



NORTH CAROLINA
ADMINISTRATIVE OFFICE
of the COURTS

Office of the Director
Judge John W. Smith
Director

PO Box 2448, Raleigh, NC 27602
T 919 890-1391 F 919 890-1915

MEMORANDUM

TO: All Judicial Branch Elected and Appointed Officials

FROM: John W. Smith

DATE: August 8, 2012 (*Revised and Clarified on August 16, 2012*)

RE: **Notice of Expansion and Enhancement of Foreign Language Interpreting Services**

To ensure and preserve fundamental principles of fairness, access to justice, and the integrity of judicial proceedings, the North Carolina unified court system is committed to the continued provision and expansion of language access services to limited English proficient (LEP) persons whom the courts serve. LEP persons should have meaningful access to the courts in languages that they are able to understand, and in which they are able to be understood by the Court. Pursuant to G.S. §7A-343(9c)¹ the Director of North Carolina Administrative Office of the Courts (NCAOC) is authorized to provide LEP persons with foreign language interpreters in accordance with policies set forth by the NCAOC.

- Section I of this memorandum addresses immediate expansion and enhancement of foreign language interpreting services in the courts.
- Section II contains information about future plans for foreign language access services.

I. EFFECTIVE IMMEDIATELY: EXPANSION OF LANGUAGE ACCESS SERVICES

A. General Provisions

1. *The Interpreting Services Program is renamed as the Office of Language Access Services.* The name change more accurately reflects the mission of the staff to facilitate provision of language interpreting and translation services and training.
2. *Expansion in Certain Case Types Regardless of Indigency.* Court interpreters shall be provided in all criminal, juvenile, involuntary commitment, incompetency, and Chapters 50B and 50C proceedings regardless of indigency.
3. *No Longer Assess Costs for Interpreter Services.* The courts shall not charge, assess, or obtain reimbursement for interpreter services or fees from any party to a proceeding in which an interpreter is utilized or from any person utilizing the assistance of an interpreter in a court proceeding.

¹ As amended July 1, 2012, in S.L. 2012-142.

4. *Remote Language Access Technology.* Remote language access technology can be provided by telephone services and distance court interpreting equipment authorized by the NCAOC.

B. Telephone Interpreting Services in Clerks' Offices

Telephone interpreting services is currently available for short-term criminal proceedings in magistrates' offices and in court for first appearances and bond hearings. Telephone interpreting services will be made available in all Clerks' offices to assist clerks in responding to public inquiries and assisting the public with general informational questions of short duration. Each elected Clerk of Court already has identified staff who will be the contact person for the telephone interpreting service in the Clerks' offices. Language Access Services staff will send a copy of the instructions for accessing the system to the contacts in the Clerks' offices and will provide web-based instructional information that will be accessible to clerks at any time. Language Access Services staff will attend the elected Clerks' conference in August to provide all elected Clerks with an opportunity to learn more about and utilize the phone service at that time.

Clerks and magistrates previously should have received information as to accessing this service. If you need additional information about telephone interpreting services or an additional copy of the directions and procedures for accessing the system contact Language Access Services at (919) 890-1213.

C. Procedure to Identify Cases in Which an Interpreter is Needed

The criminal information systems for the courts (ACIS, NCAWARE, and eCITATION) have been modified to allow law enforcement, magistrates, and clerks to flag cases in which it appears an interpreter is needed. Those flags are now populating all criminal calendars, enabling court officials to identify all cases on that day's calendar in which an interpreter is needed. Staff in NCAOC's Court Services Division will provide instructions regarding this change to law enforcement trainers, magistrates, and clerks.

D. Language Access Officer and Administrative Complaints

I have established the position of Language Access Officer (LAO) and appointed an existing NCAOC staff person as that officer to address issues and complaints concerning language access services provided by the Judicial Department, to pursue resolution of identified language access issues, and to recommend appropriate changes in policies and practices to advance the goal of providing equal access to justice for individuals with limited English proficiency (LEP). Any person with a complaint or concern about language access services may file a complaint with the LAO. The LAO shall review the complaint, conduct an appropriate investigation, and respond to the complaint within 30 days of receipt of the complaint.

The NCAOC shall ensure that notices are posted in the courthouse and use other appropriate means to inform those who access court services and operations of the availability of the LAO to receive and facilitate resolution of complaints and concerns regarding language access issues in the Judicial Department. These notices may include posted notices in public areas, electronic postings, or links through websites, including the North Carolina Court System website.



An attempt to resolve a complaint by submitting it to the LAO will be a supplemental remedy and is not a substitute for any formal legal or administrative remedies that may exist. Investigation of a complaint by the LAO does not supplant or foreclose any remedies that a complainant or other party may have in law or administrative procedure.

II. FUTURE EXPANSION AND ENHANCEMENT OF FOREIGN LANGUAGE ACCESS SERVICES

A. Expansion of Covered Case Types

The NCAOC is committed to expanding foreign language access services for all civil, small claims, estate, and special proceedings matters, without respect to indigency. The Office of Language Access Services will provide technical assistance to court officials to develop and implement procedures for expansion and the efficient allocation of current staff and contract interpreting services for other case types. Over the next two years, the NCAOC will expand language access services in the following priority order: cases involving the welfare of children and families, loss of residency, and money and property disputes.

B. Implementation

1. *Language Access Plan.* The NCAOC shall establish and implement a Language Access Plan (LAP) in Fall 2012, which shall set forth the NCAOC's plan for providing language access in the courts.
2. *Language Access Standards.* The NCAOC shall establish and implement Language Access Standards that will address policies and procedures for governing language access services in the courts.
3. *Language Access Stakeholders.* The Office of Language Access will be working in conjunction with language access stakeholders (Language Access Committee). The Language Access Committee will provide input on language access standards, suggest ongoing improvements to language access, assist in outreach and training efforts, assess the implementation of the Policy and the Language Access Plan, and assist in other activities to improve language access in the courts. Such committee(s) shall include relevant stakeholders, including court staff and non-court staff persons with expertise in court language access issues, lawyers or advocates for LEP clients, and at least one representative from the district attorney, the public defender, the North Carolina Bar Association, and North Carolina Legal Aid offices.

C. Procedure to Identify Cases in which an Interpreter is Needed

1. *Notice to court.*
 - a. In addition to the criminal information systems that already have been modified to flag cases in which it appears an interpreter is needed, civil information systems will be enhanced to provide similar information for civil cases.

- b. Any court employee who becomes aware that a party or witness in a pending proceeding has limited English proficiency shall inform the county / district language access coordinator.²

2. *Notice to parties.*

- a. As shall be established in the NCAOC's Language Access Plan, the Office of Language Access Services will create a written notice in English, Spanish, and other languages for which a significant demand exists as determined by the NCAOC, stating that the court will provide a competent interpreter for any LEP party or witness at no charge, explaining the procedure to request an interpreter.
- b. A Request for a Spanish Foreign Language Interpreter form shall be available on the North Carolina Court System website, in magistrates' offices, and in Clerks' offices.
- c. At any proceeding for which an interpreter has not been authorized, the judicial official or court staff shall inform the parties to a case that may involve LEP party or witness of the availability of a court interpreter.

D. Data Collection

- 1. The Office of Language Access Services will submit detailed reports to the NCAOC Director, a copy of which shall be available on the North Carolina Court System website, documenting the efforts made to provide language access in the courts.
- 2. Data collection will include information on services provided, by court, location, language, and form of language assistance, including any data indicating:
 - a. Case type
 - b. Name and qualification level (certified or qualified) of interpreters
 - c. Interpreter employment status as staff interpreter or contractor
 - d. Court, including location and judicial official
 - e. Type of proceeding and case type

E. Translation of Forms

NCAOC Legal and Legislative Services staff are identifying forms that need to be created in a bilingual format for informational purposes to be given to LEP persons in court proceedings to increase their understanding of court proceedings.

If you have any questions about this memorandum or future plans, please contact Language Access Services staff at (919) 890-1213.

cc: The Honorable Sarah Parker, Chief Justice, Supreme Court of North Carolina
The Honorable John Martin, Chief Judge, North Carolina Court of Appeals
David Hoke, Assistant Director, NCAOC
Thomas K. Maher, Indigent Defense Services
Peg Dorer, Executive Director, Conference of District Attorneys

² Information about Language Access Coordinators will be forthcoming. For the time being follow existing procedures for appointing an interpreter.



Barbara Moore, Executive Director, Conference of Clerks of Superior Court
Professor Michael Crowell, UNC-CH, School of Government
Professor Jim Drennan, UNC-CH, School of Government
Trial Court Administrators / Coordinators
Family Court Administrators
Judicial Assistants
McKinley Wooten, Deputy Director of Program Services, NCAOC
Brooke Bogue, Manager Language Access Services
Mildred Spearman, Language Access Officer, NCAOC
NCAOC Executive Staff
NCAOC Court Services Analysts
NCAOC Financial Management Analysts

