

**OUT-OF-COURT FOREIGN LANGUAGE INTERPRETATION AND TRANSLATION
FOR INDIGENT DEFENDANTS AND RESPONDENTS¹**

I. INTRODUCTION

A. Definitions:

- Throughout this policy, the terms “interpreter” or “interpretation” refer to *oral* interpretation of a foreign language—*i.e.*, rendering statements spoken in one language into statements spoken in another language.
- The terms “translator” or “translation” refer to *written* translation of a foreign language—*i.e.*, converting a written text from one language into the written text of another language.
- The term “sight translation” refers to reading a written document silently in one language and rendering it orally in another language.

B. The Governing Statutes:

- G.S. 7A-343(9c) provides that the duties of the AOC Director include “[p]rescrib[ing] policies and procedures for the appointment and payment of foreign language interpreters. These policies and procedures shall be applied uniformly throughout the General Court of Justice.”

C. The Contractual Agreement Between AOC and IDS:

- The Office of Language Access Services (OLAS) is administered by AOC, not IDS. However, IDS has agreed to bear the cost of:
 - ✓ Out-of-court interpreting services performed for counsel for an indigent defendant or respondent;
 - ✓ Translation of written correspondence between counsel and an indigent defendant or respondent, as well as defense witnesses and other persons related to a case;
 - ✓ Translation of select discovery documents for an indigent defendant or respondent; and
 - ✓ Translation of briefs, orders, and other documents filed in the appellate courts of North Carolina on behalf of an indigent defendant or respondent.
- For all foreign language interpreting and translating services that will be paid from IDS’ funds, other than services performed by full-time state employees in IDS offices, all AOC policies and procedures shall apply.

¹ Interpreters for deaf persons are authorized by G.S. 8B-1 *et seq.*, and are not covered by this policy or the AOC policies and procedures on foreign language interpreters.

II. THE AOC POLICIES AND PROCEDURES

Appointed counsel for indigent defendants and respondents should consult the applicable AOC policies and procedures directly. In short, the policies provide the following:

A. Registration:

- Effective February 1, 2007, all foreign language interpreters and translators must register with the AOC. Only persons approved by AOC shall be paid from AOC or IDS funds.
- To access AOC's list of authorized Spanish language court interpreters who have been approved by OLAS to provide language access services in North Carolina courts, go to <https://www.nccourts.gov> and click on "Interpreters & Language Access" under Favorites and then "Registry of Spoken Foreign Language Court Interpreters." The Registry is updated monthly. Registries for other foreign language interpreters and translators are not available on the AOC website at this time.

B. Classification:

- Based on demonstrated qualifications, AOC shall assign a classification level to the registrant.

C. Compensation:

- The registrant's rate of pay shall correlate with his or her classification level as assigned by the AOC.
- All interpreters, including those performing services that will be paid from IDS funds, should consult the AOC policies and procedures for the proper method to seek payment for services rendered, including the appropriate use of the AOC-A-215 invoice form and the AOC-A-216 daily log sheet.
- The compensation rates for Spanish interpreters range from \$35 per hour to \$50 per hour based on the registrant's classification. Translators will be paid by the word pursuant to the case-specific contract.

III. OBTAINING THE SERVICES OF AN OUT-OF-COURT INTERPRETER

A. Obtaining an Authorized Spanish Out-of-Court Interpreter:

- For out-of-court Spanish interpretation of attorney-client communication in a case under the jurisdiction of the district or superior court, as well as out-of-court Spanish sight translation (such as reading discovery in English and rendering it orally in Spanish), counsel for an indigent defendant or respondent should arrange directly with an authorized Spanish interpreter to perform the services. (To access the Registry, go to <https://www.nccourts.gov> and click on "Interpreters & Language Access" under Favorites and then "Registry of Spoken Foreign Language Court Interpreters.") It is the interpreter's responsibility to verify that the attorney is a public defender or private appointed counsel. To bill for services rendered, the selected interpreter should submit forms AOC-A-215 and AOC-A-216 to OLAS.
- For out-of-court Spanish interpretation of attorney-client communication in a case under the jurisdiction of the appellate courts, as well as out-of-court Spanish sight translation,

counsel for an indigent defendant or respondent should determine whether the Appellate Entries form contains court authorization for interpretation during the pendency of the appeal. If the court has not authorized interpretation on the Appellate Entries form, appellate counsel must file a motion in the appropriate court for authorization to utilize an authorized Spanish interpreter. Counsel should then arrange directly with an authorized Spanish interpreter to perform the services. (To access the Registry, go to <https://www.nccourts.gov>, click on “Interpreters & Language Access” under Favorites and then “Registry of Spoken Foreign Language Court Interpreters.”) To bill for services rendered, the selected interpreter should submit forms AOC-A-215, AOC-A-216, and the Appellate Entries form or court order authorizing interpretation to OLAS.

B. Obtaining an Out-of-Court Interpreter for a Language Other than Spanish:

- To obtain an out-of-court interpreter for a language other than Spanish in a case under the jurisdiction of the district or superior court, counsel for an indigent defendant or respondent must complete OLAS’ “Request for Spoken Foreign Language Court Interpreter” form. (To access the request form, go to <https://www.nccourts.gov> and click on “Interpreters & Language Access” under Favorites and then “Request for Spoken Foreign Language Court Interpreter.”) Counsel must then provide to OLAS form AOC-CR-224 (Order of Assignment of Counsel) for non-capital cases or form AOC-CR-624 (Assignment of Counsel by Office of Indigent Defense Services in First Degree Murder (or Undesignated Degree of Murder) Cases at the Trial Level) for potentially capital cases, as well as the completed Request for Spoken Foreign Language Court Interpreter form. OLAS will locate and assign a qualified interpreter on a case-by-case basis and provide counsel with contact information for the authorized interpreter. To bill for services rendered, the interpreter should submit the forms required by the assignment.
- To obtain an out-of-court interpreter for a language other than Spanish in a case under the jurisdiction of the appellate courts, counsel for an indigent defendant or respondent should determine whether the Appellate Entries form contains court authorization for interpretation during the pendency of the appeal. If the court has not ordered interpretation on the Appellate Entries form, appellate counsel must file a motion in the appropriate court for authorization to utilize an appropriate interpreter. Appellate counsel must then complete OLAS’ “Request for Spoken Foreign Language Court Interpreter” form. (To access the request form, go to <https://www.nccourts.gov> and click on “Interpreters & Language Access” under Favorites and then “Request for Spoken Foreign Language Court Interpreter.”) Counsel must then provide to OLAS the Appellate Defender’s form appointing counsel to the appeal, the Appellate Entries form or court order authorizing interpretation, and the Request for Spoken Foreign Language Court Interpreter form. OLAS will locate and assign a qualified interpreter on a case-by-case basis and provide counsel with contact information for the authorized interpreter. To bill for services rendered, the interpreter should submit the forms required by the assignment.

IV. OBTAINING THE SERVICES OF A TRANSLATOR

A. Obtaining a Spanish or Non-Spanish Translator at the Trial Level:

- In a case under the jurisdiction of the district or superior court, for translation of attorney-client correspondence and other case-related documents, counsel for an indigent defendant or respondent must provide to OLAS form AOC-CR-224 (Order of Assignment of Counsel) for non-capital cases or form AOC-CR-624 (Assignment of Counsel by Office of Indigent Defense Services in First Degree Murder (or Undesignated Degree of Murder) Cases at the Trial Level) for potentially capital cases. If the requested translation is of discovery or of audio or video recordings, OLAS shall refer counsel to IDS' Chief Fiscal Officer for advance approval of the translation. In appropriate cases, the IDS CFO may consult with IDS' Public Defender Administrator or the Office of the Capital Defender to evaluate the reasonableness of the request and, for screening purposes, may require counsel to utilize the services of a qualified interpreter to sight translate discovery or to interpret an audio or video recording before approving full written translation. If IDS' CFO approves the translation, OLAS will assign a qualified translator or translation team on a case-by-case basis. To bill for services rendered, the translator(s) should follow the terms of the assignment.
- As a matter of course, trial counsel for an indigent defendant or respondent should not have materials that are received in discovery translated for review by the client. However, if counsel believes that, under the unique circumstances of the case, select discovery documents need to be translated, counsel should verify that the documents have not already been translated at the request of prior counsel or the prosecutor. If they have not, counsel must follow the procedure set forth immediately above.

B. Obtaining a Spanish or Non-Spanish Translator at the Appellate Level:

- In a case under the jurisdiction of the appellate courts, for translation of attorney-client correspondence, proposed issues in the settled record on appeal, briefs filed by the indigent defendant or respondent and opposing counsel, and any appellate opinions, counsel for an indigent defendant or respondent should determine whether the Appellate Entries form contains court authorization for written translation during the pendency of the appeal. If the court has not ordered translation on the Appellate Entries form, appellate counsel must file a motion in the appropriate court for authorization to utilize an appropriate translator. Appellate counsel must then provide to OLAS the Appellate Defender's form appointing counsel to the appeal and the Appellate Entries form or court order authorizing interpretation, and OLAS will locate and assign a qualified translator or translation team on a case-by-case basis. To bill for services rendered, the translator(s) should follow the terms of the assignment.
- As a matter of course, appellate counsel for an indigent defendant or respondent should not have documents other than correspondence, proposed issues, briefs, and appellate opinions translated for review by the client. However, if counsel believes that, under the unique circumstances of the case, select additional documents need to be translated, counsel should verify that the documents have not already been translated at the request of prior counsel or the prosecutor. If they have not, counsel must file a motion in the

appropriate court for authorization to utilize a translator for that purpose. Appellate counsel must then provide the Appellate Defender's form appointing counsel to the appeal and the court order to OLAS. OLAS will locate and assign a qualified translator or translation team on a case-by-case basis. To bill for services rendered, the translator(s) should follow the terms of the assignment.

V. Contacts for Questions and Assistance:

- For specific questions, or to arrange for a translator or an out-of-court non-Spanish interpreter, please contact:

AOC Program Manager for the Office of Language Access Services

Address: P.O. Box 2448, Raleigh, NC 27602

Phone: (919) 890-1213

Fax: (919) 890-1907

Email: OLAS@nccourts.org

- For advance IDS approval of lengthy translations, you may contact the IDS Chief Fiscal Officer at (919) 354-7200 or Aaron.M.Gallagher@nccourts.org.
- For general questions, you may contact the IDS Assistant Director/General Counsel at (919) 354-7200 or Whitney.B.Fairbanks@nccourts.org.

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Authority:

G.S. 7A-343(9c); Memorandum of Agreement, Foreign Language Interpreter Costs (IDS & AOC, Aug. 18, 2006).