

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2015-058 PA/PI-CIR

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

Recently, the Supreme Court issued *In Re: Amendments to the Florida Rules for Certification and Regulation of Spoken Language Court Interpreters*, No. SC15-1580, which amends Rule 14 of the Interpreter Rules. In addition, the Court simultaneously issued *In Re: Amendments to the Florida Rules of Judicial Administration*, No. SC15-1594, which amends Rule of Judicial Administration 2.560 and creates Rule of Judicial Administration 2.565. These rules clarify the provision of spoken language interpreters. To implement these changes, which took effect October 1, 2015, Administrative Order 2014-031 needs to be updated.

Under the authority granted to the Chief Judge by Article V, section 2(d), Florida Constitution, Rule of Judicial Administration 2.215, and section 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, when the litigant demonstrates an inability to pay costs in the following types of cases:
 - a. Circuit and county criminal;
 - b. Criminal contempt;
 - c. Parental time-sharing cases in which both parties are unable to pay costs;
 - 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; and
 - h. 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 other witnesses:* the AOC must provide non-English speaking or limited-English-proficient victims and other witnesses with an interpreter as follows:
- a. For victims in juvenile delinquency and criminal cases—unless the Court finds that the victim does not require a court-appointed interpreter; 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. Retention of interpreters by attorneys or self-represented litigants

- 1. If appointment of a spoken language interpreter by the Court is not required by this Administrative Order and spoken language interpreter services are necessary to assist a non-English speaking or limited-English-proficient litigant or witness, the attorney or self-represented litigant must retain a spoken language interpreter at his or her own expense. However, in these situations, the scheduling services of the Administrative Office of the Court's Fiscal Office may be used, and the costs of the interpreter's service may be repaid at the court-contracted rates. Retention of spoken language interpreters by attorneys or self-represented litigants must be in compliance with Rule of Judicial Administration 2.565.
- 2. If a litigant who is solvent and required to provide an interpreter at his or her own expense in a criminal, delinquency, or other case where a fundamental right is at stake, but does not do so and the Court determines that the litigant's inability to comprehend English deprives the litigant of an understanding of the Court proceedings, the presiding official may:
 - a. Direct the AOC to provide an interpreter and bill costs to the litigant;
 - b. Obtain a waiver of the litigant's right to have an interpreter at the litigant's own cost;
 - or
 - c. Take other appropriate action.

D. 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 of 1990, 42 U.S.C. §12101, et. seq., and when required for due process. When sign language interpretation services are required solely by the Americans with Disabilities Act, the respective County must pay for the services. See § 29.008(1)(f)4, Florida Statutes.

E. 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.

F. 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).

G. Requests and cancelations 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 Administrative Office of the Court’s Fiscal Office in the respective County where the services are required. Counsel or the pro se litigant must bring the request to the Court’s and the Fiscal Office’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 cancelation to the Fiscal Office 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.

H. Recoupment of costs for Court-provided interpreters: The costs incurred by the AOC for providing an interpreter under this Order are subject to cost recovery in accordance with Administrative Order No. 2005-061 or subsequent Administrative Order.

I. 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. Develop and keep current a Court interpreter page on the Court's Internet page. The Court interpreter page will explain the basic services provided by the Court interpreter program and provide contact information for the Fiscal Offices in Pasco and Pinellas Counties and the ADA Coordinator.
3. Publish information on the Court's Internet page that informs Court participants with disabilities about the rights afforded by the Americans with Disabilities Act, the federal regulations, and the process for requesting a qualified interpreter or other accommodation under the ADA.
4. Require attendance at trainings sponsored by the Office of State Courts Administrator for individuals involved in the collection and reporting of Uniform Data Reporting System statistics.

II. USE OF INTERPRETERS, PARTICIPANT FUNCTIONS

A. Judges, Hearing Officers, and Magistrates (presiding officials)

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 §90.606, 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. Before continuing with any proceeding, the presiding official will ask the litigant, through the interpreter, whether the litigant is confident that the interpreter's skills will ensure adequate and accurate interpretation of the communication of the proceeding, and whether the litigant believes the interpreter is impartial. If either of those answers is "no", the presiding official will take appropriate action.
6. 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 may allow consecutive interpretation of testimony by a witness who requires a spoken language interpreter or a sign language interpreter.
7. 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.

8. When an unscheduled need arises and it is in the best interest of the Court to proceed without waiting to obtain another interpreter, a presiding official or his or her designee may directly obtain a telephonic interpreting service such as AT&T's language line. The presiding official must still comply with Florida Rule of Judicial Administration 2.560 and request the service to provide a designated interpreter in accordance with the preferences described above in section I.F.

B. All Participants – Presiding Officials, Bailiffs, Jurors, Parties and their Counsel, and Interpreters

1. All Court participants must observe the in-court performance of interpreters. When a juror, witness, bailiff, party, or party's counsel observes concerns or has complaints about the in-court performance of an interpreter, that person must report them to the presiding official, immediately if appropriate.
2. 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 Courts Administrator (TCA) or her designee. The TCA or her 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.
3. 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.
4. 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 called and brought to the Court's attention as soon as possible.

Administrative Order 2014-031 PA/PI-CIR is hereby rescinded.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida, this _____ day of October 2014, *nunc pro tunc* October 1, 2015.

ORIGINAL SIGNED ON OCTOBER 28, 2015
BY ANTHONY RONDOLINO, CHIEF JUDGE

cc: All Judges
The Honorable Bernie McCabe, State Attorney
The Honorable Bob Dillinger, Public Defender
The Honorable Paula S. O'Neil, Clerk of the Circuit Court, Pasco County
The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County
Gay Inskeep, Trial Courts Administrator
Ngozi Acholonu, Assistant Regional Counsel
Lillian Simon, Director of Administrative Services, Pasco County
Nichole Alvarez-Sowles, Chief Operations Officer, Pasco County Clerk's Office
Kimberly Collins, Director of Criminal Courts, Pasco County Clerk's Office
Bar Associations, Pasco and Pinellas Counties
Law Libraries, Pasco and Pinellas Counties