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Administrative Office of the Courts

GLENN A. GRANT, J.A.D.
Acting Administrative Director of the Courts

Richard J. Hughes Justice Complex • P.O. Box 037 • Trenton, NJ 08625-0037 njcourts.gov • Tel: 609-376-3000 • Fax: 609-376-3002

Addendum to Directive #1-17

[Questions or comments may be directed to the Language Services Section at 609-815-2900 ext. 52371]

TO: **Hon. Carmen Messano, P.J.A.D.**
Assignment Judges
Hon. Joseph Andresini, P.J.T.C.

FROM: **Glenn A. Grant, J.A.D.**

SUBJ: **COVID-19 Pandemic – Affirmation and Expansion of the New Jersey Judiciary Language Access Plan for Remote Court Events**

DATE: **June 19, 2020**

The New Jersey Courts are continuing to maintain access to justice during the COVID-19 public health emergency, including by supporting comprehensive language access services while our courts are operating mainly in a remote format. Since March 18, 2020, judges at all levels of the courts have conducted more than 40,000 remote court events involving more than 350,000 participants using approved technologies including Zoom, Microsoft Teams, Scopia, and others.

During our ongoing remote operations, we are providing spoken language interpreting services to Limited English Proficient (LEP) court users and American Sign Language (ASL) and other sign language interpreting services to those who are deaf or hard of hearing. We have responded to these unprecedented circumstances by reinforcing our organizational commitment to the New Jersey Judiciary Language Access Plan (LAP) (Directive #01-17) as promulgated on January 10, 2017.

The Supreme Court has approved this Addendum to Directive #01-17, which clarifies and expands certain provisions of the LAP that are implicated by ongoing remote court operations, which because of COVID-19 may continue in New Jersey for some time. It also supplements the LAP by providing additional direction in areas not anticipated by the original policy document, which was developed when court services generally were available and provided in person within Judiciary facilities.

This Addendum applies to interpreting services for remote court events during the COVID-19 crisis as determined by the Judiciary. It does not otherwise affect the principles or provisions of the LAP. Rather, it fills in potential gaps that have been recognized during this

unforeseeable transformation in court services during a global pandemic. Like the LAP, it is applicable to all courts.

General Principles for Remote Interpreting During COVID-19 Crisis

In determining how to conduct a court event using spoken or sign language remote interpreting services, the court shall make an informed decision considering the following factors:

- nature, length, and complexity of the court matter;
- language in which remote interpreting services is needed;
- virtual courtroom platforms (Zoom, Scopia, Teams, etc.);
- physical location of and technology available to the limited English proficient (LEP) and deaf or hard of hearing court users;
- technology used by the interpreter(s), which varies even amongst staff interpreters;
- moderator's management of the virtual courtroom, and
- court user's position, if any.

This Addendum operates in tandem with the Supreme Court's guidance on remote court proceedings, including the Court's April 20, 2020 Order and Directive #12-20 ("Principles and Protocols for Virtual Court Operations During the COVID-19 Coronavirus Pandemic – (1) Methods of Conducting Remote Court Events; (2) Access to the Public Record; and (3) Posting of Events Guidance"). Remote interpreting (video or telephone) may not be appropriate for proceedings that are long (more than two hours) or complex or that involve constitutional rights, testimony, cross-examination, or production of evidence. If at any time before or during a remote proceeding, the court user is not satisfied with the quality and manner of the interpreting services, the court may determine to reschedule the proceeding. In using remote interpreting services, quality of interpretation will not be compromised.

Affirmation and Expansion of Certain LAP Provisions During Remote Court Operations

LAP Standard 1.8 ("Use of Remote Interpreting") is expanded to provide that remote interpreting services may be used for emergent or non-emergent matters even if longer than 30 minutes when an on-site interpreter is not available, including during an emergency that prevents the courts from operating in person. Remote interpreting services shall conform to the Operational Standards for Telephone Interpreting (as incorporated in the LAP) that apply to both telephone and video interpreting.

LAP Standard 2.6 ("Video Remote Interpreting May be Appropriate in Limited Circumstances"), regarding sign language video remote interpreting (VRI) for deaf or hard of hearing court users, is affirmed, with the recognition that VRI may be used with greater frequency while in-person court events are restricted. The Administrative Office of the Courts will continue to determine appropriate technology platforms for remote court events involving sign language interpreting and use Certified Deaf Interpreters to mitigate problems of accessing a 3D language in a 2D virtual medium.

LAP Standard 3.4 ("Team Interpreting") is affirmed to provide that team interpreting shall be used in virtual courtrooms for proceedings as needed regardless of the projected length of the matter and for any proceedings that involve witness testimony, complex matters, and/or multiple LEP participants. In virtual courtrooms, an interpreting team member may take on an administrative role to assist the primary interpreter with potential technology (channel, video, telephone) responsibilities, to provide traditional team interpreting for accuracy of the record, to transition into the primary interpreting role in the event of technology issues, and to provide other assistance.

Questions

Questions on this Addendum or on the Language Access Plan may be directed to the Language Services Section at 609-815-2900 ext. 52371.

cc: Chief Justice Stuart Rabner
All Presiding Judges
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Trial Court Administrators
Clerks of Court
Special Assistants to the Administrative Director
All Division Managers
Jennifer Weatherby-Morris, Chief
Brenda Carrasquillo, Manager, Language Services
Vicinage Coordinators of Interpreting Services