

Language Access Coalition

Language Access Guidelines for Louisiana State Courts

prepared by Louisiana Applesseed volunteers Jackie Brettner and Stephanie Villagomez (Phelps Dunbar)

I. Executive Summary – Current Status of Language Access Guidelines in Louisiana

The U.S. Constitution guarantees access to the courts, due process, equal protection and the right to counsel. Title VI of the Civil Rights Act further requires state courts receiving federal assistance to provide interpreters to persons of limited English proficiency (“LEP”) in all civil and criminal matters. Despite the federal requirements, echoed in Louisiana’s state constitution, Louisiana has yet to enact comprehensive/uniform language access guidelines (LAG) that address the needs of LEP individuals. Instead, it has opted for a loose adoption of Rule 604 of the Federal Rules of Evidence.¹ Note, however, that the Louisiana legislature has enacted comprehensive legislation that meets the needs of hearing-impaired individuals.

As evidenced by the attached appendices for the States of New Mexico and Washington (among others), the needs of hearing-impaired individuals can be analogized and often are addressed in similarly fashioned LAG.² With this background, and Louisiana’s current adaptation of Rule 604, the state should be able to promulgate the requirements necessary to provide clear-cut, discernable access to interpreters in Louisiana’s state courts in order to enable LEP individuals to be on equal footing. Such regulations are clearly necessary to guarantee competent interpretation of court proceedings and ensure compliance with federal civil rights law. The enactment of properly drafted LAG will further avoid numerous harms, including imposition upon children forced to interpret for parents during family proceedings and the inability of litigants to comply with court orders they do not understand, which creates additional litigation and costs in and of itself. Thus, LAG guidelines are an important way to boost the public confidence in the state court system.

After careful review of existing LAG in all fifty (50) U.S. states, it is clear that no uniform standards exist to provide LEP individuals with access to “disinterested, unprejudiced, and unbiased” interpreters in every U.S. state court. This notwithstanding, a progressive trend towards the creation and adoption of comprehensive LAG is emerging, with states, such as Florida and Nebraska, enacting court rules that address the need for: (i) recognition of LEP individuals’ right to an interpreter; (ii) the establishment of uniform guidelines for selection, qualification, and compensation of interpreters; and (iii) an established code of professional conduct and/or ethical obligations for persons serving as interpreters. With this background, and the increasing ethnic and cultural diversity of the State of Louisiana, there is no time like the present to address LEP individuals’ needs and establish uniform LAG in Louisiana’s state court systems.

II. Research Findings-Methodology

¹ See Summary Chart of Louisiana LEP-specific statutes and laws, attached hereto as Appendix No. 18.

² See *State v. Mondragon*, 804 So. 2d 657 (La. Ct. App. 2d Cir. 2001) (holding that there is no distinction between those persons, whose need for assistance arises from physical limitations, and the needs of those which arise from linguistic limitations); see also Summary of Louisiana LEP-specific case law, attached hereto as Appendix No. 18.

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Survey of Existent Language Access Guidelines Across the United States

As part of our research, we conducted a review of the language access guidelines ("LAG") present in each of the fifty (50) U.S. states. Our investigation revealed that although not all states have a separate and sophisticated system in place to ensure the availability of interpreters for persons of limited proficiency in English ("LEP"), the vast majority of all U.S. States have some kind of LAG in place responsive to the needs of LEP individuals. Our review also confirmed that, with few unique exceptions, the LAG in place across the U.S. fall into four (4) main categories of sophistication: (i) States with LAG primarily modeled on Rule 604 of the Federal Rules of Evidence; (ii) States with LAG based on Rule 604, plus a state-promulgated Code of Conduct or Ethics for Interpreters; (iii) States with independent, sophisticated LAG of their own creation; and (iv) States that have no LAG and/or have unclear rules regarding LEP individuals. What follows is a brief overview of the four (4) types of LAG existent in the United States.

States With LAGs Modeled After Rule 604 of the Federal Rules of Evidence

At least twenty-four (24) U.S. states have LAG premised upon Federal Rule of Evidence 604. Although each state's adoption of the parameters outlined in Rule 604 is unique in its placement, *i.e.*, adoption by Supreme Court Rule, Local Rule, State Rule of Evidence, etc., the following U.S. states have a LAG system generally premised on the tenets established by Rule 604 of the Federal Rules of Evidence: Alaska,³ Arizona, Arkansas, Colorado, Georgia,⁴ Kansas, Louisiana,⁵ Massachusetts, Michigan, Missouri, Montana, Nevada,⁶ New Hampshire, New York, North Dakota,⁷ Ohio, Oklahoma,

³ While based largely on Fed. Rule Evid. 604, the Alaska rule further provides that "[i]n determining whether an interpreter is qualified and impartial, the court shall inquire into and consider the interpreter's education, certification and experience in interpreting relevant languages; the interpreter's understanding of and experience in the proceedings in which the interpreter is to participate; and the interpreter's impartiality. Parties to the proceedings may also question the interpreter concerning the interpreter's qualifications and impartiality." Alaska is further in the process of developing a pool of qualified translators.

⁴ It is worth noting that the State of Georgia also has a general rule that establishes an "Interpreter Commission," established by the Georgia Supreme Court and vested with the responsibility of regulating all LEP interpreters. See Appendix No. 10.

⁵ Although Louisiana has adopted the basic tenets of Rule 604 in LCE art. 604, this adoption does not provide Louisiana courts with any kind of uniform guidance as to when interpreters are necessary, how they should be appointed, how the costs associated with their appointment should be allocated and paid. Additionally, there is no set standard against which all interpreters can be measured, or qualified, and no clear set of ethical precepts against which their conduct can be measured. This notwithstanding, Louisiana has recognized the rights of the hearing impaired with the creation of comprehensive legislation that meets the needs of hearing-impaired residents under Louisiana's Act for the Hearing Impaired. See La. R.S. 46:2364 and La. R.S. 15:270. At least one Louisiana court has further held the rights of the hearing-impaired to an interpreter as analogous to the rights of LEP individuals. See *State v. Mondragon*, 804 So. 2d 657 (La. Ct. App. 2 Cir. 2001).

⁶ It is worth noting that although the State of Nevada's rule is modeled after Rule 604, it is promulgated as a Supreme Court Rule and also statutorily codified.

⁷ The State of North Dakota's rules, although based on Rule 604, also include some guidelines as to qualification.

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Pennsylvania, Rhode Island, South Dakota, Texas, Vermont, Virginia, West Virginia, and Wyoming.

Rule 604 of the Federal Rules of Evidence establishes the availability of interpreters in civil and criminal actions pending before the United States district and appellate courts and regulates the costs associated therewith pursuant to 28 U.S.C. § 1827. Rule 604 states that: "[a]n interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation to make a true translation."⁸ The rule is premised upon Rule 43(f) of the Federal Rules of Civil Procedure and Rule 28(b) of the Federal Rules of Criminal Procedure, both of which provide for the appointment and compensation of interpreters. Although the rule makes interpreters available for use in the federal court system and provides a basic exemplary outline against which such persons may be qualified to serve in individual proceedings, it stops short of establishing a unified certification process that addresses the true competency of these persons. Moreover, its placement obscures the availability of this service by not advising the parties of its existence at the outset of litigation. Thus, *pro se* litigants and/or otherwise unrepresented parties -- who are most likely to be the very individuals that need language access services ("LAS") -- will probably be least aware of its existence.

States Modeled after Rule 604 With A State-Promulgated Code of Conduct

The second grouping of LAG is embodied by nine U.S. states that have adopted the parameters outlined in Rule 604 of the Federal Rules of Evidence -- either by Supreme Court Rule, Local Rule, or state statute -- in conjunction with a separate state-sponsored Code of Conduct or Ethics for Interpreters. The following U.S. states fall within this category: Delaware,⁹ Hawaii, Idaho, Indiana,¹⁰ Iowa, Kentucky, Maine, Maryland, Minnesota, New Jersey, New Mexico, North Carolina,¹¹ Oregon, South Carolina, Tennessee, Utah, Washington,¹² and Wisconsin.

In each case, the code of "professional conduct or ethics" provides benchmark ethical and/or professional guidelines for the conduct of persons who are employed by or under contract to the judiciary to "interpret, transliterate, or translate."¹³ In general, the codes allocate the responsibility of appointing interpreters to the Chief Justice of the

⁸ See Fed. R. Ev. 604.

⁹ It is worth noting that the State of Delaware has also implemented a certification procedure for court interpreters.

¹⁰ The State of Indiana is also one of the forty (40) U.S. States that uses the National Center for State Courts Consortium exam in qualifying state court translators. The exam allows for standardization across the states and ensures translators meet some minimal level of competency, but participation in the center requires a large initial monetary commitment from the state (\$25,000.00) as well as an ongoing yearly participation fee.

¹¹ The State of North Carolina's code for interpreters also establishes guidelines for accreditation.

¹² It is worth noting that the State of Washington also has a general rule that establishes an "Interpreter Commission," established by the Washington Supreme Court and vested with the responsibility of regulating all LEP interpreters. See Appendix No. 47.

¹³ See e.g., NJ R. of Ev. 604, Comments and uncodified Code of Conduct, attached hereto as Appendix No. 30.

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court at issue and limit the application of the guidelines to interpreters appointed by the court (*i.e.*, codes do not apply to interpreters retained by private agreement by and/or between the parties).¹⁴ The codes further seek to promote professional conduct and development of LEP interpreters by establishing targeted levels of confidentiality, impartiality, privilege, and ethical obligations to disclose impediments, for persons serving as interpreters.¹⁵

Some state codes are more detailed than others. For example, Oregon's code of conduct definitions applies a "duty" to interpreters and defines it as two-fold: (i) to ensure that the proceedings in English accurately reflect the testimony of the LEP individual; and (ii) to place the LEP individual on equal footing with all English speakers in the proceedings.¹⁶ All codes require the interpreter to maintain a certain level of competency and establish their qualifications via certification, training and/or experience.¹⁷ In this regard, however, some state codes take the qualifications issue a step further by providing an outline of minimum linguistic competency requirements that a person wishing to serve as an LEP interpreter must fulfill.¹⁸

States With Sophisticated LAG

The following four (4) U.S. states have promulgated unique and sophisticated LAG that merit individual consideration:

Alabama

While Alabama has a court rule modeled after Federal Rule of Evidence 604, Alabama's judiciary has also issued a manual of policies and procedures for foreign language interpreters. The manual sets out the regulations for registration and certification of foreign language interpreters, the appointment and scheduling of foreign language interpreters, and a code of professional responsibility for court interpreters.¹⁹

California

California's Rules of Evidence provides a more progressive, useful approach. California Rule of Evidence § 751 requires that translators:

- 1) take an oath that they will make a true interpretation for the witness; and
- 2) be certified according to state rules laid forth in Title 8 Ch. 2 § 68560 *et seq.*

¹⁴ *Id.* While the codes generally do not apply to interpreters retained by private agreement or between the parties, provisions should be in place to ensure that the practice of retaining interpreters by private agreement or between the parties be limited so that the protections afforded by the codes are not circumvented.

¹⁵ See generally Minn. Code Prof. Resp. Interpreters, attached hereto as part of Appendix No. 23; see also South Carolina, R. of Prof. Ct. Interpreters, attached hereto as part of Appendix No. 40; see also Oregon R. Prof. Resp. Interpreters, Section 1, attached hereto as part of Appendix No. 37.

¹⁶ See Oregon R. Prof. Resp. Interpreters, Section 1, attached hereto as part of Appendix No. 37; see also Wisconsin Code of Ethics for Ct. Interpreters, SCR 63.01, attached hereto as part of Appendix No. 49

¹⁷ See generally appendices of listed states in this category, attached hereto.

¹⁸ See *e.g.*, Utah Jud. Council Rules of Jud. Admin., Non-Judicial Off., Court Interpreters, Rule 3-306, attached hereto as part of Appendix No. 44.

¹⁹ See Alabama's Unified Judicial System: Policies and Procedures for Foreign Language Interpreters (2008).

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These requirements take qualification decisions out of the hands of judges who may not be able to recognize true fluency and place the decision in the hands of a specialized state agency. Some of the states that model Federal Rule of Evidence 604 functionally require certified translators but California mandates it.

Florida

The Florida Rules of Evidence contain rules on when a translator is required. Specifically, they mandate that a judge must request a qualified translator whenever it is determined that a witness “cannot hear or understand the English language, or cannot express himself or herself in English sufficiently to be understood.”²⁰ Florida also provides a certification program for court interpreters and maintains a Code of Professional Conduct.²¹

Nebraska

The State of Nebraska promulgates its system via Supreme Court Rules § 6-701, *et seq.*²² The rules became effective in September of 2000 and have consistently been revised to improve their effectiveness. Specifically, § 6-702 establishes a state-wide interpreter register that is published and maintained by the State Court Administrator (“SCA”). The register is populated by certified court interpreters who have satisfied all Nebraska-specific certification requirements outlined in § 6-704 (including written and oral examinations). The examinations are administered by the SCA and include evaluations of the persons: general English language vocabulary, court-related terms and usage, ethics and professional conduct.²³

States With Unclear Rules and/or No LAG

Despite a clear shift towards more a more comprehensive approach to LAG in state court civil and criminal matters, some U.S. states have yet to enact LAG. Neither Connecticut, Illinois, nor Mississippi have enacted LEP-specific guidelines. Indeed, despite the fact that Mississippi has adopted Rule 604 of the Federal Rules of Evidence in its state court rules, its version limits the application of the rule to hearing-impaired persons alone (*i.e.*, the statute is silent as to LEP individuals). Still, as evidenced by the analysis herein, states without any kind of LAG are the exception, rather than the norm.

Conclusion

Recommended Action to Improve Language Access Guidelines in Louisiana

Based on our survey of LAG employed by other states, our analysis suggests that the most comprehensive and appropriate course of action is for the state of Louisiana to: (i) draft and adopt Language Access Guidelines; (ii) join the National Center for State

²⁰ See F.S.A. § 90.606. It is worth noting that this section also applies to children and mentally disabled persons who need help in being understood.

²¹ See Fla. Rules for Cert. and Reg. of Cert. Interpreters 14.2.

²² See generally NE R. Ad. Op. § 6-701, *et seq.*

²³ See NE R. Ad. Op. § 6-705.

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Courts Consortium for Language Access in the Courts, and (iii) create a department within the judiciary administration, the Language Access Administration (LAA), that will administer the proposed LAG below and credential, evaluate and qualify court interpreters for the state of Louisiana.

Proposed Court Rule

In Exhibit 1, we propose a rule for the Louisiana Supreme Court's consideration. The proceeding rule is a compilation of LAG currently in place in the states of Nebraska, Delaware, Florida and Massachusetts.

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EXHIBIT 1

Language Access Guidelines for Louisiana Courts

CONSIDERING THAT:

(1) *The Louisiana justice system is based upon the guiding principle that all persons, regardless of age, color, gender, national origin, physical or mental disability, race, religion, sexual orientation, or socioeconomic status, should have equal access to the judicial system.*

(2) *In recognition of the diversity of persons who appear in and utilize Louisiana courts, it is essential to institute minimum requirements related to the use of court interpreters in Louisiana courts.*

(3) *Such regulations are necessary to guarantee competent interpretation of court proceedings and ensure compliance with federal civil rights law thereby avoiding numerous harms, including imposition upon children forced to interpret for parents during family proceedings and the inability of litigants to comply with court orders they do not understand, which create additional litigation and costs. As a result, such guidelines are an important way to boost the public confidence in the state court system.*

(4) *Court interpretation for foreign language speaking and deaf or hearing-impaired individuals is a highly specialized form of interpreting that should be performed by persons who have specialized training skills.*

(5) *Court interpreters act as officers of the court while providing interpretive services and, as a consequence, must abide by ethical considerations to ensure the proper administration of justice.*

The Supreme Court of Louisiana hereby promulgates the following rules with respect to interpreters in Louisiana courts. It is the intent of these rules to provide for the certification, appointment, and use of interpreters to secure the state and federal constitutional rights of non-English-speaking or limited English proficiency persons in all legal proceedings:

I. DEFINITIONS

“Court proceeding” shall mean a civil, criminal, traffic or juvenile proceeding, including proceedings in municipal, small claims courts, or a deposition in a civil case filed in a court of record.

II. LANGUAGE ACCESS ADMINISTRATION

A Language Access Administration (LAA) is hereby created for the purposes outlined herein:

- A. *The LAA shall develop and implement a certification program for court interpreters providing foreign language interpretive services in Louisiana,*

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with priority given to certification of court interpreters providing services in the most commonly utilized languages for LEP individuals. Towards that end, the LAA shall explore all options for obtaining access to oral certification/proficiency language tests and interpreter training programs developed and approved by the National Center for State Courts.

- B. *The LAA shall develop and maintain a list of Certified Court Interpreters who are accessible to all parishes that includes the following information:*
 - 1. *Background Information*
 - 2. *Court Feedback*
 - 3. *Qualifications (to include any certifications and/or experience)*
- C. *The LAA shall develop a systematic method for recording costs and data related to the use of court interpreters by court and parish.*

III. CERTIFIED COURT INTERPRETER REQUIREMENTS

A Certified Court Interpreter will be able to interpret simultaneously and consecutively and provide sight translation from English to the language of the non-English-speaking or limited-English-proficiency person or from the language of that person into English. An interpreter will be eligible for certification upon establishing to the satisfaction of the Language Access Administration that he or she:

- A. *Has attained the age of majority;*
- B. *Has no past convictions or pending criminal charges, either felony or misdemeanor, which are considered crimes of moral turpitude, dishonesty, fraud, deceit, or misrepresentation;*
- C. *Has achieved a passing score on a written examination assessing familiarity with the unique culture of the courtroom, any legal matters the interpreter will need to interpret, and the ethical duties of interpreters,²⁴ administered or approved by the Language Access Administration;*
- D. *Has achieved a passing score on an oral examination assessing proficiency in English, in the language to be interpreted, and in legal interpreting skills administered or approved by the Language Access Administration;*
- E. *As an alternative to compliance with subsections C and/or D herein, any interpreter possessing a Federal Court Certified Court Interpreter Certificate and/or a Court Interpreter Certification Certificate from any state which is a member of the National Center for State Court's Consortium for State Court Interpreter Certification and requires a*

²⁴ See Language Access in State Courts, L. Abel, p. 21, n. 101.

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minimum pass rate of ___%;

- F. *Has completed an orientation session presented by the Language Access Administration or demonstrated that he or she has satisfactorily completed comparable training in legal or court interpreting. Orientation sessions shall include presentations on the role of the interpreter in the court process, ethical issues related to court interpretation, the structure of the Louisiana court and justice system, social and cultural diversity issues and basic legal terminology.*

IV. APPOINTMENT, WAIVER, AND APPEAL OF DENIAL OF INTERPRETER

A. Appointment

1. *In any court proceeding in which a non-English-speaking or limited-English-proficiency person is a litigant or is the accused, an interpreter for the non-English-speaking individual shall be appointed.*

2. *Where a victim is in any criminal or juvenile delinquency proceeding in which that victim is a non-English-speaking or limited-English-proficiency person, an interpreter shall be appointed.*

3. *There shall be a rebuttable presumption that an interpreter must be appointed if an interpreter is requested or if it is shown that the individual is having difficulty communicating.*

4. *In making determinations regarding the appointment of an interpreter, the court must ensure compliance with Title VI of the Civil Rights Act of 1964.*

B. Waiver

1. *The requirements of this Rule may not be waived but for good cause shown and demonstration of the informed and express consent of the parties, given with the LEP individual's full knowledge of the effects of the waiver on his/her rights in the proceedings.*

2. *The burden of establishing good cause and informed and express consent to the waiver is on the party litigant wishing to waive the requirements of this Rule.*

C. Appeal of Denial of Interpreter

1. *Any denial of a request for the appointment of an interpreter to an LEP individual under the requirements set forth under this Rule is immediately appealable to the state appellate court and subject to the state appellate rules of civil procedure.*

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2. *Such an appeal must also be submitted in writing to the LAA, within thirty (30) days of entry of the Court order and/or minute entry evidencing the denial of the appointment of an interpreter for an LEP individual.*

3. *The appeal must set forth the basis for the request, including: (i) evidence as to the LEP individual's proficiency in English and the language in which the interpreter is sought to be appointed; (ii) the basis upon which the Court premised its denial, including a copy of the order and/or minute entry establishing same; and (iii) the subject matter of the legal proceeding at issue.*

4. *An LEP individual for whom an interpreter has been denied and who has filed an appeal with the state appellate court as well as an administrative appeal to the LAA, may petition the state trial court for a stay of the proceedings during the pendency of the appeal.*

V. QUALIFICATION OF INTERPRETER

Whenever possible, a Certified Court Interpreter, as defined in Section III, shall be appointed.

- A. *The appointing authority may appoint a non-certified interpreter only upon finding that diligent, good faith efforts to obtain a certified interpreter have been made and none has been found to be reasonably available. If, after a diligent search, a Certified Court Interpreter is not available, an interpreter who is neither certified nor duly qualified may be appointed if the judge or hearing officer presiding over the proceeding finds that:*
- 1. Good cause exists for the appointment of an interpreter who is neither certified nor duly qualified, such as the prevention of burdensome delay, the request or consent of the non-English speaking person, which the court must ensure is given freely and with full knowledge of the consequences of his/her decision, or other unusual circumstance; and*
 - 2. The proposed interpreter is competent to interpret in the proceedings. In determining whether an interpreter is competent to interpret in the proceedings, the parties shall agree that the LAA shall inquire into and consider the interpreter's education, certification, and experience in interpreting the relevant language; the interpreter's ability to understand the particular dialect, if any, spoken by the non-English-speaking individual; the interpreter's ability to effectively communicate with and interpret for the non-English-speaking individual; the interpreter's understanding of and experience in the proceedings*

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in which the interpreter is to participate; and the interpreter's impartiality.

3. *In such cases, the parties agree to be bound by the LAA's decision as to the competency of the non-certified interpreter.*

B. *If a non-certified court interpreter is appointed pursuant to Paragraph A of this Section, a summary of the efforts made to obtain a certified interpreter and to determine the capabilities of the proposed non-certified interpreter shall be made on the record of the legal proceeding.*

VI. OATH OF INTERPRETER

An oath shall be administered to court interpreters providing interpretive services in connection with court proceedings at the commencement of each proceeding. An example of an appropriate oath is:

Do you solemnly swear or affirm that you will interpret accurately, completely, and impartially, using your best skill and judgment?

VII. REMOVAL OF INTERPRETER

The removal of an interpreter may be made by motion of the parties or by the court sua sponte. A presiding judge must remove an interpreter when good cause is shown at a hearing on a motion to remove the interpreter. Any of the following actions shall be considered good cause for a judge to remove an interpreter:

- A. *Being unable to interpret adequately, including where the interpreter self-reports such inability;*
- B. *Knowingly and willfully making false interpretation while serving in an official capacity;*
- C. *Knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity;*
- D. *Failing to follow other standards prescribed by law and the Interpreter Code of Professional Responsibility (see below).*

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VIII. INTERPRETER CODE OF PROFESSIONAL RESPONSIBILITY

This code shall guide and be binding upon all persons, agencies and organizations who administer, supervise use, or deliver interpreting services to the judiciary.

- A. *Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation.*
- B. *Interpreters shall accurately and completely represent their certifications, training, and pertinent experience.*
- C. *Interpreters shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias. Interpreters shall disclose any real or perceived conflict of interest.*
- D. *Interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.*
- E. *Interpreters shall protect the confidentiality of all privileged and other confidential information.*
- F. *Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.*
- G. *Interpreters shall limit themselves to interpreting or translating, and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.*
- H. *Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the appropriate judicial authority.*
- I. *Interpreters shall report to the proper judicial authority any effort to impede their compliance with any law, any provision of this code, or any other official policy governing court interpreting and legal translating.*
- J. *Interpreters shall continually improve their skills and knowledge and advance the profession through activities such as professional training and education, and interaction with colleagues and specialists in related fields.*

IX. COMPENSATION OF INTERPRETERS²⁵

²⁵ This language is consistent with existing language outlined in La. Code Civ. P. art. 192.2 and La. Code

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The court shall order reimbursement to the interpreter for his services at a fixed reasonable amount.

X. PRIVILEGED COMMUNICATIONS

Whenever a person communicates through an interpreter under circumstances that would render the communication privileged, the privilege shall also apply to the interpreter.

XI. JURY INSTRUCTION

In jury trials, an appropriate explanation of the role of an interpreter should be provided to the jury. An example of an appropriate explanation is as follows:

Proceedings Interpretation: This Court seeks a fair trial for all regardless of the language they speak and regardless of how well they may or may not use the English language. Bias against or for a person who has little or no English proficiency because of that proficiency is not allowed. Therefore, do not allow the fact that the individual requires an interpreter to influence you in any way.

Witness Interpretation: Treat the interpretation of the witness' testimony as if the witness had spoken English and no interpreter were present. Do not allow the fact that testimony is given in a language other than English affect your view of the witness' credibility.

Crim. P. art 25.1. It is included herein, however, to ensure that the proposed Louisiana Supreme Court rule is comprehensive.