THE NEW YORK STATE UNIFIED COURT SYSTEM

UCS Benchcard and Best Practices for Judges

WORKING WITH COURT INTERPRETERS

Persons with limited English proficiency (LEP) and those who are deaf or hard of hearing face special challenges when they use the judicial system, and Court Interpreters serve a fundamental role in providing access to justice for these individuals.

WHO IS ENTITLED TO AN INTERPRETER?

IN NEW YORK STATE, PARTIES AND WITNESSES WHO ARE UNABLE TO UNDERSTAND OR COMMUNICATE IN ENGLISH OR CANNOT HEAR THE COURT PROCEEDINGS are entitled to an interpreter at every stage of a proceeding, in all types of court cases. (Part 217 of the Rules of the Chief Administrator of the Courts, 22 NYCRR Part 217). A judge may presume a need for an interpreter when an attorney or self-represented party advises the Court that a party or a witness has difficulty communicating or understanding English, or that a party is deaf or hard of hearing. If a request for an interpreter has not been made, but it appears that a party or witness has limited ability to communicate or understand court proceedings in English, a judge should ask a few questions (on the record) to determine if an interpreter is necessary:

SAMPLE QUESTIONS TO ASSESS THE ENGLISH PROFICIENCY OF A PARTY OR WITNESS:

- **What is your name?**
- **How comfortable are you in proceeding with this matter in English?**
- **In what language do you feel most comfortable speaking and communicating?**
- **Would you like the court to provide an interpreter in that language to help you communicate and to understand what is being said?**

HOW DO I GET AN INTERPRETER FOR MY COURT?

Depending on your location, a court administrator, clerk or senior court interpreter is responsible for scheduling and assigning interpreters to the court. If there is no local interpreter available to appear in-person at your court, **REMOTE INTERPRETING**, by phone or video-conference from another UCS location, can be arranged.

HOW DO I KNOW IF THE INTERPRETER IS QUALIFIED?

The UCS uses two types of Court Interpreters:

(1) Staff Court Interpreter (UCS employee) or

(2) Per Diem Court Interpreter (freelancer/voucher-paid) from the UCS Registry of Qualified Court Interpreters.

Foreign language interpreters from both groups have satisfied the court system's language-skills screening process and assessment exams, as well as a criminal background check; Sign language interpreters are required to hold certification from the Registry of Interpreters for the Deaf (RID). The clerk or other court staff are responsible for confirming an interpreter's qualifications prior to scheduling the interpreter to appear at your court.

Occasionally, the court may need to call upon an interpreter who is neither a staff court interpreter nor a per diem interpreter on the UCS Registry of Qualified Court Interpreters. Such interpreters should be used *only on an emergency basis*, if a staff or eligible per diem interpreter is not available, and if remote interpreting cannot be arranged. If the court is unsure of an interpreter's qualifications, the judge should review the interpreter's credentials by asking a few questions (on the record) at the outset of the court proceeding:

SAMPLE *VOIR DIRE* QUESTIONS TO ASSESS COURT INTERPRETER QUALIFICATIONS:

- **How did you learn English?**
- **How did you learn the foreign language or sign language that you will be interpreting today?**
- **What training or credentials do you have to serve as a court interpreter?**
- **How long have you been an interpreter?**
- **How many times have you interpreted in court?**

BEST PRACTICES FOR WORKING WITH COURT INTERPRETERS:

EXPLAIN THE ROLE OF THE COURT INTERPRETER

It is important that the party who needs an interpreter understands the role of the interpreter. **The judge should instruct the interpreter to communicate the following information to the party, as it is read aloud by the judge, in the courtroom:**

- **I have been informed that you are more comfortable communicating in (Foreign language or Sign language) instead of English.**
- **The person next to you is the (language) interpreter.**
- **The interpreter's job is to repeat to you in (language) everything that is said in English during this court proceeding.**
- **The interpreter will also repeat for us anything you say in (language) back into English.**
- **Nothing will be changed or left out of this interpretation. The interpreter is not allowed to give you advice or have private conversations with you.**
- **The interpreter will not talk about your case with anybody outside the court.**
- **If something is not clear to you or you have a question, raise your hand. I (the Judge) will answer your questions or concerns. Do not ask the interpreter directly for information or advice about the case.**
- **Do you understand what the interpreter is supposed to do?**
- **Do you have any difficulty understanding the interpreter?**
- **I will now swear-in the interpreter for the record.**

SWEAR-IN THE INTERPRETER

All interpreters should be sworn-in. Placing the interpreter's appearance on the record underscores the importance of adhering to the principles of good court interpreting. Also, when the interpreter states his or her name, it is a good opportunity to inquire whether any party knows the interpreter. This question can eliminate potential conflicts or the appearance of impropriety.

SAMPLE INTERPRETER OATH:

"Do you solemnly swear or affirm that you will interpret accurately, completely and impartially, follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the duties and obligations of legal interpretation and translation?"

ADVISE THE JURY (WHERE APPLICABLE)

Explain to jurors that languages other than English may be used during the proceeding. Even if members of the jury understand the non-English language that is being spoken, jurors must base their decision on the evidence presented in the English interpretation. (See PJI 1:87 for a jury instruction on interpreters.)

ASSESS THE PERFORMANCE OF THE COURT INTERPRETER

A judge's observations can aid in the evaluation of an interpreter's performance, even if one does not speak the language that is being interpreted.

Accordingly, consider the following to determine if the interpreter is communicating effectively during the proceeding:

- **Are there significant differences in the length of interpretation as compared to the original testimony?**
- **Is the interpreter leading the witness, or trying to influence answers through body language or facial expressions?**
- **Is the interpreter acting in a professional manner?**
- **Is the interpretation being done in the first-person? For example, while verbally translating what is being said in court, the interpreter will relay the words as if he/she is the person speaking.**
- **If the interpreter has a question, does he or she address the Court in the third-person (e.g. "Your honor, the interpreter could not hear the last question...") to keep a clear record?**

If you have any concerns or questions about an interpreter's performance, contact the Chief Clerk of the court. You may also contact the Office of Language Access at (646) 386-5670 or by e-mail: InterpreterComplaints@nycourts.gov