

STANDARDS AND PROCEDURES
OF THE
OFFICE OF COURT INTERPRETER SERVICES

Promulgated pursuant to G.L. c. 221C, §7

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OFFICE OF COURT INTERPRETER SERVICES
STANDARDS AND PROCEDURES

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OFFICE OF COURT INTERPRETER SERVICES

STANDARDS AND PROCEDURES

Section 1.00 Principles, Application and Authority

- 1.01 The purpose of these Standards and Procedures is to provide interpreters, judges, attorneys and other court personnel with important information about accessing, using and providing quality interpreter services in the Massachusetts Trial Court, and with guidelines to follow when requesting or acting as interpreters through the Office of Court Interpreter Services.
- 1.02 All persons within the Commonwealth, regardless of their literacy or proficiency in the English language, have the right to equal access to the courts and to justice, and have the right to access all of the services and programs provided in court facilities.
- 1.03 A Limited English Proficiency (LEP) individual, throughout a legal proceeding, shall have a right to the assistance of a qualified interpreter who shall be appointed by the judge, unless the judge finds that no qualified interpreter of the LEP individual's language is reasonably available, in which event the LEP individual shall have the right to a certified interpreter, who shall be appointed by the judge. G.L. c. 221C, § 2.
- 1.04 Recognizing the importance that court interpreters can have in legal proceedings,

the Administrative Office of the Trial Court (AOTC) through its Office of Court Interpreter Services (OCIS) is committed to providing education and training to qualified individuals to enable them to provide professional interpreter services in all legal proceedings.

- 1.05 These Standards and Procedures apply to all spoken language interpreters providing interpreter services to the Trial Court. Sections 4.00, 7.00, 8.00, 11.00, 13.00 and 14.00 also apply to interpreters for the Deaf and Hard of Hearing providing interpreter services to the Trial Court.
- 1.06 Authority: These Standards and Procedures are promulgated pursuant to G.L. c. 221C, § 7(d).

Section 2.00 Definition of Terms

- 2.01 **Administrative Office of the Trial Court (AOTC)** is created by G.L. c. 211B and is the administrative office through which the Chief Justice for Administration and Management manages the Trial Court of the Commonwealth.
- 2.02 **American Sign Language (ASL)** is a visual-gestural language created by Deaf people and used by Deaf Americans and Canadians of all ages.
- 2.03 **Certified Interpreter** is one certified by the Office of Court Interpreter Services pursuant to section 5.04 or one certified by the National Registry of Interpreters for the Deaf.
- 2.04 Commission for the Deaf and Hard of Hearing is a statutory agency under G.L. c. 6, § 191, et seq., which serves as the principal agency of the Commonwealth on

behalf of Deaf and Hard of Hearing persons, and it provides services to the Deaf and Hard of Hearing population, including but not limited to interpreting services. G.L. c. 6, § 194.

- 2.05 **Consecutive Interpretation** means relaying a message from one language into another in a sequential manner after the speaker has completed a thought. The speaker should pause at regular intervals to facilitate the conveyance of his statements through the interpreter.
- 2.06 **Court Interpreter** is a communication facilitator who interprets for Limited English Proficiency individuals or non-English speakers involved in a court proceeding, as assigned by the Office of Court Interpreter Services or by the Commission for the Deaf and Hard of Hearing. Court interpreters must accurately interpret for the parties without editing or summarizing, they must be able to interpret simultaneously and consecutively, they must be able to orally translate written documents upon request, and they must understand and comply fully with the Code of Professional Conduct for Court Interpreters of the Trial Court.
- 2.07 **Cultural Fluency** refers to the awareness and full comprehension of cross-cultural factors, including, but not limited to, expectations, attitudes, values, roles, institutions, and linguistic differences and similarities.
- 2.08 **Foreign Language** means any language other than English.
- 2.09 **Interpretation** is the unrehearsed transmitting of a spoken or signed message from one language to another.

- 2.10 **Interpreter** is a person who is readily able orally to interpret written and spoken language simultaneously and consecutively from English to the language of the LEP individual or from that language to English.
- 2.11 **Judge** or **justice**, or a **clerk-magistrate** when acting in a magisterial capacity of a trial court department, is someone who has been sworn into that office pursuant to the laws of the Commonwealth.
- 2.12 **Mentor** means an OCIS interpreter who is assigned to work with an applicant to be an interpreter to assist in developing proficiency in court interpretation and familiarity with OCIS procedures.
- 2.13 **Limited English Proficiency (LEP) individual** is any person who is unable to communicate in English or who has a limited ability to communicate in English which would affect his or her ability meaningfully to participate in court proceedings.
- 2.14 **Office of Court Interpreter Services (OCIS)** is part of the Planning and Development Department of the Administrative Office of the Trial Court. It is responsible for the training, certification, assignment and supervision of spoken language interpreters who provide interpretation services in court proceedings.
- 2.15 **Per Diem Interpreter** is a free lance interpreter who is assigned as needed by OCIS on a day to day basis from the lists of interpreters developed and maintained by OCIS pursuant to section 9.02.
- 2.16 **Qualified Interpreter** is a Certified Interpreter who has also passed the

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examination and been qualified for interpreting in the federal courts by the United States District Court for the District of Massachusetts. The terms “professionally-qualified interpreter” and “qualified interpreter” may also be used in common parlance to refer to interpreters who have been trained and recognized by reputable interpreting national and international institutions.

- 2.17 **Screened Interpreter** is an interpreter who has (1) met the minimum requirements for a court interpreter (see section 5.02), (2) passed the screening and interview processes (see sections 5.03(A) and (B)), (3) passed the screening examination, if given, (see section 5.03(C)), (4) completed the mandatory training course (see section 6.04), and (5) completed the Mentoring Program (see section 6.05).
- 2.18 **Simultaneous Interpretation** means the relaying of a message from one language into another contemporaneously with the speaker.
- 2.19 **Sight Translation** is a hybrid type of interpretation/translation whereby the interpreter reads a document written in one language while translating it orally into another language.
- 2.20 **Staff Interpreter** is a Certified Court Interpreter who works full-time for the Trial Court under supervision from the Manager of Interpreter Services. Besides interpreting, the Staff Interpreter’s duties include overseeing of per diem interpreters assigned to his or her court on a daily basis, and directing such per diem interpreters to other courts as needed.

- 2.21 **Summary Interpretation** means the paraphrasing and condensing of a speaker's statement. Unlike simultaneous and consecutive interpretation, this method cannot provide a complete rendering of everything that is said in the target language. This is a mode of interpreting that should not be used in court settings.
- 2.22 **Source Language** is the language of the original speaker. It is a relative term, depending on who has spoken last.
- 2.23 **Target Language** is the language into which an interpretation or translation is made.
- 2.24 **Translation** means the conversion of a written text from one language into written text in another language.

Section 3.00 Administrative Structure

- 3.01 The Administrative Office of the Trial Court. The Chief Justice for Administration and Management (CJAM) has authority over and responsibility for the administration and management of the Trial Court of Massachusetts under G.L. c. 211B. The AOTC is made up of a number of departments, each managed by a director who reports to the CJAM. The AOTC is the office through which the CJAM both manages the Trial Court and provides services to it.
- 3.02 The Office of Court Interpreter Services.
- (A) The Office of Court Interpreter Services (OCIS) is part of the Planning and Development Department of the Administrative Office of the Trial Court. OCIS trains, certifies and provides spoken language interpreters to

all departments of the Trial Court. The OCIS is managed by the Manager of Interpreter Services who is appointed by the CJAM.

- (B) The Manager of Interpreter Services provides overall supervision of OCIS. The duties of the Manager of Interpreter Services include recommending, planning, setting and executing policy, addressing personnel matters, preparing budgets and spending analyses, overseeing OCIS's daily operations, and serving as liaison between the courts, other agencies involved in interpreter services and OCIS.
- (C) The Program Manager for Court Interpreter Training is responsible for the development and administration of training, continuing education, evaluation and certification of court interpreters, outreach and collaboration with the court departments to share training resources for both interpreters and court personnel, and recruiting interpreters.

3.03 Committee for the Administration of Interpreters. There is a Committee for the Administration of Interpreters (the Committee). The Committee consists of the Chief Justice for Administration and Management (CJAM), who is the statutory chair of the Committee and may designate an acting chair from time to time, as well as the Chief Justice of the District Court and/or his designee, one other District Court judge and one clerk-magistrate appointed by the Chief Justice of the District Court, a Superior Court judge and a clerk or assistant clerk of the Superior Court appointed by the Chief Justice of the Superior Court Department, a judge of the Probate and Family Court Department appointed by the Chief

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Justice of the Probate and Family Court Department, a judge of the Juvenile Court Department appointed by the Chief Justice of the Juvenile Court Department, and one other judge or clerk-magistrate appointed by the CJAM. The CJAM and the Committee may enlarge the Committee as necessary. The Committee advises the CJAM on such matters as the statewide expansion of services using Certified Interpreters, the consolidation and effective use of interpreter resources, the schedule for compensation for interpreters, and other related issues. The Committee also addresses issues involving interpreters for the Deaf and Hard of Hearing in the courts.

- 3.04 Ombudsman for Interpreters. The CJAM created the voluntary position of “Ombudsman for Interpreters” to facilitate the fair and equitable resolution of issues that may arise as court interpreters perform their assigned work for the Trial Court. Acting as a neutral party, the Ombudsman investigates written complaints, provides information about Trial Court policies and procedures, accepts confidential written suggestions and information from individuals who wish to raise relevant concerns, and facilitates positive change relative to interpreters within the Trial Court. The Ombudsman serves at the pleasure of the CJAM.
- 3.05 Court Liaison. The First Justice in each District, Probate, Juvenile and Housing Court division, the Regional Administrative Justice in each Superior Court division and the Chief Justice of the Boston Municipal Court and of the Land

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Court shall designate a “Court Liaison” and at least one backup who is responsible for making interpreter requests to OCIS on behalf of the court. It is the responsibility of the Court Liaison to be informed of where interpreters are needed on each day and to be available to answer inquiries from the OCIS scheduling department about current requests and assignments. Requests for interpreters may be made only through the Court Liaison. Each First Justice, Regional Administrative Justice or Chief Justice shall submit to the OCIS the name, telephone number, fax number and e-mail address of the designated Court Liaison and backup liaison(s) and shall advise the OCIS of any changes in that designation. The Court Liaison is responsible for recording the per diem interpreter’s arrival and departure times on the Interpreter Daily Service Record, verifying the Interpreter Daily Service Record for assignment and attendance, and signing the Interpreter Daily Service Record.

- 3.06 Consortium for State Court Interpreter Certification. The Consortium for State Court Interpreter Certification is a program administered by the National Center for State Courts which was founded in July 1995 to develop court interpreter proficiency tests, to make them available to member states, and to regulate the use of the tests. The functions of the Consortium are: to establish court interpretation test development and administration standards, to provide testing materials, to develop education programs and standards, and to facilitate information sharing among the member states and entities so that individual member states and

entities have the necessary tools and guidance to implement certification programs. Massachusetts joined the Consortium in 2000. The Consortium's website is www.ncsconline.org

Section 4.00 Professional Conduct of Interpreters

The Code of Professional Conduct for Court Interpreters of the Trial Court was originally adopted in 1988 by the OCIS. This Code applies to any interpreter providing interpretation services in any court proceeding in any department or division of the Trial Court. All interpreters providing interpretation services in any court proceeding must have previously signed a statement agreeing to be bound by this Code of Professional Conduct.

4.01 Nature.

A court interpreter is the communication facilitator for the parties involved in a proceeding, and as such plays a vital role in the protection of the rights of LEP individuals engaged as parties or witnesses in legal proceedings in the Trial Court Departments. The fulfillment of this role requires an understanding by the interpreter of the complexities of the task to be performed and the fundamental ethical principles and standards to be followed pursuant to G.L. c. 221C.

(A) Purpose. These standards seek to:

- (1) assure meaningful access to court proceedings for LEP individuals;
- (2) protect the constitutional rights of criminal defendants to the assistance of a court interpreter during court proceedings;
- (3) ensure due process in all phases of litigation for LEP individuals;

- (4) ensure equal protection of the law for LEP individuals;
 - (5) increase efficiency, quality, and uniformity in handling proceedings which involve a court interpreter;
 - (6) encourage the broadest use of professional language interpreters by all those in need of such services within the Trial Court.
- (B) Scope. These standards define and govern the practice of court interpretation in the Trial Court of Massachusetts.
- (C) Applicability. These standards apply to court interpreters appearing: (a) in any proceeding before any Trial Court of the Commonwealth; (b) before any attorney or court in connection with any matter that is or may be brought before a court; (c) in any other activity ordered by the court or conducted under the supervision of a court.

4.02 Requirements.

- (A) Accuracy
- (1) Each court interpreter shall faithfully and accurately interpret what is said without embellishment or omission while preserving the language level of the speaker to the best of said interpreter's skill and ability.
 - (2) Each court interpreter shall provide the most accurate form of a word in spite of a possible vulgar meaning. Colloquial, slang, obscene or crude language as well as sophisticated and erudite

language shall be conveyed in accordance with the usage of the speaker. An interpreter is not to tone down, improve, or edit any statements.

(3) A court interpreter shall speak in a clear, firm, and well- modulated voice that conveys the inflections, tone, and emotions of the speaker.

(4) A court interpreter shall not simplify statements for an LEP individual even when the interpreter believes the LEP individual cannot understand the speaker's language level. The LEP individual may request an explanation or simplification if necessary to the court or counsel through the interpreter.

(B) Impartiality. Each court interpreter shall maintain an impartial attitude at all times and avoid unnecessary discussions with counsel, parties, witnesses, or interested parties, either inside or outside the courtroom, to obviate any appearance of partiality.

(C) Confidentiality.

(1) Each court interpreter shall guard confidential information and not betray the confidences which may have been entrusted to him by any parties concerned.

(2) Disclosures made out of court by communications of an LEP individual through an interpreter to another person shall be a

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privileged communication and said interpreter shall not disclose such communication without permission of said LEP individual; provided, however, that such LEP individual had a reasonable expectation or intent that such communication would not be so disclosed. G.L. c. 221C, § 4(c).

- (D) Proficiency. Each court interpreter shall provide professional services only in matters or areas in which the interpreter can perform accurately.
- (1) Each court interpreter shall continuously improve language skills and cultural fluency, as well as increase knowledge of the various areas within the judiciary, which may be encountered in court interpretation. An interpreter should attend workshops, seminars, conferences, or courses to keep current regarding changes of the law, interpretation and translation theories and techniques, to receive updates to existing glossaries of technical terms, and to exchange information with colleagues.
 - (2) A court interpreter is responsible for having the proper legal and bilingual dictionaries readily available for consultation.
 - (3) A court interpreter shall withdraw from any case in which his/her performance will be adversely affected due to lack of proficiency, preparation or difficulty in understanding the speaker for any reason, including insurmountable linguistic and/or cultural

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differences, or complexity of conceptual or technical terms to be used in the proceedings. Such withdrawal may be made at the time of the pre-appearance interview with the LEP individual, or at any other appropriate time.

(E) Demeanor.

- (1) Each court interpreter shall maintain a low profile, speak at volumes appropriate to the context, and be as unobtrusive as possible. The positioning in the courtroom and the style of work shall contribute to the maintenance of a natural atmosphere, as if no language barrier existed.
- (2) The court interpreter shall be positioned in full view, and may be specially situated to assure proper communication, but shall not obstruct the view of the judge, jury or counsel. The interpreter shall always be positioned so that the LEP individual can hear or see everything the court interpreter says or signs and so that the interpreter can hear or see everything that is said or signed during the proceedings.
- (3) The court interpreter shall be familiar with the courtroom layout, particularly the location of the microphones for the electronic recording of the proceedings.
- (4) Each court interpreter shall appear on time and report immediately

upon arrival to the Court Liaison.

(F) Case Preparation.

- (1) Each court interpreter shall prepare for the case, whenever possible, and particularly with respect to lengthy and complex criminal and civil trials, by reviewing the case material, including the charges, police or other reports, complaints or indictments, transcripts of interviews, motions, or any other documentation to be used in the case, particularly if counsel plans to quote directly from them. Such requests shall be made to the attorney processing the case with the awareness and consent of both parties. The information is to be used solely for the technical preparation of the court interpreter.
- (2) Each court interpreter should interview the LEP individual prior to the initial court appearance in order to instruct such speaker as to the proper role of the court interpreter during the proceeding if permitted to do so by the judge. Approval of counsel shall be obtained by the court interpreter before attempting contact with the LEP individual. Counsel may wish to be present at the pre-appearance interview.
- (3) The LEP individual will be instructed by the court interpreter as follows:

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- (a) The LEP individual will be advised that the court interpreter will translate any statements or comments at all times.
- (b) The LEP individual shall be instructed not to ask direct questions of the court interpreter or initiate any independent dialogue with said interpreter including legal advice or explanations on any statement made during the proceedings. The LEP individual shall be instructed to direct all questions to counsel or to the court when necessary.
- (c) The court interpreter shall familiarize him/herself with the speech pattern or sign language communication, cultural background, and native language level of proficiency of the LEP individual.
- (d) The court interpreter shall familiarize the LEP individual with the interpretation mode to be used and with the hand technique used in interpretation for segmenting lengthy testimony.
- (e) The LEP individual shall be instructed to wait for the full interpretation of the English before responding to a question.

- (f) The LEP individual shall be instructed not to maintain eye contact with the interpreter except where the LEP individual is Deaf when eye contact is critical.
- (G) Oath. Each court interpreter shall be sworn for the record before engaging in the interpretation of a proceeding as follows, “Do you solemnly swear or affirm that you will make true and impartial interpretation using your best skill and judgment in accordance with the standards prescribed by law and the ethics of the interpreter profession?”
- (H) Modes of Court Interpreting.
 - (1) The simultaneous mode of court interpretation requires the interpreter to speak contemporaneously with the speakers as they speak. This mode shall be used when LEP individuals are in the position of a third person vis-à-vis the proceedings; e.g., at counsel table.
 - (2) The consecutive mode of court interpretation requires the interpreter to wait for the speaker to complete his/her thought or statement before rendering an interpretation. This mode shall be used when LEP individuals are giving testimony or when the judge, counsel, or officer of the court is in direct dialogue with such speaker.
 - (3) A court interpreter shall not summarize court proceedings at any

time unless instructed to do so by court (e.g., side-bar, jury selection, charge to the jury).

(I) Modes of Address.

(1) Each court interpreter shall utilize the first person singular when interpreting for an LEP individual giving testimony or in dialogue with another person. Persons addressing the LEP individual (e.g., attorneys, judges, probation officers, and clerks) shall use the second person.

(2) A court interpreter shall address the court and identify him/herself as the interpreter using the third person singular to protect the record from confusion.

(J) Language and/or Hearing Difficulties.

(1) Whenever there is a word, phrase or concept which the court interpreter does not understand, the interpreter shall so inform the court so that, at its discretion, it may order an explanation, rephrasing, or repetition of the statement. The interpreter may request time to look up an unfamiliar word in the Dictionary.

(2) Whenever the court counsel utilizes a word, phrase, or concept which the court interpreter finds may confuse the LEP individual, particularly when a concept has no cultural equivalent in the LEP individual's language or when it may prove ambiguous in

translation, the interpreter shall so inform the court.

- (3) Whenever a court interpreter has difficulty hearing and, therefore interpreting, a particular speaker, or the proceeding in general, due to the noise level in the courtroom, the speaker's voice level, or because there may be more than one person speaking at the same time, the court interpreter shall so inform the court so that, at its discretion, it may order the speaker to repeat the statement, raise his/her voice, modulate better, and/or change the positioning of the interpreter in the courtroom.

(K) Errors.

- (1) Whenever a court interpreter discovers an error of interpretation in the course of a proceeding, he/she shall correct the error at once, first identifying him/herself for the record. If the error of interpretation is discovered after testimony has been completed, the court interpreter shall request a conference with the judge and counsel or a pro se litigant on the record, and explain and correct the error, on the record.
- (2) Whenever an error of interpretation has been brought to the attention of the court by other than the interpreter, the court shall confer at side-bar with counsel and/or the parties and the interpreter. The court shall determine first whether the alleged

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error is substantial enough to warrant correction. If the court finds that the error could be prejudicial, the court shall hear evidence, out of the presence of the jury, if any, as to the correct interpretation. At the hearing on the error, evidence or argument may be offered by counsel or a pro se litigant and by the court interpreter; and testimony may be taken from any other experts as permitted by the judge. The judge shall make a final determination on the evidence as to the correct interpretation. If the correct interpretation is different from the original interpretation, then the court shall amend the record accordingly, and so instruct the jury if any.

- (3) A copy of the pertinent corrections of the record shall be sent to the Manager of Interpreter Services within two weeks of the identification of the error.

(L) Difficulties While Interpreting.

- (1) Each court interpreter shall interpret the exact response of the witness or speaker even if the answer to a question is non-responsive, leaving issues of admissibility of such response to the court and counsel.
- (2) If a witness testifying in a foreign language occasionally uses a few words in English, the court interpreter shall repeat such words

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for the record so that a person listening to the recorded proceeding may continue following the interpreter's voice. However, should the witness utter a full English response, the interpreter will not ask the witness to respond in his/her native language. Rather, the interpreter will stand back so that the parties are aware of the English response and await the court's direction.

- (3) Whenever an objection is made, the court interpreter shall interpret everything that was said up to the objection and instruct the witness by hand gesture not to speak until the court has ruled on the objection.
- (4) Whenever a serious communication problem arises between the interpreter and the LEP individual (person is being disruptive, does not allow the interpreter to speak, etc.), or whenever there is a need to instruct the witness as to proper usage of the interpreter by such LEP individual, the court interpreter shall bring such matter to the immediate attention of the court or counsel so that time may be allowed to solve such problem.
- (5) A court interpreter shall not characterize or give gratuitous explanation of testimony. The court or counsel will request clarification from the LEP individual through the interpreter when necessary. Except in the case of certain gestures or grimaces that

may have a cultural significance, the interpreter shall not offer an explanation or repeat a speaker's gesture or grimace which has been seen.

- (6) A court interpreter shall not correct erroneous facts posed in questions to LEP individuals. Similarly, the interpreter shall never correct the testimony of LEP individuals, even if errors are obvious. A response of an LEP individual shall never be inferred; e.g., if the witness is asked to clarify her/his prior answer regarding direction or place, the interpreter shall pose the question as asked and not volunteer what the interpreter thought the speaker meant.

(M) Fatigue.

- (1) If a court interpreter believes that the quality of the interpretation is about to falter due to fatigue, the interpreter shall so inform the court.
- (2) For any proceeding that will entail in excess of two hours of continuous simultaneous interpretation, two court interpreters should, where practical, be assigned so that they can relieve each other at periodic intervals to prevent fatigue and delays.

4.03 Limitations.

- (A) Substitutions and cancellations. A court interpreter shall not arrange directly with the court or counsel for a substitute in cases to which he/she

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has been assigned. Rather, a 24-hour cancellation notice shall be given to the Manager of Interpreter Services who will arrange for a substitute.

- (B) Availability of Court Interpreter. A court interpreter shall not leave the courtroom until the proceedings are terminated or he/she is excused by the presiding judge, clerk-magistrate, or their designee. During brief recesses, an interpreter shall be available to court and counsel as necessary.
- (C) Conflicts of Interest.
 - (1) A court interpreter who is a “state employee” or a “special state employee” as those terms are defined in G.L. c. 268A, § 1 shall be governed by the provisions of G.L. c. 268A regarding any conflict of interest. In addition, any court interpreter who is a member of a union, shall be governed by the terms and conditions of the applicable collective bargaining agreement.
 - (2) A court interpreter may, subject to the provisions of G.L. c. 268A and any applicable collective bargaining agreement, accept employment as an interpreter during hours or times when he or she is not employed by OCIS.
 - (3) A court interpreter shall not engage in nor have any interest, direct or indirect, in any business or transaction, nor incur any obligation which is in conflict with the proper discharge of official duties in the court or which impairs independence of judgment in the

discharge of such duties.

- (4) A court interpreter shall not derive personal profit or advantage from any confidential information acquired while acting in his/her professional capacity.
- (5) A court interpreter shall not accept money or consideration of favors from anyone other than the court for the performance of an act they would be required or expected to perform in the regular course of assigned duties; nor shall the interpreter accept any gifts, gratuities, or favors of any kind which might be construed as an attempt to influence his/her actions with respect to the court.
- (6) A court interpreter shall not use, for private gain or advantage, the court's time or facilities, equipment, or supplies, nor shall he/she use or attempt to use his/her position to secure unwarranted privileges or exemptions for him/herself or others.
- (7) A court interpreter shall not serve in any proceeding in which he/she is an associate, friend, or relative, of counsel for a party, or a witness; or when the interpreter, his/her spouse or child are a party to the proceeding or have a financial interest or any other interest that would be affected by the outcome of the proceeding; or when the interpreter has been involved in the selection of counsel; or has any other interest which would prevent that

interpreter from being impartial.

- (8) Prior to providing services in a proceeding in court, a court interpreter shall disclose on the record any services that he/she may have previously provided on a private basis to any of the parties involved in the matter, as well as anything else that could be reasonably construed as affecting his/her ability to serve impartially or as constituting a conflict of interest. This disclosure shall not include confidential information.
 - (9) During the course of a trial, a court interpreter shall not discuss the case with parties, jurors, attorneys, or with friends or relatives of any party, except in the discharge of official function.
- (D) Public Comments. A court interpreter shall not discuss publicly, report or offer an opinion concerning a matter in which he/she has been engaged and while such matter is pending.
- (E) Legal Advice.
- (1) A court interpreter shall not give any legal advice of any kind to anyone whether solicited or not. In all instances, the LEP individual shall be referred to counsel or to the court. An interpreter may give an LEP individuals only information regarding the time, place, and nature of the court proceedings. All other matters shall be referred to court or counsel.

- (2) A court interpreter shall never act as an individual referral service for any attorney. When asked to refer an LEP individual to an attorney, the interpreter shall refer such individual to the local bar association in civil and criminal matters if the individual indicates that he can afford private counsel or, if not, to the Committee for Public Counsel Services in criminal matters or other matters for which C.P.C.S. provides services or the local Legal Aid office with respect to all other matters.

4.04 Compliance.

- (A) A court interpreter who discovers anything which would impede full compliance with this Code shall immediately report to the court.
- (B) A court interpreter shall immediately report to the presiding judge any solicitations or efforts by another to induce or encourage him/her to violate any law or standard of this Code or any other provision governing interpretation promulgated by the judiciary.
- (C) A court interpreter may be removed by the court from his/her participation in a particular assignment if that interpreter is unable to interpret the proceedings adequately, including an instance where the interpreter self-reports such inability.
- (D) A court interpreter may be removed from a court proceeding if a judge has found good cause for his/her removal from the proceeding. The following

are good cause for removal from a proceeding: (G.L. c. 221C, § 5)

- (1) Knowingly and willfully making false interpretation while serving in an official capacity;
- (2) Knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity;
- (3) Failing to follow the standards prescribed by law and the ethics of the interpreter profession.

(E) Should a court interpreter feel harassed or intimidated by an officer of the court, the interpreter shall so inform the presiding judge.

Section 5.00 Minimum Requirements, Screening and Certification of Court

Interpreters

5.01 Recruitment of Court Interpreters. OCIS recruits interpreters on an as-needed basis from applicants who have submitted resumes and/or application questionnaires, and who meet the minimum requirements to be a court interpreter set forth in section 5.02 below. Because Massachusetts's immigrant communities are in constant growth, the need for interpreters in certain languages will evolve. As the need for interpreters in certain languages increases, OCIS will review applications in those languages. If no application in a needed language is available for review, OCIS will make an effort to recruit, screen and train candidates from graduate schools, community organizations, interpreter agencies, and/or translation associations.

5.02 Minimum Requirements. The minimum requirements to work as a court interpreter for OCIS are: (a) a four-year college degree from the United States or an equivalent higher education degree from another country; (b) verifiable references; and (c) academic, native-level mastery of both English and the foreign language. (Exceptions may be made in extraordinary circumstances, such as with oral languages with only a recent or no history of written codification.) Prior interpretation experience will be taken into consideration when reviewing an application, but lack of such experience will not automatically be grounds for rejecting an application. All applicants will be notified by mail of the status of their application.

5.03 Screening of Court Interpreters. Screening of applicants includes a review of their academic background, language proficiency, and prior interpreting/translation experience. OCIS also looks for an understanding of the important role a court interpreter plays in facilitating access to the legal process for LEP individuals.

(A) The screening process consists of the following steps:

- (1) A questionnaire is mailed to every person who contacts OCIS inquiring about the process for becoming a court interpreter. The questionnaire must be filled out and returned to OCIS with a copy of the individual's resume.
- (2) Upon receipt, the questionnaire and resume are reviewed by OCIS to determine whether the applicant meets the minimum

requirements to be a court interpreter.

- (B) The interview. Applicants who meet the minimum requirements determined by review of the submitted application will be interviewed by OCIS, provided there is a current need for interpreters in that particular language. At the interview, OCIS will assess the applicant's general English oral skills and general competency to work as a court interpreter. After the interview, the applicants selected to proceed with the process will be required to take a screening examination. See section 5.03(C) below.
- (C) The Screening Examination. The written screening examination will test an applicant's general proficiency in English and in their foreign language. Applicants who have been certified and/or qualified by the Federal Court's Interpreter Program, by another state upon completion of an exam from the Consortium for State Court Interpreter Certification (National Center for State Courts), or by the National Association of Judiciary Interpreters and Translators (NAJIT) may be excused from taking the screening examination. Applicants with higher academic degrees (e.g., Masters or Doctoral degrees) and with demonstrated fluency in both English and the foreign language may also be excused from taking the examination. Other exceptions may be made in extraordinary circumstances, such as with oral languages with only a recent or no history of written codification.

- (D) Criminal Record Check. Upon either passing the screening examination or being excused from taking the examination, a criminal record check will be conducted on applicants consistent with applicable law. An applicant will not be eligible to continue with the process to become a court interpreter if he/she has been convicted of a felony or of a misdemeanor resulting in incarceration, and the end date of such incarceration is within the 5 year period immediately preceding the date of his/her application to OCIS.
- (E) Mandatory Introductory Training and Mentoring. Applicants who have passed the screening examination, if given, and the criminal record check shall then be scheduled to take the mandatory two day training offered by OCIS for new interpreters described in section 6.04. After the introductory training, applicants will be assigned to the Mentoring Program set forth in section 6.05. All applicants must complete the assigned Mentoring Program and must receive a favorable report from their assigned Mentor to be eligible to work as an interpreter for OCIS. Upon successful completion of the Mentoring Program, an applicant will be considered a Screened Interpreter.

5.04 Certification.

- (A) Requirements. The minimum requirements to be eligible for certification are: (a) a four year college degree from the United States, or an

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equivalent higher education degree from another country (official transcripts and/or photocopy of diploma is required as proof of degree. When not in English or Latin, official translation must be included), (b) proof of language proficiency in English and the foreign language through successful completion of any required screening examination, (c) attendance at the mandatory introductory training, (d) successful completion of the Mentoring Program, and (e) attendance at any mandatory sessions or workshops. Also required is: (a) a minimum of one year of work experience in interpretation, preferably in, but not limited to, court or conference interpretation with OCIS and/or with another reputable organization, or (b) a legal interpretation certification from another state where certification requirements are equivalent to OCIS's, or (c) certification or qualification from the Federal Court's Interpreter Program, or (d) a legal or conference interpretation diploma or certification from a reputable national or international interpreter training institution or program. In certain circumstances, at the Manager's discretion, any of the above requirements may be waived. Upon such waiver, the Manager shall document in writing the reasons for the waiver.

(B) Examination. Screened Interpreters who have met the prerequisites set forth in (A) above and who are seeking certification in a language for which there is an approved examination will be given a written and oral

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certification examination. Examinations approved or accepted by OCIS will be scheduled and administered as necessary by OCIS. If a candidate has already passed an examination from the Consortium for State Court Interpreter Certification, the Federal Court Interpreter Certification examination, or a certification exam from the National Association of Judiciary Interpreters and Translators (NAJIT), the candidate may be excused from taking the OCIS exam provided official proof of successful completion of the exam is presented to OCIS.

(C) No Approved Certification Examination. Screened Interpreters who have met the requirements set forth in (A) above who are seeking certification in a language for which there is no approved examination may apply for certification by submitting to OCIS a certification packet that includes the following information and related documentation:

(1) Proof of the Screened Interpreter's English written proficiency (unless waived by the Manager of Interpreter Services or the Program Manager for Training in extraordinary circumstances) as demonstrated by: (a) a four year college degree from a country where the official language is English, or (b) a minimum of one year of successful graduate course work at a university in the United States or a country where the official language is English, or (c) publication(s) in English where the candidate is the sole, or

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main author, or (d) accreditation from the American Translators Association in translation into English, and,

- (2) Proof of the Screened Interpreter's English oral proficiency as demonstrated by: (a) a minimum of two years of teaching experience at the college level (undergraduate or graduate) using English as the language of instruction, or (b) a minimum of two years of other professional work experience in the United States or in a country where the official language is English, and,
- (3) Proof of written proficiency in the foreign language(s) as demonstrated by: (a) a minimum four-year college degree from the United States, or an equivalent higher education degree from another country where instruction is conducted in that language, or (b) publication(s) in the foreign language in which the applicant is the sole or main author, or (c) accreditation from the American Translators Association in the foreign language, and
- (4) Proof of oral proficiency in the foreign language as demonstrated by: (a) a minimum of two years teaching at the college level (undergraduate or graduate) using the language as the language of instruction, or (b) a minimum of two years of other professional experience in a country where the language is the official language, or (c) a degree from an internationally recognized university or academic institution, ideally in, but not limited to,

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translation and interpretation with concentration in the foreign language, and,

(5) Three letters of reference to attest to the Screened Interpreter's interpreting and professional experience within the past two years.

(6) In certain circumstances, at the Manager's discretion, any of the above requirements may be waived. Upon such waiver, the Manager shall document in writing the reasons for the waiver.

(D) Upon having met the requirements set forth in (A) above and having successfully passed an approved examination pursuant to (B) above, or having met the criteria set forth in (C) above, a Screened Interpreter will be Certified by OCIS in a language.

(E) Continuing Education and Reassessment of Certified Status. To maintain certified status, interpreters must submit to OCIS proof of successful completion of the minimum requirements for continuing education every twenty-four months. Such minimum requirements will be determined by OCIS and will be periodically reviewed to reflect training currently available through OCIS.

(F) Lists of Qualified, Certified and Screened Interpreters will be published by OCIS pursuant to section 9.02.

5.05 Approval of Examinations. OCIS will develop and approve examinations for interpreters that comply with the highest standards of the interpreter profession.

These tests will measure competency in interpretation skills as well as in general language and translation skills. OCIS may, in its discretion, approve of a test developed by another state or agency, including by the Consortium of State Court Interpreters or the National Association of Judiciary Interpreters and Translators. OCIS will publish and make available, without cost, a list of languages for which an approved examination is available.

Section 6.00 Training of Court Interpreters

- 6.01 Subject to sufficient appropriations and resources, OCIS offers a standard training curriculum of yearly workshops for interpreters. Attendance at the workshops is mandatory.
- 6.02 OCIS offers a variety of workshops for court personnel and judges on working with interpreters effectively and on maximizing OCIS resources. OCIS also collaborates with other court departments and court personnel in creating workshops designed to promote better and more efficient use of interpreter resources.
- 6.03 Training Manual. OCIS has a Training Manual which serves as a complement to these Standards and Procedures and includes the following sections:
 - (A) Brief Overview on the History of Court Interpreting in the US and in Massachusetts
 - (B) The Massachusetts Judicial System
 - (C) Definition and Role of the Court Interpreter
 - (D) Modes of Interpretation: Consecutive, Simultaneous and Sight Translation.
 - (E) Complying with the Code of Professional Conduct for Court Interpreters of the Trial Court.
 - (F) Coping With Interpreting Challenges: Linguistic, Ethical, Physical,

- Mental, Professional, and Cultural.
- (G) Court Interpreting as a Professional Field.
- (H) Legal Terminology/Glossaries
- (I) Sample Court Documents
- (J) Bibliography
- (K) Articles of Interest

6.04 Introductory Training for Interpreters. Applicants must attend a mandatory two day training session that introduces them to the practice of interpretation and to OCIS's Standards and Procedures prior to being assigned to interpret at any court proceeding. This requirement may be waived by the Manager of Interpreter Services in extraordinary circumstances. Major components of this mandatory training are OCIS Standards and Procedures, the Training Manual, hands-on practice of simultaneous and consecutive interpreting skills, and professional ethics workshop.

6.05 Mentoring. After completing the two day introductory training, each applicant is assigned to a Mentor for a period of time that will vary according to the applicant's individual needs and level of expertise. This requirement may be waived by the Manager of Interpreter Services in extraordinary circumstances. Mentors are chosen among experienced interpreters who express a desire to assist the applicant, and who commit to fulfilling the Mentor Program's mission which is to encourage mentoring as a two way learning relationship that draws upon the knowledge and experience of seasoned interpreters.

- (A) Mentors introduce applicants to the Massachusetts Trial Court system. They assist applicants in setting goals, developing learning and problem

solving skills, acquiring essential information, and clarifying doubts regarding the professional and ethical standards that guide the role of the interpreter. Mentors and applicants will follow general guidelines outlined in the Mentor Program's information packet which they will receive prior to the mentoring assignment.

- (B) At the conclusion of the mentoring, Mentors will submit a general assessment of the applicant to OCIS. A copy of this assessment will be added to the Mentor's professional file in order to apply the Mentor's training time towards the continuing education requirements of section 5.04(E).
- (C) OCIS will communicate with judges and key court personnel about ongoing mentoring in their courts to provide an opportunity for applicants to be recognized and assisted through the early stages of their professional progress.

6.06 Continuing Education and Training for Interpreters available through OCIS. The AOTC makes available a variety of resources within the Trial Court which help professional court interpreters hone interpreting skills and advance their legal knowledge. OCIS welcomes and promotes collaboration among all court departments in sharing information and training resources. Additional sources for specialized instructors can be found among faculty from area law schools, experienced area interpreters, and lecturers to national and regional interpreter

and translator associations. In addition, specialized workshops and training will be offered by OCIS. Individual interpreters may be asked, as necessary, to enroll in such training opportunities.

Section 7.00 Compensation of Per Diem Interpreters

- 7.01 The standard rate of adequate compensation for per diem interpreters is set by the Committee. The standard rates of compensation for interpreters for the Deaf and Hard of Hearing is set pursuant to c. 221, §92A by the CJAM.
- 7.02 Compensable Time shall be calculated beginning at the time the interpreter arrives at the assigned court and reports to the Court Liaison. A “half day” shall be calculated as time spent up to and including four hours of actual interpreting or the time when the interpreter is available and waiting to perform actual interpreting. “Full day” means a period of time that is more than four hours. Lunch time shall not be considered in this calculation. If the interpreter is present at the courthouse for the four hour period, the interpreter will receive payment for a half day as long as the interpreter is available for the full four hour period or is otherwise excused from providing services during that period by OCIS.
- 7.03 Interpreters who are assigned by OCIS to provide interpreter services in more than one language on the same day shall be compensated at a rate 25% greater than the standard rate set by the Committee and the CJAM.
- 7.04 When an interpreter begins another assignment after completing a full day, payment will be made on an hourly basis at rates set by the Committee and the

CJAM. For these purposes, the hourly rate will commence after eight (8) hours.

- 7.05 **Waiting Time.** If, in anticipation of a case being called, an interpreter scheduled by OCIS is required to wait for the case to commence or to continue, and the interpreter is available at the court facility, such waiting time shall be compensated as time actually engaged in a legal proceeding. Lunch time shall not be considered waiting time.
- 7.06 **Travel Time.** In the event that an interpreter is required to travel to and from an assignment, and such travel in either direction exceeds 25 miles, such travel time in excess of 25 miles either going to or coming from an assignment shall be billed at the rate of one hour's time for each 25 miles traveled in excess of the first 25 miles in each direction. Billing shall be based on the actual odometer reading, and payment shall be at rates set by the Committee and the CJAM. In the event that interpreters travel to more than one assignment in the day, mileage and travel time calculation shall be based on the accumulated mileage for the day and the interpreter may bill OCIS for travel time beginning at the point of embarkment.
- 7.07 **Mileage and Expenses.** Interpreters shall be reimbursed for mileage and expenses at the current rates provided for employees of the Commonwealth.
- 7.08 **Telephone interpreting.** Interpreters will be compensated for providing telephone interpreting services on an hourly basis at rates set by the Committee and the CJAM, with a one hour minimum payment and payment made for each additional fifteen minute increments, provided that the interpreter providing the telephone

interpreting service is not already being compensated for the time by OCIS.

Documented telephone charges will also be reimbursed.

- 7.09 Cancellation rate. Interpreters will also be entitled to payment for a half-day if OCIS cancels the assignment within 24 hours of the designated start time; however, OCIS shall have the right to reassign the interpreter to another assignment for that time period without additional compensation.

Section 8.00 Requesting the Services of a Court Interpreter

- 8.01 Types of Proceeding for Which an Interpreter Will be Provided.

(A) The OCIS will schedule and provide court interpreters, upon receipt of a request pursuant to section 8.02, to appear at any and all criminal or civil judicial proceedings, including the institution of such proceedings (e.g., the filing of a complaint and affidavit seeking a restraining order pursuant to G.L. c.209A or other similar proceedings). In emergency situations where written requests are not possible, OCIS will provide interpreters and will be responsible for compensating interpreters for providing services upon telephone request. OCIS will be responsible for compensating interpreters who provide these services when scheduled or assigned by OCIS under these Standards and Procedures. OCIS will give priority to scheduling the following types of proceedings: criminal proceedings; juvenile proceedings, including CHINS, care and protection proceedings, and petitions seeking to dispense with parental consent to

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adoption under G.L. c. 210, § 3; proceedings under G.L. c. 209A and other proceedings for protection from abuse, civil commitment hearings pursuant to G.L. c. 123, proceedings conducted in the Housing Court, housing cases conducted in the District Court, and proceedings conducted to secure child support payments. In addition, OCIS will schedule and compensate interpreters for providing services upon request of a Court Liaison for parents, guardians and other individuals who must understand the court proceeding. An interpreter who has been sent to a court facility for a particular day or part of a day, and who is not actively interpreting in a court proceeding, shall, upon request, provide interpreting services for other court personnel during the period for which the interpreter is being compensated by OCIS so long as he or she remains available for courtroom proceedings as assigned or for other OCIS assignments as needed. Responsibility for providing these services continues to lie primarily with other court offices or departments.

- (B) Whenever an interpreter is paid for by OCIS, the judge in the proceeding for which the interpreter provided services should consider assigning the cost of the interpreter services pursuant to Mass. R. Civ. P. 43(f), Mass. R. Dom. Rel. P. 43(f) or Mass. R. Crim. P. 41.
- (C) The OCIS will not provide or compensate interpreters for witness interviews, depositions, or other interpretation outside of a court facility

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provided, however, that OCIS will provide and compensate interpreters for investigations and evaluations ordered by the court and either required by statute or by the court for trial and/or disposition of a pending matter. Except as otherwise required, OCIS may, upon request, assist in scheduling court interpreters for these services or may provide lists of Screened and Certified court interpreters who are available to provide such services.

8.02 Procedures to Request Court Appointed Interpreters.

- (A) Court Liaison may request “Automatic Morning Coverage” whereby a court interpreter for a specified language will automatically be scheduled to the court every morning without the need to make a specific request for an interpreter for each day. Such requests must be directed to the attention of the Manager of Court Interpreter Services and must be supported by statistics demonstrating an ongoing and consistent need for an interpreter every day.
- (B) In all other situations, a Request for Interpreter Form must be prepared by the requesting court and signed by the Court Liaison each time a court-appointed interpreter is requested including an ASL interpreter. The request form must be filled out completely. If it is not complete, it may not be processed by OCIS. The form must include: the requesting court, the name and telephone number of the Court Liaison, the case name and

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docket number, the type of proceeding, the parties or witnesses for whom the interpreter is needed, the name of the requesting judge, the names of all counsel, the date and time the interpreter service is needed, the location where the proceeding will be heard, the precise language or country of origin requested (e.g., if Cantonese is needed, Cantonese must be requested and not Chinese) or if an ASL interpreter is requested, and the date on which the request was made. The authorized request form may be either mailed or faxed to the OCIS. When telephone requests are made in emergency situations, they must nonetheless be confirmed through the preparation and submission of a request form. If OCIS has designated a court division as having “Automatic Morning Coverage” and an interpreter is needed for a proceeding in the afternoon at a “morning coverage” court division, the Court Liaison must complete and submit a request form.

- (C) Upon receipt, the request will be date stamped, and the data on the Request for Interpreter Form will be entered into the database at OCIS. Requests for an ASL interpreter shall be immediately forwarded to the Commission for the Deaf and Hard of Hearing.
- (D) OCIS will draft a Preliminary Monthly Schedule by the last week of the preceding month and forward the schedule to all Court Liaisons who have requested interpreters for the succeeding month. Court Liaisons should distribute the Preliminary Monthly Schedule to sessions clerks or other

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appropriate personnel to aid in the scheduling of court interpreters and the grouping of all cases requiring the same language on the same day. The Preliminary Monthly Schedule must indicate by court the language(s) assigned, the date(s) assigned; the case name(s), the docket number(s), and the type(s) of court proceeding.

- (E) On or before the Thursday of each week, OCIS will review all requests for interpreters for the subsequent week and will assign spoken language interpreters to each request in accordance with the procedures set forth in section 9.00. The Approved Schedule for the subsequent week will then be made available to all requesting Court Liaisons either through electronic mail or by posting the Approved Schedule on the AOTC Intranet to confirm that an interpreter will be provided. If an interpreter cannot be provided in accordance with this Approved Schedule, that information will be communicated to the Court Liaison of each affected court as soon as possible, but in any event by 3:00 PM of the day that the OCIS becomes aware that an interpreter cannot be provided.
- (F) OCIS will notify the assigned spoken language interpreters, either staff interpreter or per diem interpreter, of his or her assignment for the next week by the end of business on Thursday. Any subsequent modification will be communicated by telephone as soon as possible but in any event by the close of business of the preceding day. Interpreters must notify

OCIS immediately if they are unable to fulfill an assignment.

- (G) The completed Request for Interpreter Forms, Preliminary Monthly Schedules and Approved Schedules received from OCIS must be retained by the Court Liaison in a folder labeled Court-Appointed Interpreters.
- (H) A copy of the request form shall also be retained in the appropriate case file.
- (I) The Court Liaison must inform OCIS at least 48 hours in advance of any cancellation or rescheduling of a case requiring the previously scheduled assignment of an interpreter.
- (J) If OCIS has scheduled an interpreter and confirmed the assignment pursuant to section 8.02(E), the case requiring the interpreter services should not be heard before the arrival of the interpreter, unless OCIS has been notified by the court that the interpreter is no longer needed.

Section 9.00 Assigning Court Interpreters

9.01 OCIS will schedule and assign spoken language interpreters based upon requests from Court Liaisons. Generally, interpreters will be assigned in the following sequence: first, Qualified Interpreters or Certified Interpreters, and second, Screened Interpreters. If there are no Qualified, Certified or Screened Interpreters available to meet the needs of the requesting court, OCIS may, in such extraordinary circumstances, schedule and assign an interpreter to provide the needed service or contract with a private agency, including the Language Line, to

provide the interpreter service.

- 9.02 OCIS will develop and maintain lists of Qualified Interpreters, lists of Certified Interpreters, and lists of Screened Interpreters. OCIS, in its discretion, may establish such lists by court, courthouse, area or region, and shall specify whether an individual may be included on multiple lists. OCIS may also, in its discretion, establish and maintain lists according to the type of appointment to be made; for example, OCIS may establish a single list for an “Automatic Morning Coverage” court because that court needs an interpreter assigned each morning. OCIS shall publish and make available a listing of all such lists with any and all qualifications for each list. The lists shall be public.
- 9.03 The goal is to assure that all appointments made by OCIS are made on a fair and impartial basis with equal opportunity and access for all Qualified and Certified Interpreters for appointments. OCIS has concluded that the fairest way to accomplish this goal, and at the same time avoid favoritism or the appearance of favoritism, is to create lists of Certified and Qualified Interpreters and then generally make appointments from those lists in rotation or sequential order.
- 9.04 OCIS understands the importance of flexibility in selecting interpreters based on the particular expertise needed in a given case. In making an appointment, OCIS will consider the experience, expertise, location and availability of the interpreter, and the complexity and particular need presented by the court proceeding for which an interpreter has been requested. Every effort will be made to maintain a

consistent assignment of an interpreter to an on-going trial or proceeding. OCIS may select an interpreter who is not on the list or who is not next in order on the list in consideration of these factors and will make a brief notation of the reasons for the selection.

- 9.05 Successive Appointments. Each appointment shall be made from the appropriate list maintained pursuant to section 9.01 except as otherwise provided in section 9.04.
- 9.06 Appointment Record. OCIS shall establish and maintain records of all appointments by OCIS of interpreters. Such records shall contain at a minimum the following: (a) the docket number and the name of the case, (b) the date of the appointment, (c) the name of the appointee, (d) a notation if the appointment was not made successively from the court's list or if the appointee was a person not on the list.
- 9.07 Language Line and Private Interpreter Agencies. There are occasions when no Qualified, Certified or Screened Interpreter is available. In these extraordinary circumstances, to permit the court proceedings to go forward, the AOTC has entered into contracts with private interpreter agencies, which may be called upon to provide an interpreter for a court proceeding. In addition, OCIS has contracted with Language Line LLC. This company, through its Court Division, provides foreign language interpretation in more than 140 languages by telephone. A speaker phone is preferable but not necessary to access the service.

Language Line may also be used for more common languages when an emergency arises and no interpreter is available to be sent to the court to handle the matter. OCIS staff will make the arrangements for the court to connect to Language Line and will ensure that the service is provided. Generally, an interpreter can be made available through Language Line in five minutes or less. The cost incurred in using these resources is billed to OCIS and paid from a central account in the same way in which per diem interpreters are paid.

- 9.08 Interpreters for the Deaf and Hard of Hearing are assigned by the Commission for the Deaf and Hard of Hearing.

Section 10.00 Duties of the Per Diem Court Interpreter

10.01 Arrival Procedures:

- (A) Upon his/her arrival at the assigned court, the per diem interpreter must report to the Court Liaison designated to approve interpreter assignments and attendance or to the staff interpreter who has been authorized in writing by OCIS to perform this function. When possible, the per diem interpreter should notify OCIS if he/she will be late for the assignment and shall notify OCIS if unable to appear. OCIS will then notify the Court Liaison.
- (B) When a time stamp is available, the interpreter's Daily Service Record (DSR) must be stamped upon arrival. If a time stamp is unavailable, the Court Liaison should handwrite and initial the per diem interpreter's

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arrival time in the space provided on the DSR. Space is also provided for signing in and out of the morning session for lunch time and for signing in and out of the afternoon session.

- (C) The Court Liaison should ensure that the request for the per diem interpreter was approved and scheduled by reviewing the Weekly Approved Schedule.
- (D) It is recognized that many courts maintain a scheduling tool such as a log book to monitor the appearances of per diem interpreters. In such cases, upon his/her arrival, court personnel should record the name and language of the per diem interpreter in the log book on the appropriate date he/she was assigned.

10.02 Departure Procedures

- (A) Before departure from the court facility, the per diem interpreter must check with the Court Liaison (or in some cases with the staff interpreter when authorized in writing by OCIS to perform this function) to determine if the per diem interpreter can be of further assistance in other cases or other matters then pending in the court or court complex during the time that the per diem interpreter is being compensated by OCIS. Once it has been confirmed that the per diem interpreter is not needed at that court facility, the per diem interpreter will call OCIS to report availability in case his/her services are needed elsewhere.

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- (B) Before departure, per diem interpreters must complete their DSR and submit it to the Court Liaison (or in some cases with the staff interpreter when authorized in writing by OCIS to perform this function) for review.
- (C) Proper preparation of the DSR is essential. The DSR must include the name(s) of the client(s), docket number(s), type(s) of proceeding, total interpreting hours and total waiting time for each case. This information may be either listed on the DSR or on a separate attached sheet of paper.
- (D) Court Liaisons (or in some cases the staff interpreter when authorized in writing by OCIS to perform this function) must review the DSR for assignment and attendance only and record the per diem interpreter's departure time on the service record. Once the verification process is satisfactorily completed and approved, the DSR must be signed by the Court Liaison.
- (E) A copy of the approved DSR should be retained by the court with the corresponding case file(s).

10.03 Services Outside the Court

On occasion, per diem interpreters may be requested to perform services outside the court (i.e., hospitals, etc.). These requests must be documented through the procedures set forth in section 8.02(B).

10.04 The interpreter shall call OCIS in the event of last minute unavailability. Upon such notification to OCIS, OCIS will notify the Court Liaison of the interpreter's

unavailability and inform the Court Liaison as to whether alternative coverage is being arranged by OCIS.

Section 11.00 Processing Bills/Interpreter Daily Service Records (DSR) for Per Diem

Interpreter Services

- 11.01 The completed DSRs and allowed motion(s), if any, attached must be submitted by the per diem interpreter to OCIS for final review and approval every two weeks. DSR submitted more than 60 days after the date of service may not be processed by OCIS.
- 11.02 Separate DSRs must be completed for each court serviced. However, all travel for a given day should be recorded and submitted on the DSR for the last court where services were provided that day.
- 11.03 The DSR must include: (1) the name and address of per diem interpreter, (2) his or her social security number, (3) date of service, (4) the language, (5) whether the per diem interpreter is qualified, certified, or screened, (6) the court where the service was provided, (7) the name of the requesting judge—whenever applicable; (8) the name(s) and docket number(s) of the proceeding(s), (9) the interpreting hours, waiting hours, and total hours (excluding lunch time), indication of full-day or half day service, (10) the travel time and mileage or transportation expenses (for tolls a receipt must be attached), (11) authorized signature for service confirmation, and (12) the per diem interpreter's signature and date.
- 11.04 Upon receipt of the DSRs, OCIS processes them in the following manner: they

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are grouped by per diem interpreter and arranged chronologically and a payment voucher is prepared and attached for each per diem interpreter/vendor. The DSRs are reviewed for any errors or missing information. Any mathematical miscalculations are corrected. DSRs that are missing required information are not processed and may be returned to the per diem interpreter.

- 11.05 The individual DSRs are verified by cross referencing with the schedule and assignment of the per diem interpreters to be sure that the bills that are submitted are in fact for services ordered by OCIS. Any service billed that has not been ordered will generally not be approved for payment.
- 11.06 Because the Massachusetts Management Accounting and Reporting System (MMARS) governs the payment process for all Trial Court expenditures, a MMARS Payment Voucher must also be prepared for all per diem, contracted interpreters.
- 11.07 The payment voucher with the accompanying DSRs must be approved for payment by the Manager of OCIS.
- 11.08 A summary sheet of what OCIS has approved and processed for payment will be sent to each per diem interpreter.

Section 12.00 Removal of an Interpreter from an OCIS List

- 12.01 Removal from an OCIS list of Interpreters upon request.
 - (A) All requests for the removal of an individual from an OCIS list shall be in writing and addressed to the Manager of Interpreter Services. The

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Manager of Interpreter Services may initiate such a request as well. Such request shall specify which of the following grounds for removal are alleged:

- (1) failing to follow the standards prescribed by law and the ethics of the interpreter profession,
 - (2) gross incompetence,
 - (3) violation of the Code of Professional Conduct for Court Interpreters of the Trial Court,
 - (4) violation of any other judicial department policies or procedures, or
 - (5) consistent and repeated failure to be available for assignments by OCIS.
- (B) If the request for removal raises serious concerns as to the individual's qualifications or suitability to perform the duties and/or functions of a court interpreter, OCIS shall have the discretion to temporarily suspend the interpreter from one or more of the OCIS lists. OCIS may remove the temporary suspension at any time during the review of a request for removal.
- (C) OCIS shall send a copy of the request to the individual whose removal is sought along with a notice indicating that the individual may file a written response, addressed to OCIS, within thirty days.
- (D) Thereafter, OCIS shall determine if an investigation should be conducted

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into the facts and circumstances that form the basis for the request. If an investigation is not needed because the facts are not in dispute, OCIS shall make a recommendation in writing to the CJAM that the individual should be removed from one or more of the OCIS lists, that a lesser sanction should be imposed, or that no action should be taken on the request for removal. Lesser sanctions shall include, but are not limited to, suspension from the list for a specific period of time, suspension until the interpreter successfully completes prescribed training, or restrictions on the types of judicial proceedings to which the interpreter may be assigned. If an investigation is necessary, OCIS shall appoint an individual to conduct an investigation.

- (E) The investigator so selected under paragraph (D) shall conduct a complete and full investigation into the facts and circumstances that provide the basis for the request for removal and shall report in writing the results of the investigation.
- (F) The investigator's report shall be submitted to OCIS and a copy shall be forwarded to the individual whose removal is sought. OCIS shall afford to the individual whose removal is sought an opportunity to submit written memorandum or argument. OCIS may, in its discretion, meet with the requesting party and/or the individual whose removal is sought and such others as OCIS deems appropriate or conduct a hearing at which the

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interested parties may be heard. Based upon the investigator's report and such other documentation as OCIS has obtained, OCIS shall determine whether to recommend that the individual be removed from one or more of the lists, that a lesser sanction be imposed, or that no further action is required. If the decision is that removal or a lesser sanction is not necessary, a copy of the decision shall be forwarded to the individual whose removal is sought, and to the requesting party.

- (G) If OCIS decides to recommend the removal of the individual from the list or a lesser sanction, OCIS shall report in writing the recommendation and the basis for the recommendation and forward it, along with a copy of the investigator's report and such other documentation as has been submitted, to the CJAM. A copy of the recommendation shall also be forwarded to the individual whose removal is sought.
- (H) The CJAM shall consider the recommendation submitted by OCIS and shall, within sixty days, either accept or reject the recommendation. That decision shall be final. A copy of the CJAM's decision shall be sent to the requesting party and the individual whose removal is sought.
- (I) Any report prepared by an investigator under subsection (D), and written response prepared under subsection (C), any written recommendation submitted pursuant to subsections (D), (F) or (G), any written memorandum or argument submitted under subsection (F), and any

hearing conducted under subsection (F) shall be considered to be confidential and shall not be open to the requesting party or the public.

- 12.02 Minimum Hours of Service. To maintain certification, interpreters shall commit to providing a minimum of 200 hours of services to the Trial Court per fiscal year if requested unless otherwise waived by the Manager of OCIS. Failure to comply can result in the removal from the list of Certified Interpreters.

Section 13.00 Reports and Statistics

- 13.01 OCIS will collect and aggregate data concerning the deployment of interpreters in court proceedings.
- 13.02 All staff interpreters employed by OCIS or by any court department must submit Weekly Service Records which must include: (1) the name of the interpreter, (2) the dates of service covered, (3) the language, (4) the court(s) where the service was provided, (5) the name(s) and docket number(s) of the proceeding(s), (6) the name of the requesting judge—whenever applicable, (7) the interpreter’s signature and date submitted. Payroll cannot be approved and processed unless such a Weekly Service Record is submitted in a timely fashion.
- 13.03 OCIS will produce statistical reports on a monthly basis that reflect the need for and the deployment of interpreters in court proceedings. Those reports will reflect the need for interpreters by court department, by court division, by geographic region, and by language. The reports will also reflect the cost of providing interpreter services (both the absolute cost and the cost of providing per

diem interpreters) by court department, by court division, by geographic region and by language. These reports will differentiate between the cost of interpreter services and the cost for travel time and travel expenses.

Section 14.00 Interpreter Services in Judicial Proceedings

Whenever interpreter services are used in a judicial proceeding, the court and the interpreters are to be governed by Uniform Trial Court Rule on Interpreter Services in Judicial Proceedings.

14.01 Interpreter's Oath. All interpreters used in court proceedings shall swear or affirm that he/she will make true and impartial interpretation using his/her best skill and judgement in accordance with the standards prescribed by law and the ethics of the interpreter profession. The interpreter shall be sworn at the beginning of the proceeding or at the beginning of his/her day's work, in which case the oath extends for the duration of the day's services.

Prior to being sworn, the interpreter should report whether he/she is screened, certified or qualified by OCIS.

14.02 It is not appropriate to use a child to interpret for an LEP in a court proceeding except in extraordinary circumstances.

14.03 Multiple LEP Parties.

(A) When there are multiple LEP parties, an interpreter or team of interpreters, using appropriate equipment, may interpret simultaneously for all of the parties.

- (B) When a witness requires an interpreter, however, a separate interpreter must be assigned to the witness to allow parties to communicate with counsel as necessary in a timely manner.
- (C) If a trial involves more than one party who requires an interpreter and whose interests are in conflict, the court may provide a separate interpreter for each party.

14.04 The Interpreter's Role. The judge may allow an interpreter time, prior to the commencement of the proceeding, to explain the role and responsibilities of interpreters to the person or persons utilizing the interpreter during that proceeding.

14.05 Mode of Address. An LEP individual should always be addressed directly and never through the interpreter.

14.06 The Right to an Interpreter: Waiver.

- (A) A waiver of the right to an interpreter by an LEP individual shall be effective only when approved by the judge after the LEP individual has consulted with counsel and had explained to him, through an interpreter, in open court by the judge the nature and effect of such waiver. The judge may approve a waiver only upon finding that it is knowingly and voluntarily made.
- (B) The failure of an LEP individual to request an interpreter shall not be deemed a waiver of such right, and an LEP individual may retract any

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waiver of his/her right to an interpreter at any stage of the proceeding and indicate his/her desire to be assisted by an interpreter in accordance with G.L. c. 221C, § 3.

- 14.07 **Waiting Area.** All interpreters used in court proceedings should be provided with an appropriate place to sit in the courtroom prior to a proceeding. The position of the designated seat or waiting area provided for the interpreter will assist court personnel in determining the presence and availability of a court interpreter.
- 14.08 **Positioning of Interpreter.** The court interpreter shall be positioned in a court proceeding to ensure that the LEP individual can hear and/or see everything the court interpreter says or signs and so that the interpreter can hear and/or see everything that is said or signed during the proceedings. The interpreter shall be positioned in full view of the judge, jury and counsel.
- 14.09 **Rest Breaks.** The judge shall give the interpreter a rest break each hour in any proceeding which goes beyond one hour. Interpreters are permitted to drink water during proceedings.
- 14.10 **Case Files.** If a case will require an interpreter, the case file should be clearly marked as needing an interpreter to alert court personnel that OCIS should be contacted to schedule an interpreter for the proceeding.

To: Chief Justices of the Trial Court
First Justices of the Trial Court
Clerk-Magistrates of the Trial Court
Registers of Probate of the Trial Court
Recorder of the Land Court
Commissioner of Probation
Jury Commissioner
Chief Probation Officers

From: Robert A. Mulligan
Chief Justice for Administration and Management

Date: November 6, 2006

RE: New Compensation Rate for Per Diem Court Interpreters

FISCAL YEAR 2007 - MEMO # 7

This memorandum provides you with the new compensation schedule for per diem court interpreters effective January 1, 2007. The new compensation rate for per diem court-appointed foreign language interpreters and interpreters for the Deaf and Hard of Hearing is as follows:

- Certified Interpreters **\$300.00** for a full day/morning and afternoon sessions
 \$200.00 for a half day/one session
- Screened Interpreters **\$200.00** for a full day /morning and afternoon sessions
 \$125.00 for a half day/one session

In the instance where an hourly compensation rate is utilized, that rate will be \$40.00 for certified interpreters and \$26.00 for screened interpreters. If a morning session goes more than four hours but not into the afternoon session, the hourly rate will be used to compensate interpreters for the additional time. The hourly compensation rate for travel has not changed. As a reminder, please notify the Office of Court Interpreter Services (OCIS) of any cancellation or rescheduling of a case requiring an interpreter at least 24 hours in advance of the to scheduled event. This will allow the Trial Court to maximize available resources.

cc: Robert P. Panneton, Chief of Staff, Administrative Office of the Trial Court
William J. Marchant, Director, Fiscal Affairs Department
Timothy M. Linnehan, Esq., Acting Director, Support Services Department
Gaye Gentes, Manager, Office of Court Interpreter Services
Commissioner, Massachusetts Commission for the Deaf and Hard of Hearing