

IN THE CIRCUIT COURT IN AND FOR THE TENTH JUDICIAL CIRCUIT  
IN AND FOR HARDEE, HIGHLANDS, AND POLK COUNTIES, FLORIDA

ADMINISTRATIVE ORDER NO. 1-52.1

IN RE: INTERPRETERS FOR NON-ENGLISH SPEAKING  
PERSONS, LIMITED-ENGLISH PROFICIENT PERSONS,  
AND DEAF OR HARD OF HEARING PERSONS

WHEREAS, the Supreme Court issued *In Re: Amendments to the Florida Rules of Judicial Administration 2.430, 2.535, 2.560, and 2.565*, No. SC17-1137. The amended rules address when the Court must appoint an interpreter in criminal or juvenile delinquency proceedings and clarify that Rule 2.565 does not require an attorney or self-represented litigant to retain an interpreter when the court is not required to appoint one. To implement these changes, under the authority granted to the Chief Judge by Article V, section 2(d), Florida Constitution, Rule of Judicial Administration 2.215, and § 43.26, Florida Statutes, it is ORDERED:

**I. PROVISION OF SPOKEN LANGUAGE AND SIGN LANGUAGE INTERPRETERS**

**A Qualifications of Interpreters**

1. Any spoken language interpreter who provides services to the Court must comply with and be bound by the Code of Professional Conduct of the Florida Rules for Certification and Regulation of Spoken Language Court Interpreters (Rule 14). Any sign language interpreter who provides interpreter services to the Court must uphold and adhere to all standards prescribed by the National Association for the Deaf and the Registry of Interpreters for the Deaf (NAD-RID) Code of Professional Conduct. An interpreter must inform the judge, hearing officer, or general magistrate (hereinafter “presiding official”) and the Administrative Office of the Courts (AOC) whenever the interpreter believes he or she is out of compliance with an applicable code of conduct.
2. If an interpreter finds that at any time he or she is unable to perform interpreting services satisfactorily, he or she must immediately notify the presiding official. The presiding official will take appropriate action, such as a recess, adjournment, or directing the AOC or the responsible party to provide another qualified interpreter.

**B Court Provided Spoken Language Interpreters**

The AOC will provide spoken language interpreters in accordance with Florida Rule of Judicial Administration 2.560. These instances include:

1. *For litigants:* the AOC must provide an interpreter as needed for a non-English speaking or limited-English-proficient litigant in the following types of cases:
  - a. Circuit and county criminal;
  - b. Criminal contempt;

- c. Child support hearings;
  - d. Dating, domestic, repeat, and sexual violence and stalking injunction return hearings;
  - e. Delinquency proceeding (including parents and guardians);
  - f. Dependency proceeding, including termination of parental rights proceedings (including parents and guardians);
  - g. Petitions for incapacity and other mental health proceedings in which a person may lose the ability to control the decisions about his or her life;
  - h. Guardianship cases; and
  - i. Other proceedings in which a non-English speaking or limited-English-proficient person is a litigant and the Court determines that the litigant's inability to comprehend English deprives the litigant of an understanding of the Court proceedings, *and* a fundamental interest is at stake, *and* no alternative to the appointment of an interpreter exists.
2. *For victims and witnesses:* the AOC must provide non-English speaking or limited-English-proficient victims and witnesses with an interpreter as follows:
- a. For victims in juvenile delinquency and criminal cases regardless of whether the victim is a witness; and
  - b. For non-victim witnesses in juvenile delinquency and criminal cases, and for witnesses in other cases, when directed by the Court in accordance with the Florida Evidence Code.

### **C Court Provided Sign Language Interpreters**

The AOC must facilitate the provision of sign language interpreters for communication between people who are deaf or hard of hearing and people who hear, when required by the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. § 12101, et. seq., and when required for due process.

### **D Translation of Audio and Video Recordings or Written Documents**

Any party who seeks to introduce or reference an audio or video recording in Court, or to offer written evidence that requires translation into English, must have the item transcribed into English and must provide the translation to the opposing party within a reasonable period of time prior to the Court proceeding. The offering party must provide to the Court at the trial or hearing the transcript of the English translation. The offering party is responsible for such translation and transcription expenses. If approved by the presiding official, sight translation of short documents of no more than one (1) page may be provided by spoken language interpreters provided by the AOC for the proceeding.

## **E Preference and Priority of Assignments for Court Provided Interpreters**

1. *When providing a spoken language interpreter*, the AOC will give preference for assignments as described in Rule of Judicial Administration 2.560(e).
2. *When providing a sign language interpreter or other interpreter* to facilitate communication between people who are deaf or hard of hearing and people who hear, the AOC must first try to provide an interpreter who is currently designated as “Specialist Certified: Legal” by the Registry of Interpreters for the Deaf. If the AOC cannot readily provide a “Specialist Certified: Legal” interpreter, it must then try to provide an interpreter who currently has another certification from RID.
3. If the qualifications of court-contracted interpreters are equal and do not require preference for the assignment of an interpreter in accordance with the direction above, the AOC must ensure that any assignment system for court-contracted interpreters is as fair and balanced as possible.
4. If there are insufficient interpreters for any language required by the Courts on any given day, the AOC will work with the Courts to prioritize the assignments of the available interpreter(s) in accordance with Florida Rule of Judicial Administration 2.550(a) & (b).

## **F Requests and Cancellations of Court Provided Interpreters**

1. When counsel or a pro se litigant requires an interpreter in a case where the interpreter must be provided by the AOC as required by this Order, the counsel or pro se litigant must schedule the request through the AOC. Counsel or the pro se litigant must bring the request to the Court’s and the AOC’s attention as soon as possible, preferably at least one week before the scheduled proceeding. Counsel or the pro se litigant must relay any notice of cancellation to the AOC as soon as possible after he or she knows that an interpreter’s services are no longer required.
2. Nothing in this Order prohibits the offices of the Clerk of the Circuit Court, State Attorney, Public Defender, Regional Counsel, or any other agency from utilizing the services of a spoken language interpreter or sign language interpreter of its choosing for out-of-court activities. Any costs incurred for out-of-court activities must be paid by the office utilizing the language interpreter.
3. Requests for Court Provided Interpreters in Family Law Cases:
  - a. Requests for appointment of Court Provided Interpreters for Family Law Cases must be made by filing a written motion with the Clerk of Court. A courtesy copy of the motion must be provided to the Judge to whom your case has been assigned.
  - b. The motion must state the specific issues in your case, including issues involving children, child support, alimony and division of assets and any other issues.

- c. The Court, upon receiving the motion, will decide if any fundamental interest is at stake in your case and may rule on the motion with or without a hearing. This is up to the Judge.
- d. If the Court appoints an Interpreter to your case, you are responsible for notifying the Office of the Court Interpreter of all future hearings and or cancellations. Once you have a signed court order, please contact the Office of the Court Interpreter at 863-534-7700 to schedule an interpreter, not less than 14 days in advance.
- e. Finally, please note, unless the Court determines that a fundamental interest is at stake, you are NOT entitled to a court provided interpreter, and must at your own expense provide an interpreter for any and all hearings.

### **G Other Duties of the Administrative Office of the Courts**

In addition to other duties in this Order, in compliance with AOSC11-45, In Re: Court Interpreting Services in Florida's Trial Courts, the AOC will:

- 1. Periodically review the technology operating in courtrooms to determine the feasibility of establishing remote interpreting capability. If such technology and other resources make it feasible to implement remote interpreting, the AOC will implement remote interpreting as directed by the Chief Judge, including developing and documenting procedures for the appropriate use of remote interpreting.
- 2. Publish information on the Court's Internet page that informs Court participants with disabilities about the rights afforded by the ADA, the federal regulations, and the process for requesting a qualified interpreter or other accommodation under the ADA.

## **II. USE OF INTERPRETERS AND PARTICIPANT FUNCTIONS**

- 1. Prior to the beginning of a proceeding where an interpreter is used, the presiding official will instruct parties and jurors who understand the language being interpreted and who perceive a discrepancy as to the interpretation to bring the issue to the attention of the presiding official.
- 2. The presiding official will ensure the interpreter is sworn in at the beginning of a proceeding or set of proceedings. See § 90.606, Florida Statutes.
- 3. When a sign language interpreter is used for a juror who is deaf or hard of hearing, the presiding official will administer an oath of non-involvement, including language stating that the interpreter will not interfere with jury deliberations or reveal the confidences of the jury. See § 90.6063, Florida Statutes.
- 4. As appropriate, the presiding official will inform all parties when an interpreter is being used, particularly when a party or interpreter appears remotely. The presiding official will monitor the proceeding to ensure that the interpretation process flows smoothly and, as needed, instruct the participants to adjust their volume or rate of speech, or refrain from extraneous comments or whispering.

5. The presiding official will ensure that simultaneous interpretation is used for defendants, respondents, and other litigants who require a spoken language interpreter or a sign language interpreter. The presiding official must allow consecutive interpretation of testimony by a witness who requires a spoken language interpreter or a sign language interpreter.
6. The presiding official will give appropriate jury instructions regarding the use of a court interpreter, including that the interpreter is neutral, impartial, does not represent the interest of any party, and is only present to assist in communication.
7. Any Court participant may bring concerns about the in-court or out-of-court interpretation performance or other activities of an interpreter to the attention of the Trial Court Administrator (TCA) or their designee. The TCA or their designee will review such reports and take appropriate action, including but not limited to counseling the interpreter, or refusing the interpreter's service when he or she is provided through a firm. If appropriate, the TCA may cancel the Court's contract with the interpreter.
8. A party who knows or suspects that an interpreter has not been sworn in must bring that to the Court's attention as soon as practicable.
9. All Court participants and the AOC must work toward making the best use of an interpreter's time and availability by ensuring that those cases involving an interpreter are brought to the Court's attention as soon as possible.
10. Unless directed by the presiding official, interpreters shall not be required to assist an attorney with communicating with their client or witnesses off the record.

### **III. EFFECTIVE DATE**

This Order is effective upon signing and vacates Administrative Order No. 1-52.0, previously entered on March 6, 2019.

**DONE AND ORDERED** in Chambers at Bartow, Polk, Florida, this 12th day of March, 2020.

s/ ELLEN S. MASTERS, Chief Judge

Original:  
Polk County Clerk of Court

cc:  
All Judges  
Hardee County Clerk of Court  
Highlands County Clerk of Court  
Polk County Clerk of Court  
Office of the State Attorney  
Office of the Public Defender  
Office of Criminal Conflict and Civil Regional Counsel, Second District  
Court Interpreter Department ("CID")  
Electronic Bar Mailing