

# Ensuring Language Access

A Strategic Plan *for the* New York State Courts



NEW YORK STATE UNIFIED COURT SYSTEM

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March 2017



## Preface

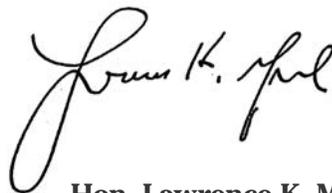


The New York State Judiciary is committed, above all else, to the dual goals of unfettered access to the courts and equal justice under the law. In a state as diverse as New York, that commitment is continuously tested by the hurdles presented by language differences and hearing loss.

To ensure that we are doing our best to meet this challenge, we have periodically issued reports, assessing where we are in ensuring language access in our courts, and setting forth a strategic plan for moving forward. The first report, *Court Interpreting in New York: A Plan of Action*, was issued in 2006, and laid out an ambitious agenda for improving the quality of language access services in the New York courts. The second report, *Court Interpreting in New York — A Plan of Action: Moving Forward*, issued in 2011, assessed progress at the five-year mark, and articulated concrete initiatives for building upon the 2006 plan.

Much has been much accomplished under the 2006 and 2011 plans. Yet, there is more we can and must do to ensure that our courts are accessible to all, and it is time to take stock of where we are, what remains to be done, and how best to achieve those goals.

I am very grateful for the counsel and assistance of our Advisory Committee on Language Access, ably co-chaired by Fern Schair and Eric Brettschneider. The Committee has made a significant contribution to improving language access in the New York courts and has played a major role in shaping our roadmap forward.

A handwritten signature in black ink, appearing to read "Lawrence K. Marks".

**Hon. Lawrence K. Marks**

Chief Administrative Judge of the State of New York

This report is dedicated to the memory of Beatrice Frank, Esq.

Bea taught at New York University Law School for many years, and served on a multitude of committees for the bar and community organizations. Bea was a tireless advocate for interpreting and language services in the courts, and a longstanding member of the UCS Advisory Committee on Language Access.

We deeply appreciate her contributions to improving access to justice for those whose voices are too often not heard.

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# I. Introduction

New Yorkers speak more than 150 different languages and dialects. More than 30 percent of New Yorkers — over five million people — speak a language other than English at home, and two million New Yorkers are not fluent in English.<sup>1</sup>



Last year, utilizing the services of more than 1,000 interpreters (approximately 300 court-employed and over 700 freelance or “per diem” interpreters), the New York courts provided interpreting services in 115 different languages, primarily in Spanish, Mandarin, Cantonese, Russian, and Haitian Creole, but also in languages such as Khmer, Nepali, Pashtu, Swahili, Toisan, Malayalam, Mixteco, Tagalog, and Urdu.<sup>2</sup>

Interpreter Top Languages Utilized in 2016			
In-Person Interpreting		Remote Interpreting	
Spanish	Cantonese	Spanish	Mandarin
Mandarin	French	American Sign	Haitian Creole
Russian	Bengali	Burmese	Hindi
Haitian Creole	Polish	Vietnamese	German
Arabic	Korean	Albanian	Punjabi

The vast number of languages spoken by New Yorkers, and the relatively small numbers of people speaking many of them, make the provision of language access services very difficult. The difficulty is compounded by the geographic dispersion of the need. Court interpreting is not just a New York City or urban issue. The need for interpreters arises every year, in every court in the state. While Queens County is often cited as an epicenter of linguistic diversity,<sup>3</sup> there is also a significant demand for services in suburban and rural areas, where the availability of services is significantly less and the distances interpreters must travel far greater than in more metropolitan regions. Spanish is by far the language that is most in demand across the entire state, but thereafter language needs vary widely, as shown by the following comparison of the five most interpreted languages in different regions of New York.

Bronx	Monroe	Oneida	Queens	Schenectady
Spanish	Spanish	Spanish	Spanish	Spanish
French	American Sign	Burmese	Mandarin	Arabic
Bengali	Nepali	Karen	Bengali	Pashtu
Arabic	Somali	Somali	Korean	American Sign
Twi	Vietnamese	Bosnian	Cantonese	Cantonese

1) US Census Bureau, Language Statistics (2013), [www.census.gov/data/tables/2013/demo/2009-2013-lang-tables.html](http://www.census.gov/data/tables/2013/demo/2009-2013-lang-tables.html)

2) Appendix A sets forth, in descending order of demand, the languages in which the New York courts provided interpreting services in 2016

3) More than 135 languages are spoken by the residents of Queens County. *An Economic Snapshot of Queens*, Office of the New York State Comptroller (2013). Moreover, two percent of the total U.S. Limited English Speaking population in the United States resides in Queens County, making Queens one of the five counties in the nation with the largest number of LEP residents. Zong and Batalova, *The Limited English Proficiency Population in the United States*, Migration Policy Institute (2015).

The scope of proceedings and circumstances for which the New York courts provides interpreting services further complicates this challenge. The New York courts long ago made the policy decision to maximize participation in the justice system by providing interpreting services at no cost to the widest range of court users possible.

The combination of these factors — the multitude of languages spoken in New York, its geographic diversity, and its policy to maximize access to justice — makes the task of providing effective interpreting services in the courts a daunting one. Yet in the face of these challenges, significant progress has been made. Much of this progress has been the result of the 2006 and 2011 strategic plans on language access.<sup>4</sup> Among the achievements under these plans are:

- Promulgation in 2007 of Part 217 of the Uniform Rules for NYS Trial Courts, which codified the policy of providing interpreting services in court proceedings of all types, and to all court users, including witnesses and crime victims. Part 217 also addresses the need for interpreting services in clerical offices and other points of contact outside of the courtroom;<sup>5</sup>
- Improved management of the court interpreting program, including the deployment of an automated scheduling system, which ensures that the most qualified interpreter available is assigned;
- Enhanced testing and assessment of prospective interpreters, including development of oral examinations in additional languages;
- Posting of a sample English proficiency examination and a sample foreign language oral assessment online to assist candidates in preparing for the exams;
- Implementation of a plan to provide language services at points of contact outside the courtroom;
- Development of bilingual orders of protection, which promote victim safety by ensuring that all parties to the order fully understand its terms;
- Expansion of remote interpreting, which helps to avoid delay in situations where an in-person interpreter is not immediately available, while also making the language access program more efficient and effective by increasing the number of cases in which available interpreters can be assigned; and
- Expansion of online resources available to judges (e.g., benchcards), court interpreters (e.g., glossaries and checklists), and others.

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4) 2006 Strategic Plan, [www.nycourts.gov/COURTINTERPRETER/pdfs/action\\_plan\\_040506.pdf](http://www.nycourts.gov/COURTINTERPRETER/pdfs/action_plan_040506.pdf)  
2011 Strategic Plan, [www.nycourts.gov/publications/pdfs/ActionPlanCourtInterpretingUpdate-2011.pdf](http://www.nycourts.gov/publications/pdfs/ActionPlanCourtInterpretingUpdate-2011.pdf)

5) In 2016, Rule 217 was amended to expressly state the long-standing policy that interpreting services are provided at no cost to the user. Rule 217 is set forth in Appendix B.

The current plan builds upon the progress already made. To guide the courts moving forward, this plan sets forth initiatives in the following nine categories:

- 1** Improving the Recruitment, Assessment and Training of Court Interpreters
- 2** Strengthening the Management of the Language Access Program
- 3** Moving Beyond the Courtroom
- 4** Ensuring Language Access for the Deaf and Hard of Hearing Community
- 5** Training Judges, Court Staff, and the Bar to Work Effectively with Court Interpreters and the Limited English Proficiency (“LEP”) Community
- 6** Promoting Quality in the Language Access Program
- 7** Working with the Community to Enhance Language Access
- 8** Expanding Language Access through Improved Signage, Translation, and Online Information
- 9** Partnering with the Town and Village Courts to Ensure Language Access in the Justice Courts

These initiatives will help ensure that New York’s courts fulfill the promise of equal justice to all and can meet these obligations in the most effective and efficient manner possible.



## II. Background: Interpreting Services in the New York State Courts

The New York State Unified Court System (“UCS”) meets the need for language access through a combination of court-employed interpreters and independent contractors (“per diem interpreters”) who are retained on an as-needed basis.

The UCS employs more than 300 full- and part-time court interpreters in 20 foreign languages and American Sign Language. Like most other court employees, the staff court interpreters are subject to statutory civil service requirements and collective bargaining agreements. These statutory requirements and agreements govern many aspects of the court system’s relationship with interpreters, including recruitment, compensation, and performance evaluation, and thus influence many of the initiatives of this strategic plan.

In addition to staff interpreters, the UCS has developed a network of approximately 700 per diem interpreters who provide services in more than 100 languages. Some interpret one of the more common languages for which court-employed interpreters serve (e.g., Spanish, American Sign Language), but most interpret less prevalent languages for which full-time interpreter services are neither necessary nor cost-effective to provide. Given New York’s linguistic diversity and geographic breadth, the court system could not meet its interpreting challenges without per diem interpreters.

### Management of the Court Interpreting Program

As is true with most programs in the New York State court system, the language access program is administered by individual courts under the policy oversight and guidance of the Office of Court Administration (“OCA”).

In 1994, OCA created the Office of Court Interpreting Services (renamed the Office of Language Access [“OLA”] in 2015) to provide central oversight of the court interpreting program. Among the duties of OLA are to assist in the development and implementation of language access policies and best practices, administer the electronic court interpreter scheduling system, produce statistical reports, maintain the statewide Registry of Per Diem Court Interpreters, coordinate remote interpreting, assist with the screening of new applicants, provide training for interpreters, judges and court staff, and address complaints or concerns regarding court interpreting.

There are three levels of staff court interpreters in the New York State Courts: Court Interpreters, Senior Court Interpreters, and Principal Court Interpreters. Court interpreters are responsible for interpreting between English and a foreign language in the courtroom and other settings. Staff interpreters may also assist LEP persons in filling out forms, and may perform clerical tasks such as filing or answering inquiries, and other related duties. In addition to providing interpreting services themselves, Senior Court Interpreters are responsible for supervising and coordinating the activities of staff and per diem court interpreters. They also evaluate staff performance, develop work performance standards, and check for compliance with instructions, procedures, ethics and protocol. Senior Court Interpreters also provide information to OLA regarding per diem court interpreter performance, professionalism and compliance with ethics and protocol, and assist LEP court users in completing forms and submitting complaints.

Principal Court Interpreters are the highest ranking court interpreters in the UCS. Principal Court Interpreters are responsible for supervising, coordinating activities, and evaluating the performance of Senior Court Interpreters, Court Interpreters, and per diem interpreters. They maintain a schedule of interpreters assigned to courts or judicial districts, and make recommendations related to interpreter staffing. Principal Court Interpreters collect and analyze statistics related to interpreter services, and administer per diem interpreter proficiency exams. They provide guidance to Senior Court Interpreters regarding ethics, professionalism and protocols for both staff and per diem interpreters, and also participate in the selection of staff interpreters.

The Chief Administrative Judge has also appointed an Advisory Committee on Language Access. The Committee is comprised of attorneys, advocates, judges, court managers, and others, who provide recommendations and a broad perspective on interpreting issues.<sup>6</sup> The Advisory Committee works to enhance the quality and availability of interpreter services offered by the courts, while reviewing policies and procedures, and assisting with efforts in areas such as outreach and recruitment.

## Recruitment and Assessment of Court Interpreters

The UCS has developed and administers a rigorous and comprehensive assessment program to evaluate the skills and qualifications of prospective interpreters, which includes:

### *English Language Proficiency Examination*

The first step in qualifying as a court interpreter, either staff or per diem, is to pass a written English examination. This requirement was imposed as part of the 2006 Action Plan, and effective January 1, 2007, interpreters who have not passed the examination are disqualified from providing interpreting services in the courts. The English examination is rigorous; typically 40% of candidates pass the examination.<sup>7</sup>

### *Oral Examination*

Candidates who are successful on the written Test of English Language Proficiency are required to pass an oral examination for the language or languages that they wish to interpret, if an examination is available. The oral interpretations are audio-taped, and the tapes are sent to outside bilingual experts for evaluation. The UCS offers oral assessment examinations in 22 languages: Albanian, Arabic, Bengali, Bosnian/Croatian/Serbian, Cantonese, French, Greek, Haitian Creole, Hebrew, Hindi, Italian, Japanese, Korean, Mandarin, Polish, Portuguese, Punjabi, Russian, Spanish, Urdu, Vietnamese, and Wolof. These languages account for more than 80 percent of the interpreting needs in the courts.

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6) The Advisory Committee consists of judges, court interpreters, representatives of legal services organizations, and others with expertise in language access issues. The members of the Advisory Committee are set forth in Appendix C.

7) There is a different process for testing and hiring of staff Spanish court interpreters. In light of the high demand for Spanish and the number of Spanish staff interpreters hired, the UCS has developed a competitive civil service examination. The two-part examination first requires candidates to pass a three-hour, multiple-choice test of their bilingual skills, probing candidates' grammar, vocabulary, word usage, sentence structure and reading comprehension, in both Spanish and English. The written test also assesses candidates' ability to translate from English to Spanish and Spanish to English. Candidates who pass this written examination qualify to take a one-hour oral examination, which includes viewing a video and interpreting everything spoken in Spanish to English and from English to Spanish, in simultaneous and consecutive modes. Final grades are based on performance on both the written and oral components of the examination, and candidates are ranked and selected for employment from an eligible list in compliance with state civil service law and rules.

## ***Credential Assessment in the Absence of an Oral Examination***

For those languages for which the UCS does not have an oral examination to test interpreting competency, a candidate's qualifications are assessed through a combination of interviews, resume reviews, and reference checks. The assessment is conducted jointly by OLA and the UCS Division of Human Resources.

## ***Reciprocity***

The New York Courts also permit candidates to qualify as court interpreters if they have been certified by one of the following credentialing authorities: the National Center for State Courts Council on Language Access Coordinators; the Federal Court Interpreter Certification Examination Program; and the National Judiciary Interpreter and Translator Certification Program.<sup>8</sup>

## ***American Sign Language***

The qualifications of American Sign Language interpreters employed by the court system are assessed by a different process. By statute, the Chief Administrative Judge must name one or more credentialing authorities to certify interpreters in American Sign Language to serve in the New York courts. See Judiciary Law § 390. The Registry of Interpreters for the Deaf ("RID"), a nationally recognized professional association that offers rigorous examinations and certifications, has been named as the credentialing authority for the New York courts. Section 390 also requires that the state provide interpreter services in all proceedings where a party or a witness is deaf and in all criminal proceedings in state-paid courts where the crime victim or any member of the immediate family is deaf.

In addition to the foregoing means of assessing the professional competence of foreign language and American Sign Language interpreters, prospective interpreters must pass a criminal background check before commencing employment in the courts.

## **Assignment of Court Interpreters**

The management of the court interpreting program has been significantly strengthened over the past ten years. A central feature of the improved administration has been the statewide deployment of the Electronic Court Interpreter Scheduling System ("e-Scheduling System") for the assignment of interpreters. Prior to the introduction of the e-Scheduling System in 2006, courts used a paper list, "the Registry of Court Interpreters," that was provided by OCA, supplemented by informal lists of interpreters that were maintained by local courts. The paper system was inefficient. More importantly, it provided no mechanism for ensuring that only qualified interpreters were used.

The e-Scheduling System changed all of that. When the need for an interpreter in a particular language at a particular place and time is entered, the system immediately identifies an interpreter who is available at that time and place, and, most importantly, who is fully qualified, having passed the required examinations and completed the mandatory training. The e-Scheduling System also

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8) The UCS Court Interpreter Reciprocity Policy is attached as Appendix D.

ensures that the courts are making the most efficient use of available interpreters. In addition to its role in the individual assignment of interpreters, the e-Scheduling System supports administration of the program by producing statistical reports that help to identify language trends and court needs.

The use of remote interpreting has also improved the delivery of language services and promoted the efficient use of available interpreters. While on-site interpreting is generally preferred, in appropriate situations remote interpreting has proven to be an effective means of ensuring language access. The UCS began a statewide program for remote interpreting in mid-2005. Since that time, the use of remote interpreting services has grown exponentially, and has been helpful in avoiding delays in court proceedings, especially for cases that require interpreting in less commonly used languages and at courthouses in the more remote areas of the state.

The introduction of technology such as the e-Scheduling System and remote interpreting has made the process of locating, scheduling, and paying interpreters more efficient, and reduced redundancy of tasks in those areas. The applications provide courts and OCA with comprehensive information on interpreters where there was none previously, tools to ensure that this information is kept current and consistent, and a streamlined way to supply qualified interpreters to all courts that need them.

Progress has also been made in providing interpreting services beyond the courtroom. The court system's public information line (1-800-COURTNY) ensures language access via a remote commercial interpreting service. In addition, remote interpreting, using both staff interpreters and a commercial interpreting service, is now available in many court locations, including Help Centers, and is playing a critical role in meeting interpreting needs outside of courtroom proceedings. In addition, numerous court documents and forms have been translated into various languages and are available online and in print. While much has been accomplished in this regard, there is much more to be done, and the translation of court documents and availability of interpreting in non-courtroom settings will be areas of particular focus under this new strategic plan.

### III. A Strategic Plan for Ensuring Language Access in the New York Courts

Ensuring language access is an issue that goes to the core values of the New York State Courts — fairness, equal justice, unfettered access, and public confidence and trust in the judiciary. The goals are lofty and abstract — achieving them requires continuing and careful attention to many small operational details. This plan sets forth almost 70 concrete actions, in nine broad categories, that the New York State Courts will take to ensure that these details are attended to and that no one is denied access or meaningful participation because of language or hearing loss.

#### 1. Improving the Recruitment, Assessment, and Training of Court Interpreters

##### A. Recruitment

Skilled and trained interpreters are the foundation of a high quality court interpreting program. To attract and retain interpreters of the highest caliber, the UCS will undertake the following:

##### *Create a court interpreter trainee position*

The UCS will establish a court interpreter trainee position. The primary objective of the new position is to assist recruitment efforts by creating an entry-level gateway to a career in court interpreting. Trainees will also help bridge the language access gap, primarily, it is anticipated, in non-courtroom settings.

The Division of Human Resources, in consultation with OLA, will present a report and recommendation to the Chief Administrative Judge with respect to establishing a trainee title in the court interpreter series. Among the issues to be addressed in the report are:

- What assessments/qualifications are required for hiring as a trainee
- What pay grade the trainee position will be assigned
- What training will be required of trainees
- What assignments the trainees may be given
- How the trainees will be supervised and evaluated
- What criteria a trainee must satisfy for promotion to court interpreter title

The report and recommendation is due by January 31, 2018, with an expected implementation in Spring 2018.

##### *Develop a new court interpreter recruitment campaign*

In 2007, as part of its first language access action plan, the UCS launched an interpreter recruitment campaign entitled “Be a Court Interpreter,” using public service announcements over radio, newspaper advertisements, brochures distributed at job fairs and a variety of other outreach efforts.<sup>9</sup>

9) Sample *Be a Court Interpreter* materials are attached as Appendix E

It is time to rethink recruitment strategies for court interpreters, and to launch an updated, fresh campaign, with new publicity tools, emphasizing outreach to community and advocacy groups, and the use of foreign language news outlets, social media, and online platforms. In light of New York State's diversity, the recruitment campaign will be customized to meet regional and local demographics.

In developing the new recruitment campaign, OLA will work with other UCS offices, including the Office of Workforce Diversity, as well as with community groups and educational institutions. The new recruitment effort will be launched by January 2018.

### ***Review per diem interpreter compensation***

Adequate compensation, especially in the competitive New York City metropolitan area, is critical to the courts' ability to attract qualified per diem interpreters. To ensure that the compensation for per diem interpreters remains on par, the UCS will undertake the following:

- **Review per diem rates annually**

Effective April 1, 2017, the rates for per diem interpreters will be increased to \$300 for a full day and \$170 for a half day (from \$250 and \$140, respectively). In its annual report to the Chief Administrative Judge on the language access program (see page 19 below), OLA will address the adequacy of per diem compensation rates and recommend adjustments if warranted.

- **Implement a tiered compensation structure for per diem interpreters**

To attract the most qualified interpreters, the UCS will implement a tiered compensation structure for per diem court interpreters, based on experience, completion of continuing education, and other factors. The UCS Division of Financial Management in consultation with OLA, will present a proposal for a tiered structure to the Chief Administrative Judge by January 31, 2018, with an expected implementation in Spring 2018.

- **Establish a cancellation policy**

Currently the UCS does not pay a per diem interpreter if the assignment is cancelled, a practice that has discouraged some interpreters from accepting assignments with the New York courts. Other state court systems have cancellation policies that provide for pro-rated compensation depending on the amount of notice of the cancelled assignment. OLA will examine this issue and propose a cancellation policy to the Chief Administrative Judge by January 31, 2018, with an expected implementation in Spring 2018.

### ***Establish a court interpreting intern program***

The UCS will establish an internship program to offer college students an opportunity to learn about the court system and careers in court interpreting. The internship will be geared to students majoring in a foreign language or enrolled in an interpreting or translating program. The internship program will be developed and administered in partnership with selected colleges and universities, which will grant course credit for students who successfully complete the program. Interns will observe interpreters in courtroom settings, learn about the administration of the court interpreting program, and provide interpreting services, under the supervision of a staff interpreter, in non-courtroom settings.

The UCS is working with several colleges and universities to develop the standards and protocols for the selection, training, assignment, supervision and evaluation of interns. The program will be initiated for the Fall 2017 semester.<sup>10</sup>

### ***Strengthen relationships with schools, community, and advocacy groups***

The UCS will seek to strengthen relationships and cooperation with schools, community groups, and advocacy and interpreter organizations (such as the National Association of Judiciary Interpreters and Translators), in an effort to promote greater awareness of and interest in career opportunities in the court system for biliterate individuals. In particular, the courts will seek to strengthen partnerships with schools that offer interpreting programs. In light of the diversity in language access needs across New York, these efforts must occur both at the central and the regional level. OLA will coordinate these efforts with UCS's district administrative offices.

## **B. Assessment**

Assessing qualifications to serve as a court interpreter is critical to achieving a successful language access program. For that reason, the UCS has developed a rigorous screening process, including a written English examination required of all candidates, oral examinations in the most commonly used languages, as well as thorough background and credential checks. While it is key to ensuring a high quality program, this screening creates a barrier to entry into the interpreter ranks. To further strengthen the assessment process, while also assisting candidates to successfully meet the courts' high standards, the UCS will do the following:

### ***Expand testing***

As described above, the UCS requires that all staff and per diem court interpreters pass a written English proficiency examination. In addition, the UCS has developed oral examinations in 22 languages, which account for more than 80 percent of the requested language needs. Over the next three years, the UCS will develop oral examinations for seven additional languages, to be selected based on usage and demand.

### ***Provide additional online test preparation materials***

Familiarity with test format and content is key to success.<sup>11</sup> To assist candidates in that regard, the UCS recently expanded the information that is available about both the written English proficiency examination and the Oral Language Examinations, including a sample written English examination (with answer key), and a video demonstrating the format of the oral examination.

In connection with each administration of the written English examination, the Division of Human Resources distributes questionnaires to gather information about test takers, including information regarding test preparation. The UCS will collect similar feedback from candidates regarding the

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10) The UCS is currently partnering with the following schools on this project: Baruch College, Hunter College, John Jay College, Montclair State University, and Pace University. In advance of the formal, for-credit intern program to be initiated in Fall 2017, the UCS and these five colleges are conducting a pilot internship program in the Spring 2017 semester. Students are participating in the pilot internship in conjunction with classes at their respective schools, but will not receive separate course credit for the pilot program.

11) According to responses to questionnaires, 80% of the test takers avail themselves of the sample written materials the UCS provides, and those who viewed the sample written materials had a significantly higher passing rate than those who did not (40% vs. 25%).

effectiveness of the oral examination tools that were recently developed and made available to test takers. Based on this feedback from candidates, the UCS will continuously look for ways to improve test preparation materials.

### ***Help candidates improve their English language skills***

The pass rate on the written English examination is typically below 50 percent, a result reflecting not only the rigor and scope of the test but also the fact that many candidates are not native English speakers. Thus, while this examination serves as an important means of promoting quality in the language access program, it is also a challenge to many who wish to become a court interpreter. The expanded information about the examination format and content discussed above should help candidates overcome this barrier. However, since many candidates also need additional training in English skills, the UCS will:

- provide links to online materials designed to strengthen the English language skills of non-native speakers;
- partner with colleges and other organizations to develop courses and materials to assist candidates in improving English skills and vocabulary;<sup>12</sup> and
- post additional materials on the UCS website to assist candidates in learning legal vocabulary and information about the legal system.

### ***Provide feedback on test performance***

The UCS recently began to provide candidates who took the written English examination with detailed information about their performance, including scores on each of the various subparts of the test. This feedback is designed to allow candidates to focus on areas of weakness, improve their skills and increase their chance of success on future tests. The UCS will continue to explore ways to provide feedback to candidates that will help them prepare for re-examination.

### ***Replace the annual in-person written English examination with on-demand testing***

The first step in qualifying as either a staff or a per diem court interpreter is to pass a written English examination that was developed by and is administered by the UCS. This in-person examination is currently offered once a year. Administering this examination more frequently would enable candidates to take the English language examination as soon as they are ready, and would increase the pool of candidates qualified for oral examination and further screening.

There are a number of avenues for achieving the objective of pre-qualifying more interpreters for further screening. First, the Division of Human Resources Examination Development Unit will implement testing tools that allow for scrambled versions of the examination so that it can be administered online on an on-demand basis. The goal is to implement on-demand testing by early 2018. In addition, the UCS will increase outreach to candidates to encourage them to qualify through alternative English screening mechanisms, such as the Test of English as a Foreign Language (“TOEFL”) examination administered by the Educational Testing Service, which is offered more than 50 times each year.

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12) The UCS will begin this effort by attempting to partner with the colleges that are participating in the court interpreting internship program.

### ***Issue a court rule that requires judges to establish the provisional qualifications of court interpreters not already qualified by the Office of Language Access***

The established hierarchy built into the e-Scheduling System dictates that a staff interpreter must be assigned if available, and if not, a per diem interpreter on the Registry of Qualified Court Interpreters may be used. Only when court managers have been unable to schedule either a staff or qualified per diem interpreter may an interpreter who has not been qualified by OLA be assigned. In such situations, the court manager should advise the judge that the interpreter has not already been qualified and, it is a recommended best practice for the judge to establish the interpreter's skills and ability to interpret effectively by asking a few *voir dire* questions on the record.<sup>13</sup> The importance of this practice warrants that it be elevated to and embodied in a rule of the Chief Administrative Judge that is applicable to all trial courts. The proposed rule will be presented to the Administrative Board of the Courts by June 2017.

## **C. Training**

Rigorous screening and assessment can help to advance the objective of providing high quality language access, but thorough and ongoing training for those persons selected to serve as court interpreters is also critical. Among the topics to be covered in a comprehensive program of court interpreter training are the Canons of Professional Responsibility for Court Interpreters, cultural competency, and skill-specific topics such as remote interpreting, and consecutive and simultaneous interpreting.

To further strengthen training programs for both staff and per diem court interpreters, the UCS will undertake the following:

### ***Expand online training programs for court interpreters***

Online training is ideally suited to court interpreters, who, unlike such employees as court officers, are hired individually rather than as part of a group, making in-person, group training less feasible. OLA, in collaboration with the Division of Human Resources, will develop additional online, on-demand training modules for both staff and per diem court interpreters. Wherever possible, live training programs will be recorded and added to the website for on-demand use by interpreters.

### ***Explore a continuing education requirement for court interpreters***

As is true with attorneys and many other professions, continuing education is essential for maintaining skills and knowledge, and in keeping current with new developments, initiatives, and legal requirements. OLA will work with the Division of Human Resources to evaluate options for a continuing education program and to make recommendations to the Chief Administrative Judge by January 31, 2018, including recommendations with respect to compliance with a continuing education requirement.

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13) See Benchcard and Best Practices for Working with Court Interpreters, attached as Appendix F. The Benchcard may also be found at: [http://www.nycourts.gov/COURTINTERPRETER/pdfs/Judicial\\_Benchcard.PDF](http://www.nycourts.gov/COURTINTERPRETER/pdfs/Judicial_Benchcard.PDF).

### ***Increase the variety and scope of programs, and provide cross-training***

Interpreters can be called upon to work in many different court types or proceedings, where the terminology and processes can vary significantly. OLA will work to expand the range of training programs to include court and case-specific offerings, such as those involving domestic violence, human trafficking, drug treatment, family offense, and housing issues. Where feasible, UCS will consult with and include leaders from relevant areas as faculty, to provide context and expertise in specific subject matters.

### ***Update the Court Interpreter Manual***

The UCS Court Interpreter Manual<sup>14</sup> provides guidance to court interpreters, both staff and per diem, as well as court managers, on procedures and policy matters, including the Court Interpreting Canons of Ethics. OLA will publish an updated Court Interpreter Manual by June 2017, which will be provided to all current court interpreters (staff and per diem) and court managers, and will be posted on the courts' website. In addition, OLA will conduct an annual review of the Manual, updating the information as needed and disseminating it to interpreters and court managers.

## **2. Strengthening the Management of the Language Access Program**

In theory, the task of ensuring language access is straightforward: when the court identifies the need to provide interpreting services, a qualified interpreter must be identified and assigned. In the real world, the task is much more complex. Each year the UCS provides interpreting services in more than 100 languages, in more than 90,000 cases in hundreds of court locations around the state, often with little advance notice of the need for an interpreter. Under those circumstances, matching the need with the finite available resources, and attending to the numerous other operational details involved in providing language access, is a daunting challenge.

To improve the management of the language access program, the UCS will undertake the following:

### **A. Management of Interpreting Resources**

#### ***Encourage and facilitate the early notification of a need for language services***

The difficult logistical task of providing language access is made somewhat easier by advance notice of the need. Early notice reduces the likelihood of delay in the particular proceeding, and also promotes efficient management of the program by allowing for a more orderly assignment of interpreters. To encourage and facilitate early notification of language access needs, the UCS will:

- continue to reach out to members of the bar, including state, local and specialized bar associations, and legal services providers, to emphasize the importance of notice of a need for language access services at the earliest time possible;<sup>15</sup>

14) The Court Interpreter Manual is available at: <http://www.nycourts.gov/courtinterpreter/pdfs/CourtInterpreterManual.pdf>.

15) The Chief Administrative Judge of the New York State Courts periodically communicates with bar associations, legal services providers, and other groups involved with the LEP community about language access issues, including the importance of providing early notice of the need for an interpreter, as well information about the complaint process and the importance of raising concerns or complaints about language access at the earliest time possible. See Appendix G. The UCS will continue find ways to communicate effectively with the legal and LEP communities about these issues.

- establish protocols by which attorneys and other justice partners can notify the court, at the earliest possible point of contact with the court system, that an individual requires language access assistance; and
- develop a simple form, in both online and print format, that litigants or counsel can submit to inform the court of the need for interpreting services.

### ***Encourage LEP court users to self-identify***

Prominent multi-language signage and handout flyers such as “I Speak” cards are effective means of encouraging and assisting LEP persons to self-identify as needing language access services. The UCS will ensure that such language access materials are available at each critical point of contact with the public.<sup>16</sup>

### ***Track the need for interpreting assistance throughout the life of a case***

In some cases the need for interpreting services may be a one-time event, while in other cases an interpreter will be needed for each court appearance. In the latter situation, the ongoing need for the interpreter should be documented in the case file and the court’s case management system. This tracking functionality will be built into all automated case management systems. The Division of Technology will work with OLA to develop a proposal, including a timeline for implementation, for building a language tracking function into the various UCS case management systems. The proposal will be developed by January 1, 2018.

### ***Develop a more robust, real-time capacity to deploy court interpreters***

As part of its 2006 Action Plan on Court Interpreting, the UCS rolled out the e-Scheduling System that helps match available resources with the need, while also ensuring that the most qualified interpreter is assigned. While that system greatly enhanced the efficient deployment of interpreters, it does not have the capacity to assist in the efficient redeployment of interpreters in real time during a busy courthouse day. The UCS will develop a more flexible system that allows interpreters to be quickly deployed and redeployed as needs change because of adjournments, settlements, emergency applications, and other changed circumstances that are typical in a busy court. The Division of Technology will work with OLA to develop a proposal, including a timeline for implementation, for a more robust, real-time system for the assignment and redeployment of court interpreters. The proposal will be developed by January 1, 2018.

### ***Improve the protocols and systems for sharing interpreters between courts***

Most UCS staff interpreters are assigned to a particular courthouse. While there is some sharing of interpreters among courts, the UCS will develop protocols to encourage the more efficient utilization of interpreting resources, including increased use of remote interpreting between court locations. In addition, protocols will be developed to expand the sharing of per diem interpreters between courts, within a scheduled half-day or full-day assignment. By December 2017, draft protocols will be issued and pilot projects initiated to assess the protocols.

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<sup>16</sup>) The UCS utilizes *We Speak Your Language* posters and flyers to encourage LEP persons to seek language assistance and to assist them in identifying the language they speak. See Appendix H. This mechanism for self-identification will be re-evaluated as part of the development of a new language access outreach campaign. See page 27 below.

### ***Coordinate calendars of cases requiring court interpreters***

When possible, cases requiring court interpreting services in a particular language should be coordinated to permit the most efficient use of available interpreters. For example, where possible, cases requiring a Spanish language interpreter should be grouped together on the court calendar.

The Offices of the Deputy Chief Administrative Judges, in conjunction with OLA, will develop pilot programs to evaluate the feasibility and effectiveness of managing court calendars to enhance the efficient use of interpreting resources. The pilot projects will be initiated by December 2017.

These efforts should never be implemented to the detriment of the LEP court users, by unduly delaying a proceeding, or by otherwise denying or impeding access to the courts.

### ***Review the use of per diem interpreters to determine if additional staff interpreters should be hired***

Per diem interpreters play a critical role in the New York courts, providing services in many languages of lesser diffusion, and in courthouses where the demand does not warrant a full-time staff interpreter. There are times, however, when the use of per diem interpreters in a particular location justifies the hiring of an additional staff interpreter. In such cases, the hiring of a staff interpreter is not only warranted fiscally, but can enhance service to the public. OLA, in conjunction with the Divisions of Human Resources and Financial Management, will regularly review the use of per diem interpreters in each court to determine if this “tipping point” has been reached. At least annually, these offices will advise the OCA Executive Director whether additional staff court interpreters should be hired.

### ***Expand the use of remote interpreting in court proceedings***

For many court proceedings, especially trials, in-person interpreting is preferred. However, in many situations remote interpreting may fully meet the needs of the parties.

Remote interpreting offers many advantages. It helps avoid adjournment or other delay in a proceeding, especially where considerable travel time would be required for an in-person appearance by the interpreter. In addition, remote interpreting promotes the efficient utilization of interpreters, allowing interpreters to meet the needs of many additional LEP court users.

The use of remote interpreting for court proceedings has steadily expanded over the years. In 2005, it was used in 12 cases, for six languages. In 2016, remote interpreting was provided in 55 languages, for more than 600 cases. Remote interpreting has proven to be especially helpful in providing access to interpreters in less common languages.<sup>17</sup>

To encourage the expanded use of remote interpreting, and to ensure that it is used only in appropriate circumstances and provides effective language access, the following steps will be taken:

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17) The most common languages in remote interpreting sessions differ significantly from the most common languages for in-person sessions. Of the top ten languages for which remote interpreting was used in 2016, only three of the languages (Spanish, Mandarin and Haitian Creole) are among the top 10 languages used for in-person sessions. The languages in which remote interpreting was provided in 2016 are attached as Appendix I.

- **Promote the use of remote interpreting and provide additional guidance on its appropriate use**  
 Feedback indicates that participants in remote interpreting sessions find it effective and easy to use. However, there is, sometimes resistance or hesitation to use it for the first time. To help overcome this hesitation, OCA will take steps to ensure that judges are aware of the availability and advantages of remote interpreting. OCA will also provide further guidance on the circumstances in which remote interpreting is particularly suitable. This guidance will stress that remote interpreting only be used if it will permit the LEP court user to fully and meaningfully participate in the proceeding.
- **Ensure that all participants are familiar with the protocols for remote interpreting**  
 It is critical that all participants, including the court interpreter, court staff, the judge, counsel, and the parties, understand how remote interpreting works, and are familiar with the protocols for remote interpreting. The UCS will take a number of steps toward that end. First, the UCS will update existing resources on remote interpreting.<sup>18</sup> Second, the protocols will be covered in all training on language access. In addition, as remote interpreting is used for the first time in a courthouse or a court part, OLA will reach out to the court and offer assistance and support. Finally, OLA will also produce and post online a video demonstrating how remote interpreting works in a court proceeding.
- **Establish technology standards and install conforming equipment at all courthouses**  
 State-of-the-art equipment is critical to effective remote interpreting. Remote interpreting over a secure video connection is preferred, but telephonic remote interpreting may be used if necessary. The UCS Division of Technology, in consulting with OLA, will establish equipment standards for remote interpreting, and ensure that conforming equipment is installed in all courthouses statewide. The standards should, in part, ensure that the remote interpreter can view documents that need to be translated on the record and permit confidential attorney-client conferences. The standards will be issued by December 1, 2017, and conforming equipment will be installed in all courthouses on an ongoing, rolling basis, with a priority for those courts with the most frequent use of interpreters.
- **Expand the pool of staff court interpreters available for remote interpreting**  
 The UCS currently has a cadre of specially trained staff court interpreters who are available for remote interpreting assignments. OLA will identify additional staff interpreters available for remote assignment, both to provide broader language coverage and to create greater capacity for assignments.
- **Establish protocols for the use of commercial telephonic interpreting service for remote court interpreting**  
 Staff court interpreters are the first preference for remote interpreting, with qualified per diem interpreters as a second choice. In some circumstances where neither a staff interpreter nor a qualified per diem interpreter is available, the use of a commercial remote interpreting service may be appropriate. By Spring 2018, OLA will develop protocols and standards for the use of commercial interpreting services for remote court interpreting.

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18) There are currently two resources available on the use of remote interpreting, a benchcard entitled *Working with Interpreters by Video or Teleconference* (attached as Appendix J) and the *Remote Interpreting Operational Standards* (attached as Appendix K).

- **Evaluate the effectiveness of remote interpreting**

To ensure that remote interpreting is meeting the needs of all participants in the proceeding, from the LEP court user, to the judge, and to determine what changes should be made in this program, OLA will survey participants in selected proceedings on an ongoing basis.

## **B. Planning for Success**

Planning is key to a successful language access program, and data is key to successful planning. It is important to understand demographic trends so that courts can anticipate and prepare for changes in the demand for language services. It is also important to understand what programs are working and which are not, and why, in order to make adjustments and ensure that limited resources are used efficiently to meet the expanding need.

The key components of the UCS' long-range planning efforts, and the augmented data collection and analysis that will inform that planning, include the following:

### ***Monitor trends in the need for language access***

The pattern of the demand for language services is continuously changing. In 2010, there were two cases in the Rochester area in which Somali interpreters were needed. Five years later, as a result of refugee resettlement in this region, there were 91 cases requiring Somali interpreters. In recent years there have been similar spikes in demand for various languages, including Burmese/Karen in certain regions of New York and Bosnian/Croatian/Serbian in other areas. It is essential that the courts closely track, and whenever possible, anticipate these changing patterns.

The UCS monitors the current demand for language access services, and historic trends in the demand, using reports generated by the e-Scheduling System on what languages are in demand and how often, at the courthouse, county, judicial district, and statewide levels. But information must also be gathered to anticipate future changes in demand. Toward that end, the UCS will work with community-based organizations, social services and other government agencies, refugee organizations, and other groups that may offer insight into social, political, or demographic changes that will shape the emerging pattern of language needs.

### ***Track reasons for delays and adjournments***

Anecdotal evidence indicates that delays in assigning interpreters often result in the delay or adjournment of proceedings, perhaps most often in the Family Court. The UCS will undertake a survey to determine how often and for how long proceedings are delayed because of the unavailability of an interpreter. Based on this information, OLA will develop a remedial plan to address the causes of delays due to the absence of an interpreter.

### ***Critically evaluate and adjust the language access program on a continuing basis***

It is essential that data be gathered with respect to the language access program and the effectiveness of each component of the plan be continuously assessed. Data on remote interpreting, the bilingual order initiative, translations, the complaint review process and all other components of the language access program will be gathered and analyzed, and there will be an assessment of problems identified and strategies developed, to address problems.

### ***Report annually to the Chief Administrative Judge***

OLA will report to the Chief Administrative Judge with respect to these various analyses on an annual basis, so that this information is considered during the Judiciary budget preparation process, allowing for more informed decisions on funding, personnel and programmatic changes.

### ***Identify funding sources for special projects to enhance language access***

In Fiscal Year 2016-2017, the UCS will spend more than \$27 million on the language access program, all of which is from the State's General Fund, and the vast majority of which is for staff and per diem interpreters and other expenses related to the direct provision of interpreting services. The UCS will seek to identify grants and other sources of funding to supplement the operating budget of the language access program. These funds would be dedicated to special projects, such as initiatives to expand the availability of bilingual orders or to develop audio resources to meet the needs of illiterate LEP court users.

## **3. Moving Beyond the Courtroom**

The courtroom proceeding is understandably the primary focus of any court interpreting program. However, there are many other significant points of contact between court users and the justice system, at which the absence of language services can effectively deny access to the courts.

The large number of such points of contact makes the provision of interpreting services beyond the courtroom a difficult challenge. Some of these points of contact may be outside of the courthouse. Many are in offices or programs that are court-managed, while others are in programs that are managed by non-profit or other organizations or agencies. In some cases the contact is the result of court-ordered participation in a program and, in others, involves the court appointment of a psychologist, mediator, or other professional.

The sheer number, geographic dispersion, and wide range of purposes and circumstances of these contacts mandate a multi-faceted solution. These same factors also mean that it will take a sustained effort, over time, to meet language needs at multiple points of contact outside the courtroom.

While some progress in meeting this need has been made, there is much more to do, and it will take an expanded and continued effort to provide full language access at every point of contact between the public and the courts. The UCS will undertake the following initiatives (some new and others that have already begun) toward achieving this goal within five years:

### ***Identify critical points of contact with the public in each courthouse, and establish protocols for ensuring language access at each point***

The first step to meeting this goal is to understand the nature and scope of the need. The courts must identify what points of contact in each courthouse are most critical for LEP court users. It is also critical to understand which foreign languages are commonly spoken in the community and what type of assistance is generally needed at each point of contact. For example, in some situations translations of key documents may meet the need, while in other situations access to an interpreter (either a staff interpreter or a commercial interpreting service) or the assistance of a biliterate court employee will be required.

By March 2018, each district administrative office will gather this information (in a form to be developed by OLA) for each courthouse in its district. Based on this information, each district office, in collaboration with OLA, will develop a plan and protocols, with timelines for implementation, for each courthouse.

### ***Recruit biliterate staff***

Interpreting in a court proceeding should be restricted to a qualified professional court interpreter. However, biliterate staff in other court titles can help to fill a critical need at many other points of contact with the public. In order to encourage the recruitment of biliterate staff, the court system will increase outreach to educational institutions and community groups to promote career opportunities available to biliterate individuals in the courts.

In addition, the UCS will initiate a pilot program in which qualified biliterate staff in specified titles are paid a salary differential in addition to their base salary. By April 1, 2018, the Division of Human Resources, in collaboration with OLA, will make a report and recommendation to the Chief Administrative Judge with respect to the pilot biliterate employee program. Among the issues to be addressed in the report are:

- what titles, assignments, languages, and court locations are to be included in the pilot;
- how candidates are to be assessed for biliteracy; and
- what salary differential would be paid to qualified staff.

In developing this biliterate staff program, as well as in recruiting candidates to seek employment in the New York courts, the UCS will seek to collaborate with schools that participate in the New York State Seal of Biliteracy Program.<sup>19</sup>

### ***Expand the use of remote interpreting***

Remote interpreting is particularly well-suited to meet language access needs in non-courtroom settings. Depending on the circumstances, remote interpreting can be provided by a staff interpreter, a per diem interpreter, or a commercial remote interpreting service. At each such point of contact, staff should be trained and familiar with the remote interpreting protocols, and the necessary equipment will be installed.

### ***Recruit biliterate volunteers and interns***

Biliterate volunteers and interns offer another potential avenue for providing language access outside of the courtroom. The UCS currently has a number of programs that use volunteers, both attorneys and non-attorneys, to provide assistance to court users. For example, the Navigator Program utilizes specifically selected and trained non-attorney volunteers to provide general information and other assistance to unrepresented litigants.

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19) The New York State Seal of Biliteracy Program was established pursuant to Chapter 217 of the Laws of 2012, which amended section 815 of the New York State Education Law to create a program that recognizes high school students who have achieved a high level of proficiency in listening, speaking, reading and writing in one or more language other than English. The New York State Seal of Biliteracy is awarded by the New York State Commissioner of Education to students who satisfy the standards established by the New York State Board of Regents and who attend a school that participates in the Seal of Biliteracy Program.

The UCS will seek to recruit biliterate individuals to participate in the Navigator and other court-managed volunteer programs. Biliterate volunteers could also be used effectively in non-court-managed programs. The UCS will assist the providers of these programs in taking advantage of the resource offered by biliterate volunteers and interns.

The New York State Courts Access to Justice Program, in collaboration with OLA, will develop a plan for expanding the use of biliterate volunteers and interns at points of contact outside the courtroom. These offices will issue a report and recommendations to the Chief Administrative Judge by September 2017.

### ***Expand the use of technology to bridge the language access gap***

Technology offers a promising means for effectively communicating with the LEP community, especially at points of contact outside the courtroom. Information kiosks, videos, and virtual courthouse tours are among the many technologies that could help bridge the language access gap. The UCS Division of Technology and the NYS Courts Access to Justice Program, in collaboration with OLA, will develop a plan for using technology to help ensure access outside the courtroom. The plan will be presented by January 2018.

### ***Evaluate capacity to provide language access as a selection criterion for consultants and contractors to provide services***

The UCS contracts with a large number of organizations to provide a range of services to the public, including civil legal services to the indigent and “Attorney for the Child” representation in certain Family Court proceedings. In the most recent procurement for civil legal services, the Request for Proposals issued by the UCS included as a weighted criterion the organization’s ability to provide language access and asked each organization to provide a copy of its language access plan.<sup>20</sup> Going forward, capacity to ensure language access will be a criterion in all UCS procurements for services to the public.

### ***Consider language accessibility of service providers***

A court should not order an LEP individual to participate in a program that does not provide appropriate language accessible services. If participation in services is not ordered due to the program’s lack of language capacity, the court should order the litigant to participate in an appropriate alternative program that provides language access services for the LEP court user. In making its findings and orders, the court should inquire if the program provides language access services to ensure the LEP court user’s ability to meet the requirements of the court. Similarly, in proceedings with LEP parties, courts should determine that court-appointed professionals, such as psychologists, mediators, and guardians, can provide linguistically accessible services.

### ***Annually assess progress in ensuring language access beyond the courtroom***

The complexity of meeting the demand for language assistance beyond the courtroom will require continuing oversight. Therefore, the annual report by OLA to the Chief Administrative Judge (see page 19) will assess progress and recommend changes in the courts’ approach to ensure that the language access program is on track toward meeting the critical need over the next five years.

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<sup>20</sup> Pursuant to that RFP, the UCS awarded \$85 million to 83 organizations to provide civil legal services to persons at or below 200 percent of the federal poverty guidelines, effective January 1, 2017.

## 4. Ensuring Language Access for the Deaf and Hard of Hearing Community

The deaf and hard of hearing community is very diverse. Factors that contribute to the variations in need are how and when a person became deaf or hard of hearing, the level of hearing, and how the person communicates. Different members of the community prefer or require different types of assistance. Court personnel must be able to work with each deaf or hard of hearing court user to learn what specific assistance is needed, and then be prepared to provide that assistance.

To ensure that the courts are prepared to provide whatever assistance is needed by each deaf or hard of hearing court user, the UCS will undertake the following:

### ***Develop assessment tools to assist court personnel in determining the type of assistance needed***

The means of ensuring access to members of the deaf and hard of hearing community vary widely. The UCS Statewide Coordinator of the Americans with Disabilities Act Program (“ADA”) will develop protocols and training to ensure that court employees are equipped to quickly and properly assess the type of assistance that is needed. The protocols will be issued by October 2017.

### ***Issue guidelines for judges and court staff on language access for the deaf and hard of hearing community***

The UCS has issued two benchcards, one addressing language access issues generally and one addressing remote interpreting. Given the special needs of the deaf and hard of hearing community, a benchcard on meeting the language access needs of this community will be developed by the UCS Statewide Coordinator of the ADA Program, in consultation with OLA. The guidelines will be issued by October 2017.

### ***Ensure that state-of-the-art assistive listening technology is available in every courthouse***

Installation of assistive listening devices (“ALDs”) is a standard requirement in courthouse design in New York State. The OCA Office of Court Facilities Management will undertake a survey to ensure that state-of-the-art ALDs are installed and operable in every courthouse in the state, and that court staff are familiar with use of the equipment through regularly scheduled training. The survey will be completed by October 2017.

### ***Recruit both staff and per diem American Sign Language interpreters***

The recruitment of both staff and per diem American Sign Language Interpreters has been a challenge. Currently, the UCS employs six staff American Sign Language Interpreters, none of whom is assigned outside of New York City. OLA, in conjunction with the Division of Human Resources and UCS Statewide Coordinator of the ADA Program, will develop a recruitment program directed at both staff and per diem interpreters for American Sign Language and other forms of communication (e.g., certified deaf interpreters). As part of this program, the court system will reach out to schools and organizations serving the deaf and hard of hearing community. The new recruitment effort will be launched by January 2018.

### ***Expand remote American Sign Language interpreting***

Over the past ten years, the UCS has increased its use of remote American Sign Language interpreting, using both staff interpreters assigned in the New York City courts and per diem interpreters in appropriate cases, especially in the courts outside of New York City.<sup>21</sup> As part of the more general effort to encourage the use of remote interpreting in appropriate proceedings (see page 16-18 above), the UCS will specifically promote remote American Sign Language interpreting. The UCS will also undertake a pilot project to assess the feasibility of remote American Sign Language interpreting using a commercial interpreting service.

### ***Recruit qualified volunteers and interns to work with the deaf and hard of hearing community***

Just as biliterate volunteers and interns will be recruited to participate in various programs, both in and outside the courthouse, volunteers and interns fluent in American Sign Language should be used to help ensure access at key points of contact outside of courtrooms. OLA will work with the NYS Courts Access to Justice Program to develop a plan for recruiting qualified volunteers and interns to work with the deaf and hard of hearing at points of contact outside the courtroom. A proposal will be submitted to the Chief Administrative Judge by September 2017.

## **5. Training Judges, Court Staff, and the Bar to Work Effectively with Court Interpreters and the LEP Community**

Court interpreters do not work in a vacuum. They are part of a team that includes the judge, court clerks, court officers, court reporters, and counsel. It is important that each member of the courtroom team understands the role of the interpreter and how to work effectively with the interpreter and the LEP court user. As discussed in Section III(3) above, there are also many points of contact with the LEP court user outside of the courtroom, where there are no court interpreters assigned. Appropriate training must be provided so that regardless of the location or context, court personnel are prepared to meet the need for language access. Cultural competence is also an important element of working with the LEP community, and should be incorporated throughout training programs.

Key steps that will be taken to strengthen training for judges, court staff, and the bar include:

### ***Expand language access training for judges***

Judges will receive training regarding language access policies and procedures. These trainings will include:

- Optimal methods for managing court proceedings involving interpreters, including an understanding of the mental exertion and concentration required for interpreting, the challenges of interpreter fatigue, the need to control rapid rates of speech and dialogue, and consideration of team interpreting where appropriate;
- The ethical rules that apply to court interpreters;

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21) American Sign Language is, after Spanish, the second most used language in remote interpreting sessions, see Appendix I.

- Required procedures for the appointment and use of a provisionally qualified interpreter and for an LEP court user's waiver, if requested, of interpreter services;
- The importance of explaining, on the record, the role of the interpreter;
- The importance of establishing, on the record, an interpreter's credentials;
- Available technologies and the technical and operational standards for providing remote interpreting; and
- Working with LEP court users in a culturally competent manner.

### ***Expand and update benchcards on language access***

The UCS has issued two benchcards, one addressing language access issues generally and one addressing remote interpreting. Both have proven effective. These cards will be reviewed regularly and updated as needed, and additional cards addressing other specific aspects of language access will be developed, including a benchcard addressing the needs of the deaf and hard of hearing community (see page 22).

### ***Incorporate language access training into additional employee training programs***

A language access component will, beginning immediately, be added to appropriate training programs, including mandatory programs such as new employee orientation and training for newly appointed supervisors and newly appointed court clerks.

### ***Expand language access training for Court Officers***

For many court visitors, court officers are the first point of contact. Officers therefore must be prepared to assist court users with a broad range of issues, including those related to language access. The Court Officer Academy curriculum currently covers language access issues. This program will be periodically reviewed, updated, and expanded. In addition, beginning immediately, language access issues will be addressed during in-service training programs for court officers.

### ***Hold regular live remote training sessions with court-based language access managers***

Each courthouse in the state has a designated employee who is responsible for managing the provision of language services on a day-to-day basis and who serves as a liaison to the public. OLA will immediately initiate a program of regular remote training programs for these managers.

### ***Expand language access training available online***

On-demand online training can be particularly helpful as a judge or staff is preparing for a new situation, such as their first remote sign language court session. On an ongoing basis, OLA will review the online programs to determine what programs should be updated or otherwise revised, and what additional topics should be covered by the online training program.

### ***Expand online language access materials for attorneys***

The UCS will expand online resources on language access that are geared to attorneys, including best practices for working with court interpreters, and guidance regarding the process for making a complaint about the provision of language access services.

## **6. Promoting Quality in the Language Access Program**

Effective oversight of the language access program is not easy. A fundamental obstacle is inherent in the very nature of the program — often only the interpreter and the LEP user understand the language being interpreted, making it very difficult for judges, attorneys and other participants to assess the accuracy and effectiveness of the language services being provided. Effective oversight is further complicated by the large number of cases in which interpreting is needed, at hundreds of court locations across the state.

In addition, a failure to provide high quality language access can occur for many different reasons, including the inability to assign an interpreter on a timely basis, the performance of an interpreter, an inaccurate translation in a written document, or, in the case of remote interpreting, an equipment malfunction.

Much of this plan is directed to the twin goals of expanding language access and ensuring that access is of the highest quality. There are a number of additional steps that the courts will take to specifically enhance oversight of the language access program, and to ensure that the program operates effectively and efficiently, while providing a consistently high level of service:

### ***Review recordings of a random sampling of court interpreting sessions***

OLA will establish protocols under which recordings of interpreting sessions are reviewed for the accuracy of the interpretation, and compliance with procedures for court interpreting and the Court Interpreting Canons of Ethics. These reviews will help identify issues that must be addressed with respect to a particular interpreter as well as issues that should be addressed systemically through training or oversight. The reviews will initially focus on remote interpreting sessions and in court proceedings in which the record is currently taken by electronic recording rather than a court reporter, and will be assessed for expansion to other proceedings.

### ***Conduct site visits***

Beginning in Fall 2017, OCA will initiate on-site visits to courthouses to evaluate the implementation of the language access program at the local level. Key features of the site visit program are:

- In New York City, the site visits will be conducted by a member of the OLA staff, and each judicial district outside of New York City will designate a court manager to conduct the visits. OLA will train the managers designated to conduct site visits.
- To help focus the site visits, OLA will create a checklist, which will cover such issues as signage, equipment (e.g., video equipment for remote sessions, assistive listening devices), and translated written materials.

- Where possible, the site visit will include observation of the actual provision of language access services (e.g., interpreters in courtrooms, use of remote interpreting in non-courtroom settings).
- District administrative offices will submit copies of the site visit reports to OLA and inform OLA of any issues or problems that were identified during the visit, as well as any procedures that should be promoted as best practices.

### ***Encourage the prompt notification of problems in providing language access during a court proceeding***

While it is not always possible, problems with language access during a court proceeding should be brought to the attention of the court immediately, rather than dealt with after the fact. It is understandable that an LEP litigant or witness might be hesitant to interrupt a court proceeding to raise an issue about language access. To help overcome this reluctance, LEP court users should be encouraged to immediately bring any problems with language access to the attention of the judge. For that reason, the UCS has recommended that at the start of a proceeding in which a court interpreter is used, the judge clearly state that any issue or problem with language access should be immediately brought to the attention of the court.<sup>22</sup> This best practice will be reinforced at judicial trainings and in periodic communications with judges about language access issues. In addition, the UCS will periodically send notices to bar associations, including local and minority bar associations, as well as other organizations with ties to the LEP community, emphasizing the importance of raising issues and problems with language access as soon and as directly as possible.<sup>23</sup>

### ***Revise the process for submitting complaints about language access***

It is critical that there be a clear, user-friendly process for raising concerns and complaints about language access, and that all participants in a proceeding are aware of the process. To address the former issue, the UCS will develop a new form for the filing of complaints about the provision of language access services. Key features of the complaint form and process are:

- The form will clearly state that the complaint may address any aspect of language access, both in and outside of the courtroom, including failure to assign or delay in assigning an interpreter, the quality of the services provided, inaccurate translation of written materials, and violations of the Court Interpreting Canons of Ethics.
- The form will state that the complaint will not affect the rights of the complaining party, and that the complaint can be signed or submitted anonymously.
- The form will be user-friendly, written in plain language, and translated into the most commonly used languages.
- The form will be available both in hard copy and online on the UCS website.

The new complaint form will be made public by September 2017.

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22) In part, the recommended script includes these instructions about issues and problems with language access:

- 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?

*Working with Court Interpreters: A Benchcard and Best Practices for Judges*, attached as Appendix F.

23) See, e.g., Appendix G.

### ***Publicize the complaint process***

It is also critical that LEP court users, their attorneys, and groups that work with the LEP community know how to make a complaint about language access. There are a variety of ways of educating the public about the complaint process. As noted above, judges are advised to encourage participants in a court proceeding to immediately bring problems and issues about court interpreting to the court's attention. In addition, LEP individuals are given a card, currently available in seven languages, explaining the process for submitting a complaint.<sup>24</sup> The courts will also expand the number of languages in which information about the complaint process is available online. Finally, written reminders about the complaint process will be periodically sent to bar associations, including local and minority bar associations, as well as other organizations with ties to the LEP community.<sup>25</sup>

### ***Revise the process for the review of complaints about language access***

Each complaint will be reviewed by an internal committee consisting of staff from both the local court and OLA, so that appropriate corrective action can be taken in the particular situation and to ensure that the court system is aware of systemic issues that must be addressed more broadly. Following a review, OLA will respond to each signed complaint.<sup>26</sup>

## **7. Working with the Community to Enhance Language Access**

Outreach to and partnership with the LEP community and the organizations that serve them are critical to a successful language access program. Outreach serves a number of purposes. It helps ensure that members of the LEP community are aware of the right to language access services and how to obtain these services. It also helps to foster a sense of trust and confidence in the courts and the legal system. In addition, it provides an opportunity for feedback on the language access program, to learn what is being done well and what needs to be improved. Outreach also helps to support recruitment efforts and provides an opportunity to encourage interest in a career as a court interpreter, a biliterate court employee in a non-court interpreter position, or as a biliterate volunteer.

To enhance partnership with and outreach to the community, the UCS will do the following:

### ***Develop a new language access outreach campaign***

In 2007, the UCS launched a "We Speak Your Language" public awareness campaign. Posters with translated text in 30 languages, along with contact information for the court's language access liaison in each court location, were placed in each courthouse in the state.<sup>27</sup> Brochures and other related materials were also distributed. It is time to rethink the public awareness efforts and develop a new campaign, including fresh signage, to inform the LEP community about their right to language access in the courts. In developing the new public awareness campaign, OLA will work with other UCS offices, including the NYS Courts Access to Justice Program, as well as with community and language advocacy groups. This new public awareness effort will be launched by January 2018.

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24) The English Language version of this card, entitled *Information about Language Access in the Courts*, is attached as Appendix L.

25) See, e.g., Appendix G.

26) Like most other court employees, staff interpreters are subject to statutory civil service requirements and collective bargaining agreements with their public employee unions. For that reason, the process for the review and evaluation of complaints concerning performance and ethical issues with respect to staff interpreters is subject to applicable statutory and contractual provisions.

27) Appendix H.

### ***Use foreign language news outlets and other targeted means to reach the LEP community***

In reaching the LEP community, the medium can be as important as the message. To maximize the effectiveness of outreach, the UCS will develop a plan that emphasizes foreign language news outlets, public service announcements, and social media platforms.

### ***Strengthen relationships with groups in the LEP community***

Community-based organizations, specialized bar associations, advocacy groups, clergy, and others offer an effective means to communicate and forge relationships with various LEP populations. The UCS will seek to strengthen existing relationships and build new ones with these groups.

## **8. Expanding Language Access through Improved Signage, Translation, and Online Information**

Multi-language signage and translated materials are necessary to provide meaningful access. To more effectively use signage and translated materials to bridge the language access gap, the UCS will do the following:

### ***Establish a translation committee***

The Chief Administrative Judge will appoint a committee on translation by April 2017. The Translation Committee will establish standards for written translation, addressing such issues as plain language and the use of universal symbols rather than text. On an ongoing basis, the committee will recommend priorities for translating court documents, instructions, and signage.

### ***Inspect signage on a regular basis***

Each courthouse in New York is inspected on a quarterly basis for compliance with cleaning and maintenance standards. Beginning immediately, the scope of these inspections will be broadened to cover signage. The inspections will ensure that signage is in place and in good condition, and that contact information on language access signage is current.

### ***Expand use of bilingual orders***

In 2015, the UCS initiated a pilot project in which orders of protection were issued in bilingual format, with the specific terms and conditions of the order presented in two languages. Initially, bilingual English-Spanish orders of protection were issued in selected Family Courts.<sup>28</sup> Over time, Russian and Chinese bilingual orders were added, and the program was expanded to Family Courts throughout the state, as well as to all Integrated Domestic Violence Courts. In January 2017, UCS began issuing Criminal Court Orders of Protection in bilingual format (Spanish); the availability of the bilingual order will be expanded to criminal courts statewide by the end of 2017. As of the publication of this plan (March 2017), almost 12,500 bilingual orders of protection have been issued.

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28) A sample English-Spanish order of protection from the Family Court is attached as Appendix M.

The bilingual order has been integrated into automated case management systems in a manner that facilitates the addition of languages in which bilingual orders may be issued.<sup>29</sup> By the end of 2017, bilingual orders of protection will be available in all courts in New York, in the three most-requested languages. During 2018, three additional languages will be added to the bilingual order modules, with more languages to be added annually, based on use and needs as determined by OLA and the Translation Committee. In addition to providing written translated orders, UCS will seek grant funding to explore and develop the ability to provide LEP parties with an audio transcript of the interpreted proceeding, when an order is issued.

### ***Translate form orders***

True bilingual orders, with the terms and conditions in a particular case set forth in two languages, are preferred, but achieving this goal is a long-term project. As the courts work toward that goal, the translation of form orders will enhance language access by allowing the LEP court user to read the official English order side-by-side with the informational translated form order. Priority will be given to the translation of form orders in case types such as child support, where a high percentage of litigants are not represented by counsel. The Translation Committee will propose priorities for the translation of form orders and propose a schedule for implementation.

### ***Present translated materials in audio-visual format***

While translation of written documents is a key component of meaningful language access, the fact is that many court users, both English and non-English speaking, are illiterate. For that reason, the UCS will seek to present information in audio or audiovisual formats, online, at courthouse kiosks, and by other means. The Translation Committee will recommend priorities for the production of translated materials in non-print format, and propose a schedule for implementation.

## **9. Partnering with the Town and Village Courts to Ensure Language Access**

The Town and Village Courts (collectively “the Justice Courts”) are an important part of New York’s system of justice. They hear more than two million cases each year. They have jurisdiction over a broad range of civil matters, including small claims and landlord and tenant matters. They try misdemeanors and other lesser offenses, and can arraign felonies, including homicides and other serious crimes, which are then transferred to a superior court for further proceedings. They also issue orders of protection, and collectively take in more than \$250 million in fines and surcharges each year.

Despite their important role in our state, these courts are, in many cases, not well funded or adequately resourced. They are constitutionally part of the Unified Court System. NY Const, art VI, §§ 1(a), 17. However, when the financial responsibility for the operation of the trial courts was transferred, in 1976, from local governments to the state, the Justice Courts were expressly exempted. L.1976, ch. 966 (Unified Court Budget Act).

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29) Thus far, bilingual orders of protection have only been issued in the so-called “state-paid” courts, all of which have automated case management systems operated by the UCS Division of Technology. Issuing bilingual orders in the Justice Court world is a more complicated matter because the Justice Courts use a proprietary case management system, and it is not clear that privately owned system currently has the capacity to produce orders of protection in a bilingual format. The UCS Division of Technology and the UCS Town and Village Court Resource Center will examine this issue and, as soon as possible, issue recommendations as to how best to implement bilingual orders of protection in the Justice Courts.

See Section III(9) below for a general discussion of language access in the Justice Courts.

As a result, each of the more than 1,200 Justice Courts in New York is operated, financed, and administered by its sponsoring town or village, with very limited financial and technical assistance from the state. None of the Justice Courts has a staff court interpreter, and many lack the funds to hire a per diem interpreter.

The difficulty of ensuring language access in the Justice Courts is further compounded by the nature of Justice Court operations. These courts are located in more than 1,200 different locations across the state, in every county outside of New York City. Many of these courts are located in communities where a significant portion of the local population needs language assistance, often in less common languages. In addition, many appearances before the Justice Courts are relatively short, often with little, if any, advance notice of the need for interpreting services. Of particular concern are criminal arraignments conducted late at night or on weekends. Given the due process and access to justice implications, anecdotal reports that relatives or arresting officers serve as interpreters for arraigned defendants are especially troubling.

The UCS currently provides some assistance to the Justice Courts in relation to language access issues, primarily through the UCS Town and Village Courts Resource Center (“Resource Center”). For example, the Resource Center, in collaboration with OLA, has worked with the Justice Courts to identify their interpreting needs, provide guidance, and share resources. To facilitate speedy and efficient Justice Court access to qualified interpreters, the Registry of per diem interpreters has been made available to Justice Courts both online and in hard copy. OCA also provides Justice Courts with a Court Interpreter Resource Package that includes:

- the list of dictionaries and other interpreting materials OCA identifies for standard use in the state-paid courts;
- the interpreter *voir dire* questions; and
- the Court Interpreter Manual and Code of Ethics.

To further assist the Justice Courts ensure language access, the UCS will do the following:

### ***Create a task force on language access in the Justice Courts***

There are unique challenges to providing language access in the Justice Courts, and what works in the so-called “state-paid courts” might not in these courts. For that reason, the UCS, through its Resource Center, will convene a task force to develop a plan for improving language access in the Justice Courts. The task force will be asked to assess the status of language access in the Justice Courts and to propose options — whether operational changes, court rules, or legislative initiatives — to ensure proper access to interpreter services and to assist local governments in meeting this critically important need. The Task Force will be asked to complete this assessment and to report to the Chief Administrative Judge by the end of 2017. To assist the task force in its work, the Chief Administrative Judge may establish one or more pilot programs in selected Justice Court(s) across the state to test the efficacy of different modalities for the provision of broader language access services in various classes of proceedings in the Justice Courts.

### ***Include language access issues in training programs for Town and Village Court justices and staff***

Both justices and staff of the Justice Courts are required, by rule of the Chief Judge of the State of New York, to complete annual training offered by the Resource Center.<sup>30</sup> Beginning immediately, issues relating to language access will be integrated, as appropriate, into Justice Court training programs. Among the issues to be covered are the right to an interpreter, the logistics of providing interpreting services, and cultural competence.

### ***Promote the use of remote interpreting services***

Remote interpreting holds particular promise for the Justice Courts, where the appearances are often brief, the languages needed are myriad, and many of the courts are located in isolated towns and villages far from an available interpreter. However, there are significant obstacles to implementing remote interpreting in more than 1,200 separate locations, including the need for suitable technology, training in remote interpreting protocols, and, very importantly, funding to pay for the remote interpreter. The UCS will work with the State Magistrates' Association (the association of the Town and Village Justices) to address these issues and to find ways to promote remote interpreting in the Justice Courts.

### ***Translate Justice Court documents and signage***

A number of Justice Court guides and forms have been translated into various languages and are available on the UCS website. Additional Justice Court documents should be translated. In addition, multi-language signage and flyers would also promote language access in the Justice Courts. The Resource Center, in consultation with the Task Force on Language Access in the Justice Courts and the Translation Committee, will develop a plan for multi-lingual signage and for the translation of additional Justice Court materials. Among the priorities for translations are documents relating to domestic violence, small claims and landlord-tenant issues.

## **Conclusion**

The New York State Judiciary is committed to fulfilling the promise of equal justice despite language, financial, or other barriers. The initiatives detailed in this report build upon the progress made under the 2006 and 2011 Action Plans and will help ensure that New York continues as a leader in providing unfettered access to the courts.<sup>31</sup>

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30) See 22 NYCRR §17.2(a)-(e) (mandatory training for Justices); 22 NYCRR § 17.2(f) (mandatory training for Justice Court clerks).

31) A timeline for implementation of the initiatives set forth in this strategic plan is attached as Appendix N.

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## Languages for which the New York Courts Provided Interpreting Services in 2016, by Hours of Service

Spanish	362487:45	Yiddish	381:15	Guyanese Creole	31:15
Mandarin	25660:45	Certified Deaf - CDI	356:30	Mam	31:00
Russian	14771:30	Georgian	333:15	Macedonian	28:30
Haitian Creole	13802:45	Serbian	305:00	Czech	27:00
Arabic	11244:00	Thai	272:45	Jula	25:00
Cantonese	11087:45	Wenzhou	233:30	Oromo	24:45
French	8954:15	Soninke	221:45	Garifuna	20:30
Bengali	8440:45	Mixteco	220:30	Lithuanian	20:00
Polish	8131:15	Malayalam	217:30	Nahuatl	19:30
Korean	7315:45	Tibetan	205:45	Krio	18:45
American Sign	3557:45	Swahili	198:00	Laotian	14:00
Punjabi	2740:15	Ukrainian	188:45	Kiziguwa	12:15
Urdu	2730:45	Pashtu	174:45	Susu	12:00
Fuzhou	2490:30	Sinhala	167:00	Ga	11:00
Fulani	2420:30	Indonesian	148:45	Dari	10:45
Woloff	2221:30	Yoruba	145:15	Idoma	9:15
Greek	1764:00	German	133:00	Oral Transliteration	9:00
Albanian	1452:45	Amharic	132:30	Masalit	7:45
Hindi	1232:30	Hausa	132:30	Lingala	7:45
Hebrew	1207:00	Toisan	132:00	Telugu	7:30
Portuguese	1183:45	Bulgarian	127:45	Tlapaneco	7:00
Turkish	1059:15	Gujarati	104:45	Bissa	7:00
Italian	993:00	K'iche'	94:00	Bandi	6:15
Vietnamese	761:00	Tamil	92:30	Finnish	6:00
Japanese	711:15	Kirundi	84:30	Dutch	6:00
Twi	706:15	Tigrinya	71:00	Triqui	5:45
Uzbek	691:15	Armenian	68:45	Ewe	5:30
Burmese	673:15	Fukinese	60:15	Sylheti	4:15
Mandinka	663:45	Shanghai	58:45	Cued Speech	3:45
Nepali	607:45	Khmer	58:30	Kurdish	3:45
Romanian	602:00	Quechua	55:00	Bassa	3:30
Somali	510:30	Malinke	52:45	Kyrgyz	3:00
Karen	494:15	Moore	49:30	Rwanda	2:30
Tagalog	491:00	Ibo	47:30	Tem	2:15
Croatian	487:15	Slovak	42:00	Hakka	1:45
Bambara	468:00	Sicilian	41:15	Mende	1:15
Bosnian	463:45	Maay	39:45	Dinka	1:00
Hungarian	419:45	Tajik	39:00		
Farsi	415:45	Jamaican Patois	38:00	<b>115 Languages</b>	<b>512060:30</b>

## Part 217 of the Rules of the Chief Administrative Judge ("Access to Court Interpreter Services for Persons with Limited English Proficiency")



### **§217.1 Obligation to appoint interpreter in court proceedings in the trial courts.**

- (a) In all civil and criminal cases, when a court determines that a party or witness, or an interested parent or guardian of a minor party in a Family Court proceeding, is unable to understand and communicate in English to the extent that he or she cannot meaningfully participate in the court proceedings, the clerk of the court or another designated administrative officer shall schedule an interpreter at no expense from an approved list maintained by the Office of Court Administration. The court may permit an interpreter to interpret by telephone or live audiovisual means. If no pre-approved interpreter is available, the clerk of the court or another designated administrative officer shall schedule an interpreter at no expense as justice requires. This rule shall not alter or diminish the court's authority and duty to assure justness in proceedings before it.
- (b) A person with limited English proficiency, other than a person testifying as a witness, may waive a court-appointed interpreter, with the consent of the court, if the person provides his or her own interpreter at his or her own expense.

### **§217.2 Provision of interpreting services in clerk's offices.**

A court clerk shall provide interpreting services at no expense to a person with limited English proficiency seeking assistance at the court clerk's office in accordance with the needs of the person seeking assistance and the availability of court interpreting services. Such services may be provided by telephone or live audiovisual means.

## UCS Advisory Committee on Language Access

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Colleen A. Duffy, Esq.

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Beatrice Frank, Esq.

*member thru 2016*

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Shawn Renee Guzman

Yasmeen Hamza, Esq.

Michael Klein, Esq.

Robyn Mazur, Esq.

Rena Micklewright

*Staff to Committee*

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*Member thru 2016*

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*Member thru 2016*

## UCS Court Interpreter Reciprocity Policy



### New York State Unified Court System Office of Court Administration Reciprocity Provisions for the NYS Registry of Per Diem Court Interpreters

The New York State Office of Court Administration (OCA) has developed and administers examinations for interpreters seeking to be listed in its Registry of Per Diem Court Interpreters. Presently, the Language Assessment Program offers examinations consisting of a written English proficiency test and an oral exam in 22 designated languages--Albanian, Arabic, BCS (Bosnian/Croatian/Serbian), Bengali, Cantonese, French, Greek, Haitian Creole, Hebrew, Hindi, Italian, Japanese, Korean, Mandarin, Polish, Portuguese, Punjabi (Eastern), Russian, Spanish, Urdu, Vietnamese and Wolof.

These tests are used by court administrators to identify competent interpreters for per diem assignments in the New York State Courts. Oral exams are currently being developed in additional languages. Candidates for per diem assignments in languages for which no oral exam is presently available must pass the written English proficiency test and provide verifiable evidence of competency in the indicated language. OCA also conducts a separate competitive civil service examination every four years for the employment of full-time permanent Spanish Court Interpreters.

Interpreters possessing out-of-state court interpreter certification may apply for state reciprocity for the Registry designated languages or other languages subject to specific conditions (i.e., minimum educational requirements, professional training and experience, and a criminal history check). Unless otherwise indicated, examinations that will be considered comparable to tests currently conducted by the NYS Office of Court Administration must evaluate an applicant's proficiency in English and in their preferred foreign language through standardized testing. The oral examination components of these certification tests must include testing in all three modes of interpreting - consecutive interpreting, simultaneous interpreting and sight translation.

#### Reciprocity

Candidates may apply for reciprocity in any language, without having to take the New York State Court System's examinations (written English test and oral test) if they have been certified by at least one of the following credentialing authorities:

- 1) Federal Court Interpreter Certification Examination Program (FCICE)** Federal Court Certification is awarded by the Administrative Office of the U.S. Courts. Certification is presently available only for Spanish, although certification exams were previously available in Haitian Creole and Navajo. For more information about this program please refer to the program's website at: <http://www.ncsc.org/fcice>.

## UCS Court Interpreter Reciprocity Policy *cont.*

- 2) **Consortium for State Court Interpreter Certification (Consortium)** State certification examinations are conducted by member states through the National Center for State Courts. New York State became a member of the Consortium for State Court Interpreter Certification in 2005. OCA will accept the results of a consortium developed examination administered by a member state. Specifically, applicants must have obtained a minimum score of 80% on the Written Test and a minimum score of 70% on each section of the Oral Performance Test. While the Consortium has developed examinations in 20 languages (Arabic, BCS (Bosnian/Serbian/Croatian), Cantonese, French, Haitian Creole, Hmong, Ilocano, Khmer, Korean, Laotian, Mandarin, Marshallese, Polish, Portuguese, Russian, Somali, Spanish, Tagalog, Turkish and Vietnamese), not all participating states administer the full range of language tests available. Information about the Consortium testing program and related links can be found on the National Center for State Courts website at: <http://www.ncsc.org/education-and-careers/state-interpreter-certification>.
- 3) **National Judiciary Interpreter and Translator Certification (NJITC)** The NJITC program is offered by the National Association of Judicial Interpreters and Translators (NAJIT). Candidates can earn NAJIT certification by passing both the written and oral components of the examination. The certification examination is currently offered only in Spanish. Information about the NAJIT-sponsored testing program, including testing dates, is on the NAJIT website at: <http://www.najit.org>.
- 4) **The Judicial Council of California-Master List of Certified Interpreters.** The Judicial Council of California conducts a court interpreter program that requires candidates to pass both a written English examination and an oral proficiency examination currently offered in 15 certified languages [i.e., Spanish, Arabic, American Sign Language, Eastern Armenian, Western Armenian, Cantonese, Japanese, Khmer (Cambodian), Korean, Mandarin, Portuguese, Punjabi, Russian, Tagalog and Vietnamese]. Candidates who pass both examinations and register with the Judicial Council are placed on the "Master List of Certified and Registered Court Interpreters." Additionally, California began scheduling registered interpreter candidates to take Oral Proficiency Exams in English and each interpreter's non-English language. These exams are developed by the American Council on the Teaching of Foreign Languages and administered by Prometric. Information about California's Court Interpreter program can be found on their website at [www.courts.ca.gov/programs-interpreters.htm](http://www.courts.ca.gov/programs-interpreters.htm).

### **Request for Waiver of the Written English Proficiency Examination Requirement in New York State**

As outlined above, Court Interpreters who speak a language other than one of the 22 designated Registry languages must also pass a written English proficiency exam before they can be considered for per diem assignments. As of January 1, 2007, failure to demonstrate English proficiency by an approved examination will restrict an individual from providing interpreter services in the New York State Courts.

## UCS Court Interpreter Reciprocity Policy *cont.*

Candidates seeking a waiver of New York's written English proficiency examination may submit proof that they have passed an English proficiency test through at least one of the four credentialing authorities identified above (i.e., FCICE, Consortium, NAJIT, and the Judicial Council of California).

OCA will also accept test scores from one of the following as evidence of sufficient English language proficiency:

**Test of English as a Foreign Language (TOEFL) iBT** (Internet version) introduced in 2005 and administered by the Educational Testing Service. Candidates must obtain a minimum score of 90 (scores range from 0 to 120) on the TOEFL iBT. Visit the TOEFL Web site at [www.ets.org/toefl](http://www.ets.org/toefl) for more information about this examination.

**International English Language Testing System (IELTS)**, jointly owned by British Council, IDP: IELTS Australia and Cambridge English Language Assessment and administered in over 130 countries. Candidates must obtain overall minimum score of 7 (score ranges from 0-9) on the IELTS. Visit the IELTS, [www.ielts.org](http://www.ielts.org), for more information about this examination.

### Applying for Examination Reciprocity or Waiver

Each request for reciprocity or waiver will be reviewed on a case-by-case basis. Out-of-state certifications must be current in the issuing state or federal program at the time of the request. Abridged examinations and conditional/alternative or temporary certifications will not be accepted. In instances where a request for reciprocity or waiver is not granted, applicants will be required to pass the written English proficiency test and either pass the foreign language oral exam, or provide verifiable evidence of competency in the indicated language, as necessary.

Applicants seeking a request for reciprocity and/or waiver of examination should complete the [Examination Waiver/Reciprocity Form](#) and submit certified copies of examination results, certifications and/or credentials that can be verified along with the [Application for Language Skills Screening \(ALSS\)](#). No fee is charged for this examination waiver review. However, if your credentials are accepted, you will be required to pay a fee for fingerprint processing for a criminal history background check.

### Please mail all completed forms to:

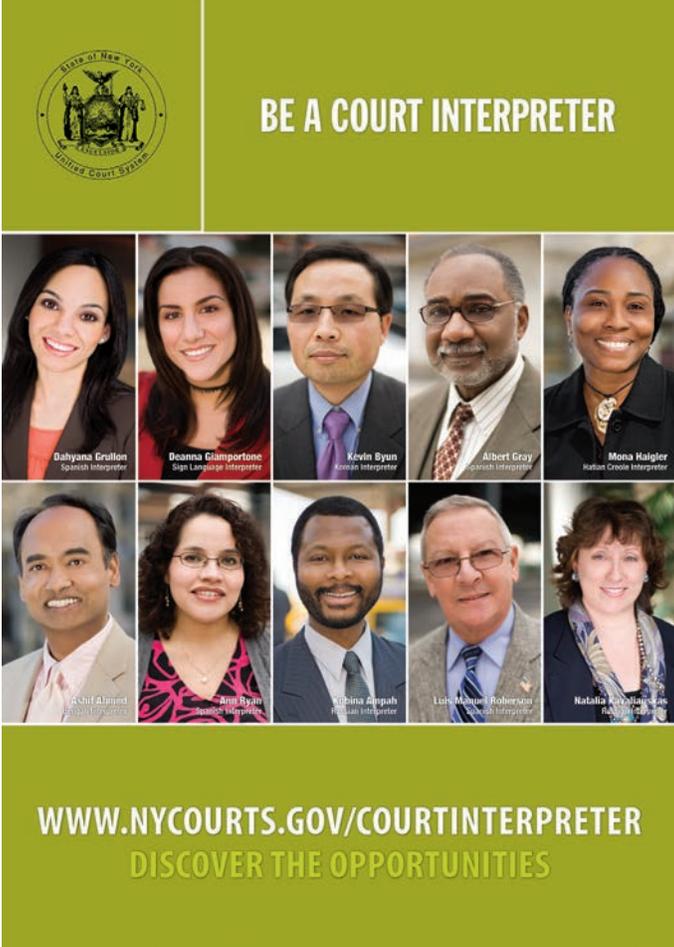
Office of Language Access  
Office of Court Administration  
Division of Professional and Court Services  
25 Beaver Street - 8th floor  
New York, NY 10004

If you have a question about New York's Court Interpreter Program please call: (646) 386-5670 or visit our website: [www.nycourts.gov/courtinterpreter](http://www.nycourts.gov/courtinterpreter).

## Be a Court Interpreter Recruitment Materials



**BE A COURT INTERPRETER**  
New York State Unified Court System | Office of Language Access | **WE SPEAK YOUR LANGUAGE** 



**BE A COURT INTERPRETER**

 <b>Dahyana Erullian</b> Spanish Interpreter	 <b>Deanna Ciamporotone</b> Sign Language Interpreter	 <b>Kevin Byun</b> Korean Interpreter	 <b>Albert Cray</b> Spanish Interpreter	 <b>Mona Halgier</b> Italian Croatian Interpreter
 <b>Asif Ahmed</b> Urdu Interpreter	 <b>Ann Ryan</b> English Interpreter	 <b>Rubina Dippah</b> Hindi Interpreter	 <b>Luis Manuel Roberson</b> Spanish Interpreter	 <b>Natalia Katsanikas</b> Russian Interpreter

**WWW.NYCOURTS.GOV/COURTINTERPRETER**  
**DISCOVER THE OPPORTUNITIES**

## Working with Court Interpreters: A Benchcard and Best Practices for Judges

### 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?

## Working with Court Interpreters: A Benchcard and Best Practices for Judges *cont.*

Rev: 5/2015

### 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](mailto:InterpreterComplaints@nycourts.gov)*

THE NEW YORK STATE UNIFIED COURT SYSTEM

### UCS Benchcard and Best Practices for Judges

WORKING WITH COURT INTERPRETERS

## Letter of the Chief Administrative Judge to Bar Associations, Legal Services Providers and Other Organizations

*State of New York  
Unified Court System*



*Lawrence K. Marks  
Chief Administrative Judge*

*25 Beaver Street  
New York, N.Y. 10004  
(212) 428-2100*

November 19, 2015

Dear Colleague:

In a state as diverse as New York, ensuring the ability of persons with limited English proficiency (LEP) to fully participate in court proceedings is a daunting challenge. It is also a matter of access to justice, which the court system takes very seriously.

The NYS Unified Court System's (UCS) policies, including Court Rule NYCRR Part 217, which mandates appointment of a court interpreter at no cost to the user in both criminal and civil cases, are among the most progressive in the country, and a model that the ABA and US Department of Justice have often referred to when drafting guidelines for language access issues.

In order to provide interpreters when and where they are needed, it is important that the request for an interpreter be communicated to the court as early as possible. A litigant or his/her attorney should notify the Part Clerk, Court Officer or Chief Clerk's office of the need for an interpreter, and the specific language or dialect being requested. Advance notice of the need for language services will help to prevent delays.

To assist those who use the services of an interpreter while in court, UCS has developed information cards that explain the role of the court interpreter, and what to do if the LEP court user has a question or concern. The cards have been translated into seven of the most-requested languages (Spanish, Chinese, Russian, Arabic, Haitian Creole, Korean, Polish); samples are attached for your review, in English and Spanish.

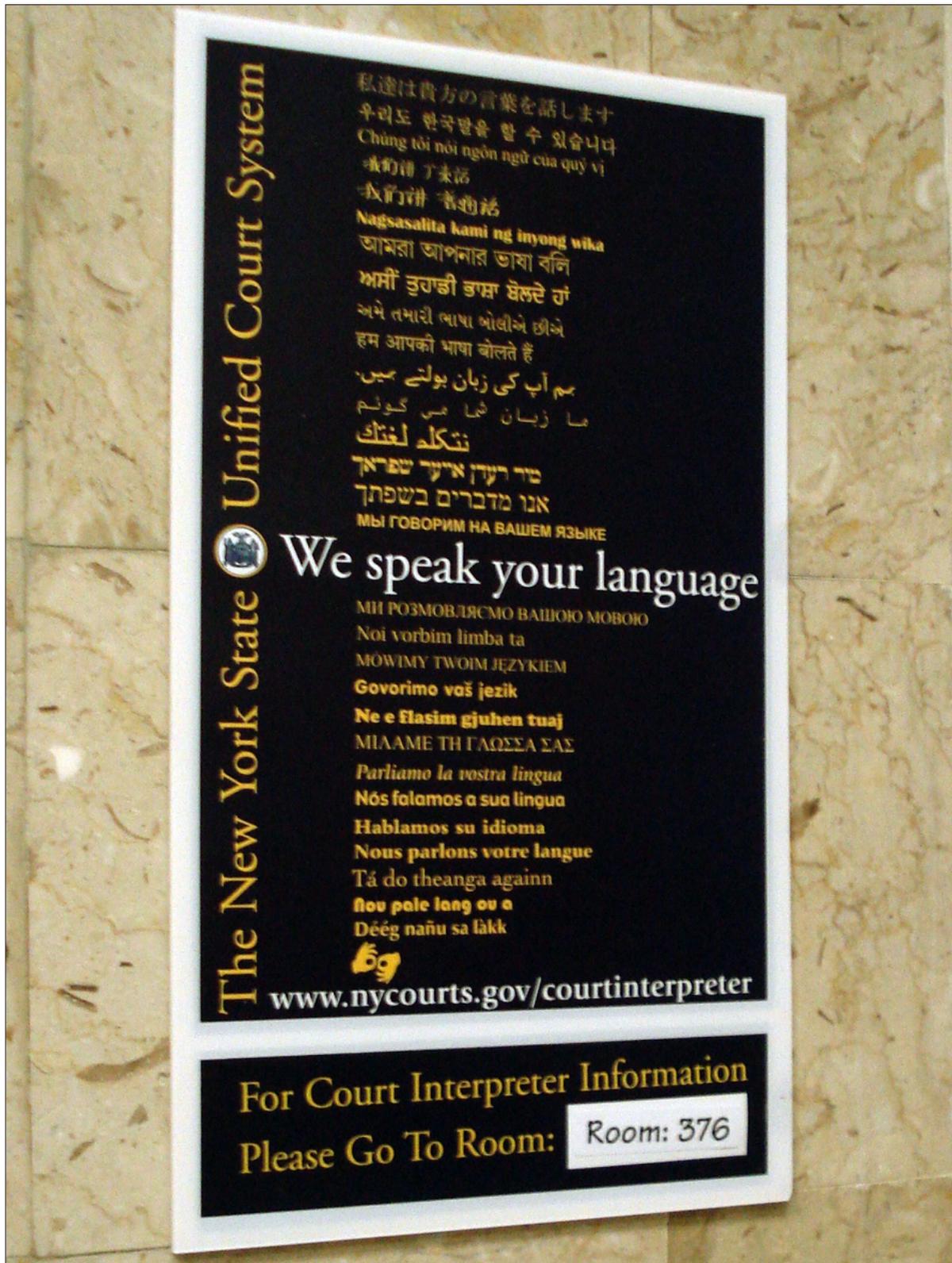
Concerns about court interpreting services should also be raised as soon as possible. When a problem with interpreting arises during a court proceeding, the issue should be raised with the Judge, so that it can be immediately addressed. When that is not possible, the issue should be brought to the attention of the Chief Clerk of the court. We also suggest that the OCA Office of Language Access be notified of the matter, especially with problems that may indicate the need for training or other systemic response. The Office of Language Access can be contacted by email at [interpretercomplaints@nycourts.gov](mailto:interpretercomplaints@nycourts.gov) or by calling 646-386-5670.

Learning of concerns in a timely manner will help us improve the quality of court interpreting services, and we invite you to follow these procedures for bringing issues to our attention. We also welcome your suggestions, as we continue to collaborate on this important service. Additional information may be found online at: [www.nycourts.gov/courtinterpreter](http://www.nycourts.gov/courtinterpreter)

Very truly yours,

A handwritten signature in black ink, appearing to read "L. Marks".

## We Speak Your Language Poster



## Languages for which Remote Interpreting was Provided in 2016, Descending in Order of Use

- |                   |                     |
|-------------------|---------------------|
| 1. Spanish        | 29. Ukrainian       |
| 2. American Sign  | 30. Korean          |
| 3. Burmese        | 31. Mandinka        |
| 4. Vietnamese     | 32. Tigrinya        |
| 5. Albanian       | 33. Amharic         |
| 6. Mandarin       | 34. Arabic          |
| 7. Haitian Creole | 35. Gujarati        |
| 8. Hindi          | 36. Kurdish         |
| 9. German         | 37. Turkish         |
| 10. Punjabi       | 38. Dari            |
| 11. Russian       | 39. Romanian        |
| 12. Khmer         | 40. Guyanese Creole |
| 13. Urdu          | 41. Cantonese       |
| 14. Bengali       | 42. Rwanda          |
| 15. Hebrew        | 43. Hungarian       |
| 16. French        | 44. Croatian        |
| 17. Pashtu        | 45. Jamaican Patois |
| 18. Farsi         | 46. Laotian         |
| 19. Nepali        | 47. Georgian        |
| 20. Portuguese    | 48. Greek           |
| 21. Tagalog       | 49. Fuzhou          |
| 22. Thai          | 50. Slovak          |
| 23. Yoruba        | 51. Hakka           |
| 24. Japanese      | 52. Uzbek           |
| 25. Karen         | 53. Indonesian      |
| 26. Swahili       | 54. Italian         |
| 27. Woloff        | 55. Tibetan         |
| 28. Polish        |                     |

## Working with Interpreters by Video or Teleconference Benchcard

### THE NEW YORK STATE UNIFIED COURT SYSTEM

# Working with Interpreters by Video or Teleconference

## TIPS FOR REMOTE INTERPRETING

### USE OF REMOTE INTERPRETING:

Remote Interpreting is a useful alternative in providing court interpreting services, when availability or critical need renders on-site interpretation impractical.

Telephone or video interpretation may be used in place of on-site interpreting whenever the quality of interpretation is not compromised and:

1. there is no on-site UCS staff or qualified freelance interpreter available, and there is a time-sensitive matter to be heard; or
2. there is no available on-site UCS staff or qualified freelance interpreter available for a less-immediate matter; or
3. it is more responsible to obtain the service by remote-means than to delay a court proceeding.

Remote interpreting may be considered a suitable option when there is a time-sensitive matter requiring interpretation and no other resources are available. Adhering to the following “tips” will help to ensure that the remote appearances run smoothly and efficiently.

### SCHEDULING A REMOTE INTERPRETER:

The Clerk (or appropriate court personnel) should provide as much advance notice as possible when an interpreter is needed. Requests for remote interpreting services may be submitted online, using the **Request for Remote Interpreting Services form** that is available on Courtnet, or by submission of a detailed e-mail to: [remoteinterpreting@nycourts.gov](mailto:remoteinterpreting@nycourts.gov)

Include as much case information as possible with the request for interpreting services (e.g., case type, procedural phase, which party needs the interpreter), to help the interpreter prepare for vocabulary or legal terminology that may be used during the procedure.

If it is the first time the court is conducting a remote session, a “test run” is strongly recommended. This test will confirm the clarity and proper use of video and/or telephonic connections and equipment to be used during the remote interpretation, and should be conducted at least 30 minutes prior to the remote session.

### BEFORE THE PROCEEDING:

- Before the proceeding begins, the court user should be informed (by the Judge) that the interpreter is appearing by video or phone; the judge should also ascertain that they can both hear and understand one another.

- Explain to the court user, through the interpreter, that the interpreter's role is to translate what is said in the courtroom in English into the foreign language and vice versa. The interpreter cannot give any advice, make suggestions, or engage in private conversations with the court user.
- The court should advise all parties in the courtroom that **one person should speak at a time, in a loud and clear voice**; it is impossible to interpret multiple or inaudible voices.
- The court user should be advised (by the judge) that if they are unable to hear or understand what the interpreter has said, s/he should raise their hand and the judge will ask for clarification from the interpreter.
- If there is a jury present, explain that languages other than English may be used during the proceeding. Even if members of the jury understand the non-English language being spoken, jurors must base their decision on the evidence presented in the English interpretation.
- In proceedings where an interpreter for the **Deaf or Hard of Hearing** is required, the positioning of the parties is particularly important. Facial expressions, lip movements and bodily gestures are interpreted. The person who is deaf or is hard of hearing must be able to see the monitor clearly, and the remote interpreter must also be able to see the court user clearly.

## Working with Interpreters by Video or Teleconference Benchcard *cont.*

### WORKING WITH INTERPRETERS BY VIDEO OR TELECONFERENCE

#### DURING THE PROCEEDING:

- The Judge should have the interpreter state his/her name, spelling it out, for the record. Inquire whether any party knows the interpreter, to eliminate potential conflicts or the appearance of impropriety.
- Once the case is ready to proceed the interpreter can be sworn in. Administering the oath to the interpreter underscores the importance of adhering to the principles of clear and accurate court interpreting.

#### SAMPLE OATH FOR THE INTERPRETER:

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

- Remote interpretation should be done in the consecutive mode. All responses and verbal exchanges should include a pause after a sentence or two, in order for the interpreter to fully capture what is being said and to orally translate.
- If the court user and his/her attorney need to confer privately, the handset of the telephone may be used; if one receiver is utilized, it should be shared between the court user and the attorney.
- If needed, the court can utilize the ‘mute’ button for in-court exchanges that do not involve the court user (similar to an off-the-record bench conference).

**Beware of shuffling papers or other activity near the microphones. Turn off cellphones and electronic devices. All sounds near the unit will be transmitted and may interfere with the interpretation.**

#### EVALUATING THE REMOTE INTERPRETING SERVICE:

The court’s observation can aid in the evaluation of an interpreter’s performance. 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?
- Does the individual needing the interpreter appear to be asking questions of the interpreter?
- 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 must relay the statement as if he/she is the person speaking.
- In order to keep a clear record, does he/she address the Court in the third-person? (e.g. “Your Honor, the interpreter could not hear the last question.”)

At the conclusion of each Remote Session, please complete the **Remote Interpreting Assessment**, which is available online via Courtnet. The Office of Language Access (OLA) relies on your comments and suggestions in order to make remote interpreting a useful service.

If an interpreter will be needed for a subsequent date, please submit a **Request For Remote Interpreting Services Form** to the Office of Language Access, so that the remote arrangements can be made; scheduling arrangements for future assignments should not be made during the current video or telephonic remote interpreting appearance.

*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](mailto:InterpreterComplaints@nycourts.gov)*

### THE NEW YORK STATE UNIFIED COURT SYSTEM

## Working with Interpreters by Video or Teleconference

### TIPS FOR REMOTE INTERPRETING

OLA TipSheet.2 Rev. 08.27.15

## Remote Interpreting Operational Standards



**NEW YORK STATE**  
**Unified Court System**  
**OFFICE OF COURT ADMINISTRATION**  
**Division of Professional and Court Services**  
 Office of Language Access  
 25 BEAVER STREET, NEW YORK, NY 10004  
 Tel: (646) 386-5670 Fax: (212) 428-2548  
[courtinterpreter@nycourts.gov](mailto:courtinterpreter@nycourts.gov)

### **Remote Interpreting Operational Standards**

September 2015

#### Overview

When availability or critical need renders on-site interpretation impractical, telephone, video-conference or web-based interpreting services (*all remote interpreting, or "RI"*) delivered by UCS-qualified court interpreters, are suitable alternative methods to achieve the same goal.

These guidelines are intended to simplify and encourage the use of remote interpreting within the Unified Court System (UCS), and to establish court system standards for remote interpreting that promote the same quality of interpretation that is expected from on-site or in-person services.

#### When to Use Remote Interpreting (RI)

Telephone or video interpretation may be used in place of on-site interpreting, and is recommended for use whenever the quality of interpretation is not compromised, and there are no other qualified in-person interpreter resources (whether UCS staff or per diem court interpreters) available. It is more responsible to obtain the services of a UCS-qualified interpreter by remote-means than to delay a court appearance.

Depending on the circumstances, it may be reasonable to wait until a qualified interpreter can be located and brought in to perform the interpreting services on-site at the court. However, when delay in finding an interpreter will result in an individual's being unable to fully participate in the programs and services of the court system, the option to use RI services can provide a more-timely conclusion or resolution of the matter. RI may also be appropriate for non-immediate matters that are scheduled in advance, when the interpretation of these matters cannot be handled in-person by staff or local per diem interpreters in a fiscally-responsible or timely manner.

Some matters, although they may be relatively short in duration, may be of a complex or sensitive nature that deems on-site interpretation the more-appropriate option, regardless of fiscal considerations. Review of the case-type and nature of the proceeding, as well as the determination of suitability of RI for the matter, should be done by local court personnel; if needed or requested, additional guidance may be provided by the UCS Office of Language Access (OLA).

## Remote Interpreting Operational Standards *cont.*

*UCS Remote Interpreting Guidelines*

### Requesting the Remote Interpreting Service

As with requests for in-person court interpreting services, lead time is very important. Court managers should contact OLA as soon as they are aware of the need for RI services, so that an interpreter may be scheduled in a timely manner. Requests for RI should be submitted by court managers, supervising court interpreters or their designees through the UCS intranet site, using the “Request for Remote Interpreting Services” form:

<http://inside-ucs.org/oca/professional-ct-services/CourtInterpreting/remoteInterp.shtml>

With the exception of emergency or otherwise urgent situations, all requests for RI Services should be submitted in writing. The RI request form or related questions may also be submitted by e-mail to: [remoteinterpreting@nycourts.gov](mailto:remoteinterpreting@nycourts.gov)

Upon receipt of the RI form by OLA, the RI staff will determine the availability of interpreters for the requested language; if no UCS staff interpreter is available, a qualified per diem interpreter will be called. OLA will provide an update to the court within 48-hours of receipt of the Request Form. Once an interpreter has been confirmed for the remote appearance, OLA will reply to the court with the pertinent details, such as the interpreter’s name, IP address or phone number for the day of the appearance.

The RI staff should also be informed in advance if the court is aware of any document(s) that will require the interpreter to provide a verbal (or “sight”) translation. When applicable, the document(s) should be forwarded to OLA so that it can be shown to the interpreter prior to the proceeding.

**\* Note:** some courts have coordinated their own RI appearances, from one court location to another, within a respective county or Judicial District (i.e. video conference interpreting between the Central Islip and Riverhead courts in Suffolk County). It is not required that these court-to-court arrangements be submitted to OLA, but the information must always be entered onto the E-Scheduling System, and noted as “Remote” in the Part field.

### Equipment

All courts should have RI equipment available in courtrooms, judicial chambers, and/or other rooms where court proceedings may take place and which may require interpreting services (for instance, areas where matters are heard by judicial hearing officers, support magistrates or court attorney referees), or offices in which court personnel deliver direct services to the public. Equipment may include but is not limited to:

- telephones with a speaker-phone function
- telephones with multiple-handsets, line ‘splitters’ and/or noise-reducing headphones
- video conference equipment (polycom)
- Lync / Skype for Business video conferencing

## Remote Interpreting Operational Standards *cont.*

*UCS Remote Interpreting Guidelines*

UCS technical staff should be involved in setting-up the RI equipment, whether it is temporarily or permanently installed in the area(s) where it will be used. The decision to install equipment permanently or to have mobile systems available should be at the discretion of local administrators, based on criteria such as efficiency, frequency of use and available resources.

**An interpreter providing remote services should always be interpreting from a UCS court facility, using UCS equipment, and with appropriate oversight. Interpreting services should NOT be provided from a non-court location or via an interpreter's personal telephone or computer, via skype or other connections from a non-UCS facility.**

### Training and Coordinating the Test-Run

To ensure the integrity, effectiveness and efficiency of the program, training on providing interpretation via remote technology will be provided by OLA staff to participating interpreters and court personnel, including instruction on what to do if the connection is broken during the remote proceeding.

OLA will also work with the court or District Administrative office to coordinate a test-run of the remote connections, as needed; local administrators may offer this information to judges and/or non-judicial court staff who will be using remote interpreting. Court personnel who are responsible for the scheduling of interpreting assignments will be advised of the quality controls, equipment needs and guidelines to ensure effective remote communication, as well as how to identify a “good match” for RI Services, and how to schedule, change or cancel a remote appearance.

### Instructional Materials

Prior to a remote appearance, judges and non-judicial personnel will be provided with a link to the following OCA publications:

1. **Working with Interpreters by Video or Teleconference - Tips for Remote Interpreting**
2. **Working with Interpreters in the Court room – Benchcard for Judges**

The “Remote Interpreting Tip Sheet” and “Benchcard for Judges” outline the various responsibilities of court personnel who will participate in the RI appearance, the mechanics of the program, and important protocols such as:

## Remote Interpreting Operational Standards *cont.*

*UCS Remote Interpreting Guidelines*

- Role of the interpreter
- Oath
- How to ensure successful communication
- Facilitating private exchanges between the attorney, client, and interpreter
- Translation of documents
- Assessing the performance of the court interpreter

The **Tip Sheet** and **Benchcard** should be reviewed thoroughly before any remote proceeding, and/or may be referred to as-needed during the interpreter's appearance.

### Conclusion and Evaluation of the Remote Interpreting Service

Following the completion of each RI event, the court that received the service should complete an Evaluation Form to provide feedback on the RI appearance, and the court's level of satisfaction with the RI service:

[http://apps.court.net.org/webdev/interpreter\\_assessment.jsp](http://apps.court.net.org/webdev/interpreter_assessment.jsp)

If a qualified per diem was utilized, at the conclusion of the remote appearance the RI staff will send the requesting court an e-mail indicating that the original invoice signed by the interpreter as well as the print out of the check-in details from the e-system will be sent via regular mail. When court-to-court arrangements are made with a per diem court interpreter, the signed invoice and check-in details from the e-system must be sent to the requesting court for payment.

If the matter was adjourned and a remote interpreter is required for a subsequent date, please submit a new request form:

[http://apps.court.net.org/webdev/remote\\_request\\_03.jsp](http://apps.court.net.org/webdev/remote_request_03.jsp)

### For Assistance

Contact the **Office of Language Access** with any questions, concerns or comments about the remote interpreting services by:

- ☎ Tel: **646-386-5670**
- ✉ Email: [remoteinterpreting@nycourts.gov](mailto:remoteinterpreting@nycourts.gov)

## Information about Language Access in the Courts Takeaway Card (English Version)



### Information about **LANGUAGE ACCESS IN THE COURTS**

**If you need an interpreter, the court will provide one to you at no cost.** This is a free service for people who use the courts.

The reverse side of this card provides information about the court interpreter's role, and what the interpreter can or cannot discuss with you.

If you have a question or concern about court interpreting services, alert the Judge, speak to the Clerk of the Court where the case is being heard, or contact the Office of Language Access:

#### **OFFICE OF**

#### **LANGUAGE ACCESS**

NYS Unified Court System  
Office of Court Administration  
25 Beaver Street, 8th Floor,  
New York, New York 10004

**PHONE:** (646) 386-5670

**EMAIL:** [courtinterpreter@nycourts.gov](mailto:courtinterpreter@nycourts.gov)

[nycourts.gov/courtinterpreter](http://nycourts.gov/courtinterpreter)



### **USING A COURT INTERPRETER**

- To help with communication during the court proceeding, you will be given an interpreter who speaks your language.
- The interpreter's job is to repeat to you in your language, everything that is said in English by the Judge or others in the court.
- The interpreter will also repeat anything that you say in your language, back into English.
- Nothing that is said 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 if you have a question, raise your hand. The judge will answer your questions or concerns. Do not ask the interpreter directly for information or advice.

[nycourts.gov/courtinterpreter](http://nycourts.gov/courtinterpreter)

## Sample English-Spanish Order of Protection

F.C.A §§ 446, 551, 656, 842 &amp; 1056

GF5a 05/2014

NOTICE: The English language text constitutes the legal Order of Protection; the Spanish translation is provided to assist parties with limited English proficiency.  
(La versión en inglés es la Orden de Protección legal; la traducción al español se ha proporcionado para ayudar a las partes que tengan limitaciones en su dominio del inglés.)

**ORI No** (Núm de ORI): NY041023J  
**Order No** (Núm de la Orden): 2015-000002  
**NYSID No** (Núm de NYSID): \_\_\_\_\_

At a term of the (En una Sala del Tribunal de) Family Court of the State of New York, held in and for the County of Rensselaer, at Courthouse 1504 Fifth Avenue, Troy, NY 12180-4107, on January 12, 2015

**PRESENT (Presente): Honorable Test Judge**

**In the Matter of a FAMILY OFFENSE Proceeding**  
**(En Materia de un Procedimiento de OFENSA CONTRA LA FAMILIA/OFENSA FAMILIAR)**

**File #**(Núm de Unidad de Familia) 33517

**Docket #**(Núm de Expediente)O-00001-15

**Order of Protection**  
**(ORDEN DE PROTECCIÓN)**

**Jane Test (DOB: 08/08/1985),**  
**Petitioner (Demandante),**

- against - (- contra -)

**Both Parties Present in Court**  
**(Ambas Partes Presentes ante el Tribunal)**

**Joe Test (DOB: 09/09/1985),**  
**Respondent (Demandado/a).**

**NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CRIMINAL CONTEMPT, AND/OR MAY SUBJECT YOU TO FAMILY COURT PROSECUTION AND INCARCERATION FOR UP TO SIX MONTHS FOR CONTEMPT OF COURT.**

**THIS ORDER OF PROTECTION WILL REMAIN IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT OR COMMUNICATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS ORDER OF PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR VIOLATING THIS ORDER.**

**(AVISO: SI DELIBERADAMENTE NO OBEDECE ESTA ORDEN, USTED PUEDE ESTAR SUJETO A ARRESTO OBLIGATORIO Y ENCAUSAMIENTO PENAL, LO CUAL PUEDE RESULTAR EN SU ENCARCELAMIENTO POR HASTA SIETE AÑOS POR DESACATO PENAL, Y/O PUEDE RESULTAR EN SU ENCAUSAMIENTO EN EL TRIBUNAL DE FAMILIA Y ENCARCELAMIENTO POR HASTA SEIS MESES POR DESACATO JUDICIAL. ESTA ORDEN DE PROTECCIÓN PERMANECERÁ VIGENTE AÚN SI LA PARTE PROTEGIDA TIENE O CONSIENTE A TENER CONTACTO O COMUNICACIÓN CON LA PARTE EN CONTRA DE QUIEN SE EMITE LA ORDEN. ESTA ORDEN DE PROTECCIÓN SÓLO PUEDE SER MODIFICADA O SUSPENDIDA POR EL TRIBUNAL. LA PARTE PROTEGIDA NO PUEDE SER DECLARADA EN VIOLACIÓN DE ESTA ORDEN NI ARRESTADA POR QUEBRANTAR ESTA ORDEN.)**

A petition under Article 8 of the Family Court Act, having been filed on January 01, 2015 (Una petición de conformidad con Article 8 of the Family Court Act, habiendo sido presentada el January 01, 2015) in this Court and On Consent, and Joe Test having been (ante este Tribunal y On Consent, y Joe Test habiendo sido) present in Court and advised of the issuance and contents of this Order, (presente ante el Tribunal e informada de la emisión y el contenido de esta Orden.)

**NOW, THEREFORE, IT IS HEREBY ORDERED** that (Ahora, por lo tanto, por la presente se ordena que) Joe Test (DOB:09/09/1985) observe the following conditions of behavior(Deberá cumplir con las siguientes condiciones de conducta:)

[01] Stay away from:

**Manténgase alejado(a) de:**

[A] Jane Test (DOB: 08/08/1985);

**Jane Test (DOB: 08/08/1985)**

[B] the home of Jane Test (DOB: 08/08/1985);

Sample English-Spanish Order of Protection *cont.*

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**el hogar de Jane Test (DOB: 08/08/1985)**

[C] the school of Jane Test (DOB: 08/08/1985);

**la escuela de Jane Test (DOB: 08/08/1985);**

[D] the business of Jane Test (DOB: 08/08/1985);

**el negocio de Jane Test (DOB: 08/08/1985);**

[E] the place of employment of Jane Test (DOB: 08/08/1985);

**el lugar de empleo de Jane Test (DOB: 08/08/1985);**

[14] Refrain from communication or any other contact by mail, telephone, e-mail, voice-mail or other electronic or any other means with Jane Test (DOB: 08/08/1985);

**Absténgase de comunicarse o tener cualquier otro contacto ya sea por correo, por teléfono, correo electrónico, correo de voz u otros medios electrónicos o por cualesquiera otros medios con Jane Test (DOB: 08/08/1985);**

[02] Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats, identity theft, grand larceny, coercion or any criminal offense against Jane Test (DOB: 08/08/1985);

**Absténgase de agresión, acecho, acoso, acoso agravado, actos de amenaza, imprudencia temeraria, estrangulación, obstrucción criminal de la respiración o circulación, desorden público, daños dolosos contra la propiedad ajena, abuso sexual, conducta sexual ilícita, tocamiento forzoso, intimidación, amenazas, robo de identidad, hurto mayor, coacción o cualquier delito penal contra Jane Test (DOB: 08/08/1985);**

**It is further ordered** that this order of protection shall remain in force until and including (ADEMÁS SE ORDENA que esta orden de protección permanecerá vigente hasta e incluyendo) January 30, 2015.

**Dated** (Con fecha de): January 12, 2015

**ENTER**



**Honorable Test Judge**

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE

CONFORME A LA SECCIÓN 1113 DE LA LEY DEL TRIBUNAL DE FAMILIA, UNA APELACIÓN DE ESTA ORDEN DEBERÁ HACERSE EN UN PLAZO DE 30 DÍAS A PARTIR DE LA FECHA EN QUE EL APELANTE HAYA RECIBIDO LA ORDEN EN EL TRIBUNAL, 35 DÍAS A PARTIR DE LA FECHA DEL ENVÍO POR CORREO DE LA ORDEN POR EL SECRETARIO JUDICIAL DEL TRIBUNAL AL APELANTE, O 30 DÍAS A PARTIR DE LA NOTIFICACIÓN AL APELANTE POR UNA DE LAS PARTES O

Sample English-Spanish Order of Protection *cont.*

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APPELLANT, WHICHEVER IS EARLIEST.

POR EL ABOGADO DEL NIÑO, LO QUE OCURRA PRIMERO.

**The Family Court Act** provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties authorizes, and sometimes requires such officer to arrest a person who is alleged to have violated its terms and to bring him or her before the court to face penalties authorized by law.

**Federal law requires** that this order is effective outside, as well as inside, New York State. It must be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if the person restrained by the order is an intimate partner of the protected party and has or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect due process rights (18 U.S.C §§ 2265, 2266).

**It is a federal crime to:**

- cross state lines to violate this order or to stalk, harass or commit domestic violence against an intimate partner or family member;
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition while this Order remains in effect (Note: there is a limited exception for military or law enforcement officers but only while they are on duty) ; and
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition after a conviction of a domestic violence-related crime involving the use or attempted use of physical force or a deadly weapon against an intimate partner or family member, even after this Order has expired (18 U.S.C. §§ 922(g)(8), 922(g)(9), 2261, 2261A, 2262).

**Check Applicable Box(es) [MARQUE LA(S) CASILLA(S) QUE CORRESPONDA(N)]:**

Party against whom order was issued was advised in Court of issuance and contents of Order

(La parte contra quien la orden fue expedida estuvo presente ante el Tribunal de la emisión y el contenido de la Orden)

Order personally served in Court upon party against whom order was issued

(La orden fue entregada personalmente en el Tribunal a la parte contra quien se expidió.)

Service directed by other means (Notificación autorizada por otros medios)[specify/ESPECIFÍQUE]:

[Modifications or extensions only]: Order mailed on [specify date and to whom mailed](Modificaciones o extensiones solamente: La orden fue enviada por correo [especifique la fecha y enviada a]): \_\_\_\_\_

Warrant issued for party against whom order was issued[specify date]:(Modificaciones o extensiones solamente: La orden fue enviada por correo [especifique la fecha y enviada a]) \_\_\_\_\_

ADDITIONAL SERVICE INFORMATION (Información adicional sobre la notificación)[specify/ESPECIFÍQUE]:

**LA LEY DEL TRIBUNAL DE FAMILIA** establece que la presentación de una copia de esta orden de protección a cualquier agente de policía o del orden público en ejercicio de sus deberes especiales, autoriza y a veces requiere, que el agente arreste a la persona que se alega haber quebrantado sus términos, y lo conduzca a él o a ella ante el Tribunal para afrontar penas autorizadas por ley.

**LA LEY FEDERAL REQUIERE** que esta orden sea vigente fuera y dentro del Estado de Nueva York. Se debe acatar y hacer cumplir por tribunales estatales y tribales, incluyendo tribunales de un estado, el Distrito de Columbia, un estado libre asociado, un territorio o una posesión estadounidense, si la persona restringida por la orden es una pareja íntima de la parte protegida y se le ha dado o se le dará aviso razonable y la oportunidad de ser escuchada conforme a la ley estatal, suficiente para proteger los derechos al debido proceso.) (18 U.S.C. §§ 2265, 2266)

**ES UN DELITO FEDERAL**

- cruzar fronteras estatales para quebrantar esta orden o acechar, acosar o cometer violencia doméstica contra una pareja íntima o un miembro de la familia;
- comprar, poseer o transferir una pistola o un revólver, rifle, escopeta u otra arma de fuego o munición mientras esta Orden esté vigente. (Atención: existe una excepción limitada para militares o autoridades del orden público pero solamente cuando están desempeñando sus deberes oficiales; y
- comprar, poseer o transferir una pistola o un revólver, rifle, escopeta u otra arma de fuego o munición después de una condena por un delito relacionado con violencia doméstica que implique el uso o la tentativa de uso de fuerza física o de un arma mortífera contra una pareja íntima o un miembro de la familia, aún después de que esta Orden se haya vencido. (18 U.S.C. §§922(g)(8),922(g)(9), 2261, 2261A, 2262).

## Timeline for Implementation of the Strategic Plan for Ensuring Language Access in the New York State Courts

### **2017**

- Raise per diem court interpreter rates (page 10)
- Establish a court interpreting intern program (10)
- Issue a court rule that requires judges to establish the provisional qualifications of court interpreters not already qualified (13)
- Update the Court Interpreter Manual (14)
- Initiate a pilot project on improving protocols and systems for sharing interpreters between courts (15)
- Initiate a pilot project on coordinating calendars of cases requiring court interpreters (16)
- Establish technology standards for remote interpreting equipment (17)
- Develop a plan for recruiting biliterate volunteers and interns (20)
- Issue assessment tools to assist court personnel in determining the type of assistance needed by deaf and hard of hearing court users (22)
- Issue a benchcard on language access for deaf and hard of hearing community (22)
- Review recordings of a random sampling of court interpreting sessions (25)
- Conduct site visits (25)
- Issue a new form for complaints about language access (26)
- Establish a Translation Committee (28)
- Report of Task Force on Language Access in the Justice Courts (30)

### **2018**

- Establish a court interpreter trainee position (9)
- Launch a new court interpreter recruitment campaign (9)
- Implement a tiered compensation structure for per diem interpreters (10)
- Establish a per diem cancellation policy (10)
- Implement on-demand testing for the English exam (12)
- Proposal on continuing education requirement (13)
- Proposal on tracking the need for interpreting assistance throughout the life of a case (15)
- Proposal on developing real-time capacity to deploy court interpreters (15)
- Establish protocols for the use of commercial telephonic interpreting service for remote interpreting (17)
- Identify critical points of contact with the public in each courthouse (19)
- Proposal on biliterate staff salary differential (20)
- Proposal on use of technology to bridge the language access gap outside the courtroom (21)
- Launch a new language access outreach campaign (27)

## Timeline for Implementation of the Strategic Plan for Ensuring Language Access in the New York State Courts *cont.*

### *Ongoing*

- Expand court interpreter testing (page 11)
- Provide additional online test preparation materials (11)
- Provide feedback on test performance (12)
- Assist candidates improve English language skills (12)
- Expand online training for court interpreters (13)
- Increase the variety and scope of training programs for court interpreters (14)
- Encourage and facilitate early notification of the need for an interpreter (14)
- Encourage LEP court users to self-identify (15)
- Expand the use of remote interpreting in court proceedings (16)
- Evaluate the effectiveness of remote interpreting (18)
- Monitor trends in the need for language access (18)
- Track delays in proceedings due to availability of interpreting services (18)
- Annual report to the Chief Administrative Judge (19)
- Identify funding sources (19)
- Evaluate language accessibility in selecting service providers and consultants (21)
- Expand training for judges, court staff and attorneys (23)
- Update and expand number of benchcards (24)
- Publicize complaint process (27)
- Inspect signage (28)
- Expand bilingual orders (28)
- Translate form orders (29)
- Present translated materials in audio-visual format (29)
- Include language access issues in training programs for Town and Village Court justices and staff (31)
- Translate Justice Court documents and signage (31)



