MEMORANDUM OF AGREEMENT

BETWEEN THE UNITED STATES OF AMERICA AND

THE NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS

COMPLAINTS # 171-54M-8 AND 171-54-26

1. INTRODUCTION

A. This Memorandum of Agreement is entered into by the United States through the United States Department of Justice, Civil Rights Division (DOJ) and the North Carolina Administrative Office of the Courts (NCAOC) (collectively, the Parties). The NCAOC provides administrative services to the North Carolina Judicial Branch.

B. DOJ received complaints alleging that the North Carolina Judicial Branch (Judicial Branch) failed to provide meaningful access for limited English proficient (LEP) individuals, in violation of the prohibition against national origin discrimination under Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d - 2000d-7, and its implementing regulations at 28 C.F.R. Part 42, Subpart C (together, Title VI).

C. Title VI prohibits race, color, and national origin discrimination, including failing to take reasonable steps to ensure meaningful access for LEP persons, in any program or activity that receives federal financial assistance from DOJ and authorizes DOJ to investigate and resolve discrimination complaints. 42 U.S.C. § 2000d - 2000d-7; 28 C.F.R. §§ 42.104, 42.107.

D. DOJ has jurisdiction to investigate and resolve the complaints because the Judicial Branch, including the NCAOC, is a recipient of federal financial assistance from DOJ.

E. Following an investigation, DOJ issued its findings on March 8, 2012, concluding that the NCAOC was failing to provide meaningful access for LEP individuals to the state judicial system in violation of Title VI and contractual obligations attached to the receipt of federal financial assistance.²

F. The NCAOC thereafter committed to expand language assistance services and took several substantial steps, in consultation with DOJ, to improve access for LEP individuals in certain court proceedings, programs, and services. The improvements included devising an implementation plan; successfully seeking a change in the statutory authority of the NCAOC Director; appointing a Language Access Stakeholder Committee (LASC) to provide feedback on improvements; committing to provide interpreters in all proceedings by December 31, 2014; issuing in April 2015 a compendium of mandatory language access policies and practices, the Standards for Language Access Services in

² This letter is available at https://go.usa.gov/xeTbr.
the North Carolina Court System (Standards);³ and appointing a language access coordinator for each judicial district.

G. DOJ received a new complaint in 2016 alleging that the Judicial Branch was not providing meaningful access to LEP parties in state district court proceedings. The complainant alleged, among other things, that the Judicial Branch was not supplying Spanish versions of guilty plea forms in court rooms, timely assigning interpreters to avoid delay, providing interpreters for the criminal mediation program, or providing adequately skilled interpreters or appropriate equipment to support telephone interpreting.

H. The NCAOC completed the phased expansion of its policy to provide qualified interpreters in all proceedings involving parties or witnesses with LEP on July 1, 2017.

I. After the parties were unable to reach an agreement to resolve the remaining issues identified in the March 2012 findings, DOJ resumed its investigation in 2017, and informed the NCAOC of its concerns in meetings held in January 2018 and May 2019 and in a letter dated October 9, 2019. That letter cited dozens of incidents reported to or observed by DOJ in which persons who are LEP were denied services or access to court or faced substantial delays not encountered by English speakers. The letter noted that the continued problems reflected failure of judges and staff to follow existing policies; the need to further strengthen court policies; and weaknesses in managing interpreters, translated resources, and monitoring.

J. As a result of the NCAOC’s willingness to resolve this matter without litigation, the Parties voluntarily agree to resolve the complaints, investigations, and findings by entering this Agreement and complying with its terms.

K. This Agreement is not an admission of liability by the NCAOC regarding the allegations in this Title VI investigation.

II. GENERAL COMMITMENTS

A. The Parties are committed to ensuring compliance with Title VI in all the operations of the Judicial Branch.

B. The Parties agree that it is essential to remove remaining barriers that deny LEP individuals meaningful access to the court system and that doing so serves the Judicial Branch’s interests in ensuring accurate communications in proceedings and operations, protecting the integrity of evidence, delivering justice, and promoting public trust and confidence in the judicial system.

C. The NCAOC agrees to provide a free, timely, and authorized court interpreter⁴ for all

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³ The current revised version of the Standards is available at https://go.usa.gov/xepv8.
⁴ Standards, Section 2.4, defines “authorized court interpreter” as 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.”
LEP parties in interest in all court proceedings and appropriate language assistance to persons who are LEP in all court operations. The NCAOC shall not be required to provide interpreters or other language assistance to facilitate out-of-court communications between privately retained counsel and parties, witnesses, or other individuals.

D. The DOJ will continue to provide technical assistance to the NCAOC as NCAOC implements this Agreement.

E. The Parties intend to establish and maintain a collaborative relationship in order to carry out the terms of this Agreement effectively.

III. NCAOC ACTIONS

A. NCAOC will complete the following actions within 12 months of the effective date of this Agreement.

1. Reestablish and reconvene the Language Access Stakeholders Committee (LASC).

2. Share data and analysis required by Standards Section 21.1 and the annual reports required by Standards Section 21.4 for the last two years.

3. Review and revise Standards Section 21.1 data collection procedures to ensure that NCAOC gather and analyze telephone, in-person, and video remote interpreter data.

4. Make initial policy changes to the Standards, including revising the definitions of “Court Operations” to include any program or service provided by, paid for or under the control of the Court; “Court Proceedings” to include any alternative dispute resolution proceeding provided by, paid for, or under the control of the Court; “Party in Interest” to conform to Standard 5.3; and related policies.

5. Review and revise the interpreter assignment system and consider methods to reduce reliance on requests from LEP parties and their lawyers.

6. Revise the current language access and court interpreter complaint processes to make clear to all involved that retaliation against complainants is prohibited.

7. Compile and transmit an inventory of all written materials and web content that may be of use to LEP parties that is not yet translated, and share a translation progress report every six months.

8. Translate the interpreter request form and any website version into Spanish, Vietnamese, and other languages as appropriate, distribute the translated paper versions to all court clerks, and urge court clerks to display these translated forms.

5 “Court proceedings” shall be defined as any proceedings before superior court judges, district court judges, clerks of court, or magistrates.
9. Produce and distribute multilingual signs in all courthouses and on court websites that conspicuously inform people of the availability of qualified court interpreters in proceedings, the availability of appropriate language access services in court operations, and how to obtain those language access services.

10. Require the Office of Language Access Services (OLAS) to develop a translation protocol for print documents and electronic content.

11. Revise paper and electronic forms used to initiate proceedings to require filing parties to include information on the interpreter needs of the parties and victims or witnesses.

12. Devise and launch an ongoing outreach program aimed at advocates, the bar, and community-based organizations about the availability of free language services, especially those that serve LEP communities.

13. Administer an online field survey to measure compliance with existing language access policies and consider improvements based on the results of that survey.

14. Review the manner in which video proceedings are initiated and conducted with LEP parties in interest.

15. Implement a plan to conduct a pilot project on video remote interpreting system(s) for in-court proceedings and operations.

16. Provide a “refresher” language assistance services training for current judicial officials and other court personnel across the state, which is offered twice per year, and within six months for new court employees who interact with the public.

17. Send annual notices to judges and staff from senior court official(s) to increase awareness of the Standards and Title VI requirements, and compliance with both.

18. Issue guidance that explains the responsibilities and skills of bilingual staff, how to assess language skills when hiring bilingual staff, and how bilingual staff have a different role and language skills than authorized court interpreters.

19. Program all case management systems, including Odyssey, to receive interpreter needs data and report it to system users to support scheduling of interpreters.

20. Devise a process to conduct periodic language access audits around the state and conduct an initial pilot audit of at least five judicial districts.

21. Gather and analyze interpreter usage data to identify areas for improvement.
B. NCAOC will complete the following actions within 24 months of the effective date of this Agreement:

1. Publish amended initiating forms that provide notice of the availability of free, authorized interpreters for proceedings and make any needed policy changes.

2. Begin implementing the plan to improve the interpreter assignment system.

3. Issue guidance to all courts that explains how and when to use remote interpreters for proceedings with LEP parties.

C. Within 60 days of the effective date of this Agreement, the parties will agree on a schedule by which the actions in Section III will be completed by NCAOC.

IV. REPORTING

A. The NCAOC will provide to DOJ drafts of any updates to the Standards, and any other language access policies, plans, procedures, and training materials, including amendments to existing documents, before they are issued or implemented. DOJ will provide the NCAOC with technical assistance and feedback on all drafts received within a reasonable amount of time. Upon request of either party, the other party will provide additional supportive information regarding the draft or feedback and will meet to discuss any concerns or questions.

B. The NCAOC will provide DOJ biannual status reports, with the initial report due within six months and every six months thereafter, or as the parties may otherwise agree.

C. The NCAOC and DOJ will agree on the format and content of the report within two months from the effective date of this MOA.

D. At least 90 days prior to the expected termination date of this Agreement, the NCAOC will submit to DOJ a proposed final status report which includes a certification from the Director that all requirements of this Agreement have been completed, in addition to the information required in the biannual reports.

V. GENERAL TERMS

A. This Agreement will be applicable to, and binding upon, the parties to this Agreement, their officers, agents, employees, assigns, and successors in office.

B. This Agreement resolves this DOJ Title VI investigation, DJ# 171-54M-8 and DJ# 171-54-26, and is limited to the facts and issues presented in the complaints identified during this investigation. This Agreement does not affect the NCAOC’s continuing obligation to comply with Title VI and all other federal laws and applicable regulations, or preclude DOJ from taking appropriate action to evaluate the NCAOC’s compliance with any laws enforced by DOJ.
C. If at any time DOJ believes that the NCAOC or any of its components has failed to comply in a timely manner with any obligation under this agreement, DOJ may issue the NCAOC a notice of alleged non-compliance and will provide a reasonable opportunity of no less than 45 days to respond. The parties will attempt to resolve any issue in good faith, including but not limited to a cure or corrective period of no less than six months. Should the parties not be able to resolve any issue, DOJ and the NCAOC may pursue any action allowed by law or this agreement.

D. The provisions in this Agreement constitute the entire agreement.

E. If any provision in this Agreement is deemed invalid, all other provisions remain valid.

F. The signatories represent that they are authorized to bind the NCAOC.

G. This Agreement is a public document that will be available on a conspicuous location on the public website of each party for the duration of the Agreement and upon a request by any individual.

VI. EFFECTIVE DATE AND TERMINATION

A. The effective date of this Agreement is the date of the last signature below.

B. Except as otherwise set forth, all deadlines for action are based on the effective date.

C. This Agreement will terminate two years after the effective date, provided that the DOJ will have 90 days to raise any concerns regarding the NCAOC’s compliance with the terms of this Agreement after the NCAOC has submitted the final report required by paragraph IV.D. above, and no notice of non-compliance or language access complaint remains unresolved.

For the North Carolina Administrative Office of the Courts:

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Dated: 10/21/22

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