

## Language Access in State Courts

### Georgia Summary

#### **A. Provides interpreters free of charge to all LEP litigants and witnesses in all civil proceedings?**

##### **1. Ensures a statewide mandate is in place covering all civil proceedings? *Yes***

The Georgia Supreme Court has enacted a Uniform Rule for Interpreter Programs, establishing a statewide mandate that a court interpreter be appointed upon judicial determination of a need for translation services.<sup>1</sup> Court interpreters are provided in all types of civil proceedings,<sup>2</sup> and may be provided for both parties and witnesses.<sup>3</sup>

##### **2. Does not charge for interpreters in civil proceedings? *No***

Under the Rules, “there shall be no uniform, state-wide compensation system... [rather] local courts will have the responsibility for developing and testing a variety of approaches to compensation consistent with guidelines that may be established by the Commission and by statute.”<sup>4</sup> The Rules allow courts to assess the expense of providing an interpreter as costs,<sup>5</sup> and require that where fee schedules for interpreter’s services exist they be given to LEP parties in civil proceedings.<sup>6</sup> In civil cases where the party seeking the interpreter has had a pauper’s affidavit approved, the interpreter is provided without charge.<sup>7</sup>

##### **3. Ensures that all LEP individuals receive interpreters in civil proceedings: Has clear guidelines for appointment, or provides an interpreter whenever one is requested? *Yes***

In Georgia, the court appoints an interpreter when the judge determines that: (1) a party cannot understand and speak English well enough to participate fully in the proceedings and to assist counsel, or (2) a witness cannot speak English so as to be understood directly by counsel, court, and jury.<sup>8</sup> There are formal guidelines for determining when a court interpreter should be used, including a set of recommended questions for assessing the parties’ or witnesses’ ability to speak and understand English.<sup>9</sup> The court rules clearly state that “[t]he fact that a person for whom English is a second language knows some English should not prohibit that individual from being allowed to have an interpreter.”<sup>10</sup> After making its determination, the court is required to state its conclusion on the record.<sup>11</sup>

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<sup>1</sup> Ga. S. Ct., Use of Interpreters for Non-English Speaking Persons, App. A: Unif. R. for Interpreter Programs I(A), available at: [http://www.gasupreme.us/amended\\_rules/interpreters\\_11\\_5.pdf](http://www.gasupreme.us/amended_rules/interpreters_11_5.pdf).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Ga. S. Ct., Use of Interpreters for Non-English Speaking Persons, § V (citing Ga. Code Ann. §17-12-40).

<sup>5</sup> *Id.* at App. A, § VI(A).

<sup>6</sup> *Id.* at App. A, § III(A), (B).

<sup>7</sup> *Id.* at App. A, § III(C).

<sup>8</sup> *Id.* at App. A, § I(A).

<sup>9</sup> *Id.* at App. A, § I(C).

<sup>10</sup> *Id.* at App. A, § I(B).

<sup>11</sup> *Id.* at App. A, § I(D).

Judges may reject a request for a court interpreter if they determine that the person for whom the request is made speaks and understands English well enough to participate fully in the court proceeding.<sup>12</sup>

**B. Ensures that interpreters are competent by testing before appointing an interpreter in civil proceedings? *No***

Georgia has several measures in place to encourage the use of interpreters who are competent to interpret, but none of them is mandatory. Courts are encouraged but not required to use interpreters from a roster of “certified,” “conditionally approved” and “registered” court interpreters maintained by the Georgia Commission on Interpreters, which is housed in the Administrative Office of the Courts.<sup>13</sup>

- To be deemed “certified,” individuals must pass a written English exam and an oral proficiency exam (with a 70% or higher score for each mode of interpretation), and attend an orientation program and observe court proceedings for a set number of hours.<sup>14</sup>
- To be deemed “conditionally approved,” individuals must pass the written English exam and an oral proficiency exam (with an overall score of 55% and at least 50% for each mode of interpretation), and attend an orientation program and observe court proceedings for a set number of hours.<sup>15</sup>
- To be deemed “registered,” individuals must pass the written exam and attend the orientation, and pass an oral proficiency interview.<sup>16</sup> The “registered” designation is available only for languages for which an oral certification exam is not available.<sup>17</sup>

The roster is available to the general public online on the state court’s website, and in print form for distribution to judges, court administrators, and attorneys throughout the state.<sup>18</sup>

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<sup>12</sup> *Id.*

<sup>13</sup> Ga. Commiss. on Interpreters, Court Interpreter Program, available at <http://www.georgiacourts.org/agencies/Interpreters/guidelines.html>; Ga. S. Ct., Use of Interpreters for Non-English Speaking Persons, App. B: Powers and Duties of the Georgia Commission on Interpreters, available at: [http://www.gasupreme.us/amended\\_rules/interpreters\\_11\\_5.pdf](http://www.gasupreme.us/amended_rules/interpreters_11_5.pdf); Ga. S. Ct., Unif. R. for Interpreter Programs, *supra*, Commentary to § I.

<sup>14</sup> Ga. Commiss. on Interpreters, Court Interpreter Program, Requirements, available at <http://www.georgiacourts.com/agencies/Interpreters/requirements.html>. Georgia is also member of the Consortium for State Court Interpreter Certification, and administers its interpreter certification program in accordance with the Consortium’s standards. Georgia may offer reciprocity to interpreters who have received certification in other Consortium states or federal certification. Ga. Commiss. on Interpreters, Court Interpreter Program, available at <http://www.georgiacourts.org/agencies/interpreters/guidelines.html>.

<sup>15</sup> Ga. Commiss. on Interpreters, Licensure Requirements, available at [http://georgiacourts.org/agencies/interpreters/cms/index.php?option=com\\_content&task=view&id=52&Itemid=119](http://georgiacourts.org/agencies/interpreters/cms/index.php?option=com_content&task=view&id=52&Itemid=119).

<sup>16</sup> “The Oral Proficiency Interview or OPI is a personal telephone interview given in both English and the language [to be] interpret[ed]. Each interview lasts approximately 25 minutes and is designed to evaluate the candidate’s foreign language ability, level of knowledge and education. Candidates must meet the Superior classification in both languages to be eligible for Registered status.” Ga. Commiss. on Interpreters, Court Interpreter Program, available at <http://www.georgiacourts.org/agencies/interpreters/guidelines.html>

<sup>17</sup> Ga. Commiss. on Interpreters, Licensure Requirements, *supra*.

As of January 2007, all registered interpreters who interpret in languages for which a certification exam exists must take and pass that exam and become certified by January 2009, as the state will no longer grant registered status in those languages.<sup>19</sup>

There is no requirement that a court evaluate the competence of an interpreter who is not on the Commission's roster, unless a request is made "by the non-English speaking person, by his or her counsel, or by any other officer of the court."<sup>20</sup> There are two safeguards for such cases, though: 1) courts are required to give interpreters who are not on the roster various instructions (for example, regarding the importance of confidentiality),<sup>21</sup> and 2) when a certified interpreter is not used and a party was "denied the right to an interpreter of his or her own choosing," the court must include in its record of the proceeding an audio or audiovisual record of any testimony given in a language other than English.<sup>22</sup>

*The Brennan Center for Justice report, Language Access in State Courts, contains guidelines for the provision of court interpreters in civil cases. It also contains aggregate information – in the form of United States maps – regarding the extent to which the 35 states with the highest proportion of limited English proficient people (as a percentage of population) comply with the guidelines regarding providing interpreters in all civil cases and providing them free of charge.*

*This series of "state summaries" contains additional, detailed information about the extent to which the 35 states comply with those guidelines, and with the guideline regarding ensuring that interpreters are competent.*

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<sup>18</sup> Ga. Commiss. on Interpreters, Court Interpreter Program, available at <http://www.georgiacourts.org/agencies/Interpreters/guidelines.html>.

<sup>19</sup> Ga. Commiss. on Interpreters, Administrative Policies, available at [http://www.georgiacourts.org/agencies/Interpreters/admin\\_policies.html](http://www.georgiacourts.org/agencies/Interpreters/admin_policies.html); Ga. Commission on Interpreters, Interpreting for the Record, April, 2007, available at: <http://www.georgiacourts.org/agencies/Interpreters/04-07.pdf>.

<sup>20</sup> Ga. S. Ct., Use of Interpreters for Non-English Speaking Persons, *supra*, at App. A § V.

<sup>21</sup> *Id.* App. A § I(F).

<sup>22</sup> Ga. S. Ct., Use of Interpreters for Non-English Speaking Persons, *supra*, § VII(C).