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REQUIREMENTS FOR CERTIFICATION OF FOREIGN LANGUAGE INTERPRETERS IN ARKANSAS COURTS

Section 1. Authority and Scope

The Administrative Office of the Courts (AOC) is charged by law and Supreme Court directive with responsibility for the certification and matters related thereto of foreign language interpreters for non-English speaking parties or witnesses in the state and local courts of Arkansas. Ark. Code Ann. §16-10-127 and Arkansas Supreme Court *Per Curiam* Order of September 30, 1999.

Except as provided by *Per Curiam* Order of September 30, 1999, any person who desires to serve as an interpreter for non-English speaking parties or witnesses in a state or local court must successfully complete these requirements.

Section 2. Registry of Interpreters

(a) Phase I Requirements. The registry of interpreters is maintained by the AOC and made available to state and local courts. In order to be included on the registry, a person must complete the Phase I Requirements: (i) submit application pursuant to Section 3 below, (ii) make a satisfactory score on the Basic Written Language Exam pursuant to Section 4 below, (iii) complete the orientation training pursuant to Section 5 below, and (iv) agree in writing to adhere to the Arkansas Code of Professional Responsibility for Interpreters in the Judiciary pursuant to Section 6 below.

Applicants who successfully complete the Phase I requirements will be included on the registry as a Candidate for Certification.

(b) Phase II Requirement. Candidates for Certification who successfully complete the Phase II requirement, Language Proficiency Examination for Certification pursuant to Sections 8 and 9 below, will be listed on the registry as Certified Interpreters.

(c) These requirements apply to all applicants regardless of the language(s) which they intend to interpret.

Section 3. Phase I -- Application to Pursue Certification

An applicant for certification (a) must be at least 18 years old and be of good moral character; (b) must have the legal right to live and work in the United States; (c) must complete in its entirety and submit to the AOC a notarized application prescribed by the AOC; (d) must submit to the AOC written documentation of obtaining a minimum performance level score of 50

on the Test of Spoken English (TSE) (if TSE taken before January 2007) within two years of the date of the application or submit to the AOC written documentation of graduation from high school or equivalent (written documentation must be submitted in conjunction with the application); and (e) must submit to the AOC written documentation if the applicant claims a waiver of the training requirement and/or the language examination requirement as explained herein.

Applicants will be screened. Each application will be processed by the AOC, and the applicant will be advised in writing of the time and place that the next phase of the testing process will be conducted. If the AOC waives the training requirement and/or the language examination requirement, the applicant will be notified to submit the documentation set out herein. Any applicant whose application is denied shall be promptly notified.

Each applicant will receive a copy of Administrative Order No. 11, *Arkansas Code of Professional Responsibility for Foreign Language Interpreters in the Judiciary* ("Code") and the Overview of the Written Examination for Candidates. These documents should be studied in preparation for taking the Basis Language Written Test. The Code is an important component of the test.

Section 4. Phase I -- Basic Written Language Exam

An applicant must achieve a satisfactory score on the basic written language exam which consists of four parts:

- (a) English Proficiency
- (b) Court-Related Terms
- (c) Code of Ethics
- (d) Translations from English to Candidate's Language.

The scores on parts (a-c) are combined, and a minimum passing score of at least eighty (80%) per cent must be achieved. On part (d), translation, a minimum passing score of at least (70%) must be achieved. Applicants who satisfy the passing score requirements will be eligible to attend the Orientation Training. For those who may not be able to attend the Orientation Training at the first available date offered, scores for Basic Written Test will remain valid for one year from the date an applicant's letter of passing is mailed, and an applicant must attend an Orientation Training within one year of that date.

Section 5. Phase I -- Orientation Training

Each applicant must successfully complete an orientation training session at the applicant's own expense. Dates and locations will be announced well in advance of each session.

A non-refundable \$50.00 training fee will be charged. The fee includes materials which will be distributed at the training sessions. The training is designed to familiarize the applicant with the Arkansas court system and provide instruction on the role of the interpreter and the skills and ethics required of an interpreter in the courtroom.

At the discretion of the AOC, the orientation training requirement may be waived if the applicant submits to the AOC written documentation of having fulfilled the training requirements of another state court system which participates in the State Court Interpreter Certification Consortium (Consortium). The orientation training requirement may also be waived if the applicant submits written documentation of current federal court foreign language interpreter certification. In addition, the applicant must furnish a “good standing” letter from the applicable jurisdiction.

Section 6. Phase I -- Arkansas Code of Professional Responsibility for Foreign Language Interpreters in the Judiciary

At the conclusion of the orientation training, the candidate must agree *in writing* to adhere to the Code.

Section 7. Candidate for Certification

An applicant who successfully completes the Phase I requirements (Sections 3- 6) will be listed on the registry as a Candidate for Certification and will be eligible to interpret in Arkansas Courts. As available, an AOC Certified Interpreter may accompany a candidate to a real courtroom proceedings to further his or her training.

Section 8. Phase II -- Language Proficiency Examination for Certification

In order to qualify as a Certified Interpreter, a person must complete Phase II training by demonstrating proficiency in three modes of interpretation:

- (a) simultaneous interpretation from English to the applicable foreign language;
- (b) consecutive interpretation, English to the applicable foreign language and applicable foreign language to English; and
- (c) sight translation (two parts) (1) an English document into the applicable foreign language and (2) the applicable foreign language into English.

The Language Proficiency Examination for Certification is an objective test developed under the auspices of the National Center for State Courts. An individual must score at least 70% in each section to qualify as an Arkansas Certified Interpreter. (For Arkansas scoring purposes, parts one and two of the sight translation mode are combined for one score. See Reciprocity below.) The fee for taking the language examination is \$200.00 which must be submitted when the applicant registers for the examination. Applicants will be notified in writing on a pass/fail basis. However, an unsuccessful applicant will be informed of which section(s) the applicant failed.

Reciprocity: In order to qualify for reciprocity among Consortium-member States, the two parts of the sight translation testing are treated as separate scores, and the exam consists of four parts. An individual must score a minimum of 70% on each of the four parts of the exam.

Section 9. Certified Interpreter

A Candidate for Certification who achieves a minimum passing score on the Language Proficiency Examination for Certification (Section 8) will be listed on the registry as a Certified Interpreter.

At the discretion of the AOC, the language examination requirement may be waived if a state which is a member of the Consortium certifies in writing to the AOC that the applicant obtained a passing score on a language certification test administered by that state court system. At the discretion of the AOC, the language examination requirement may be waived if the federal court system certifies in writing that the applicant has obtained a passing score on a language certification test administered by the federal court system.

No person shall use the title Certified Interpreter in conjunction with his/her name without having a valid certificate issued by the AOC.

Section 10. Procedures for Complaints and Discipline

(a) Scope. Any person may initiate a complaint by filing it in accordance with subsection (d) below. Complainants may include, but are not limited to, defendants, litigants, court personnel, judges and judicial officers, other interpreters, and courtroom observers. These procedures are not intended to be a vehicle for complaints about interpreting errors made by interpreters during the course of a proceeding unless there is an allegation of gross incompetence or knowing misinterpretation or misrepresentation. These procedures apply to complaints about registry interpreters who have allegedly engaged in conduct described in subsection (c) below. These procedures may be used in addition to the sanction of disqualification for good cause imposed by a judge in a proceeding as set forth in the *per curiam* order of the Arkansas Supreme Court dated September 30, 1999.

(b) Confidentiality. All complaints and investigations shall be confidential, except that when a final determination is made to impose any of the sanctions listed in Section 11, the final disposition, including the grounds for the sanction(s) and the facts cited in support of the disposition, shall be accessible to the public.

(c) Grounds for Discipline. Complaints against registry interpreters may be filed for reasons including but not limited to:

1. conviction of a felony or misdemeanor involving moral turpitude, dishonesty or false statements (Conviction is defined as a plea of guilty, or nolo contendere, or guilty verdict.);
2. fraud, dishonesty, or corruption which is related to the functions and duties of a court interpreter;
3. knowing misrepresentation of court certification or roster status;

4. knowing and willful disclosure of confidential or privileged information obtained while serving in an official capacity as a court interpreter;
5. gross incompetence;
6. failure to appear as scheduled without good cause or habitual neglect of duty;
7. the misrepresentation or omission of material facts in the application process or in obtaining certification;
8. being unable to interpret adequately, including where the interpreter self-reports such inability;
9. knowingly and willfully making false interpretation while serving in an official capacity;
10. failing to adhere to the requirements prescribed by the AOC, including the Arkansas Code of Professional Responsibility for Foreign Language Interpreters;
11. any intentional violation of, noncompliance with or gross negligence in complying with any rule or directive of the Supreme Court of Arkansas, or any other court within this State;
12. failing to follow other standards prescribed by law.

(d) Complaints.

1. Filing of Complaint. A complaint must be submitted in writing or an acceptable alternative format, signed by the complainant, and mailed or delivered to the following address: Administrative Office of the Courts, Attention: Interpreters, Justice Building, 625 Marshall Street, Little Rock, AR 72201. The complaint shall state the date, time, place and nature of the alleged improper conduct. If possible, the complaint shall include the name, title and telephone number of possible witnesses. Finally, the complaint shall state why the complainant believes the alleged improper activity should be sanctioned.

If the complainant is unable to communicate in written English, the complainant may submit the complaint in his or her native language.

If the subject of the complaint is a staff interpreter employed by the AOC, then the complaint shall be governed by the policies of the AOC, including the employee handbook. Complaints against registry interpreters who are not on the staff of the AOC shall be governed by the procedures set out below in subsections 10 (d) (2), (e), (f), and Section 11.

2. Review of Complaint.

A. The Foreign Language Interpreting Program Coordinator (Coordinator) shall review the complaint and determine whether the allegations, if true, would constitute grounds for discipline. If the Coordinator determines that the complaint alleges conduct that would be grounds for discipline, an investigation shall proceed according to this section.

B. If the Coordinator determines that the complaint does not allege conduct that would be grounds for discipline, the Coordinator shall dismiss the complaint and notify the interpreter and complainant via first class mail. The notification shall include an explanation of the reason(s) for the Coordinator's determination that the complaint does not allege conduct that would be grounds for discipline.

C. If the complainant disagrees with the Coordinator's determination in (B), the complainant may file a petition for review with the AOC within twenty (20) days of the receipt by the complainant of the Coordinator's determination. The petition shall briefly state the facts that form the basis for the complaint and the complainant's reasons for believing that review is warranted.

D. The AOC Director shall make a decision on the complainant's petition within thirty (30) days. If the AOC Director determines that the complaint does allege conduct that would be grounds for discipline, the Coordinator shall proceed to investigate the complaint as provided in subsection (e) below. If the AOC Director determines that the complaint does not allege conduct that would be grounds for discipline, the complaint shall be dismissed and the interpreter and complainant shall be notified via first class mail. Such a determination by the AOC Director shall be final. The AOC Director may appoint a designated officer to act on his or her behalf in carrying out any of the aforementioned duties in this section.

(e) Investigation. If the complaint does allege conduct that would be grounds for discipline, the Coordinator shall investigate as necessary or refer the investigation to a qualified agency or individual. As part of this investigation, the Coordinator will contact the interpreter, inform him/her of the complainant's allegations, and give the interpreter the opportunity to respond. This response shall be included in the investigative report.

At the conclusion of the investigation, if the Coordinator determines that conduct occurred that would be grounds for discipline, the Coordinator shall submit a report of his/her findings to the AOC Director for review.

If, at the conclusion of the investigation, the Coordinator determines that no conduct occurred that would be grounds for discipline the Coordinator shall dismiss the complaint and notify the interpreter and the complainant by first class mail. The notification shall include an explanation of the reason(s) for the Coordinator's determination that no grounds for discipline exist. If the complainant disagrees with the determination, he/she may file a petition for review with the AOC

Director under the same procedure as outlined in subsection (d) of these procedures.

(f) Findings. If, upon reviewing the results of the investigation, the AOC Director determines that disciplinary action is not warranted, the AOC Director shall dismiss the complaint and notify the interpreter and the complainant by first class mail. The notification shall include an explanation of the reason(s) for the determination that the alleged conduct is not grounds for discipline. Such a determination shall be final.

If the AOC Director determines that disciplinary action may be warranted, the AOC Director shall send to the interpreter, by certified mail, a copy of the complaint, the Coordinator's report, a citation to the ethical rules which may have been violated, the sanctions deemed appropriate, and a request for a written response to the allegations and to any specific questions posed. Except for good cause shown, if the interpreter fails to respond in writing to the complaint and request for response within twenty (20) days of receipt of the complaint and request, the allegations in the complaint shall be deemed admitted.

The AOC Director shall make a final decision on the factual allegations and appropriate sanctions, if any, (see subsection 11 (c)) based solely on the written submissions by the Coordinator and the interpreter's written response. This decision must be made within ninety (90) days of receiving the written submissions by the Coordinator and the interpreter. This decision will be final. Provided, however, if the AOC Director determines that either the sanction of suspension (11, c, 6) or revocation (11, c, 7) may be in order, the interpreter shall be notified and afforded the opportunity for a hearing as provided in Section 11 prior to a final decision.

The AOC Director may appoint a designated officer to act on his or her behalf in carrying out any of the aforementioned duties in this section.

11. Hearing and Sanctions

(a) Hearing. Upon being advised of the right to a hearing, if the interpreter requests one, a hearing shall be conducted by the AOC Director or his or her designee (Hearing Officer), and the interpreter will be notified of the time and place of the hearing.

1. Pre-hearing discovery shall not be permitted unless expressly authorized in response to a written request.
2. The interpreter may be represented by counsel.
3. All hearings will occur at the Justice Building.
4. Strict rules of evidence shall not apply. Both the Coordinator and the interpreter shall be afforded the opportunity to introduce documents and other relevant evidence, and to elicit sworn testimony. The Hearing Officer may, in his or her discretion, consider any evidence presented, including affidavits, giving such evidence the weight he or she deems appropriate.

The Coordinator may appoint a designated officer to act on his or her behalf in carrying out any of the aforementioned duties in this section.

(b) Decision. The Hearing Officer shall advise the interpreter and complainant via first class mail of his or her action on the complaint and shall make written findings of fact based on the evidence presented. If the sanction of suspension or revocation of the interpreter's court certification or registry status is imposed, the conditions and time frame within which the interpreter may apply for reinstatement of his or her prior court certification or registry status must be specified. The decision of the Hearing Officer is final.

(c) Sanctions. If the Hearing Officer finds that there is clear and convincing evidence that the interpreter has violated the Code of Professional Responsibility or that there are any other grounds for discipline stated in these rules, he or she shall impose such discipline or sanctions as he or she may deem appropriate. In determining the type of sanction, the nature and seriousness of the violation, any pattern of improper activity, the effect of the improper activity on the court interpreter system and/or the complainant, the amount of experience the interpreter has as a court interpreter, and any other mitigating or aggravating information presented shall be considered. Sanctions that may be imposed include but are not limited to:

1. Issuing a reprimand;
2. Issuing a corrective order with which the interpreter must comply in order to remain on the registry;
3. Requiring that certain education courses be taken;
4. Requiring that the interpreter work with a mentor, or that the interpreter's work be supervised;
5. Limiting the type of court hearings for which the interpreter may interpret;
6. Suspension of interpreter court certification or registry status;
7. Revocation of interpreter court certification or registry status.

"Revocation" means to unconditionally prohibit the conduct authorized by the certification or registry status.

"Suspension" means to prohibit, whether absolutely or subject to conditions which are reasonably related to the grounds for suspension, for a defined period of time, the conduct authorized by the certificate or registry status.

(d) Reinstatement. An interpreter whose court certification or registry status has been suspended or revoked may apply in writing to the Coordinator for reinstatement within the time frame established in the suspension/revocation decision or order. The Coordinator or his or her designated officer shall have sole discretion in determining whether the conditions for reinstatement have been satisfied.

Section 12. Removal from Registry

Any person whose name appears on the registry as a Candidate for Certification who has not interpreted in the Arkansas court system during any two-year period, or who has not registered and attended training offered by the AOC during any two-year period will be removed from the registry. He or she may re-apply and begin the process again.