

**STANDARDS AND PROCEDURES
OF THE
OFFICE OF COURT INTERPRETER SERVICES**



**The Committee for the Administration of Interpreters for the Trial Court
Administrative Office of the Trial Court**

2009

Order

To provide judges, attorneys, and court personnel with essential information about the utilization of interpreter services in the Massachusetts Trial Court, and to supply interpreters with principles and protocols to follow when interpreting for the Office of Court Interpreter Services, it is ORDERED by the Chief Justice for Administration and Management that the 2009 edition of the *Standards and Procedures of the Office of Court Interpreter Services* developed by the Committee for the Administration of Interpreters for the Trial Court pursuant to G.L. c. 221C, § 7, be adopted, approved and be effective as of October 30, 2009.

Robert A. Mulligan
Chief Justice for Administration and Management

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The 2009 Edition of the Standards and Procedures

The *Standards and Procedures of the Office of Court Interpreter Services* were developed by the Committee for the Administration of Interpreters for the Trial Court pursuant to G.L. c. 221C, § 7 and promulgated by the Chief Justice for Administration and Management in 2003. The major revision contained in this new edition updates Section 4.00, the *Code of Professional Conduct for Court Interpreters of the Trial Court* (the *Code*). In addition to amending Section 4.00, the Committee also made certain corrective technical changes to the *Standards and Procedures*.

The *Standards and Procedures* establish guidelines that facilitate meaningful access to justice throughout the Trial Court for individuals who are of Limited English Proficiency or who are Deaf or Hard of Hearing, and protect their statutory right to interpreter services throughout a legal proceeding pursuant to G.L. c. 221C and G.L. c. 221, §92A. The *Code* communicates a core set of principles to guide the conduct of court interpreters and to inform judges and court staff of the complex work of professional court interpreters.

The *Code* was originally adopted in 1988, and was incorporated into the *Standards and Procedures* when they were promulgated in 2003. The first edition of the *Code* emphasized the role of the court interpreter in the context of a trial, interpreting for a witness. Since the adoption of the *Code*, the demand for interpreter services in the courts has increased dramatically and we have seen the utilization of interpreters expand beyond an evidentiary hearing to include all phases of a legal proceeding.

In the Spring of 2005, the Committee convened a subcommittee to write a new edition of the *Code* to address the expanded use of court interpreters. The Committee sought to provide guidance regarding a broader range of interpreting situations than those covered by the prior edition of the *Code* and to elaborate more fully on the professional responsibilities interpreters undertake as officers of the court. The subcommittee used the *Model Code of Professional Responsibility for Interpreters in the Judiciary* created by the National Center for State Courts as a template to modify the existing *Code*. Public Hearings were conducted in the Fall of 2006. The Committee and the staff of the Office of Court Interpreter Services reviewed the comments received at those hearings and refined the proposed new *Code*.

The new *Code* addresses accuracy and completeness, impartiality and conflicts of interest, professional demeanor, confidentiality and restriction of public comment, limitations on giving legal and other advice, communicating interpreter limitations to the judge, reporting ethical violations, and professional skills development. Through this new edition of the *Standards and Procedures of the Office of Court Interpreter Services*, we seek to maximize the efficiency, quality, and uniformity of the Trial Court's utilization of court interpreter services and to encourage the broadest use of court interpreters throughout the Trial Court.

The Committee wishes to thank Gaye Gentes, Leonor Figueroa-Feher, and Deirdre Griffin from the Office of Court Interpreter Services for their commitment to access to justice for Limited English Proficient and Deaf or Hard of Hearing individuals, and Ann Archer from the Legal Department for her penchant for detail and consistency in drafting. The Committee gratefully acknowledges the involvement of committee members Judge Margaret Fearey, Clerk-Magistrate Keith McDonough, and District Court Regional Coordinator Darryl Smith for their work on the Code revision subcommittee, Judge Wilbur Edwards for his in-depth review of early drafts of the *Code*, Judge Jacques Leroy and Judge Edwards for presiding over the public hearings, and Cynthia Robinson Markey of the Boston Municipal Court for her keen editing ability as the *Code* was refined and redrafted. A special thanks to Tim Linnehan, Acting Director of Support Services, and his administrative assistant, Heather Batherson, for their many contributions to these *Standards and Procedures*.

OFFICE OF COURT INTERPRETER SERVICES

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OFFICE OF COURT INTERPRETER SERVICES

STANDARDS AND PROCEDURES

Section 1.00 Principles, Application and Authority

- 1.01 The purpose of these Standards and Procedures is to provide court interpreters, judges, attorneys, and other court personnel with important information about accessing, using, and providing quality court interpreter services in the Massachusetts Trial Court, and with guidelines to follow when requesting or acting as court interpreters through the Office of Court Interpreter Services.
- 1.02 All persons within the Commonwealth, regardless of their literacy or proficiency in the English language, have the right to equal access to the courts and to justice, and have the right to access all of the services and programs provided in court facilities.
- 1.03 A Limited English Proficiency (LEP) individual, throughout a legal proceeding, shall have a right to the assistance of a qualified interpreter who shall be appointed by the judge, unless the judge finds that no qualified interpreter of the LEP individual's language is reasonably available, in which event the LEP individual shall have the right to a certified court interpreter, who shall be appointed by the judge. G.L. c. 221C, § 2.
- 1.04 Recognizing the importance that court interpreters can have in legal proceedings, the Administrative Office of the Trial Court (AOTC) through its Office of Court Interpreter Services (OCIS) is committed to providing education and training to qualified individuals to enable them to provide professional interpreter services in all legal proceedings.
- 1.05 These Standards and Procedures apply to all spoken language court interpreters providing court interpreter services to the Trial Court. Sections 4.00, 7.00, 8.00, 11.00, 13.00, and 14.00 also apply to court interpreters who provide services to the Trial Court for Deaf and Hard of Hearing (DHH) individuals.
- 1.06 Authority. These Standards and Procedures are promulgated pursuant to G.L. c. 221C, § 7(d).

Section 2.00 Definition of Terms

- 2.01 **Administrative Office of the Trial Court (AOTC)** is created by G.L. c. 211B and is the administrative office through which the Chief Justice for Administration and Management manages and provides services to the Trial Court of the Commonwealth.
- 2.02 **American Sign Language (ASL)** is a visual-gestural language created for DHH individuals and used by Deaf Americans and Canadians of all ages.
- 2.03 **Certified Court Interpreter** is one certified by the Office of Court Interpreter Services pursuant to section 5.04, or one certified by the National Registry of Interpreters for the Deaf.
- 2.04 **Consecutive Interpretation** means relaying a message from one language into another in a sequential manner after the speaker has completed a thought. The speaker should pause at regular intervals to facilitate the conveyance of his statements through the court interpreter.
- 2.05 **Court Interpreter** is a communication facilitator who interprets for LEP or DHH individuals involved in a court proceeding as assigned by the Office of Court Interpreter Services and the Massachusetts Commission for the Deaf and Hard of Hearing. Court interpreters must accurately interpret for the parties without editing or summarizing, they must be able to interpret simultaneously and consecutively, they must be able to orally translate written documents upon request, and they must understand and comply fully with Section 4, the Code of Professional Conduct for Court Interpreters of the Trial Court.
- 2.06 **Cultural Fluency** refers to the awareness and full comprehension of cross-cultural factors, including, but not limited to, expectations, attitudes, values, roles, institutions, and linguistic differences and similarities.
- 2.07 **Foreign Language** means any language other than English.
- 2.08 **Interpretation** is the unrehearsed transmitting of a spoken or signed message from one language to another.
- 2.09 **Interpreter** is a person who is readily able to orally interpret written and spoken language simultaneously and consecutively from English to the language of the LEP individual or from that language to English.

- 2.10 **Judge or justice**, or a **clerk-magistrate** when acting in a magisterial capacity of a trial court department, is someone who has been sworn into that office pursuant to the laws of the Commonwealth.
- 2.11 **Limited English Proficiency (LEP) individual** is any person who is unable to communicate in English or who has a limited ability to communicate in English which would affect his or her ability to participate meaningfully in court proceedings.
- 2.12 **Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH)** is a statutory agency under G.L. c. 6, § 191, et seq., which serves as the principal agency of the Commonwealth on behalf of DHH individuals. The agency provides services to the Deaf and Hard of Hearing population, including, but not limited to, interpreting services. G.L. c. 6, § 194.
- 2.13 **Mentor** means an OCIS interpreter who is assigned to work with an applicant to be an interpreter. The mentor assists the applicant in developing both proficiency in court interpretation and familiarity with OCIS procedures.
- 2.14 **Office of Court Interpreter Services (OCIS)** is part of the Support Services Department of the Administrative Office of the Trial Court. The office administers the provision of all interpreter services to the Trial Court, pursuant to G.L. c. 221C, § 7. It is responsible for the training, certification, assignment and supervision of spoken language court interpreters who provide interpretation services in court proceedings.
- 2.15 **Per Diem Court Interpreter** is a freelance court interpreter who is assigned as needed by OCIS on a day to day basis from the lists of court interpreters developed and maintained by OCIS pursuant to section 9.02.
- 2.16 **Qualified Interpreter** is a Certified Interpreter who has also passed the examination and is qualified to interpret in the federal courts by the United States District Court for the District of Massachusetts. The terms “professionally-qualified interpreter” and “qualified interpreter” may also be used in common parlance to refer to court interpreters who have been trained and recognized by reputable interpreting national and international institutions.
- 2.17 **Screened Interpreter** is a court interpreter who has (1) met the minimum requirements for a court interpreter (*see* section 5.02), (2) passed the screening and interview processes (*see* sections 5.03(A) and (B)), (3) passed the screening examination, if given, (*see* section 5.03 (c)), (4) completed the mandatory training

course (*see* section 6.04), and (5) completed the Mentoring Program (*see* section 6.05).

- 2.18 **Sight Translation** is a hybrid type of interpretation/translation whereby the court interpreter reads a document written in one language while translating it orally into another language.
- 2.19 **Simultaneous Interpretation** means the relaying of a message from one language into another contemporaneously with the speaker.
- 2.20 **Source Language** is the language of the original speaker. It is a relative term, depending on who has spoken last.
- 2.21 **Staff Interpreter** is a Certified Interpreter who works full-time for the Trial Court under supervision from the Manager of Interpreter Services. Besides interpreting, the Staff Interpreter's duties include overseeing per diem court interpreters assigned to his or her court on a daily basis and directing such per diem court interpreters to other courts as needed.
- 2.22 **Summary Interpretation** means the paraphrasing and condensing of a speaker's statement. Unlike simultaneous and consecutive interpretation, this method cannot provide a complete rendering of everything that is said in the target language. This is a mode of interpreting that should not be used in court settings.
- 2.23 **Target Language** is the language into which an interpretation or translation is made.
- 2.24 **Translation** means the conversion of a written text from one language into written text in another language.

Section 3.00 Administrative Structure

- 3.01 The Administrative Office of the Trial Court (AOTC). The Chief Justice for Administration and Management (CJAM) has authority over and responsibility for the administration and management of the Trial Court of Massachusetts under G.L. c. 211B. The AOTC is made up of a number of departments, each managed by a director who reports to the CJAM. The AOTC is the office through which the CJAM both manages the Trial Court and provides services to it.

3.02 The Office of Court Interpreter Services.

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

3.03 The Committee for the Administration of Interpreters. There is a Committee for the Administration of Interpreters (the Committee). The Committee consists of the Chief Justice for Administration and Management (CJAM), who is the statutory chair of the Committee and may designate an acting chair from time to time, as well as the Chief Justice of the District Court and/or his/her designee, one other District Court judge and one clerk-magistrate appointed by the Chief Justice of the District Court, a Superior Court judge and a clerk or assistant clerk of the Superior Court appointed by the Chief Justice of the Superior Court Department, a judge of the Probate and Family Court Department appointed by the Chief Justice of the Probate and Family Court Department, a judge of the Juvenile Court Department appointed by the Chief Justice of the Juvenile Court Department, and one other judge or clerk-magistrate appointed by the CJAM. The CJAM and the Committee may enlarge the Committee as necessary. The Committee advises the CJAM on such matters as the statewide expansion of services using certified interpreters, the consolidation and effective use of court interpreter resources, the schedule for compensation for court interpreters, and other related issues. The Committee also addresses issues involving court interpreters for DHH individuals in the courts.

- 3.04 Ombudsman for Interpreters. The CJAM created the voluntary position of “Ombudsman for Interpreters” to facilitate the fair and equitable resolution of issues that may arise as court interpreters perform their assigned work for the Trial Court. Acting as a neutral party, the Ombudsman investigates written complaints, provides information about Trial Court policies and procedures, accepts confidential written suggestions and information from individuals who wish to raise relevant concerns, and facilitates positive change relative to court interpreters within the Trial Court. The Ombudsman serves at the pleasure of the CJAM.
- 3.05 Court Liaison. The First Justice in each Boston Municipal, District, Probate, Juvenile and Housing Court division, the Regional Administrative Justice in each Superior Court region, and the Chief Justice of the Land Court shall designate a “Court Liaison” and at least one backup who is responsible for making court interpreter requests to OCIS on behalf of the court. It is the responsibility of the Court Liaison to know where court interpreters are needed on each day and to be available to answer inquiries from the OCIS scheduling department about current requests and assignments. Requests for court interpreters may be made only through the Court Liaison. Each First Justice, Regional Administrative Justice, or Chief Justice shall submit to the OCIS the name, telephone number, fax number and e-mail address of the designated Court Liaison and backup liaison(s) and shall advise the OCIS of any changes in that designation. The Court Liaison is responsible for recording the per diem court interpreter’s arrival and departure times on the Interpreter Daily Service Record, verifying the Interpreter Daily Service Record for assignment and attendance, and signing the Interpreter Daily Service Record.
- 3.06 Consortium for Language Access in the Courts. The Consortium for Language Access in the Courts is a program administered by the National Center for State Courts which was founded in July 1995 to develop court interpreter proficiency tests, make them available to member states, and regulate the use of the tests. The functions of the Consortium are: to establish court interpretation test development and administration standards, to provide testing materials, to develop education programs and standards, and to facilitate information sharing among the member states and entities so that individual member states and entities have the necessary tools and guidance to implement certification programs. Massachusetts joined the Consortium in 2000. The Consortium’s website is www.ncsconline.org

Section 4.00 The Code of Professional Conduct for Court Interpreters of the Trial Court

- 4.01 Purpose. A court interpreter is the communication facilitator for the parties involved in a proceeding and, as such, plays a vital role in the protection of the

rights of LEP and DHH individuals engaged as parties or witnesses in legal proceedings in the Trial Court. This role requires an understanding by the court interpreter of the complexities of the tasks to be performed. In these tasks, court interpreters should be guided by the ethical principles and standards promulgated pursuant to G.L. c. 221C and c. 221, § 92A.

- (A) Court interpreters are highly skilled professionals who fulfill an essential role in the administration of justice. As officers of the court, court interpreters help to ensure that LEP and DHH individuals obtain equal access to justice and that court proceedings function effectively.
- (B) Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to their limited English proficiency or speech and hearing impairments. It is essential that the resulting communication barriers be removed, as much as possible, so that these persons are placed in the same position as similarly situated persons for whom there are no such barriers.
- (C) The Code of Professional Conduct for Court Interpreters of the Trial Court seeks to accomplish the following:
 - (1) ensure meaningful access to court proceedings for LEP and DHH individuals,
 - (2) protect the constitutional rights of LEP and DHH individuals by providing assistance of a court interpreter during court proceedings,
 - (3) ensure due process in all phases of litigation for LEP and DHH individuals,
 - (4) ensure equal protection of the law for LEP and DHH individuals,
 - (5) increase efficiency, quality, and uniformity in handling proceedings that involve court interpreters, and
 - (6) encourage the broadest use of professional court interpreters by all those in need of such services within the Trial Court.

4.02 Applicability. The Code applies to all court interpreters providing interpretation services within any court proceeding in any department or division of the Trial Court. It shall guide and be binding upon all persons, agencies, and organizations that administer, supervise, or deliver interpreting services to the Judiciary. Court interpreters shall use their professional judgment in applying the Code.

The Code defines and governs the practice of court interpretation in the Trial Court and applies to all court interpreters appearing:

- (1) in any proceeding before any Trial Court of the Commonwealth,
- (2) before any attorney in connection with any matter that is brought before a court, and
- (3) in any other activity ordered by the court or conducted under the supervision of a court.

Court interpreters are required to sign a statement agreeing to be bound by the Code for the provision of interpretation services in any court proceeding in the Trial Court. A copy of this statement shall be filed with OCIS.

4.03 Accuracy and Completeness. Court interpreters shall render a complete and accurate interpretation, sight translation, or written translation without altering, omitting, or adding to any utterances, either stated or written, to the best of their skill and ability. Court interpreters shall not explain or otherwise comment upon the utterances they interpret. The obligation to preserve accuracy includes the court interpreter's duty to correct any error of interpretation discovered by the court interpreter during the proceeding.

- (A) Court interpreters have a twofold duty: to ensure that proceedings in English reflect precisely what was said by the LEP or DHH individual, and to place the LEP or DHH individual on equal footing with those who speak or understand English. Thus, a court interpreter is obligated to preserve every element of information contained in a source language communication when it is rendered in the target language.
- (B) Court interpreters must be able to preserve legal equivalence while interpreting. To achieve legal equivalence, court interpreters must interpret the original source material without editing, summarizing, deleting, or adding, while conserving the language level, style, tone, and intent of the speaker. The LEP or DHH individual may request an explanation or clarification, if necessary, through the court interpreter.
- (C) Court interpreters are obligated to apply their best skills and judgment to preserve the meaning of what is said in court, including the style or register of speech. Verbatim, "word for word," or literal oral interpretations are not appropriate when they distort the meaning of the source language. Therefore, every spoken statement, even if it appears non-responsive, obscene, rambling, or incoherent, should be interpreted, including apparent misstatements.

- (D) When interpreting slang, idioms, or culturally-bound expressions that do not translate easily, the court interpreter must find a way to express them accurately 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.
- (E) Court interpreters should not interject their 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 court's permission to provide an explanation. Court interpreters should convey the tone of the speaker without reenacting the speaker's gestures.
- (F) Court interpreters who use sign language or other visual modes of communication, however, must employ all of the visual cues of the language they are interpreting, including facial expressions, body language, and hand gestures. Sign language court interpreters, therefore, should ensure that court participants do not confuse these essential elements of the interpreted language with inappropriate court interpreter conduct.
- (G) The obligation to preserve accuracy includes the court interpreter's duty to correct any error of interpretation discovered by the court interpreter or anyone else during the proceeding. Court interpreters should objectively analyze any challenge to their performance.
- (H) Whenever a court interpreter discovers an error of interpretation in the course of a proceeding involving testimony from an LEP or DHH individual, the court interpreter shall correct the error at once, first identifying himself/herself for the record. If the error of interpretation is discovered after testimony has been completed, the court interpreter shall immediately request a conference with the judge and shall follow the judge's direction.
- (I) When an error of interpretation has been brought to the attention of the court by someone other than the interpreter, the court shall confer at sidebar with counsel and/or the parties and the interpreter. The court shall determine first whether the alleged error is substantial enough to warrant correction. If the court finds that the error could be prejudicial, the court shall hear evidence, out of the presence of the jury, if any, as to the correct interpretation. At the hearing on the error, evidence or argument may be

offered by counsel or a pro se litigant and by the court interpreter, and testimony may be taken from any other experts as permitted by the judge. The judge shall make a final determination on the evidence as to the correct interpretation. If the correct interpretation is different from the original interpretation, then the court shall amend the record accordingly and so instruct the jury, if any.

- (J) A copy of the pertinent corrections of the record shall be sent to the Manager of Interpreter Services within two weeks of the identification of the error.
- (K) Each court interpreter must agree to be bound by the following oath before engaging in the interpretation of a proceeding (*see* Section 14.01):

“Do you solemnly swear or affirm that you will make true and impartial interpretation using your best skill and judgment in accordance with the standards prescribed by law and the ethics of the interpreter profession?” See G.L. c. 221C, § 4(a).

4.04 Impartiality and Avoidance of Conflict of Interest. Court interpreters shall be impartial and unbiased in their interpretation and shall refrain from conduct that may give an appearance of bias. Court interpreters shall disclose any real or perceived conflict of interest.

- (A) Court interpreters serve as officers of the court and their duty in a court proceeding is to serve the court and the public.
- (B) Court interpreters who are “state employees” or “special state employees” as those terms are defined in G.L. c. 268A, § 1 shall be governed by the provisions of G.L. c. 268A regarding any conflict of interest. In addition, any court interpreters who are members of a union shall be governed by the terms and conditions of the applicable collective bargaining agreement.
- (C) Court interpreters may, subject to the provisions of G.L. c. 268A and any applicable collective bargaining agreement, accept employment as court interpreters during hours or times when they are not employed by OCIS.
- (D) Court interpreters shall not engage in nor have any interest, direct or indirect, in any business or transaction, nor incur any obligation which is in conflict with the proper discharge of official duties in the court or which impairs independence of judgment in the discharge of such duties.

- (E) Court interpreters shall not accept money or consideration of favors from anyone for the performance of an act they would be required or expected to perform in the regular course of assigned duties. Court interpreters shall not accept any gifts, gratuities, or favors of any kind which might be construed as an attempt to influence their actions with respect to the court.
- (F) Court interpreters shall not use, for private gain or advantage, the court's time or facilities, equipment, or supplies, nor shall they use or attempt to use their position to secure unwarranted privileges or exemptions for themselves or others.
- (G) Court interpreters should avoid any conduct or behavior that presents the appearance of favoritism toward any party. Court interpreters should limit themselves to professional relationships with the parties they serve and should not take a pro-active part in any of the proceedings.
- (H) Court interpreters shall treat each person equally with dignity and respect regardless of sex, race, creed, national origin, political affiliation, sexual orientation, age, handicap, or socio-economic class.
- (I) To maintain neutrality, court interpreters shall limit their conversations with parties, witnesses, jurors, attorneys, or with friends or relatives of any party, except in the discharge of their official functions. 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 non-verbal displays by the court interpreter of personal attitudes, prejudices, emotions, or opinions should be avoided at all times.
- (J) In the event that a court interpreter becomes aware that a participant in a proceeding views him/her as being biased, the court interpreter should disclose that knowledge to the appropriate court authority and counsel.
- (K) Before providing services in a matter, court interpreters must disclose to all parties and presiding officers any prior involvement, whether personal or professional, that could be reasonably construed as a conflict of interest. This disclosure should not include privileged or confidential information. Court interpreters shall disclose on the record to the court and other parties if they have previously been retained by one of the parties in the case. Any condition that interferes with the objectivity of a court interpreter

constitutes a conflict of interest.

- (L) The following are circumstances that are presumed to create actual or apparent conflicts of interest for court interpreters which require disclosure and, in all but rare cases, would require disqualification:
 - (1) the court interpreter is a friend, associate, or relative of a party or counsel for a party involved in the proceeding,
 - (2) the court interpreter has served in an investigative capacity for a party involved in the case,
 - (3) the court interpreter or a member of the court interpreter's immediate family has a financial interest in the subject matter in controversy or with a party in the proceeding, or any other interest that might be affected by the outcome of the case,
 - (4) the court interpreter has been involved in the choice of counsel or law firm for the case,
 - (5) the court interpreter's payment for service is contingent upon the outcome of the case, or
 - (6) the court interpreter is an attorney in the same proceeding.

4.05 Professional Demeanor. Court interpreters shall conduct themselves in a manner consistent with the dignity of the court and with the standards that govern their profession.

- (A) Court interpreters should know and observe the established standards, rules, and procedures for delivering interpreting services. When speaking in English, court interpreters should speak at a rate and volume that enable them to be heard and understood throughout the courtroom. However, court interpreters should work without drawing undue or inappropriate attention to themselves.
- (B) Court interpreters should avoid obstructing the view of any individual involved in the proceedings. However, court interpreters who use sign language or other visual modes of communication must be positioned so that hand gestures, facial expressions, and whole body movements are visible to the person for whom they are interpreting.
- (C) Court interpreters are encouraged to avoid conduct which could discredit or reflect poorly upon the court, including, but not limited to, overly familiar behavior towards any person participating in the proceeding or court personnel.

- (D) Court interpreters should support other court interpreters by sharing knowledge and expertise with them to the extent practicable and in the interest of the court.
 - (E) Court interpreters should dress in a manner consistent with the dignity of the court and which does not attract undue attention, thus ensuring their professional role as impartial participants. This applies also to attire or symbols that represent specific religious, political, or social affiliations that could create the perception of partiality or bias on the part of the court interpreter.
 - (F) Court interpreters shall appear on time and report to the appropriate court personnel immediately upon arrival.
 - (G) Court interpreters shall not make arrangements directly with the court or counsel for a substitute in cases to which they have been assigned. Rather, a 24-hour cancellation notice shall be given to the Office of Interpreter Services which will arrange a substitute.
 - (H) Court interpreters shall behave in an approachable and courteous manner at all times, encouraging all persons in need of their services to communicate with them and through them in ways consistent with the Code.
 - (I) Court interpreters shall refrain from making any religious statements, verbal or physical, that might be perceived to be personal or unprofessional in nature.
 - (J) Court interpreters shall wear their official identification badges in such a manner as to make their presence clear to all persons in court in need of their services.
- 4.06 Confidentiality and Restriction of Public Comment. Court interpreters shall protect the confidentiality of all privileged and other confidential information. Court interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.
- (A) The court interpreter must protect and uphold the confidentiality of all privileged information obtained during the course of his/her duties. It is especially important that the court interpreter understand and uphold the attorney-client privilege, which requires confidentiality with respect to any

written or oral communications between attorney and client. This rule also applies to other types of privileged communications that may have statutory protection, such as doctor-patient, social worker-client, or priest-penitent relationships.

- (B) Court interpreters must also refrain from repeating or disclosing information obtained during a case in which they are interpreting in the course of their employment.
- (C) In the event that a court interpreter becomes aware of information that suggests imminent harm to someone or relates to a crime being committed during the course of the proceedings, the court interpreter should immediately disclose the information to the judge in the proceeding and seek advice in regard to the potential conflict.
- (D) Court interpreters shall not take advantage of any knowledge obtained in the performance of their duties for their own or another's personal gain.
- (E) Generally, court interpreters should not discuss court interpreter assignments with anyone other than persons who have a formal duty associated with the case. However, court interpreters may share information for training and education purposes, divulging only so much information as is required to accomplish this purpose. Unless ordered by a court, court interpreters must never reveal privileged or confidential information for any purpose, including training and education.

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

- (A) Court interpreters are responsible only for assisting others to communicate and should limit themselves to the activity of interpreting or translating. Court interpreters should refrain from initiating communications while interpreting, unless it is necessary for ensuring an accurate interpretation.
- (B) Court interpreters should not perform acts that are the official responsibility of other court officials including, but not limited to, court clerks, investigators, interviewers, or probation officers. Such acts may include the filling out of forms or paperwork for LEP or DHH individuals.
- (C) When interpreting for an LEP or DHH individual, the court interpreter

should have the appropriate officer of the court or staff present while filling out forms or written statements in order to respond to any questions that the individual might have. If the court interpreter needs to write down the person's statement, the court interpreter should have the person dictate it in his/her own language and write it down verbatim. The court interpreter should then read the written statement back to the individual and provide a written translation into English of the statement, signed and dated by the court interpreter.

- (D) A court interpreter may convey legal advice from an attorney to a person only while that attorney is providing the advice. A court interpreter should not explain the purpose of forms, services, or otherwise act as a counselor or advisor unless he or she is interpreting for someone who is acting in that official capacity. The court interpreter may translate the language on a form for a person who is filling out the form, but should not explain the form or its purpose.
- (E) A court interpreter shall never act as a referral service for any attorney. When asked to refer an LEP individual to an attorney, the interpreter shall refer such individual to the local bar association in civil and criminal matters if the individual indicates the ability to afford private counsel or, if not, to the Committee for Public Counsel Services (CPCS) in criminal matters or other matters for which CPCS provides services, or the local legal services office with respect to all other matters.

4.08 Assessing and Reporting Impediments to Performance. Court interpreters shall provide professional services only in matters or areas in which they can perform accurately. At all times, court interpreters shall assess their ability to provide their services. If court interpreters have any reservation about their ability to fulfill an assignment, they shall immediately convey that reservation to the appropriate court authority.

- (A) If the communication mode or language of the LEP or DHH individual cannot be readily interpreted, the court interpreter should notify the appropriate court authority.
- (B) Court interpreters should notify the appropriate court authority of any environmental, linguistic, or physical limitations that impede or hinder their ability to deliver interpreting services. Should a court interpreter feel harassed or intimidated by an officer of the court, the court interpreter shall so inform the presiding judge and OCIS.

- (C) Court interpreters should notify the presiding judge, clerk-magistrate, or assistant clerk of the need to take periodic breaks to maintain mental and physical alertness and prevent the court interpreter from becoming fatigued. Court interpreters should recommend and encourage the use of team interpreting whenever necessary, and when resources allow.
- (D) Even experienced court interpreters may encounter cases where routine proceedings unexpectedly involve slang, idiomatic expressions, regional dialect, or technical or specialized terminology unfamiliar to the court interpreter (*e.g.*, the unscheduled testimony of an expert witness). When such instances occur, court interpreters may request a brief recess to familiarize themselves with the terminology. If familiarity with the terminology requires extensive time or more intensive research, court interpreters should inform the judge, clerk-magistrate, or assistant clerk of the need for additional time.
- (E) Court interpreters should notify the appropriate court authority and OCIS if they feel unable to perform competently due to their lack of familiarity with terminology, insufficient preparation, difficulty in understanding a witness or defendant, if a serious communication problem arises between the interpreter and the LEP individual (person is being disruptive, does not allow the interpreter to speak, etc.), or due to a personal bias. Court interpreters should refrain from accepting a case if they feel the language and subject matter of the case is likely to exceed their skills or capabilities.
- (F) Whenever possible, or before proceedings that are expected to be of long duration, court interpreters should briefly communicate with the LEP or DHH individual, prior to the initial court appearance, to instruct such speaker as to the proper role of the court interpreter. Approval of counsel shall be obtained by the court interpreter before attempting contact with the LEP or DHH individual. Counsel may wish to be present when the court interpreter communicates with his/her client.
- (G) The court interpreter should advise the LEP or DHH individual as follows:
 - (1) that the court interpreter will translate any and all statements or comments,
 - (2) not to ask any direct questions of the court interpreter or initiate any independent dialogue with the court interpreter, including requests for legal advice or explanations on any statement made during the proceedings,

- (3) to direct all questions to counsel or to the court, and
- (4) to wait for the full interpretation of the English translation before responding to a question.

4.09 Duty to Report Ethical Violations. Court interpreters who discover anything which would impede full compliance with this Code shall immediately report to the court and to OCIS.

- (A) Court interpreters shall immediately report to the presiding judge any solicitations or efforts by another to induce or encourage an interpreter to violate any law or standard of this Code or any other provision governing interpretation promulgated by the judiciary.
- (B) Court interpreters shall report to the appropriate court authority any effort to influence the way in which the interpretation of the proceeding is being conducted. Due to the fact that many users of court interpreter services 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 court authority and to OCIS.

4.10 Professional Development. Court interpreters shall continually improve their skills and knowledge. Court interpreters shall advance their profession through activities such as professional training, education, and interaction with colleagues and specialists in related fields.

- (A) Court interpreters must continually strive to increase their knowledge of the languages in which they work, including past and current trends in technical, vernacular, and regional terminology, as well as their application within court proceedings.
- (B) Court interpreters should keep informed and updated about all statutes, rules of court, and policies of the Trial Court that relate to the performance of their professional duties, such as the Trial Court Policies and Procedures Manual.
- (C) Court interpreters should seek to elevate the standards of their profession through participation in workshops, professional meetings, interaction

with colleagues, and reading current literature in the field.

- 4.11 Interpreting Protocols. Court interpreters shall interpret and translate during proceedings and court-related discussions using the appropriate modes of interpretation and address.
- (A) Court interpreters shall use the consecutive mode for all question and answer exchanges with LEP or DHH individuals and shall use the simultaneous mode for most other proceedings. Court interpreters shall sight translate documents for LEP or DHH individuals as requested by the court.
 - (B) It is common for court interpreters to shift from one mode of interpretation to another, depending on the situation at hand and according to the following standards:
 - (1) The simultaneous mode of court interpretation requires the court interpreter to interpret contemporaneously with the speakers as they speak. This mode shall be used when LEP or DHH individuals are in the position of a third person in proceedings.
 - (2) The consecutive mode of court interpretation requires the court interpreters to wait for the speaker to complete his/her thought or statement before rendering an interpretation. This mode shall be used when LEP or DHH individuals are giving testimony or when the judge, counsel, or officer of the court is in direct dialogue with such speaker.
 - (3) Sight translation means that the court interpreter will orally translate a document on the spot at the request of a judge, lawyer, probation officer, or clerk. Sight translation is to be used whenever an officer of the court asks the court interpreter to orally translate a written document as part of the LEP or DHH individual's legal process. The same principle of accuracy applies to sight translation as it does to the rest of the court interpreter's duties. The court interpreter shall not add, delete, or improve a written source text. Therefore, if the text to be translated is a sworn statement by a person with limited literacy, the court interpreter's rendition should reflect the author's style.
 - (C) The court interpreter, when appropriate, shall familiarize the LEP or DHH individual with the interpretation mode to be used and with the hand technique used for segmenting lengthy testimony.

- (D) A court interpreter shall not summarize court proceedings at any time unless instructed to do so by the court.
- (E) A court interpreter shall address the court and identify himself/herself as the court interpreter by using the third person singular in order to avoid confusion on the record. For example, “the court interpreter needs to take a brief recess.”
- (F) Each court interpreter shall utilize the first person singular when interpreting for an LEP individual giving testimony or in dialogue with another person. Persons addressing the LEP individual (e.g., attorneys, judges, probation officers, and clerks) shall use the second person.
- (G) Each court interpreter shall prepare for a case, whenever possible, and particularly with respect to lengthy and complex criminal and civil trials, by reviewing case material including the charges, police or other reports, complaints or indictments, transcripts of interviews, motions, or any other documentation to be used in the case, particularly if counsel plans to quote directly from them. Such materials may be requested from the attorney for the LEP or DHH individual or from the attorney requesting the LEP or DHH witness. The information shall be used solely for the technical preparation of the court interpreter and may not be disclosed to any person or parties.
- (H) The court interpreter shall familiarize himself/herself with the speech pattern, sign language communication, cultural background, and/or native language proficiency of the individual as necessary.
- (I) If there is a critical word, phrase, or concept which the court interpreter does not understand, the court interpreter shall inform the court, at the appropriate time, so that the court may request an explanation, rephrasing, or repetition of the statement. The court interpreter may request time to look up any unfamiliar words in the dictionary.
- (J) Each court interpreter shall interpret the exact response of the witness or speaker even if the answer to a question is non-responsive or erroneous, and leave these issues to the court and counsel.
- (K) If a witness testifying in a foreign language occasionally speaks a few words in English, the court interpreter shall repeat such words for the record so that a person listening to the recorded proceeding may continue

following the court interpreter's voice. However, should the witness utter a full English response, the court interpreter will stand back so that the parties are aware of the English response and wait for the court's instruction.

- (L) If, during the taking of testimony, a speaker uses a word, phrase, or concept for which the court interpreter finds no appropriate equivalent in the LEP individual's language because there is no cultural equivalent or because it may prove ambiguous in translation, the court interpreter should inform the court accordingly.
- (M) Whenever an objection is made to witness testimony taken through a court interpreter, the court interpreter shall interpret everything that was said up to the time the objection was made and instruct the witness, by hand gesture, not to speak until the court has ruled on the objection.

4.12 Judicial Removal from a Proceeding

- (A) A court interpreter may be removed by the court from his or her participation in a particular assignment if that court interpreter is unable to interpret the proceedings adequately, including an instance where the court interpreter self-reports such inability. *See* G.L. c. 221C, §5(d).
- (B) A court interpreter may be removed from a court proceeding if a judge has found good cause for his/her removal from the proceeding. The following are examples of good cause for removal from a proceeding:
 - (1) knowingly and willfully making false interpretations while serving in an official capacity,
 - (2) knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity,
 - (3) failing to follow the standards prescribed by law and the ethics of the court interpreter profession. *See* G.L. c. 221C, §5.

Section 5.00 Minimum Requirements, Screening, and Certification of Court Interpreters

- 5.01 Recruitment of Court Interpreters. OCIS recruits court interpreters on an as-needed basis from applicants who have submitted resumes and/or application questionnaires, and who meet the minimum requirements to be a court interpreter set forth in section 5.02 below. Because Massachusetts immigrant communities are in constant growth, the need for court interpreters in certain languages will

evolve. As the need for court interpreters in certain languages increases, OCIS will review applications in those languages. If no application in a needed language is available for review, OCIS will make an effort to recruit, screen and train candidates from graduate schools, community organizations, court interpreter agencies, and/or translation associations.

- 5.02 Minimum Requirements. The minimum requirements to work as a court interpreter for OCIS are as follows: (a) a four-year college degree from the United States or an equivalent higher education degree from another country, (b) verifiable references, and (c) academic, native-level mastery of both English and the foreign language. (Exceptions may be made in extraordinary circumstances, such as with oral languages with only a recent or no history of written codification.) Prior interpretation experience will be taken into consideration when reviewing an application, but lack of such experience will not automatically be grounds for rejecting an application. All applicants will be notified by mail of the status of their application.
- 5.03 Screening of Court Interpreters. Screening of applicants includes a review of their academic background, language proficiency, and prior interpreting/translation experience. OCIS also looks for an understanding of the important role a court interpreter plays in facilitating access to the legal process for LEP individuals.
- (A) The screening process consists of the following steps:
- (1) A questionnaire is mailed to every person who contacts OCIS inquiring about the process for becoming a court interpreter. The questionnaire must be filled out and returned to OCIS with a copy of the individual's resume.
 - (2) Upon receipt, the questionnaire and resume are reviewed by OCIS to determine whether the applicant meets the minimum requirements to be a court interpreter.
- (B) The Interview. Applicants who meet the minimum requirements determined by review of the submitted application will be interviewed by OCIS, provided there is a current need for court interpreters in that particular language. At the interview, OCIS will assess the applicant's general English oral skills and general competency to work as a court interpreter. After the interview, the applicants selected to proceed with the process will be required to take a screening examination. *See* section 5.03(c) below.

- (C) The Screening Examination. The written screening examination will test an applicant's general proficiency in English and in their foreign language. Applicants who have been certified and/or qualified by the Federal Court's Interpreter Program, by another state upon completion of an exam from the Consortium for Language Access in the Courts (National Center for State Courts), or by the National Association of Judiciary Interpreters and Translators (NAJIT) may be excused from taking the screening examination. Applicants with higher academic degrees (e.g., Masters or Doctoral degrees) and with demonstrated fluency in both English and the foreign language may also be excused from taking the examination. Other exceptions may be made in extraordinary circumstances, such as with oral languages with only a recent or no history of written codification.
- (D) Criminal Record Check. Upon either passing the screening examination or being excused from taking the examination, a criminal record check will be conducted on applicants consistent with applicable law. An applicant will not be eligible to continue with the process to become a court interpreter if he/she has been convicted of a felony or of a misdemeanor resulting in incarceration, and the end date of such incarceration is within the 5-year period immediately preceding the date of his/her application to OCIS.
- (E) Mandatory Introductory Training and Mentoring. Applicants who have passed the screening examination, if given, and the criminal record check shall then be scheduled to take the mandatory two-day training offered by OCIS for new court interpreters described in section 6.04. After the introductory training, applicants will be assigned to the Mentoring Program set forth in section 6.05. All applicants must complete the assigned Mentoring Program and must receive a favorable report from their assigned Mentor to be eligible to work as a court interpreter for OCIS. Upon successful completion of the Mentoring Program, an applicant will be considered a Screened Interpreter.

5.04 Certification.

- (A) Requirements.

- (1) The minimum requirements to be eligible for certification are as follows:

- a) a four-year degree from a United States college/university, or

an equivalent higher education degree from another country (Official transcript and/or a photocopy of the diploma are required as proof of degree. When not in English or Latin, official translation must be included.),

b) proof of language proficiency in English and the foreign language through successful completion of any required screening examination,

c) attendance at the mandatory introductory training,

d) successful completion of the Mentoring Program, and

e) attendance at any mandatory sessions or workshops.

(2) In addition to the minimum eligibility requirements, one or more of the following is also required:

a) a minimum of one year of work experience in interpretation, preferably in, but not limited to, court or conference interpretation with OCIS and/or with another reputable organization,

b) a legal interpretation certification from another state where certification requirements are equivalent to those of OCIS,

c) certification or qualification from the Federal Court's Interpreter Program, or

d) a legal or conference interpretation diploma or certification from a reputable national or international interpreter training institution or program.

(3) In certain circumstances, at the Manager's discretion, any of the requirements in paragraphs (1) or (2) above may be waived. Upon such waiver, the Manager shall document in writing the reasons for the waiver.

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

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

- (C) No Approved Certification Examination. Screened Interpreters who have met the requirements set forth in (A) above who are seeking certification in a language for which there is no approved examination may apply for certification by submitting to OCIS a certification packet that includes the following information and related documentation:
- (1) proof of the Screened Interpreter's English written proficiency (unless waived by the Manager of Interpreter Services or the Program Manager for Training in extraordinary circumstances) as demonstrated by the following: (a) a four-year college degree from a country where the official language is English, or (b) a minimum of one year of successful graduate course work at a university in the United States or a country where the official language is English, (c) publication(s) in English where the candidate is the sole or main author, or (d) accreditation from the American Translators Association in translation into English,
 - (2) proof of the Screened Interpreter's English oral proficiency as demonstrated by the following: (a) a minimum of two years of teaching experience at the college level (undergraduate or graduate) using English as the language of instruction, or (b) a minimum of two years of other professional work experience in the United States or in a country where the official language is English,
 - (3) proof of written proficiency in the foreign language(s) as demonstrated by the following: (a) a minimum four-year college degree from the United States, or an equivalent higher education degree from another country where instruction is conducted in that language, (b) publication(s) in the foreign language in which the applicant is the sole or main author, or (c) accreditation from the American Translators Association in translation into the foreign language,
 - (4) proof of oral proficiency in the foreign language as demonstrated by the following: (a) a minimum of two years teaching at the

college level (undergraduate or graduate) using the language as the language of instruction, (b) a minimum of two years of other professional experience in a country where the language is the official language, or (c) a degree from an internationally recognized university or academic institution, ideally in, but not limited to, translation and interpretation with concentration in the foreign language, and

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

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

- (D) Upon having met the requirements set forth in (A) above and having successfully passed an approved examination pursuant to (B) above, or having met the criteria set forth in (C) above, a Screened Interpreter will be certified by OCIS in a language.
- (E) Continuing Education and Reassessment of Certified Status. To maintain certified status, court interpreters must submit to OCIS proof of successful completion of the minimum requirements for continuing education every twenty-four months. Such minimum requirements will be determined by OCIS and will be periodically reviewed to reflect training currently available through OCIS.
- (F) Lists of Qualified, Certified, and Screened Interpreters will be published by OCIS pursuant to section 9.02.

- 5.05 Approval of Examinations. OCIS will develop and approve examinations for use in certifying court interpreters for the Commonwealth. Such examinations will comply with the highest standards of the court interpreter profession. These examinations will measure competency in interpretation skills as well as in general language and translation skills. OCIS may, in its discretion, approve for this purpose a test developed by another state or agency, such as the Consortium for Language Access in the Courts or the National Association of Judiciary Interpreters and Translators. OCIS will publish and make available, without cost, a list of languages for which an approved examination is available.

Section 6.00 Training of Court Interpreters

- 6.01 Subject to sufficient appropriations and resources, OCIS offers a standard training curriculum of yearly workshops for court interpreters. Attendance at the workshops is mandatory.
- 6.02 OCIS offers a variety of workshops for court personnel and judges on working with court interpreters effectively and on maximizing OCIS resources. OCIS also collaborates with other court departments and court personnel in creating workshops designed to promote better and more efficient use of court interpreter resources.
- 6.03 Training Manual. OCIS has a Training Manual which serves as a complement to these Standards and Procedures and includes the following sections:
- (A) Brief Overview on the History of Court Interpreting in the US and in Massachusetts
 - (B) The Massachusetts Judicial System
 - (C) Definition and Role of the Court Interpreter
 - (D) Modes of Interpretation: Consecutive, Simultaneous and Sight Translation
 - (E) Complying with the Code of Professional Conduct for Court Interpreters of the Trial Court
 - (F) Coping With Interpreting Challenges: Linguistic, Ethical, Physical, Mental, Professional, and Cultural
 - (G) Court Interpreting as a Professional Field
 - (H) Legal Terminology/Glossaries
 - (I) Sample Court Documents
 - (J) Bibliography
 - (K) Articles of Interest
- 6.04 Introductory Training for Court Interpreters. Applicants must attend a mandatory two-day training session that introduces them to the practice of interpretation and to OCIS's Standards and Procedures prior to being assigned to interpret at any court proceeding. This requirement may be waived by the Manager of Interpreter Services in extraordinary circumstances. Major components of this mandatory training are OCIS Standards and Procedures, the Training Manual, hands-on practice of simultaneous and consecutive interpreting skills, and professional ethics workshop.
- 6.05 Mentoring. After completing the two-day introductory training, each applicant is

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

- (A) Mentors introduce applicants to the Massachusetts Trial Court system. They assist applicants in setting goals, developing learning and problem solving skills, acquiring essential information, and clarifying doubts regarding the professional and ethical standards that guide the role of the court interpreter. Mentors and applicants will follow general guidelines outlined in the Mentor Program's information packet which they will receive prior to the mentoring assignment.
- (B) At the conclusion of the mentoring, Mentors will submit a general assessment of the applicant to OCIS. A copy of this assessment will be added to the Mentor's professional file in order to apply the Mentor's training time towards the continuing education requirements of section 5.04(E).
- (C) OCIS will communicate with judges and key court personnel about ongoing mentoring in their courts to provide an opportunity for applicants to be recognized and assisted through the early stages of their professional progress.

6.06 Continuing Education and Training for Court Interpreters available through OCIS. The AOTC makes available a variety of resources within the Trial Court which help professional court interpreters hone interpreting skills and advance their legal knowledge. OCIS welcomes and promotes collaboration among all court departments in sharing information and training resources. Additional sources for specialized instructors can be found among faculty from area law schools, experienced area court interpreters, and lecturers to national and regional court interpreter and translator associations. In addition, specialized workshops and training will be offered by OCIS. Individual court interpreters may be asked, as necessary, to enroll in such training opportunities.

Section 7.00 Compensation of Per Diem Court Interpreters

7.01 The rates of compensation for court interpreters for DHH individuals are set by

the CJAM pursuant to G.L. c.221, §92A. For all other per diem court interpreters, the rate of compensation is set by the Committee.

- 7.02 Compensable Time shall be calculated beginning at the time the court interpreter arrives at the assigned court and reports to the Court Liaison. A “half day” shall be calculated as time spent up to and including four hours of actual interpreting or the time when the court interpreter is available and waiting to perform actual interpreting. “Full day” means a period of time that is more than four hours. Lunch time shall not be considered in this calculation. If the court interpreter is present at the courthouse for the four-hour period, the court interpreter will receive payment for a half day as long as the court interpreter is available for the full four hour period or is otherwise excused from providing services during that period by OCIS.
- 7.03 Court interpreters who are assigned by OCIS to provide court interpreter services in more than one language on the same day shall be compensated at a rate 25% greater than the standard rate set by the Committee and the CJAM.
- 7.04 When a court interpreter begins another assignment after completing a full day, payment will be made on an hourly basis at rates set by the Committee and the CJAM. For these purposes, the hourly rate will commence after eight (8) hours.
- 7.05 Waiting Time. If, in anticipation of a case being called, a court interpreter scheduled by OCIS is required to wait for the case to commence or to continue, and the court interpreter is available at the court facility, such waiting time shall be compensated as time actually engaged in a legal proceeding. Lunch time shall not be considered waiting time.
- 7.06 Travel Time. In the event that a court interpreter is required to travel to and from an assignment, and such travel in either direction exceeds 25 miles, such travel time in excess of 25 miles either going to or coming from an assignment shall be billed at the rate of one hour’s time for each 25 miles traveled in excess of the first 25 miles in each direction. Billing shall be based on the actual odometer reading, and payment shall be at rates set by the Committee and the CJAM. In the event that court interpreters travel to more than one assignment in the day, mileage and travel time calculation shall be based on the accumulated mileage for the day and the court interpreter may bill OCIS for travel time beginning at the point of embarkment.
- 7.07 Mileage and Expenses. Court interpreters shall be reimbursed for mileage and expenses at rates set by the CJAM.

- 7.08 Telephone interpreting. Court interpreters will be compensated for providing telephone interpreting services on an hourly basis at rates set by the Committee and the CJAM, with a one hour minimum payment and payment made for each additional fifteen minute increments, provided that the court interpreter providing the telephone interpreting service is not already being compensated for the time by OCIS. Documented telephone charges will also be reimbursed.
- 7.09 Cancellation rate. Court interpreters will be entitled to payment for a half-day if OCIS cancels the assignment within 24 hours of the designated start time. However, OCIS shall have the right to reassign the court interpreter to another assignment for that time period without additional compensation.

Section 8.00 Requesting the Services of a Court Interpreter

- 8.01 Types of Proceeding for which a Court Interpreter Will be Provided.
- (A) The OCIS will schedule and provide court interpreters, upon receipt of a request pursuant to section 8.02, to appear at any and all criminal or civil judicial proceedings, including the institution of such proceedings (e.g., the filing of a complaint and affidavit seeking a restraining order pursuant to G.L. c.209A or other similar proceedings). In emergency situations where written requests are not possible, OCIS will provide court interpreters and will be responsible for compensating court interpreters for providing services upon telephone request. OCIS will be responsible for compensating court interpreters who provide these services when scheduled or assigned by OCIS under these Standards and Procedures. OCIS will give priority to scheduling the following types of proceedings: criminal proceedings; juvenile proceedings, including CHINS, care and protection proceedings, and petitions seeking to dispense with parental consent to adoption under G.L. c. 210, § 3; proceedings under G.L. c. 209A and other proceedings for protection from abuse; civil commitment hearings pursuant to G.L. c. 123; proceedings conducted in the Housing Court; housing cases conducted in the District Court; and proceedings conducted to secure child support payments. In addition, OCIS will schedule and compensate court interpreters for providing services upon request of a Court Liaison for parents, guardians, and other individuals who must understand the court proceeding. A court interpreter who has been sent to a court facility for a particular day or part of a day, and who is not actively interpreting in a court proceeding, shall, upon request, provide interpreting services for other court personnel during the period for which the court interpreter is being compensated by OCIS so long as

he or she remains available for courtroom proceedings as assigned or for other OCIS assignments as needed. Responsibility for providing these services continues to lie primarily with other court offices or departments.

- (B) Whenever a court interpreter is paid for by OCIS, the judge in the proceeding for which the court interpreter provided services should consider assigning the cost of the court interpreter services pursuant to Mass. R. Civ. P. 43(f), Mass. R. Dom. Rel. P. 43(f) or Mass. R. Crim. P. 41.
- (C) The OCIS will not provide or compensate court interpreters for witness interviews, depositions, or other interpretation outside of a court facility provided, however, that OCIS will provide and compensate court interpreters for investigations and evaluations ordered by the court and either required by statute or by the court for trial and/or disposition of a pending matter. Except as otherwise required, OCIS may, upon request, assist in scheduling court interpreters for these services or may provide lists of screened and certified court interpreters who are available to provide such services.

8.02 Procedures to Request Court Appointed Interpreters.

- (A) Court Liaisons may request “Automatic Morning Coverage” whereby a court interpreter for a specified language will automatically be scheduled to the court every morning without the need to make a specific request for a court interpreter for each day. Such requests must be directed to the attention of the Manager of Interpreter Services and must be supported by statistics demonstrating an ongoing and consistent need for a court interpreter every day.
- (B) In all other situations, a Request for Interpreter Form must be prepared by the requesting court and signed by the Court Liaison each time a court-appointed interpreter is requested, including an ASL interpreter. The request form must be filled out completely. If it is not complete, it may not be processed by OCIS. The form must include the following: the name of the requesting court, the name and telephone number of the Court Liaison, the case name and docket number, the type of proceeding, the parties or witnesses for whom the court interpreter is needed, the name of the requesting judge, the names of all counsel, the date and time the court interpreter service is needed, the location where the proceeding will be heard, the precise language or country of origin requested (e.g., if

Cantonese is needed, Cantonese must be requested and not Chinese) or if an ASL court interpreter is requested, and the date on which the request was made. The authorized request form may be either mailed or faxed to the OCIS. When telephone requests are made in emergency situations, they must nonetheless be confirmed through the preparation and submission of a request form. If OCIS has designated a court division as having "Automatic Morning Coverage" and a court interpreter is needed for a proceeding in the afternoon at an "Automatic Morning Coverage" court division, the Court Liaison must complete and submit a request form.

- (C) Upon receipt, the request will be date stamped, and the data on the Request for Interpreter Form will be entered into the database at OCIS. Requests for an ASL court interpreter shall be immediately forwarded to the MCDHH by OCIS.
- (D) OCIS will draft a Preliminary Monthly Schedule by the last week of the preceding month and forward the schedule to all Court Liaisons who have requested court interpreters for the succeeding month. Court Liaisons should distribute the Preliminary Monthly Schedule to sessions clerks or other appropriate personnel to aid in the scheduling of court interpreters and the grouping of all cases requiring the same language on the same day. The Preliminary Monthly Schedule must indicate by court the language(s) assigned, the date(s) assigned, the case name(s), the docket number(s), and the type(s) of court proceeding.
- (E) On or before Thursday of each week, OCIS will review all requests for court interpreters for the subsequent week and will assign spoken language court interpreters to each request in accordance with the procedures set forth in section 9.00. The Approved Schedule for the subsequent week will then be made available to all requesting Court Liaisons either through electronic mail or by posting the Approved Schedule on the AOTC Intranet to confirm that a court interpreter will be provided. If a court interpreter cannot be provided in accordance with this Approved Schedule, that information will be communicated to the Court Liaison of each affected court, if possible by 3:00 P.M. on the day that OCIS becomes aware that a court interpreter cannot be provided.
- (F) OCIS will notify the assigned spoken language court interpreters, either staff court interpreter or per diem court interpreter, of his or her assignment for the next week by the end of business on Thursday. Any

subsequent modification will be communicated by telephone as soon as possible, but in any event by the close of business of the preceding day. Court interpreters must notify OCIS immediately if they are unable to fulfill an assignment.

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

Section 9.00 Assigning Court Interpreters

- 9.01 OCIS will schedule and assign spoken language court interpreters based upon requests from Court Liaisons. Generally, court interpreters will be assigned in the following sequence: first, Qualified Interpreters or Certified Interpreters, and second, Screened Interpreters. If there are no Qualified, Certified or Screened Interpreters available to meet the needs of the requesting court, OCIS may, in such extraordinary circumstances, schedule and assign a court interpreter to provide the needed service or contract with a private agency, including the Language Line, to provide the court interpreter service.
- 9.02 OCIS will develop and maintain lists of Qualified Interpreters, lists of Certified Interpreters, and lists of Screened Interpreters. OCIS, in its discretion, may establish such lists by court, courthouse, area, or region and shall specify whether an individual may be included on multiple lists. OCIS may also, in its discretion, establish and maintain lists according to the type of appointment to be made. For example, OCIS may establish a single list for an “Automatic Morning Coverage” court because that court needs a court interpreter assigned each morning. OCIS

shall publish and make available a listing of all such lists with any and all qualifications for each list. The lists shall be public.

- 9.03 The goal is to assure that all appointments made by OCIS are made on a fair and impartial basis with equal opportunity and access for all Qualified and Certified Interpreters for appointments. OCIS has concluded that the fairest way to accomplish this goal, and at the same time avoid favoritism or the appearance of favoritism, is to create lists of Certified and Qualified Interpreters and then generally make appointments from those lists in rotation or sequential order.
- 9.04 OCIS understands the importance of flexibility in selecting court interpreters based on the particular expertise needed in a given case. In making an appointment, OCIS will consider the experience, expertise, location, and availability of the court interpreter, and the complexity and particular need presented by the court proceeding for which a court interpreter has been requested. Every effort will be made to maintain a consistent assignment of a court interpreter to an on-going trial or proceeding. OCIS may select a court interpreter who is not on the list or who is not next in order on the list in consideration of these factors and will make a brief notation of the reasons for the selection.
- 9.05 Successive Appointments. Each appointment shall be made from the appropriate list maintained pursuant to section 9.01, except as otherwise provided in section 9.04.
- 9.06 Appointment Record. OCIS shall establish and maintain records of all appointments by OCIS of court interpreters. Such records shall contain at a minimum the following: (a) the docket number and the name of the case, (b) the date of the appointment, (c) the name of the appointee, and (d) a notation if the appointment was not made successively from the court's list or if the appointee was a person not on the list.
- 9.07 Language Line and Private Interpreter Agencies. There are occasions when no Qualified, Certified or Screened Interpreter is available. In these extraordinary circumstances, to permit the court proceedings to go forward, the AOTC has entered into contracts with private interpreter agencies, which may be called upon to provide an interpreter for a court proceeding. In addition, OCIS has contracted with Language Line LLC. This company, through its Court Division, provides foreign language interpretation in more than 140 languages by telephone. A speaker phone is preferable, but not necessary to access the service. Language Line may also be used for more common languages when an

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

- 9.08 Interpreters for the Deaf and Hard of Hearing are assigned by the MCDHH in conjunction with OCIS.

Section 10.00 Duties of the Per Diem Court Interpreter

10.01 Arrival Procedures:

- (A) Upon his/her arrival at the assigned court, the per diem court interpreter must report to the Court Liaison designated to approve court interpreter assignments and attendance or to the staff court interpreter who has been authorized in writing by OCIS to perform this function. When possible, the per diem court interpreter should notify OCIS if he/she will be late for the assignment and shall notify OCIS if unable to appear. OCIS will then notify the Court Liaison.
- (B) When a time stamp is available, the interpreter's Daily Service Record (DSR) must be stamped upon arrival. If a time stamp is unavailable, the Court Liaison should handwrite and initial the per diem court interpreter's arrival time in the space provided on the DSR. Space is also provided for signing in and out of the morning session for lunch time and for signing in and out of the afternoon session.
- (C) The Court Liaison should ensure that the request for the per diem court interpreter was approved and scheduled by reviewing the Weekly Approved Schedule.
- (D) It is recognized that many courts maintain a scheduling tool such as a log book to monitor the appearances of per diem court interpreters. In such cases, upon his or her arrival, court personnel should record the name and language of the per diem court interpreter in the log book on the date he or she was assigned.

10.02 Departure Procedures

- (A) Before departure from the court facility, the per diem court interpreter must check with the Court Liaison (or in some cases with the staff interpreter when authorized in writing by OCIS to perform this function) to determine if the per diem court interpreter can be of further assistance in other cases or other matters then pending in the court or court complex during the time that the per diem court interpreter is being compensated by OCIS. Once it has been confirmed that the per diem court interpreter is not needed at that court facility, the per diem court interpreter will call OCIS to report availability in case his/her services are needed elsewhere.
- (B) Before departure, per diem court interpreters must complete their DSR and submit it to the Court Liaison (or in some cases the staff interpreter when authorized in writing by OCIS to perform this function) for review.
- (C) Proper preparation of the DSR is essential. The DSR must include the name(s) of the case(s), docket number(s), type(s) of proceeding, total interpreting hours, and total waiting time for each case. This information may be either listed on the DSR or on a separate attached sheet of paper.
- (D) Court Liaisons (or in some cases the staff interpreter when authorized in writing by OCIS to perform this function) must review the DSR for assignment and attendance only and record the per diem court interpreter's departure time on the service record. Once the verification process is satisfactorily completed and approved, the DSR must be signed by the Court Liaison.
- (E) A copy of the approved DSR should be retained by the court with the corresponding case file(s).

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

10.04 The per diem court interpreter shall call OCIS in the event of last minute unavailability. Upon such notification to OCIS, OCIS will notify the Court Liaison of the per diem court interpreter's unavailability and inform the Court Liaison as to whether alternative coverage is being arranged by OCIS.

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

- 11.01 The completed DSRs and allowed motion(s), if any, attached must be submitted by the per diem court interpreter to OCIS for final review and approval every two weeks. DSRs submitted more than 60 days after the date of service may not be processed by OCIS.
- 11.02 Separate DSRs must be completed for each court serviced. However, all travel for a given day should be recorded and submitted on the DSR for the last court where services were provided that day.
- 11.03 The DSR must include the following: (1) the name and address of per diem court interpreter, (2) his or her social security number, (3) date of service, (4) the language, (5) whether the per diem court interpreter is qualified, certified, or screened, (6) the court where the service was provided, (7) the name of the requesting judge whenever applicable, (8) the name(s) and docket number(s) of the proceeding(s), (9) the interpreting hours, waiting hours, and total hours (excluding lunch time), (10) indication of full day or half day service, (11) the travel time and mileage or transportation expenses (for tolls a receipt must be attached), (12) authorized signature for service confirmation, and (13) the per diem court interpreter's signature and date.
- 11.04 Upon receipt of the DSRs, OCIS processes them in the following manner: they are grouped by per diem court interpreter and arranged chronologically and a payment voucher is prepared and attached for each per diem court interpreter/vendor. The DSRs are reviewed for any errors or missing information. Any mathematical miscalculations are corrected. DSRs that are missing required information are not processed and may be returned to the per diem court interpreter.
- 11.05 The individual DSRs are verified by cross referencing with the schedule and assignment of the per diem court interpreters to be sure that the bills that are submitted are in fact for services ordered by OCIS. Any service billed that has not been ordered will generally not be approved for payment.
- 11.06 Because the Massachusetts Management Accounting and Reporting System (MMARS) governs the payment process for all Trial Court expenditures, a MMARS Payment Voucher must also be prepared for all per diem court interpreters.

- 11.07 The payment voucher with the accompanying DSRs must be approved for payment by the Manager of Interpreter Services.
- 11.08 A summary sheet of what OCIS has approved and processed for payment will be sent to each per diem court interpreter.

Section 12.00 Removal of a Court Interpreter from an OCIS List

- 12.01 Removal from an OCIS list of Court Interpreters upon request.
 - (A) All requests for the removal of an individual from an OCIS list shall be in writing and addressed to the Manager of Interpreter Services. The Manager of Interpreter Services may initiate such requests as well. Such requests shall specify which of the following grounds for removal are alleged:
 - (1) failing to follow the standards prescribed by law and the ethics of the interpreter profession,
 - (2) gross incompetence,
 - (3) violation of Section 4, the Code of Professional Conduct for Court Interpreters of the Trial Court,
 - (4) violation of any other judicial department policies or procedures, or
 - (5) consistent and repeated failure to be available for assignments by OCIS.
 - (B) If the request for removal raises serious concerns as to the individual's qualifications or suitability to perform the duties and/or functions of a court interpreter, OCIS shall have the discretion to temporarily suspend the court interpreter from one or more of the OCIS lists. OCIS may remove the temporary suspension at any time during the review of a request for removal.
 - (C) OCIS shall send a copy of the request to the individual whose removal is sought along with a notice indicating that the individual may file a written response, addressed to OCIS, within thirty days.
 - (D) Thereafter, OCIS shall determine if an investigation should be conducted into the facts and circumstances that form the basis for the request. If an investigation is not needed because the facts are not in dispute, OCIS shall make a recommendation in writing to the CJAM that the individual should be removed from one or more of the OCIS lists, that a lesser

sanction should be imposed, or that no action should be taken on the request for removal. Lesser sanctions shall include, but are not limited to, suspension from the list for a specific period of time, suspension until the court interpreter successfully completes prescribed training, or restrictions on the types of judicial proceedings to which the court interpreter may be assigned. If an investigation is necessary, OCIS shall appoint an individual to conduct an investigation.

- (E) The investigator so selected under paragraph (D) shall conduct a complete and full investigation into the facts and circumstances that provide the basis for the request for removal and shall report in writing the results of the investigation.
- (F) The investigator's report shall be submitted to OCIS and a copy shall be forwarded to the individual whose removal is sought. OCIS shall afford to the individual whose removal is sought an opportunity to submit a written memorandum or argument. OCIS may, in its discretion, meet with the requesting party and/or the individual whose removal is sought and such others as OCIS deems appropriate or conduct a hearing at which the interested parties may be heard. Based upon the investigator's report and such other documentation as OCIS has obtained, OCIS shall determine whether to recommend that the individual be removed from one or more of the lists, that a lesser sanction be imposed, or that no further action is required. If the decision is that removal or a lesser sanction is not necessary, a copy of the decision shall be forwarded to the individual whose removal was sought, and to the requesting party.
- (G) If OCIS decides to recommend the removal of the individual from the list or a lesser sanction, OCIS shall report in writing the recommendation and the basis for the recommendation and forward it, along with a copy of the investigator's report and such other documentation as has been submitted, to the CJAM. A copy of the recommendation shall also be forwarded to the individual whose removal is sought.
- (H) The CJAM shall consider the recommendation submitted by OCIS and shall, within sixty days, either accept or reject the recommendation. That decision shall be final. A copy of the CJAM's decision shall be sent to the requesting party and the individual whose removal is sought.
- (I) Any report prepared by an investigator under subsection (D), any written response prepared under subsection (C), any written recommendation

submitted pursuant to subsections (D), (F), or (G), any written memorandum or argument submitted under subsection (F), and any hearing conducted under subsection (F) shall be considered to be confidential and shall not be open to the requesting party or the public.

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

Section 13.00 Reports and Statistics

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

Section 14.00 Interpreter Services in Judicial Proceedings

- 14.01 Interpreter's Oath. Each interpreter engaged in court proceedings shall swear or affirm that he or she will make true and impartial interpretation using his or her best skill and judgment in accordance with the standards prescribed by law and the ethics of the interpreter profession. *See* Section 4.03 (I). The court interpreter shall be sworn at the beginning of the proceeding or at the beginning

of his or her day's work, in which case the oath extends for the duration of the day's services. Prior to being sworn, the court interpreter should report whether he or she is screened, certified, or qualified by OCIS. The language of the oath is as follows:

“Do you solemnly swear or affirm that you will make true and impartial interpretation using your best skill and judgment in accordance with the standards prescribed by law and the ethics of the interpreter profession?” See G.L. c. 221C, § 4(a).

- 14.02 It is not appropriate to use a child to interpret for an LEP or DHH individual in a court proceeding except in extraordinary circumstances.
- 14.03 Multiple LEP or DHH Parties.
 - (A) When there are multiple LEP or DHH parties, a court interpreter or team of court interpreters, using appropriate equipment, may interpret simultaneously for all of the parties.
 - (B) When a witness requires a court interpreter, however, a separate court interpreter must be assigned to the witness to allow parties to communicate with counsel as necessary in a timely manner.
 - (C) If a trial involves multiple parties who require a court interpreter and whose interests are in conflict, the court may provide a separate court interpreter for each party.
- 14.04 The Court Interpreter's Role. The judge may allow a court interpreter time, prior to the commencement of the proceeding, to explain the role and responsibilities of court interpreters to the person or persons utilizing the court interpreter during that proceeding.
- 14.05 Mode of Address. An LEP or DHH individual should always be addressed directly and never through the court interpreter.
- 14.06 The Right to an Interpreter: Waiver.
 - (A) A waiver of the right to a court interpreter by an LEP individual shall be effective only when approved by the judge after the LEP individual has consulted with counsel and been afforded, through a court interpreter, in open court by the judge, an explanation of the nature and effect of such

waiver. The judge may approve a waiver only upon finding that it is knowingly and voluntarily made. Upon approval of such waiver, the judge shall ensure that a recitation of the procedure followed is made part of the record. *See* G.L. c. 221C, § 3(a).

- (B) Failure of an LEP individual to request a court interpreter shall not be deemed a waiver of such right. An LEP individual may retract any waiver of the right to a court interpreter at any stage of the proceeding and indicate the desire to be assisted by a court interpreter. *See* G.L. c. 221C, § 3(b).
- (C) A waiver of the right to a court interpreter by a DHH individual shall be effective only when it is found by the court to be knowingly, voluntarily, and intelligently made, in writing, by the DHH individual. Such waiver is subject to the written approval of counsel where such DHH individual is represented by counsel. In no event shall the failure of the DHH individual to request a court interpreter be deemed a waiver of such appointment. *See* G.L. c. 221, § 92A.

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