APPENDIX F STATE OF DELAWARE

ADMINISTRATIVE OFFICE OF THE COURTS

COURT INTERPRETER PROGRAM

**I. Legal Background**

The obligation to provide services to persons with limited English proficiency (LEP)[[1]](#footnote-1) 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). 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, as a result of 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 in order to provide meaningful access to the court system.

**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 Administrative Directive #107, dated April 1996, which established the Court Interpreter Program under the Administrative Office of the Courts (AOC.) The AOC worked with the National Center for State Courts and the newly formed 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 in FY 2007. The position was filled in February 2007. The Delaware Court Interpreter Program recently celebrated 15 years of service and now provides certified and otherwise qualified interpreters in twenty three foreign languages.[[2]](#footnote-2)

**III. LEP Population Needs Assessment**

The 2010 U. S. Census Bureau estimated the Delaware population five years or older at 805,530[[3]](#footnote-3) reflecting a total population growth of about 14 percent. Within this total population 4.4 percent reported speaking English “less than very well”. The 2005-2009 American Community Survey estimates 11.6 percent of the population speaks a language other than English. Of this 11.6 percent, 6.0 percent speak Spanish or Spanish Creole, 3.2 percent speak other Indo-European language, 1.6 percent speaks an Asian or Pacific island language and 0.8 percent speaks other languages (Table 1). Data shows that 38.2 percent of those who do speak a language other than English do not speak English very well.

The State population by Hispanic or Latino origin Census data shows the Hispanic or Latino population of Delaware grew 96.4 percent, now comprising 8.2 percent of the total population[[4]](#footnote-4). Spanish is by far the predominant language of LEP individuals in Delaware. (Table 2.)

**Table 1. Characteristics of people by Language Spoken at Home**

**Speak Not Speak**

**Margin English Margin English Margin**

**Subject Total of Error Well of Error Well of Error**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Population 5 years and over | 805,530 | +/-64 | 95.6% | +/-0.2 | 4.4% | +/-0.2 |
| Speak only English | 88.4% | +/-0.2 | (X) | (X) | (X) | (X) |
| Speak a language other than English | 11.6% | +/-0.2 | 61.8% | +/-1.3 | 38.2% | +/-1.3 |
| Spanish or Spanish Creole | **6.0%** | **+/-0.2** | **52.5%** | **+/-2.1** | **47.5%** | **+/-2.1** |
| Other Indo-European languages | 3.2% | +/-0.2 | 75.3% | +/-2.4 | 24.7% | +/-2.4 |
| Asian and Pacific Island languages | 1.6% | +/-0.1 | 63.0% | +/-3.1 | 37.0% | +/-3.1 |
| Other languages | 0.8% | +/-0.1 | 76.1% | +/-4.5 | 23.9% | +/-4.5 |

|  |  |
| --- | --- |
| Table 2. Detailed Languages Spoken at Home for  Population 5 Years and Older for Delaware. | |
| Language | Number of Speakers |
| Spanish | 47,613 |
| French (Patois, Cajun) | 4,114 |
| Chinese | 3,584 |
| German | 3,224 |
| Italian | 2,661 |
| Tagalog | 2,292 |
| Arabic | 2, 161 |
| Hindi | 2,004 |
| Kru/Ibo/Yoruba | 1,743 |
| Gujarati | 1,545 |
| Swahili | 1,446 |
| Haitian/French Creole | 1,383 |
| Polish | 1,313 |
| Korean | 1,284 |
| Greek | 1,237 |
| Vietnamese | 1,161 |
| Telugu | 1,023 |
| Pennsylvania Dutch | 1,007 |
| Urdu | 992 |
|  |  |

Furthermore, Table 3 below shows that 4.7 percent of all households are linguistically isolated. A linguistically isolated household is one where all members of the household 14 years and over have at least some difficulty with English.

**Table 3. Delaware - Linguistic Isolation**

|  |  |  |
| --- | --- | --- |
| All households | 4.7% | +/-0.1 |
| Households speaking -- | | |
| Spanish | 27.1% | +/-0.1 |
| Other Indo-European languages | 16.4% | +/-0.1 |
| Asian and Pacific Island languages | 27.6% | +/-0.2 |
| Other languages | 16.4% | +/-0.3 |

The Delaware Department of Education data on enrollment by race and ethnicity shows Hispanic enrollment as 11.3 percent of total enrollment and Asian American enrollment at 3.5 percent[[5]](#footnote-5).

As a data collection tool, the AOC designed 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 for that particular interpreting event. Data contained in these forms is collected and tabulated into a Fiscal year Summary Excel spreadsheet. A summary page captures the most important data regarding language services. In FY 2014, a total of 3,065 court events[[6]](#footnote-6) required 7,289 foreign language interpreter hours. These events provided language assistance to an estimated 10,006 LEP litigants of which 1,229 involved juvenile litigants, their parents, witnesses or victims. The overall increase in the number of LEP litigants requiring language access services since FY12 appears in Table 4, along with the number of interpreted criminal and civil cases. The number of litigants served statewide by court and language in FY 14 appear in Table 5 below.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Table 4. Increase in the number of Litigants Served, Number of Criminal**  **and Civil Cases from FY12 Through FY 14** | | | | | |
| **DATA**  **CATEGORY** | **FY12** | **FY13** | **FY14** | **% CHANGE**  **FY13-FY14** |
| **Litigants** | 9,011 | 9,232 | 10,006 | 8.4% |
| **Criminal cases** | 1326 | 4842 | 6415 | 32.4% |
| **Civil cases** | 850 | 999 | 1142 | 14.3% |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Table 5. Number of LEP Litigants Served by Court Statewide by Language During FY 2014.  (Organized by Number of Litigants) | | | | |
| *LANGUAGE* | ***JP COURTS*** | ***COURT OF COMMON PLEAS*** | ***FAMILY COURT*** | *SUPERIOR COURT* |
| Spanish | **4332** | **1535** | **1979** | 256 |
| Haitian Creole | **149** | **77** | **74** | 28 |
| Mandarin | **14** | **17** | **15** | 0 |
| Arabic | **4** | **3** | **12** | 4 |
| Turkish | **6** | **3** | **11** | 0 |
| Korean | **1** | **7** | **3** | 6 |
| Vietnamese | **2** | **4** | **6** | 4 |
| Portuguese | **6** | **4** | **1** | 1 |
| Russian | **2** | **2** | **5** | 0 |
| Urdu | **0** | **0** | **3** | 5 |
| Gujarati | **1** | **1** | **1** | 1 |
| Bengali | **0** | **0** | **3** | 0 |
| Polish | **0** | **0** | **2** | 0 |
| Cantonese | **0** | **1** | **0** | 0 |
| Farsi | **1** | **0** | **0** | 0 |
| Hindi | **0** | **0** | **1** | 0 |
| Italian | **0** | **1** | **0** | 0 |
| OTHER\* | **5** | **1** | **5** | 4 |
| \*These are events for which a specific language was not reported in the RFP forms. | | | | |

Records for FY 2014 continue to reflect that Spanish speakers are the predominant LEP population followed distantly by Haitian Creole and Mandarin. Data also showed a change in the most frequent languages requested, as shown in Table 6 below. There has been a steady increase in the number of interpreted hours for languages other than Spanish (LOTS). The number of court events statewide involving LOTS interpreters grew by **25.6%** in FY’14 (403 events FY’13; 506 events FY’14).

Additionally, the AOC gathers data on the number of visitors requesting information from staff at the New Castle County courthouse information desk. The AOC hired a bilingual Spanish staff to address all inquiries from Spanish-speaking LEP. Data for FY 2014 shows that 1.39% (4,465) of the 301,145 litigants who visited the information desk during the fiscal year requested and received information in Spanish.

**Chart 1. LOTS Interpreter Hours FY13 and FY 14**

|  |  |  |  |
| --- | --- | --- | --- |
| Table 6. Six most Requested Languages in FY14 v. Six Most requested Languages in FY 13 by number of Interpreter Events. | | | |
|  | **FY 2014** |  | **FY 2013** |
| Spanish | 2401 | **Spanish** | 2777 |  |
| Haitian Creole | 283 | **Haitian Creole** | 209 |
| Mandarin | 66 | **Mandarin** | 44 |
| Arabic | 29 | **Arabic** | 29 |
| Turkish | 24 | **Russian** | 15 |
| Korean | 23 | **French** | 14 |

**IV. The Court Interpreter Program**

The Delaware Judicial Branch has provided court interpreter services since 1997 through the Court Interpreter Program.[[7]](#footnote-7) The Program is managed by the AOC under the direction of the Court Interpreter Advisory Board. The Advisory Board is comprised of 5 Delaware judges, a Certified Interpreter, and the AOC’s Court Interpreter Program Coordinator. The Coordinator is responsible for the development of policies and procedures on the use of interpreters in the Delaware courts, the implementation of those policies and procedures, and 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 as required by the Judicial Branch.
* 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 Credit requirements described in the AOC’s Continuing Education Policy of March 2006.
  + 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 that candidate who passed a 3-part oral performance examination in his/her particular language combination with a minimum score of 70% overall and in each of the 3 sections independently. 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 that candidate who sat for the 3-part performance examination in his/her particular language combination and obtained a minimum overall score of 60% by scoring 70% in at least one section, and scores of or above 55% in the remaining two sections. Included under this category are qualified interpreters in languages for which there is not an oral performance examination. 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.

A **Registered Candidate** is that candidate who sat for the 3-part performance examination in his/her particular language with a minimum score of 50% 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 Public Defender’s Office, and other appropriate state agencies. Each court/agency contacts the interpreter directly to schedule services except where there is coordinated scheduling pre-arranged by the AOC. If there are no certified/qualified interpreters in Delaware for certain languages, upon request, the AOC will assist the courts/agencies by providing information about available interpreters who participate in court interpreter programs in other jurisdictions. Currently, Delaware has certified interpreters in Haitian Creole, Italian, Mandarin, Russian, Spanish and Ukrainian; and conditionally-approved interpreters in Korean, Spanish, and Turkish. There are registered candidates in Haitian Creole and Portuguese.

The Court Interpreter Program has a Continuing Education Policy which requires Delaware interpreters in the Registry to complete a minimum of 12 hours of continuing education every 2 years. Of these 12 credits, at least 3 must be in Ethics and 3 must be in skills building on the modes of interpretation. 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 in order to ensure 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, in order 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 is Administrative Directive 163 (Sept. 4, 2008).

**V. Services Provided**

Court officers and staff members are sensitive to the needs of LEP individuals and err on the side of caution in determining when to provide LEP services, especially given the importance of protecting the legal rights afforded participants in the judicial process. The court provides interpreting services when it is apparent to judicial officers and court staff that a person involved in a court proceeding, including defendants, victims, or witnesses, does not read, write, speak, or understand English sufficiently to participate in the proceeding. In addition, court interpreters are available as a matter of course for certain high-volume court proceedings in the Justice of the Peace Courts and the Court of Common Pleas.

As a result of this LAP, 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: 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; Sentencing; Traffic Court; Truancy; and Violations of Probation.

The AOC in conjunction with the Delaware Volunteer Legal Services have sponsored the Limited Legal Assistance Program since 2002. The program currently provides *pro se* litigants with cases in Family Court a free legal consultation with a family law attorney. The AOC developed a pilot program to open the services to Spanish-speaking *pro se* litigants on the first Monday of every month. The first session took place on August 5, 2013.

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

*1. In-Person Interpretation Assistance*

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 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. Telephonic Interpretation Assistance*

The AOC uses two telephonic interpretation programs. First, the Court Interpreter Program operates a Delaware Telephone Interpreter Line, which uses the certified/qualified interpreters in the Court Interpreter Registry for telephonic interpretation. The AOC circulates a list of these certified/qualified interpreters, as well as instructions for accessing them over the phone, to members of the Judicial Conference and designated court staff. The Delaware Telephone Interpreter Line provides known certified/qualified interpreters in 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 Courts.

Second, the Delaware Judiciary subscribes to Language Line Services, Inc. (Language Line), another telephonic interpretation service. If the interpreters participating in the Delaware Telephone Interpreter Line are unavailable or if the need is for a language not provided by that service, the court/agency may contact Language Line in order to ensure that services are provided to the LEP person. Language Line is also available to staff for use at the information desks in New Castle County.

Both the Delaware Telephone Interpreter Line and the Language Line Services, 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.

In December 2009, the Court Interpreter Program started the Telephonic Interpretation for Justice of the Peace Courts Front Counter Pilot Program. The goal of this statewide pilot project is to address the need for an interpreter at a point of first contact with an LEP person. This program is separate from the telephonic interpretation services provided during a court hearing presided over by a Judge.  Under the pilot program, non-bilingual Justice of the Peace Court staff should call Language Line whenever an LEP person who is not scheduled to appear on a given day’s calendar comes to the Justice of the Peace Court 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 “I Speak” cards to allow the person to identify their language. (*See* Attachment 1).

In 2011, all court staff was instructed to use Language Line at any point of first contact with an LEP litigant.

**B. Other Resources**

In addition to court interpreters, the AOC provides additional resources to the courts, agencies, self-help centers, 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 to identify the language spoken.[[8]](#footnote-8) 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 providing 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. Courts should consider:

1. Identifying and maintain 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.

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

3. 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.”

4. Considering means of advertising positions in addition to posting on the Judicial Branch web site, such as placing an ad in the Sunday News Journal, and/or sending copies to appropriate community organizations such as the Latin American Community Center in New Castle County or La Esperanza in Sussex County. When doing so, posting positions for a somewhat longer time period may also be helpful to ensure that there is time for the position to be posted and seen at diverse location.

5. Involving 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.

The Office of Management and Budget does not currently permit additional salary to be provided for current employees who are bilingual in Spanish and English who continue to perform the essential functions of the position for which they were hired.

**VI. Translation of Documents and Signage**

The Coordinator of the Court Interpreter Program and the Court Interpreter Advisory Board began a Translation Project in December 2009 aimed at identifying and translating mission critical informational documents, forms, and signage for Superior Court, Family Court, Court of Common Pleas, and Justice of the Peace Courts. The Court Interpreter Advisory Board tasked the Coordinator with standardizing the translation process before translating mission critical materials for each court. The Court Interpreter Program assigned an identical sum of money to each court for document translation. The courts selected informational documents, vital forms, telephonic voice messaging and signage. The document selection was translated into Spanish and posted by each court accordingly. Each court also identified where to place signs stating that interpreters are available free of charge to LEP persons, as appropriate.

A second phase of the Translation Project began in November 2012. Again, all courts were invited to participate. The Project is ongoing at the time of this update. At the end of this second phase, the Court Interpreter Program will work along with the courts in the development of a Spanish page in the Court’s website where relevant Spanish materials will be available to the public.

The following key document 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
* Obtaining Criminal Background Checks
* Expungement of Records
* Titles 11, 16 and 21 Revocations of Driving Privileges

Court of Common Pleas

* ALL Notices/Summons to defendants
* ALL Continuance notices
* Drug Diversion Handbook and Waiver Agreement
* 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

Family Court

* Arbitration
* Arraignment
* Child Protection Registry
* Child Support FAQs packet
* Custody
* Custody Modification
* Juvenile Expungement
* Passport Issuance Alert
* PFA Brochure
* Preparing for Your Court Hearing Pamphlet
* Visitation

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

All Courts

* Complaint Form

Additionally, general information about criminal procedure and the juvenile arbitration process is posted in Spanish on the Judiciary Internet page: [http://courts.delaware.gov/?InfoforPersons  
Accused.pdf](http://courts.delaware.gov/?InfoforPersonsAccused.pdf). In addition, a general brochure on the Delaware court system is available in Spanish online at: <http://courts.delaware.gov/docs/TribunalDeJusticia.pdf>. The Court video titled “Introduction to Civil Cases in the Delaware Courts” has been translated and dubbed into Spanish and is available for viewing at <http://courts.delaware.gov/Help/civilvideos_spanish.stm>

**VII. 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).

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 a laminated booklet containing 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 (<http://judicial.state.de.us/aoc/index.stm>), which is available to the Judicial Conference and all court employees. This 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.

In an effort to further ensure sensitivity to the needs of LEP individuals, the courts have recently sponsored two judicial conferences regarding court interpretation. The Court Interpreter Program Coordinator presented a one-hour review of Title VI and the Court Interpreter Program at the Family Court Judges and Commissioners’ State–wide Conference in New Castle County on January 14, 2010. The Coordinator reviewed the procedures to secure in-person interpreter services and telephonic interpreter services, and the materials available to the judges on interpreting procedures such as the Bench Card and Notice. Additionally, the Coordinator made presentations – formally and informally – to the Judges for the Justice of the Peace Courts, Court of Common Pleas and Superior Court in an effort to keep the judges apprised of policy and requirements regarding the provision of language services, as well as to answer any questions.

The Court Interpreter Program Coordinator developed a curriculum for judges and court personnel on language access issues which includes the LAP; the procedures to follow to secure interpreter services; the approved sources of interpretation – certified/qualified in-person interpreters or telephonic interpretation; materials available to the judges on interpreting procedures, such as the Bench Card and Notice; the role of bilingual employees; and the role of family members or friends as interpreters. Additionally, there is a section on the role of the court interpreter, interpreter ethics and what the court should expect from a competent interpreter.

During the months of November and December of 2014, the Court Interpreter Coordinator presented on language access resources and procedures at six meetings of the Justice of the Peace Clerk Conference for New Castle County. The same conference is planned for the remaining counties in 2015.

**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. In addition, the courts sponsored a Delaware State Bar Association Continuing Legal Education (CLE) program addressing the use of interpreters in the courtroom. The Coordinator of the Court Interpreter Program, at the request of the Office of the Public Defender (OPD) and Office of Conflict Counsel (OCC), presented a CLE workshop about the best practices for the use of interpreters and the LAP to the members of the OPD and contract/conflict attorneys on February 10, 2012.

**VIII. 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. In anticipation of the expansion of the provision of court interpreter services, the Office of Management and Budget approved an additional $112,000 for FY 2012, bringing the total Court Interpreter Program budget to $523,000.

**B. Costs**

*1. Total Annual Expenditures*

Total annual expenditures for court interpreters have increased dramatically every fiscal year, doubling in only five years, as shown in Table 7 below. These numbers do not include disbursements made by the AOC for interpreter requests or interpreting hours provided through conflict attorney cases, since they are disbursed from a different budget line. The numbers shown below are for foreign language interpretation only and do not include American Sign Language interpretation costs.

**Chart 2. FY Disbursement for FY12, FY13 and**

|  |  |
| --- | --- |
| Table 7. Annual Cost of Foreign Language Interpreter Services by Fiscal Year. | |
| FISCAL YEAR | TOTAL  DISBURSEMENT[[9]](#footnote-9) |
| 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 |

*2. Telephonic Interpretation Costs*

Table 8 below shows the costs of services for telephonic interpretation since FY 2006. The gradual decrease in cost of services through FY 2010 is a reflection of both an increase in the availability of certified/qualified foreign language interpreters being scheduled to appear in court as well as the creation and use of the in-house Delaware Telephone Interpreter Line. FY 2011 increase in costs, as compared to FY2010, is the consequence of the implementation of procedures in which telephonic interpretation services are used by court staff at points of first contact with LEP litigants. Each court has a designated Language Line account. Additionally, the Family Court created a call center and the Court Interpreter Coordinator trained all staff at the center on the use of the Language Line for incoming calls. The subsequent decrease reflects the lower per minute fees acquired through a State contract with the service provider as well as the increased availability of in-person interpreters. Disbursements for in-person interpreter services have increased accordingly.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Table 8. Costs of Telephonic interpreter Services through Language Line Services, Inc. | | | | | | | |  |
| FY 2006 | **FY 2007** | **FY 2008** | **FY2009** | **FY 2010** | **FY2011** | **FY2012** | **FY 2013** | **FY 2014** |
| $29,901 | $25,075 | $20,363 | $12,115 | $9,940 | $15,693 | $9,351 | $7,380 | $6,370 |

**IX. Community Outreach**

The Delaware Judiciary has undertaken several initiatives to evaluate and strengthen its relationship with community stakeholders. In September 2007, the AOC sponsored *The Racial and Ethnic Fairness Summit*, which brought together criminal justice and community leaders to discuss strategies for improving racial and ethnic fairness in Delaware’s criminal and juvenile justice systems. To implement the recommendations from the Summit, all court staff members were required to attend programs on racial and ethnic fairness/diversity awareness. These began in September 2008 and are ongoing. In March 2010, the Delaware Criminal Justice Council, of which the Delaware Judiciary is a member, drafted a Declaration of Leading Practices to Protect Civil Rights and Promote Racial and Ethnic Fairness in the Criminal Justice System. The Declaration states that, effective January 2011, “an agency or court that certifies compliance with this Declaration shall be given preference in the award of grants administered by the Criminal Justice Counsel over any agency that does not certify.” The Delaware Judiciary anticipates that all courts and the AOC will take steps to certify their compliance with the Declaration.

The Delaware Judiciary also created the *Delaware Courts: Fairness for All Task Force*, which seeks to identify how the courts can assist self-represented litigants and increase procedural fairness and the perception of fairness. As part of the Task Force’s work, it held public and agency hearings to obtain input from various community constituencies, including groups who serve LEP populations. The AOC distributed Spanish-language flyers for the public hearings to a wide variety of organizations serving the LEP community. It also ensured that Spanish-speaking interpreters were present at all hearings. At the agency hearings, the Task Force heard from the Governor’s Advisory Council on Hispanic Affairs, an immigration attorney, and organizations that focus on providing legal services, including to LEP individuals, such as Community Legal Aid Society, Inc.; Legal Services Corporation of Delaware; and Delaware Volunteer Legal Services. As a result of the Task Force, the Delaware Judiciary likely will increase its outreach efforts to the LEP community.

In October 2012, a team of judges, all members of the Court Interpreter Program Advisory Board, and AOC staff attended the National Summit on Language Access in the Courts in Houston, Texas to discuss, at a national level, strategies for addressing language access issues in state courts.  The goal of the Summit was for each state team to develop a statewide action plan addressing language access. Delaware’s AOC is working with the Court Interpreter Advisory Board to implement the plan and its initiatives.

The plan is multi-phased. The first phase will focus on *pro se,* Spanish-speaking litigants with cases in Family Court and Justice of the Peace Courts; the Hispanic LEP public and its community representatives; and Family Court and Justice of the Peace Courts staff at first points of contact. The second phase will consist of data review, analysis, drafting of recommendations and of an implementation plan. A third phase is aimed at enhancing community outreach and participation through collaborative efforts to the benefit of the LEP population.

 One recent AOC accomplishment pursuant to the plan is the expansion of the Limited Legal Assistance Program (LLAP) in New Castle County to include the provision of services to Limited English Proficient (LEP) litigants.  As of July 2013, LEP litigants may sign up to speak with LLAP attorneys (aided by bilingual staff and 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.

**X. Revisions**

This LAP shall be revised yearly or as deemed necessary by the Court Interpreter Advisory Board and/or the Court Interpreter Program Coordinator. EFFECTIVE DATE: Reviewed and Approved by the Delaware Supreme Court on September 23, 2010. Updated, March 2012. Updated, August 2013. Updated October 2014.

**LAP State contact:**

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*Administrative Office of the Courts, 405 N. King Street Suite 507, Wilmington, DE 19801*

[*jennifer.figueira@state.de.us*](mailto:jennifer.figueira@state.de.us)

**LANGUAGE IDENTIFICATION CARDS – Attachment 1**

***English***



***Arabic***



***Armenian***

***Bengali***



***Cambodian***

***Chamorro***



***Simplified Chinese***



***Traditional Chinese***



***Croatian***



***Czech***



***Dutch***



***Farsi***



***French***



***German***



***Greek***



***Haitian Creole***



***Hindi***



***Hmong***



***Hungarian***



***Italian***



***Japanese***



***Korean***



***Laotian***



Kakōlleiki bọọk (box) in elaññe kwōjela kajin im waakin (read) majōl. ***Marshallese***

***Polish***

***Portuguese***



***Romanian***



***Russian***



***Serbian***



***Slovak***



***Spanish***



***Tagalog***



***Thai***



***Tongan***



***Ukrainian***



***Urdu***



***Yiddish***



**Attachment 2**

**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. The interpreters for LOTS and ASL are limited and therefore harder to secure. They come mostly from agencies which have strict hiring and cancellation policies. For example, an average 2-hour assignment for ASL costs $320.00; for LOTS, $350.00. If staff calls an ASL agency within 48 hours of the date of service, the request is considered “rush” and the fee per hour increases from $75/hr. to $100- $110/hr. per interpreter (plus travel time, mileage and parking). Fee increases are also possible for LOTS agencies.

6. With respect to **cancellations**, if the cancellation is within 48 hrs of the scheduled hearing, the cancellation policy for ASL or LOTS interpreters requires payment of the hourly minimum ($300 and $270, respectively). A cancellation earlier than 48 hours relieves the court of any cancellation fees. All cancellations should be documented 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.

Should you have any questions, please do not hesitate to contact Jennifer Figueira at 302.255.0166 or via email, [jennifer.figueira@state.de.us](mailto:jennifer.figueira@state.de.us)

**Procedure to follow in securing qualified interpreter services**

**absent prior notification of need for services – Attachment 2A**

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.

1. 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.
2. 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.
3. **TELEPHONIC INTERPRETERS-** Court staff should first call a certified/qualified interpreter in the Court Interpreter Registry to provide the service via phone. If a certified/qualified Registry interpreter is not available, the Court and/or court staff may call **Language Line Services, Inc.** Language Line Services Inc. shall be used as a first choice for telephonic interpreting for any language for which Delaware does not have an interpreter in the Registry

**Language Line Services, Inc.**

* Dial your designated **Language Line Services toll-free number** **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 you 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 our Demonstration Line at 800. 821.0301. For a quick tutorial go to** [**http://www.languageline.com/training**](http://www.languageline.com/training)**. See how we respond to emergencies** [**http://www.languageline.com/video.php**](http://www.languageline.com/video.php)**.**

**Attachment 3**

**BEST PRACTICES FOR WORKING WITH COURT INTERPRETERS IN THE COURTROOM**

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 aware of?**

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.

**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. 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.
* 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 Telephone Interpreting 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.

Visit the AOC intranet page and select Court Interpreters: http://judicial.state.de.us/aoc/index.stm

Coordinator, Court Interpreter Program 302.255.0166

**Attachment 4**

**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 Witnes 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

1. 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. [↑](#footnote-ref-1)
2. Although court interpreters are always provided for persons who are deaf or hard of hearing, access services to these populations are not addressed in this document/plan because they are not covered by Title VI or the Safe Streets Act. [↑](#footnote-ref-2)
3. http://factfinder.census.gov/servlet/STTable?\_bm=y&-context=st&-qr\_name=ACS\_2009\_5YR\_G00\_S1603&

   ds\_name=ACS\_2009\_5YR\_G00\_&-tree\_id=5309&-redoLog=false&-\_caller=geoselect&-geo\_id=04000US10&-format=&-\_lang=en [↑](#footnote-ref-3)
4. http://2010.census.gov/2010census/data/index.php [↑](#footnote-ref-4)
5. http://profiles.doe.k12.de.us [↑](#footnote-ref-5)
6. Events include, but are not limited to: 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. [↑](#footnote-ref-6)
7. Information about the Delaware Court Interpreter Program is available at: <http://courts.delaware.gov/Gen>eral%20 Information/?CourtInt.htm. Information about the Consortium for Language Access in the Courts is available at http://www.ncsc.org/languageaccess.

   [↑](#footnote-ref-7)
8. “I Speak” is a publication of the Ohio Criminal Justice Services. [↑](#footnote-ref-8)
9. Figures since 2010 are amounts actually expended for foreign language interpretation only, exclusive of American Sign Language interpretation expenses. Figures for other years are based on total expenditures for interpreters with expenditures for foreign language interpreters only (excluding ASL interpreters) estimated based on the proportion of total 2009 interpretation expenses that were for foreign language interpreters and applying that proportion to total actual interpretation expenses for each of the prior years. [↑](#footnote-ref-9)