the remaining two sections. Included under this category are qualified interpreters in languages for which an oral performance examination is not available. In such instances, interpreters are qualified by means of Oral Proficiency Interviews, OPI, in English and the foreign language. The candidates in this category must also agree to take and pass a full or partial oral proficiency exam in their foreign language if and when one becomes available.

Registered Candidates are individuals who sat for the 3-part performance examination in their language combination with a minimum score of 50 percent overall and in each section**.**

B. Court Interpreter Registry and Interpreter Standards.

The Court Interpreter Program issues a Court Interpreter Registry yearly after the administration of the credentialing exam(s). The AOC provides a copy of the Court Interpreter Registry to the Delaware Judicial Conference, court administrators, the Department of Justice, the Office of Defense Services, and other appropriate state agencies. Each court or agency contacts the interpreter directly to schedule services except where there is coordinated scheduling that is pre-arranged by the AOC. If there are no certified or qualified interpreters in Delaware for certain languages, upon request, the AOC will assist the courts or state agencies by providing information about available interpreters who participate in court interpreter programs in other jurisdictions.

The Court Interpreter Program has a Continuing Education Policy which requires Delaware interpreters listed in the Registry to complete a minimum of 12 hours of continuing education every 2 years. Of these 12 hours, at least 3 must be in Ethics and 3 must be in skills building on the modes of interpretation (consecutive, simultaneous, and sight translation). Continuing Education credits may be obtained through programs approved by the AOC, such as the Consortium for Language Access in the Courts Certification Skills Building Workshops, NAJIT/American Translators Association conferences, educational programs offered by colleges or universities, or training programs offered by other Consortium member states. An interpreter must submit course information for approval from the Coordinator of the Certified Interpreter Program at least 30 days before attending to guarantee that the proposed course meets the continuing education requirements. The Coordinator of the Court Interpreter Program and the Court Interpreter Advisory Board will also endeavor to develop training seminars addressing professional development language and interpreting skills, as well as the ethics of the interpreting profession, to ensure high-quality services.

The Court Interpreter Program and the Advisory Board also developed a disciplinary policy for court interpreters and presented it to the Supreme Court for approval. The resulting document was adopted as Administrative Directive 163 (Sept. 4, 2008) and is currently under revision.

VI. Services Provided.

The Delaware courts provide language services at no costs to LEP individuals. Judicial officers and court staff are responsible for early identification of the need for language services and informing LEP individuals that language services are available, even if such services have not been requested. The court provides interpretation services upon request or when a judicial officer or court staff determine that a person involved in a court proceeding or seeking services, such as defendants, victims, or witnesses, does not read, write, speak, or understand English sufficiently to participate in the proceeding or access court services. In addition, court interpreters are available as a matter of course for certain high-volume court proceedings in the Justice of the Peace Courts, Court of Common Pleas, and the Family Court.

As a result of this Language Access Plan, the Delaware courts provide interpreters to LEP adults, LEP juveniles, and LEP parents of juveniles in a wide range of court proceedings in all State courts consistent with the AOC Court Interpreter Program Policy Directive. Some of these proceedings include, but are not limited to: Child Support, Contempt, Truancy, Violations of Probation, Criminal Delinquency, Custody, Dependency/Neglect, Termination of Parental Rights, Domestic Violence and Protection from Abuse, Arraignments (including Spanish-only and Haitian-Creole-only arraignment nights), Preliminary Hearings, Sentencing, Driving Under the Influence, Drug Diversion and Community Court Hearings Entries of Pleas, Imperiling Family Relations, Traffic Court and Involuntary Commitment Hearings.

The AOC, in conjunction with the Delaware Volunteer Legal Services, have sponsored the Limited Legal Assistance Program (LLAP) since 2002. The LLAP currently provides self-represented (*pro se)* litigants with cases in the Family Court a free legal consultation with a family law attorney. The AOC provides an interpreter for Spanish-speaking *pro se* litigants on the first Monday of every month. Other interpreters are provided by appointment.

Currently, interpreter assistance is provided to LEP court users during court proceedings and court-sponsored programs in person (on-site) and remotely. Court personnel should not be relying on or asking informal interpreters, such as family members, to provide language services.

A. Interpreter Assistance during Court Proceedings and Court-Sponsored Programs.

1. In-person Interpretation Assistance (On-Site).

In providing language services during court proceedings, courts should secure interpreter assistance in the following order of preference. First, a court should use its best efforts to rely on in-person Certified Interpreters. The interpreters in this category may interpret any type of hearing, criminal or civil, and are the interpreters of choice for trials and hearings of any legal or linguistic complexity. Before using any other category of interpreter, the court or court administrator should weigh the type of judicial hearing, including the seriousness of the potential penalties and consequences related to that proceeding, before determining whether such an interpreter may be used.

When an in-person Certified Interpreter is not available and, if appropriate given the nature and seriousness of the proceeding, an in-person Conditionally-Approved Interpreter may be considered. Conditionally Approved interpreters may also be used in appropriate coordinated scheduling calendars pre-arranged by the AOC to ensure coverage and/or to further program development. In trials involving more serious matters, courts should make every effort to use only Certified Interpreters. However, when team interpreting is used in serious cases and two Certified Interpreters are not available, a Conditionally-Approved Interpreter may be used as the second member of an interpreting team in which the first member is a Certified Interpreter.

Third, if a Certified or Conditionally-Approved Interpreter is not available, a court should rely on in-person Registered Candidates. Candidates are to be contacted for services only after diligent efforts to secure Certified or Conditionally-Approved Interpreters proved unsuccessful. Interpreters in this category shall be limited to appearances such as arraignments, capias returns, minor violations in the lower courts, and non-evidentiary hearings.

In-person interpreters are also available for the Court Appointed Special Advocate (CASA) program and diversion programs, including Drug Court, Diversion Court, Mental Health Court, and Mediation and Arbitration in the Family Court. Requests for interpreters for these programs, including CASA, are handled internally within the court, with the court contacting the interpreter directly or including the request in the case load of an already scheduled interpreter.

2. Remote Interpretation Assistance.

The Delaware AOC Court Interpreter Program Policy Directive specifies that "in-person interpretation is the norm" and has set forth significant limitations on the permissible use of telephone interpreting in court proceedings. In brief, the order of preference for language access services in the courtroom is (1) an in-person interpreter and (2) remote interpreting. The Delaware Courts are currently set up for remote interpreting via telephone; however, this does not prohibit the courts from utilizing a video conferencing system approved by the Judiciary (Example: Microsoft© Teams or Zoom) for interpreting if required in an emergency hearing. The regulations specify that telephonic interpreting in court proceedings is only permissible where a good faith effort to obtain an in-person interpreter has been made and was unsuccessful and the proceeding is expected to be no more than 30 minutes in duration, is non-evidentiary, and does not involve more than one interpreter. The exceptions to these requirements are preliminary arraignments, emergency PFA proceedings, or emergency proceedings.

The AOC uses two telephonic interpretation programs. First, the Court Interpreter Program manages a Delaware Telephonic Interpreter Registry, which uses AOC-approved Certified and otherwise

qualified Interpreters for telephonic interpretation. The AOC circulates the Telephonic Interpreter Registry, as well as instructions on how to access its interpreters over the phone, to members of the Judicial Conference and designated court staff. The Delaware Telephonic Interpreter Registry provides known Certified or otherwise qualified Interpreters for the most commonly needed languages at a reduced cost. This local telephonic interpreting service has been especially successful in providing last-minute interpreting services for the Justice of the Peace Court.

Second, the Delaware Judiciary subscribes to Language Line Solutions, Inc. (commonly referred to as the Language Line). If the interpreters participating in the Delaware Telephonic Interpreter Registry are unavailable or if the need is for a language not provided by that service, the court or agency may contact Language Line to ensure that services are provided to the LEP person. Language Line is also available to staff for use at the information desk, self-help desk, and at the filing and payment centers.

Both the Delaware Telephonic Interpreter Registry and Language Line Solutions, Inc. may ordinarily only be used when the need for an interpreter is not known or could not be foreseen (and an interpreter is not available in a timely manner) for non-evidentiary hearings such as arraignments and capias returns. In very unusual circumstances, when a rare language is involved and the Court Interpreter Coordinator determines that an in-person interpreter (including an interpreter from another nearby jurisdiction) cannot be obtained, the Coordinator may weigh all of the factors and determine that Language Line may be used in an evidentiary hearing on a minor charge.

To address the need for an interpreter at points of first contact with LEP persons, the Court Interpreter Program also instructed non-bilingual staff to call Language Line whenever an LEP person who is not scheduled to appear on a given day's calendar comes to a Delaware courthouse or court office and, for example, seeks general information, asks questions about a particular case, or pays a fine. If it is not clear what language the person speaks, court staff should use the "I Speak" cards to allow the person to identify his or her language (see Attachment 1).

3. Alternative option.

The Administrative Office of the Courts will continue to research options to adopt Video Remote Interpreting (VRI) technology. Two options are being explored: (1) creating our own VRI pilot project, including a center using interpreters certified or qualified through the Court Interpreter Program and using out-of-state resources including the National Center for State Courts database to supplement resources for languages not represented in the Delaware Registry, and (2) entering into a service agreement with an outside vendor to provide on-demand services via video during and after regular courthouse hours of operation. Implementation of VRI requires careful evaluation, as to function it will involve a pool of qualified interpreters, purchase and practice using hardware (computers, cameras, telephones, microphones, consoles, headsets, videophones), a strong internet connection, network access of new platforms for ASL (for example, ClearSea), development of procedures and guidelines for the use of VRI for customer service and hearings in the courtroom, fee schedules for Delaware interpreters billable to the Court Interpreter Program, and other considerations.

Projected Timeframe: The AOC will complete an investigation of options for creating a VRI program within two years of the approval of this Plan.

Responsible Staff: The AOC working with Court Administrators, interpreter schedulers, the Judicial Information Center (JIC) and the Department of Technology and Information (DTI).

B. Other Resources.

In addition to court interpreters, the AOC provides additional resources to the courts, agencies, self-help centers, filing and payment Center, resource centers, and information desks to communicate with LEP persons:

1. "I Speak" Cards.

If a person appears at a court with no interpreter and it is unclear what language the person speaks, court personnel can use "I Speak" cards developed by the Ohio Criminal Justice Services, to identify the language spoken. These cards contain the sentence "I speak [language]" translated from English into several different languages. LEP persons can point to the phrase in their language so that an interpreter may be requested. Copies of these cards are available to staff throughout the State through the intranet or from their court administrator's office (Attachment 1).

2. Bilingual Employees.

In addition to needing interpreters during court proceedings, persons coming to the courthouse may require language assistance for other needs, such as for finding case information or where to go in the courthouse. To aid in the provision of such assistance, courts may determine that it is advantageous to seek to hire bilingual employees for certain positions. Since Spanish is by far the most predominant second language in Delaware, the following best practices refer to English-Spanish bilingual employees but would be applicable to another language if so determined by the court. Courts should consider:

(i) Identifying and maintaining a list of existing employees, by job title, who are bilingual in Spanish and English. Bilingual shall be described as those employees who have the ability to read, write, and speak both English and Spanish fluently. A test may be administered to determine a bilingual employee's fluency level. The Court Interpreter Program recommends a proficiency score of 10 or higher on the ALTA scale.

(ii) Identifying those positions in which employees may be called upon to use Spanish in dealing with the public, either in person or by telephone.

(iii) Including a "preferential requirement" on the job announcement when filling vacancies for positions in which an employee may be called upon to use Spanish in dealing with the public, either in person or by telephone. The recommended "preferential requirement" is as follows:

> **Preferential Requirement**: *Special consideration may be given to applicants who have the ability to read, write, and speak Spanish fluently; this skill is desired but not required.*

The option of a "mandatory requirement" may be used where the need has been determined. The recommended "mandatory requirement" should be clearly listed under the minimum qualifications of the job announcement as follows:

> "Must have the ability to read, write, and speak Spanish fluently."

(iv) Considering alternative means of advertising positions, such as sending copies to appropriate community organizations such as the Latin American Community Center in New Castle

County or La Esperanza in Sussex County, and allowing for additional time, to ensure that the job posting can circulate more widely in diverse locations.

(v) Using existing employees or other persons (such as court interpreters) who have been determined to be bilingual to participate on the interview panel. Candidates who state that they are bilingual shall be given at least two questions in Spanish. The bilingual interviewer will advise the panel as to whether the bilingual candidate has the ability to understand the question and to respond appropriately in Spanish. Specific guidelines will be given to the bilingual questioner as to the exact question to be asked and possible acceptable responses. Candidates may also be asked to read a brochure which is published in Spanish. Once hired, the court may administer a test to establish a bilingual employee's level of fluency.

C. Early Identification of the Need for Language Services.

Delaware policy, procedures and best-practices bench cards address the provision of court interpreters and emphasize the importance of notifying the court of the need for an interpreter as soon as practicable after learning of the need. It is critical to have effective methods to identify the need for language services and notify the court of these needs early.

Early identification by, or notice to, the court that a LEP person requires language assistance is vital to ensure that a qualified interpreter is scheduled or consulted. Not only does this protect the rights of the LEP person, it also helps to ensure efficient operation of the court by avoiding the need to continue cases because no interpreter is available on short notice. Early identification and notice also helps avoid reliance on phone interpretation as a fallback because there was insufficient time to arrange for in-person interpretation. The need for early notice is heightened in the Justice of the Peace Court hearings, where most litigants are unrepresented and, without some form of notice of their right to language services in advance of the hearing, likely will not know they can ask for an interpreter until they arrive at court and are informed by court staff or by notice posted at the court location.

Other states have also recognized the importance of early identification of the need for language services. For example, the Strategic Plan for Language Access in the California Courts (page 25) emphasizes that:

> *[F]ailure to identify the language needs of LEP court users early enough in the court process causes ripple effects throughout the system. When the need for a court interpreter is not identified in advance of a court appearance, courts and litigants may be forced to rely on untrained interpreters,…to provide language services.... [T]he use of untrained interpreters can have serious and potentially dangerous consequences. ... Early identification makes it possible for courts to schedule qualified interpreters efficiently when calendaring cases in the various courtrooms where they are needed. It similarly allows courts to assign bilingual staff more efficiently to appropriate areas within the courthouse, and to share court interpreters across counties. …*

1. Current Status.

While the importance of early identification of the need for language services is clear, the Delaware courts should take additional steps, such as an advance notice of the right to such services, to increase the likelihood of early identification.

2. Required Action.

Below is a comprehensive set of procedures designed to assist the courts in identifying the need for language assistance at the earliest possible point in time.

(i) Advance Notice of the Right to Language Services. Advance Notice of the Right to language services in each court will inform individuals of their right to language services and a sign language interpreter using the following forms of notice. To ensure consistency, these notices will be produced and translated by the AOC.

- *Notice of the Right to Language Services for Hearings – sign or poster*

  A sign or poster in English, translated into five of the most commonly spoken foreign languages, to be displayed in each court and county. The sign or poster should provide a phone number and email address where a request for an interpreter may be sent. The content of the Notice will be substantially as follows:

  You may have the right to an interpreter at no cost to you. For information, please contact court staff at [court and location] by phone number: (xxx)-xxx-xxxx or email: xxx.xxxxx@delaware.gov.

  If a court requires a specific form to request interpreter services, clear instructions and a bilingual copy of the form should be accessible.
- *Other Forms of Notice – Court Brochures*

  Notice of Language Rights and the appropriate contact information for requesting an interpreter should be included on all court brochures and informational materials.
- *Website posting*

  Notice of Language Rights, the appropriate contact information, and instructions for requesting an interpreter (and form, if one is required by a court) should be posted on the court's website.
- *Notice of Language Rights Poster – Customer Service*

  At points of first contact, a poster that provides notice of the right to an interpreter in the most frequently used languages spoken across the state should read:

  You have the right to an interpreter at no cost to you. Please point to your language. An interpreter will be called. Please wait.

  Staff can then identify the language needed with the "I Speak" cards and contact a bilingual staff or a telephonic interpreter so that staff and the LEP person can understand each other. This is not for court hearings.

  The Notice of Language Rights Posters should be placed prominently and near court staff or office staff in 1) all court or court office reception/information desks or kiosks and 2) other locations such as court offices, court office halls and lobbies, bulletin boards, and law libraries.

  NOTE: The Notice of Language Rights Poster and the "I Speak" cards serve complementary functions. The advantage of a poster is that it includes the right to an interpreter message in different languages, which is necessary to ensure that LEP persons who do not speak one of the three languages most frequently spoken in Delaware are informed of their right to an interpreter and, by pointing to their language on the poster, can inform court staff of their need for assistance in their language. The disadvantage of the poster is that it is not portable. LEP persons who can communicate in one of the languages listed in the "I Speak" card can pick up a copy of the "I Speak"

card and carry it with them. This would be useful, for example, when first contact court staff must send the LEP person to another office in the courthouse. In this case, the LEP person can simply take the card with them to the next office and show it there.

- "I-Speak" slips: an alternative to the "I-Speak" card is a slip in the five most common languages spoken in each county. Each slip is printed in English and a second language. The non-English version will inform the reader how to use the slip, while the English version will include instructions for staff as to the procedures to follow to assist the card holder. Using Haitian Creole as an example, the card, in Haitian Creole, will read substantially as follows: My name is _____. The language I speak is Haitian Creole. Please find someone who is qualified to provide language assistance so that we can talk to each other. Thank you.

(ii) Early Notice of the Need of Services Throughout the Case. This is a key strategy to ensure early identification of the need for language services so that services can be retained early and continuously throughout a case, at multiple locations, using multiple methods. The courts should consider adopting the following methods to accomplish this.

- As appropriate, courts may amend the Notice of Language Rights to include a statement available in different languages to the effect of:

  This is an important notice. If you do not understand what it says, you should take it to the court as soon as possible so that court staff can explain it to you with the assistance of an interpreter.
- A Notice of Language Rights to be sent with every hearing notice and subpoena, whether the case is civil or criminal.
- The Notice of Language Rights and the appropriate contact information for requesting an interpreter should be posted on the judicial branch's website.
- When a case is transferred to a different court, clerk or staff of the first court should take steps to ensure that the personnel of the court receiving the file is aware of the need for securing language services. Courts could consider emailing staff of the other court in advance, marking or adding a page to the file folder, or recording the need for language services in the case management systems.
- Judicial officers and court staff should be encouraged to announce that interpreters are available at the beginning of court sessions, where appropriate. For the benefit of LEP persons who are illiterate in their own language or speakers of languages that do not have a written component, courts might consider developing a slideshow or a video recording with captions informing LEP persons of their right to language services.
- Consider playing the slideshow/video in waiting rooms or other areas outside the courtroom where persons wait before appearing in the courtroom.
- Consider providing courthouse voicemail and recorded instructions in Spanish.
- Provide instructions to litigants in Spanish and Haitian Creole, including instructions on how to file electronically and participate in virtual hearings.

(iii) Receiving and Processing Requests for Language Services. Even the most effective process for providing notice of the right to language services will only work if the LEP person and court staff can understand each other when an LEP person contacts the court to request an interpreter. Recognizing this, the AOC will investigate possible approaches for efficiently and effectively receiving and processing requests for language services. This includes researching:

- Use of a statewide automated multilingual phone system to request an interpreter. (A multilingual phone system for requesting interpreter services could be implemented either

locally or statewide where the LEP person would call a toll-free number (at the county or state level) and, through a series of prompts, identify the language he or she speaks. The call would go to the appropriate court office where staff will access a telephonic interpreter to assist the caller and court staff via a three-way call.)

- Use of a statewide web-based system or application (example: a fillable form) to request a court interpreter.
- Use of text messaging as an option for LEP persons to communicate their need for language services. This could be done as part of a statewide system or locally.
- In the interim, the courts must ensure that they are able to respond to requests for language services and other communications from LEP persons. To that end, the courts must continue to follow the Court Interpreter Program guides and procedures and have in place language services to respond to LEP persons who contact court staff to inform them of their need for language services, whether the court is contacted in person or via phone, TDD/TTY, email, website portal, or mail.

> NOTE: while the courts should encourage individuals to identify themselves as in need of language services, courts should not rely on that entirely. Some LEP persons may decline to request language services because they misjudge the level of English proficiency necessary to communicate effectively in a court setting, or they may be afraid of discrimination or bias. The obligation of lawyers, court staff, and justice partners to provide notice to the court of a person's need for language services is established in our policy and procedures, however, more steps can be taken to ensure compliance. Judicial officers can reinforce to lawyers, court staff and justice partners, whenever appropriate, of their duty to notify the court of the language service needs of LEP court users, including parties, witnesses, or other persons with a significant interest, at the earliest possible point of contact with an LEP person. This information should be included, for example, in continuing legal education (CLE) programs for attorneys.

(iv) Documentation of Language Needs. Once identified, the need for language services should be recorded in the court's case file or case management system, so that arrangements for future interpretation services can be made and bilingual materials, such as notices for upcoming judicial proceedings, forms that need to be completed before court services, brochures related to programs and activities outside the courtroom, can be provided ahead of time.

- Each court should clearly and consistently document language needs in their case management system or any other case record or file, as appropriate given a court's existing case information record system. This capability should also be taken into consideration in any future system upgrades or system development.
- Each court will clearly and consistently document requests for interpreter services and confirmations in Outlook Public Folders (PF) to increase the number of interpreters available to the courts. When information is documented in PF, clerks and staff of the same court or nearby courts can determine when and where interpreters are present if a case needs an interpreter but the need was unknown, can 'bundle' cases by scheduling hearings that require interpreter services in the same language within or around a block of time an interpreter is already scheduled and can share full-day court interpreters across courts (if an interpreter is assigned to cover one court but has few or no cases, that interpreter can provide services in a different Delaware court).

3. Timeframe.

Within six months of approval of the Delaware Judiciary Language Access Plan, the AOC will translate and produce a Notice of Language Services and "I-Speak" slips for the courts after considering suggestions regarding content and design from court administrators, if appropriate. For example, a different notice that advises the reader that the content of the court notice is important and that the court can provide interpretation assistance can be devised to be part of important documents, even if they do not involve a court appearance.

The courts will begin to use these notices, as outlined above, within three months of receiving them from the AOC. Within nine months of the approval of this Language Access Plan, the courts will:

- Begin using other forms of notice, as outlined above.
- Train staff on AOC Court Interpreter Program procedures to ensure that court staff can respond to requests for language services and other communications from LEP persons, as outlined above.
- Train staff on AOC Court Interpreter Program protocols to identify language access needs of LEP court users.

Within nine months of the approval of the Language Access Plan, the AOC will complete an investigation of possible approaches for efficient and effective processing of requests for language services, including those approaches listed above. Court staff responsible for scheduling interpreter services of each court will have the primary responsibility of implementing the policies and procedures regarding interpreter services except for those tasks specifically assigned to the AOC. The Court Interpreter Program will work with the courts to:

- Develop and implement protocols by which justice partners may indicate to the court that an LEP person needs language services, as outlined above.
- Help establish protocols for staff to record language needs of parties with whom they have contact.
- Help develop a system for recording the needs of persons who are LEP in the court's case file or case management system, or other language services management system utilized by the court, as outlined above.

The AOC will provide leadership and work with court staff responsible for scheduling interpreter services and other stakeholders.

VII. Translation of Documents and Signage.

Translation of vital material is ongoing and includes the translation of official court forms, signs, brochures, court instructions and court web pages. Each court has the primary responsibility for the translation of its vital documents but should include the Court Interpreter Program in the process, to ensure the translation's quality and accuracy. The Court Interpreter Program will assist the courts in locating qualified translators and will provide leadership to court administrators, translation subcommittees, court staff and judicial partners upon request or as needed.

A. Available Documents and Forms.

The following key documents and forms are available in Spanish:

Court of Chancery

- ✓ Handbook for Guardians

Superior Court

- ✓ Motion for Modification/Reduction of Sentence
- ✓ Drug Diversion Participant Handbook
- ✓ Drug Diversion Expedited Management Form
- ✓ Truth in Sentencing Guilty Plea Form
- ✓ Motion to be Relieved as Bondsperson
- ✓ Procedures for Posting Real Property as Security for Bail
- ✓ Titles 11, 16 and 21 Revocations of Driving Privileges
- ✓ Obtaining Criminal Background Checks
- ✓ Petition to Expunge Records
- ✓ Reference Questionnaire
- ✓ Registration of Trade Certificate
- ✓ Instructions to Apply/ Renew License to Carry Concealed Weapon
- ✓ Kent County Law Library Access Form

Court of Common Pleas

- ✓ ALL Notices/Summons to defendants – Revised in 2016
- ✓ ALL Continuance notices
- ✓ Drug Diversion Handbook and Waiver Agreement – Revised in 2016
- ✓ DUI First Offenders
- ✓ DUI Guilty Plea
- ✓ Guilty Plea form
- ✓ Notice of Hearing for Failure to Pay
- ✓ Order to Pay
- ✓ Pay by Mail brochure
- ✓ Payment Agreement
- ✓ Payment Receipt
- ✓ Transfer of Bail
- ✓ Waiver of Preliminary Hearing
- ✓ Warrant for Failure to Pay
- ✓ Work Referral
- ✓ Wage Attachment
- ✓ Waiver of Extradition
- ✓ DUI Treatment Court Program Summary Brochure
- ✓ DUI Treatment Court Program Participant Handbook
- ✓ Community Courts Handbook Phase II Handbook
- ✓ Community Courts Phase II Brochure
- ✓ Center for Court Innovation Criminal Court Assessment Tool
- ✓ Sussex County Guilty Plea Form 2020
- ✓ DUI Participant Handbook Updated 2020
- ✓ Plea in Absentia (online/fillable)

Family Court

- ✓ Arbitration
- ✓ Arraignment

- ✓ Child Protection Registry
- ✓ Child Support FAQs
- ✓ Custody
- ✓ Custody Modification
- ✓ Juvenile Expungement
- ✓ Passport Issuance Alert
- ✓ PFA Brochure
- ✓ Preparing for Your Court Hearing Pamphlet
- ✓ Visitation – Completely revised in 2019
- ✓ Arbitration FAQs
- ✓ Mediation FAQs
- ✓ Custody, Visitation & Guardianship Disclosure Report
- ✓ Child Support Instructions Packet
- ✓ ALL Next Step in Criminal Matters Instructions
- ✓ Instructions for Child Support Calculation
- ✓ Guardianship Instruction Packet
- ✓ Divorce Instruction Packet
- ✓ Petition for Order of Protection from Abuse
- ✓ Social Media Post-Important Information for Civil Hearings
- ✓ Have a Question Form (online/fillable)
- ✓ Hearing Issue Inquiry Form (online/fillable)
- ✓ Form 690A – Next Steps in Delinquency or Criminal Matter Adults
- ✓ Form 690J – Next Steps in Delinquency or Criminal Matter Juvenile
- ✓ New Remote Hearing Webpage (multiple online/fillable pages)
- ✓ Frequently Asked Questions on Civil Filing by Email
- ✓ Multiple Templates for email notices and remote hearing invitations

Justice of the Peace Courts

- ✓ Bond Order Instructions
- ✓ DUI Evaluation Instructions
- ✓ Family Court Juvenile Next Step Instructions
- ✓ How to File and Defend a Summary Possession Action
- ✓ How to File and Defend a Civil Claim
- ✓ JP Court Policy PD80-16
- ✓ Juvenile Placement Instructions
- ✓ Public Defender Statewide Flyer
- ✓ Bill of Particulars
- ✓ Motion to Proceed in Absentia – Form, instructions, and plea
- ✓ Defendant History Form – Revised 2017
- ✓ Notice to Defendants Who Do Not Pay in Full Today
- ✓ CFPC Summary – Jurisdictional and Guilty Plea Information
- ✓ How to File and Defend a Civil Claim
- ✓ Criminal Form 62 – Request for Defendant Contact Information: Summons/Traffic Citation
- ✓ Form BK01 – How to File and Defend Summary Possession Action
- ✓ Form BK03 – Questions and Answers about the Rules of Evidence

All Courts

- ✓ Complaint Form

- ✓ General brochure on the Delaware Court System
- ✓ OSCCE Brochure
- ✓ Website Terms of Use
- ✓ Limited Legal Assistance Program Summary Brochure
- ✓ Limited Legal Assistance Program Intake Form and Instructions
- ✓ Multiple Remote Hearing instructions for LEP Litigants
- ✓ Multiple Pandemic-Related Press Releases
- ✓ Multiple online Notifications, Signage for Courthouses, and Templates for Postal/ Electronic Mailing
- ✓ Zoom instructions for video hearings and Reference Guide

The Courts are working to identify vital material to be translated to Haitian Creole. Material available in Haitian Creole includes:

- ✓ Family Court – Understanding the Protection from Abuse Process Slideshow-Video
- ✓ Family Court – Mediation Email Invitation
- ✓ Court of Common Pleas – Community Courts Handbook Phase II Handbook
- ✓ Court of Common Pleas – Community Courts Phase II Brochure
- ✓ Court of Common Pleas – Center for Court Innovation Criminal Court Assessment Tool
- ✓ Several Online notifications

A repository page of translated material is posted on the Delaware Courts - material en español – formularios y folletos en español home page. Links to this material can be found on the bottom of every page of the website, as well as on the Court Interpreter Program homepage. The repository includes a link to the video "Introduction to Civil Cases in the Delaware Courts" translated and dubbed into Spanish.

The Court Interpreter Program continues to work with the courts to place all translated material online as it becomes available. Interpreter services are available to help court staff and LEP persons communicate if LEP persons do not understand or have questions about paperwork they receive in English.

B. How the Courts Request Translations.

In 2015 the Court Interpreter Program developed a standardized process for the courts to request translations to the AOC, created an internal project management system which includes the development of a form to help organize and archive copies of each translation project completed or managed by the CIP, and produced a *Draft Translation Assessment and Action Plan* based on the National Center for State Courts: *Guide to Translation of Legal Material*. The Court Interpreter Program also maintains a database of key information on new translations and updates. The information in the database includes:

- Date of the request, milestones and date of completion.
- Court and contact information of the requestor.
- Description of the material.
- Name of translator, editor, or proofreader.
- Cost.
- Comments.

The Court Interpreter Program continues to implement the steps outlined in the *Draft Translation Assessment and Action Plan.* Assistance from the CIP as translation project manager has resulted in translations that use consistent Spanish terminology across courts and counties and a faster turnaround. The *Draft Translation Assessment and Action Plan* include:

- How to identify vital documents for translation or revision.
- Sample forms and tables to help courts organize material.
- How the CIP manages a translation project.
- Standardized instructions for courts to request a translation to the CIP.
- Importance of the AOC as a repository of translated material.

Recommendations for courts to track and plan translations. Copies of the *Draft Translation Assessment and Action Plan* can be accessed by officers, administrators, and staff from on the judicial intranet.

Court administrators or authorized staff can send requests for new translations and translation revisions to the Court Interpreter Program Coordinator with a copy of the original document in WORD format and include the below information:

- Target Language/s.
- Target audience and goals.
- If it is a template, each section will be numbered.
- Type of material (brochure, form, sign, website notice, script, etc.).
- Number of original pages or sections.
- Original document's name/title and/or reference number.
- Deadline or timeframe.
- Audio material must be provided as a script in WORD format.
- Name, email and phone number of translation's contact person.

If material needs to be translated as part of a response to an emergency, for example, signage to notify of a court closure due to a power outage or website postings due to a public health crisis, staff may contact the CIP Coordinator via email with "Urgent translation request" in the subject line, or via cell phone.

VIII. Training and Technical Assistance Regarding LAP and Provision of Language Services.

A. Information Provided to Judges and Court Personnel.

The Court Interpreter Program uses several resources to communicate information about the LAP and the provision of language services to judges and court personnel. The first resource is the document *General Procedures for Scheduling Interpreter Services*. This document states that the responsibility for scheduling interpreters falls solely on court staff assigned this responsibility. It defines the general steps to secure in-person interpreters; the approved sources of interpretation – certified/qualified in-person interpreters or telephonic interpretation; the posting of interpreter schedules in Public Folders; the timely notification of the need for an interpreter by court staff as well as timely notice of cancellations. (*See* Attachment 2.) A second document, a *Procedure to Follow in Securing Qualified Interpreter Services Absent Prior Notification of Need for Services* was also developed. This document names the staff responsible for securing interpreter services in each court and county

and the steps to follow to make interpreting services available in short notice. It further prohibits the use of family members or friends as interpreters. (See Attachment 2a).

Delaware's unique 24-hour Justice of the Peace Court required its own set of procedures to follow when faced with the need to secure sign language services for an unscheduled or emergency court event. A clear set of procedures was created especially for this court and distributed to staff and judges (LAP Attachment 2b). The Court Interpreter Program created and presented a workshop on scheduling and working with language interpreters. An online training module was created by this court and is available on the judicial intranet.

The AOC also provides Judges and court personnel with a Bench Card entitled Best Practices for Working with Foreign Language Interpreters in the Courtroom (Attachment 3). This Bench Card is a quick but comprehensive guide on how to assess the need for an interpreter; how to determine interpreter qualifications; the interpreter's oath; best practices during proceedings and additional resources. All members of the Judicial Conference receive this card and a Notice on the Role of the Court Interpreter (Attachment 4). The Notice details the appropriate instructions that a court should provide regarding the role of the court interpreter, which is to be given to all parties, witnesses, and jurors present in court proceedings in which court interpreters provide services. The Bench Card and Notice are also available on the judicial intranet Court Interpreter Program page, which is available to the Judicial Conference and all court employees. The intranet page also includes information about the National Center for State Court Consortium for Language Access in the Courts, the active Interpreter Registry, the Telephone Interpreter list, Language Line Services, Inc., and how to contact the Court Interpreter Program Coordinator.

1. Current Status.

To further ensure sensitivity to the needs of LEP individuals, the Court Interpreter Program Coordinator offers ongoing presentations regarding court interpretation, Title VI, and services for the Deaf and Hard of Hearing to judicial officers and staff statewide as stand-alone trainings or as a guest speaker at Judiciary New Employee Development Events and Judicial Retreats. Presentations include:

- 2015 to 2020 – Twice yearly New Employee Development sponsored by the AOC. As of 2021, this training will be recorded and available online. Instead of the Court Interpreter Program portion, staff will be directed to view one or more sections of an interactive video tutorial: "Navigating the Court Interpreter Program."
- 2020 – Navigating the Court Interpreter Program- A three-part tutorial on how to schedule and conduct hearings with interpreters and interpreter paperwork. The training is available to staff and judicial officers on the Delaware Learning Management System (Delaware Learning Center) and automatically assigned to New Employees as of 2021.
- 2015 to 2017 – "Interpreter Lunch and Learn" a 1-hour presentation and Q and A for staff and Judicial Officers.
- 2018 to 2019 – "How to Schedule and Work with Interpreters" – a 3-hour presentation first presented in 2018. Later, a 1.5-hour version was developed and presented at the JP Court judicial retreat with an ASL interpreter who explained the logistics of scheduling and working with court users who are Deaf or Hard of Hearing.
- 2020 to Present – Weekly sessions of Zoom training for interpreters. Invitation was extended to staff and judicial officers/partners, who participate when their schedules allow.

- 2020, June – The CIP Coordinator developed and presented via Zoom a Web-based seminar for interpreters on the Court's Reopening Plan and interpreting during the pandemic; Administrators were invited to attend.
- 2020, November – The CIP Coordinator developed Remote Hearing Reference Guides (available in CourtDox) and a YouTube video tutorial on How to Use the Zoom Interpretation Function and distributed to staff, judicial officers and interpreters. Staff will view this tutorial through the Delaware Learning Center as assigned by the AOC Staff Trainer. Slides are available to staff on the judicial intranet. The CIP Coordinator offers individualized and group training upon request or as needed.
- 2021, September – The CIP Coordinator presented with an ASL interpreter guest speaker an updated 3-hour course "How to Schedule and Work with Interpreters". Topics included communication, technology, and logistics during the pandemic and remote interpretation via video.

2. Required Action.

In response to COVID prevention guidelines, the CIP is working to develop online versions of existing training modules and gradually offer them as they are completed.

B. Information Provided to Attorneys.

The Court Interpreter Program seeks to routinely provide information to attorneys about how the Delaware Judiciary provides language services to LEP persons. The Court Interpreter Program designed a Best Practices for Working with Interpreters card, which it published through the Delaware Bar Association to all Delaware lawyers (Attachment 5). This card is also available on the Court Interpreter Judiciary Internet page. The Administrative Office of the Courts Court Interpreter Program offers workshops to state agencies including the Office of Defense Services (ODS) and Office of Conflict Counsel (OCC) upon request to address best practices for the use of interpreters and the Delaware Language Access Plan (LAP).

IX. Program Resources and Costs.

A. Funding.

The Court Interpreter Program was initially funded by a grant, which provided $15,200 for the development and administration of a program that would only be responsible for the certification of interpreters. The costs of interpreter services were borne by each court individually. In FY 2002, the AOC moved to centralize the administration of interpreter services and transferred $78,900 in interpreter services funding from the courts to the Court Interpreter Program. In 2003, the legislature recognized the growth in the need for language services and increased the Court Interpreter Program's budget by $120,000. In FY 2007, the AOC created a full-time position for a Court Interpreter Program Coordinator and further increased the Program's budget by $50,000. Additional increases have been approved since FY 2007 such that the Court Interpreter Program's budget now stands at $523,000.

B. Costs.

Total annual expenditures for court interpreters have increased dramatically every fiscal year. These numbers do not include disbursements made by the AOC for interpreter requests or interpreting

hours provided through conflict attorney cases, since those requests are disbursed from a different budget.

1. Total Annual Expenditures.

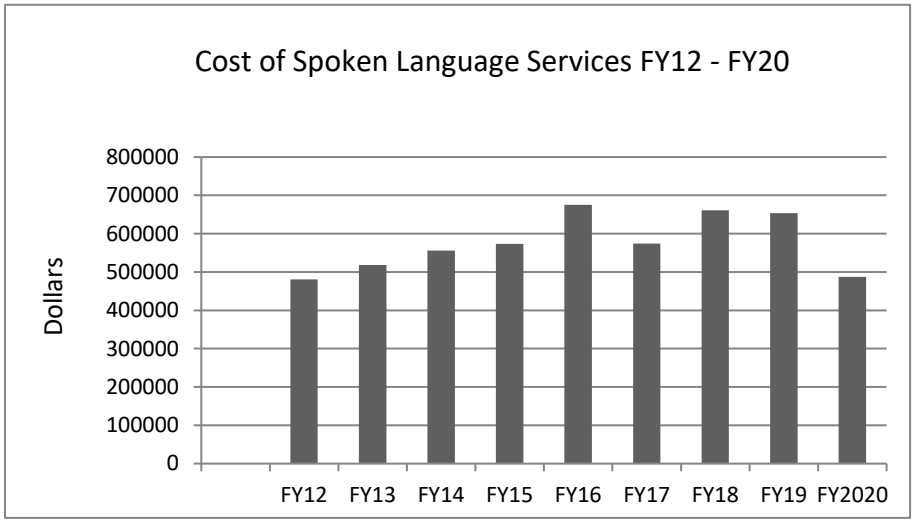
The numbers and bar graph shown below in Tables 9 and 10 are for foreign language interpretation only and do not include American Sign Language interpretation costs.

Table 9. Annual Cost of Foreign Language Interpreter Services by Fiscal Year.

FISCAL YEAR	TOTAL DISBURSEMENT*
2004	$117,167
2005	$126,486
2006	$175,303
2007	$193,347
2008	$221,571
2009	$247,573
2010	$268,803
2011	$334,760
2012	$416,093
2013	$459,134
2014	$478,867
2015	$475,748
2016	$566,051
2017	$510,907
2018	$557,296
2019	$568,571
2020	$442,164

***** Expenditures above are for foreign language interpretation only and do not include American Sign Language interpretation costs.

Table 10. Cost of Spoken Language Services.



2. Telephonic Interpretation Costs.

Table 11 below shows the costs of services for telephonic interpretation provided by Language Line since FY 2017. These services are utilized primarily for customer service and non-evidentiary hearings when the need for a foreign language interpreter is unknown or was not foreseen. The Courts also have at their disposal a Delaware Telephonic Interpreter Registry that includes the contact information by language of certified/qualified foreign language interpreters who have agreed to provide telephonic services at a rate lower than the in-person rate.

Table 11. Costs of Telephonic interpreter Services through Language Line Services, Inc.

FY 2017	$10,294
FY 2018	$9,864
FY2019	$10,453
FY2020	$8,859

X. Community Outreach.

The AOC expanded its Limited Legal Assistance Program (LLAP) in New Castle County to include the provision of services to Limited English Proficient (LEP) litigants. LEP litigants may sign up to speak with LLAP attorneys (aided by an interpreter) during specially scheduled sessions. The session offers a 15-minute free of charge consultation with a volunteer attorney to discuss specific legal questions concerning their Family Court civil case at the Community Resource Center. The CIP also provides interpreter services for LEP persons for the Court of Common Pleas Community Courts project.

The Community Court, in conjunction with the Community Resource Center, offers individuals access to community resources and alternative sentencing to low-level offenses. The Community Resource Center, located on the second floor of the Justice Center, is open to any community member who would like to connect with services such as substance use and mental health treatment, trauma-informed care, housing, youth services, life skills and importantly, pathways to employment opportunities through the ongoing creation of our Job Court.

The following steps are still needed:

- Interpreter Services – continue to train or remind coordinators and staff on CIP procedures to identify and provide services for LEP court users. Also train or remind staff on the use of telephonic interpretation services when the need was not foreseen.
- Written material – work with LLAP, Community Court and Resource Center staff to translate vital material such as Brochures and Participation Criteria into Spanish and Haitian Creole.
- Fair – continue to participate in the Annual Community Resource Center Fair whenever possible, to connect with the stakeholders and the LEP community.

XI. Revisions.

This LAP shall be revised every five years or as deemed necessary by the Court Interpreter Advisory Board or the Court Interpreter Program.

EFFECTIVE DATE:
Reviewed and Approved by the Delaware Supreme Court on September 23, 2010.
Updated, March 2012.
Updated, August 2013.
Updated October 2014.
Updated March 7, 2022.

LAP State contact:
Court Interpreter Program Coordinator
Administrative Office of the Courts, 405 N. King Street Suite 507, Wilmington, DE 19801
court.interpreterprogram@delaware.gov

NOTICE TO PARTIES ON THE ROLE OF THE COURT INTERPRETER

It is important to provide appropriate notice as to the role of the court interpreter to all parties, witnesses and jurors, present in court proceedings in which court interpreters are providing services. Examples of appropriate notice to parties, witnesses and the jury are as follows:

Notice to a Witness with Limited English Proficiency:

"I would like to explain the role of the court interpreter. The court interpreter is here only to interpret the questions that you are asked and to interpret your responses to them. The interpreter will interpret everything said in English into your language. The interpreter will also interpret everything you say into English and will not add to your testimony, omit anything or summarize what you have said. If you do not understand the court interpreter, please let me know. If you need a question repeated or a clarification, please request the repetition or clarification from the person who asked the question. Please wait until you have heard the entire interpreted question or statement before answering. Please know the interpreter is not a lawyer and is prohibited from giving legal advice. Do you have any questions about the role or responsibilities of the court interpreter?"

Notice to the Jury

1. Proceedings Interpretation

"This court seeks a fair trial for all people regardless of the language they speak and regardless of how well they understand or speak the English language. Bias against or for persons who are not proficient in English is not allowed. Therefore, do not allow the fact that the party requires an interpreter to influence you in any way."

2. Witness Interpretation

"Treat the interpretation of the witness' testimony as if the witness had spoken English and as if the interpreter were not present. Do not allow the fact that the testimony is given in a language other than English to affect your perception of the witness' credibility. Those members of the jury who may be proficient or have some understanding of the foreign language being used during these proceedings shall base all deliberations and decisions on the evidence presented in English through the interpretation."

State of Delaware
Administrative Office of the Courts
Court Interpreter Program

Language Identification Cards

Instructions: Place a check by the language spoken. ☑

☐ Mark this box if you read or speak English.	***English***
☐ ضع علامة في هذا المربع إذا كنت تقرأ أو تتحدث العربية.	***Arabic***
☐ Խնդրում ենք նշում կատարեք այս քառակուսում, եթե խոսում կամ կարդում եք հայերեն:	***Armenian***
☐ যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্সে দাগ দিন।	***Bengali***
☐ ឈូមបញ្ជាក់ក្នុងប្រអប់នេះ បើអ្នកអាន ឬនិយាយភាសា ខ្មែរ ។	***Cambodian***
☐ Motka i kahhon ya yangin ûntûngnu' manaitai pat ûntûngnu' kumentos Chamorro.	***Chamorro***
☐ 如果你能读中文或讲中文，请选择此框。	***Simplified Chinese***
☐ 如果你能讀中文或講中文，請選擇此框。	***Traditional Chinese***
☐ Označite ovaj kvadratić ako čitate ili govorite hrvatski jezik.	***Croatian***
☐ Zaškrtněte tuto kolonku, pokud čtete a hovoříte česky.	***Czech***
☐ Kruis dit vakje aan als u Nederlands kunt lezen of spreken.	***Dutch***
☐ اگر خواندن و نوشتن فارسي بلد هستيد، اين مربع را علامت بزنيد.	***Farsi***
☐ Cocher ici si vous lisez ou parlez le français.	***French***
☐ Kreuzen Sie dieses Kästchen an, wenn Sie Deutsch lesen oder sprechen.	***German***
☐ Σημειώστε αυτό το πλαίσιο αν διαβάζετε ή μιλάτε Ελληνικά.	***Greek***
☐ Make kazye sa a si ou li oswa ou pale kreyòl ayisyen.	***Haitian Creole***
☐ अगर आप हिन्दी बोलते या पढ़ सकते हों तो इस बक्स पर चिह्न लगाएँ।	***Hindi***
☐ Kos lub voj no yog koj paub twm thiab hais lus Hmoob.	***Hmong***
☐ Jelölje meg ezt a kockát, ha megérti vagy beszéli a magyar nyelvet.	***Hungarian***

Source: *Language Identification Flashcard - 2004 Census Test*
U.S. Census Bureau, Economics and Statistics Administration, U.S. Department of Commerce
www.lep.gov/ISpeakCards2004.pdf

AOC
2012

Language Identification Cards

Instructions: Place a check by the language spoken. ☑

☐ Marchi questa casella se legge o parla italiano.	***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。	***Japanese***
☐ 한국어를 읽거나 말할 수 있으면 이 칸에 표시하십시오.	***Korean***
☐ ໃຫ້ໝາຍໃສ່ຊ່ອງນີ້ ຖ້າທ່ານອ່ານຫຼືປາກພາສາລາວ.	***Laotian***
☐ Kakōlleiki bọọk (box) in elaññe kwōjela kajin im waakin (read) majōl.	***Marshallese***
☐ Prosimy o zaznaczenie tego kwadratu, jeżeli posługuje się Pan/Pani językiem polskim.	***Polish***
☐ Assinale este quadrado se você lê ou fala português.	***Portuguese***
☐ Însemnaţi această căsuţă dacă citiţi sau vorbiţi româneşte.	***Romanian***
☐ Пометьте этот квадратик, если вы читаете или говорите по-русски.	***Russian***
☐ Обележите овај квадратић уколико читате или говорите српски језик.	***Serbian***
☐ Označte tento štvorček, ak viete čítať alebo hovoriť po slovensky.	***Slovak***
☐ Marque esta casilla si lee o habla español.	***Spanish***
☐ Markahan itong kuwadrado kung kayo ay marunong magbasa o magsalita ng Tagalog.	***Tagalog***
☐ ให้กาเครื่องหมายลงในช่องถ้าท่านอ่านหรือพูดภาษาไทย.	***Thai***
☐ Maaka 'i he puha ni kapau 'oku ke lau pe lea fakatonga.	***Tongan***
☐ Відмітьте цю клітинку, якщо ви читаєте або говорите українською мовою.	***Ukrainian***
☐ اگر آپ اردو پڑھتے یا بولتے ہیں تو اس خانے میں نشان لگائیں۔	***Urdu***
☐ Xin đánh dấu vào ô này nếu quý vị biết đọc và nói được Việt Ngữ.	***Vietnamese***
☐ באצייכנט דעם קעסטל אויב איר לייענט אדער רעדט אידיש.	***Yiddish***

Source: *Language Identification Flashcard - 2004 Census Test*
U.S. Census Bureau, Economics and Statistics Administration, U.S. Department of Commerce
www.lep.gov/ISpeakCards2004.pdf

AOC
2012

PROCEDURE TO FOLLOW IN SECURING QUALIFIED INTERPRETER SERVICES ABSENT PRIOR NOTIFICATION OF NEED FOR SERVICES

In order to ensure access to the courts and in compliance with requirements under Title VI of the Civil Rights Act of 1964, whenever the Court or court staff encounters a limited-English-proficient person (LEP) under circumstances where the need for an interpreter was not previously known or could not be foreseen, court staff shall follow the procedure below:

1. Contact staff responsible for scheduling interpreters in your court to determine if there is an interpreter for that language scheduled that day; available in the courthouse; or able to travel to the courthouse within a reasonable period of time.

2. If there **is not** an interpreter available for in-person interpretation, **DO NOT use family members, friends or an "interpreter" who is not in the Registry or recognized as qualified by the AOC Court Interpreter Program.**

3. Absent an in-person interpreter, it may be possible – depending on the nature of the hearing – to conduct the proceeding through a telephonic interpreter. At present, Program policy dictates it is not possible to conduct evidentiary hearings through this service. Service will be limited to capiases, bails, or arraignments.

4. If the type of hearing does not qualify for telephonic interpretation, you may use the telephonic interpreter to provide the LEP information regarding the date for which the hearing will be scheduled and any other pertinent information. You may also use qualified bilingual staff to communicate this information only.

5. The Court and/or staff shall immediately notify the interpreter scheduling staff above of the need for an interpreter in the particular language for the date of the hearing.

6. **TELEPHONIC INTERPRETERS-** Court staff should first call a certified/qualified interpreter in the Delaware Court Telephonic Interpreter Registry to provide the service via phone. If no interpreter is available, the Court and/or court staff may call **Language Line Solutions, Inc.** and follow the Language Line instructions specific to each court. Language Line shall be used as a first choice for customer service and telephonic interpreting for any language for which Delaware does not have an interpreter in the Registry.

Language Line Solutions, Inc.

- Dial your designated **Language Line toll-free number** or 1.800.774.4344
- Enter your six-digit ID number
- Press **1** for Spanish or **2** for any other language. If you press 2, you will be asked to clearly state the language desired.
- The interpreter will be connected. Tell the interpreter what you wish to accomplish on the call.
- You may now speak to your LEP via the interpreter by using the speaker on the phone or passing the hand set back and forth.

To hear a recorded demonstration of over-the-phone interpretation, call the Language Demonstration Line at 1-800- 821-0301. For a quick tutorial go to https://www.youtube.com/watch?v=LQoCRen--M4 . See other Language Line videos at: https://www.languageline.com/resources/videos

COURT INTERPRETER PROGRAM

GENERAL PROCEDURES FOR SCHEDULING INTERPRETER SERVICES

1. The **responsibility for scheduling in-person interpreter services** falls solely on court staff assigned said responsibility. Staff will schedule interpreters according to the Delaware Judiciary's Language Access Plan, the Court Interpreter Program Policy Directive and recommendations of the Coordinator of the Court Interpreter Program. See Attached list of Staff by court and county.

2. Interpreter schedules for each court shall be posted in the court's **Microsoft Outlook Public Folders (PF)** in an INTERPRETER folder for easy viewing by all court staff. This Public Folder calendar will list interpreter schedules only. Staff responsible for scheduling interpreters and a supervisor/coverage person as well as the Coordinator of the Court Interpreter Program should have access to edit the content. Any changes in initial interpreter assignments should be made immediately and reflected in the PF in order to keep the information updated and accurate. The information in PF will enable staff to determine interpreter availability and/or the presence of a needed interpreter in the courthouse in case of an unknown/ last minute need.

3. Staff will request services from interpreters in the Court Interpreter Registry which lists all certified/qualified interpreters registered with the AOC Court Interpreter Program. Should there be a need for an interpreter of a language for which there is not an interpreter listed in the Registry, staff may contact the Coordinator of the Court Interpreter Program for help in securing a certified/qualified interpreter from a nearby jurisdiction. Staff may also contact the interpreter services agencies listed in the Registry.

4. The **timely notification** of (a) the **need** for an interpreter, and (b) the c**ancellation** of interpreter services previously requested are most important for effective provision of interpreter services to the court. Staff in charge of scheduling interpreters does not always have access to particular files or calendars; therefore, it is important that judge and commissioner's secretaries, intake staff, case managers, case processors, mediators and any other staff responsible for scheduling hearings issue an email request for an interpreter as soon as the need is known and/or as part of the process for scheduling the hearing.

5. Timely notice is even more crucial in cases requiring a **language other than Spanish** (LOTS) or **American Sign Language** (ASL) interpreters. Interpreters for LOTS and ASL are limited and therefore harder to secure and have strict hiring and cancellation policies. If staff calls an ASL interpreter or agency within 2 business days of the date of service, the request is considered a "rush" request and the fee per hour increases up to 50%. Increased fees are also possible for LOTS agencies.

6. With respect to **cancellations**, if the cancellation is within 2 (two) business days of the scheduled hearing, the cancellation policy for ASL or LOTS interpreters requires payment of the hourly minimum. A cancellation earlier than 2 (two) business days relieves the court of any cancellation fees. <u>All cancellations should be documented</u> as an email or fax receipt. While we cannot prepare for unknown or unforeseen interpreter needs, an awareness of changes in schedule can save the court considerable sums of money each year.

7. Whenever possible, staff will **coordinate the scheduling** of multiple cases that require interpreters for a particular/rarer language in order to maximize services.

If you should you have any questions, please do not hesitate to contact the Court Interpreter Program Coordinator via email, at jennifer.figueira@delaware.gov or call (302) 255-0166.

LAP-Attachment 2

JP COURT

ASL PROCEDURES TO FOLLOW
IN SECURING QUALIFIED SIGN LANGUAGE INTERPRETER SERVICES
ABSENT PRIOR NOTIFICATION OF NEED

Whenever the Court or court staff encounters a Deaf or Hard of Hearing consumer (DHOH) under circumstances where the need for an interpreter was not known or could not be foreseen, the Court or court staff shall comply with the following procedure.

Determine what specific accommodation the person in question needs. For example, a hard of hearing individual may need an assistive listening device, not an interpreter or, as is sometimes the case, the Deaf individual does not use sign language.

1. If an interpreter is needed, determine if an interpreter is scheduled on that day, available in the courthouse, or able to travel to the courthouse within a reasonable time. Contact the freelance interpreters and agencies listed in the Administrative Office of the Courts Interpreter Registry.

2. If an interpreter is available but unable to arrive within a reasonable time, determine if that interpreter can travel to the nearest courthouse and interpret remotely for your matter using the court's video conferencing or remote appearance system. *For this to be possible both locations must have video conferencing equipment, software, and a strong internet connection.*

3. If an interpreter is needed **outside regular business hours**, contact the 24/7 sign language interpreters and agencies of the Registry by calling the Emergency/Afterhours telephone numbers. If no interpreter is immediately available, the interpreter will provide an estimated time of arrival. See #2 if interpreter is available but unable to travel.

4. **If an interpreter is not available please DO NOT use family members, friends, staff, or an "interpreter" who is not in the Registry or recognized as qualified by the AOC Court Interpreter Program. It is forbidden to hold a hearing without an interpreter.**

5. Please communicate in writing the date, time, and location for which the court hearing will be scheduled with an interpreter present, and all other pertinent information. If a staff member can communicate using ASL, he/she may provide the rescheduling information *only.*

6. The Court and/or staff shall immediately notify the staff member who is responsible for scheduling interpreters (or a manager, if designated staff is not available) that an interpreter is needed for the date of the hearing. If a case is being transferred, you must contact, within 24 hours, the staff member who is responsible for scheduling interpreters, or the manager, of the location where the case will be heard, concerning the need for an interpreter to be present at the hearing.

LAP attachment 2b

BEST PRACTICES FOR WORKING WITH COURT INTERPRETERS IN THE COURTROOM

Administrative Office of the Courts State of Delaware
Court Interpreter Program

Persons with limited proficiency in English (LEP) face great difficulties in their everyday communications but are especially challenged when using the judicial system. Court interpreters are appointed to allow effective communication between these parties and the Court.

1. ASSESSING THE NEED FOR AN INTERPRETER

Absent a prior request for an interpreter either by counsel, court staff or a *pro se* party or if circumstances during the proceedings cause the Court concern about a party's ability to communicate in and understand English, the Judge shall determine, on the record, the need to appoint an interpreter. Questions should require fully structured sentences as a reply, not just "yes" or "no" answers.

SAMPLE QUESTIONS to assess English proficiency:

1. **What is your name?**
2. **Where are you from? Tell me a little about your country.**
3. **In what language(s) do you communicate daily/mostly?**
4. **How comfortable are you with the English language?**
5. **Have you taken any English lessons?**
6. **Would you like the court to provide an interpreter in your language to help you communicate and to understand what is being said?**
7. **Is there a particular dialect of your language we need to be**

The LEP party may request to waive the right to an interpreter. The Court shall, **on the record**, *voir dire* the LEP Party in English to assess proficiency and allow him/her to consult with counsel before deciding whether to grant such request. The Court may wish to have the right to an interpreter explained in the LEP's native language. Waiver must be knowing, intelligent and voluntary. The Court need not accept the waiver if it feels the integrity of the proceedings is not protected without the interpretation.

2. INTERPRETER QUALIFICATION

Whenever there is an interpreter providing services in a proceeding, the interpreter's certification/qualification may be determined and placed on the record.

- ✓ **Are you listed in the Delaware Court Interpreter Registry?**
- ✓ **Are you certified/qualified in a state other than Delaware?**

(Certification is possible in the following languages: **Arabic, Cantonese, French, Haitian Creole, Hmong, Korean, Laotian, Mandarin, Portuguese, Russian, Somali, Spanish and Vietnamese.)**

Whenever the Court is presented with an interpreter not included in the Registry, the Court shall assess and determine the interpreter's credentials by asking some basic questions on the record, such as:

- ✓ **What is your native language?**
- ✓ **If other than English, how did you learn English?**
- ✓ **Where or how did you learn the _____ language?**
- ✓ **Do you know the person for whom you will interpret or any of the parties involved in this proceeding? How so?**
- ✓ **Can you remain impartial and objective as an interpreter?**
- ✓ **How long have you been an interpreter?**
- ✓ **Have you had any formal training in Court Interpreting?**
- ✓ **Are you familiar with the modes of interpretation?** (Simultaneous, Consecutive and Sight translation of documents.)
- ✓ **Are you familiar with the Code of Professional Responsibility for Court Interpreters? Can you name some of its points?** (Interpret accurately, completely and impartially; give accurate representation of qualifications; confidentiality; limit the scope of work to interpreting; show professional demeanor; duty to report ethical violations; and report impediments to performance.)

Once the Court, counsel and LEP party are satisfied with the interpreter's qualifications, the Court shall place on the record their acceptance, appoint the interpreter as interpreter of record and administer the oath.

LAP - Attachment 3

BEST PRACTICES FOR WORKING WITH COURT INTERPRETERS IN THE COURTROOM

3. INTERPRETER'S OATH

If the Court is satisfied with the interpreter's qualifications, the Court may administer the following oath:

"Do you solemnly swear or affirm under the penalties of perjury to interpret accurately, completely and impartially using your best skill and judgment in accordance with the Code of Professional Responsibility for Court Interpreters?"

4. BEST PRACTICES DURING PROCEEDINGS

The Court is best suited to ensure the quality of court interpretation services. Some ideal practical considerations are:

- Interpreters should stand or sit where they may hear and be heard without difficulty and maintain appropriate lines of sight. At trial, sit interpreter(s) at a table with a clear view of the entire courtroom and parties, and room for interpreter working materials.
- Remind all parties to speak loudly and clearly into the microphone and one at a time.
- Make sure recording equipment is positioned to effectively record the voice of the interpreter.
- Explain to the jury the role of the court interpreter as an impartial officer of the court, responsible only for accurately interpreting proceedings and/or testimony for the LEP defendant and the Court.
- Explain to the parties/defendant the role of the interpreter as an impartial officer of the court, responsible only for accurately interpreting to him/her proceedings and/or testimony. Remind the LEP not to engage in conversations with the interpreter.
- Remind any jury member proficient in the language being interpreted from to base his/her deliberations on the English record.
- During testimony by a non-English-speaking witness, instruct counsel to address all questions directly to the witness as if the interpreter was not there.
- Do not - and do not allow counsel to - ask the interpreter to explain or restate anything said by a party.
- Provide rest breaks as needed, since interpreter accuracy declines significantly after 30 minutes of continuous interpretation. Two interpreters are required for trials and longer proceedings.
- See Supreme Court Administrative Directive 107 for additional information.

A good, experienced interpreter:

- **will** give an accurate and smooth interpretation; speak loudly and clearly while being unobtrusive;
- **will** use the first person during interpretation and refer to him/herself in the third person as "the interpreter" ;
- **will** ask the Court's permission to clarify a term, get a repetition, or correct the record if the interpreter knows a previous interpretation was in error;
- **will not** have private conversations with the LEP at any given time; **will not** lead the witness or influence answers through body language;
- **will not** perform any duty other than interpreting**;**
- **will not** substitute an "uh-huh" with a "yes" or a "no" but will repeat the sound.
- **will not** do a "live" interpretation of recordings or on-the – spot translation of any materials to be introduced as evidence;
- **will not** interject comments nor offer an opinion about the witness for the court/counsel no matter how harmless the comment may appear.

ADDITIONAL RESOURCES

The **Delaware Telephonic Interpreter Program** has a list of certified/qualified interpreters that provide interpreting services over the telephone. This service may be used at any time for arraignments, capias returns, VOPs or other short, non-evidentiary court proceedings where the need for an interpreter was not previously determined.

Court Interpreter Program intranet page:
https://judicial.state.de.us/aoc/courtinterpreter.stm
Coordinator: (302) 255-0166

LAP - Attachment 3

BEST PRACTICES FOR WORKING WITH INTERPRETERS FOR THE DEAF OR HARD-OF-HEARING

State of Delaware Administrative Office of the Courts
Court Interpreter Program

Deaf and hard-of-hearing (DHOH) persons face great difficulties in their everyday communications but are especially challenged when using the judicial system. The Americans with Disabilities Act (ADA) in an attempt to eliminate existing restrictions and limitations and ensure full and equal participation, requires the provision of auxiliary aids and services such as interpreters. Sign language interpreters are appointed to allow effective communication between these parties and the Court.

THE RIGHT INTERPRETER(S)

Sign language is not universal and presents many variations around the world. It is important therefore for counsel, court staff or, ultimately, the Court to determine the DHOH party's specific needs as to which type of sign language interpreter -or interpreting team- is needed. The needs of the DHOH population vary greatly and it is important to include their input when determining the most effective method of communication. Some questions that may help in determining which type of sign language is needed are:

- **What accommodations does he/she need to have access to the procedure?**
- **Does he/she go to school or work and if so, how does he/she communicate while at school or at work?**
- **How long has he/she lived in this country or if foreign born, has he/she attended school in this country?**
- **Is ASL his/her first language?**

These questions will help determine whether the DHOH party is familiar with and uses American Sign Language or the national sign language of his/her country. In case of the latter, extraordinary arrangements may be required that include specialized interpreters and or a communication assessment. The court clerk may contact the requester and do the research and then secure the services of a certified/qualified interpreter from the AOC Court Interpreter Registry listed under Sign Language Interpreters or Sign Language Agencies or by contacting the Court Interpreter Program Coordinator at 302.255.0166. Sign Language Agencies may also be helpful in determining the best accommodation for a Deaf party.

INTERPRETER QUALIFICATIONS

There are several possible certifications by Registry of Interpreters for the Deaf (RID). The preferred certification for court proceedings is the Specialist Certificate: Legal (SC:L). Absent an SC:L, interpreters for the Deaf holding any of the certificates below may be considered as qualified as long as they have attended legal interpreter training. It is therefore important to inquire as to the interpreter's experience in legal settings. Additionally, interpreters for the DHOH must abide by the NAD-RID Code of Professional Conduct which has as guiding principles confidentiality, linguistic and professional competence, impartiality, professional growth and development, ethical business practices, and the rights of participants in interpreted situations to informed choice. (www.rid.org)

NIC- National Interpreter Certification
CI/CT - Certificate of Interpretation and Transliteration
OTC - Oral Transliteration Certification (Specialized)
CDI - Certified Deaf Interpreter
SC:L- Specialist Certificate

BEST PRACTICES FOR WORKING WITH INTERPRETERS FOR THE DEAF OR HARD-OF-HEARING

State of Delaware Administrative Office of the Courts
Court Interpreter Program

INTERPRETER'S OATH

If the Court is satisfied with the interpreter's qualifications, the Court may administer the following oath:

> **"Do you solemnly swear or affirm under the penalties of perjury to interpret accurately, completely and impartially using your best skill and judgment in accordance with the Code of Professional Responsibility for Court Interpreters?"**

BEST PRACTICES DURING PROCEEDINGS

The Court is best suited to ensure best delivery of interpretation services. Some ideal practical considerations are:

- Allow an initial communication between the Deaf party and the interpreter(s) to determine if there are any signing differences or concerns.
- Ask the Deaf/hard-of-hearing person if he/she is able to understand and communicate through the interpreter(s).
- Depending on the nature of the proceedings, interpreters should stand or sit where they may hear, be seen and heard without difficulty.
- Remind all parties to speak loudly and clearly into the microphone and one at a time.
- Explain to the jury the role of the court interpreter as an impartial officer of the Court, responsible only for accurately interpreting proceedings and/or testimony to the Deaf or hard-of-hearing defendant.
- Explain to the party/defendant the role of the interpreter as an impartial officer of the court, responsible only for accurately interpreting to him/her proceedings and/or testimony. Remind the Deaf/hard-of-hearing party not to engage in conversations with the interpreter.
- During witness testimony, instruct counsel to address all questions directly to the witness as if the interpreter was not there.
- Do not - and do not allow counsel to - ask the interpreter to explain or restate anything said by a party.
- Provide rest breaks as needed, since interpreter accuracy declines significantly after 30 minutes of continuous interpretation. Consider using two interpreters for trials and longer proceedings.

ADDITIONAL RESOURCES

Registry of Interpreters for the Deaf, RID - www.rid.org
They have local chapters and are available for questions via email. PA - http://www.parid.org/ NJ - http://nj-rid.org/

Direct any question to:
Administrative Office of the Courts Court Interpreter Program
Tel: 302-255-0166

BEST PRACTICES FOR ATTORNEYS WORKING WITH COURT INTERPRETERS

For more information visit http://courts.delaware.gov/aoc/courtinterpreter/

State of Delaware Administrative Office of the Courts
Court Interpreter Program

"The Delaware justice system is based upon the guiding principle that all persons, regardless of age, color, gender, national origin, physical or mental disability, race religion, sexual orientation, or economic status should have equal access to the judicial system." – Delaware Supreme Court, A.D. 107

Persons with no or limited proficiency in English (LEP) and those Deaf or hard-of-hearing (DHOH) face great difficulties in their everyday communications but are especially challenged when using the judicial system. Court interpreters allow effective communication between these parties and the Court.

1. INTERPRETER QUALIFICATION

Delaware certification is possible in Arabic, Cantonese, French, Haitian- Creole, Hmong, Korean, Laotian, Mandarin, Portuguese, Russian, Somali, Spanish, and Vietnamese. It is important to assess and determine the interpreter's credentials and experience especially if he/she will be interpreting at trial.

- ✓ **Are you a certified court interpreter? Which state issued your certification?**
- ✓ **Have you had any formal training in Court Interpreting?**
- ✓ **How long have you been a court interpreter?**
- ✓ **Have you interpreted witness testimony before? In criminal or civil cases?**
- ✓ **Do you know the person for whom you will interpret or any of the parties involved in this proceeding?**
- ✓ **Are you familiar with the modes of interpretation?**
- ✓ (Simultaneous, Consecutive and Sight translation)
- ✓ **Are you familiar with the Code of Professional Responsibility? for Court Interpreters? Can you name some of its points?** (Accuracy: no omissions, no additions; Impartiality; Confidentiality; No ex-parte communications with the witness.)
- ✓ **What is the procedure for clarifications?** (Ask the Judge permission to clarify or request a repetition.)

2. INTERPRETER'S OATH

"Do you solemnly swear or affirm under the penalties of perjury to interpret accurately, completely and impartially using your best skill and judgment in accordance with the Code of Professional Responsibility for Court Interpreters?"

3. BEST PRACTICES DURING PROCEEDINGS

Some practical considerations to ensure best delivery of interpretation services are:

A. General

- Allow interpreter to familiarize him/herself with the case by providing materials such as:
  - Key words, slang, specialized terminology, etc.;
  - Names and/or nicknames;
  - Numbers: amounts, accounts, addresses;
  - Copy of the complaint, indictment and any relevant prior testimony; and
  - Physical evidence to be shown to the witness.
- Interpreter should stand or sit where they maintain appropriate line of sight and may hear and be heard without difficulty. At trial, sit interpreter(s) at a table with a clear view of the entire courtroom and parties, and room for interpreter's working materials.
- Make sure recording equipment is positioned to effectively record the voice of the interpreter.
- Remind all parties to speak loudly and clearly into the microphone and one at a time

- Document translation or transcription/translation of recordings should be done well before they are to be introduced into evidence. Translation work is complex and requires research. A hurried, last-minute translation will be inaccurate and unreliable.

B. Witness Testimony

Non-English-speaking witness testimony is interpreted in the consecutive mode; that is, the interpreter will hear the entire question before interpreting it to the witness. The interpreter will then wait for the complete response before rendering the interpretation into English, out loud and for the record. A good, experienced interpreter will allow a natural question-answer rhythm and will preserve the witness persona.

To ensure best possible delivery, counsel shall:

- Provide the interpreter with any information on the witness that may affect communication such as speech defects, mental health issues, emotional distress issues, education level, etc.
- Explain to the witness the role of the interpreter as an impartial officer of the court, responsible only for accurately interpreting to him/her proceedings and/or testimony.
- Advise the witness that the interpreter will interpret everything he/she says. Advise the witness not to say anything he/she does not want heard.
- Instruct the witness not to engage in "private" conversations with the interpreter.
- Instruct the witness to wait to hear the interpreted question before answering even if they understand some English. Advise witness to look at counsel or jury when answering.
- Place the interpreter by the witness at the stand and make sure the interpreter does not obstruct the witness for the jury.
- During testimony by a non-English-speaking witness, address all questions directly to the witness as if the interpreter were not there.
- Do not ask the interpreter to explain or restate anything said by a party.
- Phrase your questions clearly and, whenever possible, avoid unnecessary ambiguities.
- Provide rest breaks as needed, since interpreter accuracy declines significantly after 30 minutes of continuous interpretation. A team of interpreters is needed interpreters for trials and longer proceedings.

4. INTERPRETERS FOR THE DEAF AND HARD-OF-HEARING

Sign language is not universal and presents many variations around the world. It is important therefore to determine the deaf or hard-of-hearing party's specific needs as to which type of Sign Language interpreter - or interpreting team - is needed. It is helpful to determine whether the deaf/hard-of-hearing party is familiar with and uses American Sign Language or the national sign language of his/her country. In case of the latter, extraordinary arrangements may be required that include specialized interpreters and or a communication assessment.

There are several possible certifications by Registry of Interpreters for the Deaf (RID). The preferred certification for court proceedings is the Specialist Certificate: Legal (SC:L). Absent a SC:L, the interpreter(s) may hold a NIC, CI/CT, OTC or CDI with legal training and experience. www.rid.org

A good, experienced interpreter:

- **will** give an accurate and smooth interpretation; speak loudly and clearly while being unobtrusive;
- **will** use the first-person during interpretation and refer to him/herself in the third person as "the interpreter;"
- **will** ask the Court's permission to clarify a term, get a repetition, or correct the record if a previous interpretation was in error;
- **will not** have private conversations with the LEP at any given time; **will not** lead the witness or influence answers through body language;
- **will not** mimic gestures made by the witness;
- **will not** substitute an "uh-huh" with a "yes" or a "no" but will repeat the sound;
- **will not** do a "live" interpretation of recordings or on-the –spot translation of any materials to be introduced as evidence; and
- **will not** offer an opinion about the witness for the court/counsel no matter how harmless the comment may appear.

COURT INTERPRETERS
CODE OF PROFESSIONAL RESPONSIBILITY

Applicability: This Code shall be binding on all persons contracted by the Delaware Judiciary to provide foreign-language or sign-language interpretation services in connection with a procedure before any court in Delaware, or any other activity ordered by a court or conducted under the supervision of a court or its agent(s).

CANON 1: ACCURACY AND COMPLETENESS
Interpreter shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation.

CANON 2: IMPARTIALITY AND AVOIDANCE OF CONFLICT OF INTEREST
Court Interpreter shall fulfill a special duty to interpret accurately and faithfully without evidencing any personal bias, and avoiding even the appearance of partiality. Interpreter shall reveal any real or apparent conflict of interest or bias, including circumstances in which the interpreter had previous involvement in a case, with a party, a juror or whether the interpreter has a real or perceived personal or economic interest in the outcome of a case.

CANON 3: REPRESENTATION OF QUALIFICATIONS
Interpreter shall accurately and completely represent his or her certifications, qualifications, training and pertinent experience**.**

CANON 4: PROFESSIONAL DEMEANOR
Interpreter shall dress and conduct him or her in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.

CANON 5: CONFIDENTIALITY
Interpreter shall keep confidential all matters interpreted and all privileged conversations overheard between counsel and client. Interpreter shall not discuss a case pending before the court.

CANON 6: RESTRICTION OF PUBLIC COMMENT
Interpreter shall not publicly discuss, report, or offer an opinion concerning a matter in which he or she is or has been engaged, even when that information is not privileged or required by law to be confidential.

CANON 7: SCOPE OF PRACTICE
Interpreter shall limit him or herself to interpreting or sight translating, and shall not give legal advice, express personal opinions to individuals for whom he or she is interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

CANON 8: ASSESSING AND REPORTING IMPEDIMENTS TO PERFORMANCE
Interpreter shall assess at all times his or her ability to deliver services. Whenever the interpreter has any reservation about his or her ability to satisfy an assignment competently, he she shall immediately convey that reservation to the appropriate judicial authority.

CANON 9: DUTY TO REPORT ETHICAL VIOLATIONS
Interpreter shall report to the proper judicial authority any effort to impede his or her compliance with any law, any provision of this code, or any other official policy governing court interpreting and legal translating.

CANON 10: PROFESSIONAL DEVELOPMENT
Interpreter shall continually improve his or her skills and knowledge and advance the profession through activities such as professional training and education, and interaction with colleagues and specialists in related fields.