

**SEVENTEENTH JUDICIAL CIRCUIT  
OFFICE OF THE COURT ADMINISTRATOR  
REQUEST FOR PROPOSALS (RFP)  
PROVISION OF  
STENOGRAPHIC COURT REPORTING SERVICES**

**RFP # 16-001**

**SUBMISSION DEADLINE: MAY 2, 2016**

# **Request for Proposals Stenographic Court Reporting Services Seventeenth Judicial Circuit**

## **1. Introduction and Background**

### 1.1. Introduction

The Office of the Court Administrator for the Seventeenth Judicial Circuit is accepting written proposals from qualified vendors to provide stenographic court reporting services pursuant to Florida Rule of Judicial Administration Rule 2.535 and Seventeenth Judicial Circuit Administrative Orders 2011-22-Gen and 2014-27-Gen and for all proceedings required to be recorded at public expense. The intent of this proposal is to contract with one or more vendors to perform stenographic court reporting services for the Seventeenth Judicial Circuit.

### 1.2. Background

The funding of stenographic court reporting services had traditionally been borne by the counties; however, effective July 1, 2004, this became a state obligation. The term “court reporting” in this document is used to describe the contemporaneous recording of words and events in a judicial proceeding, by stenographic means, and the subsequent conversion of the record into written text or “transcription.”

The service period being considered will commence July 1, 2016. The service delivery solution can include one or more methods of recording and transcription of the court record for various court divisions and proceedings. The proposal must include personnel and equipment required to provide stenographic court reporting service to the circuit.

## **2. Purpose and Scope of Services**

Proposals are hereby invited for furnishing all labor, necessary stenographic equipment, and all other necessary equipment to provide stenographic court reporting services as required by the Seventeenth Judicial Circuit in support of the judiciary, state attorneys, public defenders, attorneys from the Office of Criminal Conflict and Civil Regional Counsel (OCCCRC), attorneys, and litigants within the circuit.

The purpose of stenographic court reporting for the courts is to ensure due process by creating a verbatim record of words spoken in court, allowing for the preservation of those words so that, when necessary, they can be timely and accurately transcribed. Events reported at public expense, include but are not limited to the following:

- Circuit Criminal
- Contempt matters as required by law
- Juvenile including CINS/FINS, Dependency, and Delinquency Cases
- Baker Act, Marchman Act, Guardianship, and Adult Protective Services as required by law
- Domestic Violence and Termination of Parental Rights Proceedings as required by law
- Family Law Proceedings including Title IV-D Child Support as required by law
- First Appearance Court
- Transcription of Electronically Recorded Proceedings
- Transcription Services on an as required basis
- Other proceedings as directed by the judiciary

The above proceedings may include, but are not limited to: chamber hearings, jury trials, non-jury trials, arraignments, motion hearings, and all other court related matters, as required. The chief judge may designate any judicial proceeding to be electronically recorded in lieu of a stenographic court reporter.

The service provider is solely responsible for reading and completely understanding the requirements and the specifications of the items or services proposed and the following to include, but not limited to, state and federal laws, rules and administrative orders of the Supreme Court of Florida and the 17th Judicial Circuit, as currently in effect or as may be amended.

Proposals will be considered from firms providing and performing the services specified. At the start of a contract, service providers must have in place organization, facilities, equipment and trained personnel to ensure prompt and efficient service. The court reserves the sole right to determine a service provider's ability to perform in accordance with the specifications, terms and conditions of this RFP.

As specified in the RFP, the service provider is required to furnish qualified court reporters, staffing, management, administrative and supervisory control as necessary; equipment, computer equipment, printers and paper. Computer equipment shall include real-time capability.

The service provider must meet the following minimum qualifications:

- Service Provider shall have engaged in the provision of stenographic court reporting services for a minimum of the last 5 years.
- Service Provider shall currently employ or contract with, or demonstrate the ability to employ or contract with, enough stenographic reporters and administrative staff to adequately service the needs of, at a minimum, 4 divisions of the Court.
- Service Provider shall currently employ, or demonstrate the ability to employ, at least one experienced real-time stenographic court reporter with related hardware, not limited to counsel tables and the judge's bench, and software to sufficiently meet the requirements of the Supreme Court for Capital Cases and the ADA. The reporter shall have CRR certification.
- Service Provider shall have the ability to provide transcripts on disks and condensed transcripts.

Stenographic court reporting staff of the Service Provider shall meet the following minimum qualifications:

- Be fluent in reading, writing, and speaking the English Language.
- Possess a certificate in stenographic court reporting from an accredited stenographic court reporting school or college, or demonstration, through at least 5 letters of recommendation from judges and/or attorneys, of experience and abilities to perform duties.
- Have at least 3 years of verifiable stenographic court reporting experience, including at least 2 years of courtroom experience as determined by the Circuit.
- Be a Computer-Aided Transcript (CAT) reporter if scheduled for real-time stenographic court reporting.
- Possess a certificate of proficiency or Registered Professional Reporter (RPR) or a Certificate of Merit from the National Shorthand Reporters Association or possess a certification from any other governmental agency, which in the discretion of the representatives of the Circuit evidences at least equivalent skills.
- Comply with state standards if the state of Florida implements certification requirements for circuit court reporters.
- Reporters shall be Notaries Public.

The service provider shall agree to provide:

- transcripts that comply with Florida Rule of Judicial Administration Rule 2.535 (Court Reporting);
- notes, records, and transcripts as directed by the chief judge of the judicial circuit;
- timely distribution of transcripts; and
- careful maintenance of files and records as required by the Florida Rules of Judicial Administration or law.

The service provider shall identify a plan by which the service provider will remain informed of and utilize technological advances in stenographic court reporting equipment and services.

### **3. Compensation**

Service providers will be compensated pursuant to the rates and schedule of payments pursuant to Administrative Orders 2011-22-Gen and 2014-27-Gen, as amended or superseded from time to time for transcripts. (Appendix C).

#### **Appearance Fees for Stenographic Reporters in Circuit Court:**

A session is either from 8:30 a.m. to noon or 1:30 p.m. to 5:00 p.m.

Rate per session: \$100.00.

Additional Rate: \$7.50 per quarter hour for time prior to 8:30 a.m., between noon and 1:30 p.m., or after 5:00 p.m.

#### **Appearance Fees for Real-Time Stenographic Reporters:**

A session is either from 8:30 a.m. to noon or 1:30 p.m. to 5:00 p.m.

Rate per session: \$150.00.

Hourly rate: \$11.25 per quarter hour for time prior to 8:30 a.m., between noon and 1:30 p.m., or after 5:00 p.m.

### **4. Inquiries/Timetable**

4.1. Inquiries. Any questions or requests for additional information regarding this RFP shall be in writing or via email and directed to the person designated and received prior to April 11, 2016.

The contact person for questions regarding this RFP is:

Debbie R. Garr, Court Operations Manager  
Room 475, 201 S.E. 6 Street  
Fort Lauderdale, Florida 33301  
954-831-6230 Fax  
dgarr@17th.flcourts.org

## 4.2. Timetable

Request for proposal issued	March 31, 2016
Deadline for submission of written questions	April 11, 2016
Deadline for response to written questions	April 20, 2016
Deadline for submission of proposal	May 2, 2016
Deadline for posting of intent to award	May 9, 2016
Contract Award Date	June 9, 2016

## 5. Proposal Process

5.1. Selection Committee. The Trial Court Administrator will appoint and empower a representative committee to review and evaluate the proposals submitted in response to this request.

### 5.2. Selection Criteria

The following factors will be used to evaluate all responsive proposals:

Criteria	Maximum Points
Service provider's' experience providing stenographic court reporting services in this or similar venue, which must be demonstrated by references, work samples, or other evidence acceptable to the Selection Committee.	40
Service Provider's documented capacity to provide personnel to respond to the court needs under the terms and standards herein.	40
Service providers' financial capacity to provide all equipment and personnel necessary to timely develop, implement, operate and maintain its proposed contractual responsibilities for the term of the contract.	20

Proposals shall be a typed, double spaced document of no more than 20 pages exclusive of attachments. An original and 3 copies of the proposal must be addressed and submitted to:

Debbie R. Garr  
Court Operations Manager  
Room 475  
201 S.E. 6 Street  
Fort Lauderdale, Florida 33301  
954-831-6230 Fax  
dgarr@17th.flcourts.org

**All documents, information or material submitted will become a judicial branch record subject to public access. See Florida State Courts System Instructions to Respondents, Appendix A, for more information.**

6. **Addendums and Questions.** All addendums, written questions and answers, and intent to award will be posted at [www.17th.flcourts.org](http://www.17th.flcourts.org).
7. **Terms and Conditions.** This solicitation includes all terms and conditions contained in Appendix A, General Instructions to Respondents; Appendix B, Contract; Appendix C, 17th Judicial Circuit Administrative Orders

# APPENDIX A

## APPENDIX A

### Florida State Courts System Instructions to Respondents

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**1. Definitions.** The State Court System Purchasing Directives govern Procurement within the Judicial Branch. However, we adopt the definitions found in s. 60A-1.001, F.A.C. in this solicitation. The following additional terms are also defined:

- (a) "Court" means the State Court System (SCS) entity that has released to solicitation.
- (b) "Procurement Officer" means the Court's contracting personnel, as identified in the Introductory Materials.
- (c) "Respondent" means the entity that submits materials to the Court in accordance with these Instructions.
- (d) "Response" or "Proposal" means the material submitted by the respondent in answering the solicitation.
- (e) "Timeline" means the list of critical dates and actions included in the Introductory Materials.

Respondents may request other terms to be defined during the Question and Answer period as outlined in the particular solicitation.

**2. General Instructions.** Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.

**3. Electronic Submission of Responses.** Respondents are requested to submit responses electronically. For this purpose, all references herein to signatures, signing requirements, or other required acknowledgments hereby include electronic signature by means of clicking the "Submit" or "Send" button (or other similar symbol or process) attached to or logically associated with the response created by the respondent. The respondent agrees that the action of electronically submitting its response constitutes

- (a) an electronic signature on the response, generally,
- (b) an electronic signature on any form or section specifically calling for a signature, and
- (c) an affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.

**4. Terms and Conditions.** All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, will have the order of precedence listed:

- Technical Specifications,
- Special Conditions,
- Instructions to Respondents,
- General Conditions, and
- Introductory Materials.

The Court objects to and will not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, will have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, will be grounds for rejecting a response.

**5. Questions.** Respondents must address all questions regarding this solicitation to the Procurement Officer. Questions must be received no later than the time and date reflected in the Timeline. Questions must be answered in accordance with the Timeline. All questions submitted will be published and answered in a manner that all respondents will be able to view. Respondents must not contact any other employee of the Court or the State for information with the respect to this solicitation. Each respondent is responsible for monitoring the website provided in the timeline for the posting of questions or answers as well as new or updated information about the solicitation. The Court will not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Court's contracting personnel. Questions to the procurement Officer or to any Court or State personnel will not constitute formal protest of the specifications or of the solicitation; that process is addressed in paragraph 20 of these instructions.

**6. Conflict of Interest.** This solicitation is subject to chapter 112 of the Florida Statutes. Respondents must disclose with their response the name of any officer, director, employee or other agent who is also an employee of the State. Respondents must also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.

**7. Convicted Vendors.** A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:

- Submitting a bid or contract to provide any goods or services to a public entity;
- Submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
- Submitting bids on leases of real property to a public entity;
- being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
- transacting business with any public entity in excess of the Category Two threshold amount (\$35,000) provided in section 287.017 of the Florida Statutes.

**8. Discriminatory Vendors.** Any entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:

- submit a bid on a contract to provide any goods or services to a public entity;
- submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;
- be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
- transact business with any public entity.

**9. Respondent's Representation and Authorization.** In submitting a response, each respondent understands, represents, and acknowledges the following (if the respondent cannot so certify to any of following, the respondent must submit with its response a written explanation of why it cannot do so).

- The respondent is not currently under suspension or debarment by the State or any other governmental authority.
- To the best of the knowledge of the person signing the response, the respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- To the best of the knowledge of the person signing the response, the respondent has no delinquent obligations to the State, including a claim by the State for liquidated damages under any other contract.
- The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.

- The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other respondent or potential respondent; neither the prices nor amounts, actual or approximate, have been disclosed to any respondent or potential respondent, and they will not be disclosed before the solicitation opening.
- The respondent has fully informed the Court in writing of all convictions of the firm, its affiliates (as defined in section 287.133 (1)(a) of the Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.
- Neither the respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:
  - Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting, to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
  - Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.
- The product offered by the respondent will conform to the specifications without exception.
- The respondent has read and understands the Contract terms and conditions, and the submission is made in conformance with those terms and conditions.
- If an award is made to the respondent, the respondent agrees that it intends to be legally bound to the Contract that is formed with the State.
- The respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in the response.
- The respondent must indemnify, defend, and hold harmless the Court and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Court in awarding the Contract. Any misstatement will be treated as fraudulent concealment from the Court of the true facts relating to submission of the bid. A misrepresentation will be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

**10. Manufacturer's Name and Approved Equivalents.** Unless otherwise specified, any manufacturers' names, trade names, brand names, information or catalog numbers listed in a specification are descriptive, not restrictive. With the Court's prior approval, the respondent may provide any product that meets or exceeds the applicable specifications. The respondent must demonstrate comparability, including appropriate catalog materials, literature, specifications, test data, etc. The Court will determine, in its sole discretion, whether a product is acceptable as an equivalent.

**11. Performance Qualifications.** The Court reserves the right to investigate or inspect at any time whether the product, qualifications, or facilities offered by respondent meet the Contract requirements. Respondent must at all times during the Contract term remain responsive and responsible. In determining respondent's responsibility as a vendor, the Court will consider all information or evidence which is gathered or comes to the attention of the Court which demonstrates the respondent's capability to fully satisfy the requirements of the solicitation and the contract.

Respondent must be prepared, if requested by the Court, to present evidence of experience, ability, and financial standing, as well as a statement as to plant, machinery, and capacity of the respondent for the production, distribution, and servicing of the product bid. If the Court determines that the conditions of the solicitation documents are not complied with, or that the product proposed to be furnished does not meet the specified requirements, or that the qualifications, financial standing, or facilities are not satisfactory or that performance is untimely, the Court may reject the response or terminate the Contract. Respondent may be disqualified from receiving awards if respondent, or anyone in respondent's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts. This paragraph does not mean or imply that it is obligatory upon the Court to make an investigation either before or after award of the Contract, but should Court elect to do so, respondent is not relieved from fulfilling all Contract requirements.

**12. Public Opening.** Responses will be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend. Other than in response to a specific Public Records Request, the Court may choose not to announce prices or release other materials pursuant to s. 119.071(1)(b), Florida Statutes. Any person requiring a special accommodation because of disability should contact the Procurement Officer at least (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Court by using the Florida Relay Service at (800) 955-8771 (TDD).

**13. Electronic Posting of Notice of Intended Award.** Based on the evaluation, on the date indicated on the Timeline the Court will electronically post a notice of intended award at <http://www.flcourts.org/administration-funding/purchasing.stml>. If the notice of award is delayed, in lieu of posting the notice of intended award the Court will post a notice of the delay and revised date for posting the notice of intended award. Any person who is adversely affected by the decision must file with the Court a notice of protest within 72 hours after the electronic posting. The Court will not provide tabulations or notices of award by telephone.

**14. Firm Response.** If the Court makes an award within sixty (60) days after the date of the opening, all responses will remain firm and must not be withdrawn during that sixty-day period. If an award is not made within sixty (60) days, all responses will remain firm until either the Court awards the Contract or the Court receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Court's sole discretion, be accepted or be rejected as non-responsive.

**15. Clarifications/Revisions.** Before award, the Court reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all respondents deemed eligible for Contract award. Failure to provide requested information may result in rejection of the response.

**16. Minor Irregularities/Right to Reject.** The Court reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Court determines in the Court's sole discretion that doing so will serve the State's best interests. The Court may reject any response not submitted in the manner specified by the solicitation documents.

**17. Contract Formation.** The Court will issue a notice of award, if any, to successful respondent(s), however, no contract will be formed between respondent and the Court until the Court and respondent sign the Contract. The Court will not be liable for any costs incurred by a respondent in preparing or producing its response or for any work performed before the Contract is effective.

**18. Contract Overlap.** Respondents must identify any products covered by this solicitation that they are currently authorized to furnish under any state term contract. By entering into the Contract, a Contractor authorizes the Court to eliminate duplication between agreements in the manner the Court deems to be in its best interest.

**19. Public Records.** Florida law and court rules generously defines what constitutes a public record; see, for example, Rule 2.420(b)(1), Florida Rules of Judicial Administration. All responses to a competitive solicitation and the information contained therein are public records unless exempt by law. If a respondent believes that its response contains information that should not be publically disclosed, the respondent must clearly segregate and mark the information (for example, placing the material in a separate electronic file, and including the word "Confidential" in the filename) and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. Doing so does not guarantee exemption from public records; the Court will review the respondent's claim for exemption and will notify respondent of its determination regarding the exemption. If respondent's claim of confidentiality is based on information being designated proprietary or trade secrets, respondent must take all reasonable action to maintain such confidentiality, and must be ready to defend the designation in court, if necessary.

**20. Protest.** Any protest concerning this solicitation must be made in accordance with section 6.10 of the State Court System Purchasing Directives. Questions to the Procurement Officer will not constitute formal notice of a protest. It is the Court's intent to ensure that specifications are written to obtain the best value for the State and that specifications are written to ensure competitiveness, fairness, necessity and reasonableness in the solicitation process.

**21. Limitation on Vendor Contact with Agency During Solicitation Period.** Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the judicial, executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

# APPENDIX B

Contract Number \_\_\_\_\_

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This is a Contract made and entered into by and between the **SEVENTEENTH JUDICIAL CIRCUIT** (herein Court), and \_\_\_\_\_(herein Reporter), at Fort Lauderdale, Broward County, Florida.

**WHEREAS**, some cases require court reporter services to meet due process requirements; and

**WHEREAS**, the Court seeks to fulfill its responsibility to provide court reporter services in required cases by contracting with vendors to perform such court reporter services.

**NOW THEREFORE, IN CONSIDERATION** of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the Court and the Reporter agree as follows:

**1. Definitions.** The State Court System Purchasing Directives govern procurement within the Judicial Branch. The following additional terms are also defined:

1.1. "Contract" means the enforceable agreement executed by the parties that sets forth the duties and responsibilities of each party. The parties to the Contract are the Court and the Reporter.

1.2. "Court" means the Seventeenth Judicial Circuit, which is a State Court System entity that is procuring services directly from the Reporter pursuant to this Contract. "Court" is also defined to include, as the context requires, the Office of State Court Administrator, the State Court System, The Florida Supreme Court, and the State of Florida.

**2. Scope of Services, Qualifications, and Additional Requirements.** The Reporter will provide services to the Court as follows:

2.1. He or she or it will serve at the pleasure of the Chief Judge.

2.2. He or she or it will perform court reporting services for which the Reporter is retained to the best of the Reporter's ability and at the direction and request of the Court.

2.3. He or she must possess the skills and ability to competently perform the duties of a court reporter if an employee of Reporter.

2.4. The Reporter must immediately notify the Court of any adverse action, associated with providing court reporter services taken against the Reporter or any individual it sends to provide services and the outcome of such action.

2.5. He or she or the principal of the business entity will attend meetings/training as scheduled by the Court unless excused.

2.6. The Court may unilaterally require, in writing, changes altering, adding to, or deducting from the Contract terms, provided that such changes are within the general scope of the Contract. The Court may make an equitable adjustment in the Contract compensation if the change affects the delivery of services. Such equitable adjustments require the written consent of the Reporter, which must not be unreasonably withheld.

### **3. Compensation for Services.**

As referenced in this section, a session is either from 8:30 a.m. to noon or 1:30 p.m. to 5:00 p.m.

Service providers will be compensated pursuant to the rates and schedule of payments pursuant to Administrative Orders 2011-22-Gen or 2014-27-Gen, as amended or superseded from time to time, currently as follows:

#### Appearance Fees for Stenographic Reporters in Circuit Court

Rate per session: \$100.00.

Additional rate: \$7.50 per quarter hour for time prior to 8:30 a.m., between noon and 1:30 p.m., or after 5:00 p.m.

#### Appearance Fees for Real-Time Stenographic Reporters:

Real-Time Stenographic Reporters record stenographic notes that are immediately converted into English text and immediately displayed through litigation-support software on a computer screen at each of the tables for counsel and the judge's bench.

Rate per session: \$150.00. A session is either from 8:30 a.m. to noon or 1:30 p.m. to 5:00 p.m.

Hourly rate: \$11.25 per quarter hour for time prior to 8:30 a.m., between noon and 1:30 p.m., or after 5:00 p.m.

Transcripts and ASCII Disk of Transcript

<u>Delivery Time</u>	<u>Number</u>	<u>Cost per page</u>
24 hours (overnight)	Original and 2	\$ 7.50
	Each additional copy	\$ 1.10
3 business days	Original and 2	\$ 6.50
	Each additional copy	\$ 1.10
6 business days	Original and 2	\$ 5.50
	Each additional copy	\$ 1.10
10 business days	Original and 2	\$ 5.00
	Each additional copy	\$ 1.10
Appeals	Original and 2 and disks	\$5.00

3.1. Unless otherwise specifically agreed to in writing by the Court and the Reporter, the Reporter will not be compensated for travel time or travel expenses.

3.2. The following services or expenses potentially incurred by the Reporter in the performance of his or her or its duties under this Contract will be included within the above referenced compensation for services: court reporting services, photocopying, long distance phone calls, parking, office supplies and all materials, office space, equipment, and facilities necessary for the support of personnel in the performance of services under this Contract.

**4. Invoicing and Payment.** Invoices must contain the Contract number and the appropriate vendor identification number. The Court may require any other information from the Reporter that the Court deems necessary to verify any deliverable under the Contract. Payment will be made in accordance with §215.422, Florida Statutes, which governs time limits for payment of invoices. Invoices that must be returned to a Reporter due to preparation errors may result in a delay in payment. The Reporter may call (850) 487-2119, Monday through Friday, to inquire about the status of payments by the Court. The Court is responsible for all payments under the Contract. The Court's failure to pay, or any delay in payment, will not constitute a breach of the Contract and will not relieve the Reporter of its or his or her obligations to the Court. The Reporter must complete and submit the required invoice within thirty (30) days of completion of services pursuant to this Contract.

**5. Lobbying and Integrity.** The Reporter must not, in the performance of duties required under this Contract use funds provided by this Contract to lobby the legislature

or any state agency. The Reporter must not, in connection with this or any other agreement with the Court, directly or indirectly, (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any Court officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any Court officer or employee. For purposes of this paragraph, "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Court's Inspector General, or other authorized Court official, the Reporter must provide any type of information deemed relevant to the Reporter's integrity or responsibility. Such information may include, but may not be limited to, the Reporter's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Reporter must retain such records in accordance with Rule 2.440, Rules of Judicial Administration, or 5 years after the expiration of the Contract, whichever is longer. The Reporter agrees to reimburse the Court for the reasonable cost of investigation incurred by the Inspector General or other authorized Court official for investigations of the Reporter's compliance with the terms of this or any other agreement between the Reporter and the Court which results in the suspension or debarment of the Reporter. Such costs include, but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Reporter shall not be responsible for any cost of investigations that do not result in the Reporter's suspension or debarment.

**6. Advertising.** The Reporter must not publicly disseminate any information concerning the Contract without prior written approval from the Court, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Court or otherwise linking the Reporter's name and either a description of the Contract or the Court in any material published, either in print or electronically, to any entity that is not a party to the Contract.

**7. Indemnification.** The Reporter will be fully liable for all actions of its or his or her agents, employees, partners, or subcontractors and will fully indemnify, defend, and hold harmless the Court and its officers, agents, and employees, from suits, actions, damages, and cost of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Reporter, its or his or her agents, employees, partners, or

subcontractors; provided, however, that the Reporter will not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the Court. Further, the Reporter must fully indemnify, defend, and hold harmless the Court from any suits, actions, damages, and costs of every name and description, including attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided that the Court will give the Reporter (1) written notice of any such action or threatened action, (2) the opportunity to take over and settle or defend any such action at Reporter's sole expense, and (3) assistance in defending the action at Reporter's sole expense. The Reporter will not be liable for any cost, expense, or compromise incurred or made by the Court in an infringement or violation action without the Reporter's prior written consent, which shall not be unreasonably withheld. If any product is the subject of an infringement or violation suit, or in the Reporter's opinion is likely to become the subject of such a suit, the Reporter may at its or his or her sole expense become non-fringing. If the Reporter is not reasonably able to modify or otherwise secure for the Court the right to continue using the product, the Reporter shall remove the product and refund the Court the amounts paid in excess of a reasonable rental for past use. The Court will not be liable for any royalties. Unless otherwise specifically enumerated in the Contract, no party shall be liable to another for special, indirect, or consequential damages, including lost data or records (unless this Contract requires the Reporter to back-up data or records), even if the party has been advised that such damages are possible. No party will be liable for lost profits, lost revenue, or lost institutional operating savings. The Court may, in addition to other remedies available to it at law or equity and upon notice to the Reporter, retain such monies from amounts due the Reporter as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The Court may set off any liability or other obligation of the Reporter or its or his or her affiliates to the Court against any payments due the Reporter under any Contract with the Court. The first ten dollars (\$10.00) paid on this Contract shall constitute the specific consideration for the Reporter's indemnification of the Court.

**8. Limitation of Liability.** For all claims by the Court against the Reporter regardless of the basis on which the claim is made, the Reporter's liability for direct damages will be limited to the greater of \$100,000, the dollar amount of the Contract, or two times the charges rendered by the Reporter. This limitation will not apply to claims arising under the Indemnification paragraph contained in this Contract. Unless otherwise specifically enumerated in the Contract, no party will be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Contract

requires the Reporter to backup data or records), even if the party has been advised that such damages are possible. No party will be liable for lost profits, lost revenue, or institutional operating savings. The Court may, in addition to other remedies available to it at law or equity, and upon notice to the Reporter, retain such monies from the amounts due Reporter as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it. The Court may set off any liability or other obligation of the Reporter or his or her or its affiliates to the Court against any payments due the Reporter under any contract with the State.

**9. Suspension of Work.** The Court may in its sole discretion suspend any or all activities under the Contract, at any time, when in the best interests of the Court to do so. The Court will provide the Reporter written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Reporter must comply with the notice and must not perform services for the Court. Within 90 days, or any longer period agreed to by the Reporter, the Court shall either (1) issue a notice authorizing resumption of services, at which time the Reporter shall resume services or (2) terminate the Contract. Suspension of work will not entitle the Reporter to any additional compensation except for work fully performed at the time the notice was received by the Reporter.

**10. Termination.**

10.1. **Termination for Cause.** The Court may terminate the Contract upon 14 days written notice if the Reporter fails to abide by any of the terms or conditions of the Contract or if the Reporter fails to maintain adequate progress, thus endangering performance of the Contract. The Reporter shall have 7 days after being notified of the Court's intent to terminate, to cure the breach identified by the Court. Except for defaults of subcontractors at any tier, the Reporter will not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Reporter. If the failure to perform is caused by default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Reporter and the subcontractor, and without the fault or negligence of either, the Contractor will not be liable for any excess costs for failure to perform, unless the subcontracted deliverables were obtainable from other sources in sufficient time for the Reporter to meet the required delivery schedule. The rights and remedies of the Court in this clause are in addition to any other rights and remedies provided by the law or under the Contract.

10.2. **Termination for Convenience.** Either the Court or the Reporter may terminate this Contract upon 20 days written notice to the other party. Upon termination of the Contract pursuant to this provision the Reporter will not furnish any additional services pursuant to this Contract. The Reporter will not be entitled to recover any cancellation charges or lost profits.

10.3. **Illness.** In the event the Reporter is unable to perform this Contract due to an injury or illness, or for other similar cause beyond the control of the Reporter, then the Reporter may provide notice to the Court and be released from any and all obligations under this Contract.

10.4. **Termination for Loss of Appropriations.** In the event that appropriated funds are not available, the Court may immediately terminate this Contract upon written notice to the Reporter.

**11. Force Majeure, Notice of Delay, and No Damages for Delay.** The Reporter will not be responsible for the delay resulting from his or her or its failure to perform if neither the fault nor the negligence of the Reporter or its or his or her employees or agents contributed to the delay and the delay is due directly to acts of nature (which will be construed to be the legal term of art "act of God" and will encompass all common law and case law decisions with regard to the term), wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Reporter 's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Reporter. In case of any delay the Reporter believes is excusable, the Reporter must notify the Court in writing of the delay or potential delay and describe the cause of the delay either (1) within 10 days after the cause that creates or will create the delay first arose, if the Reporter could not reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within 5 days after the date the Reporter first had reason to believe that a delay could result. **THE FOREGOING WILL CONSTITUTE THE REPORTER'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Court. The Reporter will not be entitled to an increase in the Contract compensation or payment of any kind from the Court for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Reporter will perform at no increased cost.

**12. Public Records Requirement.** The Court may terminate a Contract if the Reporter refuses to allow public access to all documents, papers, letters or other material made or received by the Reporter in conjunction with the Contract, unless the records are exempt from public access pursuant to Florida Rule of Judicial Administration 2.420. In addition, the Reporter must retain all records made or received in conjunction with the Contract as required by the Florida Rules of Judicial Administration.

**13. Compliance with Federal and State Anti-Discrimination Legislation.** In providing, or contracting to provide, services, programs or activities, maintaining facilities, and/or otherwise performing obligations under this Contract, the Reporter will comply with the Americans with Disabilities Act, Section 508 of the Rehabilitation Act of 1973, the Civil Rights Act of 1964, as amended, the Florida Civil Rights Act of 1992, part three of Chapter 282, Florida Statutes, and any other federal or state law that prohibits discrimination

**14. Assignment.** The Reporter will not sell, assign or transfer any of its or his or her rights, duties or obligations under the Contract without the prior written consent of the Court. In the event of any assignment, the Reporter remains secondarily liable for performance of the Contract, unless the Court expressly waives such secondary liability. The Court may assign the Contract with prior written notice to Reporter of its intent to do so.

**15. Antitrust Assignment.** The Reporter and the Court recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the Court. Therefore, the Reporter hereby assigns to Court any and all claims for such overcharges as to goods, materials, or services purchased in connection with the Contract.

**16. Dispute Resolution.** Any dispute concerning performance of the Contract will be decided by either the Trial Court Administrator or her designee who will reduce the decision to writing and serve a copy on the Reporter. The exclusive venue of any legal or equitable action that arises out of or relates to the Contract will be the appropriate state court in Broward County, Florida; in any such action, Florida law will apply and the parties waive any right to jury trial.

**17. Employees, Subcontractors, and Agents.** All of the Reporter's employees, subcontractors, or agents performing work under the Contract must be properly supervised by the Reporter and will not provide any services required by this Contract unless authorized by this Contract or in writing by the Court. The Reporter and all of his

or her employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Court. The Court will conduct, and the Reporter and all of his or her employees, subcontractors, or agents will cooperate in providing the necessary authorization for a security background check. The Court may refuse access to, or require replacement of, any employee, subcontractor, or agent of Reporter if said individual has a conviction or withheld adjudication for a misdemeanor or felony, quality of work, change in security status, or noncompliance with the Court's security or other requirements. Such approval will not relieve the Reporter of its or his or her obligation to perform all services in compliance with the Contract. The Court may reject and bar from any facility for cause any of the Reporter's employees, subcontractors, or agents.

**18. Security and Confidentiality.** The Reporter must comply fully with all security requirements and procedures of the Court in performance of the Contract. The Reporter must not divulge to third parties any confidential information obtained by the Reporter or his or her agents, distributors, resellers, subcontractors, officers, or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the Court. The Reporter will not be required to keep as confidential any information or material that is publicly available through no fault of the Reporter, material that the Reporter developed independently without relying on the Court's confidential information, or material that is otherwise obtainable under Florida law as a public record. The Reporter must take appropriate steps with its personnel, agents, and subcontractors to insure confidentiality. The warranties of this paragraph will survive the Contract.

**19. Independent Contractor.**

19.1. The parties agree this Contract is not intended to and will not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association between the Court and the Reporter.

19.2. The Reporter is an independent contractor and is *wholly* responsible for the manner in which he or she performs the services required by the terms of this Contract.

19.3. The Reporter exclusively assumes the responsibility for the acts of his or her employees, subcontractors, or agents as they relate to the services to be provided pursuant to this Contract.

19.4. The Reporter and its or his or her employees, subcontractors, or agents shall not be entitled to rights or privileges of State of Florida employees and shall not be considered in any manner to be State of Florida employees.

**20. No Prohibition on Private Practice.**

20.1. The Reporter may engage in private practice, provided that no private case shall be accepted which causes a conflict of interest to arise. The Reporter shall not use any court reporting session to solicit, encourage, or otherwise incur future professional services with any party or attorneys as to the case for which it or he or she provided court reporting session.

20.2. The Reporter shall not charge any individual, or family member or natural or legal guardian nor receive any fee or payment from any individual or family member or natural or legal guardian or other persons, for services rendered pursuant to this Contract.

**21. No Third Party Beneficiaries.** Nothing contained herein shall create any relationship, contractual or otherwise, with, or any rights in favor of, any third party.

**22. Warranty of Authority.** Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

**23. Warranty of Ability to Perform.** The Reporter warrants that, to the best of his or her or its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Reporter's ability to satisfy his or her or its Contract obligations. The Reporter warrants that neither he nor she nor it nor any affiliate is currently on the convicted vendor list maintained pursuant to §287.133, Florida Statutes, or on any similar list maintained by any other state or the federal government. The Reporter shall immediately notify the Court in writing if his or her or its ability to perform is compromised in any manner during the term of the Contract.

**24. Notices.** All notices required under the Contract must be delivered by electronic mail to the Court or Reporter at the email address designated in writing. Notices to each party shall be sent to the individual who signs the Contract on behalf of each party. Either designated recipient may notify the other, in writing, if another individual is designated as the recipient to receive notice as required by the terms of this Contract or if an email address changes.

**25. Modification of Terms.** The Contract contains all the terms and conditions agreed upon by the parties. The Contract may only be modified or amended upon mutual written agreement of the Court and the Reporter. No alteration or modification of the Contract terms, including substitution of services, shall be valid or binding against the Court. The Court does not guarantee a minimum or maximum number of sessions to be assigned to the Reporter.

**26. Waiver.** The delay or failure by the Court to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Court's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

**27. Annual Appropriations.** The Court's performance and obligation to pay under this Contract are contingent upon the availability of funds appropriated by the Legislature. If the Legislature fails to appropriate sufficient funds or fails to authorize the spending of sufficient funds for the Court or demands a spending reduction, the Court will have no obligation to pay or perform under this Contract. The Court's performance and obligation to pay under this Contract is also contingent upon final spending approval from the Chief Justice of the Supreme Court of Florida.

**28. Severability.** If a court of competent jurisdiction deems any provision of the Contract void or unenforceable, that provision will be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions will remain in full force and effect.

**29. Right to Audit.** Records of expenses pertaining to all services shall be kept in accordance with generally accepted accounting principles and procedures. The Reporter will keep all records relating to this contract in such a way as to permit their inspection pursuant to Florida Rule of Judicial Administration 2.420. The Court reserves the right to audit such records.

**30. Rule of Interpretation, Construction, and Headings.**

30.1. All specific conditions will prevail over a general condition on the same subject.

30.2. The headings contained herein are for convenience only and are not to be utilized in construing the provisions contained herein.

30.3. Each party has reviewed and revised this Contract. The rule of construction that ambiguities are to be construed in favor of the non-drafting party will not be employed in the construction of this Contract.

**31. Real-Time Transcription Services for Persons who are Deaf or Hard of Hearing.**

A Reporter that provides real-time transcription services in court proceedings to ensure effective communication by a participant who is deaf or hard of hearing and entitled to auxiliary aids or services pursuant to Title II of the Americans with Disabilities Act of 1990, should be informed that they must comply with the Florida Supreme Court Policy on Court Real-Time Transcription Services for Persons who are Deaf or Hard of Hearing. The policy is attached to this Contract and incorporated by reference.

**32. Real-Time Court Reporting for the Hearing Impaired.** If the Reporter provides real-time court reporting pursuant to this contract as an accommodation for the hearing impaired, the Reporter hereby acknowledges that the Court has specific standards for providing such services. Those specific standards are available from the Court.

**33. Term of Contract.** This Contract will be effective on July 1, 2016, or upon execution whichever is later, and will terminate on June 30, 2019, unless earlier terminated under the terms of this Contract. No amendment of this Contract will be valid unless the same is in writing and executed by the parties.

**34. Execution in Counterparts.** The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Seventeenth Judicial Circuit of Florida	Court Reporter
By: _____	By: _____
Kathleen R. Pugh, Trial Court Administrator	
Date: _____	Date: _____
<b>Approved as to Legal Form and Sufficiency</b>	
By: _____	
Alexandra V. Rieman, General Counsel	

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**Americans with Disabilities Act of 1990,  
the ADA Amendments Act of 2008, and  
28 CFR Part 35**

**Title II Guidelines  
for the  
State Courts System of Florida**

---

*Prepared by  
Office of the State Courts Administrator  
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*Revised: January 2009*

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## INTRODUCTION

The Americans with Disabilities Act (ADA) of 1990 was enacted to ensure that all qualified individuals with disabilities enjoy the same opportunities that are available to persons without disabilities. The ADA Amendments Act of 2008 makes important changes to the definition of the term "disability." United States Department of Justice is responsible for issuing ADA regulation for state and local governments (28 Code of Federal Regulation, Part 35). These federal laws and regulations are collectively referred to as "the ADA" in these guidelines.

Equalizing opportunities is of paramount importance to the everyday operations of the judiciary. The Florida State Courts System attempts to make reasonable modifications in policies, practices, and procedures; furnish auxiliary aids and services; and afford program accessibility through the provision of accessible facilities, the relocation of services or programs, or the provision of services at alternative sites, as appropriate and necessary. However, the ADA does not require the court system to take any action that would fundamentally alter the nature of court programs, services, or activities, or that would impose an undue financial or administrative burden on the courts.

The Florida State Courts System has produced these guidelines to assist judicial officers and courthouse personnel in understanding the public entity provisions of the ADA (Title II) and to assist them in ensuring that architectural or communication barriers do not obstruct any person's access to the courts. Included are a practical summary of Title II of the ADA and an overview of accessibility requirements. Additionally, this guide contains information pertaining to recognizing and accommodating individuals with disabilities. The State Courts System recommends that each district court and judicial circuit educate its employees on the requirements of the ADA.

The Statewide ADA Coordinator for the State Courts System is Ms. Debbie Howells in the Office of the State Courts Administrator; telephone: (850)922-4370; e-mail: [ada@flcourts.org](mailto:ada@flcourts.org); fax: (850)488-0156. Ms. Howells is available to provide technical assistance to judicial officers and court employees regarding court compliance with the ADA. In addition, each district and circuit court has designated a Court ADA Coordinator to assist judges as well as individuals with disabilities who need access to court services and programs. Court ADA Coordinators can be contacted through the marshals' offices in the appellate courts or the trial court administrators' offices in the circuit courts.

*Upon request by a qualified person with a disability, this document will be made available in alternate formats such as audiotape, Braille, large print, or electronic file on computer disk. To order this document in an alternate format, please contact the ADA Coordinator, Office of the State Courts Administrator, 500 S. Duval Street, Tallahassee, Florida 32399-1900, (850)922-4370 or [ada@flcourts.org](mailto:ada@flcourts.org).*

## SECTION I: OVERVIEW

*Note: All terms including the designation of (gl<sup>s</sup>) are defined in the Glossary*

The Americans with Disabilities Act of 1990 provided a national mandate to end discrimination against individuals with disabilities. Under Title II of the Act, no qualified individual with a disability shall be discriminated against, or excluded from participation in or benefits of the services, programs, or activities of a public entity. The Act directly affects state courts as providers of public programs and services.

### **Public Services Regulated**

- All activities of executive branch agencies
- All activities of the legislative branch
- All activities of the judicial branch
- All governmental activities of public entities even if performed by a contractor
- All services, programs, and activities involving general contact with the public as an everyday occurrence (telephone services, walk-in services, etc.)

### **Who Is Protected by Title II?**

- All qualified individuals with disabilities
- All qualified individuals who have a record of a disability
- All qualified individuals who are regarded as having a disability
- All qualified individuals who have an association or relationship with a disabled individual

### **Who Is Not Protected by Title II?**

- Individuals who currently use drugs illegally or abuse drugs and/or alcohol.
- Homosexual or bisexual individuals (homosexuality and bisexuality are not considered impairments.)
- Individuals with other sexual or behavioral anomalies including transvestism; transsexualism; pedophilia; voyeurism; gender identity disorders not associated with physical impairment; compulsive gambling, kleptomania, or pyromania; and psychoactive substance use disorders resulting from current illegal use of drugs.

## Who Is an Individual with a “Disability?”

A person who:

- Has a physical or mental impairment that “*substantially limits*”(gl<sup>s</sup>) one or more “*major life activities*”(gl<sup>s</sup>) of that individual
- Has a “*record of a substantially limiting condition*”(gl<sup>s</sup>)
- Is “*regarded as having a substantially limiting impairment*”(gl<sup>s</sup>)

## Who Is a “Qualified Individual” with a Disability?

A person with a disability who, with or without auxiliary aids or services, meets the essential eligibility requirements for receiving services or participating in programs or activities provided by a public entity.

## What Is a “Physical or Mental Impairment?”

Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

- neurological
- musculoskeletal
- special sense organs
- skin
- cardiovascular
- endocrine
- reproductive
- digestive
- genito-urinary
- respiratory (including speech organs)
- hemic and lymphatic

A mental impairment is any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (For information on distinguishing mental retardation from mental illness, see Appendix B.)

While it is not possible to provide an exhaustive list, examples of physical and mental impairments include:

- paralysis, amputation, and other mobility impairments
- blindness and low vision
- deaf, hard of hearing, and deaf-blind
- schizophrenia, bipolar disorder, and personality disorders
- mental retardation, traumatic brain injury, Alzheimer’s disease, and organic brain syndrome, and other cognitive impairments
- autism spectrum disorders

- specific learning disabilities such as dyslexia (reading and related language-based learning disabilities); dyscalculia (mathematical disability); and dysgraphia (writing or fine motor skills deficit)
- cerebral palsy
- multiple sclerosis
- speech impairments
- epilepsy
- heart disease
- cancer
- diabetes

For further examples of physical and mental impairments, see Appendix A.

### **General Requirements**

The general prohibitions against discrimination in the federal regulations indicate that, among other things, a public entity may not:

- Deny a qualified individual with a disability the opportunity to participate in or benefit from the service;
- Afford a qualified individual with a disability a service or an opportunity to participate that is not equal to that afforded others;
- Provide a qualified individual with a disability with a service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or reach the same level of achievement as that provided to others;
- Provide different or separate services to individual with disabilities or any class of individuals with disabilities than is provided to others (except under specific circumstances); or
- Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the service.

When necessary to provide access for a qualified individual with a disability, a Title II entity is required to 1) Make reasonable modifications to policies and practices; 2) Remove architectural, communication, or transportation barriers; and 3) Provide “*auxiliary aids and services*”(g1<sup>5</sup>). A public entity should give “*primary consideration*”(g1<sup>5</sup>) to the auxiliary aid or service requested by the individual with the disability.

## SECTION II: PROGRAM ACCESSIBILITY, MODIFICATION OF POLICIES, AND AUXILIARY AIDS AND SERVICES

*Note: All terms including the designation of (gls) are defined in the Glossary*

As required by the ADA, the determination of whether an individual has a disability and the accommodation appropriate to a particular situation is an individualized inquiry and each decision is therefore made on a case-by-case basis. Accommodations that are granted by the state courts are made at no cost to qualified individuals with disabilities. Examples of Title II accommodations include:

- Architecturally renovating facilities to make them readily accessible to and usable by an individual with disabilities
- Relocating a service to enable a person with a disability to participate
- Obtaining or modifying equipment or devices (including videophones or TDDs, assistive listening systems, videotext displays, or publishing materials in Braille and large print)
- Providing qualified readers and interpreters
- Providing reserved parking for a person with a mobility impairment
- Allowing a person with a disability to provide equipment or devices that the public entity is not required to provide

### What Accommodations Are Required by Title II?

When necessary to provide access for a qualified individual with a disability, a Title II entity is required to 1) Make reasonable modifications to policies and practices; 2) Remove architectural, communication, or transportation barriers; and 3) Provide auxiliary aids and services.

The Florida State Courts System must make reasonable modifications to policies and programs to afford qualified individuals who have disabilities with an equal opportunity to enjoy court programs, services, and activities. For example, service animals are allowed in court facilities, even though pets are prohibited.

There are many ways to make a program, service, or activity accessible other than through architectural modifications. If physical access to a court facility is not feasible administratively or financially, the entity may comply with the ADA by making its services available in another fashion. Program access allows the court to move the program to an accessible location, or use some way other than making all architectural changes to make the program, service, or activity readily accessible to and usable by individuals with disabilities.

A “**public entity**”(gls) is required to provide necessary “**auxiliary aids and services**”(gls) for qualified individuals with disabilities to ensure “**effective communication**”(gls) and participation in its services, programs, and activities. The person with a disability will generally request an auxiliary aid or service if needed. All requests should be documented and maintained in a separate file by the designated ADA coordinator. Examples of auxiliary aids and services are included in Appendix C.

There may be a few situations in which a court will not be required to provide a requested accommodation. The ADA does not require the court system to take any action that would fundamentally alter the nature of court programs, services, or activities, or that would impose an undue financial or administrative burden. If a judicial officer or court personnel believe the requested accommodation would result in a “*fundamental alteration*”(gI<sup>s</sup>) in the nature of the program or service, or that an “*undue burden*”(gI<sup>s</sup>) would result, the ADA coordinator should be notified immediately.

### **Accommodations Provided by the Courts**

The Florida State Courts System will generally, upon request, attempt to provide appropriate aids and services to afford “*effective communication*”(gI<sup>s</sup>) for qualified persons with disabilities to participate equally in court programs, services, and activities. The Florida State Courts System cannot place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids and services or reasonable modifications of policies.

Examples of auxiliary aids or services that the State Courts System may provide for qualified individuals with disabilities include:

- Assistive listening devices
- Qualified sign language interpreters and oral interpreters
- Real-time transcription services
- Accessible formats such as large print, Braille, electronic document on diskette, or audio tapes
- Qualified readers

Examples of aids or services the State Courts System is *not* required to provide under Title II of the ADA include:

- Transportation to the courthouse
- Legal counsel or advice
- Personal devices such as wheelchairs, hearing aids, or prescription eyeglasses
- Personal services such as medical or attendant care
- Readers for personal use or study

Additionally, courts cannot administratively grant, as an ADA accommodation, requests that impact court procedures within a specific case. Requests for an extension of time, a change of venue, or participation in court proceedings by telephone or videoconferencing must be submitted by written motion to the presiding judge as part of the case. The judge may consider an individual’s disability, along with other relevant factors, in granting or denying the motion.

Furthermore, the court cannot exceed the law in granting a request for an accommodation. For example, the court cannot extend the statute of limitations for filing an action because someone claims that he or she could not make it to the court on time due to a disability, nor can the court modify the terms of agreements among parties as an ADA accommodation.

## How Does One Determine What Is a Reasonable Auxiliary Aid or Service?

When determining whether requested auxiliary aids and services are reasonable, let common sense be your guide. Determining the appropriate auxiliary aid or service frequently involves an interactive process:

- Always consult the person with the disability as the first step in evaluating the need for auxiliary aids and services.
- Work with the person with a disability to identify appropriate auxiliary aids and services and in considering alternatives. Often, by inquiring about what auxiliary aid or service is most effective for that person, one may learn a simple, inexpensive method of accommodation.
- Consider the preference of the individual with a disability and select the auxiliary aid or service that best serves the needs of the individual and fulfills the purpose of the service or program.
- Ensure that equal benefit or enjoyment of the program can be obtained when the auxiliary aid or service is provided.
- Ensure that “*effective communication*”(gls) occurs.
- Realize that individuals may decline an accommodation and choose to participate in the court activity in the same manner as the general public.

If you have thoughtfully considered and discussed all the options, chances are you will come up with an appropriate solution. Nevertheless, when a request for an auxiliary aid or service is made, you should notify the ADA coordinator of your court. When necessary, the ADA coordinator will consult resource materials, talk to disability experts, and prepare a recommendation for approval by the presiding judge.

## Documentation of the Need for Auxiliary Aids and Services

If an individual has a disability that is not obvious or when it is not readily apparent how a requested accommodation relates to an individual’s impairment, it may be necessary for the court to require the individual to provide documentation from a qualified health care provider in order for the court to fully and fairly evaluate the accommodations request. Requests for documentation shall be limited to documentation that (a) establishes the existence of a disability; (b) identifies the individual’s functional limitations; and (c) describes how the requested accommodation addresses those limitations. Any cost to obtain such documentation is the obligation of the person requesting the accommodation. The court should not make inquiries into or ask for documentation of a person’s physical or mental condition that is unrelated to the impaired function for which the individual seeks accommodation.

Copies of requests for auxiliary aids and services, medical documentation, approvals or

disapprovals, and a description of any auxiliary aids and services provided should be given to the ADA coordinator of your court.

### **Accommodations in the Jury Deliberation Room**

If accommodations are required for a juror with a disability, a sign language interpreter, real-time transcriptionist, or personal attendant should be allowed into the jury room during deliberations. The interpreter, transcriptionist, or attendant shall not counsel, advise, attempt to explain terms, or interject personal opinion into the jury deliberations.

The role of a real-time transcriptionist, when in the jury room, is not as a reporter of the official record; therefore, the real-time transcription service of jury deliberations must be deleted immediately upon the conclusion of jury deliberation. Furthermore, the reporter shall not read back the real-time transcription service from the proceeding or jury deliberations without express judicial approval or authorization.

The presiding judge has the discretion to administer an oath of non-involvement, including language stating that the interpreter, transcriptionist, or attendant will not interfere with the deliberations of the jury or reveal the confidences of the jury. See U.S. v. Dempsey, 830 F.2d 1084, 1090 (10th Cir. 1987); Guzman, 76 N.Y. 2d at 6-7 (clarifying that since a “signor” is a neutral figure, associated only with the fellow juror, her presence should not have an adverse impact on jurors). The judge, before the verdict is announced, may inquire whether the interpreter, transcriptionist, or attendant abided by his or her oath to act strictly as an assistant to the juror with a disability. The judge may also question the jurors to the same effect. Dempsey, supra.

### **Notices to Persons with Disabilities**

Rule 2.540, Florida Rules of Judicial Administration, requires that all notices of court proceedings held in a public facility and all process compelling appearance at such proceedings include the following statement:

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact [identify applicable court personnel by name, address, and telephone number] within 2 working days of your receipt of this [describe notice]; if you are hearing or voice impaired, call 711.

It is also recommended that notice of the availability of accommodations be provided in accessible formats and modalities at the following locations, as appropriate and applicable to an individual court:

- Posted at the information desk
- Incorporated into jury-orientation videos and materials
- Included in any public service announcements about the courts
- Published on trial and appellate court websites

- Posted in court offices
- Included in court handbooks, publications, activity schedules, and meeting notices
- Announced at court events

## **Service Animals**

A service animal is an animal that is trained to perform tasks for an individual with a disability. The tasks may include, but are not limited to, guiding a person who is visually impaired or blind, alerting a person who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting a person who is having a seizure, retrieving objects, or performing other special tasks. A service animal is a working animal, not a pet. An emotional support animal is not a service animal.

The courts will allow people with disabilities to bring their service animals into all areas of the court facility where members of the public are normally allowed to go. Court personnel may ask if an animal is a service animal or ask what tasks the animal has been trained to perform, but cannot require special ID cards for the animal.

A person with a disability cannot be asked to remove the service animal from the court facility unless: (1) the animal is out of control and the owner does not take effective action to control it (for example, a dog that barks repeatedly during a court hearing) or (2) the animal poses a direct threat to the health or safety of others (allergies or the fear of animals are generally not valid reasons for denying access to an individual with a service animal). In those situations where a service animal must be excluded or removed, the court should afford the person with the disability the option to continue participating without having the animal on the premises.

The court is not required to provide care or food for a service animal or provide a special location for it to relieve itself.

## **Facilities**

Whether a public program or service is accessible to persons with disabilities does not always turn on whether the person can physically enter the building. In courthouses, heavy doors and long stairways are not the only barriers for persons with disabilities. Some barriers one may encounter in a courthouse are:

- Too little parking for persons with disabilities
- Narrow hallways and doorways
- Judge's bench that is too high to be accessible for persons using wheelchairs
- Poor lighting that inhibits participation for persons who are deaf or hard of hearing and rely on information they can see
- Public information counters too high for persons using wheelchairs
- Microphones too difficult to reach or manipulate for persons with disabilities

Physical barriers may make it difficult for persons with disabilities to participate in court services or activities. In some courthouses, witness and jury boxes may be inaccessible to persons who

use wheelchairs or other mobility devices, or some public information counters may be too high for some individuals. While the 67 individuals counties are financially responsible for maintaining facilities for the trial courts and for ensuring that such facilities are accessible, the Florida State Courts System will generally, upon request, attempt to make arrangements to afford physical access to the courts.

In addition to providing for the architectural renovation of existing facilities when resources are available to make them readily accessible to persons with disabilities, the ADA provides for program accessibility as a means to ensure access to the courts. Program accessibility includes methods such as relocating a service to enable a qualified person with a disability to participate; retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs; or providing alternative seating patterns for jurors, including a juror using a wheelchair, in locations outside the traditional jury box.

For ADA compliance purposes, any facility where construction commenced after January 26, 1992 is considered “new” or “post-ADA.” Post-ADA facilities must comply with the ADA Standards for Accessible Design (ADA Standards) and be “readily accessible to and usable by” persons with disabilities. The ADA Standards are regulations issued by the U.S. Department of Justice (28 C.F.R. Part 36) and have the force of law.

Facilities built before January 26, 1992, are referred to as “pre-ADA” facilities. A public entity must ensure that individuals with disabilities are not excluded from services, programs, and activities because existing buildings are inaccessible. A state or local government's programs, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. If pre-ADA structures have accessibility problems, the Act provides state and local government with two options: (1) remove the barriers using the ADA Standards, or (2) make the program, service, or activity located within the building accessible by providing “program access.” Exceptions may be made in the case of undue burdens or altering historical properties.

If only part of a building is renovated, or an addition is built to an existing building, only the new or renovated part must conform to the ADA Standards (as well as the Florida Accessibility Code for Building Construction, where the Florida code is more stringent). However, there must also be an accessible entrance to the building and the route to the new or renovated section must also be ADA compliant. Altering (renovating) a building means making a change in the usability of the altered item. Examples of changes in usability include: changing a low pile carpet to a thick pile carpet, moving walls, installing new toilets, or adding more parking spaces to a parking lot. Any state or local government facility that was altered after January 26, 1992, was required to be altered in compliance with the ADA Standards.

If you believe any area or section of your facility does not comply with the ADA, please inform your ADA coordinator.

## SECTION III: COURTESIES FOR INTERACTING WITH PERSONS WHO HAVE DISABILITIES

At times, communicating with or accommodating a person with a disability may place one in unfamiliar territory. As we do not all share the same life experiences, it may sometimes be difficult to discern the needs, concerns, or sensitivities of an individual with a disability. Most importantly, one should give attention to the *person*, not the disability.

### General Hints

- Avoid catch-all phrases such as "the disabled," "the blind," or "the deaf."
- Use people first language, such as "individual with a disability," "person who uses a wheelchair," "person who is deaf."
- Avoid using inappropriate emotional descriptors such as "unfortunate" or "pitiful."
- Do not ask how the person became disabled.
- Do not ask about the nature/severity of the disability (unless such inquiry relates to your discussions with the person about an appropriate auxiliary aid or service).
- Relax. Do not be embarrassed if you unintentionally happen to use common expressions, such as "see you later" or "got to be running along," that seem to relate to a person's disability.
- In order to facilitate conversation, be prepared to offer a visual cue to a person who is deaf or hard of hearing, or an aural cue to a person who is visually impaired, especially when more than one person is speaking.

### Reception Hints

- Know where accessible restrooms, drinking fountains, and telephones/TDDs are located. If such facilities are not available, be ready to offer an alternative (e.g., other restrooms, a glass of water, your desk phone).
- When introduced to a person with a disability, it is appropriate to offer to shake hands.
- Shaking a left hand is appropriate.
- For those who cannot shake hands, touch them on the shoulder or arm to acknowledge their presence.
- Never patronize persons using wheelchairs by patting them on the head or shoulder.
- When addressing a person who uses a wheelchair, never lean on the person's wheelchair. The chair is a part of the space that belongs to that person.
- When talking with a person who has a disability, look at and speak directly to the person, rather than looking at or speaking to a companion or interpreter.
- Offer assistance in a dignified manner with sensitivity and respect. Be prepared to have the offer declined. Do not proceed to assist if your offer to assist is declined. If the offer is accepted, listen to or ask for instructions.

Additional examples of courtesies for interaction with persons with disabilities are provided in Appendix D.

## **SECTION IV: ENFORCEMENT AND REMEDIES**

### **Designating a Responsible Employee**

The Americans with Disabilities Act requires every public entity with 50 or more employees to designate a responsible employee to serve as the ADA coordinator and to adopt formal grievance procedures. Though some courts do not have 50 employees, designating such a coordinator facilitates implementation of the ADA statewide. The name, work address, and work phone number of the designated employee should be available to all interested persons.

The court ADA coordinator's duties include:

- Coordinating efforts to comply with and carry out the court's responsibilities under the Americans with Disabilities Act
- Acting as an advisor to whom judicial officers and court employees may direct questions regarding compliance with the Act
- Maintaining information on resources in the community that can be used to accommodate persons with disabilities
- Investigating complaints alleging non-compliance with the Act
- Distributing information regarding compliance with the Act

### **Grievance Procedures**

There is a requirement to publish adopted grievance procedures for prompt and equitable resolution of all complaints alleging a violation of Title II. Each trial and appellate court in Florida has established grievance procedures that allow for the resolution of complaints without resorting to federal complaint procedures. A grievance is a formal complaint made by a person, or on behalf of a person, alleging that he or she has been subjected to unlawful discrimination, or inaccessibility to facilities, programs, services, benefits, or activities on the basis of a disability.

The ADA requires that a "complete complaint" be submitted to properly file a grievance. A complete complaint includes:

- Complainant's name and address
- A detailed description of the alleged violation
- Date of the alleged violation
- The desired remedy or solution
- Names of any witnesses who can provide relevant information
- Any other information relevant to an investigation of the alleged violation

Persons seeking to file a grievance shall follow the established grievance procedures in each trial and appellate court in Florida. For an example of such grievance procedures, see Appendix D.

All persons have a right to pursue complaints of discrimination through the State Courts System's internal complaint procedure or with the United States Department of Justice. To file a formal complaint for an alleged Title II violation, write or call:

U.S. Department of Justice  
Civil Rights Division  
Coordination and Review Section  
Post Office Box 66118  
Washington, D.C. 20035-6118  
(202) 307-2222 (voice)  
(202) 307-2678 (TDD)

The ADA recommends resolving disputes on a local level if possible. Individuals who unsuccessfully pursue local remedies are not prevented from later seeking relief through the U.S. Department of Justice.

*The ADA coordinator for the State Courts System is available to provide technical assistance to judicial officers and court staff regarding Title II of the ADA. In addition, your local ADA coordinator has access to a variety of resources that can be used in implementing the ADA.*

## **GLOSSARY**

### **"Auxiliary Aids and Services"**

Title II of the ADA requires government entities to make appropriate auxiliary aids and services available to ensure effective communication. An auxiliary aid or service is any device or aid that is designed to provide effective communication and participation for individuals with disabilities. An example of an auxiliary aid or service is an assistive listening system, but the term also includes services such as a sign language interpreter or removing an item from a high shelf for a person with a disability. Generally, the requirement to provide an auxiliary aid or service is triggered when a person with a disability makes a request. For examples of auxiliary aids and services, see Appendix C.

### **“Effective Communication”**

Under Title II of the ADA, all state and local governments are required to take steps to ensure that their communications with people with disabilities are as effective as communications with others. This requirement is referred to as effective communication and it is required except where a state or local government can show that providing effective communication would fundamentally alter the nature of the service or program in question or would result in an undue financial and administrative burden.

What does it mean for communication to be effective? Simply put, effective communication means that whatever is written or spoken must be as clear and understandable to people with disabilities as it is for people who do not have disabilities. This is important because some people have disabilities that affect how they communicate.

How is communication with individuals with disabilities different from communication with people without disabilities? For most individuals with disabilities, there is no difference. But people who have disabilities that affect hearing, seeing, speaking, reading, writing, or understanding may use different ways to communicate than people who do not. There are many ways that the courts can provide equal access to communications for people with disabilities. These different ways are provided through auxiliary aids and services.

### **"Fundamental Alteration"**

Public entities are required to make reasonable accommodations and provide reasonable auxiliary aids and services to any qualified individual who needs them. In rare cases, a certain accommodation will so drastically change the service, program, or activity that the public entity may not be required to make the accommodation. This defense is only available after the chief judge or chief judge's designee has formally concluded in writing that the accommodation would fundamentally change the nature of the service, program, or activity.

### **"Major Life Activities"**

Under the ADA, an impairment meets the definition of a "disability" only if the impairment substantially limits one or more major life activities. Examples of major life activities include:

- walking
- speaking
- breathing
- performing manual tasks
- working
- seeing
- hearing
- learning
- caring for oneself
- sleeping
- standing
- lifting
- bending
- reading
- concentrating
- thinking
- communicating

Major life activities can also include major bodily functions, such as the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

### **"Primary Consideration"**

Primary consideration should be given to the auxiliary aid or service requested by the individual with the disability. A public entity should endeavor to obtain the requested method of accommodation unless the court can demonstrate that another equally effective accommodation is available or that the means chosen would result in a fundamental alteration in the nature of the service, program, or activity.

### **"Public Entity"**

Public entity refers to any state or local government and all the departments, agencies, or other instrumentalities of that state or local government.

### **"Record of a Substantially Limiting Condition"**

An individual who has a history of impairment, or who has a record of having been misclassified as having an impairment, meets this definition. For example: an individual who has a history of cancer or heart disease whose illness is cured, controlled or in remission, or an individual who was erroneously classified as having a learning disability.

### **"Regarded as Substantially Limited"**

An individual who is perceived to have a substantially limiting condition even when this person does not have a substantially limiting impairment. For example an individual who has high blood pressure which is not substantially limiting, but an employer regards the high blood pressure as disabling or possibly disabling. Individuals will not be regarded as having a substantially limiting impairment if the perceived impairment is transitory (six months or less of actual or expected duration) and minor.

### **"Substantially Limits"**

Three factors in determining whether a person's impairment substantially limits a major life activity are: (1) nature and severity of the impairment, (2) its duration or expected duration, and (3) its permanent or long-term impact or expected impact.

The beneficial effects of medication, medical supplies, equipment or appliances, low-vision devices, prosthetics, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; use of assistive technology; reasonable accommodations or auxiliary aids and services; or learned behavioral or adaptive neurological modifications may not be considered when determining whether an impairment substantially limits a major life activity. However, the beneficial effect of ordinary eyeglasses or contact lenses should be considered in the determination. Furthermore, if an impairment that is episodic or in remission substantially limits a major life activity when active, it may be a disability.

### **"Undue Burden"**

The ADA does not require the court to make any accommodations that place an undue financial or administrative burden on the courts. An undue burden is defined as "significant difficulty or expense." It is evaluated on a case-by-case basis, relative to the state or local government entity's overall resources. Asserting the defense of undue burden requires a greater showing of hardship than simply that the provision of auxiliary aids or services will be difficult or expensive. Further, when a particular communication aid or service would cause an undue burden, the court must provide another communication aid or service that still is effective but is less difficult or costly, if one is available. For example:

It would be an undue burden for a court to have a sign language interpreter available all the time to assist walk-in court users. However, when requested by a litigant or other court participant in advance, the court can arrange for an interpreter to be available at a specified time.

If after considering all available resources a determination of "undue burden" is made, the chief judge or chief judge's designee must prepare a written statement explaining such a decision.

To summarize, decisions on undue burden:

- Must be made by head of public entity or designee.
- Must consider all resources available for use in the funding and operation of the program.
- Must be accompanied by a written statement of the reasons for the conclusion.

- A public entity shall take any other action that would not result in such an alteration or burden.

## APPENDIX A: RECOGNIZING PHYSICAL OR MENTAL IMPAIRMENTS

### Examples of “Physical and Mental Impairments”

- A person who has epilepsy and uses medication to control seizures or a person who walks with an artificial leg is considered to have an impairment, even if the medicine or prosthesis reduces the impact of that impairment.
- Simple physical characteristics such as eye or hair color, left handedness, or height or weight within a normal range are not impairments.
- Personality traits such as poor judgment, quick temper, or irresponsible behavior are not impairments unless they are a symptom of a psychological disorder.
- A person who cannot read due to dyslexia is an individual with an impairment because dyslexia is a learning disability. However, a person who cannot read because he or she dropped out of school is not an individual with a disability. Lack of education is not an impairment.
- A prison record is not an impairment.
- Stress and depression are conditions that may or may not be considered impairments, depending on whether these conditions result from a documented physiological or mental disorder. A person experiencing general stress because of job or personal life pressures would not be considered to have an impairment. However, if diagnosed by a psychiatrist as having an identifiable stress disorder, this would be an impairment that may be a disability.
- A person who has a contagious disease may have an impairment. Infection with HIV is an impairment. An individual with tuberculosis which affects the respiratory system has an impairment.

### Examples of "Substantially Limits"

- Although cerebral palsy frequently significantly restricts major life activities such as speaking, walking, and performing manual tasks, an individual with mild cerebral palsy that only slightly interferes with his or her ability to speak and has no significant impact on other major life activities, is not an individual with a disability under this part of the definition.
- An individual who sustains a back injury that results in considerable pain and that substantially restricts the ability to sit, walk, stand, or participate in recreational activities is an individual with a disability. An individual who sustains a back injury but is able to continue an active life, including recreational sports, is not considered an individual with a disability.

- A person who has a mild form of arthritis in his or her wrists and hands, and a mild form of osteoporosis, is considered to have a disability. Although neither impairment by itself substantially limits a major life activity, these impairments combined significantly restrict the person's ability to lift and perform manual tasks.
- Temporary non-chronic impairments that do not last for a long time and that have little or no long term impact usually are not disabilities. Broken limbs, sprains, concussions, appendicitis, common colds, or influenza generally would not be disabilities.
- If a person suffers a broken leg which takes significantly longer than the normal healing period, and during this period the individual cannot walk, this would be considered a disability. If the leg does not heal properly, and results in permanent impairment, that would be considered a disability.
- If a person has epilepsy that is normally controlled by medication, that person may be disabled if the epilepsy substantially limits one or more major life activities absent medication.
- A person whose hearing is improved by a cochlear implant may be disabled if the impairment, absent the cochlear implant, substantially limits one or more major live activities.

#### **Examples of "Record of a Substantially Limiting Condition"**

- A person with a history of cancer, heart disease, or other debilitating illness, whose illness is cured, controlled, or in remission, or who has a history of mental illness.
- A person who has been misclassified or misdiagnosed as having a disability such as a developmental disability or a learning disability.
- Someone who has been labeled mentally retarded.
- Someone who has formerly been a patient at a mental institution and was misdiagnosed, but the misdiagnosis has not been removed from the records.
- Someone who has been hospitalized for cocaine addiction, has been successfully rehabilitated, and has not engaged in the illegal use of drugs since receiving treatment.

#### **Examples of "Regarded as Substantially Limited"**

- Someone rumored to have the HIV virus regardless of the truth of the rumor.

## **APPENDIX B: MENTAL ILLNESS AND MENTAL RETARDATION**

Court procedures for an individual with retardation are different than for an individual with a mental illness. Chapter 916, Florida Statutes, provides that if the court suspects a criminal defendant may be mentally retarded, the individual shall be examined by the Agency for Persons with Disabilities.

It is important to distinguish between an individual with a mental health diagnosis and an individual with a developmental disability such as retardation, in order to provide the appropriate necessary assistance or auxiliary aids or services. Though not an exclusive list, the following guidelines may assist the courts in making a general assessment of a person's mental disability.

### **Persons with a Mental Illness**

- Can be of any level of intelligence
- May exhibit sporadic, unpredictable, inappropriate behavior
- Sometimes need therapy, medication, or treatment

### **Persons with Mental Retardation**

- Are of sub-average intelligence
- Exhibit non-episodic behavior
- Possess limited vocabulary
- Have difficulty understanding or answering questions
- Say what they think others want to hear or mimic responses or answers
- Conceal inability to read or write
- May not understand their rights
- May fail to appreciate seriousness or consequences of situations
- Seem eager to please

This information is based on a pamphlet developed by attorney Dolores Norley and funded by the Florida Developmental Disabilities Council and the Florida Department of Children and Families Developmental Services Program.

## **APPENDIX C: EXAMPLES OF AUXILIARY AIDS AND SERVICES**

### **Accessible Electronic Documents**

Some individuals with disabilities use assistive technology to compensate for their functional limitations. Examples of assistive technology include screen readers, hands-free mouse alternatives, and voice recognition software keyboards. If electronic court information and information technologies are not designed properly, those who use assistive technology as well as other individuals with disabilities may be cut off from important information. Adherence to Section 508 Standards, which are set forth at 36 CFR Part 1194, is a means by which the courts can ensure compliance with the ADA as it relates to effective communication via electronic formats.

### **Assistive Listening Devices**

Some individuals who are hard of hearing use hearing aids. Individuals with more severe hearing losses may add an "audio loop." In this system, the speaker talks into a microphone connected to an amplifier. Sound is sent through a cable or "loop" placed around the courtroom. If the listener's device has a telecoil ("T" switch), he or she can sit within the loop area and receive the amplified speech by turning on the "T" switch.

### **Audio Tapes/Talking Books**

Written materials may be put on cassette tapes for persons with visual disabilities.

### **Braille Printer**

After a computer file has been converted through special software, it can be printed in Braille on a Braille printer. The Braille document should be proofread by a person skilled in Braille.

### **Real-Time Transcription Services / Communication Access Realtime Translation (CART)**

Real-time transcription services involve a specially trained court reporter, transcription machine, computer, and monitor. The court reporter inputs information on the keyboard and it is electronically transmitted to a computer that translates the phonetic entries to English, which is then shown on a monitor. Please refer to the guidelines contained in the Florida State Courts System Policy on Court Real-Time Transcription Services for Persons Who Are Deaf or Hard of Hearing (Appendix F) for further information.

### **Infra-Red Assistive Listening Systems**

An infra-red system uses wireless amplifying devices that transmit sound in the form of light waves. The system consists of a transmitter and receiver. The receiver is portable, and the user may sit anywhere in the room. The transmitters can be attached to walls or made portable.

## **Optical Scanners and Optical Character Recognition (OCR)**

The purpose of optical scanners and optical character recognition (OCR) software is to make print materials accessible using synthesized speech. The OCR software takes a picture of text that is on a print page, converts it to computer text, then displays it on a screen. This is done by the optical scanner. Some optical scanners and OCR software used by persons who are blind or severely visually impaired include software that will read the document using a speech synthesizer.

Some OCR packages are stand-alone. They are often called reading machines. These machines do not require a computer to work. A scanner may be connected via a cable or be part of the main reading machine that will store the data, process the data, and provide the speech output. A user operates the machine using a key-pad or keyboard. Today many public libraries have at least one such reading machine for library customers who are blind or visually impaired. Persons with learning disabilities can also benefit from such reading machines. This machine converts written materials into voice transmissions.

## **Large Print Materials**

Converting smaller print into a larger font assists not only people with low vision, but also people with cognitive impairments. The recommended style for large print materials is clear serif typeface in at least 18-point type, using short paragraphs.

## **Open and Closed Captioning**

In open-captioning, a script of the speaker's message always appears at the bottom of a video screen while that person is speaking. In closed-captioning, the script at the bottom of the screen will appear only if a decoder is used. Open-captioning is also beneficial to persons for whom English is a second language.

## **Oral Interpreter**

An oral interpreter silently mouths words spoken to enable a lip-reader to understand what is being said by people who are seated too far away to enable direct lip-reading.

## **Qualified Interpreter**

A qualified interpreter is someone who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. American Sign Language is the most common sign language used by persons who are deaf or hard of hearing. However, persons who are deaf or hard of hearing may use any one or a combination of several sign languages to communicate, including home signs unique to that individual. It is imperative that the sign language interpreter be skilled in the language used by the individual receiving the service. Please refer to the Proposed Guidelines for Provision of Interpreters for Persons with Hearing Impairments (Appendix G) for further information.

### **TDD/TTY/Text Phone**

A "telecommunication0 device for the deaf" uses graphic communication in the transmission of signals through a wire or radio control system.

### **Video Phone**

Video phones allow people who are deaf and hard or hearing to communicate with others using American Sign Language over a videophone connection. They can contact other deaf people who also have videophones directly, or they can contact hearing people through the Video Relay Service.

### **Wireless FM System**

This system requires that a speaker talk into a special transmitter unit that sends the sounds directly to the listener, who wears a receiver on a neck loop and a hearing aid with a telecoil.

## **APPENDIX D: MORE EXAMPLES OF COURTESIES**

### **Persons with Mobility Aids**

- Enable persons who use crutches, canes, or wheelchairs to keep them within reach.
- Be aware that some wheelchair users may choose to transfer themselves out of their wheelchairs into an office chair for the duration of their visit.
- When speaking to a person who uses a wheelchair for more than a few minutes, sit in a chair. Place yourself at that person's eye level to facilitate conversation.
- If the person is accompanied by a service animal, let him or her control the animal. Do not pet or play with the animal.

### **Persons with Visual Disabilities**

- When greeting a person with a visual disability, always identify yourself and introduce anyone else who might be present.
- When conversing in a group, give a vocal cue by announcing the name of the person to whom you are speaking.
- If the person does not extend a hand (to shake hands), extend a verbal welcome.
- When offering seating, place the person's hand on the back or arm of the seat. A verbal clue may be helpful as well.
- Let the person know if you move or need to end the conversation.
- Allow a person with a visual disability to take your arm (at or below the elbow). This will enable you to guide rather than propel or lead the person.
- If the person is accompanied by a service animal, let him or her control the animal. Don't pet or play with the animal.

## **Persons with Speech Impediments**

- Give your undivided attention when talking with a person who has a speech impediment.
- Ask short questions that require short answers or a nod of the head.
- Do not pretend to understand if you do not. Try rephrasing what you wish to communicate, or ask the person to repeat what you do not understand.
- Do not raise your voice. Most people with speech impediments can hear and understand perfectly well.
- Keep your manner encouraging rather than correcting.
- Exercise patience C do not attempt to speak for someone with a speech difficulty.

## **Individuals Who Are Deaf or Hard of Hearing**

- If you need to attract the attention of someone with a hearing disability, touch/tap the person lightly on the shoulder.
- Some individuals who are deaf or hard of hearing read lips. Always look directly at a person and speak clearly at a normal pace.
- Place yourself facing the light source and keep your hands away from your mouth when speaking.
- Shouting does not help and can be detrimental. Only raise your voice when requested. Brief, concise written notes may be helpful in some situations.
- When speaking through an interpreter, speak to and look at the person with the disability, not at the companion or interpreter.
- In the United States, some persons who are deaf or hard of hearing use American Sign Language (ASL), but ASL is not a universal language. ASL is a conceptual language with its own syntax and grammatical structure, which is significantly different from written and spoken English.
- When scheduling a sign language interpreter for a non-English speaking person, be certain to retain an interpreter who speaks and interprets in the language of that person.

## **Persons with Learning Disabilities**

- Specific learning disabilities may vary from one person to another. These problems may mildly, moderately, or severely impair the learning process.
- Offer assistance by writing things down.
- Ask questions requiring short answers. Wait for the individual to respond.
- Give explanations in small steps. Pause between each step of the direction.
- Allow the person to repeat the directions to ensure understanding.

## APPENDIX E: SAMPLE GRIEVANCE PROCEDURE

\* \* \* *Trial Court Model* \* \* \*

Americans with Disabilities Act of 1990

\* \* \*

Designation of Responsible Person  
and  
Internal Grievance Procedure  
for the  
\_\_\_\_\_ Judicial Circuit

### I. Authority

Federal regulations implementing the Americans with Disabilities Act of 1990 (ADA) requires public entities with 50 or more employees to designate a responsible employee and adopt grievance procedures providing for prompt and equitable resolution of complaints alleging noncompliance or complaints alleging any actions that would be prohibited under Title II of the ADA. (28 C.F.R. §35.107)

### II. Intent and Purpose

It is the intent of the \_\_\_\_\_ Judicial Circuit to fully comply with the ADA and to assure equity, fairness, and full participation in the judicial system for persons with disabilities.

The purpose of this procedure is to establish a mechanism for resolving complaints without requiring the complainant to resort to federal complaint procedures. However, complainants would not be required to exhaust this grievance procedure before they could file a complaint at the federal level.

It is the intent of the \_\_\_\_\_ Judicial Circuit that complainants be consulted and advised, and that communications be maintained, at each step of the grievance process. It is further the intent of the \_\_\_\_\_ Judicial Circuit to engage alternative dispute resolution techniques whenever necessary, and at any point in the grievance process.

### III. Definitions

- A. *Americans with Disabilities Act (ADA)* - Public Law 101-336, the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability.

- B. *ADA Coordinator* - Same as "Responsible Employee."
- C. *Disability or Persons with Disabilities* - With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such an impairment as defined in Public Law 101-336 and 28 C.F.R. §35.104.
- D. *Grievance* - A formal complaint made by a person, or on behalf of a person, alleging that he or she has been subjected to unlawful discrimination, or inaccessibility to facilities, programs, services, benefits, or activities on the basis of a disability.
- E. *Office of the General Counsel* - An operational division of the Office of the State Courts Administrator, Supreme Court of Florida, Tallahassee.
- F. *Office of the State Courts Administrator (OSCA)* - The administrative office of the Supreme Court of Florida, Tallahassee, which serves as the liaison between the Supreme Court and other court entities and other branches of government.
- G. *Responsible Employee* - An employee designated to coordinate a public entity's efforts to comply with and carry out its responsibilities under Title II of the ADA. These responsibilities include any investigation and/or follow through of any complaint alleging noncompliance or alleging any actions that would be prohibited by Title II of the ADA.
- H. *State Courts System* - All Florida courts at both appellate and trial levels.
- I. *Title II* - The second section of the ADA that prohibits discrimination on the basis of disability in state and local government services.

IV. Designation of Responsible Person

The ADA coordinator for the \_\_\_\_\_ Judicial Circuit is:

Name  
 Position Title  
 Street Address  
 City, Florida Zip  
 Telephone Number  
 Email Address

V. Grievances

A complaint shall contain the following minimum information:

- A. Name, address, and telephone number of the complainant on whose behalf the complaint is being made.
- B. The court facility in which the violation is alleged to have occurred.
- C. A complete statement of the grievance and the facts upon which it is based.
- D. The desired remedy or solution requested.
- E. The names of any witnesses who can provide supportive or relative information.

VI. Procedure for Grievances Relating to the \_\_\_\_\_ Judicial Circuit

A. Filing

- 1. Complaints must be filed with the ADA coordinator no later than one hundred eighty (180) days from the date of the alleged discrimination.
- 2. The filing deadline may be extended upon a show of good cause.

B. Assessment and Determination of Team Members

- 1. The ADA coordinator will determine which function(s) of the court is at issue: facilities, programs, services, benefits, or activities.
- 2. The ADA coordinator will notify the chief judge and the court administrator of the complaint.
- 3. A team consisting of at least three (3) people, one of which must be the ADA coordinator, shall address the complaint. Individual(s) who are charged in the complaint with alleged discriminatory conduct shall not be a member of the team.
- 4. The team will involve representatives from county government entities in the resolution of the complaint when the complaint involves a court facility, program, service, benefit, or activity that is under the authority or provided by county government.

C. Fact Finding

- 1. The team, or a member of the team, will review the complaint with the complainant.

2. The team, or a member of the team, will interview witnesses who can provide supportive or relative information and complete the fact finding.

D. Test of Legal Sufficiency

1. The team, or a member of the team, shall determine the legal sufficiency of the complaint. In making this determination the team shall consider a consultation with the Office of the General Counsel.

E. Action

1. If a complaint is legally deficient, the complaint shall immediately be brought to closure.
2. If a complaint is legally sufficient, the team will establish a course of action to resolve the complaint.
3. To the extent necessary, the court will make reasonable modifications to its programs, services, benefits, and activities to ensure future compliance with the ADA.
4. When appropriate, and to the extent necessary, the court will work with county government to make reasonable modifications to court facilities, programs, services, benefits, and activities that are under the authority or provided by county government to ensure future compliance with the ADA.
5. The court may invoke the course of action described in the regulations implementing the ADA (28 C.F.R. §35.164) when modifications would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.

F. Closure, Notification, and Records Retention

1. The ADA coordinator shall communicate the results of the investigation and the chosen course of action to the complainant not later than thirty (30) working days from the date the complaint was filed.
2. In instances where a grievance against the \_\_\_\_\_ Judicial Circuit is filed via the ADA coordinator of the State Courts System, the ADA coordinator shall also communicate the results of the investigation and the chosen course of action to the ADA coordinator of the State Courts System not later than thirty (30) working days from the date the complaint was filed.
3. A record of the grievance shall be maintained for three (3) years; the

record shall be located with the ADA coordinator.

## **APPENDIX F: POLICY ON COURT REAL-TIME TRANSCRIPTION SERVICES FOR PERSONS WHO ARE DEAF OR HARD OF HEARING<sup>1</sup>**

It is the policy of the Florida State Courts System that all judges and court staff will abide by the following guidelines in those court proceedings where real-time transcription services are utilized as a reasonable and necessary method of ensuring effective participation by a party, witness, attorney, judge, court employee, juror, or other participant who is deaf or hard of hearing and entitled to auxiliary aids or services pursuant to Title II of the Americans with Disabilities Act of 1990:

1. Real-time transcription services should be performed by a court reporter who is specially trained in this skill.
2. The device selected should display text in a manner that accomplishes full access to the service and should be a non-glare, display-type computer monitor; a large-screen image from a data projection panel and overhead projector; or other device that ensures effective communication. It is recommended that the monitor be 15 inches or larger. The size of the monitor should take into account the number of persons viewing it. The display of the text should be dark letters on a light background, double spaced, with mixed case as appropriate for the context of the proceedings. The display font or type size should be a minimum of 18 points. The real-time transcription service should display not less than four (4) and no more than 17 lines of text at any one time. The display view should be limited to text that relates to the real-time transcription service; no system information should be visible to the user.
3. Text displayed on the monitor should appear within three (3) seconds from the time of steno-type input. This time frame requirement includes time for any and all related spell checks including phonetic translation for untranslates.
4. At the commencement of the proceeding, the court should determine whether effective communication is occurring. The court should instruct the person receiving the service and other participants in the proceeding to alert the court should a translation or other problem occur that impedes the person receiving the service from effectively participating in that person's appropriate role in the proceeding. Furthermore, if the court reporter becomes aware that an unacceptable number of untranslates or other problem is occurring with the real-time transcription service, the court reporter should immediately alert the court. Should the real-time transcription service become ineffective, the court should determine the cause of the problem and implement any corrective action the court deems reasonable or necessary.
5. The reporter, prior to the beginning of the proceeding, should review the case file and build a good client/job dictionary. This same job dictionary should be used at each subsequent

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<sup>1</sup>Adopted on June 28, 1996, by administrative order of the Chief Justice of the Supreme Court of Florida.

proceeding in a particular case. The job dictionary should be updated during the course of the proceeding to include untranslates that may be corrected by any of the parties during the proceedings. Such updates should be operable throughout the remainder of the proceeding's real-time transcription service and carried over to any future proceedings.

6. The real-time transcription service and corrections that were displayed on the screen or monitor during the proceeding must be preserved in a manner to reflect what was actually displayed. Any corrections that were not viewed but that later become a part of the official court record must be maintained separately from the record of displayed text. At the conclusion of any proceeding (other than juror deliberations) in which real-time transcription service has been provided to ensure effective communication for a person who is deaf or hard of hearing, the reporter shall preserve the record of the real-time transcription service in accordance with rule 2.075(e), Florida Rules of Judicial Administration, unless otherwise directed by the court.

7. If real-time transcription services are required for a juror who is deaf or hard of hearing, a court reporter shall be present in the jury room during jury deliberations. The role of the reporter, when in the jury room, is not as a reporter of the official record; therefore the real-time transcription service of jury deliberations must be deleted immediately upon the conclusion of jury deliberation. The reporter shall not counsel, advise, attempt to explain terms, or interject personal opinion. Furthermore, the reporter shall not read back the real-time transcription service from the proceeding or jury deliberations without express judicial approval or authorization.

## **APPENDIX G: GUIDELINES FOR PROVISION OF INTERPRETERS FOR PERSONS WHO ARE DEAF OR HARD OF HEARING**

### **Standard**

The court will ensure that communications in judicial proceedings, court services, programs, and activities involving persons who are deaf or hard of hearing are as effective as communications with other participants. This requirement applies to defendants, litigants, witnesses, jurors, attorneys, and observers. In those proceedings requiring an interpreter, the services of a qualified interpreter shall be secured. Qualified interpreter is defined as an interpreter who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. In judicial settings, court programs, services and activities, this may mean that the interpreter will need to interpret complex legal terminology.

### **Obtaining Interpreter Services**

Upon becoming aware of the need of such a participant for an interpreter, the court or its designated representative will take the necessary steps to obtain a qualified interpreter. Before determining the type of interpreter services to be secured, the court or its designated representative will confer with the individual with a disability or the individual's legal counsel regarding his or her mode of communication in order to determine the type of interpreter services required. Types to be considered include, but are not limited to, American Sign Language, signed English, fingerspelling, oral, tactile, and cued speech. Some individuals may have unique needs due to educational, cultural, or additional disability factors which may require creative solutions; examples include an individual who uses "home signs" because of a lack of significant exposure to standard communication modes used by individuals who are deaf; individuals who use a foreign sign language; and individuals with physical disabilities which affect their expressive language.

The court or its designee will then determine the date, time, and place where such services will be required. The court will then secure an interpreter who is capable of providing these services and negotiate payment terms from appropriate budgeted funds.

In selecting the interpreter, the preference is that the interpreter be certified by the National Registry of Interpreters for the Deaf (RID) except in those cases where the unique communication needs of the individual cannot be met by such nationally certified interpreters. The preferred certification level is SC: L (Specialist Certificate: Legal). Individuals holding other certifications issued by RID may be considered, including: NIC Master (National Interpreter Certification Master), NIC Advanced (National Interpreter Certification Advanced), NIC (National Interpreter Certification), or Oral Skills Certification for individuals requiring an oral interpreter. The court should be aware that it may be necessary to pay travel expenses when such certified interpreters are not locally available. When individuals holding the preferred certifications are not reasonably available, persons who can document substantial experience as

interpreters may be considered. When individuals who do not hold RID certification are used, the court has a responsibility to ensure that the interpreter clearly understands the role of the interpreter in the judicial setting and to ensure that the communication is effective prior to securing his/her services.

For individuals with unique communication needs (cued speech, "home signs," foreign sign language, physical disabilities which affect expressive communication, etc.), solutions may include recruitment of individuals with those particular skills to serve as interpreters; utilization of interpreter pairs which include both a nationally certified interpreter and an individual with the ability to convey or receive communication in the mode of the person with the disabilities; and consideration of alternate means such as real-time transcription. In all cases, the court has the responsibility to ensure that effective communication can occur.

The court may not require an individual to bring his or her own family member or friends to interpret. If a person who has a hearing impairment brings his or her own interpreter, the procedure for determining whether that individual is a qualified interpreter is described in the next section.

The court should be aware that interpreting requires intense mental concentration. In situations that involve more than two hours of interpreting without significant breaks, two interpreters, who take turns (usually in 20-minute shifts), may be necessary to assure effective communication. Additional interpreters may also be necessary to ensure that participants have an opportunity to confer with legal counsel during a proceeding.

### **Verification of Qualifications**

Upon the date, place, and time noted, and prior to continuing with any proceeding, the court or other designated official will inquire of the person with hearing impairment, through the interpreter, whether the individual is confident that the interpreter's skills will ensure an adequate and accurate interpretation of the proceedings, and whether or not the individual feels that the interpreter is impartial. If either of those questions is answered in the negative, further efforts will be made by the court or its designee to determine if there is a reasonable basis to the objection. The court should exercise caution in evaluating the potential for a conflict of interest or for bias when determining whether a family member, friend, or acquaintance is a qualified interpreter as defined in the standard. If there is such a reasonable basis, the court shall take whatever steps are necessary to acquire a qualified interpreter.

The court will inquire of each interpreter whether he or she will be able to interpret the proceedings. The court may wish to ascertain that the interpreter is qualified through further questions about the interpreter's awareness of the responsibility of the interpreter to accept the assignment using discretion with regard to personal skill, the setting, and the consumers involved. The court may also inquire of the interpreter whether, in his or her best judgment feels that he or she will be able to interpret effectively, accurately, and impartially in the proceedings.

When a question remains or a question arises as to whether the interpreter is qualified, the court may consider enlisting assistance from one or more persons qualified to evaluate interpreting skills and situations. The proceedings will continue unless the interpreter is unable to satisfy the criteria for a qualified interpreter, at which time a qualified interpreter will be obtained.

In the event the individual brings his or her own interpreter to any proceedings, the court or its designee will ask the individual if the interpreter's skills will ensure an adequate and accurate interpretation of the communication of the proceeding, and whether or not the individual feels the interpreter is impartial. The court will also make inquiries of the interpreter as described in the previous paragraph. Again, the court should exercise caution in evaluating the potential for a conflict of interest or for bias when determining whether a family member or friend is a qualified interpreter. If the court is satisfied that the interpreter is qualified, the court will cover the reasonable cost of interpreting services and the proceedings will continue. Otherwise, the court or its designee will obtain a qualified interpreter.

### **Florida Statutory Provisions**

Section 90.606, Florida Statutes, provides that:

(1)(a) When a judge determines that a witness cannot hear or understand the English language, or cannot express himself or herself in English sufficiently to be understood, an interpreter who is duly qualified to interpret for the witness shall be sworn to do so.

(b) This section is not limited to persons who speak a language other than English, but applies also to the language and descriptions of any person, such as a child or a person who is mentally or developmentally disabled, who cannot be reasonably understood, or who cannot understand questioning, without the aid of an interpreter.

(2) A person who serves in the role of interpreter or translator in any action or proceeding is subject to all the provisions of this chapter relating to witnesses.

(3) An interpreter shall take an oath that he or she will make a true interpretation of the questions asked and the answers given and that the interpreter will make a true translation into English of any writing which he or she is required by his or her duties to decipher or translate.

Further, section 90.6063(7), Florida Statutes, relating to interpreter services for deaf persons, provides that:

(7) Before a qualified interpreter may participate in any proceedings subsequent to an appointment under the provisions of this act, such interpreter shall make an oath or affirmation that he or she will make a true interpretation in an

understandable manner to the deaf person for whom the interpreter is appointed and that he or she will repeat the statements of the deaf person in the English language to the best of his or her skill and judgment. Whenever a deaf person communicates through an interpreter to any person under such circumstances that the communication would be privileged, and the recipient of the communication could not be compelled to testify as to the communication, this privilege shall apply to the interpreter.

## APPENDIX H: FLORIDA STATE COURTS SYSTEM GUIDELINES ON THE PROVISION OF REAL-TIME COURT REPORTING SERVICES FOR ATTORNEYS WITH DISABILITIES

Real-time court reporting services will be provided at court expense in county and circuit court criminal trials for attorneys who are deaf or hard of hearing. The provision of real-time court reporting services in other county and circuit court criminal proceedings in which the court is already providing court reporting services to comply with constitutional requirements will be considered on a case-by-case basis. These services will be provided in accordance with the Florida State Courts System’s “Policy on Court Real-Time Transcription Services for Persons Who are Deaf or Hard of Hearing” (see Appendix F).<sup>2,3</sup>

### Request Procedures:

Attorneys should submit requests for real-time court reporting services as follows:

1. Requests should be made as far in advance as possible, but preferably at least five working days before the date of the courtroom proceeding.
2. Requests may be presented either orally or in written format. All requests will be reduced to writing by the ADA coordinator. Requests must include a description of the hearing disability that necessitates provision of real-time court reporting services.<sup>4</sup>
3. Requests should be forwarded to the local court ADA coordinator (contact information for ADA coordinators is available on the Florida Courts website, [www.flcourts.org](http://www.flcourts.org)). If the request is originally presented to a judge or judge’s

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2 Providing accommodations for attorneys with disabilities who appear in the courtroom as part of their employment duties or professional practice is a responsibility that appropriately may be shared by the attorney’s employer and the courts. Title I of the Americans with Disabilities Act (ADA) requires employers of 15 or more employees and Title II of the ADA requires all state and local government employers to provide reasonable accommodations to qualified employees with a disability. In addition, Section 504 of the Rehabilitation Act of 1973, as amended, covers recipients of federal funding, and requires all covered organizations to provide accommodations for their employees. These responsibilities are concomitant with the courts’ responsibility under Title II of the ADA. It is to everyone’s benefit when employers and the court system work together to ensure that reasonable accommodations for attorneys with disabilities are provided in the most efficient and cost effective manner.

3 In accordance with 28 C.F.R. ’ 35.150, the provision of real-time transcription services or other appropriate auxiliary aids or services is limited to those that do not fundamentally alter the nature of the service, program, or activity, or result in undue financial or administrative burdens.

4 In order to fully and fairly evaluate a request, it may be necessary for the court to require the attorney to provide documentation about his or her disability, including a statement from a qualified health care provider that identifies the attorney’s functional limitations and describes how the requested real-time court reporting services address those limitations.

office, the judge shall confer with the court ADA coordinator.

4. The judge, court ADA coordinator, or other court representative, as appropriate to the circumstances, may engage in an interactive process with the attorney to discuss whether provision of real-time court reporting services is appropriate.
5. After analysis, the judge, court ADA coordinator, or other court representative, as appropriate to the circumstances, will inform the attorney whether the request will be granted.
6. Attorneys may utilize the court's grievance procedure when requests for real-time court reporting services are denied.

# APPENDIX C

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

Order Number 2011-22-Gen

**ADMINISTRATIVE ORDER AS TO REPORTING OF PROCEEDINGS  
REQUIRED BY LAW OR RULE OF COURT OR AT PUBLIC EXPENSE**

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- (a) The 17th Judicial Circuit utilizes electronic and digital recording of proceedings as required by law or rule of court.
- (b) The cost of providing services to users of the court system has increased since 2003 with public funds being spent for the utilization of electronic, or digital, or video recording or the transcription of same.
- (c) In accordance with the authority granted to the chief judge pursuant to Florida Rules of Judicial Procedure 2.215 and 2.535, it is ordered:
  - (1) Definitions. The terms as used throughout this Administrative Order shall have the following meaning.
    - (A) "Electronic and digital recording" is the capture of proceedings either electronically, digitally, or by video.
    - (B) "Court Reporter" is an individual qualified to operate a stenographic machine to take notes of proceedings and thereafter produce a transcript. It shall also include an individual who listens to and produces a transcript of an electronic and digital recording of a proceeding.
    - (C) "Court reporting agency" is a business entity which provides court reporters through a contract with the circuit to make a verbatim record of proceedings and prepare transcripts of proceedings.
    - (D) "Digital Court Reporter" is an individual who operates electronic and digital recording equipment for proceedings.
    - (E) "Official court record" shall be either the electronic and digital recording or the stenographic notes of the proceeding prior to a transcript being typed of the proceedings. If a transcript of the electronic and digital recording or the stenographic notes is prepared upon filing with the Clerk of Court it shall be the official court record.
    - (F) "Proceeding" is all criminal proceedings, juvenile proceedings, and any other matter before a judge or general magistrate or hearing officer when a verbatim record is required by law or rule of court, but does not include any communications which are protected by the attorney client privilege, or work product privilege, or are otherwise not part of the public proceeding before the judge or general magistrate or hearing officer and are private in nature. If there are in camera or side bar matters heard by the presiding judge, those proceedings are part of the proceeding, but are exempt from public access, and shall only be available to the court, party to the action, and the attorney

for the party as otherwise set forth herein. All proceedings shall be captured by electronic and digital recording unless otherwise exempted herein.

(G) "Transcript" is the typed verbatim record by a court reporter of the electronic and digital recording of a proceeding or the stenographic notes of a proceeding.

(H) "Verbatim record" includes all forms in which information of proceedings is received and stored.

(2) Establishment of Court Reporting Services.

(A) An office titled Court Reporting Services is established and will be under the auspices of the Trial Court Administrator. The purpose of Court Reporting Services is to provide electronic and digital recording of proceedings required by law or rule of court and to provide transcripts of said proceedings. There shall be a Director of Court Reporting Services.

(B) The Director shall direct and manage the affairs of all electronic and digital reporting and shall implement policies and procedures for the effective administration of the program.

(C) The Director shall report to the Trial Court Administrator or designee for day-to-day operations. The Chief Judge or designee shall establish qualifications for Court Reporting Services staff to insure qualified court reporters or digital court reporters with the ability to record proceedings, transcribe proceedings, and certify the correctness of the transcript.

(3) Electronic and Digital Recording of Proceedings.

(A) When proceedings are being recorded as the official court record, the digital court reporter monitoring the recording shall immediately notify a designated in-court official when the quality of the recording is doubtful. The proceedings shall be suspended until the equipment is operating properly.

(B) The digital court reporter shall maintain a detailed, accurate, legible record of all proceedings recorded on any media for electronic and digital recordings. All recording media shall be properly identified, together with the recording log, and will be stored for a period of time as prescribed by the Rules of Judicial Administration by Court Reporting Services.

(4) Capital cases.

(A) When the State of Florida prosecutes a case seeking the death penalty, where available, the court reporter shall use "real-time" technology.

(B) Upon an appeal of the trial court capital case proceedings, and service of a designation to the court reporter, transcripts shall:

(i) be prepared as required by the Florida Rules of Appellate Procedure; and

(ii) be prepared as required by an Administrative Order or policy/procedure required by the appellate jurisdiction; and

- (iii) be in consecutively numbered volumes not to exceed two hundred (200) pages per volume; and
    - (iv) have each page consecutively numbered; and
    - (v) have the first page of each volume with an index which contains the names of the witnesses, list of items offered into evidence, list of items entered into evidence, with the page numbers where each is located.
  - (C) Transcripts of capital cases where the death penalty is imposed are a priority and the court reporter shall use all available methods of production to expedite same for filing in the appellate proceedings.
  - (D) When transcripts of capital cases where the death penalty is imposed are ordered and due, the court reporter shall not appear at any proceeding until the transcript is prepared and delivered as required by law, court order, or rule of court.
- (5) Unified Family Court.
- (A) All proceedings before general magistrates and/or hearing officers shall be by electronic and digital recording even if a court reporter is retained by a party to the case. An attorney or a party may retain the services of a court reporter if he or she does not want the proceeding to be by electronic and digital recording.
  - (B) Proceedings before judges shall be by electronic and digital recording only as required by law or rule of court.
- (6) Transcription of electronic and digital proceedings.
- (A) Court Reporting Services and court reporters shall prepare transcripts of proceedings to meet deadlines as established by law, court order, or rule of court.
  - (B) Any party having an interest in a court action may order a transcription of any electronic and digital recording on file, or request a copy of the original electronic and digital recording. Only Court Reporting Services may prepare the transcript as the official court record from an electronic and digital recording.
  - (C) If the proceeding is confidential and exempt from public access pursuant to law or rule of court and the party requesting the transcription is not an attorney, party of record, or court staff in the performance of his or her duties, the requesting party must secure an order granting the request for the transcription or copy of the proceeding from the presiding judge.
  - (D) Written requests for transcription or copy of any electronic and digital recording shall be sent to Court Reporting Services and shall designate with particularity that portion of the proceeding which is to be transcribed. The request must include:
    - (i) style of case; and

- (ii) date of proceedings; and
- (iii) name of presiding judge or general magistrate or hearing officer; and
- (iv) location where recording occurred; and
- (v) information with regard to the portion requested if not the entire proceeding.

(7) Appellate transcription of electronic and digital proceedings.

- (A) Court Reporting Services is represented by Court Administration’s Office of General Counsel when any pleadings or papers are filed with a court having appellate jurisdiction.
- (B) As required by R. Regulating Fla. Bar 4-4.2, a copy of the designation served upon Court Reporting Services pursuant to Fla. R. App. P. 9.200(b) or any other paper filed with the appellate court, shall be served upon Court Administration’s Office of General Counsel at Broward County Courthouse, Room 880A, 201 S.E. Sixth Street, Fort Lauderdale, Florida 33301.
- (C) In the event a party serving a designation to Court Reporting Services does not receive an acknowledgement as contemplated by Fla. R. App. P. 9.200(b), the party shall contact Court Administration’s Office of General Counsel to determine the status of the acknowledgment.

(8) Transcription costs for electronic, digital, or video proceedings by Court Reporting Services.

- (A) All privately ordered transcripts require an initial 50% deposit and the balance is due upon receipt. No transcript shall be released by Court Reporting Services until payment has been made in full.
- (B) Payment for privately ordered transcripts shall be made payable to the State of Florida by attorney trust account check, money order, or official bank check.
- (C) Rates for Court Reporting Services.

Delivery Time	Number	Cost per page
24 hours (overnight)	Original and two (2)	\$ 7.50
	Each additional copy	\$ 1.10
Three (3) business days	Original and two (2)	\$ 6.50
	Each additional copy	\$ 1.10
Six (6) business days	Original and two (2)	\$ 5.50
	Each additional copy	\$ 1.10
Ten (10) business days	Original and two (2)	\$ 5.00
	Each additional copy	\$ 1.10
Appeals	Original and two (2)	\$ 5.00
	and disks Each additional copy	\$ 1.10

The cost for a copy of compact disk, which is not transcribed, is \$25.00.

- (D) At the time of delivery of a transcript Court Reporting Services shall certify that it is a "true and correct stenographic record from the electronic and digital recording of the proceeding."
  - (E) If any dispute arises as to whether the transcript accurately reflects the electronic and digital recording, the attorneys and/or parties shall first attempt to resolve the matter with the Director of Court Reporting Services or designee. If the attorneys and/or parties are not able to resolve the matter with the Director of Court Reporting Services, then the matter shall be resolved by the presiding judge.
- (9) Court Reporter Qualifications.
- (A) A court reporter appearing for a proceeding in a circuit court must have the ability to provide a current stenographic dictionary in a digital format which sets forth his or her manner of writing verbatim records to every court reporting agency on whose behalf he or she appears.
  - (B) A court reporter appearing for a proceeding in a circuit court must have the ability to provide an ASCII disk of all transcribed proceedings.
  - (C) A court reporter must have the ability to produce a transcript as required by law and rule or court which is accurate.
- (10) Retention of records.
- (A) All verbatim records shall be maintained for the period of time required by the Florida Rules of Judicial Administration in effect at the time the record was made. The court reporter, court reporting agency, and Court Reporting Services have the obligation to maintain the verbatim records.
  - (B) The Clerk of Court shall maintain all verbatim records in his custody and possession as required by the Florida Rules of Judicial Administration.
  - (C) A court reporting agency shall secure from every court reporter that appears on behalf of the court reporting agency at a proceeding all verbatim records and thereafter maintain custody and control of same.
  - (D) The court reporter at least yearly or upon other request of the court reporting agency who secured his or her services for a proceeding shall provide a current stenographic dictionary in a digital format which sets forth his or her manner of writing verbatim records.
  - (E) The court reporter shall provide to the court reporting agency on whose behalf he or she appeared, on a monthly basis, a translated disk of all circuit criminal and juvenile proceedings, along with an ASCII disk of all transcribed criminal and juvenile proceedings.

- (11) Contact Information for Court Reporters.
- (A) All court reporters, as an officer of the court, appearing in a Broward County or 17th Judicial Circuit court shall provide the following at the time of each appearance:
- (i) his or her full name; and
  - (ii) the name of the court reporting agency contracting with the court reporter; and
  - (iii) his or her address at which pleadings or papers can be served; and
  - (iv) his or her telephone number at which he or she may be reached.
- (B) The Clerk of Court shall place the contact information with regard to the court reporter in the court file.
- (C) A court reporter shall have a continuing duty to provide a current address and telephone number to the court reporting agency on whose behalf he or she appeared to record the proceeding as long as he or she is required to maintain the verbatim record.
- (12) In the event a court reporter or court reporting agency fails to provide a transcript, upon motion filed by any party, the presiding judge may issue an order for rule to show cause why the court reporter or court reporting agency shall not be held in contempt. Unless otherwise set forth in the order for rule to show cause the proceeding shall be a civil contempt hearing.
- (13) Notices shall be posted in every courtroom, chambers, or hearing room where proceedings are recorded by electronic, or digital, or video equipment that any and all conversations may be recorded. If an attorney, litigant, or any other individual present at the hearing does not want his or her conversation recorded, he or she should exit the location of the hearing, or mute the microphone, or ask the presiding judge to make other arrangements to preclude the contents of the conversation being captured by electronic, digital, or video equipment.
- (14) This Administrative Order shall not preclude the judge, attorneys of record, and parties from all consenting to the proceedings being "off the record."
- (15) This Administrative Order vacates and supersedes Administrative Order 2008-16-Gen.

DONE AND ORDERED in chambers at Fort Lauderdale, Broward County, Florida on April 20, 2011.

s/Victor Tobin  
Victor Tobin, Chief Judge

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

Order Number 2014-27-Gen

**ADMINISTRATIVE ORDER ESTABLISHING PROCEDURE FOR APPOINTMENT  
OF COUNSEL IN CRIMINAL AND CIVIL PROCEEDINGS  
AND ESTABLISHMENT OF DUE PROCESS SERVICE PROVIDER RATES**

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(a) §27.40, Fla. Stat., sets forth the duties and responsibilities of the Chief Judge in establishing a registry of attorneys, to be provided to the Clerk of Courts, for appointment of counsel as authorized by law.

(b) In accordance with the authority vested in the Chief Judge by Florida Rule of Judicial Administration 2.215, it is ordered effective immediately as follows:

(1) **APPOINTMENT TO REGISTRY.** The selection, approval, and continuation of a private attorney on the Registry is a privilege, not a right and is dependent upon qualifications, training, and other factors as determined solely by the Chief Judge. The number of appointments an attorney receives is subject to the number of cases filed, the number of cases for which the Office of Public Defender (Public Defender) or Office of Criminal Conflict and Civil Regional Counsel (Regional Counsel) cannot provide representation, and the number of attorneys on the Registry. Attorneys will be added to the Registry on a quarterly basis and shall be responsible for entering into any and all Agreements required by the Justice Administrative Commission (JAC). The Chief Judge will advise JAC and Clerk of Courts (Clerk) of the attorneys on the Registry. Attorneys' names will not be sent to the Clerk until the Chief Judge is notified by the JAC that the attorney has executed any and all required agreements with the JAC. All attorneys on the Registry for Fiscal Year 2013-2014 are required to reapply for Fiscal Year 2014-2015. There is no annual requirement to submit an application thereafter unless directed by the Chief Judge.

(2) **GENERAL REQUIREMENTS.**

(A) The attorney must be a member of The Florida Bar in good standing.

(B) The attorney must have either a principle office in Broward County, Florida or location in Broward County, Florida to meet with clients.

(C) The attorney must have either a telephone number with an area code for Broward County, Florida or a toll free number for the receipt of telephone calls from clients.

(D) The attorney must provide notice to the Chief Judge, Clerk, and JAC of any change in address, telephone number or e-mail address and also if the attorney is unavailable to accept appointments for any period of time due to vacations, illness, or for any other reason. Notice to the Chief Judge shall be sent to [isc@17th.flcourts.org](mailto:isc@17th.flcourts.org). Notice to the

Clerk shall be sent to [CACS@browardclerk.org](mailto:CACS@browardclerk.org). Notice to the JAC shall be in the manner required by the JAC. Attorneys eligible to receive probate appointments shall provide a copy of the notice to [guardian@17th.flcourts.org](mailto:guardian@17th.flcourts.org). If the attorney is appointed to a case which is confidential or exempt from public access pursuant to rule of court or statute, the attorney shall advise the JAC in writing that the name of the client, pleadings/papers, or progress docket is confidential or exempt from public access and must be redacted prior to any public dissemination.

(3) **ADDITIONAL PROBATE DIVISION REQUIREMENTS.** In addition to the general requirements set forth in paragraph 2, the Probate Division Registry categories have additional requirements as set forth herein.

(A) All private attorneys on any Probate Division Registry category are required to:

(i) Maintain in full force and effect malpractice insurance during any period of time the attorney is on the Registry. The attorney must submit proof of legal malpractice insurance being in full force and effect within 10 days of the expiration of any policy during the fiscal year to the Administrative Judge for the Probate Division. Failure to provide proof will result in an immediate suspension from the Registry until proof of insurance is provided. If the attorney fails to provide proof within 60 days of the policy expiration the attorney will be removed from the Registry and required to reapply if he or she seeks reinstatement to the Registry.

(ii) Notify the Chief Judge and Administrative Judge for the Probate Division if the private attorney is under investigation by The Florida Bar, under a criminal investigation, or has pending criminal charges. Upon delivery of the notice the attorney will be immediately suspended from the Registry for Probate Division appointments pending the outcome of The Florida Bar investigation, criminal investigation or criminal charges and review by the Chief Judge of the outcome. The Chief Judge will be the sole decision maker if the attorney is reinstated to the Registry or is removed.

(B) The initial Continuing Legal Education (CLE) for private attorneys seeking appointments for Adult Protective Services, Developmentally Disabled Adults, Emergency Temporary Guardianships, and Incapacity is 10 hours of guardianship, mental health, or elder law topics in 12 months preceding application and appointment to the Registry. Acceptable CLE courses shall include advance directives, legislative updates, mental health, capacity and courses of other similar nature but shall not include estate planning, mediation training, family law matters, or arbitration training.

(C) Private attorneys receiving appointments on a fiscal year basis, which is defined as July 1 to June 30, for Adult Protective Services, Developmentally Disabled Adults, Emergency Temporary Guardianships, and Incapacity are required to complete 6 hours of CLE in the areas of elder law, guardianship, or mental health. Acceptable CLE courses shall include advance directives, legislative updates, mental health, capacity and courses of other similar nature but shall not include estate planning, mediation training, family law matters, or arbitration training. The private attorney must provide

proof no later than June 15th of each year that the attorney remains on the Registry that he or she has met the annual CLE requirement to the Administrative Judge of the Probate Division. Failure to provide proof will result in an immediate suspension from the Registry until proof of CLE is provided. If the attorney fails to provide proof by September 1st after notice of the CLE deficiency, the attorney will be removed from the Registry and required to reapply if he or she seeks reinstatement to the Registry.

(D) Private attorneys receiving appointments for Baker Act, Marchman Act, or Admission of Inmate to Mental Health Facility cases are required to attend any course presented by the Department of Children and Families with regard to these areas. The attorney must provide proof within 90 days of the course that he or she did attend. Failure to provide proof will result in an immediate suspension from the Registry until proof of attendance is provided. If the attorney fails to provide proof within 6 months after notice of the deficiency the attorney will be removed from the Registry and required to reapply if he or she seeks reinstatement to the Registry.

#### **(4) REMOVAL FROM REGISTRY**

(A) An attorney may be removed from the Registry if, he or she:

(i) resigns. The attorney shall immediately send notice to JAC as required by the JAC. The notice shall state if the attorney is resigning from all categories to which the attorney is entitled to receive appointments or only some categories to which the attorney is entitled to receive appointments. A copy of the notice shall be provided by the attorney to the Chief Judge and Clerk and shall be relied upon, at the time of receipt, that the attorney will be removed from the Registry as set forth in the notice. A copy of the notice shall be delivered to the Chief Judge by e-mail to [isc@17th.flcourts.org](mailto:isc@17th.flcourts.org). The copy to the Clerk should be delivered to CACS, Room 760, Broward County Courthouse, 201 S.E. Sixth Street, Fort Lauderdale, Florida 33301. If an attorney later decides that he or she wants to be reinstated to the Registry, the attorney must file a new application to be considered by the Chief Judge.

(ii) fails to comply with terms of contract with JAC. The Chief Judge may provide notice to an attorney of any failure to comply with the terms of the contract with the JAC and provide the attorney with an opportunity to respond prior to removal from the Registry.

(iii) fails to notify the Chief Judge, Clerk, and JAC of any change in status. The removal may be temporary until such time as the attorney notifies the Chief Judge, Clerk, and JAC or may be permanent, in the discretion of the Chief Judge, based upon the nature of the change of status. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.

(iv) fails to attend hearings, except for good cause as determined by the presiding judge or general magistrate. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.

(v) fails to maintain a valid e-mail address for communication with the Chief Judge, Clerk and JAC. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.

(vi) fails to enter into any and all agreement(s) and addendums to agreement(s) as required by JAC on or before the last weekday of August for each fiscal year the attorney is eligible for inclusion on the Registry. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.

(vii) fails to enter into any and all other agreement(s) and addendums to agreement(s) as required by JAC within 30 days of a request by the JAC. The Chief Judge shall advise the Clerk if any attorney is removed from the Registry.

(viii) has his or her contract terminated by JAC.

(ix) terminates his or her contract with JAC.

(x) reassigns or subcontracts a case to another attorney.

(xi) allows another attorney to appear at a critical stage of the case who is not on the Registry.

(B) If an attorney is disbarred, suspended, has surrendered his or her license, or is not a member in good standing with The Florida Bar, the attorney must promptly notify the Chief Judge in writing. The Chief Judge does have the authority to remove an attorney from the Registry who is disbarred, suspended, surrendered his or her license, or not in good standing with The Florida Bar even if the attorney fails to provide notice. An attorney removed for any reason set forth in this paragraph, upon reinstatement to The Florida Bar, will be required to file a new application to be considered by the Chief Judge for reinstatement to the Registry.

(C) At any time an attorney is removed from the Registry and later reinstated to the Registry, the attorney will be placed at the bottom of the list for rotation for the category for which the attorney is eligible to receive appointments.

#### **(5) NOTICES.**

(A) Notices between the Chief Judge and the Clerk shall be in an electronic format.

(B) The e-mail address of the judges, general magistrates, and court administration employees are exempt from public access and shall not be disclosed by the Clerk to any individual not employed by him.

#### **(6) SELECTION OF ATTORNEY FROM REGISTRY.**

(A) The judge or general magistrate shall advise the Clerk that a name of an attorney from the Registry is required on a case when Regional Counsel is not authorized by law to provide representation or an order is entered granting his withdrawal. The judge or general magistrate shall provide the Clerk with the name of the individual for whom counsel is being appointed, the case number, and type of case.

(B) A private attorney from the Registry shall be selected for the respondent in all Chapter 744 proceedings unless the judge advises the Clerk the respondent is indigent.

- (C) The attorney appointed to a case shall also have an obligation to ensure that:
- (i) the Public Defender cannot accept the case pursuant to law; or
  - (ii) the Public Defender has filed a motion to withdraw and an order of withdrawal has been entered by the presiding judge; **and**
  - (iii) Regional Counsel cannot accept the case pursuant to law; or
  - (iv) Regional Counsel has filed a motion to withdraw and an order of withdrawal has been entered by the presiding judge.

If the attorney cannot ascertain the above requirements the attorney shall set the matter for a status conference before the presiding judge with notice to the Public Defender and/or Regional Counsel, as applicable.

(D) It shall be the responsibility of the judge to determine if an attorney is eligible for appointments in a Registry category prior to notifying the Clerk of an order of appointment not in rotating order. By way of example, it shall be the responsibility of the judge to determine if the attorney representing the parent in the dependency proceedings is eligible to represent the parent in termination of parental rights proceedings.

(E) The Clerk shall within 1 business day of entry of the order of appointment mail to the Public Defender, Regional Counsel, or private attorney the order. If time is of the essence it shall be the responsibility of the judge to notify the attorney of his or her appointment to represent a defendant, parent, or respondent.

(7) **LIST OF ATTORNEYS ON REGISTRY.** The Clerk shall provide to the Chief Judge a copy of the Registry on the first day of each month in an electronic format(s) as determined by the Chief Judge.

(8) **SCHEDULING OF ATTORNEYS FOR DEPENDENCY SHELTER HEARINGS.**

(A) The Clerk shall schedule attorneys on a quarterly basis to attend the scheduled hearings for dependency shelter hearings. The quarters are based on the State of Florida's fiscal year which is July to September, October to December, January to March, and April to June.

(B) The Administrative Judge for Unified Family Court or designee will notify the Clerk as to the dates, times, and locations of the shelter hearings at least 30 days prior to the start of each quarter.

(C) The Clerk shall select 4 names of private attorneys from the Registry who are approved for shelter hearings, assign a dummy case number for the purpose of selecting names from the Registry and otherwise schedule private attorneys to appear on weekdays which are not court holidays or the court is otherwise closed. The Clerk shall provide an electronic copy of the schedule to the judges presiding at the shelter hearings, the judicial assistants for the judges presiding at the shelter hearings, the private attorneys, and Regional Counsel. If an attorney selected from the Registry

cannot appear at the time of the shelter hearing no other private attorney may be substituted for the non appearing attorney.

(D) If a private attorney is appointed for a parent, the Clerk shall update the Registry to reflect the attorney's appointment for a dependency case and place the attorney at the bottom of the Registry for dependency appointments.

(E) The procedures as outlined for shelter hearings is to provide parents and children with an expedited process to determine if a child should remain out of his or her home.

#### **(9) SCHEDULING OF ATTORNEYS FOR EMERGENCY TEMPORARY GUARDIANSHIP HEARINGS**

(A) The Clerk shall schedule private attorneys on a quarterly basis to attend the scheduled hearings for emergency temporary guardianship hearings. The quarters are based on the State of Florida's fiscal year which is July to September, October to December, January to March, and April to June.

(B) The general magistrates for the probate division shall advise the Clerk at least 30 days prior to the commencement of each quarter the dates, times, and locations of the emergency temporary hearings.

(C) Upon securing the information as to the dates, times, and locations of the emergency temporary guardianship hearings the Clerk shall schedule private attorneys to appear at the date, time, and location of the emergency temporary guardianship hearings. The Clerk shall select 1 name of a private attorney from the Registry who is approved for emergency temporary guardianship hearings, assign a dummy case number for the purpose of selecting names from the Registry and otherwise schedule private attorneys to appear at the emergency temporary guardianship hearings.

(D) The Clerk shall provide an electronic copy of the proposed schedule to the private attorneys who shall have 5 business days to accept the date and time to appear for emergency temporary guardianship hearings. If the private attorney fails to accept the date and time, he or she shall not be scheduled for that date and the Clerk shall select another private attorney from the Registry.

(E) If an attorney, after accepting, is unable to appear at the scheduled date and time, the attorney shall notify the Clerk who shall select another attorney from the Registry.

(F) At the time of finalizing the emergency temporary guardianship hearing schedule, or upon changes to the schedule, the Clerk shall provide an electronic copy to the probate division judges, the judicial assistants for the probate division judges, the general magistrates for the probate division, the secretaries for the general magistrates for the probate division, and the private attorneys. The Clerk shall also post a copy of the schedule in his office for the probate division.

(G) Upon the filing of the emergency petition and incapacity petition, the Clerk shall update the Registry to reflect the attorney's appointment and drop the attorney to the bottom of the Registry categories for emergency temporary guardianship proceedings and incapacity proceedings.

(10) **FEES.**

(A) Fees for private attorneys shall be those as established by statute or the General Appropriations Act, whichever shall apply at the time of appointment.

(B) It is the responsibility of the attorney to maintain any and all records required by JAC to receive compensation at the conclusion of the case to which the attorney is appointed.

(C) The private attorneys scheduled for or appearing at dependency shelter hearings are not entitled to receive fees unless an order of appointment is entered by the judge appointing the attorney to the dependency case at the time of the shelter hearings.

(D) The private attorneys scheduled for emergency temporary guardianship hearings are not entitled to receive a fee unless a case is filed with the Clerk which seeks a determination of incapacity and appointment of an emergency temporary guardian.

(E) If an attorney seeks fees in excess of those established by statute or the General Appropriations Act, whichever shall apply at the time of appointment, the attorney shall comply with all statutory requirements.

(F) If an attorney withdraws from the case and intends to seek a portion of the flat fee for representation of the defendant, parent, or respondent the attorney shall file a motion in the case with service upon JAC and the subsequently appointed attorney. The attorney subsequently appointed shall, at the conclusion of the case, provide notice to the prior attorney that the case is concluded so that:

- (i) both attorneys can file any and all appropriate request for fees from JAC; and
- (ii) both attorneys can file a motion before the presiding judge for an allocation of the flat fee.

(G) It shall be the responsibility of the withdrawn attorney to set the motion for hearing before the presiding judge with notice to JAC and the subsequently appointed attorney.

(H) If the respondent in a Chapter 744 proceeding is not determined indigent by the Clerk, then the attorney appointed from the Registry shall be entitled to fees and costs pursuant to Chapter 744 and is not required to file a motion for extraordinary fees.

(11) **GOOD CAUSE**

(A) The following shall be considered good cause for selecting an attorney not in strict rotation of the Registry to represent a client:

(i) The attorney was previously appointed to represent the client in another case. This shall include cases which are simultaneously pending or filed after the initial representation and the Public Defender and Regional Counsel cannot provide representation.

(ii) Statutes or rules of court require an immediate court hearing and the attorney next in rotation fails to respond to telephone calls or pages. The judicial assistant shall allow a minimum of 1 hour to contact the attorney as provided by the Clerk. If the attorney does not return the telephone call or declines the case, the judicial assistant shall contact the Clerk and request the next attorney name on the Registry for that category of cases.

This procedure shall continue until such time as an attorney accepts the appointment. The cases for which this provision applies are only Emergency Temporary Guardianships and Parental Notification Waiver proceedings.

(iii) Statutes or rules of court require the appointment of the previously appointed attorney.

(B) If the Clerk is advised an attorney is out of order, the Clerk shall update the Registry so that the attorney is placed at the bottom of the Registry category in which the case was assigned.

**(12) APPOINTMENT OF NON REGISTRY ATTORNEY**

(A) A non Registry attorney may be appointed if:

(i) no attorneys are on the Registry for a category of cases requiring appointment of counsel; or

(ii) all attorneys on the Registry for a category of cases have withdrawn or declined the appointment of the case; or

(iii) all attorneys on the Registry for a category are precluded by statute or rule of court from accepting any additional appointments.

(B) The presiding judge shall set forth in the order of appointment that the Public Defender and Regional Counsel are unable to represent the individual and one of the reasons from paragraph (12)(A).

(C) The attorney appointed shall be ordered to execute any and all Agreements required by the JAC to be compensated and for payment of due process expenses.

(D) The Clerk shall within 1 business day of entry of the order of appointment send a copy to the private attorney. If expedited notice of the appointment is required, the judicial assistant or general magistrate shall provide verbal notice of the private attorney.

**(13) COMPLAINTS.** An interested person may advise the presiding judge, in writing of any matter set forth in §27.40(9), Fla. Stat. Upon receipt of the written document with regard to any matter set forth in §27.40(9), Fla. Stat., the presiding judge shall set the matter for hearing with notice to the attorney, individual for whom the attorney was appointed to represent, the individual who wrote the court, and any other attorney who has made an appearance in the case. At the conclusion of the hearing the presiding judge shall enter an order which includes a recitation of facts as well as whether the attorney should be suspended or removed from the Registry for a specific period of time. A copy of the written document and order shall be provided to the Chief Judge at the conclusion of the hearing. The Chief Judge shall make the final decision as to whether a private attorney is temporarily or permanently removed from the Registry.

(14) **APPELLATE CASE REGISTRY REQUIREMENTS**

(A) *Criminal Division.* The Clerk and judge shall confer to determine if the private attorney selected has the qualifications as set forth herein to represent the defendant on appeal. The judge can require the private attorney selected by the Clerk to provide proof of meeting the requirements as set forth herein prior to entering the order of appointment. If the determination is made the private attorney does not meet the requirements as set forth herein to represent the defendant on appeal, the private attorney should not be appointed with the reason not by the judge and an indication why, so that the attorney remains at the top of the Registry category for the next appointment. The necessity of the judge and Clerk conferring as to the appointment of a private attorney is required as the Appropriation categories, Registry categories, and qualifications may differ and it is the responsibility of the judge to ensure that a qualified private attorney is appointed.

(i) *Misdemeanor*

Registry Category: Appellate

Appropriations Category: Misdemeanor Appeals

**Length of Bar Membership:** 2 years

**CLE Requirement:** 10 hours of CLE in appellate law OR 5 hours of CLE in appellate law and 5 hours of CLE in criminal law for the last reporting cycle or current reporting cycle

**Experience:** 3 criminal appeals OR 5 criminal trials

(ii) *Second and Third Degree Felony*

Registry Category: Appellate

Appropriations Category: -Felony Appeals

**Length of Bar Membership:** 2 years

**CLE Requirement:** 10 hours of CLE in appellate law OR 5 hours of CLE in appellate law and 5 hours of CLE in criminal law for the last reporting cycle or current reporting cycle

**Experience:** 3 criminal appeals OR 5 criminal trials

(iii) *Non-Capital Appeals*

Registry Category: Appellate

Appropriations Category: -Felony Appeals

**Length of Bar Membership:** 3 years

**CLE Requirement:** 10 hours of CLE in appellate law for the last reporting cycle or current reporting cycle

**Experience:** 5 criminal appeals OR 10 criminal trials (The 10 criminal trials shall be defined as at least 5 felony trials and 3 criminal appeals.)

(iv) *Death Penalty Appeals*

Registry Category: Appellate - Capital

Appropriations Category: Capital Appeals

**Length of Bar Membership:** 5 years

**CLE Requirement:** 10 hours of CLE in defense of capital cases at least every 24 months

**Appellate or Criminal Practice Percentage:** 33%

**Experience:**

A. 5 years of experience in criminal law AND prepared a brief for an appeal for at least 1 case which had a sentence of death imposed AND experience as lead counsel in the appeal of at least 3 felony convictions, in federal or state court, of which at least 1 was an appeal of a murder conviction OR

B. Lead counsel in the appeal of at least 6 felony convictions in federal or state court, of which at least 2 were appeals of a murder conviction

(v) *Involuntary Commitment of Sexually Violent Predators and Complex Appeals*

Registry Category: Appellate

Appropriations Category: Civil Appeal

**Length of Bar Membership:** 4 years

**CLE Requirement:** 10 hours of CLE in appellate criminal law for the last reporting cycle or current reporting cycle

**Appellate Experience:** 5 criminal appeals, at least 3 of which are non-capital appeals

**Appellate or Criminal Practice Percentage:** 33%

(B) *Dependency Division.* The Clerk and judge shall confer to determine if the private attorney selected has the qualifications as set forth herein to represent the party appealing. The judge can require the private attorney selected by the Clerk to provide proof of meeting the requirements as set forth herein prior to entering the order of appointment. If the determination is made the private attorney does not meet the requirements as set forth herein to represent the party appealing, the private attorney should not be appointed with the reason not by the judge and an indication why, so that the private attorney remains at the top of the Registry category for the next appointment. The necessity of the judge and Clerk conferring as to the appointment of a private attorney is required as the Appropriation categories, Registry categories, and qualifications may differ and it is the responsibility of the judge to ensure that a qualified private attorney is appointed.

(i) *Dependency and Termination of Parental Rights*

Registry Category: Appellate-Dependency

Appropriations Category: Dependency Appeals; TPR Appeals

The Appropriations category used will depend on the type of appeal.

**Length of Bar Membership:** 2 years

**CLE Requirement:** 3 hours of dependency CLE for the last reporting cycle or current reporting cycle

**Appellate, Dependency or Family Practice Percentage:** 25%

**Appellate Experience:**

A. 3 years of experience in dependency or appellate law AND lead counsel in at least 3 contested dependency trials AND 3 contested termination of parental rights trials OR

B. Demonstrate knowledge through the practice of family law

(ii) *Parental Notification Waiver*

Registry Category: Appellate-Dependency

Appropriations Category: Civil Appeal

**Length of Bar Membership:** 5 years

**CLE Requirement:** review of the ACLU materials with a statement of same on the application

**Experience:** A minimum of 5 constitutional law appeals. In addition, attorneys shall be familiar with the youth, privacy and constitutional issues relating to reproductive rights.

(iii) *Children/Families in Need of Services*

Registry Category: Appellate-Dependency

Appropriations Category: Civil Appeal

**Length of Bar Membership:** 2 years

**CLE Requirement:** 3 hours of dependency CLE for the last reporting cycle or current reporting cycle

**Appellate, Dependency or Family Practice Percentage:** 25%

**Appellate Experience:**

A. 3 years of experience in dependency or appellate law AND lead counsel in at least 3 contested dependency trials AND 3 contested termination of parental rights trials OR

B. Demonstrate knowledge through the practice of family law

(C) *Juvenile Delinquency Appeals.* The Clerk and judge shall confer to determine if the private attorney selected has the qualifications as set forth herein to represent the minor child on appeal. The judge can require the private attorney selected by the Clerk to

provide proof of meeting the requirements as set forth herein prior to entering the order of appointment. If the determination is made the private attorney does not meet the requirements as set forth herein to represent the minor on appeal, the attorney should not be appointed with the reason not by the judge and an indication why, so that the private attorney remains at the top of the registry category for the next appointment. The necessity of the judge and Clerk conferring as to the appointment of a private attorney is required as the Appropriation categories, Registry categories, and qualifications may differ and it is the responsibility of the judge to ensure that a qualified private attorney is appointed.

(i) *Misdemeanor*

Registry Category: Appellate

Appropriations Category: Juvenile Delinquency Appeals

**Length of Bar Membership:** 2 years

**CLE Requirement:** 10 hours of CLE in appellate law OR 5 hours of CLE in appellate law and 5 hours of CLE in criminal law for the last reporting cycle or current reporting cycle

**Experience:** 3 criminal appeals OR 5 criminal trials

(ii) *Second and Third Degree Felony*

Registry Category: Appellate

Appropriations Category: Juvenile Delinquency Appeals

**Length of Bar Membership:** 2 years

**CLE Requirement:** 10 hours of CLE in appellate law OR 5 hours of CLE in appellate law and 5 hours of CLE in criminal law for the last reporting cycle or current reporting cycle

**Experience:** 3 criminal appeals OR 5 criminal trials

(iii) *First Degree and Life Felony Appeals*

Registry Category: Appellate

Appropriations Category: Juvenile Delinquency Appeals

**Length of Bar Membership:** 3 years

**CLE Requirement:** 10 hours of CLE in appellate law for the last reporting cycle or current reporting cycle

**Experience:** 5 criminal appeals OR 10 criminal trials (The 10 criminal trials shall be defined as at least 5 felony trials and 3 criminal appeals)

(15) **CRIMINAL DIVISION REGISTRY REQUIREMENTS**

Each of the following Criminal Division Registry categories shall also be used for the appointment of counsel, based upon the charge for which the appointment is required: Violation of probation and/or violation of community control (Appropriations

Category: Violation of Probation-Misdemeanor (includes VOCC); contempt proceedings (Appropriations Category: Contempt Proceedings); extradition (Appropriations Category: Extradition); 3.850 and 3.800. (Appropriations Category: Post conviction - 3.850 and 3.800)

(A) *Misdemeanor and Criminal Traffic*

Registry Category: Misdemeanor

Appropriations Category: Misdemeanor; Criminal Traffic

**Length of Bar Membership:** 1 year

**CLE Requirement:** 10 hours of criminal law CLE for the last each reporting cycle or current reporting cycle

**Trial Experience:** 3 state or federal jury or nonjury trials

(B) *Third Degree Felony*

Registry Category: Third Degree Felony

Appropriations Category: Felony - 3rd Degree

**Length of Bar Membership:** 2 years

**CLE Requirement:** 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

**Trial Experience:** Minimum of 5 criminal jury trials

(C) *Second Degree Felony*

Registry Category: Second Degree Felony

Appropriations Category: Felony - 2nd Degree

**Length of Bar Membership:** 2 years

**CLE Requirement:** 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

**Trial Experience:** Minimum of 7 criminal jury trials, 2 of which must be felony trials

(D) *First Degree Felony*

Registry Category: First Degree/Life Felony

Appropriations Category: Felony - 1st Degree

**Length of Bar Membership:** 5 years

**CLE Requirement:** 10 hours of criminal law CLE for the last each reporting cycle or current reporting cycle

**Trial Experience:** 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases

**Criminal Practice Percentage:** 50%

(E) *Life Felony*

Registry Category: First Degree/Life Felony

Appropriations Category: Felony - Life; Felony -PBL

**Length of Bar Membership:** 5 years

**CLE Requirement:** 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

**Trial Experience:** 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases

**Criminal Practice Percentage:** 50%

(F) *Capital Sexual Battery*

Registry Category: Capital Sexual Battery

Appropriations Category: Capital Sexual Battery

**Length of Bar Membership:** 5 years

**CLE Requirement:** 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

**Trial Experience:** 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases

**Criminal Practice Percentage:** 50%

(G) *First Degree Murder (Death Penalty waived at time of appointment)*

Registry Category: First Degree/Life Felony

Appropriations Category: Felony - Life

**Length of Bar Membership:** 5 years

**CLE Requirement:** 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

**Trial Experience:** 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases

**Criminal Practice Percentage:** 50%

(H) *Capital (Death Penalty not waived at the time of appointment)*

(i) *Lead Counsel*

Registry Category: Capital

Appropriations Category: Capital - 1st Degree Murder (Lead Counsel)

**Length of Bar Membership:** 5 years

**Additional Requirements:** Fla. R. Crim. P. 3.112

**Trial Experience:** Lead trial counsel in no fewer than 9 state or federal jury trials of serious and complex cases which were tried to completion, as well as prior experience as lead defense counsel or co-counsel in at least 2 state or federal cases tried to completion in which the death penalty was sought. In addition, of the 9

jury trials which were tried to completion, the attorney should have been lead counsel in at least 3 cases in which the charge was murder; or alternatively, of the 9 jury trials, at least 1 was a murder trial and an additional 5 were felony jury trials.

**Criminal Practice Percentage:** 50%

(ii) **Co-Counsel**

Registry Category: Capital Co-Counsel

Appropriations Category: Capital - 1st Degree Murder (Co -Counsel)

**Length of Bar Membership:** 3 years

**Additional Requirements:** Fla. R. Crim. P. 3.112

**Trial Experience:** Lead counsel or co-counsel in no fewer than 3 state or federal jury trials of serious and complex cases which were tried to completion, at least 2 of which were trials in which the charge was murder; or alternatively, of the 3 jury trials, at least 1 was a murder trial and 1 was a felony jury trial

**Criminal Practice Percentage:** 50%

(I) ***Involuntary Civil Commitment of Sexually Violent Predator Cases (Chapter 394, Part V)***

Registry Category: Jimmy Ryce

Appropriations Category: Baker Act/Mental Health-Ch. 394, F.S.

**Length of Bar Membership:** 5 years

**CLE Requirement:** 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

**Trial Experience:** 15 Criminal trials, 10 of which shall be jury trials and at least 5 of the jury trials in felony cases

**Criminal Practice Percentage:** 50%

(16) **DEPENDENCY DIVISION REGISTRY REQUIREMENTS**

(A) ***Dependency***

Registry Category: Dependency; Dependency-Shelter Hearing

Appropriations Category: Dependency

Dependency-Shelter Hearing Registry category shall be used by the Clerk when scheduling attorneys to appear at Shelter Hearings

**Length of Bar Membership:** 1 year

**CLE Requirement:** 3 hours of dependency CLE for the last reporting cycle or current reporting cycle

**Family or Dependency Practice Percentage:** 25%

**Trial Experience:** 30 hours of hearing time representing a parent or child. The hearing hours shall consist of at least 6 shelter hearings, 3 dependency hearings, and 1 termination of parental rights hearing

(B) *Termination of Parental Rights Cases (Chapter 39 and 63 Proceedings)*

Registry Category: Termination of Parental Rights

Appropriations Category: Termination of Parental Rights - Ch. 39, F.S.; Termination of Parental Rights - Ch. 63, F.S. The selection of an appropriations category is dependent on the chapter under which the action is filed.

**Length of Bar Membership:** 2 years

**CLE Requirement:** 3 hours of dependency CLE for the last reporting cycle or current reporting cycle

**Family or Dependency Practice Percentage:** 25%

**Trial Experience:** 10 dependency trials OR 1 year of dependency experience

(C) *Parental Notification Waiver Cases*

Registry Category: Judicial Waiver

Appropriations Category: Parental Notification of Abortion Act

**Length of Bar Membership:** 5 years

**CLE Requirement:** review of the ACLU materials with a statement of same on the application

**Trial Experience:** Minimum of 5 criminal or civil trials OR 5 adjudicatory/evidentiary hearings - In addition, attorneys shall be familiar with the youth, privacy and constitutional issues relating to reproductive rights. The attorney should also have an interest in working with teens.

(D) *Children/Families in Need of Services Cases*

Registry Category: Dependency

Appropriations Category: CINS/FINS - Ch. 984, F.S.

**Length of Bar Membership:** 1 year

**CLE Requirement:** 3 hours of dependency CLE for the last reporting cycle or current reporting cycle

**Family or Dependency Practice Percentage:** 25%

**Trial Experience:** 30 hours of hearing time representing a parent or child. The hearing hours shall consist of at least 6 shelter hearings, 3 dependency hearings, and 1 termination of parental rights hearing

(E) *Emancipation*

Registry Category: Dependency

Appropriations Category: Emancipation

**Length of Bar Membership:** 1 year

**CLE Requirement:** 3 hours of dependency for the last reporting cycle or current reporting cycle

**Family or Dependency Practice Percentage:** 25%

**Trial Experience:** 30 hours of hearing time representing a parent or child. The hearing hours shall consist of at least 6 shelter hearings, 3 dependency hearings, and 1 termination of parental rights hearing

(17) **JUVENILE DELINQUENCY REGISTRY REQUIREMENTS**

Each of the following Juvenile Delinquency Division Registry categories shall also be used for the appointment of counsel, based upon the charge for which the appointment is required: violation of probation and/or violation of community control (Appropriations Category: Violation of Probation [VOCC] Juvenile Delinquency).

(A) *Misdemeanor*

Registry Category: Juvenile-Misdemeanors

Appropriations Category: Juvenile Delinquency - Misdemeanor

**Length of Bar Membership:** 1 year

**CLE Requirement:** 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

**Trial Experience:** 5 adjudicatory hearings or 3 criminal jury trials one of which is a second degree felony or higher

(B) *Third Degree Felony*

Registry Category: Juvenile -Third Degree Felony

Appropriations Category: Juvenile Delinquency - 3d Degree

**Length of Bar Membership:** 3 years

**CLE Requirement:** 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

**Trial Experience:** 5 adjudicatory hearings OR 3 criminal jury trials with at least 1 a second degree felony or higher

(C) *Second Degree Felony*

Registry Category: Juvenile-Second Degree Felony

Appropriations Category: Juvenile Delinquency - 2nd Degree

**Length of Bar Membership:** 3 years

**CLE Requirement:** 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

**Trial Experience:** 5 adjudicatory hearings OR 3 criminal jury trials with at least 1 a second degree felony or higher

(D) *First Degree or Life Felony*

Registry Category: Juvenile-First Degree and Life Felony  
Appropriations Category: Juvenile Delinquency - 1st Degree  
Felony; Juvenile Delinquency - Felony Life

The selection of an appropriations category is determined by the charge for which the minor is tried or pleads.

**Length of Bar Membership:** 3 years

**CLE Requirement:** 10 hours of criminal law CLE for the last reporting cycle or current reporting cycle

**Criminal Practice Percentage:** 50%

**Trial Experience:** 5 adjudicatory hearings OR 3 criminal jury trials with at least 1 a second degree felony or higher

(18) **PROBATE DIVISION REGISTRY REQUIREMENTS**

(A) *Adult Protective Services*

Registry Category: Probate-Adult Protective Services

Appropriations Category: Adult Protective Services- Ch. 415, F.S.

**CLE Requirement:** 10 hours of CLE for topics including guardianship, mental health, or elder law for the last reporting cycle or current reporting cycle

**Trial Experience:** Minimum of 10 cases representing a respondent in APS proceedings and/or developmentally disabled adult proceedings and/or incapacity proceedings

(B) *Developmentally Disabled Adults*

Registry Category: Probate-Developmentally Disabled Adults

Appropriations Category: Developmentally Disabled Adult

**CLE Requirement:** 10 hours of CLE for topics including guardianship, mental health, or elder law for the last reporting cycle or current reporting cycle

**Trial Experience:** 10 cases representing a respondent in APS proceedings and/or developmentally disabled adult proceedings and/or incapacity proceedings

(C) *Emergency Temporary Guardianships*

Registry Category: Probate - Emergency Temporary Guardianship

Appropriations Category: Guardianship-Emergency-Ch. 744, F.S.

Probate - Emergency Temporary Guardianship Registry category shall be used by the Clerk when scheduling attorneys to appear at emergency hearings before the general magistrates or if there is a Petition for Emergency Temporary Guardianship to be heard at a time other than established for emergency temporary guardianship hearings.

**CLE Requirement:** 10 hours of guardianship CLE for the last reporting cycle or current reporting cycle

**Trial Experience:** Minimum of 10 cases representing a respondent in APS proceedings and/or developmentally disabled adult proceedings and/or incapacity and/or emergency temporary guardianship proceedings (may also include 10 cases representing a guardian or proposed guardian in developmentally disabled adult proceedings or Chapter 744 proceedings)

(D) ***Guardianship Incapacity, Extraordinary Proceedings, and Restoration***

Registry Category: Incapacity

Appropriations Category: Guardianship - Ch. 744, F.S.

**CLE Requirement:** 10 hours of guardianship CLE for the last reporting cycle or current reporting cycle

**Trial Experience:** 10 cases representing a respondent in APS proceedings and/or developmentally disabled adult proceedings and/or incapacity and/or emergency temporary guardianship proceedings (may also include 10 cases representing a guardian or proposed guardian in developmentally disabled adult proceedings or Chapter 744 proceedings)

(E) ***Medical Procedures***

Registry Category: Probate-Baker Act

Appropriations Category: Medical Procedures-Section 394.459(3), F.S.

**Experience:** Education or training with regard to mental health issues

(F) ***Mental Health***

Registry Category: Probate-Baker Act

Appropriations Category: Baker Act/Mental Health-Ch. 394, F.S.

**CLE Requirement:** online course at

<http://mhlp.fmhi.usf.edu/training/tdetail.cfm?id=47>

with a copy of the certificate of completion

**Experience:** Education or training with regard to mental health issues

(G) ***Substance Abuse***

Registry Category: Probate - Marchman Act

Appropriations Category: Marchman Act/Substance Abuse - Ch. 397, F.S.

**Experience:** Education or training with regard to substance abuse issues

(H) ***Tuberculosis***

Registry Category: Probate-Tuberculosis

Appropriations Category: Tuberculosis - Ch. 392, F.S.

**Experience:** Education or training with regard to tuberculosis

(I) *Admission of Inmate to Mental Health Facility*

Registry Category: Department of Corrections Mental Health

Appropriations Category: Admission of Inmate to Mental Health Facility

**Experience:** Education or training with regard to mental health issues

(19) **DUE PROCESS PROVIDER RATES**

(A) The due process provider rates for costs incurred on or after July 1, 2010 shall comply with the due process provider rates as established by the Legislature. The private attorney shall also comply with all requirements of the JAC for approval of costs and payment of costs.

(B) The due process provider rates for the period of time October 1, 2007 to June 30, 2010 were:

(i) *Expert Witness Fees*

<u>Category</u>	<u>Fee Rate</u>
Downward Departure Examination	\$400.00 per examination and report
Expert Witness	\$150.00 per hour
Expert Witness - Out of Court	\$110.00 per hour

<u>Category</u>	<u>Fee Rate</u>
Expert Witness - Waiting to Testify at Court Proceeding or Deposition	\$70.00 per hour
Expert Witness - Travel	\$60.00 per hour
Expert Witness	\$1,580.00 per case
Insanity Evaluations	\$150.00 per hour
Investigators	\$38.00 per hour
Investigators	\$840.00 per case
Medical Doctors - Deposition and In Court	\$150.00 per hour
Medical Doctors - Out of Court	\$130.00 per hour
Other Pre-Trial Expert - In Court	\$100.00 per hour
Other Pre-Trial Expert - Out of Court	\$77.00 per hour
Psychological (Competency) Examination	\$250.00 per examination
Psychologist - In Court	\$140.00 per hour
Psychologist - Out of Court	\$130.00 per hour
Psychologist - Waiting to Testify at Court Proceeding or Deposition	\$85.00 per hour

(ii) **Interpreters**

Creole	\$35.00 per hour, one (1) hour minimum and \$8.75 for each quarter hour thereafter
French	\$50.00 per hour, one (1) hour minimum and \$12.50 for each quarter hour thereafter.
Portuguese	\$50.00 per hour, one (1) hour minimum and \$12.50 for each quarter hour thereafter.
Sign	\$50.00 to 75.00 per hour, two (2) hour minimum and travel expenses, and \$18.75 for each quarter hour thereafter
Spanish	\$35.00 per hour, one (1) hour minimum and \$8.75 for each quarter hour thereafter
Other	\$50.00 per hour, two (2) hour minimum and \$12.50 for each quarter hour thereafter

(iii) **Court Reporters**

(a) **Appearance Fees**

<u>Time Period</u>	<u>Fee</u>
Transcription of recorded investigative statements, discovery, or reports	1 to 5 recorded items \$25.00 Each additional recorded item \$5.00
8:30 a.m. until noon	\$100.00
1:30 p.m. until 5:00 p.m.	\$100.00
Not scheduled for 8:30 a.m. to noon or 1:30 p.m. until 5:00 p.m.	\$30.00 per hour with a 2 hour minimum
Real time from 8:30 a.m. until noon	\$150.00
Real time from 1:30 p.m. until 5:00 p.m.	\$150.00
Real time not scheduled for 8:30 a.m. to noon or 1:30 p.m. until 5:00 p.m.	\$45.00 per hour with a 2 hour minimum

(b) **Transcripts and ASCII Disk of Transcript**

<u>Delivery Time</u>	<u>Number</u>	<u>Cost per page</u>
24 hours (overnight)	Original and 2	\$ 7.50
	Each additional copy	\$ 1.10
3 business days	Original and 2	\$ 6.50
	Each additional copy	\$ 1.10
6 business days	Original and 2	\$ 5.50
	Each additional copy	\$ 1.10
10 business days	Original and 2	\$ 5.00
	Each additional copy	\$ 1.10
Appeals	Original and 2 and disks	\$5.00
	Original and 2	\$4.00
Non certified (a transcript prepared by an individual other than the court reporter taking the proceeding)		

Recorded investigative statements, discovery, or reports - same day	Original and 1	\$7.85
Recorded investigative statements, discovery, or reports - 24 hours (overnight)	Original and 1	\$5.10

<u>Delivery Time</u>	<u>Number</u>	<u>Cost per page</u>
Recorded investigative statements, discovery, or reports - 10 business days	Original and 1	\$2.75
Recorded investigative statements, discovery, or reports - 3 business days	Original and 1	\$4.15
	Each additional copy	\$1.00

(C) The due process provider rates for the period of time July 1, 2004 to September 30, 2007 were those as established by the Indigent Services Committee.

(20) **REFERENCES.** Any and all references to the Chief Judge, Clerk, Administrative Judge, judge, general magistrate, Public Defender, or Regional Counsel shall include his or her designee.

(21) This Administrative Order vacates and supersedes Administrative Order 2010-45-Gen.

DONE AND ORDERED in chambers in Fort Lauderdale, Broward County, Florida on

June 10, 2014

s/ Peter M. Weinstein  
 Chief Judge Peter M. Weinstein