STANDARDS FOR LANGUAGE ACCESS SERVICES

NORTH CAROLINA JUDICIAL BRANCH

OFFICE OF LANGUAGE ACCESS SERVICES

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STANDARDS FOR LANGUAGE ACCESS SERVICES IN NORTH CAROLINA STATE COURTS



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SECTION 1

PRINCIPLES, SCOPE, AND AUTHORITY

SECTION 1 PRINCIPLES, SCOPE, AND AUTHORITY

Section 1.1 Statement of Principles

The North Carolina Administrative Office of the Courts (NCAOC) is committed to removing barriers that hinder equal access to justice by individuals with limited English proficiency (LEP). This commitment serves the court's interest in ensuring accurate communication in court proceedings, protecting the integrity of evidence, and providing language access policies, services, and resources that enhance the quality and availability of interpreting and translation services in North Carolina state courts. Fulfilling this commitment will require substantial time, effort, and resources, and NCAOC is committed to taking all reasonable steps to provide meaningful access to its courts for all individuals, regardless of national origin, ethnicity or limited ability to read, write, speak, or understand English.

Section 1.2 Purpose

The purpose of the *Standards for Language Access Services in North Carolina State Courts* (*Standards*) is to establish effective policies, procedures, and best practices for North Carolina state courts to follow when providing language access services to individuals with limited English proficiency. These *Standards* are intended to be consistent with state and federal law. Adherence to these *Standards* is essential to fulfilling NCAOC's commitment to providing meaningful access to its courts to all individuals, regardless of national origin or limited ability to read, write, speak, or understand English.

These *Standards* apply only to interpreting and translation services provided for spoken foreign languages and do not apply to services provided for individuals who are deaf or hard of hearing. Standards for individuals who are deaf or hard of hearing are addressed in *Guidelines for Accommodating Persons Who Are Deaf or Hard of Hearing in the Courts*.

Section 1.3 Authority

Pursuant to N.C.G.S. § 7A-343(9c), it is the duty of the Director of the NCAOC (Director) to prescribe uniform policies and procedures for the provision of language access services throughout the General Court of Justice. These *Standards* set forth the policies, procedures, and best practices prescribed by the Director. These *Standards* shall be used throughout the General Court of Justice in providing language access services in North Carolina state courts.

These *Standards* shall apply to all persons, agencies, and organizations who administer, provide, or use language access services in North Carolina state courts.

SECTION 2

DEFINITIONS

SECTION 2 DEFINITIONS

Section 2.1 **Assigned / Appointed Counsel** – A private attorney who, at the expense of the Office of Indigent Defense Services (IDS), represents a defendant or respondent who has a constitutional or statutory right to counsel

Section 2.2 **Audio Source** – A recording of a spoken communication

Section 2.3 **Automated Translation** – Translation resulting from the use of software intended to translate text or speech from one natural language to another

Section 2.4 **Authorized Court Interpreter** – A certified, conditionally qualified or minimally qualified court interpreter who is approved by the Office of Language Access Services (OLAS) to work as a staff court interpreter or an independent contract interpreter, and is listed on a court interpreter registry maintained by OLAS

(a) **Certified Court Interpreter** – A staff court interpreter or an independent contract court interpreter who meets minimum professional competency standards and has achieved a passing score on an oral certification exam for court interpreters recognized by the NCAOC. Two classification levels are available for a certified court interpreter:
   (i) **Master Certified (A1)** – Interpreter has demonstrated a proven level of language and interpreting skills proficiency by passing the Federal Court Interpreter Certification Examination (FCICE), passing the examination administered by the National Association of Judiciary Interpreters and Translators (NAJIT), or achieving scores of at least 80 percent on each section of the North Carolina Court Interpreter Certification Examination (NCCICE)
   (ii) **Certified (A2)** - Interpreter has demonstrated a proven level of language and interpreting skills proficiency by achieving passing scores of at least 70 percent on all three sections of the NCCICE, and has scored no less than 65 percent on each of the sight-translation portions of the exam.

(b) **Conditionally Qualified Court Interpreter (B)** – A court interpreter who has not achieved certification as set forth in Section 2.4(a), but has either passed two of the three sections of the NCCICE or come within 10 points of passing all three sections of the NCCICE

(c) **Minimally Qualified Court Interpreter** – A court interpreter for a language other than Spanish (LOTS) who is neither certified nor conditionally qualified. A minimally qualified court interpreter has not demonstrated interpreting skills proficiency, but has demonstrated basic language proficiency as set forth in Section 12.3

(d) **Staff Court Interpreter** – A certified court interpreter who is an employee of the Judicial Branch and is responsible for providing and coordinating language access services as assigned by OLAS

(e) **Independent Contract Interpreter** – An authorized interpreter who provides interpreting services to the Judicial Branch through a personal services contract with NCAOC

Section 2.5 Bilingual Staff – Court personnel designated by OLAS after verification of language skills proficiency through an approved oral proficiency interview (OPI)

Section 2.6 Council of Language Access Coordinators (CLAC) – An organization created by the Conference of State Court Administrators (COSCA) to facilitate the professional development of CLAC members through educational and networking activities, and, upon request by the COSCA Language Access Advisory Committee (LAAC), to provide technical expertise, volunteer services and assistance to LAAC

Section 2.7 Court Operations –Any program or service, excluding court proceedings, provided by, paid for, or under the control of the NCAOC that are conducted by judicial officials or court personnel for the public or parties in interest

Section 2.8 Court Personnel – Employees of the North Carolina Judicial Branch, other than judicial officials

Section 2.9 Court Proceeding – Any hearing, alternative dispute resolution proceeding, trial, or other appearance before any North Carolina state court in an action, appeal, or other proceeding, including any matter conducted by a judicial official

Section 2.10 Covered Event – A court proceeding, court operation or out-of-court communication for which interpreter and / or translation services are provided to an LEP individual at no expense to the LEP individual in accordance with Section 5 of the *Standards*

Section 2.11 Evidentiary Materials – Documents, audio sources, electronic data, or other materials intended to be offered to the court as evidence

Section 2.12 General Court of Justice – North Carolina's unified judicial system for purposes of jurisdiction, operation, and administration, consisting of an appellate division, a superior court division, and a district court division

Section 2.13 Guardian – a person or entity, not including a Guardian ad Litem as defined in Section 2.13, appointed pursuant to Chapter 35A of the North Carolina General Statutes

Section 2.14 Guardian ad Litem (GAL) – a person appointed pursuant to: G.S. §1A-1, Rule 17, Rules of Civil Procedure; Chapter 35A; or G.S. § 7B-1200 for the purpose of providing services to juveniles alleged to be abused, neglected, or dependent in judicial proceedings

Section 2.15 Guardian ad Litem Program – The Office of Guardian ad Litem Services in the NCAOC established pursuant to G.S. § 7B-1200 for the purpose of providing services to juveniles alleged to be abused, neglected, or dependent in judicial proceedings

Section 2.16 Interpretation – The accurate and complete unrehearsed transmission of an oral message from one language to an oral message in another language, using one of three modes of court interpreting

(a) **Consecutive Interpreting** – Interpreting a person's statement after that person has stopped speaking

(b) **Sight Translation** – Reading a written document in one language and rendering it orally into another language

(c) **Simultaneous Interpreting** – Interpreting continuously at the same time a person is speaking rather than waiting for the person to finish.

Section 2.17 Judicial Official – A magistrate, clerk, judge, or justice of the General Court of Justice

Section 2.18 Language Access Coordinator (LAC) – The court personnel designated in each county to ensure efficient scheduling of authorized court interpreters, respond to general questions about language access, and serve as a liaison to OLAS regarding language access issues within the county

Section 2.19 Language Access Officer (LAO) – Individual appointed by the NCAOC Director to receive and resolve concerns regarding the provision of language access services within the General Court of Justice, to track identified issues, and to make recommendations to the Director as may be appropriate

Section 2.20 Language Access Services – The full spectrum of language services available to provide meaningful access to court proceedings and court operations for LEP individuals, including, but not limited to, in-person interpreting services, telephonic and video remote interpreting services, translation of written materials, and the use of bilingual staff

Section 2.21 Limited English Proficient or LEP Individual – A person who speaks a language other than English as his primary language and has a limited ability to read, speak, write, or understand English

Section 2.22 LOTS – Language(s) other than Spanish

Section 2.23 North Carolina Administrative Office of the Courts (NCAOC) – The agency charged with overseeing the administration of the General Court of Justice pursuant to Chapter 7A of the North Carolina General Statutes

Section 2.24 Office of Indigent Defense Services (IDS) – The agency charged with providing legal representation to a defendant or respondent who has a constitutional or statutory right to counsel

Section 2.25 Office of Language Access Services (OLAS) – The NCAOC division charged with providing language access services, removing barriers that hinder access to justice by LEP individuals, and developing and ensuring compliance with NCAOC language access policies

Section 2.26 Party in Interest – A party to a case; a victim; a testifying witness; the parent, legal guardian, or custodian of a minor who is a party, victim, or testifying witness in a court proceeding; or the legal guardian or custodian of an adult who is a party, victim or testifying witness in a court proceeding

Section 2.27 Primary Language – The language in which a person communicates most effectively

Section 2.28 Public Defender – A full-time salaried attorney who, at IDS expense, represents a defendant or respondent who has a constitutional or statutory right to counsel

Section 2.29 Registry of Spoken Foreign Language Court Interpreters (Registry) – The list of authorized court interpreters who have been approved by OLAS to provide language access services in court proceedings or court operations within the General Court of Justice

Section 2.30 Remote Interpreting – A process in which an interpreter provides interpreting services in a court proceeding or court operation, without being physically present, through the use of audio or audiovisual hardware and / or software approved by OLAS

(a) **Telephone Interpreting** – The use of the telephone to allow an interpreter in one location to provide interpreting services for an LEP individual in a separate location

(b) **Video Remote Interpreting** – The use of audio and video technology to provide interpreting services that allow an interpreter in one location to provide interpreting services for an LEP individual in a separate location

Section 2.31 Self-Represented Litigant – An individual who represents himself in a court proceeding without the assistance of an attorney authorized to practice in North Carolina state courts

Section 2.32 Source Language – The language from which a spoken or written message is being interpreted or translated

COMMENT: The term "spoken foreign language" is used to distinguish between interpreting that does not involve sign language and interpreting from one language to another that also involves sign language. These Standards deal only with spoken foreign language.

Section 2.33 Spoken Foreign Language – Language that is communicated orally

Section 2.34 Target Language – The language into which a spoken or written message is being interpreted or translated

Section 2.35 Transcription - Translation – The process of creating a written record from an audio source in a language other than English, together with a subsequent translation of the written record from the source language into the target language

Section 2.36 Translation – The accurate and complete transmission of written text from one language into written text in another language

Section 2.37 Victim – A person against whom there is probable cause to believe a crime has been committed as defined in G.S. §15A-830

Section 2.38 Vital Documents – NCAOC forms, informational materials, print documents, or electronic content published and maintained by NCAOC, excluding signage and evidentiary materials, that are critical for participation in court proceedings or accessing court operations

SECTION 3

ADMINISTRATIVE STRUCTURE

SECTION 3 ADMINISTRATIVE STRUCTURE

Section 3.1 North Carolina Administrative Office of the Courts (NCAOC)

Pursuant to G.S. §7A-343, the Director of the NCAOC ("Director") has the authority over and responsibility for the administration and management of NCAOC. The Director oversees the budget and promulgates policies and procedures that effectuate the efficient administration of justice throughout the Judicial Branch.

Section 3.2 Office of Language Access Services (OLAS)

OLAS is a part of the Court Programs Division of the NCAOC. OLAS is supervised by a manager who reports to the NCAOC Deputy Director for Court Programs. The OLAS Manager provides overall supervision of OLAS. The duties of the OLAS Manager include, but are not limited to, the following:

(a) Planning, setting, and executing language access policy;
(b) Recruiting and training interpreters;
(c) Overseeing OLAS' daily operations;
(d) Hiring and managing NCAOC staff court interpreters;
(e) Serving as a liaison between NCAOC and other divisions of the Judicial Branch and partner agencies; and
(f) Administering screening and certification testing of court interpreters.

Section 3.3 Language Access Stakeholders Committee (LASC)

The Director has appointed a Language Access Stakeholders Committee (LASC) made up of court representatives and external stakeholders. The LASC is chaired by a chief district court judge, and includes judicial officials, court personnel, court interpreters, private attorneys, community advocates, and other external stakeholders. The LASC is charged with providing advice and guidance to the Director regarding the Language Access Plan (LAP) and the *Standards*. The committee exists and meets on the call of the Director, and its members serve at the pleasure of the Director.

Section 3.4 Language Access Officer (LAO)

The Director created the position of the LAO to address issues and complaints concerning language access services provided by the Judicial Branch, to pursue resolution of identified language access issues, and to recommend appropriate changes in policies and practices to advance the goal of providing equal access to justice for LEP individuals.

Any individual who has a complaint about language access services in North Carolina state courts may file a complaint with the LAO. The LAO shall review the complaint, conduct appropriate investigation, and respond to the complaint within 30 days of receipt of the complaint. The LAO shall provide ongoing feedback and recommendations to the Director about enhancing and improving language access services in the courts.

Section 3.5 Language Access Coordinator (LAC)

To increase scheduling efficiency, scheduling interpreters for court proceedings shall be primarily a local court function, and each county shall designate a language access coordinator (LAC) as set forth in Section 17. The LAC shall act as the liaison between OLAS and the county and shall be responsible for receiving requests and ensuring effective scheduling of all interpreters in the county. The LAC will be a source of information for judicial officials, court personnel, attorneys, and members of the public regarding foreign language access issues. OLAS shall establish the responsibilities of the LAC, in consultation with the LAC's hiring authority.

SECTION 4

PROVISION OF A COURT INTERPRETER

SECTION 4 PROVISION OF A COURT INTERPRETER

Section 4.1 Public Notice

NCAOC shall provide training and materials to judicial officials and court personnel so that judicial officials and court personnel can provide information, notices, and forms to LEP individuals.

Section 4.2 Interpreter Language Needed Indicator

NCAOC has implemented <Interpreter Language Needed> indicators in the following systems: Enterprise Justice (Odyssey), eCITATION, NCAWARE, ACIS, CCIS-CC, CCIS-DA, CCIS-PD, VCAP, and JWise. Judicial officials and court personnel should use these indicators to indicate a need for spoken foreign language interpreting services. The <Interpreter Language Needed> indicators should be used for managing cases that need an interpreter, and should not be used solely for scheduling interpreters.

COMMENT: The indicators help identify individuals who need language access services as early as possible. These indicators also provide a mechanism for courts to follow up prior to the court date to determine whether, in fact, the case will be called and an interpreter will be needed on the date noted. For more information about the indicators, see Section 8.2.

Section 4.3 Authority of the Court

Upon receipt of a request for an interpreter for an LEP party in interest, the judicial official should provide an authorized interpreter for a court proceeding. The failure of the party in interest to request an interpreter shall not negate the need to provide an interpreter for the LEP party in interest.

Absent a request, the judicial official is fully authorized to provide an authorized interpreter during a court proceeding if the judicial official has reason to believe that a party in interest is an LEP individual or an interpreter is needed to facilitate communication between the court and the LEP party in interest.

Section 4.4 Presumption in Favor of Providing a Court Interpreter

Absent a request, if the presiding judicial official is unsure whether an interpreter is needed, the judicial official should conduct a brief examination or voir dire of the party in interest on the record. In determining LEP status, the judicial official should err on the side of caution and provide an authorized court interpreter for a court proceeding if there is any doubt about a person's ability to read, speak, write, or understand English.

Section 4.5 Examination of Party or Witness

In conducting the voir dire, the presiding judicial official should ask open-ended questions requiring elaboration rather than questions requiring a simple "yes" or "no" answer. Examples of appropriate voir dire questions include the following:

- Tell me about your country of origin.
- How did you learn to speak English?

- Please tell the court how comfortable you feel speaking and understanding English.
- What is the purpose of your court hearing today?

COMMENT: A person who is unable to answer these questions is unable to communicate in English at the level minimally necessary to comprehend even simple legal proceedings and should be provided with an interpreter.

Depending on the nature of the proceeding, the judicial official should consider whether any of the questions could be considered testimonial in nature. The questions above are provided for guidance only.

Section 4.6 Denial of Request for a Court Interpreter

If a party in interest in a court proceeding requests an interpreter and the judicial official denies the request, the judicial official should note in the record that a request for an interpreter was denied and the reasons for the denial.

Section 4.7 Declining Services of a Court Interpreter[1]

If a party in interest declines the use of an interpreter, the judicial official should use the services of an authorized court interpreter to confirm that the decision was made knowingly, intelligently and voluntarily by assessing the following:

(a) The LEP person intentionally declined interpreting services through verbal communications rather than passively or through silence;

(b) The LEP person knew that interpreting services were available;

(c) The LEP person knew that the services were available free of charge to the party, if the proceeding is a covered proceeding;

(d) The LEP person was advised of the role of the interpreter, including the obligation of the interpreter to maintain confidentiality; and

(e) The LEP person was aware of the benefits of communicating in his native language.

Even if the LEP individual declines the services of a court interpreter, the judicial official is fully authorized to provide an authorized interpreter during a court proceeding if the judicial official has reason to believe that a party in interest is an LEP individual or an interpreter is needed to facilitate communication between the court and the LEP party in interest.

Section 4.8 Reversal of Decision to Decline a Court Interpreter

At any stage of the case or proceeding, an individual who is entitled to the services of an interpreter but has declined those services shall be provided the services of a court interpreter for the remainder of the case or proceeding upon request.

[1] This section mirrors recommendations from the American Bar Association, *Standards for Language Access in Courts*, p. 45, (2012).

SECTION 5

ELIGIBLE CASES AND COVERED EVENTS

SECTION 5 ELIGIBLE CASES AND COVERED EVENTS

Section 5.1 Responsibility of NCAOC to Provide Language Access Services

NCAOC shall provide an interpreter for an LEP party in interest to facilitate participation in covered events.

Section 5.1.a Court Proceedings
The court shall provide an authorized court interpreter for an LEP party in interest to facilitate participation in court proceedings.

Section 5.1.b Court Operations
To facilitate access to court operations, court personnel shall communicate with LEP individuals utilizing bilingual staff or remote interpreting services.

Section 5.1.c Out-of-Court Communications
NCAOC shall provide an authorized court interpreter for out-of-court communications involving the district attorney, public defender / appointed counsel, or guardian ad litem in accordance with Sections 5.4, 5.5, 5.6 of this Section.

Section 5.2 Interpreters Provided at State Expense for All Court Proceedings

NCAOC will bear the costs of providing an interpreter for all court proceedings as defined by Section 2.10. This includes all court proceedings before the magistrate, all court proceedings before the clerk of superior court, all district court proceedings and all superior court proceedings.

Section 5.3 Individuals Entitled to Interpreter

NCAOC shall provide an interpreter to the following LEP parties in interest during a court proceeding or to any LEP individual to facilitate access to a court operation:

(a) A party;

(b) A victim;

(c) A testifying witness;

(d) The parent, legal guardian, or custodian of a minor who is a party, victim or a testifying witness in a court proceeding; or

(e) The legal guardian or custodian of an adult who is a party, victim or a testifying witness in a court proceeding.

Section 5.4 Out-of-Court Communications Involving the District Attorney

NCAOC will provide an interpreter for out-of-court communications between the district attorney and LEP victims, witnesses and defendants, or to facilitate communication during interviews, investigations, and other aspects of general case preparation that are the responsibility of the district attorney's office.

Section 5.5 Out-of-Court Communications Involving the Public Defender or Appointed Counsel

NCAOC shall provide an interpreter for indigent defendants or respondents under Article 36 of Chapter 7A in accordance with this section.

Section 5.5.a Public Defender or Assigned / Appointed Counsel

Pursuant to a memorandum of understanding between NCAOC and IDS, NCAOC will provide an interpreter for out-of-court communications between a public defender or assigned / appointed counsel for an LEP party, or a Guardian ad Litem (GAL) for an adult LEP party, and LEP parties in interest, or to facilitate communication during interviews, investigations, and other aspects of general case preparation for indigent defendants and respondents, in accordance with the terms of the memorandum, at IDS expense.

Section 5.5.b Privately-Retained Counsel Representing Indigent Defendants

Notwithstanding Section 5.7, pursuant to a memorandum of understanding between NCAOC and IDS, NCAOC will provide an interpreter for out-of-court communications between privately-retained counsel and an LEP defendant or respondent, at IDS expense, provided that a court has entered an order specifically finding that the LEP defendant or respondent who has retained private counsel meets the definition of an indigent person entitled to representation by IDS under the standards and procedures set out in Subchapter IX of Chapter 7A. Once the court has issued the order, NCAOC shall provide an interpreter to facilitate communication during interviews, investigations, and other aspects of general case preparation for the indigent defendant or respondent, in accordance with the terms of the memorandum, at IDS expense.

Section 5.6 Out-of-Court Communications Involving Guardian ad Litem Program

To assist with out-of-court investigations and witness preparation, NCAOC will provide interpreting services to facilitate out-of-court communications among the Guardian ad Litem attorney advocate, staff, and / or volunteer appointed pursuant to G.S. § 7B-601, and the LEP juvenile and / or any LEP witness or party in interest.

Section 5.7 Out-of-Court Communications Involving Privately-Retained Counsel

NCAOC does not provide interpreting services to facilitate communications between privately-retained counsel and clients, witnesses or other parties outside of a court proceeding. Language access services required for all out-of-court communications involving privately retained counsel, including all interviews, investigations, and other aspects of general case preparation, are outside the scope of services provided by NCAOC.

Section 5.8 Limitations on Providing an Authorized Interpreter for Other Agencies

NCAOC does not provide interpreters for programs and operations that are within the purview of other agencies or entities, such as interpreting services required on behalf of juvenile court counselors, probation and parole officers, criminal mediation centers, and law enforcement personnel outside of the court proceeding.

COMMENT: Prior to ordering an LEP individual to attend programs or operations within the purview of other agencies or entities, the judicial official should consider whether the agency or entity provides language access services that eliminate barriers to successful completion of the program.

Section 5.9 Treatment or Rehabilitative Services

NCAOC will not provide court interpreters for treatment, classes, counseling, or other similar services whether or not ordered by the court.

COMMENT: Prior to ordering an LEP individual to attend treatment of rehabilitative services, the judicial official should consider whether the service provider provides language access services that eliminate barriers to successful completion of the program.

Section 5.10 Alternative Dispute Resolution

NCAOC will provide court interpreters for court-annexed alternative dispute resolution procedures that are court proceedings or court operations, which specifically include mediation through the Child Custody and Visitation Mediation Program pursuant to G.S. 7A-494, and the Permanency Mediation Program pursuant to G.S. 7B-202. NCAOC will not provide interpreters for private mediation, private arbitration, or other types of dispute resolution outside of a court proceeding or court operations, which specifically include mediation pursuant to the Family Financial Settlement Program, district criminal court mediation, mediated settlement conferences, court-ordered arbitration, clerk-ordered mediation, or mediation of public records disputes.

COMMENT: In determining whether NCAOC pays for specific types of alternative dispute resolution, the following questions are determinative:

(1) Is the service mandated by the court?
(2) Does NCAOC pay for the service?
(3) Are the mediators or arbitrators employed by NCAOC?

If the answer is yes to all three questions, NCAOC will provide an interpreter at State expense.

Section 5.11 Language Access Services to Be Provided at No Cost to the Party in Interest

Language access services shall be provided to LEP individuals involved in court proceedings or accessing court operations at no cost, regardless of the party's ability to pay, consistent with these *Standards*.

SECTION 6

TYPES AND APPROPRIATE USE OF AVAILABLE LANGUAGE ACCESS SERVICES

SECTION 6 TYPES AND APPROPRIATE USE OF AVAILABLE LANGUAGE ACCESS SERVICES

Section 6.1 Types of Interpreting Services

NCAOC offers several means of providing language access services to assist LEP individuals in accessing court proceedings and court services, including but not limited to, the following:

(a) Telephone interpreting;
(b) Video remote interpreting;
(c) Staff court interpreters;
(d) Contract court interpreters;
(e) Translation;
(f) Transcription - Translation; and
(g) Bilingual staff.

Section 6.2 Bilingual Staff

Bilingual staff may be designated by OLAS after assessment of their language skills. They are authorized to conduct court operations with the public and parties in interest in their non-English language of expertise, and provide the same assistance that would be provided to English proficient persons. They are not permitted to interpret unless they meet the definition of an authorized court interpreter in Section 2.4.

Section 6.3 Telephone Interpreting

NCAOC provides telephone interpreting services to judicial officials and court personnel to enhance language access services to LEP individuals. The telephone interpreting services are available 365 days per year, 24 hours per day, including holidays. Judicial officials and court personnel shall utilize a telephone interpreter to communicate with an LEP individual as set forth below unless a bilingual staff member provides direct service or an authorized court interpreter is used. Such language access services are required without regard to the request provisions in Section 7.

Section 6.3.a Clerks' Offices

Use of telephone interpreting services is appropriate when an LEP individual contacts the clerk's office with basic questions about court operations. Clerks may use these services to assist an LEP individual in-person or on the telephone using the conference call feature. Clerks should utilize the telephone interpreting services to provide language access services for routine matters such as providing general information, paying court-ordered costs, and accessing other court services incidental to the resolution of a legal matter.

Section 6.3.b Magistrates' Offices

Use of telephone interpreting services is appropriate in magistrates' offices for routine matters such as providing general information, filing court documents, paying court-ordered costs, and accessing other court services incidental to the resolution of a legal matter. Telephone interpreting services also may be used for brief matters in court

proceedings, but otherwise should not be used in court hearings. Telephone interpreting services may be used for:

- initial appearances;
- continuances;
- summary ejectments; and
- *ex parte* domestic violence motions, if an in-person or video remote interpreter cannot be secured in time, due to the potential personal safety risk of the petitioner.

Section 6.3.c District Court

Telephone interpreting services may be used for:

- routine matters in district court, such as continuances and first appearances;
- *ex parte* domestic violence motions, if an in-person or video remote interpreter cannot be secured in time, due to the potential personal safety risk of the petitioner; and
- traffic court, when the district attorney meets with a limited English proficiency party to discuss their ticket prior to appearing before the judge.

Telephone interpreting services should not be used for other types of evidentiary court proceedings.

Section 6.3.d Superior Court

Telephone interpreting services should not be used in superior court proceedings.

Section 6.3.e Other Court Operations

Use of telephone interpreting services is appropriate when an LEP individual contacts or comes to any courthouse or component section of the Judicial Branch with basic questions about court operations. Court personnel should utilize the telephone interpreting services to provide language access services for routine matters such as providing general information or accessing other court services incidental to the resolution of a legal matter.

COMMENT: Because telephone interpreters provided by the vendor are not certified by NCAOC, court personnel and judicial officials should be cautious when utilizing them to ensure that they appear to be following professional interpreting practices and are communicating effectively. Telephone interpreters need not be used in court operations where bilingual staff are available. However, bilingual staff are not permitted to provide interpreting assistance.

Section 6.4 Video Remote Interpreting

Remote video interpretation utilizing OLAS-approved equipment and software allows a court to access qualified NCAOC interpreters remotely, which permits access to qualified interpreters wherever those interpreters may be. The technology allows for consecutive and simultaneous interpretation via a pure and natural sounding, echo-free connection.

Use of video remote interpretation may be appropriate for use in court proceedings before judicial officials, including hearings and trials in district and superior court when certified court interpreters are not available locally in the required language, and may be utilized after considering factors such as the nature, duration, and complexity of the proceeding, the cost of delay, and the cost and delay expected for in-person interpreting. Video remote interpreting may be used for routine matters in district and superior court, such as:

- Continuances, first appearances, and calendar calls;
- *Ex parte* domestic violence motions, if an in-person interpreter cannot be secured in time;
- Civil no-contact order motions, if an in-person interpreter cannot be secured in time;
- Traffic court, when the limited English proficiency party is appearing before the judge;
- Probable cause hearings;
- Plea hearings;
- Sentencing;
- Small claims summary ejectment;
- Child custody motions, dispositions, final hearings, and trials;
- Child support motions;
- Abuse/neglect/dependency reviews, dispositions, permanency planning, and adjudications;
- Minor settlement motions and agreements;
- Incompetency hearings; and
- Landlord/tenant dispute appeals;

Video Remote interpreting is not appropriate for any criminal or civil jury trials involving LEP parties. If an LEP witness is testifying remotely in a civil case in accordance with G.S. § 7A-49.6(c), then the interpreter for the LEP witness testimony may be remote as well.

Section 6.5 Certified Court Interpreters

Certified court interpreters should be used in all trials and evidentiary hearings in district and superior court.

Section 6.6 Limitations on the Use of Judicial Employees, Volunteers, and Family Members as Interpreters

Judicial employees, family members, and volunteers shall not serve as court interpreters in court proceedings, but may, in exigent circumstances only, provide restricted language access services for routine matters such as providing general information in the clerk's office or paying court-ordered costs.

Section 6.6.a Judicial Official or Court Personnel in Court Proceedings

The presiding judicial official shall not permit judicial officials or court personnel other than staff court interpreters to provide interpreting services in court proceedings.

Section 6.6.b Bilingual Employees

Bilingual employees shall not serve as interpreters in court proceedings, including trials and evidentiary hearings, but may provide direct in-language assistance only to LEP individuals in court operations and incidental to a court proceeding.

Section 6.6.c Volunteers

The presiding judicial official shall not allow a volunteer who is not on the Registry, or who is not assigned by the LAC or OLAS, to provide language access services in court proceedings. Volunteers, including family members, friends, law enforcement officers, or others who may be present in the courtroom, may help individuals only with incidental, limited communication with court personnel outside of a court proceeding.

Section 6.7 Translation and Transcription - Translation Services

NCAOC provides translation of documents and transcription - translation of audio sources using qualified translators and transcription - translation specialists as set forth in Section 18.

SECTION 7

REQUESTING A COURT INTERPRETER

SECTION 7 REQUESTING A COURT INTERPRETER

Section 7.1 Request for Interpreter in a Court Proceeding

If a party in interest requests a court interpreter in a court proceeding for a party in interest, an authorized court interpreter shall be provided.

Section 7.1.a LEP Individuals Represented by Counsel

If retained or assigned prior to the court proceeding, the attorney should determine if his client is an LEP individual. If so, the attorney shall submit a *Request for Spoken Foreign Language Court Interpreter* form on behalf of the client as set forth in Sections 7.2 and 7.3.

Section 7.1.b Self-Represented Litigants

Judicial officials and court personnel shall assist self-represented litigants who need a court interpreter for a scheduled court proceeding by preparing and submitting to the LAC a written *Request for Spoken Foreign Language Court Interpreter* form and providing the litigant with a translated notice regarding court interpreting. Self-represented litigants or persons assisting them may also notify a judicial official or a clerk who will submit the request to the LAC. The LAC should also assign an interpreter based upon available data, including prior use of a telephone or court interpreter in a case, in order to avoid delay.

Request for Spoken Foreign Language Court Interpreter forms shall be available online. Requests should be submitted to the LAC in the respective county at least 10 business days prior to the scheduled proceeding, or as soon as the proceeding is placed on the court calendar, whichever is earlier. Attempts shall still be made to secure an interpreter for last-minute requests or for hearings where a 10-business day notice is not possible. Requests should be submitted electronically from the OLAS website at nccourts.org/LanguageAccess.

Section 7.2 Responsibility to Request Court Interpreters for Criminal Court Proceedings

Section 7.2.a Magistrates

Magistrates who have court proceedings involving LEP parties in interest shall use telephone interpreting services for criminal proceedings.

Section 7.2.b District Attorney

District attorneys who have court proceedings involving LEP parties in interest, specifically a victim or testifying witness, shall submit a written *Request for Spoken Foreign Language Court Interpreter* form once a proceeding has been scheduled for a specific court date. Requests should be submitted electronically to the LAC from the OLAS website at nccourts.org/LanguageAccess at least 10 business days prior to the scheduled proceeding, or as soon as the proceeding is placed on the court calendar, whichever is earlier.

Section 7.2.c Public Defender and Assigned / Appointed Counsel

Public defenders and assigned / appointed counsel who have court proceedings involving LEP defendants and defense witnesses shall submit a written *Request for Spoken Foreign Language Court Interpreter* form once a proceeding has been scheduled for a specific court date. Requests should be submitted electronically to the LAC from the OLAS website at nccourts.org/LanguageAccess at least 10 business days prior to the scheduled proceeding, or as soon as the proceeding is placed on the court calendar, whichever is earlier.

Section 7.2.d Privately Retained Counsel for Criminal Court Proceedings

Privately retained counsel who have criminal court proceedings involving LEP defendants and defense witnesses shall submit a written *Request for Spoken Foreign Language Court Interpreter* form once a proceeding has been scheduled for a specific court date. Requests should be submitted electronically to the LAC from the OLAS website at nccourts.org/LanguageAccess at least 10 business days prior to the scheduled proceeding, or as soon as the proceeding is placed on the court calendar, whichever is earlier.

Section 7.2.e Self-Represented Criminal Defendants

Self-represented criminal defendants who are LEP or have defense witnesses who are LEP shall submit a written *Request for Spoken Foreign Language Court Interpreter* once a proceeding has been scheduled for a specific court date. Requests should be submitted electronically to the LAC from the OLAS website at nccourts.org/LanguageAccess at least 10 business days prior to the scheduled proceeding, or as soon as the proceeding is placed on the court calendar, whichever is earlier.

COMMENT: If an LEP defendant appears for a court proceeding and no in-person or remote interpreter is available, the judicial official or court personnel should use the telephone interpreting service to notify the defendant of the process to request an interpreter and the date on which the proceeding will be heard. The judicial official or court personnel also should submit an interpreter request for the next court date.

Section 7.3 Responsibility to Request Court Interpreters for Civil Court Proceedings

The LAC will be responsible for scheduling a court interpreter for civil court proceedings upon receipt of a *Request for Spoken Foreign Language Court Interpreter* as set forth below:

Section 7.3.a LEP Individuals Represented by Counsel

If retained or assigned prior to the court proceeding, the attorney shall submit a *Request for Spoken Foreign Language Court Interpreter* form on behalf of the client.

Section 7.3.b Self-Represented Litigants

Judicial officials and court personnel shall assist self-represented litigants who need a court interpreter for a scheduled court proceeding by preparing and submitting to the LAC a written *Request for Spoken Foreign Language Court Interpreter* form and providing the litigant with a translated notice regarding court interpreting.

Self-represented litigants or persons assisting them may also notify a judicial official or a clerk who will submit the request to the LAC. The LAC should also assign an interpreter based upon available data, including prior use of a telephone or court interpreter in a case, in order to avoid delay.

Section 7.3.c Court Personnel

Trial court administrators, trial court coordinators, judicial assistants, clerks or other court personnel who prepare civil calendars shall submit a written *Request for Spoken Foreign Language Court Interpreter* form to the LAC at least 10 business days prior to the scheduled proceeding, or as soon as the proceeding is placed on the court calendar, whichever is earlier. Requests should be submitted electronically to the LAC from the OLAS website at nccourts.org/LanguageAccess.

Section 7.3.d Family Court Districts

In districts with family court programs, family court staff shall submit to the LAC a written *Request for Spoken Foreign Language Court Interpreter* form for family court cases at least 10 business days prior to the scheduled proceeding, or as soon as the proceeding is placed on the court calendar. Requests should be submitted electronically to the LAC from the OLAS website at nccourts.org/LanguageAccess.

Section 7.4 Court Personnel Prohibited from Contacting Independent Contract Interpreters Directly for Court Proceedings

Court personnel shall not contact independent contract court interpreters directly to schedule court interpreters for court proceedings. Only the LAC or OLAS may schedule interpreters for court proceedings. Interpreters who provide services without authorization from the LAC or OLAS will not be paid by NCAOC for services rendered.

COMMENT: The efficient use of limited resources requires interpreters to be scheduled as efficiently as possible. The LAC is responsible for receiving all requests for spoken foreign language court interpreters and evaluating the demand to determine what services are required to cover the interpreting needs of the court.

Section 7.5 Out-of-Court Communications Involving District Attorneys

NCAOC will provide an interpreter for out-of-court communications between the district attorney and LEP victims, witnesses and defendants, or to facilitate interviews, investigations, and other aspects of general case preparation on behalf of the State.

Section 7.5.a Spanish

To schedule an interpreter for an out-of-court communication in Spanish, the district attorney shall contact an interpreter on the Registry to arrange for interpreting services.

Section 7.5.b Language(s) Other Than Spanish (LOTS)

To schedule an interpreter for out-of-court communication in a language other than Spanish, the district attorney shall submit a written *Request for Spoken Foreign Language Court Interpreter* form to OLAS as soon as possible, but no later than 10 business days prior to the scheduled event. Requests should be submitted electronically from the OLAS website at nccourts.org/LanguageAccess.

Section 7.6 Out-of-Court Communications Involving Public Defender or Assigned / Appointed Counsel

Pursuant to a memorandum of understanding (MOU) between NCAOC and IDS, NCAOC will provide interpreters for out-of-court communications on behalf of indigent defendants and respondents represented by IDS, at IDS expense, in accordance with the terms of the MOU.

Section 7.6.a Spanish

To schedule an interpreter for out-of-court communication in Spanish, a public defender or assigned / appointed counsel for an LEP party in interest, or a Guardian ad Litem (GAL) for an adult LEP party in interest, shall contact an interpreter on the Registry to arrange for services for interpreting services on a date *other than the court date*.

Section 7.6.b Language(s) Other Than Spanish (LOTS)

To schedule an interpreter for out-of-court communication in a language other than Spanish, a public defender or assigned / appointed counsel for an LEP party in interest, or a Guardian ad Litem (GAL) for an adult LEP party in interest, shall submit a written *Request for Spoken Foreign Language Court Interpreter* form to OLAS. Requests should be submitted electronically from the OLAS website at nccourts.org/LanguageAccess, at least 10 business days prior to the scheduled proceeding, or as soon as the proceeding is placed on the court calendar, whichever is earlier.

COMMENT: LOTS interpreters must be assigned by OLAS for any court proceedings or out-of-court communication needs. Once the interpreter has been assigned, the attorney may contact the LOTS interpreter directly for out-of-court language access needs prior to the day of the court proceeding. Any LOTS interpreter who does not have an assignment by OLAS will not be paid with state funds.

Section 7.7 Out-of-Court Communications Involving GAL Program

NCAOC will provide interpreting services to facilitate out-of-court communications among the Guardian ad Litem attorney advocate, staff, and / or volunteer appointed pursuant to G.S. § 7B-601, and the LEP juvenile and / or any LEP party in interest.

Section 7.7.a Spanish

To schedule an interpreter for out-of-court communication in Spanish, a Guardian ad Litem attorney advocate, staff, and / or volunteer for an LEP party in interest shall contact an interpreter on the Registry to arrange for services for interpreting services on a date *other than the court date*.

Section 7.7.b Language(s) Other Than Spanish (LOTS)

To schedule an interpreter for out-of-court communication in a language other than Spanish, a Guardian ad Litem attorney advocate, staff, and / or volunteer for an LEP party in interest shall submit a written Request for Spoken Foreign Language Court Interpreter form to OLAS. Requests should be submitted electronically from the OLAS website.

Section 7.8 Out-of-Court Communications by Privately-Retained Counsel

NCAOC does not provide language access services for privately-retained counsel for any out-of-court communications with clients, victims, witnesses, or other parties.

Privately-retained attorneys are encouraged to use the Registry to identify qualified interpreters and to make independent arrangements for the use and payment of the services of the interpreter.

SECTION 8

PROMOTING EFFICIENCY IN THE APPOINTMENT AND SCHEDULING OF COURT INTERPRETERS IN COURT PROCEEDINGS

SECTION 8 PROMOTING EFFICIENCY IN THE APPOINTMENT AND SCHEDULING OF COURT INTERPRETERS IN COURT PROCEEDINGS

Section 8.1 Language Access Coordinator (LAC) to Schedule Interpreters

A LAC designated by OLAS shall have sole responsibility for the scheduling of Spanish interpreters paid at NCAOC expense.

Section 8.2 Documenting the Need for an Interpreter in the Early Stages of the Judicial Process

Judicial officials and court personnel shall make every effort to identify LEP parties in interest as early in the judicial process as possible and to ensure that interpreters are provided when needed in all proceedings without unnecessary delay or expense.

Section 8.2.a Indicators in Technology Systems

NCAOC has implemented indicator fields for <*Interpreter Language Needed*> and <*Interpreter Used*> in eCITATION, NCAWARE, ACIS, CCIS-CC, CCIS-DA, VCAP, and JWise.

Section 8.2.b Interpreter Language Needed

Once an LEP individual is identified, the judicial official or court personnel shall enter the specific language code in the <*Interpreter Language Needed*> field in the appropriate system. The specific language codes are available at nccourts.org/LanguageAccess.

Section 8.2.c Interpreter Used

If an authorized court interpreter, including a telephone interpreter, is used during a court proceeding, the judicial official or courtroom clerk shall note the use of an interpreter in the <*Interpreter Used*> field.

COMMENT: The <Interpreter Language Needed> and <Interpreter Used> indicators should be used for managing cases that need or use an interpreter, and should not be used solely for scheduling interpreters. If a case is coded as <Interpreter Language Needed>, an interpreter should not automatically be scheduled for every setting of that case. Judicial officials, attorneys, and court personnel should always check the case file to determine who needs the interpreter, whether the proceeding will occur as scheduled, if an interpreter actually will be needed for the proceeding, and to ensure that interpreters are assigned only when needed.

Section 8.2.d Interpreter Indicator Request Form

If the judicial official or court personnel is not able to input data into the indicator fields, or if the system is down, the judicial official or court personnel should use the *Interpreter Indicator Request Form*, which is available at nccourts.org/LanguageAccess, to request that the clerk of court update the interpreter information in the appropriate system.

Section 8.2.e Incorrect Entries

If the <*Interpreter Language Needed*> or <*Interpreter Used*> indicator was entered into the system incorrectly, the entry may be corrected. No other changes should be made to the indicators once they have been initially set.

Section 8.2.f Court Calendar Shall Identify the Need for Interpreter

The court calendars generated from the automated civil and criminal systems will reflect the designation of <*Interpreter Language Needed*> in the system pursuant to Section 8.2.b.

COMMENT: The LAC will not schedule the interpreter unless the party, a judicial official, court personnel, or an attorney has confirmed with the LAC that the case will move forward on the calendared date.

Section 8.2.g Case File Should Be Marked

When a case requires a court interpreter, court personnel, or the judicial official should clearly mark the case file as needing a court interpreter to alert court personnel that a court interpreter may be scheduled for the proceeding.

COMMENT: Court personnel in each district or county may determine the manner in which they wish to mark the case file. For example, court personnel may choose to write an "I" on the outside of the shuck to indicate that an interpreter is needed for the case.

Section 8.3 Registry of Spoken Foreign Language Court Interpreters

OLAS shall maintain a Registry of Spoken Foreign Language Court Interpreters that includes the names and classification status for foreign language court interpreters who are authorized to provide interpreting services in North Carolina courts. The LAC shall assign an interpreter from the Registry in accordance with this section.

COMMENT: The Registry may be found on the OLAS website at nccourts.org/LanguageAccess. The Registry is organized by district, and then in order of proficiency levels, with the highest proficiency levels listed first. The interpreters are then listed alphabetically by county of residence.

Section 8.4 Scheduling Efficiency

Whenever possible, the judicial official or court personnel responsible for scheduling cases should work with the LAC in advance to aggregate the case or cases requiring interpreting services in a given language at a specific time on the calendar and to schedule an interpreter for that specific time. Judicial officials and court personnel with scheduling responsibilities shall make every effort to minimize the time the interpreter is in the courtroom.

Section 8.4.a District Attorney
In criminal cases, district attorneys who have court proceedings involving LEP defendants, victims or prosecution witnesses shall work with the LAC to aggregate cases requiring interpreting services at a specific time on the calendar and to schedule an interpreter for that specific time.

Section 8.4.b Public Defender and Assigned / Appointed Counsel
Public defenders and assigned / appointed counsel who have court proceedings involving LEP defendants or respondents and defense witnesses shall work with the LAC to aggregate cases requiring interpreting services at a specific time on the calendar and to schedule an interpreter for that specific time.

Section 8.4.c Family Court Districts
In districts with family court programs, family court staff shall work with the LAC to aggregate cases requiring interpreting services at a specific time on the calendar and to schedule an interpreter for that specific time.

Section 8.4.d Other Civil Proceedings
Trial court administrators, trial court coordinators, judicial assistants, clerks, or other court personnel who schedule civil cases shall work with the LAC to aggregate cases requiring interpreting services at a specific time on the calendar and to schedule an interpreter for that specific time.

Section 8.5 Judicial Official Should Ensure Efficient Use of Interpreters in Courtroom

Judicial officials should aggregate all scheduled cases involving the use of interpreters in the same language and proceed with those cases at a time that best maximizes the use of language access resources. Judicial officials should make every effort to minimize the length of time the interpreter must remain in the courtroom, including the time spent waiting by the interpreter.

COMMENT: The court interpreter should not be scheduled to appear until the specific time the judicial official anticipates calling the cases requiring an interpreter. This will decrease wait time and increase the interpreter's ability to provide more services to more jurisdictions.

Section 8.6 Interpreters to Move to Next Assignment to Promote Efficiency

Interpreters shall provide services for court proceedings as directed by the LAC. If the interpreter reports to an assignment as requested, the interpreter shall contact the LAC to procure another assignment if the judicial official does not utilize the interpreter's services within 30 minutes of the assigned time or the conclusion of the immediate case before the court, unless the interpreter has received other instructions from the presiding judicial official. If the interpreter moves to another assignment, the interpreter shall notify the courtroom clerk and indicate the time he anticipates returning to the courtroom.

Section 8.7 Maximizing Interpreter Efficiency

Section 8.7.a Single Interpreter

Except as provided in Section 8.7.b, the LAC should schedule only one interpreter, regardless of the number of LEP parties.

COMMENT: Interpreters are expected to have interpreting equipment that allows them to provide services to multiple LEP individuals at once. The interpreter may wear a transmitter and microphone, and equip the LEP individuals with receivers and headsets that allow the LEP individuals to hear the interpretation rendered by the interpreter. Because certified court interpreters are bound by ethical obligations to serve as neutral language conduits, it is not necessary to have an interpreter for opposing parties and the court during a court proceeding.

Section 8.7.b Team Interpreters

In proceedings expected to last more than two hours, or in proceedings in which the exceptional nature and complexity of the proceeding may require more than one interpreter, the LAC should schedule a team of two interpreters.

A team of interpreters consists of a proceedings interpreter and a support interpreter. The proceedings interpreter interprets the proceeding for all LEP parties and witnesses, while the support interpreter is available to assist the proceedings interpreter with research, vocabulary, equipment or other issues, or to assist defendants with attorney-client communication. The proceedings interpreter and the support interpreter will alternate roles periodically in order to minimize interpreter fatigue.

COMMENT: Examples of the appropriate use of team interpreters are presented below.

Example 1: If a proceeding has both an LEP defendant and an LEP witness, – the proceedings interpreter interprets what is being said in court during the witness examination, and the support interpreter assists with attorney-client communication during the witness examination.

Example 2: When there are multiple LEP criminal defendants, the use of interpreting equipment will allow one active proceedings interpreter to provide services to all LEP criminal defendants, but at least one support interpreter should be available so that criminal defendants can communicate with counsel when necessary during the trial.

Section 8.7.c Special Considerations for Lengthy Proceedings

If only one interpreter was scheduled or available for a court proceeding exceeding two hours, and the judicial official decides to proceed without a second interpreter, the judicial official should suspend the court proceedings for 10 – 15 minutes approximately every 30 minutes to prevent interpreter fatigue and to allow the interpreter to rest as necessary in order to ensure the highest accuracy.

If a team of two interpreters has been scheduled for a proceeding, the judicial official should allow the interpreters to alternate as the proceedings interpreter approximately every 30 minutes to prevent interpreter fatigue.

COMMENT: The cognitive motor skills required to meet the demands of a court interpreter result in interpreter fatigue after 20 – 30 minutes. Studies have shown that proficiency levels plummet among the best interpreters if an interpreter continues to interpret past this threshold without a break. These routine breaks are required to protect the record, and to protect the rights of the LEP party in the proceeding.

SECTION 9

COURTROOM LOGISTICS DURING COURT PROCEEDINGS

SECTION 9 COURTROOM LOGISTICS DURING COURT PROCEEDINGS

Section 9.1 Arrival and Departure of Interpreter

The interpreter should arrive prior to the start of the court proceeding or at the specific time assigned by the LAC, whichever is later, and should ask the bailiff to notify the courtroom clerk of his arrival. If the interpreter must leave the courtroom, the interpreter should inform the courtroom clerk or the bailiff so, if needed, the clerk or bailiff can locate the interpreter.

Section 9.2 Preliminary Contact with Limited English Proficient (LEP) Party

Whenever possible, the interpreter should meet briefly with the LEP person and his attorney, if he is represented by counsel, prior to the proceeding in order to do the following**:**

(a) Familiarize himself with the LEP person's speech and manner of speaking;
(b) Review any documents that the interpreter will be asked to sight translate during the proceeding;
(c) Clarify the nature of the interpreter's role by advising the LEP individual and counsel, if any, that the interpreter is only present to interpret the proceedings for the party or the examination of an LEP witness, but is not permitted to advise the party in interest in any way; and
(d) Determine the nature of the proceeding and its expected duration.

The judicial official should encourage and facilitate a brief meeting between the interpreter and the LEP individual prior to the hearing, if possible.

Section 9.3 Interpreting Equipment and Aids

Interpreters shall be permitted to use any equipment or aids necessary to perform their duties effectively during the court proceeding, including audio equipment, wireless interpreting equipment, notepads, dictionaries, computers, cellular telephones, tablets, mobile devices, or other resources.

The court should permit the interpreter to use a notepad or other interpreting aids and, if warranted, may explain to the jury and the other participants why the interpreter is using them.

COMMENT: Many interpreters use wireless interpreting equipment for simultaneous interpretation. The interpreter speaks into a transmitter and the signal is sent to a receiver used by the LEP person. This equipment allows the interpreter to move about the courtroom in order to better hear the person who is speaking. By using multiple receivers, the interpreter can also serve multiple LEP persons at the same time. In addition, interpreters regularly use notepads to assist them in recalling lengthy statements that they must interpret.

Section 9.4 Instructions Related to Use of an Interpreter

The judicial official should introduce the interpreter and provide instructions to the parties, the attorneys, and the jury on the proper role of the interpreter, including the following points:

(a) **Limited Role of the Interpreter**
The interpreter's role and purpose is limited to facilitating communication; the interpreter may not provide legal or other advice or assistance to any party.

(b) **Participants Should Speak Directly to One Another**
The participants in the proceeding should speak directly to one another, not to the interpreter.

COMMENT: For example, an attorney should ask a LEP witness a question directly. The attorney should not say to the interpreter, "Ask the witness when she saw the defendant." Similarly, the witness should respond directly to the attorney, not to the interpreter. To speak to the interpreter in the third person would require the interpreter to change the meaning of the statement to what the speaker intended, which requires the interpreter to step outside of his role as the court interpreter so that he can restructure the statement before rendering it. This is an inappropriate use of the court interpreter.

(c) **Complete Interpretation**
The interpreter will render everything that is said in the courtroom completely and accurately and will not elaborate, explain, clarify, add, or omit anything from the original statements.

(d) **No Inference to Be Drawn from Use of Interpreter**
The jury should not give any weight to the fact that a party or witness requires the assistance of an interpreter.[2]

COMMENT: There is no pattern jury instruction on this matter. This sample instruction is recommended for the court's consideration.

"This court seeks a fair trial for all regardless of the language they speak and regardless of how well they may or may not speak English. Bias against or for persons who have little or no proficiency in English is not allowed. Therefore, do not allow the fact that the party requires an interpreter to in any way influence you."

(e) **Court Reporter to Transcribe Only the English Spoken**
The transcript of a court proceeding should reflect only the English spoken during the proceeding. In the transcript of the proceeding, the court reporter should indicate when a witness or party is speaking through an interpreter.

Section 9.5 Name and Qualifications on the Record

In any court proceeding in which an interpreter is used, the presiding judicial official should have the interpreter state on the record his name, interpreter classification level as defined in Section 2.4, and/or qualifications as an interpreter before beginning to interpret. The judicial official should ensure that the

[2] National Center for State Courts, *Model Judges Bench Book on Court Interpreting*, p. 32, 2006.

classification level, qualifications, and abilities of the assigned interpreter are appropriate and sufficient given the nature, duration, or complexity of the proceeding.

Section 9.6 Interpreter's Oath

Before providing services in a court proceeding, an interpreter shall swear or affirm that he will make true and impartial interpretation using his best skill and judgment in accordance with the standards prescribed by law and the ethics of the interpreter profession. The court interpreter shall be sworn at the beginning of the proceeding or court session, in which case the oath extends for the duration of the proceeding or court session. In jury trials, the oath should be administered orally to the interpreter(s) in the presence of the jury to reinforce the jury's awareness of the role of the interpreter.

COMMENT: North Carolina has no statutory or judicially-approved oath, but the sample oath below is recommended for the court's consideration.

"Do you solemnly swear or affirm that you will interpret accurately, completely and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the Code of Ethical Conduct for Court Interpreters adopted by the North Carolina Administrative Office of the Courts, follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?" (Court Interpretation: Model Guides for Policy and Practice in the State Courts, William E. Hewitt, 1995)

Section 9.7 Courtroom Placement

The interpreter should be as unobtrusive as possible throughout the proceeding, but should be allowed to move about the courtroom as necessary to best hear all speakers in order to provide effective interpreting services.

Section 9.7.a Interpreting for Limited English Proficient (LEP) Party

Unless the interpreter is using sound equipment that allows him to interpret from any point in the courtroom, the interpreter should sit near the LEP party at the counsel table when simultaneously interpreting for a party.

Section 9.7.b Interpreting for Limited English Proficient (LEP) Witness

When consecutively interpreting the testimony of an LEP witness, the interpreter should stand by the witness positioned in such a manner that the judge, the parties, the attorneys, and the jury are able to view the witness. The interpreter should interpret the witness' testimony loudly enough that the judge, the parties, the attorneys, the jury, and the court reporter are able to hear and understand the interpreter.

Section 9.8 Departure of Interpreter

For efficiency, courts are encouraged to excuse the court interpreter as soon as is appropriate to allow the interpreter to provide service to other courtrooms or courts.

SECTION 10

COURTROOM DECORUM DURING COURT PROCEEDINGS

SECTION 10 COURTROOM DECORUM DURING COURT PROCEEDINGS

Section 10.1 General Authority of the Court

The presiding judicial official governs the behavior of the parties, attorneys, court personnel, and other persons in the courtroom and should require compliance with these *Standards*. If a presiding judicial official requests or a local rule requires an interpreter to perform any action that is contrary to or inconsistent with the *Standards* or the Court Interpreter's Code of Ethics set forth in Section 11, the interpreter shall notify the judicial official and OLAS of the conflict.

Section 10.2 General Courtroom Decorum

To facilitate the interpreting process, the presiding judicial official should attempt to ensure that the courtroom is as quiet as possible, and that all participants speak audibly and clearly, at a reasonable rate of speed, and only one at a time.

COMMENT: When an LEP person is before the court, the interpreter's rendition is the most important mechanism for providing linguistic presence to the LEP person and, for witness testimony, preserving the record of the court proceeding. It is vital to the interpreter's performance that he clearly hear every word uttered by every speaker. While court interpreters are expected to report impediments to their performance, such as noise in the courtroom or the rate of a speaker's speech, judges can help tremendously in ensuring the court interpreter performs adequately by continuously monitoring and addressing any issues regarding audibility and rate of speech, noise in the courtroom, or the failure of parties or attorneys to speak one at a time.

Section 10.3 Ensuring Equal Access

The interpreter's purpose is to place the LEP party in a situation equivalent to that of an English-speaking party. Accordingly, the interpreter should render a complete and accurate interpretation of everything that is said during the proceeding.

COMMENT: It is important to recognize that a verbatim interpretation is not necessarily a complete and accurate interpretation. Specifically, an interpreter should not interpret a statement verbatim if a verbatim interpretation would not convey the true meaning of the statement. This is particularly true for idiomatic expressions. For example, a verbatim interpretation of the phrase "raining cats and dogs" may fail to convey the meaning of the phrase to the LEP person.

Section 10.4 Direct Speech Shall Be Used in Legal Settings

All speakers in the courtroom (judicial official, parties, attorneys, witnesses, interpreter, and court personnel) must use direct speech to ensure a clear and unambiguous record. Direct speech means that everyone should direct everything they say to each other exactly as they would if there were no language barrier.

COMMENT: Direct speech open court ensures everyone in the courtroom hears the speaker's first-person message, which the court reporter can record in English, either as spoken by the original English speaker or by the interpreter for the LEP speaker. Questions should never be directed to the interpreter to pass on to the LEP person. Judicial officials and attorneys should always formulate their statements as though the interpreter were not present and as though the recipient of the message was an English speaker.

Example:

Correct	Incorrect Speaker with Untrained Interpreter	Incorrect Speaker with Trained Interpreter
Attorney: "Please state your name for the record."	**Attorney:** "Please ask him to state his name for the record."	**Attorney:** "Please ask him to state his name for the record."
TRAINED Interpreter (in non-English language): "Please state your name for the record."	**UNTRAINED Interpreter** (in non-English language): "The attorney is asking you to state your name for the record."	**TRAINED Interpreter** (in non-English language): "Please ask him to state his name for the record."

Section 10.5 Interpreter to Use Third Person Speech When Addressing the Court

When an interpreter needs to speak directly to the presiding judicial official on his own behalf, he should refer to himself in the third person in order to reflect clearly that the interpreter is speaking on his own behalf and is not rendering the testimony or statement of a party in interest.

COMMENT: There may be times when the interpreter requires a repetition or requires clarification of something that was said so the interpreter can render a complete and accurate interpretation. In such an instance, the interpreter must address the court as himself to make that request. The interpreter should say, "Your Honor, the interpreter requests a repetition. The interpreter was unable to hear counsel's question." Observing this standard will allow the official court record to reflect clearly when the interpreter is speaking on his own behalf and when the interpreter is rendering the testimony or statement of a party in interest.

Section 10.6 Conflicts of Interest

If the interpreter becomes concerned about his ability to interpret for a particular case or for a particular person, or if the interpreter becomes aware of a possible conflict of interest, he should notify the presiding judicial official immediately. The judicial official should conduct an examination as to the

interpreter's conflict and make a determination as to whether the interpreter should continue to provide services in the case or whether another interpreter should be assigned to the proceeding.

Section 10.7 Duty to Report

A court interpreter has a duty to report any impediment to his performance to the presiding judicial official immediately so the judicial official may take steps to remove the impediment, if possible, or assign another interpreter. Such a report by the interpreter should be viewed as a good faith effort to protect the integrity of the interpretation and fairness of the proceedings.

Impediments include:

(a) **Physical**
The interpreter may be distracted or unable to hear the speaker due to background noise in or outside of the courtroom, a speaker mumbling, multiple people speaking at one time, or equipment failure if interpreting equipment is being used.

(b) **Linguistic**
The speaker's rate of speech may be too fast, or specialized terminology is being used with which the interpreter is not familiar.

(c) **Emotional**
The subject matter of the case may be too difficult for the interpreter to interpret as expected.

(d) **Fatigue**
If an interpreter is not provided with adequate breaks or finds himself in a long proceeding without a second interpreter, his ability to interpret at the level required is severely compromised.

Section 10.8 Acknowledgment of Interpreter Error or Uncertainty

When the interpreter realizes he has made a mistake or is unsure how to interpret a term or phrase, the interpreter must stop the proceedings, advise the presiding judicial official, and correct the mistake or clarify what the speaker said.

COMMENT: Interpreters are sworn to interpret accurately and completely, so are bound to carefully consider any objections to the interpretation in the proceeding and to report an error as soon as it is realized. This also applies to situations where an interpreter is confronted with a term or phrase he does not understand, or when a statement has been too long for the interpreter to accurately remember what was said, and requires clarification or a repetition. The presiding judicial official should direct the speaker to rephrase what was said or have a lengthy statement read back or restated.

SECTION 11

CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR COURT INTERPRETERS

SECTION 11 CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR COURT INTERPRETERS

Section 11.1 Purpose

Court interpreters are highly skilled professionals who fulfill an essential role in the administration of justice as neutral language conduits and communication facilitators. They play a vital role in protecting the integrity of the proceedings. This role requires an understanding by the court interpreter of the complexities of the tasks to be performed. As officers of the court, court interpreters help to ensure that LEP individuals obtain equal access to justice and that court proceedings function effectively. In performing these tasks, court interpreters should be guided by the ethical principles and standards set forth in this section.

Judicial officials should be cognizant of and sensitive to the limited role of the interpreter and not permit the interpreter to become a witness for or against either side during any proceeding. The objectivity of the interpreter should be protected, and all sides should be confident in the impartiality of the interpreter. Allowing the interpreter to become a witness as to the contents of documents or recordings, especially where the contents are contested, may compromise that role and raise ethical issues. That is one of the several reasons that the ethical training for interpreters generally forbids interpreting from recordings or translation of untranslated documents. Other standards address the procedure of interpreting or translating recordings or documents intended to be introduced as evidence.

Section 11.2 Applicability

The Code of Ethics and Professional Conduct for Court Interpreters (Code of Ethics) defines and governs the practice of court interpretation in the General Court of Justice and applies to all court interpreters providing services:

(a) In any proceeding before a North Carolina judicial official;

(b) Before any attorney during out-of-court communication or trial preparation; and

(c) In court operations.

Court interpreters are required to sign an oath agreeing to be bound by the Code of Ethics. A copy of this signed oath shall be filed with OLAS.

At all times, the court interpreter shall conduct himself in a manner consistent with the general conduct and principles set forth in this section.

Section 11.3 Representation of Qualifications

A court interpreter shall accurately represent his education, training, and certifications.

COMMENT: Interpreters shall not claim that they are certified court interpreters unless and until they have been officially certified by the NCAOC, passed the Federal Court Interpreter Certification Examination (FCICE), passed the examination administered by the National Association of Judiciary Interpreters and Translators (NAJIT), or been granted reciprocity by NCAOC for certification obtained in a CLAC member state.

Section 11.4 Impartiality and Avoidance of Conflict of Interest or Appearance of Conflict of Interest

A court interpreter serves as an officer of the court and has a duty to serve the court and the public. Interpreters shall remain impartial, and shall not engage in conduct that gives the appearance of partiality. Before providing services in a matter, court interpreters shall disclose to all parties and the presiding judicial official any prior contact, whether personal or professional, that could be reasonably construed as a conflict of interest. This disclosure should not include privileged or confidential information. Any condition that interferes with the objectivity of a court interpreter constitutes a conflict of interest.

COMMENT: Examples of possible conflicts of interest that trigger a duty to disclose include, but are not limited to the following: the interpreter has previously been retained by a law enforcement agency to assist in the preparation of the criminal case at issue; the interpreter or the interpreter's spouse or child has a financial interest in the subject matter in controversy or is a party to the proceeding, or any other interest that would be affected by the outcome of the case; the interpreter has been involved in the choice of an attorney or law firm for the case; or the interpreter is a friend, associate, or relative of a party or attorney for a party involved in the proceeding.

Section 11.4.a Private Employment by One of the Parties

A court interpreter shall disclose to the court and other parties when he has previously been retained for private employment by one of the parties in the case.

Section 11.4.b Contingency Fees

A court interpreter shall not serve in any matter in which payment for his services is contingent upon the outcome of the case.

Section 11.4.c Money, Gifts and Other Consideration

A court interpreter shall not accept money, gifts, or other consideration or favors of any nature or kind as an attempt to influence his actions with respect to the discharge of his obligations except for the authorized payment.

Section 11.4.d Double-Billing

A court interpreter shall not accept payment directly from or on the behalf of a person for whom the interpreter is being paid from Judicial Branch funds to provide the same interpreting or translating services.

Section 11.4.e Court Interpreter Who is an Attorney
A court interpreter who is also an attorney shall not serve in both capacities in the same matter in a court proceeding.

Section 11.4.f Personal Bias
A court interpreter shall notify the presiding official of any personal bias he may have involving any aspect of the proceedings. For example, an interpreter who has been the victim of a crime may wish to be excused from interpreting in cases involving similar offenses.

Section 11.4.g Referrals
A court interpreter shall never act as a referral service for any attorney or bondsmen. When asked to refer an LEP individual to an attorney, the interpreter shall refer such individual to the local bar association or the local public defender or legal services office.

Section 11.4.h Party Views Interpreter as Biased
In the event that a court interpreter becomes aware that a participant in a proceeding views him as being biased, the court interpreter should disclose that knowledge to the appropriate court authority and counsel.

Section 11.5 Professional Demeanor

Section 11.5.a Officers of the Court
A court interpreter is an officer of the court and shall conduct himself in a courteous, professional and responsible manner.

Section 11.5.b Observation of Standards
A court interpreter should know and observe the established protocol, rules, and procedures established by these *Standards* when delivering interpreting services. When speaking in English, interpreters should speak at a rate and volume that enable them to be heard and understood throughout the courtroom, but the interpreter's presence should otherwise be as unobtrusive as possible. Interpreters should work without drawing undue or inappropriate attention to themselves.

Section 11.5.c Dress
A court interpreter should dress in a manner that is consistent with the dignity of the court proceeding.

Section 11.5.d Sharing Knowledge and Expertise
A court interpreter should support other court interpreters by sharing knowledge and expertise with them to the extent practicable and in the interest of the court.

Section 11.5.e Equal Treatment of Others

A court interpreter should treat each person equally with dignity and respect regardless of sex, race, creed, color, national origin, political affiliation, sexual orientation, age, handicap, or socioeconomic class.

Section 11.5.f Timeliness

A court interpreter shall appear on time and report to the appropriate court personnel immediately upon arrival.

Section 11.6 Scope of Practice

While providing interpreting services, court interpreters shall limit themselves to interpreting and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities that may be construed to constitute a service other than interpreting. Additionally, court interpreters should refrain from initiating communications while interpreting, unless it is necessary for ensuring an accurate interpretation or making a disclosure required by the *Standards*.

Section 11.6.a Complete and Accurate Interpretation

A court interpreter shall interpret completely and accurately and shall not do the following:

(a) Alter the meaning of the statements he is interpreting;
(b) Interject his own words, phrases or expressions;
(c) Elaborate on or explain the statements he is interpreting; or
(d) Correct misstatements by the speaker, even when a misstatement is an obvious error.

COMMENT: For example, if a witness says his birth date is January 36, 1799 rather than January 26, 1999, the interpreter shall not correct the misstatement and shall interpret the witness statement as January 36, 1799.

Section 11.6.b Tone and Register

A court interpreter shall accurately convey the tone and register of the speaker.

Section 11.6.c Audio Sources

A court interpreter shall not interpret audio sources in court. Audio sources should be submitted to OLAS for transcription / translation services.

COMMENT: There is a misconception that interpreting audio sources is no more difficult than interpreting for live speakers. In reality, audio sources add numerous layers of difficulty that make it difficult for an interpreter to meet the standard of professional responsibility to interpret accurately and completely. Due to a number of very important variables, including context and quality of the recording, audio sources require the highly skilled task of transcription - translation.

Section 11.6.d Prohibited Actions

A court interpreter should not perform functions that are the responsibility of judicial officials, other court personnel or agency officials such as court clerks, pretrial release investigators, or interviewers, probation officers, or attorneys.

COMMENT: Such prohibited acts include providing explanations, completing forms or paperwork for LEP individuals, privately interviewing LEP individuals, or mediating between LEP parties. However, court interpreters may be used to interpret between the LEP individual and court personnel. Interpreters may also sight translate language on a form for a person who is filling out the form, but may not explain the form or its purpose to such a person.

Section 11.6.e Advice and Personal Opinions

A court interpreter shall not give advice, express personal opinions, or engage in any other activities that may be construed to constitute a service other than interpreting while serving as an interpreter.

Section 11.6.f Legal Advice

A court interpreter shall not give legal advice.

COMMENT: An interpreter may interpret between an attorney and the attorney's client while the attorney is present and providing legal advice to the client. The attorney shall not send the interpreter with a message to his client.

Section 11.6.g Initiating Communication Outside of Interpretation

A court interpreter should not initiate communications while interpreting unless it is necessary to ensure an accurate and faithful interpretation or to further the administrations of justice. If the interpreter finds it necessary to initiate communication, the interpreter should ask the judicial official's permission to do so.

COMMENT: Examples of such circumstances include seeking direction when unable to understand or express a word or thought, requesting speakers to moderate their rate of communication or repeat or rephrase something, correcting their own interpreting errors, or notifying the court of reservations about their ability to satisfy an assignment competently. In such instances the interpreter should make it clear that he is speaking for himself. This is achieved by using the third person, e.g., "The interpreter requests that the question be repeated, clarified, etc."

Section 11.7 Assessing and Reporting Impediments to Performance

Section 11.7.a Concerns about Ability to Interpret

A court interpreter shall inform the presiding judicial official immediately if he has concerns about his ability to interpret in a particular proceeding or for a particular person.

COMMENT: For example, the interpreter shall immediately inform the judicial official of his concerns if he cannot understand the LEP speaker's language, or knows the party in interest, or has strong opinions regarding the case.

Section 11.7.b Environmental Factors or Physical Limitations

A court interpreter shall notify the presiding judicial official if environmental factors or physical limitations impede or hinder his ability to deliver interpreting services adequately.

COMMENT: For example, the interpreter shall notify the judicial official if the courtroom is not quiet enough for the interpreter to hear or be heard by the LEP individual, more than one person at a time is speaking, or parties or witnesses are speaking at a rate of speed that is too rapid for the interpreter to interpret adequately.

Section 11.7.c Interpreter Fatigue

A court interpreter shall notify the presiding judicial official of the need to take periodic breaks to maintain mental and physical alertness and prevent interpreter fatigue.

COMMENT: Interpreters shall recommend and encourage the use of team interpreting for proceedings expected to last longer than two hours.

Section 11.7.d Inquiries as to the Nature of a Case

A court interpreter should consider the information provided to him by the LAC as to the nature of a case whenever possible before accepting an assignment.

Section 11.7.e Inability to Interpret Competently

A court interpreter should refrain from accepting a case if the language and subject matter of that case are likely to exceed his skills or capacities. The interpreter should notify the presiding judicial official if he feels unable to perform competently, due to lack of familiarity with terminology, preparation, or difficulty in understanding a witness or defendant.

COMMENT: This enables interpreters to match more closely their professional qualifications, skills, and experience to potential assignments and more accurately assess their ability to satisfy those assignments competently. Even competent and experienced interpreters may encounter cases in which routine proceedings suddenly involve technical or specialized terminology unfamiliar to the interpreter (e.g., the unscheduled testimony of an expert witness). When such instances occur, the interpreter should request a brief recess to familiarize himself with the subject matter.

Section 11.7.f Harassment or Intimidation

A court interpreter shall inform the presiding judicial official and OLAS if the interpreter feels harassed or intimidated.

Section 11.8 Duty to Report Ethical Violations

A court interpreter who discovers any effort that would impede full compliance with the Code of Ethics shall immediately report the effort to the presiding judicial official and to OLAS.

Section 11.8.a Solicitations to Violate Code of Ethics

A court interpreter shall immediately report any solicitations or efforts by another to influence an interpreter to violate any law, Code of Ethics, *Standards*, or any other official policy governing court interpretation and translation.

COMMENT: Because many people frequently misunderstand the proper role of the court interpreter, they may ask or expect the court interpreter to perform duties or engage in activities that are inappropriate. The court interpreter shall inform such persons of the proper role of the court interpreter. If, having been apprised of the proper role of the court interpreter, the person persists in asking the court interpreter to perform inappropriate functions, the court interpreter shall report such efforts to the appropriate judicial official and to OLAS.

Section 11.9 Professional Development

A court interpreter shall continually improve his skills and knowledge through activities such as professional training, education, and interaction with colleagues and specialists in related fields.

Section 11.9.a Continually Increase Knowledge

A court interpreter shall continually strive to increase his knowledge of the language(s) in which he works, including past and current trends in technical, vernacular, and regional terminology, as well as their application within court proceedings.

Section 11.9.b North Carolina Statutes and NCAOC Policies
A court interpreter should be aware of all North Carolina statutes and NCAOC policies that relate to the performance of his professional duties, including but not limited to the *Standards.*

Section 11.9.c Elevate Standards of the Profession
A court interpreter should seek to elevate the standards of his profession through participation in workshops, professional meetings, interaction with colleagues, and reading current literature in the field.

Section 11.9.d Continuing Education
A court interpreter shall complete 12 hours of continuing education every two years as set forth in Section 13.3 to maintain his employment or contract with NCAOC and his eligibility to remain on the Registry.

Section 11.10 Confidentiality and Restriction of Public Comment

Section 11.10.a Privileged and Confidential Information
A court interpreter shall preserve the confidentiality of any privileged or confidential information he interprets.

Section 11.10.b Public Comments and the Media
A court interpreter shall not publicly discuss or comment on a matter in which he is providing interpreting services. An interpreter should never grant interviews to the media, make comments, or express personal opinions to any of the parties about any aspect of the case even after a verdict is rendered or the case is otherwise disposed.

Section 11.10.c Professional Detachment
A court interpreter shall strive for professional detachment and should not display verbal and nonverbal indications of personal attitudes, prejudices, emotions, or opinions.

Section 11.10.d Limited Casual Conversations

A court interpreter shall limit his conversations with parties, witnesses, jurors, attorneys, or friends or relatives of any party, except in the discharge of his official functions.

COMMENT: It is especially important that court interpreters, who are often familiar with attorneys and other individuals who regularly appear in the courtroom, refrain from casual and personal conversations with anyone in court that may convey an appearance of a special relationship with or partiality to any of the court participants. Verbal and nonverbal displays by the court interpreter of personal attitudes, prejudices, emotions, or opinions should be avoided at all times.

Section 11.10.e Disclosure of Information

A court interpreter shall not repeat or disclose information relevant to the court proceeding obtained in the course of his employment except as required by law or the *Standards*.

Section 11.10.f Information Subject to Disclosure

If, during the course of a court assignment, an interpreter becomes aware of information that suggests imminent harm to someone or relates to a crime being committed, the interpreter shall immediately disclose the information to law enforcement, as appropriate.

Section 11.10.g Comments Regarding Verdict

No court interpreter shall comment or render an opinion on the propriety or impropriety of a verdict in any matter in which he has served except as required by law or the *Standards*.

Section 11.11 Accuracy and Completeness

A court interpreter must ensure that proceedings in English reflect precisely what was said by the LEP individual and place the LEP individual on equal footing with those who speak or understand English.

Section 11.11.a Accurate and Complete Interpretation

A court interpreter shall render a complete and accurate interpretation or sight translation without altering, omitting, or adding to any utterances, either stated or written, to the best of his skill and ability.

COMMENT: Court interpreters are obligated to preserve every element of information contained in the source language communication when it is rendered into the target language. However, verbatim, "word for word," or literal oral interpretations are not appropriate when they distort the meaning of the source language. Every spoken statement, even if it appears nonresponsive, obscene, rambling, or incoherent, should be interpreted, including apparent misstatements.

Section 11.11.b Explanation Prohibited
A court interpreter shall not explain or otherwise comment on the utterances he interprets.

Section 11.11.c Error of Interpretation
A court interpreter shall correct any error in his interpretation as soon as he becomes

COMMENT: Accuracy can only be preserved if all errors are reported to the court and corrected.

aware of the error.

Section 11.11.d Legal Equivalence
A court interpreter shall preserve legal equivalence while interpreting. Legal equivalence is the linguistically true and legally appropriate interpretation of statements spoken or

COMMENT: To achieve legal equivalence, court interpreters must interpret the original source material without editing, summarizing, deleting, or adding anything, while preserving the language level, style, tone, and intent of the speaker. If an LEP individual does not understand the statement at the language level at which it was spoken, the LEP individual may request an explanation or clarification, if necessary, from the speaker through the court interpreter.

read in court from one language to another language.

Section 11.11.e Preservation of Meaning
A court interpreter shall preserve the meaning of what is said in court, including the style or register of speech.

Section 11.11.f Slang, Idioms, and Culturally-Bound Expressions
When interpreting slang, idioms, or culturally-bound expressions that do not translate easily, the court interpreter must express them in such a way that the speaker's intended meaning is preserved. If that is not possible, the court interpreter should repeat the term to the court in the source language.

Section 11.11.g Interjection of Interpreter's Words or Phrases Prohibited
A court interpreter shall not interject the interpreter's own words, phrases, or expressions. If the need arises to explain an interpreting problem, (e.g., a term or phrase with no direct equivalent in the target language or a misunderstanding that the court interpreter can clarify) the court interpreter should ask the judicial official's permission to provide an explanation.

Section 11.11.h Gestures

A court interpreter shall not reenact the speaker's gestures. Gestures are self-evident and should not be repeated or reinforced by the interpreter for the finder of fact.

SECTION 12

BECOMING A NORTH CAROLINA SPOKEN FOREIGN LANGUAGE COURT INTERPRETER

SECTION 12 BECOMING A NORTH CAROLINA SPOKEN FOREIGN LANGUAGE COURT INTERPRETER

Section 12.1 Requirement of Testing and Certification

Section 12.1.a Spanish Language Court Interpreters

The testing and certification process set out in Section 12.2 is mandatory for all Spanish language court interpreters.

Section 12.1.b LOTS Interpreters for Which an Examination Has Been Released for Administration by CLAC

The testing and certification process set out in Section 12.2 is mandatory for all LOTS interpreters for which an examination has been released for administration by CLAC. For an updated list of available exams, visit ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/Written-and-Oral-Exam-Resources.aspx.

Section 12.1.c LOTS Interpreters for Which a Certification Examination Has Not Been Developed

The assessment process set out in Section 12.4 is mandatory for all LOTS interpreters for which an examination has not been developed.

Section 12.2 Certification of Foreign Language Court Interpreters

A candidate shall meet all of the following requirements in order to receive formal certification as a foreign language court interpreter from NCAOC:

(a) Attend the North Carolina Court Interpreter Orientation Training Session and pass the written language proficiency screening tests, consisting of both the CLAC written English proficiency test, and
   1. A written language proficiency test in the candidate's language of expertise, subject to the availability of raters for that written language assessment, or
   2. A superior rating from an approved American Council on the Teaching of Foreign Languages Oral Proficiency Interview (ACTFL OPI) in the candidate's language of expertise

(b) Attest that he is a United States citizen or is authorized to work in the United States. The NCAOC may require proof of citizenship or work authorization at any time during the term of this agreement. The applicant shall provide proof of citizenship or authorization to work not later than five days after receiving NCAOC's written request

(c) Attend an approved skill-building workshop in preparation for the North Carolina Court Interpreter Certification Examination (NCCICE)

COMMENT: As part of North Carolina's initial certification process, applicants for certification must attend a skill building workshop approved by OLAS. Workshops are announced via email to eligible candidates as they become available. Candidates are encouraged to seek out training opportunities and should visit ncsc.org/Education-and-Careers/State-Interpreter-Certification/Interpreter-Events-Workshops.

(d) Submit an application to sit for the NCCICE on a registration form prescribed by the NCAOC

(e) Submit four letters of recommendation from a judge, clerk, district attorney, public defender, magistrate, private attorney, or a person equivalent in rank in another professional setting in which the candidate has performed interpreting services, or if the person has never interpreted, a supervisor for whom he has worked demonstrating the applicant's competence, good character, and fitness

(f) Submit to a criminal record check to determine the nexus between any criminal conviction, and the prospective duties of the applicant as an interpreter. When evaluating any applicant with a record of criminal convictions, the NCAOC shall also take into consideration the date and seriousness of the offense, the age of the applicant at the time of the offense and any evidence of rehabilitation of the applicant.

(g) Demonstrate good character and fitness as indicated in Section 12.4

(h) Take and pass the NCCICE or the Federal Court Interpreter Certification Examination (FCICE)

(i) Sign and notarize the Oath of Interpretation, which includes the Standards for Language Access Services in North Carolina State Courts and the Code of Ethics

(j) Agree to be listed in the Directory of Federally Certified and North Carolina State Certified Spoken Foreign Language Court Interpreters

(k) Agree to provide written notice to OLAS of any change in contact information

(l) Pay any application fee, training fee, or examination fee charged by the NCAOC, and

(m) Adhere to any evaluation process, renewal fee, certification renewal examination, post-certification orientation sessions or continuing education credits required by the NCAOC.

Section 12.3 Certification Examination

NCAOC, through its membership in CLAC, adopts and shall use the CLAC oral proficiency examinations for court interpreters as the NCCICE to test eligible candidates who wish to provide services as spoken foreign language court interpreters to the North Carolina state courts. OLAS will administer the NCCICE in strict compliance with the standards set forth by CLAC.

The OLAS Manager will determine how often, at what locations, and for what languages OLAS will administer these examinations. The OLAS Manager also will determine those persons eligible to take the examinations.

Section 12.4 Assessment of LOTS Candidates for Which a Certification Examination Has Not Been Developed

LOTS candidates for which a certification examination has not been developed or approved by CLAC shall meet the following requirements in order to be deemed minimally qualified:

(a) Attend the North Carolina Court Interpreter Orientation Training Session and pass the written English proficiency test

(b) Take the ACTFL OPI exam, or comparable exam as approved by OLAS, and achieve a superior rating in the candidate's language of expertise and English

(c) Attest that he is a United States citizen or is authorized to work in the United States. The NCAOC may require proof of citizenship or work authorization at any time during the term of this agreement. The applicant shall provide proof of citizenship or authorization to work not later than five (5) days after receiving NCAOC's written request for such proof.

(d) Submit four letters of recommendation from a judge, clerk, district attorney, public defender, magistrate, private attorney, or a person equivalent in rank in another professional setting in which the candidate has performed interpreting services, or if the person has never interpreted, a supervisor for whom he has worked demonstrating the applicant's competence, good character, and fitness

(e) Submit to a criminal record check to determine the nexus between any criminal conviction and the prospective duties of the applicant as an interpreter. When evaluating any applicant with a record of criminal convictions, the NCAOC shall also take into consideration the date and seriousness of the offense, the age of the applicant at the time of the offense and any evidence of rehabilitation of the applicant

(f) Take and pass a modified oral interpreting examination administered by OLAS, if available

(g) Sign and notarize the Oath of Interpretation, which includes the Standards for Language Access Services in North Carolina State Courts and the Code of Ethics

(h) Agree to provide written notice to OLAS of any change in contact information

(i) Pay any application fee, training fee, or examination fee charged by the NCAOC, and

(j) Adhere to any evaluation process, renewal fee, certification renewal examination, post-certification orientation sessions or continuing education credits required by the NCAOC.

Section 12.5 Good Character and Fitness

In determining whether an applicant has demonstrated good character and fitness necessary for authorization as an interpreter, NCAOC shall consider the criminal record check results of the applicant, the required recommendations, and other references provided by the applicant.

Section 12.6 Reciprocity

A certified court interpreter who has attained certification, as defined in Section 2.4(a), through another CLAC member state or the Administrative Office of the United States Courts, and who wishes to work in North Carolina may be granted reciprocity. If an interpreter has already passed an examination administered by CLAC, the FCICE, or a certification exam from the National Association of Judiciary Interpreters and Translators (NAJIT), the candidate may be excused from taking the NCCICE provided that documentation of successful completion of the exam qualifies the interpreter as a certified court interpreter as defined in Section 2.4 is provided to OLAS. In order to be certified to provide interpreting services in North Carolina, however, the interpreter will have to meet all of the other requirements in Section 12.2.

Section 12.7 Court Interpreter Classification Levels

NCAOC recognizes three official levels of qualification, based on oral performance examination scores on the FCICE or NCCICE: Level A1, Level A2, and Level B. Based on the results of the testing and certification process, NCAOC will assign an interpreter to one of three levels of qualifications. Other interpreters may be authorized as minimally qualified interpreters.

Level A1 – Master Certified Court Interpreters: Level A1 court interpreters have passed the NCCICE in the interpreter's language of expertise with a minimum score of 80 percent in each of the three sections of the examination or the FCICE.

COMMENT: Level A1 court interpreters may interpret for any proceeding and are the interpreters of first choice for trials and hearings of any legal or linguistic complexity, having demonstrated exceptional interpreting skills via the objective testing measures of the FCICE, NCCICE, or the NAJIT exam.

Level A2 – Certified Court Interpreters: Level A2 court interpreters have passed the NCCICE in the interpreter's language of expertise with a minimum score of 70 percent in each of the three sections of the examination, and have scored no less than 65 percent on each of the sight-translation portions of the exam.

COMMENT: Level A2 court interpreters are presumptively qualified to interpret any proceeding, having demonstrated the possession of at least minimally competent skills to perform the tasks required of a court interpreter via the objective testing measures of the NCCICE. The judge or OLAS, at their discretion, may require a more qualified A1 in special circumstances.

Level B – Conditionally Qualified Court Interpreters: Level B court interpreters have taken the NCCICE in the interpreter's language of expertise and have either passed two of the three sections with a score of at least 70 percent on each of the passed sections, or achieved scores between 61 percent and 69.9 percent on all three sections. Upon demonstrating a Level B proficiency, Level B candidates have two years within which to retake the NCCICE and become certified (Level A1 or A2), or they will be removed from the Registry.

For languages for which only partial exams exist, passing two sections will allow candidates to become conditionally qualified. If a full examination is subsequently developed, such candidates will be given two years from release of that examination to pass the remaining section.

COMMENT: Level B court interpreters are available for out-of-court communication. A Level B court interpreter should not interpret during a trial in superior court unless he is teamed with a certified (Level A1 or A2) court interpreter. A Level B court interpreter should not interpret during a trial in district court unless a certified (Level A1 or A2) court interpreter is unavailable.

In some instances, OLAS may assign minimally qualified interpreters for LOTS. These interpreters are to be used for services only after diligent efforts to secure a master certified, certified, or conditionally qualified interpreter proved unsuccessful. These interpreters shall be limited to appearances such as arraignments, minor violations in district courts and non-evidentiary hearings, or if interpretation is required in a language for which a certified or conditionally qualified interpreter is not reasonably available. OLAS and the presiding judicial official should consider the nature, duration, and difficulty of the proceeding as well as the availability of a better qualified interpreter in deciding whether to proceed.

Section 12.8 Reassessment after Initial Certification

If the OLAS Manager has reasonable grounds to believe that the interpreter's knowledge or qualifications have changed since initial certification, NCAOC may reassess the interpreter's qualifications to determine if the interpreter's designation should change. NCAOC shall have the right to require the interpreter to undergo any additional testing reasonably required to perform the assessment.

Section 12.9 Final Approval for Certification Rests with Director

The Director, or his designee, shall have final authority to determine whether to certify a particular applicant as a North Carolina certified court interpreter, including a determination as to whether the applicant has met all of the requirements of this Section.

Section 12.10 Maintaining Eligibility to Contract Requirements

In order to maintain eligibility to be employed by or contract with NCAOC to provide interpreting services to North Carolina courts, interpreters must comply with the continuing education requirements set out in Section 13.3, in addition to all of the requirements set out in Section 12.

SECTION 13

EDUCATION AND TRAINING OF COURT INTERPRETERS

SECTION 13 EDUCATION AND TRAINING OF COURT INTERPRETERS

Section 13.1 Training for Newly-Authorized Court Interpreters

OLAS shall develop training materials for court interpreters who are certified pursuant to Section 12 to introduce them to courtroom procedures, ethics, protocol, legal terminology, and the role of the court interpreter in the legal process. These training materials may be in the form of webinars, written manuals, videos, or other available means.

Section 13.2 Mandatory Training for Staff Court Interpreters

Subject to sufficient appropriations and resources, OLAS shall offer mandatory professional skills building workshops and training for staff court interpreters.

Section 13.3 Continuing Education Requirements

All certified court interpreters must complete a minimum of 12 hours of continuing education every two years, effective from the date of commencement of the contract. Of these 12 credits, a minimum of two hours must be in ethics and a minimum of three hours must involve skills building on the three modes of interpretation.

Section 13.3.a Approved Training and Educational Programs

Continuing education credits may be obtained through programs approved by NCAOC, including those posted by the CLAC, the NAJIT / ATA conferences, educational programs offered by colleges or universities, or training programs offered by other CLAC member states.

Section 13.3.b Pre-Approval of Training

Interpreters should submit course information to the OLAS Manager for approval a minimum of 30 days prior to attending the course. OLAS will review the course information and determine whether the proposed course meets NCAOC continuing education requirements.

Section 13.3.c Calculation of Continuing Education Units

OLAS will determine the amount of credit, if any, to be awarded for continuing education once it receives a request for approval, if the class has not already been assigned continuing education units by the provider.

Section 13.3.d Documentation of Training

Within 30 days of attending a continuing education program or class, the interpreter must submit to OLAS proof of completion of the course, including the nature and details of the training. OLAS shall document and track the continuing education requirements.

Section 13.3.e Failure to Comply with Continuing Education Requirements

Failure to comply with the requirements of this section will result in the removal of the interpreter's name from the Registry maintained by OLAS. Prior to removing the interpreter's name from the Registry, OLAS shall provide notice of the noncompliance and allow the interpreter 30 days to comply. If the interpreter does not comply within the 30 days, his contract with NCAOC may be suspended or terminated, and the interpreter will not be paid for services provided to North Carolina courts after the date of the suspension or termination of the contract.

Section 13.3.f Reinstatement to the Registry

Once OLAS determines that the interpreter is in compliance with the requirements of this section, OLAS will reinstate the interpreter's name to the Registry.

SECTION 14

COMPENSATION

SECTION 14 COMPENSATION OF INDEPENDENT CONTRACT INTERPRETERS

Section 14.1 Registration Requirement

All prospective independent contract interpreters shall submit a completed *Application to Be a Registered Court Interpreter* (AOC-A-207) and a completed Request for Taxpayer Identification Number and Certification form (Form W-9) to OLAS.

Section 14.2 Personal Services Contract Requirement

Independent contract Interpreters shall not be paid for services provided without a personal services agreement between the interpreter and NCAOC, or, if applicable, an Assignment Sheet. All subsequent references in this Section to the "Contract" refer to either the personal services agreement or the Assignment Sheet, as applicable.

Section 14.2.a Spanish Language Interpreters

Qualified Spanish language applicants shall enter into a Contract with NCAOC to provide interpreting services to the courts in order to be eligible for payment. Once an applicant's *Application to Be a Registered Court Interpreter* (AOC-A-207) and W-9 form have been received, OLAS will assign the appropriate proficiency classification level to the applicant and submit the application to NCAOC's General Services Division (GSD) for issuance of Contract. The applicant shall initial all parts where indicated, sign the contract as instructed, and return it to GSD.

Section 14.2.b LOTS Interpreters

LOTS applicants are assigned on a case-by-case basis and provided an Assignment Sheet for each authorized assignment. This Assignment Sheet is the Contract for the assignment and shall be received before the interpreter reports to court to provide services. The Assignment Sheet shall be submitted with the interpreter's *Foreign Language Interpreter Invoice for Hours Worked (Invoice)* (AOC-A-215) and the corresponding *Foreign Language Interpreter Daily Log (Daily Log)* (AOC-A-216) to be paid for services rendered.

Section 14.3 Interpreter to Provide Invoices

Independent contract interpreters shall submit the monthly Invoice and the corresponding Daily Log and Assignment Sheet, if applicable, no later than 30 days from the last day of the month in which services were provided. Interpreters shall submit a separate Invoice and corresponding Daily Log(s) for each county.

Section 14.4 Rate of Compensation

The rate of compensation for independent contract interpreters shall be set by the Director, or his designee, and set forth in the Contract.

Section 14.4.a Review of Compensation

Every three years, prior to the execution of the Contract, the Director shall review the hourly rate of compensation.

Section 14.5 Normal Work Hours and Exceptions

Normal work hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday, including federal and state holidays. Language access services for courts, district attorneys, and public defenders, including jail visits, shall be scheduled during normal work hours whenever possible.

Section 14.6 Pay Differentials for Services Provided Outside of Normal Working Hours

Except for regularly scheduled night courts, an independent contract interpreter shall be paid a differential hourly rate when the interpreter's services are required after normal work hours or on weekends. The differential hourly rate shall be set by the Director, or his designee, and is set forth in the Contract.

Section 14.7 Compensable Time

Compensable time is either the actual hours worked or the minimum compensable time as set out in Section 14.8, whichever is greater. Compensable time shall be calculated beginning at the time the interpreter is scheduled to arrive or actually arrives at the designated courtroom or other location, and reports to the courtroom clerk or requesting party. The interpreter shall be compensated for time spent waiting for a case to commence or continue, so long as the interpreter remains available to provide services as directed by the court or requesting party, as well as inactive time (e.g., rest breaks required to avoid fatigue) during an assignment. Lunch time, as set by the court or the requesting party, shall not be considered in the calculation of compensable time.

Section 14.8 Minimum Compensable Time

Section 14.8.a Minimum Compensable Time

Independent contract interpreters shall be paid for a minimum number of hours based on the scheduled assignment as set forth below.

Independent contract interpreters for the Spanish language shall be paid for interpreting services as set forth in the Contract. The current minimums are as follows:

(a) A minimum of two hours if the Interpreter is scheduled for a single case;

COMMENT: A "single case" is considered to be either a single case or a single defendant with multiple charges that are set together.

(b) A minimum of three hours if Interpreter is scheduled for a single morning or afternoon session of court; or

(c) A minimum of five hours if the Interpreter is scheduled to appear for a full day of court or a superior court trial, or a single morning and single afternoon session of court in the same county.

LOTS interpreters shall be paid for interpreting services as set forth in the Contract.

Section 14.8.b Minimum Compensable Hours May Not Overlap

Minimum compensable time shall not overlap, and the interpreter shall not seek reimbursement for multiple NCAOC assignments scheduled during the same time period on the same date. Instead, the interpreter shall split the minimum compensable time between the multiple assignments.

Section 14.8.c Prohibition against Double-Billing

An independent contract interpreter shall not receive compensation for the minimum compensable time if that time coincides with the interpreter providing services to private parties or other agencies. If the interpreter provides services outside the scope of the NCAOC assignment during the minimum compensable time, the interpreter shall deduct such time from the minimum on the Invoice and Daily Log.

COMMENT: Private parties or other agencies may need to procure interpreting services to conduct business outside of the court proceeding. In those instances, the interpreter may agree to halt or suspend the NCAOC compensable time, if permitted by the presiding judicial official, and contract privately to provide services for the private parties / agency on terms agreed to by the parties.

Double billing is prohibited, so the interpreter shall bill the private parties / agency for the actual time used and not an additional private minimum. Once the private service has concluded, if the interpreter's services are required for additional NCAOC covered events, the interpreter may resume the clock for the NCAOC compensable time. Interpreters should note any time taken off the NCAOC clock on the daily log.

EXAMPLE: An interpreter is scheduled to provide services during a morning session of court beginning at 9:00 a.m. Two hours into the morning session (11:00 a.m.), a private attorney approaches the interpreter and asks if the interpreter can interpret for him so he can speak to his client. If the interpreter obtains permission from the judicial official to become temporarily unavailable to the court, then the interpreter should note what time he leaves his station to provide this private service. The attorney meets with his client with the interpreter for half an hour. The attorney enters into an agreement with the interpreter to pay him for his services for half an hour. The interpreter returns to his station in court and back on NCAOC time at 11:30 a.m. and the session concludes at noon. The court interpreter can only charge 2.5 hours to NCAOC.

Section 14.9 Failure to Appear at Designated Time

If an independent contract interpreter fails to appear for a scheduled assignment at the designated time, without prior notification to the court, and due to his absence the court reschedules the

proceeding for another time or secures the services of a substitute interpreter, the interpreter who was originally scheduled will not be paid.

Section 14.10 Additional Assignments during Minimum Time Period

If an independent contract interpreter is scheduled for a minimum time period and has completed all scheduled assignments prior to the end of the minimum time period, the interpreter shall contact the LAC and seek additional assignments for the duration of the minimum compensable time prior to leaving the courthouse. If no alternate assignment is available, the interpreter shall bill the minimum time for which he was scheduled, pursuant to Section 14.8.

Section 14.11 Cancellation Rate

If an independent contract interpreter is notified less than 24 hours, excluding weekends and holidays, before the scheduled assignment that the interpreter's services will not be needed, the interpreter should contact the LAC or OLAS to determine if an alternate assignment is available. If no alternate assignment is available, the interpreter may bill the minimum time for which he was scheduled, pursuant to Section 14.8.

Section 14.12 Reimbursement of Travel Expenses

NCAOC will reimburse an independent contract interpreter for mileage and payment of one-half the interpreter's travel time if the interpreter must travel more than 35 miles one-way for scheduled court assignments. The interpreter may be reimbursed for parking if the interpreter attaches a parking receipt to his Invoice.

Section 14.13 Payment for Overnight Accommodations and Meals

If an independent contract interpreter's services will require travel over 75 miles and an overnight stay, the interpreter shall obtain preapproval in writing from the OLAS Manager prior to incurring any overnight expenses. The interpreter will be reimbursed for lodging and meals in the amount of the current state rate set out in the Travel Policy for the Judicial Department and the Administrative Office of the Courts (the NCAOC Travel Policy).

Each interpreter is responsible for submitting all necessary documentation relevant to the reimbursement request, including original hotel receipts, exact time of departure and arrival each way, and written documentation of any other allowable expenses.

Section 14.14 NCAOC to Pay within 30 Days

NCAOC shall pay approved Invoices within 30 days, subject to the availability of funds.

SECTION 15

DISCIPLINARY PROCEDURES FOR AUTHORIZED SPOKEN FOREIGN LANGUAGE COURT INTERPRETERS

SECTION 15 DISCIPLINARY PROCEDURES FOR AUTHORIZED SPOKEN FOREIGN LANGUAGE COURT INTERPRETERS

Section 15.1 Authority to Discipline

The Director, or his designee, has the authority to discipline any authorized court interpreter.

Section 15.2 Grounds for Disciplinary Action

The Director, or his designee, may impose disciplinary sanctions against any authorized court interpreter who performs services in North Carolina courts for any of the following reasons:

(a) Conviction of a felony, a Class A1 misdemeanor, or a crime involving moral turpitude (e.g., fraud or the unauthorized practice of law);

(b) Fraud, dishonesty, or corruption related to the functions and duties of a court interpreter (e.g., charging a party when services are being paid for by the State, or charging for hours not worked);

(c) Continued false or deceptive advertising after receipt of notification to discontinue;

(d) Knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity as a court interpreter, except as required by law;

(e) Engaging in unprofessional behavior or unethical conduct;

(f) Failing to provide proficient language access services appropriate to his interpreter classification level;

(g) Failing to appear as scheduled or to follow an order of the court without good cause;

(h) Engaging in behavior that constitutes discrimination or harassment;

(i) Noncompliance with the Code of Ethics; or

(j) Noncompliance with any training, certification or registration requirements mandated by NCAOC.

Section 15.3 Available Sanctions

The Director, or his designee, has the authority to impose any one or more of the following sanctions or combination of sanctions on interpreters providing services for the Judicial Branch:

(a) Revoke or suspend the interpreter's certification by NCAOC to provide language access services for the Judicial Branch;
(b) Terminate the contract or employment between the interpreter and NCAOC;

(c) Limit or suspend work by the interpreter with the North Carolina courts;

(d) Remove the interpreter's name from the Registry;

(e) Issue a reprimand;

(f) Specify corrective action with which the interpreter must comply in order to remain on the Registry or remain certified by the NCAOC; or

(g) Take any appropriate disciplinary action necessary to enforce the provisions of these *Standards.*

Section 15.4 Filing of a Complaint against a Court Interpreter

A complainant may submit a complaint against an authorized court interpreter. The complaint must be in writing and signed by the complainant. The complaint shall state the date, time, place, and nature of the alleged improper conduct. If possible, the complainant shall include the names, titles, and telephone numbers of possible witnesses. The complaint shall state why the complainant believes the alleged improper activity should be sanctioned.

The complaint can be submitted to the OLAS Manager by mail, email (OLAS@nccourts.org), or online through the Language Access Complaint Form. If the complainant is unable to communicate in written English, the complainant may submit the complaint in his primary language.

Section 15.4.a Prohibition Against Retaliation

A complainant may submit a complaint against an authorized court interpreter freely and without fear of retaliation. Retaliation in any form against a complainant is strictly prohibited.

Section 15.5 Initial Review of Complaint

The OLAS Manager shall review the complaint and determine whether the allegations, if true, would constitute any of the grounds for disciplinary action set forth in Section 15.2.

Section 15.5.a Proceed with Investigation

If the OLAS Manager determines that the complaint alleges conduct that would be grounds for disciplinary action, the OLAS Manager will conduct an investigation as set forth in Section 15.6.

Section 15.5.b Dismissal of Complaint

If the OLAS Manager determines that the complaint does not allege conduct that would constitute any of the grounds for disciplinary action set forth in Section 15.2, the OLAS Manager shall dismiss the complaint and notify the interpreter and complainant via mail or email within 30 days of receiving the complaint. The notification shall include an explanation of the reason(s) for the OLAS Manager's determination that the complaint does not allege conduct that constitutes grounds for disciplinary action.

Section 15.6 Procedure for Investigation

If the complaint does allege conduct that would constitute grounds for disciplinary action, the OLAS Manager shall investigate as necessary or refer the investigation to an appropriate agency or individual.

Section 15.6.a Notification to the Interpreter

The OLAS Manager shall contact the interpreter, inform him of the complainant's allegations, and give the interpreter the opportunity to respond. The interpreter's response shall be included in the OLAS Manager's investigation report.

Section 15.6.b Dismissal upon Finding No Grounds for Disciplinary Action

At the conclusion of the investigation, if the OLAS Manager determines that no conduct occurred that would constitute grounds for disciplinary action, the OLAS Manager shall dismiss the complaint and notify the interpreter and the complainant by mail or email. The notification shall include an explanation of the reason(s) for the OLAS Manager's determination that no grounds for disciplinary action exist. If the complainant disagrees with the OLAS Manager's determination, the complainant may file a petition for review with the Director under the same procedures outlined in Section 15.7.

Section 15.6.c Findings that May Be Grounds for Sanctions

The OLAS Manager shall complete an investigation and file a report within 60 days of the receipt of a complaint against a court interpreter. The report shall include findings and any sanctions imposed pursuant to Section 15.3. If the OLAS Manager imposes disciplinary sanctions against the court interpreter, the OLAS Manager shall submit a copy of the report to the complainant, the interpreter, and the Director.

Section 15.6.d Confidential Information Shall Not Be Disclosed

Nothing in these *Standards* shall require the disclosure of information that is confidential pursuant to applicable state or federal laws. Any report disseminated pursuant to these *Standards* shall provide relevant information in accordance with state and federal law, and shall redact any information that is not public record.

Section 15.7 Right to Seek Review by the Director

The interpreter and complainant shall have the right to seek review of the OLAS findings and any sanctions imposed pursuant to Section 15.3. The interpreter or complainant must submit a written petition to the Director and the OLAS Manager within 30 days of the date of the OLAS Manager's report. The petition shall briefly state the facts or argument that form the basis for the request for review and the reasons for believing that the Director should overturn the OLAS Manager's decision.

Section 15.7.a Response to Request for Review

The OLAS Manager shall submit a response to the request for review to the Director no later than 30 days after the OLAS Manager receives a copy of the request for review.

Section 15.7.b Director's Decision on Review

The Director shall make a decision on the request for review within 60 days of receipt. A decision by the Director pursuant to this section shall be final and binding.

If the Director determines that the OLAS Manager's report does not support a finding of misconduct pursuant to Section 15.2 or that the sanction imposed pursuant to Section 15.3 is unreasonable, the Director shall dismiss the complaint or modify the findings or sanction and notify the interpreter, complainant, and OLAS Manager in writing.

If the Director determines that the OLAS Manager's report does support a finding of misconduct pursuant to Section 15.2 and that the sanction imposed pursuant to Section 15.3 is reasonable, the Director shall notify the interpreter, complainant, and OLAS Manager in writing of his decision to affirm the decision by the OLAS Manager.

Section 15.8 Reinstatement

An interpreter whose court certification or registration status has been suspended or revoked pursuant to this section may apply in writing to the OLAS Manager for reinstatement, within the timeframe established in the suspension / revocation decision issued by the Director or the OLAS Manager. The OLAS Manager, in consultation with the Director, shall have sole discretion in determining whether the conditions for reinstatement have been satisfied.

SECTION 16

REMOVAL OF AN INTERPRETER FROM A COURT PROCEEDING

SECTION 16 REMOVAL OF AN INTERPRETER FROM A COURT PROCEEDING

Section 16.1 Reasons for Removal

A judicial official may remove any interpreter—whether or not authorized—from a court proceeding for any of the following reasons:

(a) Being unable to interpret adequately, including where the interpreter self-reports such inability;

(b) Knowingly and willfully making false interpretation while serving in an official capacity;

(c) Knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity as a court interpreter; or

(d) Failing to follow other standards prescribed by law, NCAOC, and the Code of Ethics.

Section 16.2 Removal Must Be Reported to OLAS

If an interpreter is removed from a proceeding, the presiding judicial official and the court interpreter shall report the reason(s) for the removal to OLAS in writing. OLAS will treat the report of the official as a Section 15.4 complaint.

SECTION 17

ROLE OF THE LANGUAGE ACCESS COORDINATOR

SECTION 17 ROLE OF THE LANGUAGE ACCESS COORDINATOR

Section 17.1 Language Access Coordinator Position

Scheduling interpreters for court proceedings is a local court function, and each county shall designate a language access coordinator (LAC). Multicounty districts may, but are not required to, appoint a single LAC.

Section 17.1.a Staff Court Interpreter Districts

In counties with a staff court interpreter, the staff court interpreter shall serve as the LAC for the county, unless an alternate arrangement is approved in writing by OLAS.

Section 17.1.b Counties without Staff Court Interpreters

In counties without staff court interpreters, the LAC shall be a Judicial Branch employee who works in the county or district and is responsible for scheduling Spanish interpreters. The chief district court judge for the county or district shall designate the LAC after consultation with the senior resident superior court judge, the clerk of superior court, the district attorney and, if applicable, the public defender for the county or district.

Section 17.2 Role of the LAC

The LAC shall act as the liaison between OLAS and local judicial stakeholders and shall be responsible for facilitating language access services in the county, in addition to other duties as assigned pursuant to the LAC's current job classification.

Section 17.2.a Specific Functions

Specific functions of the LAC may include any or all of the following:

(a) Serve as a source of information to judicial officials, court personnel, attorneys, and the public regarding local access to foreign language services;
(b) Facilitate effective court scheduling of cases requiring a foreign language interpreter in court proceedings in North Carolina state courts;
(c) Schedule court interpreters for court proceedings when needed. In counties that designate a LAC other than the staff court interpreter after approval by OLAS, the LAC will present coverage needs to the staff court interpreter who will then arrange for the services of an independent contract interpreter as needed;
(d) Maintain regular communications with trial court administrators regarding scheduling issues, and act promptly upon information regarding continued or settled matters; and
(e) Serve as a liaison between OLAS and the local courthouse to provide feedback and resolve problems regarding local language access services.

Section 17.2.b OLAS to Establish Responsibilities of LAC

OLAS shall establish the responsibilities of the LAC and work with the LAC's hiring authority to maximize efficiencies and to minimize the infringement on the LAC's primary assigned duties.

Section 17.3 Training of the LAC

OLAS shall develop appropriate training and education for the LACs. The LAC's hiring authority shall make every effort to ensure that the LAC attends appropriate training and education offered by OLAS.

Section 17.4 When the LAC Will Schedule an Interpreter

The LAC shall schedule an interpreter for a court proceeding in any of the following circumstances:

(a) Court personnel or a judicial official has submitted a written request on the Request form for an interpreter's services for a court proceeding;
(b) A party in interest, or attorney, has submitted a written request on the Request form for an interpreter for a court proceeding;
(c) A judicial official or court personnel recognizes an immediate need for an interpreter's services during a court proceeding and contacts the LAC; or
(d) When the LAC has other information indicating that an interpreter will be needed.

Section 17.5 LAC Must Select an Interpreter from the Registry

The LAC must select a court interpreter from the Registry in accordance with Section 8.

Section 17.6 LAC Must Schedule Highest Classification Level Available for Court Proceeding

When selecting an interpreter from the Registry, the LAC must schedule the highest classification level of interpreter reasonably available.

Section 17.7 Nonregistered Interpreters Who Offer Services to the Court

If an individual offers to provide interpreting services to the court for a court proceeding but is not on the Registry or scheduled by OLAS, the LAC shall advise the individual to contact OLAS about the registration and certification process. The individual shall not provide interpreting services in such court proceedings unless and until the individual meets all NCAOC registration requirements and has been approved by OLAS.

Section 17.8 Only Interpreters Scheduled by the LAC or OLAS Are Authorized to Provide Services

If an individual appears in court to provide interpreting services for a proceeding but has not been scheduled by the LAC or OLAS, the judicial official shall advise the individual to contact the LAC, regardless of whether the individual is a certified interpreter. The individual shall not provide interpreting services in such court proceedings unless and until the LAC authorizes scheduling of the interpreter in accordance with these *Standards*.

Section 17.9 Payment Only for Interpreters Authorized by the LAC or OLAS

Any interpreter who has not been scheduled by the LAC or OLAS will not be entitled to payment, compensation, or other remuneration from NCAOC or the Judicial Branch.

Section 17.10 Special Considerations for Staff Court Interpreter Districts

17.10.a Limitation on Scheduling Spanish Contract Interpreters in Staff Interpreter Districts

In districts with staff court interpreters, the staff court interpreter serving as the LAC or upon notification from the designated LAC shall schedule a Spanish contract interpreter only when there is a conflict of interest or when demand for services exceeds the staff court interpreter's capacity to provide services.

17.10.b Special Considerations for Covered Out-of-Court Communications in Districts with Staff Interpreters

In districts with staff court interpreters, the staff court interpreter shall not provide services as an interpreter for any out-of-court communications. All covered out-of-court communications in districts with staff court interpreters shall be performed by contract interpreters scheduled in accordance with Section 8.

17.10.c LOTS Interpreters in Districts with Staff Interpreters

In districts with staff court interpreters, the staff court interpreter serving as the LAC will be responsible for assigning interpreters for LOTS language needs.

COMMENT: In districts without staff court interpreters, OLAS will be responsible for assigning interpreters for LOTS language needs.

SECTION 18

TRANSLATION AND TRANSCRIPTION - TRANSLATION SERVICES

SECTION 18 TRANSLATION AND TRANSCRIPTION - TRANSLATION SERVICES

PART A TRANSLATION AND TRANSCRIPTION - TRANSLATION OF EVIDENTIARY MATERIALS FOR USE IN COURT PROCEEDINGS

Section 18.1 The Judicial Official is the Final Authority on the Admissibility of Evidence

Pursuant to applicable state and federal laws, the judicial official determines the admissibility of any evidence and any translation or transcription - translation of the evidence submitted in a court proceeding.

Section 18.2 Translations and Transcription - Translations Must Be Certified

Any part of a document in a language other than English offered by a party in a court proceeding to prove the truth of a matter asserted therein shall be accompanied by an English language translation and a legibly printed or typed certification signed by the translator or transcription - translation specialist. Any part of an audio source in a language other than English offered by a party in a court proceeding to prove the truth of a matter asserted therein shall be accompanied by the source language transcription and English language translation, and a legibly printed or typed certification signed by the translator or transcription - translation specialist.

The required certification should include the following:

(a) A statement that the translator or transcription - translation specialist is competent to translate the document, or transcribe and translate the audio source, and that the translation or transcription - translation is a true and accurate translation or transcription - translation to the best of the person's abilities;
(b) The signature of the translator or transcription - translation specialist;
(c) The typed or printed name of the translator or transcription - translation specialist underneath the signature; and
(d) A concise summary of the translator's or transcription - translation specialist's primary credentials.

COMMENT: A sample format for the translator's or transcription - translation specialist's certification is available at nccourts.org/LanguageAccess.

Section 18.3 State Pays for Translation and Transcription - Translation Only in Limited Circumstances

In all court proceedings, the parties tendering documents or audio sources in a language other than English are responsible for obtaining certified translations and transcription - translations of the materials, at their own expense, except in civil and criminal cases in which the State bears the costs of representation as set forth below.

Section 18.3.a District Attorneys

NCAOC will provide translation and transcription - translation services performed on behalf of district attorneys.

Section 18.3.b Indigent Defendants and Respondents Represented at IDS Expense

Pursuant to a memorandum of understanding (MOU) between NCAOC and IDS, NCAOC will provide translation and transcription - translation services performed on behalf of indigent defendants and respondents represented at IDS expense, in accordance with the terms of the MOU.

Section 18.4 Only OLAS Shall Assign Translation and Transcription - Translation Services at State Expense

OLAS has sole responsibility for authorizing all translators and transcription - translation specialists paid using state funds. Any translator or transcription - translation specialist who has not been authorized by OLAS in accordance with these *Standards* will not be entitled to payment, compensation, or other remuneration from NCAOC or the Judicial Branch.

Section 18.5 District Attorneys, Public Defenders, or Assigned / Appointed Counsel Must Identify Material to be Translated Prior to Submitting the Request

Section 18.5.a Written Documents

Prior to submitting a translation request to OLAS, district attorneys, public defenders, or assigned / appointed counsel must clearly mark the sections of text to be translated.

Section 18.5.b Audio Sources

Prior to submitting a transcription - translation request to OLAS, district attorneys, public defenders, or assigned / appointed counsel must identify the time markers for start and stop of all audio clips to be transcribed and translated. It is the requestor's responsibility to provide the audio files in an accessible format.

Section 18.6 Requesting State-Funded Translation and Transcription - Translation Services for Court Proceedings

OLAS will facilitate the translation and transcription - translation of foreign language evidentiary materials in cases for which the State bears the costs of representation after receiving a written request from the district attorney, public defender, or assigned / appointed counsel as set forth below.

Section 18.6.a District Attorneys

Written Documents. To request translation of written evidentiary materials, the district attorney shall submit a *Request for Translation or Forensic Transcription - Translation Services* to OLAS.

Audio Sources. To request the transcription - translation of audio sources, the district attorney first must contact the Conference of District Attorneys for preapproval, obtain a confirmation number, and provide that number on the *Request for Translation or Forensic Transcription - Translation Services* to OLAS.

Section 18.6.b Public Defenders and Assigned / Appointed Counsel

Written Documents. To request translation of written evidentiary materials, the public defender or assigned / appointed counsel shall submit a copy of the form appointing him to the case and a *Request for Translation or Forensic Transcription - Translation* to OLAS. Approval from IDS will be required for translation of discovery.

Audio Sources. To request the transcription/translation of audio sources, the public defender or assigned / appointed counsel, shall submit a copy of the form appointing him to the case and a *Request for Translation or Forensic Transcription - Translation* to OLAS. Approval from IDS will be required for transcription - translation of audio sources.

Section 18.6.c Guardian Ad Litem Program

Written Documents. To request translation of written evidentiary materials or communication, the Guardian ad Litem attorney advocate, staff, and / or volunteer shall submit a copy of the form appointing him to the case, the source document(s), and a *Request for Translation or Forensic Transcription - Translation* to OLAS. Approval from Guardian ad Litem Program will be required for translation requests.

Audio Sources. To request the transcription/translation of audio sources, the Guardian ad Litem attorney advocate, staff, and / or volunteer shall submit a copy of the form appointing him to the case, and a *Request for Translation or Forensic Transcription - Translation* to OLAS. Approval from Guardian ad Litem Program will be required for transcription - translation of audio sources.

Section 18.6.c Privately Retained Counsel and Self-Represented Litigants

Privately retained counsel and self-represented litigants are responsible for obtaining, at their own expense, certified translation and transcription - translation of any document or audio source proffered to the court. OLAS shall provide information about finding qualified translators upon request.

Section 18.7 Qualifications of Translators and Transcription - Translation Specialists as Determined by OLAS

Translation of foreign language documents or transcription - translation of audio sources paid with state funds should be performed only by qualified translators or transcription - translation specialists, respectively, as determined by OLAS.

COMMENT: Qualified translators and transcription - translation specialists may include those who have received certification as a Nationally Certified Judiciary Interpreter and Translator by the National Association of Judiciary Interpreters and Translators (NAJIT) or by the American Translators Association (ATA), certification as a court interpreter by the Administrative Office of the United States Courts, or a Master Certified court interpreter by NCAOC.

If such qualified translators are not available in the necessary language combination, then the translation should be performed by a translator holding certification credentials from organizations that test translation ability, such as the Language Services Unit of the State Department, the Language Services Section of the Federal Bureau of Investigation, or the United Nations.

In languages for which credentials mentioned above are not available, the translation should be performed by a translator with an academic credential in translation that includes the particular language of the document being translated.

PART B TRANSLATION OF VITAL DOCUMENTS

Section 18.8 NCAOC Forms

NCAOC shall continue to provide bilingual versions of official NCAOC forms as resources become available. OLAS will facilitate the translation of those forms by qualified translators.

Section 18.9 NCAOC Forms to Be Filed in English

All official NCAOC forms to be filed with the clerk must be completed in English.

Section 18.10 NCAOC Written Material

OLAS shall conduct an ongoing assessment regarding the need to translate written materials, such as print documents or electronic content. Written material considered a vital document shall be translated as resources become available. Translation of written material shall be prioritized by:

(a) Information on court proceedings that could result in the loss of freedom or other civil liberties;
(b) Information on court proceedings that could result in the loss of parental rights;
(c) Information on how to obtain a domestic violence protective order;
(d) Information on financial support, including child support;
(e) Information on property rights; and
(f) Critical information on court procedures, programs, or services.

Identified written material shall be translated into the most commonly encountered languages.

SECTION 19

EDUCATION OF JUDICIAL OFFICIALS AND COURT PERSONNEL

SECTION 19 EDUCATION OF JUDICIAL OFFICIALS AND COURT PERSONNEL

Section 19.1 Training for Judicial Officials and Court Personnel

OLAS shall offer a variety of workshops and trainings for judicial officials and court personnel on these *Standards* and language access services, including but not limited to the following components:

(a) Requirement to provide language access services;
(b) Identifying LEP individuals;
(c) Accessing language access services;
(d) Standards and procedures related to language access services;
(e) Qualifications of interpreters and translators;
(f) Ethical requirements of language access providers;
(g) Effective techniques for working with language access providers; and
(h) Cultural competence.

Section 19.2 Training for Elected and Appointed Judicial Officials through the University of North Carolina School of Government (SOG)

Pursuant to a contract between NCAOC and the SOG, the SOG provides training and education for newly elected and appointed judges, district attorneys, magistrates, and clerks. The educational component should include at least one hour of training including components in Section 19.1.

Section 19.3 Written Training Materials

OLAS shall develop written educational materials for judicial officials and court personnel addressing the components in Section 19.1 and shall make those materials available online.

SECTION 20

BILINGUAL JUDICIAL OFFICERS AND COURT PERSONNEL

SECTION 20 BILINGUAL JUDICIAL OFFICIALS AND COURT PERSONNEL

Section 20.1 Bilingual Staff

Bilingual staff are authorized to conduct court business with the public and parties in interest in their non-English language, and to provide the same assistance that would be provided to English proficient persons.

Bilingual staff are not permitted to provide interpreting services unless employed as a staff interpreter.

Section 20.2 Judicial Officials and Court Personnel

Judicial officials and court personnel shall not provide interpreting services in a court proceeding or outside of court.

SECTION 21

REPORTS, DATA AND STATISTICS

SECTION 21 REPORTS, DATA, AND STATISTICS

Section 21.1 Collection of Data

OLAS will collect, aggregate, and analyze data concerning the use of language access services in the North Carolina Judicial Branch and expenditures required to provide those services.

Section 21.1.a Collection of Data Points

Telephone. OLAS shall collect data on the use of telephone interpreters through the review of monthly invoices made available by the telephone interpreter service provider.

In-Person. OLAS shall collect data on the use of in-person interpreters through the review of interpreter monthly invoices. Should the NCAOC contract with a company for interpreting scheduling and invoicing, the availability of monthly reports on the number of assignments shall be a consideration.

Video Remote Interpreting. OLAS shall collect data on the use of video remote interpreters through the review of interpreter monthly invoices. Should the NCAOC contract with a company for interpreting scheduling and invoicing, the availability of monthly reports on the number of assignments shall be a consideration.

Section 21.2 Staff Court Interpreter Reporting

Staff court interpreters shall submit case information electronically via the NCAOC Staff Court Interpreter Case Coverage form daily to OLAS.

Section 21.3 Contract Court Interpreter Reporting

Each month, contract court interpreters shall submit Foreign Language Interpreter Invoice for Hours Worked and corresponding Foreign Language Court Interpreter Daily Logs to OLAS within 30 days of the last day of the calendar month for which the Invoices and Daily Logs were generated. Invoices submitted late may not be processed for payment.

Section 21.4 Internal Assessment

Prior to October 1 of each year, OLAS will file with the Director an annual report detailing the following information:

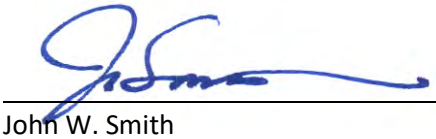
(a) The languages most commonly spoken by LEP individuals interacting with the courts;
(b) The number and types of language access services provided to LEP individuals, including a breakdown by county, by judicial district, by case type, and by language;
(c) An accounting of available resources to meet the needs of LEP individuals;
(d) Trainings conducted for judicial officials and court personnel;
(e) A summary of written and oral complaints filed with the LAO and the resolutions of those complaints;
(f) Recommendations for improving the language access services provided within the Judicial Branch or for amendments to the Language Access Plan or these *Standards*; and
(g) Actions taken to implement the Language Access Plan and these *Standards.*

SECTION 22

ADOPTION

SECTION 22 ADOPTION

These *Standards* are adopted forthwith and are in full force and effect as of signing.
This the 28th day of April, 2015.

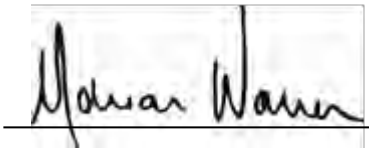


John W. Smith
Director
North Carolina Administrative Office of the Courts

Copies of these *Standards* are to be distributed to the Chief Justice, all court personnel, and the Judicial Standards Commission.

These *Standards* are updated and amended effective July 1, 2017 and remain in full force and effect as amended.

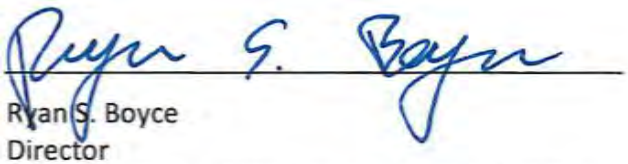
SIGNED: June 30, 2017.



Marion R. Warren
Director
North Carolina Administrative Office of the Courts

These *Standards* are updated and amended effective July 24, 2024 and remain in full force and effect as amended.

SIGNED: July 24, 2024



Ryan S. Boyce
Director
North Carolina Administrative Office of the Courts

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