

Cherokee County Court System Policies & Procedures

**Subject: Communicating with Individuals with Disabilities
Policy # 10-18-12**

Effective Date: October 22, 2012



Reviewed By: _____

Jerry W. Cooper, County Manager

A: PURPOSE: The purpose of this SOP is to establish policies and procedures for ensuring effective communications with individuals with disabilities.

B. POLICY: It is the policy of the Cherokee County Courts (which includes the Cherokee County Superior Court, Cherokee County State Court, Cherokee County Juvenile Court, Cherokee County Probate Court and Cherokee County Magistrate Court) to adopt the rules and statutes established statewide for the use of interpreters by the Courts of Georgia and the General Assembly and to adopt further policies concerning the provision of auxiliary aids and services, if necessary, so as to ensure that communications with individuals with disabilities in our courts are as effective as communications with individuals without disabilities, consistent with the requirements of Title II of the Americans with Disabilities Act (ADA), and regulations implementing Title II, 28 C.F.R. pt. 35 (and for government entities receiving federal funding, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the implementing regulation, 28 C.F.R. part 42, Subpart G).

Pursuant to the rules concerning "Use of Interpreters for Non-English Speaking and Hearing Impaired Persons" promulgated by the Georgia Supreme Court, as those rules currently exist and as they may be amended in the future, which are hereby incorporated by reference into this policy, and pursuant to Georgia statutes concerning the use of sign language and intermediary interpreters in administrative and judicial proceedings currently in effect or in effect as of January 1, 2013, the Cherokee County Courts shall, in those judicial proceedings where an interpreter is necessary to ensure effective participation by any party, witness, juror, or spectator who is deaf or hard of hearing or who has a speech impairment, upon request and with reasonable notice, secure the services of a qualified interpreter. A "qualified interpreter" is one who is of good moral character and interprets effectively, accurately, and impartially both receptively and expressively, using any necessary specialized terminology or vocabulary necessary to effectively communicate with individuals who are deaf, hard of hearing or who have speech impairments. As of January 1, 2013, this definition of "qualified interpreter" shall encompass any person certified as an interpreter for hearing impaired persons by the Registry of Interpreters for the Deaf or a "court qualified interpreter", pursuant to Official Code of Georgia Annotated ("O.C.G.A.") Section 24-6-651. .

In judicial proceedings where individuals who are blind or have low vision request with reasonable notice auxiliary aids and services to ensure effective communications, and appropriate auxiliary aids and services are deemed necessary to ensure effective communications with such individuals during judicial proceedings, the Cherokee County Courts shall provide appropriate auxiliary aids and services to such individuals who are blind or have low vision, free of charge.

This policy applies to those situations where other auxiliary aids and services, such as real-time transcription services, are not equally effective means of communication or are unavailable.

1. To meet their obligations under this policy, the Cherokee County Courts are required to provide: a) a qualified sign language interpreter to deaf or hard of hearing litigants; and b) appropriate auxiliary aids and services as may be necessary to ensure effective communications with individuals who are blind or have low vision.

- Litigants are not required to arrange for their own interpreter or provide for appropriate auxiliary aids and services that may be deemed necessary
- A litigant should make all practicable effort to notify the Cherokee County Courts no less than ten days, excluding weekends and holidays, in advance of the proceeding of their need for a sign language interpreter or other appropriate auxiliary aid or service. If the hearing impaired or visually impaired litigant receives notice of the proceeding less than ten days, excluding weekends and holidays, prior to the proceedings, such person shall notify the Cherokee County Courts as soon as practicable after receiving such notice
- The associated costs with providing an interpreter or other appropriate auxiliary aids or services may not be assessed as part of court costs on the litigant

2. The handout *Assisting Deaf or Hard of Hearing Persons in Georgia's Courts – A Bench Card for Judges*, will be provided to all personnel and is to be used as a resource and reference tool for employees that interact with people who are deaf or hard of hearing.

3. The publication, [A Handbook for Georgia Court Officials on Courtroom Accessibility for Individuals with Disabilities](#), furnished by the Georgia Commission on Access and Fairness in the Courts will also be provided to all court staff as a resource manual.

4. **APPROPRIATE AUXILIARY AIDS AND SERVICES:** Appropriate auxiliary aids and services include a wide variety of equipment, materials, and services that may be necessary to ensure effective communication for people with disabilities. 28 C. F. R. §§ 35.104, 35.160.

a) **For people who are deaf, are hard of hearing, or have speech impairments participating in court hearings**, appropriate auxiliary aids include, but are not limited to, qualified oral/sign language interpreters on-site or through video remote interpreting (VRI) services; written material; exchange of written notes; note takers; real-time computer-aided transcription services, telephone handset amplifiers, video text displays, amplified and hearing aid compatible telephones; assistive listening devices and systems; open and closed captioning, including real time captioning and caption decoders, voice, text, and video-based telecommunications products and systems including text telephones (TTYs), videophones, and captioned telephones, or equally effective communications devices; videotext displays; computer terminals equipped for video communication, accessible electronic and information technology; and other effective methods of making aurally delivered information or materials delivered using sound available to individuals who are deaf or hard of hearing.

b) **For people who are blind or have low vision**, appropriate auxiliary aid and services include, but are not limited to, qualified readers (i.e. a person who is able to read effectively, accurately, and impartially using any necessary specialized vocabulary); printed information and displays provided in Braille, in large print, in electronic format, or through audio recordings; taped text; oral descriptions of action and visual information to ensure the accessibility of proceedings and presentations; optical

readers; secondary auditory programs (SAP); note takers; assistance in filling out forms or accessing materials in a computer database; screen reader software or text magnification software to make computer displays accessible; accessible electronic and information technology; an assistant to guide a person to find his or her way to an unfamiliar location or along an unfamiliar route; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision.

5. PROCEDURES FOR REQUESTING AUXILIARY AIDS and SERVICES: Whenever possible, requests for auxiliary aids and services should be directed to the Court Administrator or Indigent Defense Office, 90 North Street, Canton, GA 30114, (678) 493-6450. Requests can be made by an individual with a disability who needs the auxiliary aids or services or by someone acting on that individual's behalf and can be made either in writing or orally. Requests should be made 10 days in advance, whenever possible, in order to better enable the Cherokee County Courts to address the communication needs of the individual. However, all requests for auxiliary aids and services will be addressed promptly and in accordance with ADA requirements.

a) Determining which types of auxiliary aids and services to provide:

(i.) Cherokee County Courts personnel will confer with the individual with the disability upon notification that any auxiliary aids and services may be required to ascertain the circumstances, requirements, and preferences of the individual. Cherokee County Courts employees will respond promptly to requests for auxiliary aids and services so that delays in responding do not deny individuals with disabilities an equal opportunity to participate in, and benefit from, the Cherokee County Courts programs, services, and activities.

(ii.) "Primary consideration" to the request of the individual with a disability. "Primary consideration" means that Cherokee County Courts employees will defer to the individual's request unless the Cherokee County Courts employee can demonstrate that he/she has an equally effective alternative available, given the nature, circumstances, length, complexity, and importance of the communication, as well as the communication skills of the person with a disability for whom auxiliary aids and services have been requested. (28 C.F.R. § 35.160(b)(2)).

b). Prior To Requesting An Interpreter: Prior to requesting an interpreter, a court employee must first notify and obtain permission from the Court Administrator.

(i.) The Court Administrator, or designee, will ensure that the hearing impaired individual desires an interpreter and does not want to sign a Waiver of Interpretive Services form.

(ii.) The Court Administrator, or designee, will try to determine what type of sign language the hearing impaired individual uses to ensure a capable interpreter is provided. This may be accomplished by asking the individual in writing what type of sign language they use.

6. REQUESTING AN INTERPRETER:

a) Interpreters may be requested from the following resources:

(i.) Sign Language Interpreting Specialist by calling 770-531-0700, or

(ii.) Georgia Interpreting Services Network by calling 1-800-228-4992 Mon.- Fri. 9am-6pm, or 678-776-0704 on weekends & Mon.- Fri. after 6pm

b) Before calling the above interpreter service providers, the Court Administrator, or designee, should be ready to provide the following information:

- (i.) Name and phone number of contact person at assignment site;
- (ii.) Date and time the interpreter is needed and directions to the site;
- (iii.) Type of incident and background; and
- (iv.) Communication method used by the hearing impaired person.

7. IF AN INTERPRETER IS NOT AVAILABLE: The Cherokee County Courts is responsible under Title II of the ADA for ensuring effective communication with individuals with disabilities.

a) Generally, interpreter services are not required for simple transactions. In these situations, the Court Administrator, or designee, may use visual aids such as pointing to printed information on a citation or other written document.

b) However, if a judge of any of the courts shall determine that the unavailability of an interpreter at a scheduled judicial proceeding would prevent effective communications with a disabled individual necessary to that scheduled judicial proceeding, that judge should exercise discretion to postpone the scheduled judicial proceeding or take other appropriate action to ensure effective communications with the disabled individual during the judicial proceeding.

8. Cherokee County Courts is not required to provide a requested auxiliary aid or service if the Courts can demonstrate that providing it would result in a fundamental alteration to the nature of the Cherokee County Courts programs, services, and activities or impose undue financial and administrative burdens.

a) In circumstances where Cherokee County Courts has determined that providing the requested auxiliary aid or service would result in a fundamental alteration or undue financial and administrative burdens, Cherokee County Courts must take any other actions that would not result in a fundamental alteration or undue financial and administrative burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities have an equal opportunity to participate in, and benefit from, the Cherokee County Courts programs, services, and activities.

b) All decisions denying the provision of a requested auxiliary aid or service on the grounds that doing so would result in a fundamental alteration or impose undue financial and administrative burdens must be made by the Court Administrator after considering all resources available to Cherokee County Courts for use in the funding and operation of our services, programs, and activities and must be accompanied by a written statement of the reasons for reaching that conclusion. (28 C.F.R § 35.164).

9. DOCUMENTATION OF REQUEST FOR OR USE OF AUXILIARY AIDS AND SERVICES:

a) Except for simple requests that are immediately granted, Cherokee County Courts personnel will maintain records of requests for auxiliary aids and services and actions taken to address them. In their reports, employees will document:

- i.) Date on which the request was made;
- ii.) Name of the individual making the request;
- iii.) Name of the individual for whom the auxiliary aids and services are sought;

- iv.) Auxiliary aids and services requested;
- v.) Date on which a response to the request was provided;
- vi.) Description of the auxiliary aids and services provided; and
- vii.) Date on which the auxiliary aids and services were provided.

b) When the requested auxiliary aids and services **are not** being provided, records must include:

- (i) Description of any auxiliary aids and services that were provided;
- (ii.) Date they were provided;
- (iii.) Date of and reasons for denying the requested auxiliary aids and services; and
- (iv.) Name of the employee who denies the request.

10. If a hearing impaired person shall be authorized to be provided a qualified interpreter, such person may waive the right to the use of such interpreter. Any such waiver shall be in writing and shall be approved by the court before which the hearing impaired person is to appear. In no event shall the failure of a hearing impaired person to request an interpreter be deemed to be a waiver of the hearing impaired person's right to a qualified interpreter.

11. **FEES:** People with disabilities must not be asked to pay or be charged for the cost of an auxiliary aid or service needed for effective communication. (28 C.F.R. § 35.130(f)).

12. Any questions about this policy should be directed to the Court Administrator, 90 North Street, Canton, GA 30115, (678) 493-6540.