



STANDARDS and PROCEDURES
of the
OFFICE of LANGUAGE ACCESS

The Committee for the Administration of Interpreters for the Trial Court
August 5, 2024

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

TRIAL COURT

ORDER

To provide judges, attorneys, and court personnel with essential information about language access services for the Massachusetts Trial Court, and to provide interpreters with principles and protocols to follow when interpreting through the Office of Language Access, it is ORDERED by the Chief Justice of the Trial Court that the edition of the *Standards and Procedures of the Office of Language Access* developed by the Committee for the Administration of Interpreters for the Trial Court pursuant to G.L. c. 221C, § 7, be adopted, approved, and be effective as of August 5, 2024

A handwritten signature in blue ink, reading "Heidi E. Brieger", is positioned above a horizontal line.

Heidi E. Brieger
Chief Justice of the Trial Court

Committee for the Administration of Interpreters for the Trial Court

Committee for the Administration of Interpreters for the Trial Court

Chair: Chief Justice of the Trial Court Heidi E. Brieger

Members:

Chief Justice Stacy Fortes
District Court Department

Judge Cesar A. Archilla
First Justice, Haverhill District Court

Clerk Magistrate Donald Hart
Nantucket District Court

Judge Michael Doolin
Suffolk Superior Court Department

First Assistant Clerk Edward Curley
Suffolk Superior Court, Criminal Division

Judge Angela Ordoñez
Probate and Family Court Department, Barnstable County

First Justice Helen A. Brown-Bryant
Juvenile Court Department, Suffolk County

Advisors:

Sybil Martin, PhD.
Director, Office of Language Access (OLA) – Coordinator

Gabriela Burgess
Regional Coordinator, Interpreter Services, OLA, Salem

Rebecca Ramirez-Abdella
Chief Probation Officer, Fitchburg District Court

Cynthia Robinson Markey, Esq.
Senior Program Manager for Strategic Planning, EOTC/OCM

Natoschia Scruggs, PhD.
Chief Access, Diversity, Fairness Officer, EOTC/OCM

Gwen Werner, Esq.
Deputy General Counsel, Legal Department, EOTC/OCM

Elizabeth Day, Esq.
Labor Counsel, Legal Department, EOTC/OCM

Per-Diem Interpreter Liaisons:

John Michael Fontes, Portuguese interpreter

Norma Mann, Spanish interpreter

The 2024 Edition of the Standards and Procedures

Pursuant to G.L. c. 221C § 7, *Standards and Procedures of the Office of Court Interpreter Services* shall be promulgated by the Committee for the Administration of Interpreters within the Massachusetts Trial Court (“Committee or The Committee”). By statute, the Committee consists of eight members (six judges and two clerk representatives), and such advisors as the Chief Justice of the Trial Court selects.

The *Standards and Procedures* establish guidelines that facilitate meaningful access to justice throughout the Trial Court for individuals with Limited English Proficiency (LEPs) or who are Deaf or Hard of Hearing (DHH) and protect their statutory right to interpreter services throughout a legal proceeding pursuant to G.L. c. 221C and G.L. c. 221, § 92A. This new edition of the *Standards and Procedures* maximizes the efficiency, quality, and uniformity of the Trial Court’s utilization of language access services and encourages the broadest use of interpreters throughout the Trial Court.

Standards and Procedures were initially developed by the Committee in 2003 and revised in 2009. In 2016, the Committee considered further revisions to align with interpreter services best practices. Revisions included adding terms relative to language access, introducing new roles, such as the regional coordinators and language access liaisons, and incorporating the screening, mentoring, and credentialing of per diem court interpreters. The revised *Standards and Procedures* became effective on January 1, 2021.

The Committee reconvened in the fall of 2023 to consider revisions to the *Standards and Procedures*, to include certain agreed-to revisions resulting from the settlement of a class action lawsuit brought against the Trial Court by the Massachusetts Association of Court Interpreters (see *MACI v. EOTC*, Suffolk Superior Court, Civil Action No. 1684CV00969). Following two Committee meetings and a public listening session held on October 27, 2023, the Committee approved certain proposed revisions to the 2021 *Standards and Procedures*. Following those meetings, the proposed *Standards and Procedures* were published in the Massachusetts Register on January 5, 2024 with notice of two public hearings. The public hearings were held on March 12 and March 19 at which the Committee received oral comments on the proposed *Standards and Procedures*. The Committee also accepted written comments for two weeks following the public hearings.

After due consideration of all comments and in accordance with G. L. c. 221C § 7(d), the Committee shall cause these final *Standards and Procedures* to be published in the Massachusetts Register.

TABLE OF CONTENTS

Sec. 1.00	Principles, Application, and Authority.....	Page 1
Sec. 2.00	Definition of Terms.....	Page 2
Sec. 3.00	Office of Language Access (OLA).....	Page 6
Sec. 4.00	The Code of Professional Conduct for Interpreters in the Trial Court.....	Page 8
Sec. 5.00	Recruitment, Application Process, Minimum Requirements, Screening, and Credentialing of Court Interpreters.....	Page 19
Sec. 6.00	Training of Staff and Per Diem Court Interpreters.....	Page 25
Sec. 7.00	Compensation of Per Diem Court Interpreters.....	Page 27
Sec. 8.00	Requesting Interpreter Services.....	Page 29
Sec. 9.00	Assigning Court Interpreters.....	Page 31
Sec. 10.00	Arrival and Departure Procedures for Per Diem Court Interpreters, ASL Interpreters, and DHH Interpreters.....	Page 34
Sec. 11.00	Processing Bills, Interpreter Invoices, and Extraordinary Requests For Per Diem Court Interpreters.....	Page 35
Sec. 12.00	Complaint Procedures.....	Page 36
Sec. 13.00	Reports and Statistics.....	Page 40
Sec. 14.00	Interpreter Services in Court Events.....	Page 41
Appendix A	Language Access Complaint Form.....	Page 43

Section 1.00 Principles, Application, and Authority

- 1.01 The purpose of these *Standards and Procedures of the Office of Language Access* (*Standards and Procedures*) is to provide court interpreters, judges, attorneys, and other court personnel with information about providing quality court interpreter services in the Massachusetts Trial Court and guidelines to follow when requesting or using court interpreters through the Office of Language Access (OLA) (formerly called the Office of Court Interpreter Services) when providing interpretation services.
- 1.02 The Massachusetts Trial Court is committed to providing equal access to justice for all who use the Commonwealth's courts. Within the framework of the Massachusetts Trial Court Language Access Plan and through these *Standards and Procedures*, the Trial Court provides meaningful language access for Limited English Proficient (LEP) and Deaf and Hard of Hearing (DHH) individuals in all court proceedings and court-managed or court-related programs, as well as ensures access to communication with court-appointed or court-supervised personnel.
- 1.03 Recognizing the importance that court interpreters have in ensuring access to equal justice, the Office of Court Management, through OLA, is committed to fostering competency, professionalism, and ethical practice of all interpreters through the highest standards of screening, education, training, mentoring and evaluation.
- 1.04 These *Standards and Procedures* apply to all court interpreters, including language, American Sign Language (ASL), and DHH interpreters who provide court interpreter services to the Trial Court.
- 1.05 These *Standards and Procedures* are promulgated pursuant to G.L. c. 221C, § 7(d).
- 1.06 The rights of individuals who are deaf or hard-of-hearing are covered under the federal Americans with Disabilities Act (ADA), G.L. c. 6, §§ 191-197, G.L. c. 221, § 92A, and Title VI of the U.S. Civil Rights Act of 1964. The Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH) serves as the principal agency in the Commonwealth on behalf of people of all ages who are deaf and hard of hearing. MCDHH is mandated to maintain and coordinate a statewide interpreter referral service and provide or ensure provision of court interpreter services and technology services including telecommunication and assistive listening devices for Deaf and Hard of Hearing (DHH) individuals. Requests for American Sign Language (ASL) or DHH court interpreters follow the same procedures OLA utilizes for court interpreters as set forth in Section 8 of these *Standards and Procedures*.

Section 2.00 Definition of Terms

- 2.01 **Accounting Section of the Fiscal Department (Accounting)** handles encumbrance and payment status, prior year deficiency payments and vendor inquiries regarding payments for per diem court interpreters.
- 2.02 **American Sign Language (ASL)** is a visual-gesture language created for DHH individuals and used by Deaf Americans and Anglophone Canadians of all ages.
- 2.03 **Applicant** is a person who submits qualifications to OLA to be considered for inclusion as a per diem court interpreter. The term applicant is used throughout the screening, credentialing, training and mentorship processes.
- 2.04 **Appropriate Court Authority** refers to judges, clerks, registers, recorders, judicial case managers, their assistants, probation officers, court officers, Language Access Liaisons and other court staff.
- 2.05 **Compensable Time** means a “half-day” rate, which shall be paid for a work period of up to and including four (4) hours of compensable time, excluding time worked during lunch; a “full-day” rate shall be paid for a period of more than four (4) hours and up to seven (7) hours of compensable time, excluding time worked during lunch.¹ A half-day can be either a morning or afternoon assignment.
- 2.06 **Consecutive Interpretation** means relaying a message from one language into another in a sequential manner after the speaker has completed a statement.
- 2.07 **Court Interpreter** is a person who interprets for LEP or DHH individuals involved in a court event as assigned by OLA or by MCDHH. Court interpreters must accurately interpret for the parties without editing or summarizing, interpret simultaneously and consecutively, provide sight translation of written documents consistent with Section 4.11(B) (3) and (4), and understand and comply fully with Section 4, the Code of Professional Conduct for Court Interpreters of the Trial Court.
- 2.08 **Court Interpreter Assignments** are any court events assigned to a court interpreter to provide language access services.
- 2.09 **Court Event** means all court proceedings and court-managed or court-related operations as well as communication with court-appointed or court-supervised personnel. A court event also includes, but is not limited to: courtroom sessions; telephone calls; video conferencing; register or clerk office operations; mediations, negotiations, and settlement meetings; Court Service Center assistance, and probation services meetings.
- 2.10 **Cultural Fluency** refers to the awareness and full comprehension of cultural factors, including but not limited to, expectations, attitudes, values, roles, institutions, and linguistic differences and similarities.
- 2.11 **Daily Service Invoice (DSI)** is the electronic invoice used by per diem interpreters

¹ The definition of “Compensable Time” was agreed to as part of settlement of *MACI v. EOTC*, Superior Court, Civil Action No. 1684CV00969 and must remain in effect for eight years from October 24, 2023.

for billing purposes to obtain payment for their services.

2.12 **Emergency Notice.** OLA email addresses are to be used for:

- (A) Court interpreters to notify OLA they will be late for or will be unable to complete an assignment;
- (B) Language Access Liaisons or other court personnel to notify OLA that a scheduled court interpreter did not arrive on time or did not fulfill the assignment as scheduled; and
- (C) Language Access Liaisons or other court personnel to request a court interpreter for an immediate and unexpected event. All other requests for court interpreter services shall be made through MassCourts.

2.13 **Extraordinary Interpreter Request (EIR)** is a written notification used in extraordinary circumstances to request approval to contract with an out-of-state interpreter for interpreting services or whenever additional expenses are needed to secure the services of an interpreter.

2.14 **Federally Certified Court Interpreter** is a Certified Interpreter who has passed the Federal Court Interpreter Certification Examination and is qualified to interpret in the federal courts by the United States District Court for the District of Massachusetts.

2.15 **Foreign Language** means a language other than English.

2.16 **Interpretation** is the unrehearsed transmitting of a spoken language to another language.

2.17 **Judge, Justice, Clerk-Magistrate or Register**, 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.

2.18 **Language Access Coordinator** is a Trial Court employee who is designated by the Chief Justice of the Trial Court to coordinate the implementation of the Language Access Plan, to respond to language access complaints, and to serve as the point person for the Trial Court in the national Council of Language Access Coordinators (CLAC) of the National Center for State Courts.

2.19 **Language Access Liaison (LAL)** is a Trial Court employee who has oversight responsibilities within a court department location. The LAL knows where court interpreters are needed each day and is available to answer inquiries from the OLA scheduling department about current requests and assignments.

2.20 **Language Access Plan (LAP)** is a plan that was adopted by the Massachusetts Trial Court in December of 2014 to provide comprehensive services for Limited English Proficient (“LEP”) individuals. The LAP sets forth an action plan for the Trial Court to remove language barriers to the delivery of justice in compliance with Massachusetts and federal law prohibiting discrimination based on national origin, which includes

language.

- 2.21 **Legal Equivalence** means a linguistically true and legally accurate interpretation. Interpreters must be able to interpret with exactitude while accurately reflecting a speaker's nuances and level of formality. The interpreter must interpret the original source material without editing, summarizing, deleting, or adding, while conserving the language level, style, tone and intent of the speaker.
- 2.22 **Limited English Proficient (LEP)** refers to individuals who do not speak English as their primary language and have a limited ability to read, speak, write, or understand English.
- 2.23 **Mental Fatigue** is the decline in mental capacity that limits the performance of an interpreter or of a team of interpreters. Mental fatigue can harm the accuracy and completion of an interpreter's performance. Factors that can induce mental fatigue include but are not limited to the nature of a proceeding, complexity of the case, speed of discourse, terminology, and other factors. Therefore, breaks are required to avoid mental fatigue, as the quality of the interpreter's service will diminish over time.
- 2.24 **Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH)** is a statutory agency under G.L. c. 6, § 191, *et seq.*, which serves as the principal agency of the Commonwealth on behalf of DHH individuals. The agency provides services to the DHH population, including but not limited to, interpreting services under G.L. c. 6, § 194.
- 2.25 **Mentor** is an experienced OLA court interpreter who is assigned by OLA management to work with an applicant to become a per diem court interpreter. The mentor assists the applicant in developing both proficiency in court interpretation and familiarity with these *Standards and Procedures*.
- 2.26 **Office of Language Access (OLA)** (formerly known as the Office of Court Interpreter Services) administers the provision of all spoken language interpreter services to the Trial Court. This office is responsible for the training, certification, assignment and supervision of spoken language court interpreters who provide interpretation services for court events. OLA also receives requests for ASL or DHH interpreters following the procedures set forth in Section 8 of these *Standards and Procedures*.
- 2.27 **Office of Court Management (OCM)** is created by G.L. c. 211B, § 6B and is the administrative office through which the Court Administrator supports and manages the Trial Court of the Commonwealth.
- 2.28 **OLA Certified Court Interpreter** is an interpreter that has been certified by OLA (or its predecessor OCIS), or passed the National Center for State Courts Certification Examination as reflected in Section 5:07 (C)-(E) or qualifies as a Federally Certified Court Interpreter under § 2.14 or alternatively, an interpreter for whom OLA has waived the requirements under Section 5.07(F).
- 2.29 **"On Call" Interpreter Assignments** are court interpreter assignments that cover, on an as-needed, daily basis, certain unanticipated and/or emergency situations for which it was not possible to request an interpreter in advance through MassCourts.

- 2.30 **Per Diem Court Interpreter** is a court interpreter who is assigned as needed from the list of court interpreters developed and maintained by OLA pursuant to Section 9.02. Per diem interpreters are not Trial Court employees. Per diem interpreters who currently reside out of state but who previously performed interpreting services for the Trial Court as Massachusetts per diem interpreters for at least thirty-six (36) months immediately prior to relocating will be treated as in-state per diem interpreters.
- 2.31 **Proficient Court Interpreter I and II** are court interpreters who have completed the requirements set forth in Sections 5.07(A) and (B), respectively, of these *Standards and Procedures*.
- 2.32 **Regional Coordinators** are experienced staff interpreters assigned and supervised by OLA management to coordinate interpreter services in their designated regions. Regional Coordinators serve as the OLA contact with Language Access Liaisons and other court personnel. Regional Coordinators are on-site supervisors performing supervisory and administrative duties. Regional Coordinators also perform interpreting services.
- 2.33 **Remote Interpreting** refers to interpreting that is performed either by telephone or video equipment, which is referred to as Video Remote Interpreting (VRI).
- 2.34 **Sight Translation** is a hybrid type of interpretation/translation in which the court interpreter reads a document written in one language while reading it out loud into another language.
- 2.35 **Simultaneous Interpretation** is the relaying of a message from one language into another language contemporaneously with the speaker.
- 2.36 **Source Language** is the language of the original speaker. It is a relative term, depending on who has spoken last. (This also applies to written translations.)
- 2.37 **Staff Interpreter** is a Trial Court employee who works under the supervision of the of OLA Management and provides interpretation and translation services to LEP individuals involved in court events in accordance with these *Standards and Procedures*.
- 2.38 **Target Language** is the language into which an interpretation or translation is made.
- 2.39 **Team Interpreting** is the utilization of two interpreters functioning as equal members of a team, rotating responsibilities at pre-arranged intervals, and providing support and feedback to each other.
- 2.40 **Translation** means the conversion of a written text from one language into written text in another language.

Section 3.00 Office of Language Access (OLA)

- 301 **The Executive Office of the Trial Court (EOTC).** The Executive Office of the Trial Court is the Massachusetts court system’s administrative office that centralizes functions and standards that are fundamental in fostering effective court management and widespread benefit to the Trial Court.
- (A) The Chief Justice of the Trial Court (CJTC) and the Trial Court Administrator (CA) manage and administer the Trial Court of Massachusetts in accordance with G.L. c. 211B.
 - (B) The EOTC oversees the Office of Court Management (OCM), which is made up of a number of departments. The Office of Access, Diversity and Fairness (OADF) resides within OCM.
 - (C) OLA is a department under OADF.
- 302 **The Office of Language Access (OLA).** The Office of Language Access, situated within OADF, is responsible for coordinating and allocating interpreters to requesting courts, maintaining an appropriate pool of interpreters, and managing the quality of their services.
- (A) OLA’s Director and Deputy Director (“OLA Management”) provide overall supervision of the statewide interpreter services program, which includes: recommending, planning, setting, and executing policy; addressing personnel matters; preparing budgets and spending analyses; overseeing the daily operations of OLA; and serving as liaison between OLA and the courts, and other agencies involved in interpreter services.
- OLA’s Director and Deputy Director serve as coordinators of court interpreter services. The Director reports to and receives direction from the Chief Access, Diversity and Fairness Officer or a designee in performing duties in accordance with best management practices and established guidelines.
- (B) The Manager for Professional Development (“Professional Development Manager”) is responsible for the development and administration of training, continuing education, evaluation and certification and recruitment of court interpreters. The Professional Development Manager is also responsible for outreach and collaboration with the court departments to share training resources for both court interpreters and court personnel and recruiting and screening court interpreters. Finally, the Professional Development Manager ensures that court interpreters are trained, meet all language proficiency standards, and follow the Code of Professional Conduct as set forth in Section 4 of these *Standards and Procedures*. The Regional Coordinators are responsible for overseeing that court events are covered and for supervising and providing oversight to interpreters in various court departments and divisions within a specific region. Regional Coordinators serve as interpreters and are also the point of contact for the Language Access Liaisons in that region.
- 303 **Language Access Liaison.** The Language Access Liaison is the local point of contact between OLA and the court departments for language access.

- (A) The clerk or register of each department and division shall designate the Language Access Liaison and at least one back-up. The clerk or register shall provide OLA with the names, telephone numbers, and email addresses of the Language Access Liaison and the back-up and advise OLA of any changes in designations.
- (B) Language Access Liaisons shall: (1) request court interpreters as soon as the need is known; (2) ensure all requests for court interpreters are made through MassCourts; (3) communicate cancellations or postponements to OLA on a timely basis; and (4) check the weekly schedule for any inconsistencies or issues and promptly inform OLA of any updates. The Language Access Liaison or his/her designee shall oversee the required language access needs of the court location and be available to answer inquiries from OLA Regional Coordinators and OLA scheduling department about requests and assignments. The Language Access Liaison shall share information about language access resources with colleagues and communicate with others within a courthouse facility to effectively deploy interpreter services and resources.
- (C) OLA shall establish guidelines for Language Access Liaisons and the back-up liaisons to follow when scheduling interpreters for court events.

304 **Committee for the Administration of Interpreters.** The Committee for the Administration of Interpreters for the Trial Court (“the Committee”) was established pursuant to G.L. c. 221C, § 7.

- (A) The Committee consists of the Chief Justice of the Trial Court, 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/her 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 Justice of the Probate and Family Court Department and one other Judge or clerk-magistrate appointed by the Chief Justice of the Trial Court. The Chief Justice of the Trial Court may add additional members as needed.
- (B) The Committee advises the Chief Justice of the Trial Court and the Court Administrator on interpreter matters such as the statewide expansion of services using proficient, or certified interpreters, the consolidation and effective use of court interpreter resources, the schedule for compensation for court interpreters, and other related issues.

The Committee periodically reviews and revises these *Standards and Procedures* to ensure compliance with the United States Constitution, the Massachusetts Constitution, Massachusetts and federal law, to implement best practices and to ensure that LEP and DHH court users are provided with language access.

Section 4.00 The Code of Professional Conduct for Interpreters² in the Trial Court

- 4.01 **Purpose.** Court interpreters are communication facilitators for LEP and DHH individuals who are engaged as parties or witnesses in court events in the Trial Court, and, as such, play a vital role in the protection of their rights. This role requires an understanding by the interpreter of the complexities of the tasks to be performed. In performing these tasks, interpreters should be guided by these ethical principles and standards promulgated pursuant to G.L. c. 221C and c. 221, § 92A.
- (A) Court Interpreters are highly skilled professionals who fulfill an essential role in the administration of justice by helping to ensure that LEP and DHH individuals obtain equal access to justice by ensuring that court events proceed effectively. As officers of the court, court interpreters help to ensure that LEP and DHH individuals obtain equal access to justice.
 - (B) LEP and DHH individuals who come before the courts are partially or completely excluded from full participation in court events due to their limited ability to speak, read, write, hear, or understand English. It is essential, to the extent possible, that any communication barriers be removed, so that LEP and DHH individuals are placed in the same position as similarly situated persons who have no such barriers.
 - (C) The Code of Professional Conduct for Interpreters in the Trial Court seeks to accomplish the following:
 - (1) Ensure meaningful access to all court events for LEP and DHH individuals by providing the assistance of competent interpreters during court events,
 - (2) Protect the constitutional rights of LEP and DHH individuals by providing the assistance of competent interpreters during court events,
 - (3) Increase efficiency, quality, and uniformity in handling events that involve interpreters, and
 - (4) Encourage the broadest use of professional interpreters by all those in need of such services within the Trial Court.
- 4.02 **Applicability.** This Code applies to all court interpreters providing interpreting services at any court event or program in any department or division of the Trial Court. The Code shall guide and be binding upon all persons, agencies, and organizations that administer, supervise, or deliver interpreting services to the Massachusetts Trial Court.
- (A) The Code defines and governs the practice of interpreting in the Trial Court and applies to all court interpreters providing interpreter services:

² When used alone, the word “interpreter” refers to staff court interpreters, per diem interpreters, ASL and DHH interpreters. As applicable, the *Standards and Procedures* specify the type of interpreter referred to in the section or subsection.

- (1) In any court event in the Trial Court of the Commonwealth,
- (2) With an attorney or other person in connection with any matter that is brought before a court, and
- (3) In any other activity, program or function ordered by the court or conducted under the supervision of a court department.

4.03 **Accuracy and Completeness.** Court interpreters must render complete and accurate interpretations, sight translations, or written translations without altering, omitting, or adding to any statements, whether oral, written, or signed.

- (A) Interpreters have a two-fold duty to ensure that:
 - (1) Court events reflect accurately what LEP and DHH individuals communicate, and
 - (2) LEP and DHH individuals are on equal footing in the court system with individuals who are fluent English speakers and are not hearing impaired. Interpreters have a duty to ensure that they provide a target-language interpretation that preserves the meaning and register of the source-language utterance, be it for the LEP and DHH individuals or for English-speaking participants.
- (B) Interpreters must agree to be bound by the oath set forth in Section 14.03 of these *Standards and Procedures*.
- (C) Interpreters must interpret the original source material without editing, summarizing, deleting, or adding, while preserving the language level, style, tone, and intent of the speakers. LEP and DHH individuals may request explanations or clarifications, if necessary, through the interpreter.
- (D) Interpreters must apply their best skills and judgment to preserve the meaning of what is communicated in court, including the style of the communication or register of speech. Verbatim, "word for word," or literal interpretations are not appropriate when they distort the meaning of the source language. Therefore, every spoken or signed statement, even if it appears non-responsive, obscene, rambling, or incoherent, should be interpreted, including apparent misstatements.
- (E) When interpreting slang, idioms, or culturally-bound expressions that do not translate easily, interpreters must find a way to express them accurately so that the intended meaning is preserved. If that is not possible, interpreters should repeat the term to the court or appropriate court authority in the source language.
- (F) Interpreters should not interject their own words, phrases, expressions, or signs. If the need arises to explain an interpreting problem (*e.g.*, a term or phrase with no direct equivalent in the target language, a misunderstanding that the interpreter can clarify, etc.), interpreters should ask permission to provide an explanation.

- (G) The obligation of interpreters to preserve accuracy includes the duty to correct any errors of interpretation they discover or learn about during their assignments. Interpreters should objectively analyze any challenges to their performances.
- (H) Whenever an interpreter discovers errors of interpretation in court events involving testimony from LEP or DHH individuals, the interpreter shall correct the errors on the record at once, first identifying him/herself for the record. If the errors of interpretation are discovered after testimony has been completed, the interpreter shall immediately inform the judge, clerk or register, or other appropriate court authority and follow their direction.
- (I) When an error of interpretation has been brought to the attention of the court by someone other than the interpreter, the court will confer with counsel and/or the parties and the interpreter. The court must first determine whether the alleged error is substantial enough to warrant correction. If the court finds that the error could be prejudicial, then the court will 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, an unrepresented litigant, and/or by the interpreter. Testimony may be taken from any other persons or experts as permitted by the court. The judge or other appropriate court authority may also bring in another interpreter to assist the court in making the determination. The court will 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 must amend the record accordingly and so instruct the jury. The Clerk's or Register's office must ensure that all corrections are captured in the file.
- (J) All corrections to the record and a copy of the audio recording will be sent by the court or its designee to the OLA's Deputy Director within two weeks of the identification of the error. The Deputy Director will order a transcript of the audio recording and meet with the interpreter to discuss the correct interpretation, and such record will be placed in the interpreter's file and may be utilized for future interpreter trainings. If the interpreter was assigned through MCDHH, then the Deputy Director will inform MCDHH management.

4.04 **Impartiality and Avoidance of Conflict of Interest.** Court interpreters must be impartial and unbiased in their interpretations and must refrain from conduct that may give an appearance of bias. Interpreters must disclose any real or perceived conflicts of interest either at the start of the assigned events or as soon as the allegations of possible conflicts of interest become known. Central to ensuring the impartial and unbiased provision of interpreter services is the prohibition in Section 14.05 of these *Standards & Procedures* against anyone other than OLA or MCDHH assigned interpreters providing interpreter and translator services in court events.

- (A) All OLA staff court interpreters shall be governed by the provisions of G.L. c. 268A regarding any conflict of interest.
- (B) OLA staff court interpreters may, subject to the provisions of G.L. c. 268A and any applicable collective bargaining agreements, accept court interpreter assignments during hours or times when they are not employed by the Trial Court.
- (C) Interpreters must not engage in or have any interest, direct or indirect, in any business or transaction that relates to the matter for which they are or have interpreted for. They must not incur any obligation which is in conflict with the proper discharge of official duties in the court or impairs independence of judgment in the discharge of such duties.
- (D) Interpreters must not accept money or favors from anyone for the performance of any duties they would be required or expected to perform in the regular course of their assignments. Interpreters must not accept any gifts, gratuities, or favors of any kind which might be construed as an attempt to influence their actions in the Trial Court.
- (E) Interpreters must not use, for private gain or advantage, the court's time, facilities, equipment, or supplies. They must not use or attempt to use their positions to secure unwarranted privileges or exemptions for themselves or others.
- (F) Interpreters must avoid any conduct or behavior that presents the appearance of favoritism toward any party. All interpreters must limit themselves to professional relationships with the parties they serve.
- (G) Interpreters must treat all persons equally with dignity and respect regardless of race, creed, national origin, political affiliation, gender, identity, age, disability, socio-economic class, and all protected classes as defined in G.L. c. 151B.
- (H) To maintain impartiality, interpreters must limit their communications with parties, witnesses, jurors, attorneys, or with friends or relatives of any party. This does not limit, however, those appropriate contacts necessary to prepare adequately for assignments. It is especially important that interpreters, who are often familiar with attorneys and other individuals who regularly appear in the courtroom, refrain from casual and personal communications to avoid an appearance of a special relationship or partiality to any of the court participants. Verbal and non-verbal displays of personal attitudes, prejudices, emotions, or opinions must be avoided at all times.
- (I) In the event that interpreters become aware that a participant in a court event views them as being biased, the interpreters must disclose that knowledge to the appropriate court authority and counsel, who shall inform the court.

- (J) Before providing services in a matter, interpreters must disclose to all parties and appropriate court authority any prior involvement with the parties or the matter itself, whether personal or professional, that could be reasonably construed as a conflict of interest. This disclosure must not include privileged or confidential communications.
- (K) The following are circumstances that are presumed to create actual or apparent conflicts of interest for interpreters which require disclosure and, in most cases, would require disqualification:
 - (1) The interpreter or immediate family member of the interpreter is a friend, associate, relative, employer, employee, client of a party, counsel, or advocate for a party involved in the court event;
 - (2) The interpreter has served in an investigative capacity for a party involved in the case;
 - (3) The interpreter or a member of the interpreter's immediate family has a financial interest in the subject matter in controversy or with a party in the proceeding, or any other interest that might be affected by the outcome of the case; or
 - (4) The interpreter has been involved in the choice of counsel or law firm for the case.

4.05 **Professional Demeanor.** Court interpreters shall reflect proper court decorum and conduct themselves with dignity and respect toward Trial Court personnel, litigants and other court users.

- (A) Interpreters must know and observe the established standards, rules, and procedures for delivering interpreting services.
- (B) When speaking in English, court interpreters must speak at a rate and volume that enables them to be heard and understood throughout the courtroom.
- (C) Interpreters must work without drawing undue or inappropriate attention to themselves.
- (D) When possible, interpreters should avoid obstructing the view of any individual involved in the court events.
- (E) Interpreters must avoid conduct which could discredit or reflect poorly upon the court, including, but not limited to, overly familiar behavior towards any person participating in the proceeding or court personnel.
- (F) Interpreters are encouraged to support other interpreters by sharing court and legal related knowledge.
- (G) Interpreters must dress in a manner consistent with the dignity of the court and their professional role as impartial participants. This applies also to attire or symbols that could create the perception of partiality or bias on the part of the

interpreters.

- (H) Interpreters must appear on time and report to the appropriate court personnel immediately upon arrival. See Section 10.00 Arrival and Departure Procedures, these *Standards & Procedures*.
- (I) Interpreters must not make arrangements directly with the court or counsel for a substitute in cases to which they have been assigned. Rather, absent an emergency, a 24-hour cancellation notice must be given to OLA (or, if applicable, to MCDHH) which will arrange for a substitute.
- (J) Interpreters must wear any Trial Court issued identification badges in such a manner as to make their presence clear to all persons in court.

4.06 **Confidentiality and Restriction of Public Comment.**

- (A) Interpreters must protect and uphold the confidentiality of all privileged information obtained during the course of their duties. It is especially important that interpreters understand and uphold the attorney-client privilege, which requires confidentiality with respect to any written or oral communications between attorney and client. This rule also applies to other types of privileged communications that may have statutory protection, such as doctor-patient, social worker-client, or priest-penitent relationships.
- (B) Interpreters must also refrain from repeating or disclosing information obtained during their assignments.
- (C) Unless ordered by a court, interpreters must never reveal privileged or confidential information for any purpose.
- (D) In the event that interpreters become aware of information that suggests imminent harm to someone or relates to a crime being committed during the course of the court events, they shall immediately disclose the information to the judge or other appropriate court authority, and, if not available, a police department that can reach an emergency judge.
- (E) Interpreters must not use any knowledge obtained in the performance of their duties for their own or another's personal gain.
- (F) Generally, interpreters must not discuss their assignments with anyone other than persons who have a formal duty associated with the assignments. However, interpreters may share information for training and educational purposes, divulging only so much information as is required to accomplish these purposes without revealing any identifying information.

4.07 **Scope of Practice.** Court interpreters must limit themselves to interpreting or translating and must not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities that may be construed as constituting a service other than interpreting or translating.

- (A) Except as outlined in Section (B) below, interpreters must not perform acts, such as filling out forms or paperwork, that are the official responsibility of

other court officials including, but not limited to, court clerks, investigators, interviewers, or probation officers.

- (B) In the event that an LEP individual needs to fill out forms, court staff should provide the LEP with the Trial Court's translations of said forms, available through mass.gov under "translated court forms." If the LEP still has questions about the forms, court staff should ask for the assistance of a court interpreter. Court staff should keep in mind that the interpreter may have other cases to interpret for as well. If an LEP is illiterate, the court interpreter will either sight-translate the English form or read the translated form out loud. The individual will dictate the answers, and the interpreter will fill in the English-language form. In the case of a longer written statement (e.g. a restraining-order affidavit or victim impact statement) the individual will dictate the statement to the court interpreter, who will transcribe it verbatim. The interpreter will then read back the statement to the individual, to confirm its accuracy. Finally, the interpreter will produce a translation of the statement into English, which shall be signed and dated by the interpreter. "Interpreters may interpret the legal advice given by attorneys to the individual for whom they are interpreting; however, they must not explain the purpose of services or otherwise act as counselors or advisors unless they are interpreting for an individual who is acting in their official capacity.
- (C) Interpreters may translate the language on forms, but must not explain the forms or the purpose of the forms unless they are interpreting information court staff provide about the forms.
- (D) Interpreters shall not recommend attorneys to LEP and DHH individuals or their respective friends or family members.
- (E) Interpreters will interpret audio or video recordings with adequate preparation. When possible, the court will allow interpreters an opportunity to transcribe and/or translate an audio or video recording in advance of court proceedings.
- (F) Interpreters will interpret lengthy messages, handwritten texts and social media posts with adequate preparation. When practicable, the court will allow interpreters time to prepare or review lengthy messages, handwritten text, or social media postings.

4.08 **Assessing and Reporting Impediments to Performance.** Court interpreters shall provide professional services only in matters or areas in which they can perform to professional standards. At all times, interpreters shall assess their ability to provide their services. If interpreters have any reservations about their ability to fulfill assignments, they shall immediately convey their reservations to OLA at the point of assignment or the appropriate court authority during a court proceeding and OLA management.

- (A) If the communication mode or language of the LEP or DHH individuals cannot be readily interpreted, then the interpreters must notify the appropriate court authority.

- (B) Interpreters must notify the appropriate court authority of any environmental, linguistic, or physical limitations that impede or hinder their ability to deliver interpreting services. If interpreters, while performing their official duties, feel harassed or intimidated by an officer of the court or by anyone present at the court events, then the interpreters must so inform the presiding judge or other appropriate court authority and OLA Management (and, where applicable, MCDHH).
- (C) When court events involve slang, idiomatic expressions, regional dialects, or technical or specialized terminology with which the interpreter is unfamiliar, they may request a recess to familiarize themselves with the terminology. Interpreters may request that the judge or other appropriate court authority instruct experts to speak slowly and clearly. Interpreters may request breaks as needed. Interpreters may ask witnesses or attorneys how to spell words they have spoken. Interpreters may request other accommodations from the court.
- (D) Interpreters must notify the appropriate court authority and OLA Management (and, where applicable, MCDHH) if they are unable to perform competently due to:
 - (1) Their lack of familiarity with terminology;
 - (2) Insufficient preparation;
 - (3) Difficulty in understanding a witness or party;
 - (4) A serious communication problem with the LEP or DHH individuals (e.g., individuals are disruptive, do not allow the interpreters to speak/sign, etc.);
 - (5) Personal biases; or
 - (6) The language and subject matter of the court events are likely to exceed their skills or capabilities.
- (E) Prior to the commencement of an assignment, interpreters must be allowed to communicate briefly with LEP and DHH individuals to instruct them about the proper role of interpreters. When LEP or DHH parties or witnesses have counsel, interpreters must speak with counsel before communicating with their client. Counsel must be present when the interpreter communicates with their client.
- (F) Interpreters must advise the LEP or DHH individuals, as follows:
 - (1) Interpreters will interpret any and all questions and answers;
 - (2) LEP and DHH individuals must wait for the full interpretation before responding to a question;
 - (3) LEP and DHH individuals must not ask the interpreters any direct questions or initiate any independent dialogue with the interpreters, including requests for legal advice or explanations on any statement made during the proceedings; and
 - (4) LEP and DHH individuals must direct all questions to counsel or to the appropriate court authority.

4.09 **Duty to Report Ethical Violations.** Court interpreters who discover anything which would impede full compliance with this Code must immediately report it to the court and to OLA Management.

- (A) Interpreters must immediately report to the presiding judge or other appropriate court authority any solicitation or effort by another to induce or encourage the interpreters to violate any law or standard of this Code or any other provision governing interpretation promulgated by the Massachusetts Trial Court.
- (B) Interpreters must report to the appropriate court authority, and OLA Management (or to MCDHH, as applicable) any effort to influence the way in which the interpretation is being conducted. However, there is not a duty to report a one-time question or request that reflects a misunderstanding of the proper role of interpreters. If, having been apprised of the proper role of interpreters, the LEP or DHH individual persists in asking the interpreter to perform inappropriate functions, the interpreter must report the conduct.

4.10 **Professional Development.** Court interpreters shall continually improve their skills and knowledge.

- (A) Court interpreters shall advance their professional competence through activities such as professional training, education, workshops, and interaction with colleagues and specialists, and reading current literature in related fields.
- (B) Court interpreters must continually strive to increase their knowledge of the languages in which they work, including past and current trends in technical, vernacular, and regional terminology, as well as their application within court proceedings.
- (C) Court interpreters shall keep informed and updated about all statutes, rules of court, and policies of the Trial Court that relate to the performance of their professional duties, such as the Trial Court Personnel Policies and Procedures Manual (PPPM), which governs staff court interpreters only.
- (D) Consistent with Sections (A) and (B) above, ASL and DHH Interpreters shall follow the standards set by MCDHH to continually improve their skills and knowledge.

4.11 **Interpreting Protocols for Court Interpreters.** Court interpreters shall interpret and translate during court events using the appropriate modes of interpretation and address.

- (A) Court interpreters shall use the consecutive mode for all question and answer exchanges with LEP individuals and shall use the simultaneous mode for most other court events. Court interpreters shall sight translate documents for as requested by the judge or other appropriate court authority.
- (B) It is common for court interpreters to shift from one mode of interpretation to another, depending on the situation and according to the following standards:
 - (I) The consecutive mode of court interpretation requires court interpreters to wait for the speakers to complete their statements 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 the LEP individuals.

- (2) The simultaneous mode of court interpretation requires court interpreters to interpret contemporaneously with the speakers. This mode shall be used when LEP individuals are not in dialogue or giving testimony.
- (3) Sight translation is when court interpreters orally translate documents on the spot at the request of a judge, lawyer, probation officer, clerk, or other appropriate court authority. The same principle of accuracy applies to sight translation as it does to all other court interpreter duties. Court interpreters shall not add to, omit part of, delete, or improve a written source text. Therefore, if the text to be translated is a sworn statement by a person with limited literacy, the court interpreter's translation shall preserve the register and errors of the source text, using the translator's note "sic" inside brackets [] if they feel it is needed to make it clear that the error is in the source text.
- (4) Court interpreters may request a brief recess to review any documents they are asked to sight-translate. Court interpreters may agree to sight-translate on the record only if it is feasible to do so, and the interpreters are confident they can accurately and immediately sight-translate them. Otherwise, court interpreters may inform the court or other appropriate court authority that they need more time, or that a formal written translation needs to be prepared at the expense of the party seeking to introduce such evidence so as to ensure accuracy due to length, terminology, or complexity of syntax.
- (C) Court interpreters shall not summarize court events at any time unless instructed to do so by the judge or other appropriate court authority.
- (D) Court interpreters shall address the court and identify themselves as court interpreters by using the third person singular in order to avoid confusion on the record. For example, "Your Honor, may the interpreter hear the question again?"
- (E) Court interpreters shall utilize the first person singular when interpreting for LEP individuals giving testimony or in dialogue with another person. For example, if the LEP says "I am hungry" in a language other than English, the interpreter will say "I am hungry" in English. Persons addressing the LEP individuals (e.g., attorneys, clerks, judges, and probation officers) shall use the second person. For example, "what is your name?" and **not** "ask him what his name is."
- (F) Whenever possible, and particularly with respect to lengthy and complex criminal and civil trials, court interpreters shall prepare for cases by reviewing case materials. Court interpreters may ask counsel if they will be referring to any documents during their examinations and ask for access to review those documents. Such materials may be requested from the district attorney and/or the attorney for the LEP individual. Court interpreters shall use the information solely for technical preparation and may not disclose the information to any person or parties.

- (G) Whenever possible, court interpreters shall familiarize themselves with the speech pattern of the individual for whom they are interpreting.
- (H) If there are critical words, phrases, or concepts which court interpreters do not understand, they shall so inform the judge or other appropriate court authority as soon as possible. The judge or other appropriate court authority may request an explanation, rephrasing, or repetition. Court interpreters may request the spelling of a word or time to look up any unfamiliar words.
- (I) Court interpreters shall interpret the exact response of speakers even if the answers to questions are non-responsive or erroneous.
- (J) If LEP witnesses occasionally speak a few words in English, court interpreters shall repeat such words in English for the record so that people listening to the recorded court event may continue following the voices of the court interpreters. However, should an LEP individual utter full responses in English, court interpreters will stand back so that the parties are aware of the English responses.
- (K) If, during the taking of testimony, speakers use a word, phrase, or concept for which the court interpreter finds no appropriate equivalent in the LEP individual's language because there is no cultural equivalent or because it may prove ambiguous in translation, the court interpreter should so inform the appropriate court authority.
- (L) Whenever an objection is made to an LEP individual's testimony taken through a court interpreter, the court interpreter shall interpret everything that was said up to the time the objection was made and instruct the witness, by hand gesture, not to speak until the court has ruled on the objection. The interpreter will simultaneously interpret any argument about the objection, given that in English-speaking witness would hear that argument.

4.12 **Judicial Removal from a Proceeding**

Judges or other appropriate court authorities shall inform OLA management when a court interpreter, ASL interpreter or DHH interpreter is removed from court events. Interpreters may be removed from court events when judges or other appropriate court authority find good cause for their removal. Good cause for removal may be, but is not limited to, situations in which an interpreter: (1) knowingly and willfully makes false interpretations while serving in an official capacity; (2) knowingly and willfully discloses confidential or privileged information obtained while serving in an official capacity; (3) fails to follow this Code and/or the standards prescribed by law and the ethics of the court interpreter profession. *See* G.L. c. 221C, § 5; or (4) is unable to interpret the proceedings adequately, including an instance where the court interpreter self-reports such inability.

Section 5.00 Recruitment, Application Process, Minimum Requirements, Screening, and Credentialing of Court Interpreters³

- 5.01 **Recruitment.** OLA recruits court interpreters and administers the pre-certification screening examination and the certification program pursuant to G.L. c. 221C, § 7.
- 5.02 **Application Process for Staff Court Interpreters.** The application process for staff court interpreters is set forth in §4.000 of the Trial Court's Personnel Policies and Procedures Manual (PPPM).
- 5.03 **Application Process for Per Diem Court Interpreters.**
- (A) Applicants must complete and submit an Application Questionnaire. The Application Questionnaire can be found at: <http://www.mass.gov/courts/programs/interpreter-services/>. A copy of the Application Questionnaire must be submitted electronically by email to languageaccess@jud.state.ma.us.
 - (B) OLA Management will review the Application Questionnaire to determine if an applicant meets the minimum requirements to participate in the screening and training process.
 - (C) OLA Management will notify applicants of the status of their applications by email.
- 5.04 **Minimum Requirements for Per Diem Court Interpreters.** The minimum requirements for applicants to be considered are (although exceptions may be made in extraordinary circumstances, such as with oral languages with only a recent or no history of written codification) as follows:
- (A) Bachelor's degree earned in the United States, or an equivalent higher education degree where general instruction is conducted in the applicant's language and/or English;
 - (B) Eligibility to work in the United States;
 - (C) Scores of "superior," or "advanced high" or "12" from an approved Oral Proficiency Interview (OPI) in the language(s) for which the applicant is to be screened, provided it is available in such language(s); and
 - (D) Prior interpreting experience will be taken into consideration, but lack of such experience will not automatically be grounds for rejecting an application.
 - (1) Interested applicants who have not taken an OPI must initiate the process to take the OPI. When no OPI is available in an applicant's language, OLA may conduct other language proficiency assessments during the screening period.

³ Section 5 relates solely to spoken language court interpreters, MCDHH conducts the screening, credentialing, and sets the minimum requirements for ASL Interpreters and DHH Interpreters.

- 5.05 **Waiver.** OLA may waive an OPI or the requirements in Section 5.07(A), (B) and (C) if applicants have been certified by the Federal Court’s Interpreter Program, by another state upon completion of an exam from the National Center for State Courts, or if the applicants have an appropriate alternative credential acceptable to OLA that attests to their interpreting language skills at a certified level.
- 5.06 **Screening of Staff and Per Diem Court Interpreters.** After applicants successfully complete the steps outlined in Sections 5.02 and 5.03 above, OLA Management may invite them to participate in the screening process set forth in this section.
- (A) The screening process includes an interview and review of the applicant’s academic background, language proficiency, and prior interpreting/translating experience. In addition to the previously listed credentials, OLA Management will also evaluate the applicant’s understanding of the important role court interpreters play in facilitating language access for LEP individuals.
 - (B) During the interview, OLA Management will assess the English speaking and writing skills of the applicants as well as their competency to serve as court interpreters. OLA requires that applicants provide their official academic transcripts, official certifications of language proficiency, official documentation of training program completions, and copies of two official government-issued ID cards either at or before their interview.
 - (C) Applicants must submit a completed and signed “Employment Eligibility Verification” form, which will be provided to them prior to the interview.
 - (D) As part of the screening process, applicants must submit completed and signed “Consent to Criminal Record Check” CORI forms. Criminal record checks will be conducted consistent with applicable laws. Pursuant to Trial Court policy, applicants will not be eligible to continue in the screening process to become court interpreters if they have 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 OLA.
 - (E) Every two years all per diem interpreters must complete and sign a new “Consent to Criminal Record Check” CORI form to continue serving as a court interpreter.

5.07 Credentialing of Per Diem Court Interpreters.

(A) OLA Proficient Court Interpreter I.

To acquire OLA Proficient Court Interpreter status, applicants must meet the following requirements:

- (1) Full and successful completion of the screening process;
- (2) Full and successful participation in the Mandatory Orientation and Training Program and successful completion of all required materials and activities;
- (3) Full and successful completion of the Mentoring Program, including a

positive evaluation from his/her/their mentor(s);

- (4) Demonstrated compliance with applicable sections of these *Standards and Procedures*; and
- (5) Provide three letters of recommendation regarding the applicant's interpreting services performed within the past year.

(B) OLA Proficient Court Interpreter II.

To acquire OLA Proficient Court Interpreter II status, the applicant must meet the following requirements:

- (1) Completion of all requirements for OLA Proficient Court Interpreter I in paragraphs (1) through (5) in paragraph (A) above;
- (2) Successful work experience as a Proficient Court Interpreter I with OLA for a minimum of one year; and
- (3) A minimum passing grade for all parts of the NCSC English Proficiency Written Examination. The Written Exam measures recognition of common court-related situations, vocabulary with a focus on the criminal courts, and tests ethical behavior and professional conduct. Written exams approved in Massachusetts include:

- i. The Language Access Services Section of the NCSC website provides detailed information on the Written Exam for testing candidates and administrators at:

<http://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/Written-and-Oral-Exam-Resources.aspx>.

OLA will provide additional information on how to register and prepare for the Written Exam.

- ii. The Federal certification written exam (Administrative Office of the United States Courts) in whichever languages are available. For information on the Federal certification written exams, visit the Federal Court Interpreter Certification Exam website at: <http://www.ncsc.org/fcice>.

(C) OLA Certified Court Interpreter.

To acquire OLA Certified Court Interpreter status, the applicant must meet the following requirements:

- (1) Completion of all requirements for OLA Proficient Court Interpreter I and II;
- (2) Successful work experience as a Proficient Court Interpreter II with OLA

for a minimum of one year; and

- (3) Pass all parts of the NCSC Oral Certification Examination, which measures language knowledge and fluency in both languages and the ability to successfully render meaning from target to source language in each of the three modes of interpreting that are required of court interpreters, simultaneous interpreting, consecutive interpreting, and sight translation.⁴ Oral certification exams approved in Massachusetts include:

- i. The Federal certification oral exam (Administrative Office of the United States Courts) in whichever languages are available. For information on the Federal certification oral exams, visit the Federal Court Interpreter Certification Exam website at: <http://www.ncsc.org/fcice>.
- ii. State certification oral exams developed by the National Center for State Courts (NCSC). To obtain more information on the content and administration of NCSC oral exams, visit the NCSC's website at: <http://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/Written-and-Oral-Exam-Resources.aspx>.

(D) Certification of Applicants through Alternative Oral Interpreter Examination.

Applicants may request that OLA Management consider a passing grade on an alternative oral interpretation examination. OLA Management may accept it if it determines that the alternative examination complies with the highest standards of the court interpreter profession and the applicant presents official documentation of their grades.

(E) Achieving OLA Certified Interpreter Status When There Is No Approved Oral Examination.

Certification of applicants who interpret in languages for which there are no approved oral certification examinations, and who have completed all requirements set forth in Section 5.06(A) and (B) above, may still apply for status as an OLA certified court interpreter.

To acquire OLA Certified Court Interpreter status in the absence of any oral exam, the candidate must meet the following requirements:

- (1) Completion of all screening requirements set forth above in Sections 5.05;
- (2) A minimum of two years of work experience in interpretation, preferably in, but not limited to, court or conference interpretation with OLA, and/or with another reputable organization;
- (3) Demonstrated full compliance with these *Standards & Procedures*; and

⁴ OLA will follow NCSC guidelines when assigning interpreters to court events.

- (4) One or more of the following:
- i. Proof of completion of professional development in interpretation, translation, or law;
 - ii. Professional qualification from the Federal Court Interpreter Program; or
 - iii. Legal or conference interpretation diploma or certification from a reputable national or international interpreter training institution or program.
 - iv. Proof of credentials as an interpreter for the US Department of State, the United Nations, or other international bodies. Proof of credentials as a medical, immigration, or conference interpreter and all relevant prior interpretation experience.

- (F) Waiver and Additional Requirements. In certain circumstances, at OLA's discretion, any of the above requirements may be waived, or additional requirements may be added. Upon such waiver or addition, OLA shall document in writing the reasons for the determination. OLA expects interpreters to move efficiently through the above process to reach the level of Court Certified Interpreter in a reasonable period of time. The process will be governed by OLA's internal guidelines.

Per diem interpreters previously certified by OLA or the former Office of Court Interpreter Services (OCIS) shall maintain that credential to the same extent that Trial Court staff interpreters have maintained it pursuant to a Memorandum of Understanding between the Executive Office of the Trial Court and OPEIU, Local 6 executed on November 3, 2021.

- (G) Continuing Education and Reassessment of Proficient and Certified Status. To maintain proficient and certified status, court interpreters must successfully complete a minimum of 10 hours of continuing education every year as described in Section 6.01 and attend one conference within the profession every two years; individual presentations at a conference may be credited to continuing education units, as determined by OLA Management in advance. Court interpreters must submit official documentation of their continuing education programs and conference attendance to OLA in order to maintain their proficient and certified status. Such minimum requirements will be determined by OLA.
- (H) Pursuant to Section 9.02 OLA Will Publish Lists of Per Diem Proficient I, Proficient II, and Certified Interpreters.

To remain active on the lists, OLA Per Diem interpreters must:

- (1) Be available to take assignments either in person and/or remotely;

- (2) Demonstrate full compliance with these *Standards and Procedures*; and
 - (3) Comply with all continuing education and/or administrative requirements.
 - (4) Per diem interpreters who currently reside out-of-state but who performed interpreting services for the Trial Court for at least thirty-six months immediately prior to relocating out-of-state, may be included on the list.
 - (5) G. L. c. 221C, § 7(e)(3) provides that OLA may “after due notice and hearing, remove anyone from such a list for inadequate performance or other good cause as provided in section 5 [of 221C].” Once per year, OLA will invite all staff and per diem interpreters to review the information on the Roster, update their contact information, and confirm whether they wish to be included on the Roster.
- (I) The signed OLA “Standards and Procedures Acknowledgment Form” shall be included in OLA’s records and be available to each per diem court interpreter upon request.⁵

⁵ The term set forth in Section 5.07(I) was agreed to as part of the settlement of *MACI v. EOTC*, Superior Court, Civil Action No. 1684CV00969 and must remain in effect for eight years from October 24, 2023.

Section 6.00 Training of Staff and Per Diem Court Interpreters

6.01 Training and Continuing Education.

- (A) Per diem interpreters and staff interpreters, subject to any Collective Bargaining Agreement, shall complete 10 hours of continuing education every year. Interpreters may carry over 5 hours of continuing education to a subsequent year. The continuing educational programs must be specific to improvement of interpretation skills and abilities. Interpreters should consult with OLA Management to determine which continuing education programs will satisfy this requirement. Formal teaching of interpretation and presentations in professional conferences may qualify for continuing education units with prior approval by OLA. Interpreters must submit documentation of successful completion of their continuing education courses to OLA Management.
- (B) Subject to sufficient appropriations and resources, OLA Management will offer yearly no cost training sessions for court interpreters. OLA will strive to provide trainings that equal the minimum number of the required annual CEUs and will be available to attend as on-demand recordings. All OLA trainings, including mandatory OLA trainings, count toward the required hours of continuing education. All mandatory OLA trainings will take place during work hours. Staff interpreters will have access to trainings available in Courtyard and E-learning.
- (C) OLA Management may encourage interpreters to participate in trainings it makes available to them. Professional development and continuing education may also be required as corrective action.
- (D) OLA Management will offer a variety of trainings for court personnel and judges about how to work with court interpreters effectively and how to maximize OLA resources. OLA Management will also collaborate with other court departments and court personnel in creating and conducting workshops designed to promote better and more efficient use of court interpreter resources.
- (E) On a yearly basis, OLA Management will keep interpreters updated on resources available from professional, academic and legal organizations.

6.02 Training Manual. The OLA Training Manual complements these *Standards and Procedures*.

6.03 Mentoring Program for Per Diem Interpreters. After successfully completing the Introductory Orientation and Training, applicants must participate in a Mentoring Program. The mission of the Mentoring Program is to draw upon the knowledge and experience of seasoned court interpreters. Mentors are selected by OLA from experienced certified or qualified Per Diem Interpreters and Staff Court Interpreters I and II. Mentors are selected from among interpreters who have expressed their desire to assist applicants and are committed to fulfilling the mission of the Mentoring Program. During the Mentoring Program, applicants must complete a minimum number of visits to court to perform guided observations and assignments, as determined by OLA Management.

Mentors introduce applicants to the Massachusetts Trial Court system. They assist applicants in setting goals, developing learning and problem-solving skills, and acquiring essential information. They are also able to clarify concerns regarding the professional and ethical standards that guide the role of the court interpreter. Mentors and applicants will follow general guidelines outlined in the Mentoring Program's information packet which they will receive prior to the mentoring assignments.

- (A) At the conclusion of the Mentoring Program, mentors will submit a written evaluation of their assigned applicants to OLA Management. A copy of these evaluations will be added to the mentor's professional files in order to apply the mentors training time toward their continuing education requirements.
- (B) OLA Management reserves the right to extend the length of or discontinue the participation of applicants who receive unfavorable evaluations during the Mentoring Program.
- (C) Mentors will communicate with judges and key court personnel about ongoing mentoring in their courts to provide an opportunity for applicants to be encouraged and assisted through the early stages of their professional interpreting training

Section 7.00 Compensation of Per Diem Court Interpreters⁶

- 7.01 Per diem court interpreters will be compensated only if they satisfy the requirements and expectations of these *Standards and Procedures*.
- 7.02 The Trial Court will determine the amount of compensation for per diem court interpreter assignments based on OLA Management research of comparable interpreter compensation data and budgetary considerations. To meet interpreter services demand, in extraordinary circumstances (*See* § 11.03), OLA Management has the discretion to retain out-of-state per diem court interpreters, compensate per diem court interpreters up to the Federal court rate and reimburse them for their travel expenses. OLA Management must seek approval from the Court Administrator or the Associate Court Administrator for compensation higher than the Federal court rate. Per diem interpreters who currently reside out of state but who performed interpreting services for the Trial Court as Massachusetts per diem interpreters for at least thirty-six (36) months immediately prior to relocating will be compensated at the same rates as in-state per diem interpreters.
- 7.03 The Trial Court will compensate per diem court interpreters for successfully completed and approved assignments. Compensation will be reduced for a late arrival at the discretion of OLA Management. Compensable interpreting assignments include court interpreter assignments and court events as defined in Sections 2.08 and 2.09 of these *Standards and Procedures*..

Sections 10.00 and 11.00 of these *Standards and Procedures* set forth the approval procedures for completion of per diem court interpreter assignments and eligibility for compensation.

- 7.04 **Mileage.** The Trial Court will provide the approved mileage rate to per diem court interpreters. The mileage rate and calculation methods are established by the Trial Court and may change in its discretion.

Travel Time Pay. The Trial Court will pay travel time to per diem interpreters as permitted by its budget. The rate, calculation methods, and conditions under which it will be paid are established by the Trial Court and may change in its discretion.

- 7.05 **Assignment Cancellation.** If a per diem court interpreter has accepted a half-day or full-day assignment, and if such per diem court interpreter is notified of the cancellation of such assignment within twenty-four (24) hours of the scheduled start time, then such per diem court interpreter shall be paid as follows: for an assignment that was to occur on a single day, such per diem court interpreter shall be paid based on the length of the cancelled assignment (*i.e.*, half-day or full-day); for an assignment that was to occur for two or more consecutive days, such per diem court interpreter shall be paid one (1) full-day rate.⁷

⁶ Section 7 does not apply in its entirety to ASL and DHH interpreters, as OLA does not set compensation rates for these interpreters.

⁷ The terms set forth in Sections 7.05, 7.06, and 7.07 are part of the settlement of *MACI v. EOTC*, Superior Court, Civil Action No. 1684CV00969 and must remain in effect for eight years from October 24, 2023.

7.06 **Hourly Rate/Lunch and Overtime.** Compensable time does not include time worked during lunch or overtime work. Lunchtime work and overtime work compensation shall be calculated based on an hourly rate. Services provided between 1:00 PM and 2:00 PM are considered interpreting services during the lunch break. An interpreter is considered to have performed overtime interpreting services if interpreting services are provided after the completion of a full day assignment, i.e., after seven (7) hours excluding the lunch hour.

- (A) For each per diem classification level, the hourly rate shall be calculated by dividing the per diem interpreter half-day rate for that classification level by four (4) hours. Where the hourly rate applies, compensation for one half hour shall be calculated by dividing the hourly rate by two.
- (B) The hourly rate for lunchtime interpreting and overtime interpreting shall be paid in thirty (30) minute increments. If a per diem court interpreter works any period of time less than 30 minutes between 1:00 PM and 2:00 PM or after seven (7) hours, the per diem court interpreter shall be paid for one half hour. If a per diem interpreter works for any period of time beyond one-half hour (30 minutes) and up to one hour, the per diem court interpreter shall be paid for one (1) hour.

7.07 **Interpretation in Two Languages.** If a per diem court interpreter has accepted assignments to interpret in more than one language on the same day, and the per diem court interpreter is informed within 24 hours of the assignment start time that the assignment in the second language is canceled, the per diem court interpreter shall still be compensated at a rate 25% greater than the standard pay rate for that assignment, provided that the assigned per diem court interpreter remains available to interpret, unless released by OLA, should another assignment arise.

Section 8.00 Requesting Interpreter Services

The Trial Court will make every effort to provide court interpreters and other meaningful language access services to LEP and DHH individuals for all court events as defined in Section 2.08 of these *Standards and Procedures*.

- 8.01 **Court Interpreter Assignments.** To the greatest extent possible, OLA will schedule and provide court interpreters to appear for all criminal and civil matters including the initiation of a case (e.g., the filing of a complaint and affidavit; emergency hearings, or seeking a restraining order pursuant to G.L. c.209A); upon request by a language access liaison on behalf of a judge or court personnel, for parents in juvenile matters, guardians, witnesses, and other individuals who must understand or testify in a court proceeding; for onsite Alternative Dispute Resolution (ADR), such as mediations and conciliations within a courthouse facility; and for evaluations and investigations conducted outside of a court facility when ordered by the court, and either required by statute or by the court.
- 8.02 **Other Language Access Services.** In addition to scheduling and providing court interpreters as stated above in Section 8.01, OLA provides other meaningful language access services consistent with best practices, for example, distributing resource materials for court staff about how to assist LEP individuals, and translating court forms, communications, and self-help materials. OLA also works with court departments to train self-identified non-interpreter bilingual court staff to assist court users at clerk, register, probation, security and other entry points, counters, and court operations.
- 8.03 **Procedures to Request Court Interpreters, ASL Interpreters or DHH Interpreters.**
- (A) All interpreter requests by court personnel must be made through MassCourts, whether for plaintiffs, defendants, witnesses, or other individuals who must understand, testify, or otherwise participate in a court event. In addition, when requesting an ASL or DHH interpreter, courts must also make a request directly to MCHDD using their court specific request form at:
<https://www.mass.gov/how-to/how-to-request-an-asl-interpreter-or-cart-provider>
 - (B) Requests or changes to existing requests for court interpreters within 48 hours of the events must first be entered into MassCourts and then followed with an email to OLA.
 - (C) OLA email addresses are to be used only by Language Access Liaisons or other court personnel to request a court interpreter for an immediate and unexpected court event. All other requests for court interpreter services shall be made through MassCourts.
 - (D) When a court facility or department demonstrates an ongoing and consistent need for court interpreter services, that facility or department may request that OLA Management schedule a court interpreter for a specified language to that court facility or department every day, or routinely on certain days. All such requests must be directed to the Deputy Director of OLA and must be supported by significant evidence to warrant such an assignment.

- (E) All requests for ASL interpreters and DHH interpreters must be made as described in paragraph (A) above, simultaneously through MassCourts and directly to MCHDHH using their court interpreter request form. The MCDHH then selects and assigns ASL and DHH interpreters to court events.

Section 9.00 Assigning Court Interpreters

9.01 **Assignment of Court Interpreters.** OLA will schedule and assign staff and per diem court interpreters based upon requests submitted through MassCourts. Staff and per diem court interpreters will be assigned based upon the complexity and particular need presented by a court proceeding.

- (A) OLA strives to make fair and equitable assignments based upon multifarious Court requests; and strives to match the complexity of the court proceeding with the qualifications, expertise, experience, location and availability of per diem court interpreters. When OLA is assigning per diem court interpreters, the Trial Court will assign per diem court interpreters in the following sequence, provided it can do so while meeting such objectives: first to Certified per diem court interpreters, if none are available then; second, to Proficient II per diem court interpreters, if none are available then; third, to Proficient I per diem court interpreters.⁸

Per diem interpreters who currently reside out of state but who performed interpreting services for the Trial Court as Massachusetts per diem interpreters for at least thirty-six (36) months immediately prior to relocating may be assigned as an in-state per diem interpreter consistent with the above protocol

- (B) If there are no Certified or Proficient Interpreters available to meet the needs of the requesting court department, OLA Management may, in such extraordinary circumstances, schedule and assign out-of-state interpreters to provide the needed services, or contract with agencies, including telephone or video interpreting, to provide the interpreter service. When making assignments OLA may also consider opportunities for interpreter professional development.
- (C) Per diem interpreters are responsible for submitting their availability to OLA in advance of upcoming schedules. Last-minute changes in per diem interpreters' availability can cause substantial service problems to LEP's and are to be avoided as much as possible. Any unexpected changes in availability must be communicated to OLA as soon as possible.

9.02 **Per Diem Court Interpreter Lists.** OLA Management shall create lists of Certified, and Proficient Per Diem court interpreters, and utilize them to make equitable assignments. Per diem interpreters who currently reside out-of-state but who previously performed interpreter services for the Trial Court as Massachusetts per diem interpreters for at least thirty-six (36) months immediately prior to relocating out-of-state, may be included on the list.

9.03 **Team Interpreting.** Court interpreters will recommend the use of team interpretation when court events involve lengthy witness testimony and/or continuous simultaneous interpretation for a foreign LEP defendant. OLA management will schedule team interpreting for lengthy court events for quality service delivery. Team Interpreting increases accuracy while avoiding the need to pause the proceedings for a solo interpreter

⁸ The terms set forth in Section 9.01(A) are part of the settlement of *MACI v. EOTC*, Superior Court, Civil Action No. 1684CV00969 and must remain in effect for eight years from October 24, 2023.

to rest. Upon request by the court or by the interpreter initially assigned to the hearing, OLA Management will, whenever possible, provide team interpreting for lengthy proceedings.

- 9.04 **Breaks.** When an interpreter is working alone and court events are laborious, complicated, or laden with medical/scientific terms, the judge will allow breaks as requested by the interpreter as long as doing so does not interfere with the proceedings and/or the rights of the parties.
- 9.05 **Maintenance of Records.** OLA shall establish and maintain records of all scheduled and emergency or unscheduled interpreter assignments. Such records shall contain the following: (a) the docket number and the name of the case; (b) if not a case, the assignment or event and the court department; (c) the date on which the interpreter was assigned; (d) the date of the scheduled assignment; and (e) the name of the assigned interpreter(s).
- 9.06 **Usage of Court Interpreter Time.** When court interpreters complete assignments before the end of the time periods for which they are being compensated, they shall remain in the court facilities and seek additional assignments from OLA and court personnel. See also Section 10 (Arrival and Departure Procedures for Per Diem Court Interpreters). While awaiting additional assignments or when other assignments are not available, interpreters may elect to remain at the court facility and engage in pre-approved training sessions to earn continuing educational units required by these Standards in Section 6.01.
- 9.07 **Cost of Interpreter Services.** The Trial Court must not assign the cost of interpreter services to LEP or DHH individuals. Consistent with federal and state laws, the Trial Court may seek cost-sharing with government agencies that are involved in court events in which interpreter services are provided.
- 9.08 **Using Private Interpreter Agencies.** When no Certified or Proficient interpreters are available, OLA Management may approve the use of an interpreter from a private interpreter agency. The Trial Court has contracted with private interpreter agencies for such circumstances in order to prevent the delay of court proceedings. Because private interpreter agencies do not necessarily conform to the testing standards of the Trial Court, OLA will first seek to obtain certified interpreters from other jurisdictions, and then search for the next best option to provide interpreter services.
- 9.09 **Remote Interpreting.** Remote interpreting, by video or telephone, may be employed for short in-court proceedings and other court events when in-person interpretation is not feasible or preferred. Remote interpreting requires approval from OLA in advance. Examples of remote interpreting include:
- (A) Video remote interpreting practices, which must follow the national guidelines set forth by the National Center for State Courts Council for Language Access Coordinators, as well as the Trial Court's policies. Video remote interpreting may also be used for DHH individuals in appropriate cases in consultation with MCDHH.
 - (B) Telephonic foreign language interpretation (telephone interpretation) is available with OLA approval in advance. Telephone interpreting is not appropriate for

lengthy proceedings or matters involving pleas or waivers of rights, but, in the discretion of a judge or other appropriate court authority, may be necessary for proceedings of short duration and other court events. Court personnel must request and receive approval from OLA prior to using telephone interpreting services. A speaker phone, or phone with dual headsets, is preferable, but not necessary to access the service.

- (C) Telephone interpretation service approved by OLA may also be used for more common languages at clerks' and registers' counters and probation offices when an emergency arises and no staff or per diem court interpreter is available. Court personnel must request and receive approval from OLA in advance. Courts should enter all requests for interpreter services into MassCourts and email OLA at the respective language access email address.

Section 10.00 Arrival and Departure Procedures for Per Diem Court Interpreters, ASL Interpreters, and DHH Interpreters

10.01 Arrival Procedures.

- (A) Interpreters will arrive on time for all assignments and scheduled events. OLA will develop protocols regarding the process for recording time worked (e.g., arrivals and departures). All interpreters must notify OLA if they will be late for any reason for their assignments.
- (B) Upon arrival, interpreters must report to OLA via TeamWork or current software system in use by OLA.
- (C) Upon arrival, in multi-departmental court facilities, interpreters must report to the Language Access Liaisons for each of the court departments to which they are assigned for court events.
- (D) Upon arrival, in multi-departmental court facilities in which staff interpreters are present, interpreters must report to those staff interpreters instead of reporting to the Language Access Liaisons. The Language Access Liaisons and the staff interpreters will communicate, as needed regarding the assigned court events. If no staff interpreter is present, then the interpreters must report to the Language Access Liaisons for the court departments in which they are interpreting.

10.02 Departure Procedures.

- (A) When per diem court interpreters complete assignments before the end of their scheduled shifts, they must seek additional assignments from the OLA scheduling team, supervisors, Regional Coordinators, Language Access Liaisons and the court, and remain in their scheduled court location or approved court location for the remainder of their scheduled shift to be available for the next assignment(s). Additional assignments may be performed from an OLA-approved court location.
- (B) When there are staff interpreters assigned to multi-departmental court facilities, per diem interpreters must inform the staff interpreters when their assignments are completed. In the absence of staff interpreters, per diem interpreters must inform the Regional Coordinators and the Language Access Liaisons that they have completed their assignments.

10.03 On-Call Per Diem Court Interpreters.

On-call per diem court interpreters will be compensated at their regular rates for the period of time they are scheduled to be on-call. OLA will assign on-call interpreters to court events at its discretion. Once assigned, the on-call interpreters will follow the procedures for arrivals and departures set forth in Sections 9.06, 10.01, and 10.02.

Section 11.00 Processing Bills, Interpreter Invoices, and Extraordinary Requests for Per Diem Court Interpreters

- 11.01 **Requirement to Submit Daily Service Invoices.** Per diem court interpreters are required to electronically submit complete and accurate Daily Service Invoices for all assignments, utilizing OLA approved software.
- 11.02 **Extraordinary Requests.** A court making an extraordinary request must submit a written request to OLA. For payment, per diem court interpreters assigned to extraordinary requests, shall capture these requests on their interpreter invoices and provide their associated travel expense receipts including mileage, accommodations, and meals, as applicable. Out-of-state mileage will be reimbursed at the statewide rate on a per mile basis. The Trial Court reserves the right to audit, research, and investigate any individual or corporation receiving payment for services rendered.
- 11.03 **Processing Interpreter Invoices.** OLA management and the Fiscal Accounting Office will process interpreter invoices received from per diem court interpreters in a timely manner. The Massachusetts Management Accounting and Reporting System (MMARS) governs the payment process for all Trial Court expenditures. Interpreter invoices with missing required information will not be processed and may be returned to the per diem court interpreter. The invoices are subject to the Comptroller's Office 45-day payment policy.
- 11.04 **Verification.** OLA management will verify each per diem court interpreters' invoice by utilizing all relevant information and databases to ensure the per diem court interpreter provided service to the court on the day for which the interpreter is seeking payment. OLA will not approve any service invoiced by a per diem court interpreter that was not actually provided.
- 11.05 **Authorization.** The Payment Request Commodity Form with the accompanying interpreter invoices must be approved for payment by the Manager of Accounting or the Manager's designee.

Section 12.00 Complaint Procedures

12.01 Complaints against Per Diem Court Interpreters.

- (A) All complaints against per diem court interpreters shall be submitted to OLA management. Complaints may be filed by utilizing the *Language Access Complaint Form*⁹, attached as Appendix A and available at <https://www.mass.gov/topics/court-forms>. Complaints also may be made orally. If made orally, OLA will fill out the Language Access Complaint Form with the information provided, ask the complainant to review the form for accuracy and completeness, and request the complainant to sign and date the form. OLA management or staff may initiate such complaints as well.
- (1) The complaint should include the complainant's name and contact information; preferred language; the date and location of the underlying incident; a detailed summary of the complaint; the names and contact information of any witnesses; and any other information relative to the complaint.
 - (2) Anonymous complaints will be considered to the extent that the information provided includes sufficient facts. Because anonymous complaints may be more difficult to investigate, complainants are encouraged to identify themselves when bringing complaints.
 - (3) OLA shall maintain a log of all complaints received in accordance with this section. The log shall include, at a minimum, the name of the per diem interpreter against whom the complaint was made, the date received, and the disposition of the complaint.
- (B) Upon receipt of a complaint, OLA management shall review the facts and circumstances alleged in the complaint. Following this review, OLA management may determine that the complaint should be screened out (e.g., where the incident complained about has an explanation that does not require further review). If the complaint alleges that the per diem interpreter engaged in conduct in violation of Section 5 of the Trial Court's Personnel Policies and Procedure Manual ("PPPM"), the *Policy Prohibiting Discrimination, Harassment, and Retaliation*, the complaint will be referred to the Office of Workplace Rights and Compliance. Also, at the discretion of OLA management, if it is determined that another office in the Trial Court should conduct the review because of the nature of the complaint, OLA management may refer the complaint to such other Trial Court office.
- (C) OLA management may determine not to provide any new assignments to the per diem interpreter during the pendency of the complaint and investigation process

⁹ This complaint form is used for all language access complaints, including complaints against per diem and staff court interpreters. The complaint form is available in multiple languages and interpreter services will be provided as needed. In addition, paper copies of the *Language Access Complaint* form are available from OLA, Court Service Centers, and Trial Court law libraries.

depending upon the seriousness of the complaint. If OLA initially decides to continue to provide new assignments to the interpreter but later learns of sufficient information or evidence during the course of their investigation that necessitates the cessation of assignments, OLA will notify the interpreter of this decision.

- (D) Where appropriate, OLA management will promptly notify the per diem interpreter against whom the complaint was made that:
 - (1) A complaint was received and the nature of the complaint received;
 - (2) OLA will investigate the complaint;
 - (3) Following OLA's investigation, the per diem interpreter will have an opportunity to either meet with OLA and respond to the complaint or submit a written response; and
 - (4) The interpreter will or will not continue to receive assignments during OLA's investigation.
- (E) Although it is hard to provide a firm timeframe for handling each and every complaint, the process of investigating a complaint should not take longer than 30 business days, although that time period may be extended depending on the circumstances. Extenuating circumstances include the complexity of the issues, time needed to obtain a transcription-translation of interpreting or unforeseen external factors. However, if the investigation cannot be completed within 30 business days, OLA shall notify the interpreter of its need to extend the time to complete their investigation. The notice shall be in writing (via electronic mail), and shall include a good faith estimate of the additional time will take to complete the investigation. However, except in extraordinary circumstances, an investigation must be completed within sixty (60) business days.
- (F) When the complaint involves a per diem interpreter's interpreting ability, OLA will obtain the necessary records, such as an audio recording of the proceedings, and other relevant documentation and create a transcription-translation of the proceeding. OLA will create a digital package that includes all documentation and information obtained during the investigation, such as a link to the audio recording, the transcription-translation and any other relevant information. OLA will provide it to the per diem interpreter prior to his or her meeting with OLA to discuss the complaint or prior to the per diem interpreter's written response.
- (G) When the complaint relates to an issue other than interpreting ability, OLA will provide all relevant information gathered during the course of the investigation to the interpreter prior to the meeting with OLA or the written response excluding any protected, confidential information or similar information.
- (H) Upon completion of the investigation, OLA may take the following actions:

- (1) No action;
 - (2) Temporarily suspend the per diem interpreter pending his or her meeting with OLA training staff to review and discuss the per diem interpreters errors made during the proceedings (“mini-training”);
 - (3) Temporarily suspend the per diem interpreter pending his or completion of an OLA designated re-training program; or
 - (4) Remove per diem interpreter from the list of court interpreters.
- (I) Upon completion of the investigation, OLA will notify the complainant and the per diem interpreter whether the complaint was substantiated or unsubstantiated and will notify the per diem interpreter of the corrective action as set forth in paragraph (H) above.
 - (J) When the per diem interpreter is temporarily suspended pending completion of either a mini-training or and OLA-designated training program:
 - (1) OLA will continue to monitor his or her provision of interpreting services after he or she completes the relevant training; and
 - (2) Failure to improve his or her interpreting services may result in: having to complete an additional training program; having to serve an additional suspension; or removal from the list of court interpreters.
 - (K) The actions detailed in Section (H) above shall also be grounds for a judge to remove a per diem interpreter from a judicial proceeding. OLA management must be notified of all such removals.

12.02 Complaints Against Trial Court Staff Interpreters.

All complaints against Trial Court staff interpreters shall be submitted to OLA management for review in the same manner detailed above (§ 12.01(A)). Complaints filed against staff interpreters will be reviewed in accordance with the Trial Court’s PPPM, these *Standards and Procedures*, and any applicable collective bargaining agreement. Upon conclusion of the investigation, OLA management will notify the complainant and the staff interpreter whether the complaint was substantiated or unsubstantiated.

If the complaint alleges that the staff interpreter engaged in conduct in violation of Section 5.00 of the PPPM, the complaint will be referred to the Office of Workplace Rights and Compliance for review.

12.03 Ombudsperson

The Chief Justice of the Trial Court shall appoint an Ombudsperson. The Ombudsperson will act as a neutral party; be allowed to provide feedback on Trial Court policies and procedures directly impacting per diem court interpreters; accept confidential written suggestions and information from per diem court interpreters who wish to raise concerns regarding their work as per diem court interpreters; be tasked

with facilitating positive change relative to per diem court interpreters at the Trial Court; be permitted to present his or her recommendations to OLA; and serve at the pleasure of the Chief Justice of the Trial Court. The Trial Court would retain authority to decline recommendations offered by the Ombudsperson.¹⁰

¹⁰ The Trial Court's declination of the Ombudspersons recommendation would not constitute substantial noncompliance with the MACI v. Trial Court Settlement Agreement. *MACI v. EOTC*, Superior Court, Civil Action No. 1684CV00969. The settlement requires only that the "Trial Court [will] discuss the feasibility of creating a voluntary Ombudsperson position."

Section 13.00 Reports and Statistics

- 13.01 OLA will gather statistics, conduct studies and make reports of the results thereof and of the administration of the program generally. OLA will further retain statistical reports that reflect the need for court interpreters by court department, court division, geographic region, and language.
- 13.02 All interpreters shall enter into Teamwork (or OLA software system in use) all add-on events (such as walk-in default removals, new arrests, and complaints for protection from abuse) for which they interpreted and should include the following data fields:
- Name of the court interpreter,
 - Dates of service,
 - Language,
 - Court(s) where the service was provided, and
 - Name(s) and docket number(s) of the proceeding(s).

Section 14.00 Interpreter Services in Court Events

- 14.01 **The Electronic Docket.** When court events requiring interpreter services are scheduled, requests for interpreters, including court interpreters for LEP individuals and ASL and DHH interpreters for DHH individuals, must be entered into MassCourts via the Event Maintenance screen. Case files must be marked clearly on the outside to indicate that court interpreters are required for the duration of the case.
- 14.02 **The Roles and Responsibilities of Interpreters.** Prior to the commencement of interpreter assignments, interpreters must have the opportunity to explain their roles and responsibilities to the individuals for whom they will be interpreting. Additionally, interpreters will communicate briefly with the individuals to ensure understanding of differences such as accents, dialect, pronunciation, expressions and signs. Interpreters must inform the appropriate court authority of any conflict or lack of comprehension between them and the individuals for whom they will be interpreting.
- 14.03 **Interpreter's Oath.** Pursuant to G.L. c. 221C, § 4(a), a judge or a clerk in the session must give the oath to the interpreter. This may be done at the beginning of the court event or at the beginning of the interpreter's workday. If given at the beginning of the workday, the oath extends for the duration of the interpreter's assignments as an officer of the court on that day.

Prior to taking the oath, court interpreters must identify themselves to the court and report whether OLA has classified them as a proficient, certified or qualified interpreter.

Prior to taking the oath, ASL and DHH interpreters must identify themselves and report whether MCDHH has classified them as legally qualified interpreters or intermediary interpreters. The language of the oath is 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?" See G.L. c. 221C, § 4(a).

- 14.04 **Waiver of the Right to an Interpreter.** LEP individuals and DHH individuals may waive the right to have interpreters in court events.
- (A) Only a judge may approve the request of a LEP individual to waive the right to a court interpreter. Before approving a waiver, the judge must explain the nature and effect of the waiver in open court, on the record and through a court interpreter. After this inquiry, the waiver will be granted only if the judge finds that the waiver is knowingly and voluntarily made. See G.L. c. 221C, § 3(a). If represented by counsel, LEP individuals must first consult with their counsel before judges will approve their waivers.
 - (B) LEP individuals may rescind their waivers of the right to a court interpreter at any time and then may request court interpreter services. Failure to request a court interpreter does not constitute a waiver of such right. See G.L. c. 221C, § 3(b).
 - (C) ADHH individual may waive the right to an interpreter only if the court finds that the waiver is made knowingly, voluntarily, and intelligently. The DHH individual must execute the waiver in writing. When the DHH individual seeking the waiver is represented by counsel, counsel must

provide written approval before the court will grant the waiver. The failure of a DHH individual to request a court interpreter does not constitute a waiver of the right to request an ASL or DHH interpreter. See G.L. c. 221, § 92A.

14.05 **Use Only OLA-Assigned or MCDHH-Assigned Court Interpreters.** Family members, children, friends, counsel, advocates and others who are not OLA-assigned court interpreters or MCDHH-assigned ASL or DHH interpreters must not be utilized to interpret for LEP and DHH individuals in court events or to communicate with court-appointed or court-supervised personnel. Courts must contact OLA for emergent language needs.

14.06 **Multiple LEP or DHH Parties.**

When there are multiple parties who need interpreter services, one interpreter, using appropriate equipment, may interpret for all of them. If the proceedings are lengthy, team interpreting may be needed (see section 9.03). Team interpreting does not mean that both interpreters are actively interpreting at the same time; they may take turns and monitor/assist each other. Courts should consult interpreters regarding how team interpreting is to be implemented for any given matter.

- (A) When witnesses and parties in the same court events require interpreter services, judges or other appropriate court authorities must consider whether separate interpreters must be assigned to allow parties to communicate with counsel as necessary in a timely manner.
- (B) If judges or other appropriate court authorities have determined that the parties have interests that are in conflict, then they must consider whether to provide separate interpreters or use best practices for such a situation. Interpreters are impartial and may be used to interpret for any party or combination of parties, as long as attorney-client confidentiality is preserved.

14.07 **Mode of Address.** LEP and DHH individuals should be addressed using the 2nd person, not the 3rd, e.g., “what is your name?” and not “ask him what his name is.”

14.08 **Positioning of Interpreters.** Interpreters shall be positioned with the LEP and DHH individuals to ensure that they are able to clearly communicate with one another. Interpreters shall be positioned so that the interpreters, the LEP individuals, the DHH individuals, and other participants in the court events (for example, judge, jury, and counsel) are able to hear or (in the case of DHH individuals) to see each other.

Appendix A



MASSACHUSETTS TRIAL COURT

LANGUAGE ACCESS COMPLAINT FORM

To make a complaint about language access, including interpreter services, please complete this form and return it to the Office of Language Access (“OLA”) by hitting the “Submit” button below.

You may also mail the form to the Office of Language Access, Massachusetts Trial Court, 2 Center Plaza, 9th Floor, Boston, MA 02108.

If you need assistance in completing this form, please contact the Office of Language Access by phone at (617)780-6788 or (781)400-4726 or by email at OLA2@jud.state.ma.us.

CONTACT INFORMATION

Name:

First

Last

Language:

Email:

Telephone:

Name of person completing this form (if not you) and contact information:

First

Last

Language:

Email:

Telephone

COMPLAINT SUMMARY

PLEASE DESCRIBE WHAT HAPPENED, INCLUDING DATE, TIME, AND COURT LOCATION.

IDENTIFY THE INTERPRETER OR OTHER COURT EMPLOYEE AGAINST WHOM YOU ARE MAKING THIS COMPLAINT.

Please give as much information as possible.

PLEASE LIST THE NAMES AND CONTACT INFORMATION OF ANYONE WHO SAW OR HEARD WHAT HAPPENED.

Thank you for taking the time to complete this form. OLA management will review your complaint and contact you within fifteen (15) business days of receiving it.

The Trial Court will not tolerate any retaliation against you for filing this complaint or participating in the investigation. If you believe you have been retaliated against and wish to make a complaint, you may contact The Office of Workplace Rights and Compliance (OWRC) at 617-878-0411 or email at Workplace Rights@jud.state.ma.us.

Submit Button