

ALABAMA'S UNIFIED JUDICIAL SYSTEM

POLICIES AND PROCEDURES

FOR

FOREIGN LANGUAGE INTERPRETERS

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September 2008

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SECTION 1 GENERAL INFORMATION

Section 1.1 Scope

This manual, established by Alabama's Administrative Office of Courts (AOC), contains the policies and procedures for providing foreign language interpreters in Alabama's circuit, district and juvenile courts as required by law. Alabama's Administrative Director of Courts (ADC) may appoint a designated person to act on his or her behalf in carrying out any of the duties and responsibilities stated herein.

Section 1.2 Purpose

The purpose of this manual is to facilitate the efficient use of competent and ethical foreign language interpreters in Alabama court proceedings. Interpreters in Alabama's courts must possess special knowledge of grammar, vocabulary, idioms, slang, dialects, cultural nuances and the legal terminology of the two languages. These interpreters also must possess special cognitive skills including memory, comprehension, listening, note taking and analytical skills.

Section 1.3 Definitions

The following terms are defined as follows:

- **Registered Interpreters:** Foreign language interpreters successfully registered with AOC and listed by AOC FLS Registry
- **Certified Interpreters:** Registered foreign language interpreters having completed one or more AOC interpreter certification level requirements
- **AOC Foreign Language Services Registry (AOC FLS Registry):** AOC's listing of registered/certified foreign language interpreters
- **NES:** Non-English speaking individual
- **Interpreting:** Converting statements spoken in one language into statements spoken in another language.
- **Translating:** Converting a written text from one language into the written text of another language.
- **Sight translating:** Reading a written document silently in one language and converting it verbally into another language.
- **Consecutive interpreting:** Interpreting an individual's statement after the individual has spoken.
- **Simultaneous interpreting:** Interpreting continuously at the same time an individual is speaking.

SECTION 2

REGISTRATION AND CERTIFICATION

Section 2.1 Registration

Effective October 1, 2008, foreign language interpreters providing services in Alabama's district, circuit and juvenile courts shall register with the Alabama Administrative Office of the Courts (AOC) pursuant to procedures established by the ADC.

Section 2.2 Eligibility

A. Criminal Background

Each interpreter shall register with the AOC by completing, signing and returning the foreign language interpreter registration form to the AOC Human Resources Director (Attachment A). Each interpreter shall allow the AOC to conduct a criminal background check. The ADC or named designee shall perform a criminal background check and the ADC shall determine if the interpreter is eligible to be listed on the AOC FLS Registry.

B. Ethical and Professional Conduct

To be eligible to be listed by the AOC FLS Registry, interpreters must agree to abide by the ethical and professional behavior policies, and the Code of Professional Responsibility outlined in this manual. An interpreter's unethical or unprofessional conduct may result in the interpreter's removal from the AOC FLS Registry.

Section 2.3 Certification

Following registration, and upon successful completion of AOC's required testing and orientation at the AOC testing and orientation centers, and based upon an individual's initial and subsequent testing scores on standardized written and oral tests administered by the AOC, the ADC shall assign a certification level to each registered interpreter listed on the AOC FLS Registry. The interpreter's rate of pay shall correlate with the interpreter's certification level. Each certification level with a corresponding rate of pay is listed in Attachment B. Interpreter registration requirements and interpreter certification levels may be modified at any time by the ADC.

Section 2.4 Reciprocity

Automatic reciprocity does exist for interpreters currently certified by the Federal Court Interpreter Certification (FCICE) Program. Although no automatic reciprocity exists for test results or for certification(s) from other states, the Director of AOC may review and agree to accept such scores or certifications on a case-by-case basis.

SECTION 3

APPOINTMENT AND SCHEDULING OF FOREIGN LANGUAGE INTERPRETERS

Section 3.1 Authority of the Court

Each court has the inherent authority to appoint a foreign language interpreter when, in the discretion of the court, an interpreter is necessary. (See *Ala. Code* (1975) § 15-1-3).

Section 3.2 Appointment and Scheduling

A. REGISTERED AND CERTIFIED INTERPRETERS

The AOC shall maintain an AOC FLS Registry of individuals authorized to provide interpreting services in Alabama's courts. The appointment and scheduling of a qualified interpreter remains the function of the local court.

The court shall give preference to an AOC certified interpreter.

When a certified interpreter listed by the AOC FLS Registry is not reasonably available, the court may use a qualified interpreter of the court's own selection. While an NES individual may request to use a volunteer interpreter, the court should not use this volunteer to serve as the court's interpreter unless that person can otherwise be qualified by the court and no party expresses a founded objection. When appointing an interpreter, the court should consider the following:

- The interpreter's native language;
- How the interpreter learned English or the foreign language;
- The interpreter's education and formal study of English and/or foreign language;
- The interpreter's mastery of English and the foreign language;
- The interpreter's knowledge of idioms, slang, and dialect in both languages;
- The interpreter's knowledge of legal or other specialized terminology;
- Any training or experience the interpreter has in interpreting or translating in other contexts;
- Whether the interpreter is familiar with the Foreign Language Interpreters' Code of Professional Responsibility; and
- Whether the interpreter is able to interpret in the simultaneous and/or consecutive modes of interpretation

The court shall advise any qualified interpreter not listed by the AOC FLS Registry to immediately register with the AOC.

B. Foreign Languages Other Than Spanish

When an interpreter is requested to provide services in a foreign language other than Spanish, the court may contact the AOC for information that may assist the court in providing a qualified interpreter, and the court shall appoint a qualified interpreter pursuant to *Ala. Code* (1975) § 15-1-3. If not listed on the AOC FLS Registry, the interpreter appointed by the court shall immediately register with the AOC.

Section 3.3 Form for Payment

When requesting payment for interpreter services, interpreters shall submit each request as required by the AOC and the State Comptroller. The interpreter's request for payment shall be submitted, reviewed and approved pursuant to *Ala. Code* (1975) § 15-1-3.

Section 3.4 Removal or Withdrawal of an Interpreter from a Case

After an interpreter's appointment, the court may determine that an interpreter is not adequately competent, has engaged in misconduct, or is otherwise unable to perform the requested necessary interpreting services, or that the interpreter is not necessary. The court may in its discretion remove the interpreter. Similarly, a qualified interpreter should immediately notify the court if unable to adequately perform the interpreter services as appointed. Should such removal involve interpreter misconduct, the court shall promptly report the misconduct to the ADC in writing, and the ADC or named designee shall conduct an investigation and take further action as may be required.

Section 3.5 Oath

Pursuant to *Ala. Code* (1975) § 15-1-3, the interpreter, upon appointment, "shall swear under oath that he or she will render a true and clear interpretation to the best of his or her skill and judgment."

Example: "I, John Smith, upon appointment by the court as interpreter, do swear or affirm that I will, to the best of my skill and judgment, make a true and clear interpretation of all court proceedings into the foreign language which _____ (party/witness/juror) understands, and that I will interpret _____'s (party/witness/juror) statements for the court into the English language."

In addition to *Ala. Code* (1975) § 15-1-3 that applies to all criminal and juvenile court proceedings, Rule 604 of the Alabama Rules of Evidence addresses an interpreter's expert qualifications and requires the interpreter to give affirmation for making a true interpretation. Also, Rule 43(f) of the Alabama Rules of Civil Procedure addresses foreign language interpreters requested in civil proceedings.

Section 3.6 Need for More than One Interpreter

The demands of courtroom interpreting, particularly simultaneous interpreting, may cause an interpreter to need assistance. Accordingly, for lengthy cases or complex litigation, the court may choose to appoint more than one qualified interpreter. The court should consider securing more than one interpreter for such a proceeding.

Section 3.7 Appointment by Docket

It is often known to the court that an interpreter has been requested and/or required in many cases on a court's docket, and that a qualified interpreter must be provided. Accordingly, the qualified interpreter may provide services for each of these cases and be compensated pursuant to contractual terms agreed upon by the interpreter and the Administrative Office of Courts.

SECTION 4

CONDUCT AND ETHICS OF A FOREIGN LANGUAGE INTERPRETER

Section 4.1 General Conduct and Responsibilities

At all times, the court interpreter shall act in a manner consistent with the following general conduct and principles:

- (a) Interpreters are officers of the court and shall conduct themselves in a courteous, professional and responsible manner.
- (b) Interpreters should know and observe the court's established protocol, rules, and procedures when delivering interpreting services. When speaking in English, interpreters should speak at a rate and at a volume that enables them to be heard and understood throughout the courtroom, but the interpreter's presence should otherwise be as unobtrusive as possible.
- (c) Interpreters should dress in a manner that is consistent with the dignity of the court.
- (d) Interpreters shall refrain from making any type of referrals (e.g. to bondsmen, attorneys, etc.).
- (e) Interpreters shall adhere to all instructions given by the court in which their services are being used.
- (f) Interpreters shall honestly and accurately represent their education, training and certification(s).
- (g) Interpreters shall adhere to the Foreign Language Interpreters' Code of Professional Responsibility.

(h) Interpreters shall continually seek to enhance and refine their skills and knowledge through continued interpreter education and training.

Section 4.2 The Proper Role of the Interpreter

At all times, a court interpreter shall act in the following manner:

(a) Interpreters shall interpret completely and accurately. Interpreters shall not alter the meaning of the statements they are interpreting. Interpreters shall not interject personal words, phrases or expressions. Interpreters shall not elaborate or explain the statements they are interpreting. Interpreters shall not correct misstatements, even when a misstatement is an obvious error. (e.g., should a witness answer an incorrect date of “1899” rather than “1999”).

(b) Interpreters shall accurately convey the tone and register of the statements they are interpreting.

(c) Interpreters shall inform the court immediately if they become concerned about their ability to interpret in accordance with these policies and procedures in a particular proceeding or for a particular person. (E.g., the interpreter cannot understand the defendant’s language, or personally knows the witness or defendant, or has strong opinions regarding the case.)

(d) Interpreters shall notify the court if there is any environmental or physical limitation that impedes or hinders their ability to deliver interpreting services adequately (e.g., the courtroom is not quiet enough for the interpreter to hear or be heard by the non-English speaker; more than one person at a time is speaking; or parties or witnesses are speaking at a rate of speed that is too rapid for the interpreter to adequately interpret).

(e) Interpreters shall notify the court of the need to take periodic breaks in order to maintain mental and physical alertness or prevent interpreter fatigue.

(f) Interpreters are encouraged to make inquiries as to the nature of a case whenever possible before accepting an assignment. This enables interpreters to match more closely their professional qualifications, skills, and experience to potential assignments.

(g) Interpreters should refrain from accepting a case when the language, dialect or subject matter of the case is likely to exceed their skills or capacities.

(h) Interpreters shall not give legal advice or express personal opinions to individuals for whom they are interpreting.

(i) Interpreters may interpret legal advice given by an attorney to an individual requiring an interpreter. An interpreter may translate language on a form for an individual who is completing the form.

(j) Interpreters should initiate communications during a proceeding when they find it necessary to seek assistance in performing their duties, but should do so in third person. (e.g., “The interpreter requests that the question be repeated, clarified, etc...”).

(k) The interpreter shall not perform acts that are the official responsibility of other court officials.

Section 4.3 Impartiality and Confidentiality

Each registered, certified or otherwise qualified interpreter appointed by Alabama’s courts shall agree to each of the following:

(a) Interpreters shall remain impartial. Interpreters shall not engage in conduct that allows the appearance of partiality. Interpreters shall disclose to the court any possible conflict of interest. Any condition that may interfere with the objectivity of the interpreter may be considered a conflict of interest.

Examples of actual or apparent conflicts of interest include the following:

1. The interpreter is a friend, associate, or relative of a party or an attorney for a party involved in the proceeding;
2. The interpreter has served in an investigative capacity for a party or attorney involved in the proceeding;
3. The interpreter has assisted a law enforcement agency in the preparation of the criminal case at issue;
4. The interpreter or member of the interpreter’s family has a financial interest in the case, or any other interest that could be affected by the outcome of the case;
5. The interpreter has assisted in a party’s choice of attorney for the case.

(b) Interpreters shall disclose to the court and other parties when they previously have been retained for private employment by a party or attorney in the case.

(c) Interpreters shall not serve in any matter in which payment for their services is contingent upon the outcome of the case.

(d) Other than authorized payment for court interpreter services, interpreters shall not accept money, favors or other consideration which could be considered as an attempt to influence the discharge of their interpreter duties.

(e) Interpreters shall not accept payment directly from or on the behalf of a person for whom the interpreter is being paid by the State to provide interpreting services.

- (f) An interpreter who is also a licensed attorney shall not serve in both capacities in the same legal matter.
- (g) Interpreters shall notify the court of any personal bias they may have in any aspect of a case.
- (h) Interpreters shall preserve the confidentiality of any privileged or confidential information they interpret.
- (i) Interpreters shall not publicly discuss or comment on a matter in which they are providing interpreter services. An interpreter shall not allow interviews with the media, or otherwise express personal opinions regarding a case.
- (j) Interpreters shall strive for professional detachment. Verbal and non-verbal displays of personal attitudes, prejudices, emotions, or opinions should be avoided at all times.
- (k) For the duration of the proceedings, interpreters shall neither interact with nor socialize with the parties, attorneys, witnesses, jurors, presiding officials or friends or relatives of one of these persons, except when carrying out their official duties.
- (l) Interpreters must also refrain from repeating or disclosing information obtained by them in the course of their employment that may be relevant to the legal proceeding.
- (m) In the event that an interpreter becomes aware of information that suggests imminent harm to someone or relates to a crime being committed during the course of the proceedings, the interpreter shall immediately disclose the information to an appropriate authority within the judiciary who is not involved in the proceeding and seek advice in regard to the potential conflict in professional responsibility.
- (n) No court interpreter shall comment or render an opinion on the propriety or impropriety of a verdict in any matter in which he or she has served.

**SECTION 5
BEST PRACTICES
FOR FOREIGN LANGUAGE COURT INTERPRETERS**

Section 5.1 Effective Preparation for and Delivery of Interpreting Services

A. Pre-Hearing Activities

When possible, the interpreter should meet with the NES individual and his or her attorney prior to the court proceeding. This will allow the interpreter to become familiar with the NES individual's dialect and manner of speaking. Also where possible, the interpreter should determine the type of case in which he or she will be providing interpreter services. This will allow the interpreter to identify and study any specialized terminology that may be used during the proceeding.

B. Courtroom Protocol

The judge or presiding judicial official governs the behavior of the parties, attorneys, court employees, and other persons in the courtroom. The interpreter should abide by the instructions and rules of this official at all times. The following policies may also provide the interpreter with general guidance:

- **Arrival:** The interpreter should arrive at least fifteen minutes prior to the start of the proceeding and notify the court official.
- **Courtroom location:** Unless the interpreter is using sound equipment that allows interpretation from any point in the courtroom, the interpreter interpreting simultaneously for a NES party should be seated with the party at the counsel table. When consecutively interpreting the testimony of an NES witness, the interpreter should be close to the witness, but in such a manner that the judge, parties, attorneys and jurors are able to view the witness. The interpreter should interpret a witness's testimony so that the judge, parties, attorneys, jurors and the court reporter are able to hear and understand the interpreter. Still, the interpreter should be as unobtrusive as possible throughout the proceeding.
- **Equal access:** The interpreter's purpose is to place each NES individual in a situation equivalent to that of any English-speaking person. Accordingly, the interpreter should interpret for each NES individual everything that an English speaking person would hear.
- **Verbatim vs. complete interpretation:** A verbatim interpretation is not necessarily a complete and accurate interpretation. Accordingly, an interpreter should not provide a verbatim interpretation if the interpretation would essentially rob the statement of its meaning. This is particularly true for idiomatic expressions. For example, a verbatim translation of the phrase "we kept tabs on him" may fail to convey the actual meaning of the phrase to the NES person.
- **Problems with interpretation:** If the interpreter becomes concerned about his or her ability to interpret for a particular case or for a particular person, or if the interpreter becomes concerned about a possible conflict of interest, the interpreter should notify the court immediately. The interpreter should also inform the court of any material mistakes the interpreter realizes he or she has made while interpreting.
- **Use of first and third person:** If it becomes necessary for the interpreter to address the court during the proceeding, the interpreter should speak in third person. For example, the interpreter should say, "Your Honor, The Interpreter was unable to hear counsel's question."

However, the interpreter should always render a witness' testimony in first person. For example, if a witness responds, "I saw the defendant around 10:00," the interpreter should not interpret this as: "The witness says she saw the defendant around 10:00."

Observing these rules will allow the official court record to reflect clearly when the interpreter is speaking on his or her own behalf, and when the interpreter is rendering the testimony of a witness.

- Departure: When the proceeding concludes, the interpreter should not leave the courtroom until the court official formally excuses the interpreter.

Section 6

BEST PRACTICES FOR COURT OFFICIALS IN CASES INVOLVING FOREIGN LANGUAGE INTERPRETING

Section 6.1 Coordination of interpreter services

Each presiding circuit judge may identify an individual to coordinate interpreter services for the courts in that circuit. (e.g. circuit clerk, assistant or deputy clerk of court, judicial assistant, administrator, etc).

Section 6.2 Preparation for and Delivery of Interpreting Services

A. Pre-hearing activities

The court may encourage the interpreter to meet with the NES individual prior to the hearing in order to become familiar with the person's dialect and manner of speech. The court should also encourage counsel to share with the interpreter any documents that the interpreter could be asked to sight translate during the proceeding.

B. Instructions

The court may introduce the interpreter and provide certain instructions to the parties, the attorneys and the jury on the proper role of the interpreter. Specifically, the court may want to provide the following instructions:

1. The interpreter's role and purpose is limited to facilitating communication. (The interpreter may not provide legal advice or assistance to any party).
2. Participants in the legal proceeding should speak directly to one another, not to the interpreter. For example, an attorney should ask questions to the NES witness directly. The attorney should not ask questions by instructing the interpreter: "Ask the witness when she saw the defendant." Likewise, the NES witness should respond directly to the attorney asking the question, not to the interpreter.
3. The interpreter must render everything that is said in the courtroom completely and accurately. The interpreter may not elaborate, explain, clarify, add to, or omit information from the original statements.
4. The jury should not give any weight to the fact that a party or witness

requires the assistance of an interpreter, and the jury should be so instructed.

5. The court reporter records only the English spoken during the proceeding. In the verbatim transcript of the proceeding, the reporter should indicate when a witness or party is speaking through an interpreter.

C. Calendar Efficiency

The court may arrange and docket cases requiring interpreters for efficient case management. The court may appoint one or more interpreters to remain available during an entire court docket. (See Section 3.7 Appointment by Docket).

D. Courtroom Environment

The court should attempt to ensure that all participants speak audibly and clearly, that all participants speak at a reasonable rate of speed, and that the participants speak only one at a time.

- **Notepads and Dictionaries:** Interpreters should regularly use notepads and bilingual dictionaries to assist them in performing their duties. The court should encourage interpreters to use these resources and may want to explain to the jury and the other participants why the interpreters are using them.
- **Interpreting equipment:** Interpreters also may use wireless interpreting equipment for simultaneous interpretation. The interpreter speaks into a transmitter and the interpretation is transferred to a receiver used by the NES individual. The court may need to explain to the jury or the other participants the nature of the equipment and why the interpreter is using it.
- **Use of audiotape back-up:** In the more serious cases, the court may want to order that the proceedings be recorded on audio tape. This will provide a record of the original statements made in the foreign language. This may assist in resolving questions that could arise regarding the adequacy of the interpretation.

E. Team Interpreting

For lengthy proceedings, the court may appoint a team of interpreters to avoid fatigue and loss of accuracy. Team interpreting avoids the necessity of calling for numerous breaks and moves the case along at a more efficient pace.

F. Oath

The court may want to use an oath similar to that set out in Section 3.5. If an interpreter provides regular services in a certain court, the court may want to require the interpreter to sign a written oath that the court keeps on file. In all cases, the record should reflect the interpreter's oath and/or the adequacy of the interpreter's prior written oath.

G. Translated forms

Translating documents is not the same as interpreting. However, court officials may want to ask the AOC for assistance when certain court forms need to be translated and made available.

SECTION 7

COMPENSATION OF FOREIGN LANGUAGE INTERPRETERS

Section 7.1 Payment for Interpreter Services

A. Invoice for Payment

Interpreters shall be paid at a rate and schedule established by the ADC with the advice and consent of the State Comptroller. Interpreters shall submit to the State Comptroller the required request for payment for review and approval pursuant to *Ala. Code* (1975) § 15-1-3.

B. Billable Hours of Work

Interpreters shall be paid pursuant to *Ala. Code* (1975) § 15-1-3. Interpreters shall be paid for the time in court providing interpreter services plus expenses for travel. An interpreter's rate of pay shall be determined by the interpreter's level of certification. (See Attachment B.)

Should a proceeding requiring an appointed interpreter be cancelled or otherwise continued by the court, the court shall attempt to provide the interpreter at least 48 hours notice of the cancellation. Should the court not provide the interpreter with such notice, the interpreter may submit to the judge a claim for any associated time at court, and for any related expenses, fees and travel.

C. Payment for Travel

An interpreter may be reimbursed for travel as allowed for state employees.

D. Payment by Contract or other Agreement

An interpreter may provide court interpreter services and be paid pursuant to contract or agreement with the Administrative Office of Courts and approval by the State Comptroller. (See Section 3.7 Appointment by Docket).

Section 7.2. Responsibility for Payment

Foreign language interpreters providing services in criminal and juvenile proceedings are paid by the State. However, the law does not prohibit the court from taxing the

interpreter's fees and expenses as costs at the end of the case to be paid by one or more of the parties.

SECTION 8

CERTIFICATION OF FOREIGN LANGUAGE INTERPRETERS

Section 8.1 Certification of Foreign Language Interpreters

Certification as a foreign language interpreter requires compliance with all rules and involves procedures established by the AOC, including the following:

- Complete an Interpreter Application and submit to a criminal background check;
- Pass all written vocabulary, translation and interpreter examinations administered by the AOC;
- Submit four letters of recommendation from a judge, clerk, district attorney, public defender or magistrate, or other person, regarding the candidate's interpreting abilities and services;
- Pass all sections of the court interpreter verbal certification examination developed by the State Court Interpreter Certification Consortium or by the Federal Court Interpreter Certification Examination Program
- Sign the Oath of Interpretation;
- Agree to be listed in the AOC FLS Registry;
- Agree to abide by these policies and best practices, including all rules regarding ethical conduct and professional responsibility.
- Pay any and all interpreter registration, certification, and other fees established by the AOC; and
- Participate in any required orientation sessions, continuing education courses, evaluations and certification renewal procedures as required by the AOC.

(Established levels of Certification are listed in Attachment B).

Section 8.2 Certification Examination

The AOC will administer court interpreter certification examinations developed in accordance with the test construction standards established by the Consortium for State Court Interpreter Certification. The ADC may determine how often, at what locations, and for what languages the AOC will administer such examinations. The ADC may also establish rules and procedures to determine persons eligible to take such examinations.

The AOC will work with the Consortium for State Court Interpreter Certification to analyze and verify the test results and determine persons who have achieved a passing score. In addition to any practical skills examination developed by the Consortium, the AOC may also require applicants to pass written examinations addressing general language proficiency, court-related terms and usage, ethics and professional conduct.

Section 8.3 Good Character and Fitness

Foreign language interpreters are entrusted by the court with a significant degree of responsibility. The good character and fitness of the applicant is therefore a crucial factor in determining whether an applicant is eligible for certification. In determining whether an applicant has demonstrated good character and fitness, the AOC shall rely on information including a criminal background check of the applicant and recommendations from individuals who have known and worked with the applicant. The determination of whether a person has demonstrated good character and fitness sufficient to serve as a certified interpreter rests with the AOC.

Section 8.4 Registry of Certified Interpreters

The AOC will list on its FLS Registry the interpreters who have registered, and interpreters who have both registered and achieved one or more level of certification as court interpreters. The list will include the name, address, telephone number and other contact information of each registered and certified interpreter. The AOC will make the FLS Registry available to Alabama's court personnel and to the public.

Section 8.5 Performance Evaluation and Certification Renewal

The AOC may institute procedures for the evaluation and performance enhancement of all registered foreign language interpreters. The AOC may establish procedures for post-certification training sessions, criminal background checks, and other requirements for interpreter registration, certification and certification renewal.

SECTION 9

SANCTIONS

Section 9.1 Purpose

The AOC will monitor the quality of interpreter services provided in Alabama's courts, and the ADC shall maintain the authority to sanction, suspend and/or revoke the registration and certification of any foreign language interpreter providing services in Alabama's courts.

Section 9.2 Reasons for Suspension and Revocation

Registration or Certification status may be suspended or revoked by the ADC for any reason adversely affecting the Alabama Unified Judicial System, including any of the following reasons:

1. false or deceptive advertising
2. disclosure of confidential or privileged information
3. incompetence, unprofessional behavior, or unethical conduct, including misrepresentation of interpreter qualifications
4. failing to appear as scheduled, or failing to follow an order of the court without good cause
5. engaging in behavior that constitutes discrimination or harassment
6. noncompliance with any training, certification or registration requirements

Section 9.3 Complaint Procedures

A. Filing a Complaint

Any complaint against a foreign language interpreter must be submitted in writing, signed by the complainant, and mailed or delivered to the ADC at 300 Dexter Avenue, Montgomery, AL 36104. The complaint shall include the date(s), time(s), location and nature of the alleged improper conduct. The complainant shall include the name(s), title(s), and telephone number(s) of all possible witnesses. If the complainant is unable to communicate in written English, the complainant may advise the ADC of the need for an interpreter.

B. Reviewing the Complaint

The ADC shall review the complaint and allegations that could constitute grounds for sanctions, suspension or revocation. If the ADC determines that such grounds do not exist, the ADC shall dismiss the complaint and notify the interpreter and complainant via first class mail. The ADC's notification and explanation shall be made within sixty (60) days of receiving the complaint. Such a determination by the ADC shall be final.

If such grounds for sanctions, suspension or revocation are established, the AOC shall conduct an investigation.

C. Investigating the Complaint

After review of a complaint that constitutes grounds for sanctions, suspension or revocation, the AOC shall investigate the allegations contained in the complaint. The interpreter will be given the opportunity to respond and this response shall be made part of any investigation report. At the conclusion of the AOC's investigation, and within sixty (60) days of receiving the complaint, ADC shall determine whether grounds exist for sanctions, suspension or revocation of the interpreter's registration and certification.

D. Dismissing the Complaint following investigation

After investigating and determining that no conduct occurred that would be grounds for sanctions, suspension or revocation, the ADC shall dismiss the complaint and notify the interpreter and the complainant of the dismissal by first class mail. This notification shall include an explanation of the reason(s) for the dismissal. The ADC's dismissal of the complaint shall be final.

E. Sanctions, Suspension or Revocation following investigation

After investigating and determining that the conduct constitutes grounds for sanctions, suspension or revocation, the ADC shall determine what sanctions are warranted. The ADC, within thirty (30) days after reviewing the results of the investigation, shall send to the interpreter, by certified mail, a copy of the complaint, a copy of the investigation report, a listing of the policies, rules and/or laws violated by the interpreter, and the sanctions deemed appropriate. Such a determination by the ADC shall be final.

F. Sanctions

If it is determined by the ADC that sanctions, suspension or revocation is warranted, the following sanctions or combination of sanctions may be applied*:

- Issuing a private or public reprimand
- Specifying corrective action with which the interpreter must comply in order to remain on the AOC FLS Registry and remain certified by the AOC
- Suspension of work by the interpreter within Alabama's courts
- Prohibition of work by the interpreter within Alabama's courts
- Suspension of registration and certification for foreign language interpreting
- Revocation of registration and certification for foreign language interpreting

If the sanctions include suspension and/or revocation of the interpreter's registration and certification, the ADC shall specify the conditions and timeframe, if any, within which the interpreter may apply for reinstatement of certification and registration status.

**Any sanction, suspension or revocation of an interpreter's certification or registration status will be reported to the National Center for State Courts.*

G. Reinstatement

An interpreter whose court certification or registration status has been suspended or revoked may apply in writing to the ADC for reinstatement within the timeframe of the suspension/ revocation issued by the ADC. The ADC shall have sole discretion in determining whether the conditions for reinstatement have been satisfied.

SECTION 10

UNIFORM USE OF QUALIFIED INTERPRETERS

10.1 General Proceedings.

Each of the following may apply to court proceedings in Alabama's District, Circuit and Juvenile courts where non-English speaking parties or witnesses are in need of foreign language interpreters.

(A) According to the law, an interpreter shall be appointed when the court, after examination, determines that: (1) the party cannot understand and speak English well enough to participate fully in the proceedings and/or assist counsel; and/or (2) the witness cannot speak English well enough to be adequately understood directly by counsel, court, and the jury. When making this examination, the court should examine the party or witness on the record. The fact that a person for whom English is a second language knows some English should not prohibit that individual from being allowed to have an interpreter.

(B) To determine if an interpreter is needed, the court may include questions to the requesting party or witness addressing the following:

1. Identification (for example: name, address, birth date, age, place of birth);
2. Active vocabulary in vernacular English (for example: "How did you come to the court today?", "What kind of work do you do?", "Where did you go to school?", "What was the highest grade you completed?", "Describe what you see in the courtroom", "What have you eaten today?"). Questions should be phrased to avoid "yes or no" replies; and
3. The court proceedings (for example: the nature of the charge or the type of case before the court, the purpose of the proceedings and function of the court, the rights of a party or criminal defendant, and the responsibilities of a witness).

(C) After examination, the court should state its conclusion on the record; and the court file should be clearly marked with data entered to ensure that a qualified interpreter will be provided by the court at subsequent hearings when needed.

(D) For good cause, the court may authorize a pre-appearance interview between the interpreter and the party or witness. Good cause may exist when the interpreter needs clarification on any interpreting issues, including but not limited to: colloquialisms, culturalisms, dialects, idioms, linguistic capabilities and traits, regionalisms, register, slang, speech patterns, or technical terms.

(E) When a Certified interpreter has not been appointed, the court should give instructions to the otherwise qualified interpreter, either orally or in writing, that substantially conform to

the following:

1. Do not discuss the pending proceedings with a party or witness, outside of professional employment in the same case.
2. Do not disclose communications between counsel and client.
3. Do not attempt to give legal advice to a party or witness. Refer legal questions to the attorney or to the court.
4. Inform the court if you are unable to interpret a word, expression, special terminology, or dialect, or have doubts about your linguistic expertise or ability to perform adequately in a particular case.
5. Interpret all words, including slang, vulgarisms, and epithets, to convey the intended meaning.
6. Use first and third person: If it becomes necessary for the interpreter to address the court during the proceeding, the interpreter should speak in third person. For example, the interpreter should say, "Your Honor, The Interpreter was unable to hear counsel's question."

However, the interpreter should always render a witness' testimony in first person. For example, if a witness responds, "I saw the defendant around 10:00," the interpreter should not interpret this as: "The witness says she saw the defendant around 10:00."

Observing these rules will allow the official court record to reflect clearly when the interpreter is speaking on his or her own behalf, and when the interpreter is rendering the testimony of a witness.

7. Direct all inquiries or problems to the court and not to the witness or counsel. If necessary, you may request permission to approach the bench with counsel to discuss a problem.
8. Position yourself near the witness or party without blocking the view of the judge, jury, or counsel.
9. Inform the court should you become fatigued during the court proceedings.
10. When interpreting for a party at counsel table, speak loudly enough to be heard by the party or counsel but not so loudly as to interfere with the proceedings.
11. Interpret everything including objections.
12. If the court finds good cause, you may hold a pre-appearance interview with the party or witness to become familiar with speech patterns and linguistic traits and to

determine what technical or special terms may be used. Counsel may be present at the pre-appearance interview.

13. During the pre-appearance interview with a non-English speaking witness, give the witness the following instructions on the procedure to be followed when the witness is testifying:

(a) The witness must speak in a loud, clear voice so that the entire court and not just the interpreter can hear.

(b) The witness must direct all responses to the person asking the question, not to the interpreter.

(c) The witness must direct all questions to counsel or to the court and not to the interpreter. The witness may not seek advice from or engage in any discussion with the interpreter.

(d) During the pre-appearance interview with a non-English speaking party, give the following instructions on the procedure to be used when the non-English speaking party is not testifying: (i) The interpreter will interpret all statements made in open court. (ii) The party must direct any questions to counsel. The interpreter will interpret all questions to counsel and the responses. The party may not seek advice from or engage in discussion with the interpreter.

(F) The court or the court's designee should give the following instructions to counsel, either orally or in writing:

1. When examining a non-English speaking witness, direct all questions to the witness and not to the interpreter. (For example, do not say to the interpreter, "Ask him if . . .");

2. If there is a disagreement with the interpretation, direct any objection to the court and not to the interpreter. Ask permission to approach the bench to discuss the problem;

3. If you have a question regarding the qualifications of the interpreter, you may request permission to conduct a supplemental examination regarding the interpreter's qualifications.

10.2 Criminal Proceedings

(A) Each non-English speaking defendant or witness should be provided with a qualified interpreter at each step of the proceedings. Within the judge's discretion, the interpreter's costs may be assessed upon a defendant when appropriate.

(B) A non-English speaking person may waive the right to a qualified interpreter. However, such a waiver must be in writing and approved by the court. The court should determine on the record that the right to a qualified interpreter has been waived knowingly and voluntarily, utilizing the services of the most available qualified interpreter. Additionally, counsel may waive the presence of a qualified interpreter in bond hearings.

(C) The court should provide a qualified interpreter to any non-English speaking person whenever the non-English speaking person is a party, or has been subpoenaed, or summoned or has otherwise been compelled to appear in a court proceeding. Within the judge's discretion, costs can be assessed upon a defendant when appropriate.

10.3 Civil Proceedings

(A) Upon request, each non-English speaking person should be provided a copy of the Foreign Language Interpreter Registry maintained by the AOC.

(B) Each non-English speaking party has the right to a qualified foreign language interpreter at the expense of the non-English speaking person. Notice of use of an interpreter must be provided to the court and to all parties. See Rule 43(f) ARCP.

(C) Should the court consider and approve a pauper's affidavit in any civil case, the person filing the affidavit and requiring a foreign language interpreter should be provided a qualified interpreter.

10.4 Juvenile Proceedings

(A) Each non-English speaking person in a delinquency proceeding or whose parental rights to full custody of any minor child are challenged by any governmental unit or agency, must be provided a qualified foreign language interpreter at each step of the proceedings.

(B) The court must provide a qualified foreign language interpreter to any non-English speaking person whenever such person's rights to full custody of any minor child are challenged due to dependency, delinquency or neglect.

(C) The qualified foreign language interpreter must be available when legal counsel is not able to effectively communicate with the non-English speaking party.

(D) A non-English speaking person may waive the right to the use of a qualified foreign language interpreter. Such a waiver should be in writing and approved by the court. The court shall determine, on the record, that the right to such an interpreter has been waived knowingly and voluntarily utilizing the services of the most available qualified interpreter. In no event shall the failure to request a foreign language interpreter be deemed to be a waiver.

10.5 Replacement of interpreter.

The court should determine whether the interpreter is able to accurately communicate with the non-English speaking person. If it is determined that the interpreter cannot adequately communicate with the non-English speaking person, the court must terminate the services of the current interpreter, and appoint a separate qualified interpreter.

10.6 Interpreter's fees and expenses.

Qualified foreign language interpreters' fees and costs in any criminal or juvenile proceeding are established by the ADC pursuant Ala. Code (1975) §15-1-3. An interpreter's fees and costs may be assessed by the court as costs at the end of such proceeding.

SECTION 11

ETHICAL STANDARDS FOR INTERPRETERS

Interpreters have an obligation to maintain the integrity of Alabama's Unified Judicial System. With the court's knowledge and approval, interpreters may refer a particular case to another interpreter as a result of technical difficulties, cultural biases or personal interests. Also, while interpreters are allowed to advertise, all statements as to the interpreter's qualifications must be truthful. Interpreters may not guarantee a specific result, and an interpreter's statements must be accurate, clear, truthful, and not misleading.

Interpreters must abide by the Foreign Language Interpreters' Code of Professional Responsibility.

FOREIGN LANGUAGE INTERPRETERS' CODE OF PROFESSIONAL RESPONSIBILITY

Interpreters serving in Alabama's district, circuit and juvenile courts shall:

- I. Act strictly in the interest of the court during proceedings before the court and with fidelity to the non-English speaker for whom you are providing interpreter services;
- II. Reflect proper court decorum, and act with dignity and respect to court officials and other staff of the court;
- III. Avoid professional or personal conduct that could discredit you or the court;
- IV. Work unobtrusively so that attention is focused on the parties or witnesses, and not yourself as the interpreter;
- V. Accurately provide your qualifications as a court interpreter;
- VI. Refuse any assignment for which you are not qualified or under conditions which could substantially impair your effectiveness;
- VII. Disclose to the court and parties any prior involvement with a case; private involvement with a party or witness; or with others significantly involved in the case;
- VIII. Interpret accurately and faithfully without indicating any personal bias, avoiding the appearance of partiality;
- IX. Preserve the level, style, tone and intent of the language used and the ambiguities and nuances of the speaker, without alteration, omission or addition;
- X. Inform the judge and counsel if the non-English speaker cannot understand the

language level and ask for simplification;

XI. Request clarification of ambiguous statements or unfamiliar vocabulary from the judge or counsel;

XII. Promptly notify the court of any error in your interpretation;

XIII. Continually improve your interpreter skills and knowledge through activities such as professional training and education;

XIV. Maintain impartiality by avoiding undue contact with witnesses, attorneys, interested parties, and jurors before and during the case;

XV. Do not take advantage of knowledge obtained in the performance of your official duties for your own personal gain;

XVI. Do not disclose any information pertaining to court cases unless ordered otherwise by the court;

XVII. Inform the presiding judge should you feel harassed or intimidated by any officer or employee of the court;

XVIII. Immediately report to the court any solicitations or efforts by another to induce or encourage you to violate any law, standard, or any part of this Code of Professional Responsibility;

XIX. Accept no money, gift or other benefit in excess of the authorized compensation for the performance of interpretation duties;

XX. Refrain from expressing your personal opinion in a matter before the court;

XXI. Do not give any kind of legal advice whether solicited or not. In all instances, the non-English speaker shall be referred to the judge or counsel;

XXII. Do not act as an individual referral service for any attorney. If asked by a non-English speaker to refer the speaker to an attorney, direct such individual to the local bar association or to an indigent defense office;

XXIII. Agree to be bound by this Code. Violations of this Code may result in your removal from any qualified interpreter listing maintained by the AOC; and willful violation may result in additional sanctions.