**PROPOSED AMENDMENTS TO THE RULES OF SUPERINTENDENCE**

**FOR THE COURTS OF OHIO**

Comments Requested: The Supreme Court of Ohio will accept public comments until October 30, 2013, on the following proposed amendments to the Rules of Superintendence for the Courts of Ohio.

Comments on the proposed amendments should be submitted in writing to: Bruno Romero, Manager of the Interpreter Services Program, Supreme Court of Ohio, 65 South Front Street, 6th Floor, Columbus, Ohio 43215-3431, or bruno.romero@sc.ohio.gov not later than October 30, 2013. Please include your full name and mailing address in any comments submitted by e-mail.

Key to Proposed Amendment:

          1.            Existing language appears in regular type.  Example: text

              2.            Existing language to be deleted appears in strikethrough.  Example: ~~text~~

            3.            New language to be added appears in underline.  Example: text

4.            Existing language unaffected by the amendments is omitted in order to save space.  The omitted language is indicated by three asterisks in the location where the language would appear in the complete rule.  Example:  \*\*\*

**PROPOSED AMENDMENTS TO THE RULES OF SUPERINTENDENCE**

**FOR THE COURTS OF OHIO**

**RULE 80. Definitions.**

As used in ~~Rules~~ Sup.R. 80 through ~~88 of the Rules of Superintendence for the Courts of Ohio~~ 89:

~~(A)~~

**(A) Case or court function**

“Case or court function” means any hearing, trial, pre-trial conference, settlement conference, or other appearance before a court in an action, appeal, proceeding, or other matter conducted by a judge, magistrate, or other court official.

**(B) Consecutive interpretation**

“Consecutive interpretation” means interpretation in which a foreign language interpreter or sign language interpreter waits until the speaker finishes an entire message rendered in a source language before rendering the message in a target language.

~~(B)~~ “~~Consortium for Language Access in the Courts” means the multi-state partnership dedicated to developing foreign language interpreter proficiency tests, making tests available to member states, and regulating the use of the tests.~~

~~(C)~~

**(C) Deaf blind**

“Deaf blind” is a combination of hearing and vision loss of any varying degree that causes an individual extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives.

~~(D)~~

**(D) Foreign language interpreter**

“Foreign language interpreter” means an individual who, as part of any case or court function, facilitates communication between or among legal professionals and a limited English proficient or non-English speaking party or witness through consecutive interpretation, simultaneous interpretation, or sight translation.

~~(E)~~

**(E) Limited English proficient**

“Limited English proficient” means an individual who does not speak English as a primary language or who has a limited ability to read, speak, write, or understand English and requires the assistance of a foreign language interpreter or sign language interpreter to effectively communicate.

~~(F)~~ ~~“Program” means the Supreme Court Interpreter Services Program.~~

~~(G)~~

**(F) Provisionally qualified foreign language interpreter**

“Provisionally qualified foreign language interpreter” means a foreign language interpreter who has received provisional certification from the Supreme Court Language Services Program pursuant to Sup.R. 81(G)(3).

~~(H)~~

**(G) Sight translation**

“Sight translation” means interpretation in which a foreign language interpreter or sign language interpreter renders in a target language a written document composed in a source language.

~~(I)~~

**(H) Sign language interpreter**

“Sign language interpreter” means an individual who, as part of any case or court function, facilitates communication between or among legal professionals and a deaf, hard-of-hearing, or deaf-blind party, witness, or juror through the use of sign language or other manual or oral representation of a spoken language.

~~(J)~~

**(I) Simultaneous interpretation**

“Simultaneous interpretation” means interpretation in which, after a brief pause to listen for or view key grammatical information, a foreign language interpreter or sign language interpreter renders in a target language the message of a person rendered in a source language as the person continues to communicate.

~~(K)~~

**(J) Supreme Court certified foreign language interpreter**

“Supreme Court certified foreign language interpreter” means a foreign language interpreter who has received certification from the Supreme Court Language Services Program pursuant to Sup.R. 81.

~~(L)~~

**(K) Supreme Court certified sign language interpreter**

“Supreme Court certified sign language interpreter” means a sign language interpreter who has received certification from the Supreme Court Language Services Program pursuant to Sup.R. 82.

**(L) Telephonic interpretation**

“Telephonic interpretation” means the use via telephone of a foreign language interpreter who is in a location that is physically separate from that of the party or witness who is limited English proficient and requires the services of the interpreter for meaningful participation.

~~(M)~~

**(M) Translator**

“Translator” means an individual who, as part of any case or court function, takes written text composed in a source language and renders it into an equivalent written text of a target language.

**RULE 81. Certification for Foreign Language Interpreters.**

**(A) Certification**

A foreign language interpreter may receive certification from the Supreme Court Language Services Program and be styled a “Supreme Court certified foreign language interpreter” pursuant to the requirements of this rule.

**(B) General requirements for certification**

An applicant for certification as a Supreme Court certified foreign language interpreter shall satisfy each of the following requirements:

(1) Be at least eighteen years old;

(2) Be a citizen or legal resident of the United States or have the legal right to remain and work in the United States;

(3) Have not been convicted of any crime involving moral turpitude.

**(C) Application for certification**

An applicant for certification as a Supreme Court certified foreign language interpreter shall file an application with the ~~Program~~ program. The application shall include each of the following:

(1) Verification the applicant is at least eighteen years old;

(2) Verification the applicant is a legal resident or citizen of the United States or has the legal right to remain and work in the United States;

(3) A copy of a completed criminal background check showing no conviction of a crime involving moral turpitude;

(4) A nonrefundable application fee in an amount as determined by the ~~Program~~ program.

**(D) Orientation training**

An applicant shall attend an orientation training session conducted or sponsored by the ~~Program~~ program providing an introductory course to interpreting and addressing ethics, legal procedure and terminology, modes of interpretation, and other substantive topics. The ~~Program~~ program may waive this requirement upon demonstration by the applicant of equivalent experience or training. The ~~Program~~ program shall charge the applicant a nonrefundable fee in an amount as determined by the ~~Program~~ program for attendance at a ~~Program~~ program-sponsored training session.

**(E) Written examination**

(1) An applicant for certification as a Supreme Court certified foreign language interpreter shall take the written examination of the ~~Consortium for Language Access in the~~ National Center for State Courts. The examination shall be administered by the ~~Program~~ program in accordance with the standards described in the test administration manuals of the ~~Consortium~~ center.

(2) To pass the written examination ~~of the Consortium for Language Access in the Courts~~, an applicant shall receive an overall score of eighty percent or better in the English language and grammar, court-related terms and usage, and professional conduct sections of the examination.

(3) An applicant who fails the written examination ~~of the Consortium for Language Access in the Courts~~ shall wait one year before retaking the examination.

(4) An applicant who has taken the written examination ~~of the Consortium for Language Access in the Courts~~ in another ~~Consortium member~~ state within the past twenty-four months may apply to the ~~Program~~ program for recognition of the score. The ~~Program~~ program shall recognize the score if it is substantially comparable to the score required under division (E)(2) of this rule.

**(F) Post-written examination training course**

Upon compliance with the written examination requirements of division (E) of this rule, an applicant for certification as a Supreme Court certified foreign language interpreter shall attend a training course sponsored by the ~~Program~~ program focusing on simultaneous, consecutive, and sight translation modes of interpretation in English and the target language of the applicant. The ~~Program~~ program may charge the applicant a nonrefundable fee in an amount as determined by the ~~Program~~ program for attendance at the training course.

**(G) Oral examination**

(1) After attending the post-written examination training course pursuant to division (F) of this rule, an applicant for certification as a Supreme Court certified foreign language interpreter shall take the oral examination of the ~~Consortium for Language Access in the~~ National Center for State Courts. The examination shall be administered by the ~~Program~~ program in accordance with the standards described in the test administration manuals of the ~~Consortium~~ center.

(2) To pass oral examination ~~of the Consortium for Language Access in the Courts~~, an applicant shall receive a score of seventy percent or better in each of the sections of the examination.

(3) An applicant who receives a score of less than seventy percent but at least sixty percent in each of the sections of the oral examination ~~of the Consortium for Language Access in the Courts~~ shall receive provisional certification from the ~~Program~~ program and be styled a “provisionally qualified foreign language interpreter.” The applicant may maintain provisional certification for up to ~~twenty-four~~ thirty-six months following the examination. If the applicant fails to receive an overall score of at least seventy percent in the sections of the examination within this time frame, the provisional certification of the applicant shall cease.

(4) An applicant who receives a score of at least seventy percent in two of the sections of the oral examination ~~of the Consortium for Language Access in the Courts~~ may carry forward the passing scores for up to ~~twenty-four~~ thirty-six months or ~~two~~ three testing cycles, whichever occurs last. If the applicant fails to successfully pass any previously failed sections of the examination during the time period which passing scores may be carried forward, the applicant shall complete all sections of the examination at a subsequent examination. An applicant may not carry forward passing scores from an examination taken in another ~~Consortium member~~ state.

**(H) Written and oral examination preparation**

The ~~Program~~ program shall provide materials to assist applicants for certification as Supreme Court certified foreign language interpreters in preparing for the written and oral examinations ~~of the Consortium for Language Access in the Courts~~, including overviews of each examination. The ~~Program~~ program also shall provide and coordinate training for applicants.

**(I) Reciprocity**

An applicant for certification as a Supreme Court certified foreign language interpreter who has previously received certification as a foreign language interpreter may apply to the ~~Program~~ program for certification without fulfilling the training and examination requirements of division (D) through (G) of this rule as follows:

(1) An applicant who has received certification from the federal courts shall provide proof of certification and be in good standing with the certifying body.

(2) An applicant who has received certification from another ~~member~~ state ~~of the Consortium for Language Access in the Courts~~ shall provide proof of having passed the oral examination ~~of Consortium~~. The ~~Program~~ program may verify the test score information and testing history before approving certification.

(3) An applicant who has received certification from the National Association of Judiciary Interpreters and Translators shall provide proof of having received a score on the examination of the ~~Association~~ association substantially comparable to the scores required under divisions (E)(2) and (G)(2) of this rule. The ~~Program~~ program may verify the test score information and testing history before approving reciprocal certification.

(4) Requests for reciprocal certification from all other applicants shall be reviewed by the ~~Program~~ program on a case-by-case basis, taking into consideration testing criteria, reliability, and validity of the examination procedure of the certifying body. The ~~Program~~ program shall verify the test score of the applicant after accepting the certification criteria of the certifying body.

**(J) Oath or affirmation**

Each Supreme Court certified foreign language interpreter and provisionally qualified foreign language interpreter shall take an oath or affirmation under which the interpreter affirms to know, understand, and act according to the “Code of Professional Conduct for Court Interpreters and Translators,” as set forth in Appendix H to this rule.

**RULE 82. Certification for Sign Language Interpreters.**

**(A) Certification**

A sign language interpreter who has received a passing score on the “Specialist Certification: Legal” examination of the Registry of Interpreters for the Deaf may receive certification from the Supreme Court Language Services Program and be styled a “Supreme Court certified sign language interpreter” pursuant to the requirements of this rule.

**(B) General requirements for certification**

An applicant for certification as a Supreme Court certified sign language interpreter shall satisfy each of the following requirements:

(1) Be at least eighteen years old;

(2) Be a citizen or legal resident of the United States or have the legal right to remain and work in the United States;

(3) Have not been convicted of any crime involving moral turpitude.

**(C) Application for certification**

An applicant for certification as a Supreme Court certified sign language interpreter shall file an application with the ~~Program~~ program. The application shall include each of the following:

(1) Verification the applicant is at least eighteen years old;

(2) Verification the applicant is a legal resident or citizen of the United States or has the legal right to remain and work in the United States;

(3) A copy of a completed criminal background check showing no conviction of a crime involving moral turpitude;

(4) Proof of having received a passing score on the “Specialist Certification: Legal” examination;

(5) A nonrefundable application fee in an amount as determined by the ~~Program~~ program.

**(D) Oath or affirmation**

Each Supreme Court certified sign language interpreter shall take an oath or affirmation under which the interpreter affirms to know, understand, and act according to the “Code of Professional Conduct for Court Interpreters and Translators,” as set forth in Appendix H to this rule.

**RULE 83. Revocation of Certification.**

The Supreme Court Language Services Program may revoke the certification of a Supreme Court certified foreign language interpreter or a Supreme Court certified sign language interpreter or the provisional certification of a provisionally qualified foreign language interpreter for any of the following reasons:

(A) A material omission or misrepresentation in the application for certification from the interpreter;

(B) A substantial breach of the “Code of Professional Conduct for Court Interpreters and Translators,” as set forth in Appendix H to this rule;

(C) Noncompliance with the applicable continuing education requirements of ~~Rule~~ Sup.R. 85 ~~of the Rules of Superintendence for the Courts of Ohio~~.

**RULE 84. Code of Professional Conduct for Court Interpreters and Translators.**

Supreme Court certified foreign language interpreters, Supreme Court certified sign language interpreters, provisionally qualified foreign language interpreters, and translators shall be subject to the “Code of Professional Conduct for Court Interpreters and Translators,” as set forth in Appendix H to this rule.

**RULE 85. Continuing Education.**

**(A) Requirements**

(1) Each Supreme Court certified foreign language interpreter and Supreme Court certified sign language interpreter shall complete and report, on a form provided by the Supreme Court Language Services Program, at least twenty-four credit hours of continuing education offered or accredited by the ~~Program~~ program for each two-year reporting period. Six of the credit hours shall consist of ethics instruction and the remaining eighteen general credit hours shall be relevant to the work of the interpreter in the legal setting. The interpreter may carry forward a maximum of twelve general credit hours into the following biennial reporting period.

(2) Each provisionally qualified foreign language interpreter shall complete and report, on a form provided by the ~~Program~~ program, at least twenty-four credit hours of continuing education offered or accredited by the ~~Program~~ program within twenty-four months after the date of the last oral examination of the ~~Consortium for Language Access in the~~ National Center for State Courts administered by the ~~Program~~ program.

**(B) ~~Duties of the Program~~ Compliance with requirements**

~~In administering the continuing education requirements of this rule, the Program~~ The program shall ~~do both of the following:~~

~~(1)~~ ~~Keep~~ keep a record of the continuing education hours of each Supreme Court certified foreign language interpreter, Supreme Court certified sign language interpreter, and provisionally qualified foreign language interpreter, provided it shall be the responsibility of the interpreter to inform the ~~Program~~ program of meeting the continuing education requirements~~;~~

~~(2)~~ ~~Accredit~~.

**(C) Accreditation**

The program shall accredit continuing education programs, activities, and sponsors and establish procedures for accreditation, provided any continuing education programs or activities offered by the ~~Consortium for Language Access in the~~ National Center for State Courts, the National Association of Judiciary Interpreters and Translators, and the Registry of Interpreters for the Deaf~~, and the National Interpreter Council~~ shall not require accreditation. The ~~Program~~ program may assess a reasonable nonrefundable application fee in an amount as determined by the ~~Program~~ program for a sponsor submitting a program or activity for accreditation.

**RULE 86. Certification Roster.**

The Supreme Court Language Services Program shall maintain a ~~list~~ roster of each Supreme Court certified foreign language interpreter, Supreme Court certified sign language interpreter, and provisionally qualified foreign language interpreter who is in compliance with the applicable continuing education requirements of ~~Rule~~ Sup.R. 85(A) ~~of the Rules of Superintendence for the Courts of Ohio and~~. The program shall post the ~~list~~ roster on the website of the Supreme Court.

**RULE 87. ~~Establishment of Procedures by the Program~~ Non-Certification Roster.**

The Supreme Court Language Services Program may ~~establish procedures as needed to implement Rules 80 through 86 of the Rules of Superintendence for the Courts of Ohio~~ maintain and distribute a roster of foreign language interpreters to whom both of the following apply:

(A) The interpreter is ineligible for certification as a Supreme Court certified foreign language interpreter due to the lack of an oral examination of the National Center for State Courts for that language;

(B) The interpreter demonstrates to the program’s satisfaction proficiency in the interpreter’s target language and sufficient preparation to properly interpret case or court functions.

**RULE 88. Appointment of a Foreign Language Interpreter or Sign Language Interpreter.**

**(A) When appointment of a foreign language interpreter is required**

A court shall appoint a foreign language interpreter in a case or court function in either of the following situations:

(1) A party or witness who is limited English proficient or non-English speaking requests a foreign language interpreter and the court determines the services of the interpreter are necessary for the meaningful participation of the party or witness;

(2) Absent a request from a party or witness for a foreign language interpreter, the court concludes the party or witness is limited English proficient or non-English speaking and determines the services of the interpreter are necessary for the meaningful participation of the party or witness.

**(B) When appointment of a sign language interpreter is required**

(1) A court shall appoint a sign language interpreter in a case or court function in either of the following situations:

(a) A party, witness, or juror who is deaf, hard of hearing, or deaf blind requests a sign language interpreter.

(b) Absent a request from a party, witness, or juror for a sign language interpreter, the court concludes the party, witness, or juror is deaf, hard of hearing, or deaf blind and determines the services of the interpreter are necessary for the meaningful participation of the party, witness, or juror.

(2) When appointing a sign language interpreter pursuant to division (B)(1) of this rule, the court shall give primary consideration to the method of interpretation chosen by the party, witness, or juror, in accordance with ~~division (b)(2) of part~~ 28 C.F.R. 35.160(b)(2) ~~of title 28 of the Code of Federal Regulations~~, as amended.

**(C) Appointments to avoid**

A court shall use all reasonable efforts to avoid appointing an individual as a foreign language interpreter pursuant to division (A) of this rule or sign language interpreter pursuant to division (B) of this rule if any of the following apply:

(1) The interpreter is compensated by a business owned or controlled by a party or a witness;

(2) The interpreter is a friend or a family or household member of a party or witness;

(3) The interpreter is a potential witness;

(4) The interpreter is court personnel employed for a purpose other than interpreting;

(5) The interpreter is a law enforcement officer or probation department personnel;

(6) The interpreter has a pecuniary or other interest in the outcome of the case;

(7) The appointment of the interpreter would not serve to protect a party’s rights or ensure the integrity of the proceedings;

(8) The interpreter does or may have a real or perceived conflict of interest or appearance of impropriety.

**(D) Certification requirement for foreign language interpreters**

(1) Except as provided in divisions (D)(2) and (3) of this rule, when appointing a foreign language interpreter pursuant to division (A) of this rule, a court shall appoint a Supreme Court certified foreign language interpreter.

(2) Except as provided in division (D)(3) of this rule, if a Supreme Court certified foreign language interpreter does not exist or is not reasonably available and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain a Supreme Court certified foreign language interpreter, a court may appoint a provisionally qualified foreign language interpreter. The court shall summarize on the record its efforts to obtain a Supreme Court certified foreign language interpreter and the reasons for using a provisionally qualified foreign language interpreter.

(3) If a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter does not exist or is not reasonably available and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter, a court may appoint a foreign language interpreter who demonstrates to the court proficiency in the target language and sufficient preparation to properly interpret the case proceedings. Such interpreter shall be styled a “language-skilled foreign language interpreter.” The court shall summarize on the record its efforts to obtain a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter and the reasons for using a language-skilled foreign language interpreter. The language-skilled foreign language interpreter's experience, knowledge, and training should be stated on the record. Each language-skilled foreign language interpreter shall take an oath or affirmation under which the interpreter affirms to know, understand, and act according to the ~~code~~ “Code of ~~professional conduct~~ Professional Conduct for ~~court interpreters~~ Court Interpreters and ~~translators~~ Translators,” as set forth in Appendix H to this rule.

**(E) Certification requirement for sign language interpreters**

(1) Except as provided in divisions (E)(2) through (4) of this rule, when appointing a sign language interpreter pursuant to division (B) of this rule, the court shall appoint a Supreme Court certified sign language interpreter.

(2) Except as provided in divisions (E)(3) and (4) of this rule, if a Supreme Court certified sign language interpreter does not exist or is not reasonably available and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain a Supreme Court certified sign language interpreter, a court may appoint a sign language interpreter who holds one of the following certifications ~~and in the following order of precedence~~:

(a) A “National Interpreter Certification ~~Master~~” from the National Association of the Deaf and the Registry of Interpreters for the Deaf;

(b) ~~A “National Interpreter Certification Advanced” from the National Association of the Deaf and the Registry of Interpreters for the Deaf;~~

~~(c)~~ A “Certification of Interpretation” and “Certification of Transliteration” from the Registry of Interpreters for the Deaf;

~~(d)~~(c) A “Comprehensive Skills Certificate” from the Registry of Interpreters for the Deaf;

~~(e)~~(d) A “Master Comprehensive Skills Certificate” from the Registry of Interpreters for the Deaf;

~~(f)~~(e) A “Level V Certification” from the National Association of the Deaf;

~~(g)~~ ~~A “National Interpreter Certification” from the National Association of the Deaf and the Registry of Interpreters for the Deaf;~~

~~(h)~~(f) A “Level IV Certification” from the National Association of the Deaf.

(3) If the communication mode of the deaf, hard-of-hearing, or deaf-blind party, witness, or juror is unique and cannot be adequately accessed by a sign language interpreter who is hearing, a court shall appoint a sign language interpreter certified as a “Certified Deaf Interpreter” by the Registry of Interpreters for the Deaf.

(4) If the communication mode of the deaf, hard-of-hearing, or deaf-blind party, witness, or juror requires silent oral techniques, a court ~~shall~~ may appoint a sign language interpreter who possesses an “Oral Transliteration Certificate” from the Registry of Interpreters for the Deaf.

(5) A court shall summarize on the record its efforts to obtain and reasons for not using a Supreme Court certified sign language interpreter.

**(F) Appointment of multiple foreign language interpreters or sign language interpreters**

(1) To ensure the accuracy and quality of interpretation, when appointing a foreign language interpreter pursuant to division (A) of this rule or sign language interpreter pursuant to division (B) of this rule, a court shall appoint two or more foreign language interpreters or sign language interpreters in either of the following situations:

(a) The case or court function will last two or more hours and require continuous, simultaneous, or consecutive interpretation;

(b) The case or court function will last less than two hours, but the complexity of the circumstances warrant the appointment of two or more interpreters~~;~~.

(2) To ensure the accuracy and quality of interpretation, a court shall appoint two or more foreign language interpreters or sign language interpreters for a case or court function involving multiple parties, witnesses, or jurors requiring the services of an interpreter.

**(G) Examination on record**

(1) In determining whether the services of a foreign language interpreter are necessary for the meaningful participation of a party or witness pursuant to division (A) of this rule, the court shall conduct an examination of the party or witness on the record. During the examination, the court shall utilize the services of a foreign language interpreter; however, in doing so the court is not required to comply with the requirements of division (D) of this rule. The interpreter may participate remotely.

(2) In determining whether the services of a sign language interpreter are necessary for the meaningful participation of a party, witness, or juror, pursuant to division (B) of this rule, the court shall conduct an examination of the party, witness, or juror on the record. During the examination, the court shall utilize the services of a sign language interpreter; however, in doing so the court is not required to comply with the requirements of division (E) of this rule. The interpreter may participate remotely.

**(H) Waiver**

A party may waive the right to a foreign language interpreter under division (A) of this rule or sign language interpreter under division (B) of this rule, unless the court has determined the interpreter is required for the protection of the party’s rights and the integrity of the case or court function. When accepting the party’s waiver, the court shall utilize the services of a foreign language interpreter or sign language interpreter; however, in doing so the court is not required to comply with the requirements of division (D) or (E) of this rule. The interpreter may participate remotely.

**(I) Administration of oath or affirmation**

A court shall administer an oath or affirmation to a foreign language interpreter appointed pursuant to division (A) of this rule or sign language interpreter appointed pursuant to division (B) of this rule in accordance with ~~Rule~~ Evid.R. 604 ~~of the Rules of Evidence~~.

**RULE 89. Use of Telephonic Interpretation.**

A foreign language interpreter appointed pursuant to Sup.R. 88(A) may participate in a case or court function through telephonic interpretation. In using telephonic interpretation, the court shall comply with the “Standards for the Use of Telephonic Interpretation,” as set forth in Appendix J to this rule.

**APPENDIX J**

**Standards for the Use of Telephonic Interpretation**

**Preamble.**

These standards apply to courts appointing a foreign language interpreter pursuant to Sup.R. 88(A) where the interpreter is participating in the case or court function through telephonic interpretation pursuant to Sup.R. 89.

Due process requires courts to ensure limited English proficient individuals are able to fully participate in the proceedings and are afforded meaningful access in case and court functions. The fundamental role of a foreign language interpreter is to provide complete and accurate interpretation services in the case or court function in order to meet these due process requirements. The best way to accomplish this, especially in complex or prolonged proceedings, is to have the foreign interpreter present on-site where the case or court function is taking place.

However, in some instances, this may prove difficult due to factors such as the interpreter’s lack of proximity. In these instances telephonic interpretation may be an appropriate alternative. However, telephonic interpretation should not be used when a Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter is reasonably available to facilitate communication in person.

Furthermore, the quality and success of telephonic interpretation depend on a variety of factors. Examples include the interpreter’s quality of training, the quality of the equipment used, the length of the case or court proceeding, the number of speakers, and whether reference will be made to evidence or documents to which the interpreter does not have access. These and other factors can all have a bearing on the effectiveness of the telephonic interpretation.

Ultimately, telephonic interpretation services should aim to provide the same quality of services as in-person interpretation. To this end, these standards represent recommended practices and minimum requirements to ensure the efficient and effective administration of justice and are intended to complement court rules and federal and state laws, regulations, and standards pertaining to use of court interpretation services.

**Definitions.**

As used in these standards, “case or court function,” “consecutive interpretation,” “foreign language interpreter,” “limited English proficient,” “provisionally qualified foreign language interpreter,” “sight translation,” “simultaneous interpretation, “Supreme Court certified foreign language interpreter,” and “telephonic interpretation” have the same meanings as in Sup.R. 80 and “language-skilled foreign language interpreter” means a foreign language interpreter appointed by a court pursuant to Sup.R. 88(D)(3).

**Standard 1. When Telephonic Interpretation May be Used.**

A court may use telephonic interpretation in a case or court function if all of the following apply:

(A) A Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter is not reasonably available to serve on-site;

(B) The matter cannot be postponed or delayed;

(C) The quality of interpretation will not be compromised.

**Commentary**

While it is impossible to list all situations where telephonic interpretation might be appropriate, the court may consider the following: initial appearances, arraignments, simple traffic hearings, uncontested name changes, uncontested guardianships, ex parte civil protection orders, and marriages. The court may identify any other instances where telephonic interpretation may be suitable.

**Standard 2. When Telephonic Interpretation Should Not be Used.**

A court should not use telephonic interpretation in a case or court function if any of the following apply:

(A) A Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter is reasonably available to serve on-site;

(B) The interpretation is necessary for a proceeding that is expected to last longer than forty-five minutes, provided the interpretation may exceed forty-five minutes if the communication is clear, the proceeding is simple and routine, and the rights of the party are not compromised;

(C) The interpretation is necessary for a proceeding that involves witness testimony or introduces complex evidence;

(D) The limited English proficient party or witness is a child, is elderly, is an unsophisticated user of interpreter services, has profound speech or language problems, or is or is alleged to be mentally disabled or mentally ill;

(E) It is determined that using telephonic interpretation would negatively impact access for any reason.

**Standard 3. Compliance with Applicable Laws, Rules, and Standards.**

A court using telephonic interpretation shall comply with all court rules and federal and state laws, regulations, and standards pertaining to use of court interpretation services.

**Standard 4. Accommodating of Modes of Interpretation.**

**(A) General**

A court using telephonic interpretation should accommodate sight translation, consecutive interpretation, or simultaneous interpretation, as is necessary for proper and effective communication between the court, the parties, and the limited English proficient speaker.

**(B) Sight translation**

A court should not use sight translation with telephonic interpretation unless the foreign language interpreter has access to the documents beforehand and ample time to render the document from one language into the other. If sight translation is used with telephonic interpretation, the document should be short and routine.

**Standard 5. Oath.**

A foreign language interpreter participating through telephonic interpretation shall take an oath or affirmation that the interpreter knows, understands, and will act according to the “Code of Professional Conduct for Court Interpreters and Translators,” as set forth in Appendix H to these rules and that the interpreter will make a true translation or interpretation as required by Evid.R. 604.

**Standard 6. Telephonic Interpretation Equipment.**

**(A) Adequacy of equipment**

A court using telephonic interpretation should have adequate equipment in the courtroom and other locations where case and court functions involving the presence and participation of limited English proficient individuals take place.

**(B) Quality of transmission**

A court using telephonic interpretation should **ensure the telephonic interpretation equipment has the capacity to deliver clear and audible transmission of voice and minimizes background noise and disruptions that might affect the quality of the interpretation.**

**(C) Integration into existing audio speaker system**

A court using telephonic interpretation may integrate the telephonic interpretation into a courtroom’s existing audio speaker system using a digital audio platform device or a simple stand-alone device with amplification.

**Standard 7. Coordination of Telephonic Interpretation Services.**

A court using telephonic interpretation should designate one individual to arrange and monitor the provision of the service in order to ensure continuous and efficient operation.

**Commentary**

Having a coordinator to arrange and monitor telephonic interpretation helps to ensure an efficient operation and eliminate minor issues that can arise with the use of telephonic interpretation. Additionally, the accumulated experience of one individual produces efficiency.

**Standard 8. Training on the Use of Telephonic Interpretation Services.**

A court using telephonic interpretation should provide training to users of the technology, relevant support staff, and other involved individuals in order to ensure an efficient operation and the integrity in the use of the service.

**Standard 9. Monitoring Telephonic Interpretation Services.**

A court using telephonic interpretation should collect and analyze information regarding the performance of the service on a regular basis in order to evaluate the quality of the service, its benefits and limitations, and its cost-effectiveness.