

Supreme Court of Florida

AOSC11-45
Corrected

IN RE: COURT INTERPRETING SERVICES IN FLORIDA'S TRIAL
COURTS

ADMINISTRATIVE ORDER

The purpose of the Commission on Trial Court Performance and Accountability is to propose policies and procedures on matters related to the efficient and effective resource management, performance measurement, and accountability of Florida's trial courts. In In Re: Commission on Trial Court Performance and Accountability, No. AOSC10-48 (Fla. Aug. 20, 2010), the Commission was directed to make recommendations on the effective and efficient management of due process services with a focus on developing operational standards and best practices for providing court interpreting services.

To address this directive, the Commission formed a court interpreting workgroup that included judges, trial court administrators, and court interpreters representative of the various programs across the state. In January 2011, after an extensive interactive review process with the trial courts, the Commission submitted a report to the Supreme Court entitled *Recommendations for the*

Provision of Court Interpreting Services in Florida's Trial Courts (the Report).

The Report focuses on general recommendations, standards of operation, and best practices for court interpreting services. "General recommendations" pertain to issues that fall within the purview of another supreme court appointed committee and are offered for their review and subsequent action, if appropriate. "Standards of operation" are intended to be mandatory practices that must be implemented. "Best practices" are suggested practices intended to improve operations but, due to local conditions beyond the court's control, are not required.

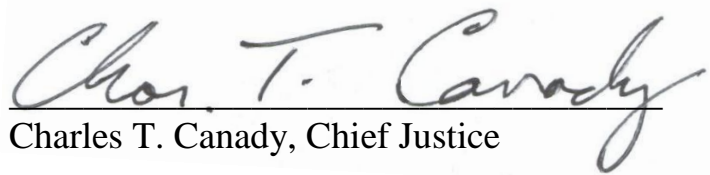
The attached general recommendations, standards of operation, and best practices, which have no significant fiscal impact and can be accomplished within existing resources, are hereby adopted as a means to ensure the effective, efficient, timely, and uniform provision of court interpreting services in Florida's trial courts.

The Office of the State Courts Administrator (OSCA) is charged, time and resources permitting, with assisting the trial courts in implementing the approved standards and best practices including: establishing performance goals, developing or revising data collection systems to monitor performance, providing educational opportunities and resource materials, and providing other technical assistance as needed.


In regards to the policies within the Report that are not approved at this time, the Trial Court Budget Commission is charged with monitoring court interpreting budgets to ensure that, to the extent possible given the fiscal environment, the trial courts are provided the opportunity to seek the necessary and appropriate level of resources for purposes of implementing those policies in the future, as funding becomes available. Accordingly, the Trial Court Budget Commission is charged with conducting a feasibility study to assess the viability of remote interpreting technology for improving efficiencies as well as reducing anticipated operational costs associated with expanding the provision of court interpreting to all court proceedings and court-managed activities.

The attached general recommendations, standards of operation, and best practices are incorporated herein by reference. These approved policies shall be effective upon the signing of this order.

DONE AND ORDERED at Tallahassee, Florida, on January 30, 2012.


Charles T. Canady, Chief Justice

ATTEST:


Thomas D. Hall, Clerk of Court



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General Recommendations

II.B. To the Court Interpreter Certification Board

1. All related training standards and procedures for the provision of orientations by providers other than the Office of the State Courts Administrator should be established by the Court Interpreter Certification Board.

V.H. To the Trial Court Budget Commission

The TCBC should review the feasibility of:

1. Establishing a rate differential that would provide a higher rate of pay for those contract spoken language interpreters who have achieved state certification.
2. Establishing a rate differential that would provide a higher rate of pay for those contract sign language interpreters who have achieved national certification.
3. Establishing pay increases for court employee interpreters which would provide newly hired certified interpreters a higher base rate and existing employees, who are certified or become certified, a fair and equitable pay increase.
4. Seeking legislation to provide statutory authority to circuits wishing to use existing funds to pay for training and certification expenses for employee interpreters.

VI.C. To the Florida Court Education Council

1. Presentations to judges pertaining to court interpreting services should be included periodically at judicial conferences.
2. Presentations regarding the need for and use of court interpreters should be included in some appropriate way at the Florida Judicial College.

VI.C. To the Court Interpreter Certification Board, Advisory Committee

1. The Office of the State Courts Administrator should develop a bench card and a chapter on the topic of the need for and use of court interpreters for inclusion in a judicial bench book.

VIII. To the Commission on Trial Court Performance and Accountability, Court Statistics and Workload Committee

1. Court interpreting statistics collected in the Uniform Data Reporting System should be modified to capture the number of court interpreting hours (in quarter hour segments), by proceeding type and language, in addition to the number of events.
2. Court interpreting statistics collected in the Uniform Data Reporting System should be modified in order to be consistent with amendments to s. 29.004, Florida Statutes.

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IX. To the Trial Court Budget Commission

1. Funding allocations should take the total need for funding into consideration in order to bring uniformity and equity to the level of services provided across the trial courts.
2. The court interpreting funding formula should be modified as follows:
 - The formula should result in the total number of dollars required to provide court interpreting services with certified interpreters;
 - The formula should be based on a standardized statewide cost for court interpreting services (including document translations), by language type, and applied to projected court interpreting hours and pages from the Uniform Data Reporting System;
 - The formula should incorporate a modifier for non-direct service functions (i.e., supervision, coordination, scheduling); and
 - The formula should incorporate a modifier for multiple counties and/or multiple courthouses.

IX. To the Office of the State Courts Administrator

1. Explore the use of Justice Assistance Grant funds, provided by the office of Justice Programs, as an additional resource for funding language services in the courts.

Standards of Operation

I.C.1. Circuits shall establish criteria to determine the appropriate qualifications of an interpreter when assigning proceedings, in accordance with court rules and guidelines.

I.C.3. Whenever possible, an interpreter certified by the Registry of Interpreters for the Deaf /National Association of the Deaf shall be appointed to provide interpreting services to court participants who are deaf, hard of hearing, late-deafened, or deaf blind. If, after diligent search, a certified interpreter is not available, an interpreter who is otherwise qualified may be appointed if the judge or hearing officer presiding over the proceeding finds that good cause exists for the appointment of an interpreter who is not certified, such as the prevention of burdensome delay, the request or consent of the participant, or other unusual circumstance; and the proposed interpreter is competent to interpret in the proceedings and agrees to do so.

I.D.1. When there is limited availability of spoken language interpreters, cases requiring interpreters shall be prioritized according to rule 2.560, Florida Rules of Judicial Administration, and based on when an interpreter is requested, the time sensitive nature of the matter, and whether a fundamental interest is at stake.

I.E.1. Each circuit shall establish an assignment system for contract court interpreters with certified interpreters given priority for assignments.

III.A.1. The Office of the State Courts Administrator-maintained online statewide registry of spoken language interpreters shall reflect the official status of each interpreter listed, pursuant to court rule or Court Interpreter Certification Board operating procedures.

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III.A.2. An overview as to what inclusion on the statewide registry of spoken language interpreters entails shall be posted online by the Office of the State Courts Administrator, clearly indicating the requirement differences for the various listings.

III.A.3. A link to the Registry of Interpreters for the Deaf shall be maintained on the Office of the State Courts Administrator's website, to provide access to a database of nationally certified sign language interpreters.

III.B.2. Circuits shall explore the prospect of shared training, observation, and mentoring programs across circuit lines.

III.B.3. The Office of the State Courts Administrator shall maintain and update a directory of all court interpreting services coordinators for each circuit. The directory shall be uploaded to the Florida Courts' intranet site.

III.B.4. The Office of the State Courts Administrator shall maintain a statewide electronic listserv for court ADA coordinators, to facilitate the sharing of information about sign language interpreter services.

III.B.5. The Office of the State Courts Administrator shall create and maintain a statewide electronic listserv to facilitate communication and information sharing for all court interpreting services coordinators.

IV.A.2. Circuits shall identify existing technology that is currently operating in courtrooms to determine the feasibility of establishing remote interpreting capability.

V.A.1. Each circuit shall determine a court interpreter staffing model based on the most efficient use of resources.

V.B.1. Recruitment procedures and practices for court interpreting positions shall be in compliance with the Florida State Courts Personnel Regulations and section 25.382(4), Florida Statutes.

V.B.2. Pursuant to Section 1.04, Florida State Courts System Personnel Regulations Manual, regarding Recruitment/Applications, job vacancy notices specifying the knowledge, skill, and ability requirements for each vacant court interpreting position shall be posted and distributed to all appropriate court offices. Job vacancies open to the general public shall be advertised by employers using appropriate advertising sources to reach a diverse group of qualified applicants in the available labor market.

V.C.1. Applicants selected for a position in the court interpreter series of positions (e.g., supervising court interpreter, assistant supervising court interpreter, and court interpreter) shall meet the Education and Training Guidelines and Competencies outlined in the class specification for the position.

V.C.2. Court interpreter employees shall possess the knowledge, skills and abilities necessary to perform the duties assigned to the position as outlined in their position description. Employees shall agree to abide by the Code of Professional Conduct as promulgated in Part III of the Florida Rules for Certification and Regulation of Court Interpreters.

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V.C.3. Applicants who are selected as employee interpreters and are not certified shall obtain such status within one year of being employed in a court interpreting position. Interpreters currently employed with the court shall obtain such status within one year upon notification by the court. The one year requirement may be modified, on a case-by-case basis, if necessary, when extenuating circumstances exist.

V.C.4. Certified interpreters shall be given priority in hiring decisions for employee interpreter positions.

V.D.1. A two-day orientation workshop for court interpreters shall be offered by the Office of the State Courts Administrator's Court Interpreter Certification and Regulation Program to all interested spoken and sign language interpreters.

V.D.2. Pursuant to rule 14.390 of the Code of Professional Conduct, spoken language interpreters shall continually improve their skills and knowledge and advance the profession through activities such as professional training, continuing education, and interaction with colleagues and specialists in related fields.

V.D.4. If funding becomes available, the Office of the State Courts Administrator shall organize statewide educational conferences for all court interpreters. Topics shall include:

- Role of the interpreter in the courtroom;
- Ethics;
- Techniques for improving interpreter skills;
- Specialized vocabulary training;
- Common difficulties and problems; and
- Courtroom dynamics – roles of court participants.

V.F.1. A program or plan to observe employee and contract interpreters shall be established in each circuit to monitor the performance of the interpreters. Court interpreters shall be observed while performing their duties to ensure they are properly and adequately carrying out the responsibilities of their position pursuant to their position description or contract requirements and the Code of Professional Conduct.

V.G.1. When a problem is identified in interpreter performance, the supervisor shall meet with the interpreter to discuss the problem and develop a plan of action to correct the problem.

V.G.2. Pursuant to the Personnel Regulations Manual, Section 2.04(4), an employee interpreter shall be placed on a Performance Improvement Plan at the discretion of the supervisor, if he/she is not performing his/her duties and responsibilities satisfactorily. This Performance Improvement Plan shall specify the duties and responsibilities where the employee interpreter is deficient and corrective actions to be taken.

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V.G.3. Pursuant to Section 2 of the Personnel Regulations Manual, Performance Planning and Review System, the employee interpreter's duties and responsibilities and mutual performance expectations shall be discussed with the employee interpreter at the start of employment in the position. On-going direction and training shall be made available to the employee during the review period, as well. A position description shall also be prepared.

V.H.1. Contract court interpreters shall be paid rates not to exceed those delineated below. Rates exceeding the maximum may be paid in extenuating circumstances as approved by the Chief Judge of the circuit.

Certified Spoken Language Interpreters (per the Florida Rules for Certification and Regulation of Court Interpreters):

- Spanish \$60 per hour (2 hour minimum with ¼ hour increments thereafter)
- Haitian Creole \$90 per hour (2 hour minimum with ¼ hour increments thereafter)
- Other Spoken Languages \$120 per hour (2 hour minimum with ¼ hour increments thereafter)
- Written Translations \$60 per page (8.5" by 11" page)

Certified American Sign Language interpreters and all other types of interpreters for persons with hearing loss (per the Registry of Interpreters for the Deaf/National Association of the Deaf):

- Specialist Certificate: Legal \$100 per hour
- Other Certifications \$75 per hour

Non-Certified Interpreters

- Spanish \$45 per hour (2 hour minimum with ¼ hour increments thereafter)
- Haitian Creole \$75 per hour (2 hour minimum with ¼ hour increments thereafter)
- Other Spoken Languages \$90 per hour (2 hour minimum with ¼ hour increments thereafter)
- American Sign Language and all other types of interpreters for persons with hearing loss \$70 per hour (2 hour minimum with ¼ hour increments thereafter)
- Written Translations \$35 per page (8.5" by 11" page)

V.H.2. The Office of the State Courts Administrator shall develop standardized language that can be used as a template for circuit court interpreter contracts.

VI.A.1. A court interpreter shall be sworn in at the beginning of a proceeding or set of proceedings.

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VI.B.1. Consecutive interpretation shall be used during witness testimony or when there is questioning of the defendant. Simultaneous interpretation shall be used at all other times.

VI.C.1. The Office of the State Courts Administrator shall prepare brochures and pamphlets to be distributed to court users advising them of the availability of and requirements for using a court interpreter.

VI.C.2. Circuits shall develop a court interpreter page to be included on their website explaining the basic services provided by the court interpreter program and shall provide contact information.

VI.C.3. Circuits shall publish information on their websites to inform court participants with disabilities about the rights afforded by the Americans with Disabilities Act, the federal regulations, and the process for requesting a qualified interpreter or other accommodation.

VI.C.4. All educational materials developed for the circuits by the Office of the State Courts Administrator's Court Interpreter Certification and Regulation Program and by the Court Interpreter Certification Board shall include information on how to request an interpreter, what the role of the interpreter is, and what the interpreter is not allowed to do.

VI.D.1. The judge shall ensure that all parties are informed an interpreter is being used in the proceeding and ensure that all parties are conscious of the interpreter.

VI.D.2. The judge shall monitor the proceeding and ensure that the interpretation process is flowing smoothly.

VI.D.3. The judge shall instruct the participants to adjust their volume, rate of speech, and refrain from extraneous comments or whispering, allowing for the interpreter to fully hear all that is being said.

VI.D.4. The judge shall give the appropriate jury instructions regarding the use of a court interpreter. Jurors shall be instructed that the interpreter is neutral, impartial, does not represent the interest of any party, and is only there to assist in communication.

VI.D.5. All parties, including jurors, shall be instructed that if they speak and understand the language being interpreted and perceive a discrepancy as to the interpretation, it should be brought to the attention of the judge.

VI.D.6. When an interpreter is used for a juror who is deaf or hard of hearing, the presiding judge has the discretion to administer an oath of non-involvement, including language stating that the interpreter will not interfere with the deliberations of the jury or reveal the confidences of the jury.

VI.D.7. All court personnel shall work toward making the best use of the court interpreter's time and availability by ensuring that those cases involving an interpreter are called and brought to the court's attention as soon as possible.

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VI.D.8. Court interpreters shall advise the court or presiding officer any time during a proceeding whenever they believe they are or may be in violation of any part of the Code of Professional Conduct, including if they discover that they cannot communicate effectively with the person using the service.

VI.E.1. Every spoken language court interpreter shall abide by the Code of Professional Conduct pursuant to Part III of the Florida Rules for Certification and Regulation of Court Interpreters.

VI.E.2. Every sign language court interpreter shall abide by the National Association of the Deaf-Registry of Interpreters for the Deaf Code of Professional Conduct.

VII.1. Sound recordings shall not be transcribed or translated live in court.

VIII.1. The Office of the State Courts Administrator shall sponsor periodic trainings for all individuals involved in the collection and reporting of Uniform Data Reporting System statistics.

VIII.2. All circuits shall require attendance at trainings sponsored by the Office of State Courts Administrator for individuals involved in the collection and reporting of Uniform Data Reporting System statistics.

Best Practices

I.A.1. The need for interpreter services should be determined as soon as possible, preferably by whoever makes initial contact with the party. In criminal cases, there should be an identifier in any automated system utilized in a circuit for intake staff at the jail to indicate that the defendant requires a spoken or sign language interpreter, or the public defender's office should request an interpreter as soon as a court appearance is scheduled.

I.A.2. Each circuit should establish and document a procedure for requesting a court interpreter.

I.C.1. Circuits should require designated court interpreting services coordinators to give certified interpreters priority for assignments.

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I.D.1. When there is limited availability of spoken language interpreters, cases requiring interpreters should be prioritized as follows:

- (1) First appearances, detention hearings and reviews, shelter hearings, and final injunction hearings;
- (2) Felony trials;
- (3) Other felony matters;
- (4) Misdemeanor cases;
- (5) Delinquency cases;
- (6) Dependency cases, except shelter hearings;
- (7) Civil commitment hearings;
- (8) Civil traffic cases;
- (9) Diversion programs operated by the courts; and
- (10) Other civil cases.

I.E.1. Each circuit should take steps to ensure that any assignment system for contract court interpreters is as fair and balanced as possible.

II.A.1. The Office of the State Courts Administrator's Court Interpreter Certification and Regulation Program should sponsor orientation workshops, written exam administrations, and oral exam testing at a minimum of three venues per fiscal year, subject to Chief Justice approval and unit workload permitting.

II.A.2. The Office of the State Courts Administrator's Court Interpreter Certification and Regulation Program should sponsor back-to-back workshops and written exams when warranted by demand (i.e., registration well exceeds class capacity and workshop expenses for a second orientation/written exam can be covered by the participant registration fees) subject to Chief Justice approval and provided that registration is completed by the slated registration deadline and instructor/proctor and meeting space availability permitting.

II.A.3. When warranted by demand, additional proctors or additional days should be added by the Court Interpreter Certification and Regulation Program to the oral exam testing schedule in order to accommodate the maximum number of prospective oral exam candidates. As with the other major training/testing components of the program, expansion of the test cycle should be contingent upon receiving approval from the Chief Justice and securing additional proctor staff.

II.A.4. Court Interpreter Certification and Regulation Program venues should be approved by the Court Interpreter Certification Board or Board Chair and should take into account non-English speaking population statistics for the particular jurisdiction, as well as surrounding areas.

II.A.5. At the discretion of the Court Interpreter Certification and Regulation Program, additional trainings should be scheduled in areas of the state where recruitment is critical and orientation workshops/written exams/oral exams are not typically held.

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II.B.1. Court Interpreter orientations should be tagged onto local court interpreter education programs provided that the approved course guidelines of the program are equal or greater to those of the Office of the State Courts Administrator-sponsored workshops.

IV.A.3. Court interpreters who are providing remote interpreting should be given proper advance notice of the need for interpreter services and an enclosed, quiet environment or noise-controlled courtroom in order to listen and view clearly and interpret adequately.

IV.A.5. Circuits should develop and document procedures for the appropriate use of remote interpreting.

IV.B.1. Circuits should explore the possibility of expanding the use of remote interpreting technology in order to promote intra-state interaction and the sharing of interpreter resources.

IV.B.2. Circuits should maintain close communication with those circuits that currently operate remote interpreting technology in order to avoid duplication of effort and to share the pool of qualified interpreters.

IV.C.2. If the use of telephonic interpreting services is necessary, only “court certified” interpreters should be used, if available.

V.B.1. Circuits should contact local colleges and universities that offer foreign language or translation and interpretation programs to advertise position vacancies.

V.B.2. Circuits should partner with local colleges and universities to participate in internship programs for court interpreters.

V.B.3. Circuits should attend local job and career fairs to provide information regarding the court interpreter program and available job opportunities.

V.B.5. Circuits should post notices of vacancies on websites and bulletin boards of relevant national and state interpreting/translation groups.

V.B.6. Circuits should request the Office of the State Courts Administrator to disseminate job vacancy announcements through broadcast e-mails to interpreter program participants.

V.B.7. Circuits should seek to recruit employee interpreters from other fields of interpretation that are not legally oriented.

V.B.8. The Office of the State Courts Administrator should develop a recruitment brochure and other materials that can be accessed electronically by the circuits to aid in recruitment efforts.

V.B.9. The Office of the State Courts Administrator’s Court Interpreter Certification and Regulation Program should give special recognition to newly certified spoken language court interpreters by disseminating a list periodically via electronic communication to pertinent trial court personnel.

V.D.3. Employee interpreters should be encouraged to join professional associations so they may receive pertinent information and support.

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V.D.6. An in-house plan should be developed in each circuit to provide on-the-job training to employee interpreters.

V.E.1. Circuits should provide mentoring programs for employee interpreters.

V.E.2. Circuits should encourage participation in voluntary mentoring programs in collaboration with professional interpreter associations.

V.F.1. A review of digital court recordings, when available, should be utilized to monitor court interpreter performance in cases where a problem was reported or identified and direct observation was not performed during the time in question.

V.G.1. If the performance problem is not related to the employee interpreter's knowledge, skills, or abilities necessary to perform the duties assigned to their position as outlined in their position description, the supervisor should refer the employee interpreter to the court's Employee Assistance Program, if appropriate.

V.H.1. All circuit court interpreter contracts should contain standardized language developed by the Office of the State Courts Administrator for the procurement of court interpreting services.

VI.A.1. Before a proceeding, the judge should require the interpreter to take an oath swearing that he or she will make a true interpretation of the questions asked and the answers given and that the interpreter will make a true translation into English of any writing which he or she is required by his or her duties to decipher or translate.

VI.C.2. The Office of the State Courts Administrator should develop signage, in multiple languages, that may be posted by circuits outside of courtrooms providing instructions for those in need of court interpreting services.

VI.D.1. At the beginning of a proceeding where court interpreting services are necessary, the presiding judge, magistrate, or hearing officer, should allow the interpreter to converse briefly with the person who will use the service to be certain that they can effectively communicate with each other.

VII.1. Audio/Video recordings should first be transcribed from source language to source language, and then translated from source language to target language.

VII.3. Translated forms should not be used in lieu of the use of an interpreter.