

Superior Court of Sacramento County

Limited English Proficiency (LEP) Plan

I. Legal Basis and Purpose

This document serves as the plan for the Superior Court of Sacramento County to provide to persons with Limited English Proficiency (LEP) services that are in compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.; 45 C.F.R. § 80.1 et seq.; and 28 C.F.R. § 42.101–42.112). The purpose of this plan is to provide a framework for the provision of timely and reasonable language assistance to LEP persons who come in contact with the Superior Court of Sacramento County.

This LEP plan was developed to ensure meaningful access to court services for persons with limited English proficiency. Although court interpreters are provided for persons with a hearing loss, access services for them are covered under the Americans with Disabilities Act rather than Title VI of the Civil Rights Act, and therefore will not be addressed in this plan.

II. Needs Assessment

A. Statewide

The State of California provides court services to a wide range of people, including those who speak limited or no English. Service providers include the California Supreme Court, the Courts of Appeal, and the superior courts of the 58 counties.

According to the *2010 Language Use and Interpreter Need in California Superior Courts*, a report commissioned by the Administrative Office of the Courts (AOC) for the Legislature, the most frequently used languages for interpreters in California courts were (in descending order of frequency):

1. Spanish
2. Vietnamese
3. Korean
4. Mandarin
5. Russian

B. Superior Court of Sacramento County

The Superior Court of Sacramento County will make every effort to provide services to all LEP persons. However, the following list shows the foreign languages that are most frequently used in this court's geographic area.

1. Spanish
2. Russian
3. Hmong
4. Vietnamese
5. Punjabi

III. Language Assistance Resources

A. Interpreters Used in the Courtroom

1. Providing Interpreters in the Courtroom

Providing spoken-language interpreters in court proceedings are based in whole or in part on statutory and case law. In the Superior Court of Sacramento County, interpreters will be provided at no cost to court customers who need such assistance under the following circumstances:

- For litigants and witnesses in criminal hearings;
- For litigants and witnesses in juvenile hearings;
- For litigants and witnesses in hearings involving domestic violence and elder abuse, family law and child support cases, to the extent that funding is provided;
- For litigants who need assistance when using family court services, to the extent that funding is provided; and
- For litigants who attend the court's domestic violence workshops.

Additionally, courts may use interpreters who are providing mandated interpreting services for issues such as criminal or juvenile cases for incidental use in civil courtrooms.

2. Determining the Need for an Interpreter in the Courtroom

The Superior Court of Sacramento County may determine whether an LEP court customer needs an interpreter for a court hearing in various ways.

The need for a court interpreter may be identified prior to a court proceeding by the LEP person or on the LEP person's behalf by court staff.

The need for an interpreter also may be made known in the courtroom at the time of the proceeding. Also, the judicial officer may determine that it is appropriate to provide an interpreter for a court matter. California's Standards of Judicial Administration offer instruction to judges for determining whether an interpreter is needed. Section 2.10 provides that an "interpreter is needed if, after an examination of the party or a witness, the court concludes that: (1) the party cannot understand and speak English well enough to participate fully in the proceedings and to assist counsel, or (2) the witness cannot speak English so as to be understood directly by counsel, court, and jury." The court is directed to examine the party or witness "on the record to determine whether an interpreter is needed if: (1) a party or counsel requests such examination or (2) it appears to the court that the person may not understand or speak English well enough to participate fully in the proceedings."

To determine if an interpreter is needed, standard 2.10(c) provides that "the court should normally ask questions on the following: (1) identification (for example: name, address, birth date, age, place of birth); (2) active vocabulary in vernacular English (for example: 'How did you come to the court today?' 'What kind of work do you do?' 'Where did you go to school?' 'What was the highest grade you completed?' 'Describe what you see in the courtroom.' 'What have you eaten today?') Questions should be phrased to avoid 'yes' or 'no' replies; (3) the court proceedings (for example: the nature of the charge or the type of case before the court), the purpose of the proceedings and function of the court, the rights of a party or criminal defendant, and the responsibilities of a witness."

Standard 2.10(d) calls on the court to state its conclusion on the record regarding the need for an interpreter. "The file in the case should be clearly marked and data entered electronically when appropriate by court personnel to ensure that an interpreter will be present when needed in any subsequent proceeding."

Many people who need an interpreter will not request one because they do not realize that interpreters are available or because they do not recognize the level of English proficiency or communication skills needed to understand the court proceeding. The court has funding to provide interpreters for non-mandated proceedings for family law, domestic violence and elder abuse.

In a case where the court is mandated to provide an interpreter, but one is not available at the time of the proceeding, even after the court has made all reasonable efforts to locate one, as previously outlined in this plan, the case will be postponed and continued to a date when an interpreter can be provided.

When an interpreter is unavailable for a case in which the court is not mandated to provide one, the court may take the following actions:

- Utilize Language Line in the courtroom;
- Rely on family members or other support persons that accompany the party.

3. Court Interpreter Qualifications

The Superior Court of Sacramento County hires interpreters for courtroom hearings in compliance with the rules and policies set forth by Government Code section 68561 and California Rules of Court, rule 2.893. The AOC maintains a statewide roster of certified and registered interpreters who may work in the courts. This roster is available to court staff and the public on the Internet at <http://www.courts.ca.gov/3796.htm>.

When an interpreter coordinator has made a “due diligence” effort to find a certified or registered court interpreter and none is available, the interpreter coordinator then seeks a noncertified, nonregistered court interpreter, in accordance with the governing local labor agreement. Whenever a noncertified interpreter is used in the courtroom, to either provisionally qualify the interpreter or find cause to permit him or her to interpret the proceeding, the Presiding Judge must, pursuant to rule 2.893, inquire into the interpreter’s skills, professional experience, and potential conflicts of interest. A provisionally qualified interpreter is one who, upon findings prescribed in the rule, is designated by the Presiding Judge as eligible to interpret in a criminal or juvenile delinquency proceeding for a period of six months.

B. Language Services Outside the Courtroom

The Superior Court of Sacramento County is also responsible for taking reasonable steps to ensure that LEP individuals have meaningful access to services outside the courtroom. This is perhaps the most challenging situation facing court staff, because in most situations they are charged with assisting LEP individuals without an interpreter present. LEP individuals may come in contact with court personnel via the phone, the public counter, or other means.

The three most common points of service outside the courtroom are at the court’s public counters, via phone, and self-help centers. Bilingual assistance is provided at the public counter by the placement of bilingual staff as is practical.

Providing language services outside the courtroom entails both daily communications and interactions between court staff and LEP individuals to provide accessibility of court services, such as mediation services to LEP court users.

To facilitate communication between LEP individuals and court staff, the Superior Court of Sacramento County uses the following resources to the degree that resources are available:

- Court interpreters, to the extent permitted under the active memorandum of understanding or independent interpreter contract;
- Bilingual employees;
- Bilingual volunteers;
- Language Line services, which are available to provide assistance at the public counters,

clerk's office, the courtroom, family court services, and at the court's self-help center. The Language Line contract services provide interpretation services via the telephone in over 170 languages.

To provide linguistically accessible services for LEP individuals, the Superior Court of Sacramento County provides the following:

- Self-help center and legal advisory clinics that provide instructional materials and brochures in various languages, referrals, and use telephonic language assistance;
- Workshop in domestic violence restraining orders. A Spanish interpreter is available at the class;
- Self-help information related to Small Claims and Unlawful Detainer mediation alternatives in Russian, Spanish, and English, provided through kiosks at the court and online through the court's website;
- Written material about the Small Claims and Unlawful Detainer process in Russian and Spanish;
- The court's website contains glossaries of key legal terms translated into:
 - Arabic
 - Armenian
 - Hindi
 - Hmong
 - Mien
 - Mong
 - Punjabi
 - Romanian
 - Russian
 - Spanish
 - Urdu
 - Vietnamese

C. Translated Forms and Documents

The California courts understand the importance of translating forms and documents so that LEP individuals have greater access to the courts' services. The Superior Court of Sacramento County currently uses Judicial Council forms and instructional materials translated into commonly used languages.

- These translated forms are available to the public at <http://www.courts.ca.gov/forms.htm>;
- The court also has access to instructional materials that have been translated by other courts at <http://www.courts.ca.gov/partners/53.htm>.

Interpreters at court hearings are expected to provide sight translations of court documents and correspondence associated with the case.

IV. Court Staff and Volunteer Recruitment

A. Recruitment of Bilingual Staff for Language Access

The Superior Court of Sacramento County is an equal opportunity employer and recruits and hires bilingual staff to serve its LEP constituents. Primary examples include but are not limited to:

- Court interpreters to serve as permanent employees of the court;
- Bilingual staff to serve at public counters;
- Bilingual staff who volunteers to assist with contacts from LEP individuals, as needed.

B. Recruitment of Volunteers for Language Access

The court also recruits and uses volunteers to assist with language access in the following areas:

- At public counters to provide interpretive services between staff and the LEP public.

V. Judicial and Staff Training

The Superior Court of Sacramento County is committed to providing LEP training opportunities for all judicial officers and staff members. Training and learning opportunities currently offered by the Superior Court of Sacramento County will be continued as needed and where possible expanded. Examples of current and future opportunities include:

- Diversity Training;
- LEP Plan Training;
- Judicial officer orientation on the use of court interpreters and language competency.

VI. Public Outreach and Education

To communicate with the court's LEP constituents on various legal issues of importance to the community and to make them aware of services available to all language speakers, the Superior Court of Sacramento County provides community outreach and education and seeks input from

its LEP constituency to further improve services. The court works with the LEP community and its representatives through its Community-Focused Court Planning Committee and to assist LEP individuals with access to court services. Various community organizations provide training to the court regarding how to communicate and work with members of their respective LEP communities.

VII. Public Notification and Evaluation of LEP Plan

A. LEP Plan Approval and Notification

The Superior Court of Sacramento County's LEP plan is subject to approval by the Presiding Judge and Court Executive Officer. Upon approval, a copy will be forwarded to the AOC, LEP Coordinator. Any revisions to the plan will be submitted to the Presiding Judge and Court Executive Officer for approval, and then forwarded to the AOC. Copies of Superior Court of Sacramento County's LEP plan will be provided to the public on request. In addition, the court will post this plan on its public website at www.saccourt.ca.gov.

B. Annual Evaluation of the LEP Plan

The Superior Court of Sacramento County will routinely assess whether changes to the LEP plan are needed. The plan may be changed or updated at any time but reviewed not less frequently than once a year.

Each year the court will review the effectiveness of the court's LEP plan and update it as necessary. The evaluation will include identification of any problem areas and development of corrective action strategies. Elements of the evaluation will include:

- Number of LEP persons requesting court interpreters and language assistance;
- Assessment of current language needs to determine if additional services or translated materials should be provided;
- Assessment of the implementation of the LEP plan.

C. Trial Court LEP Plan Coordinator:

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D. AOC LEP Plan Coordinator:

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E. LEP Plan Effective Date: September 4, 2009
Updated: October 21, 2013

F. Approved by:

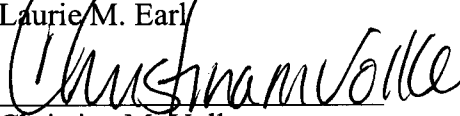
Presiding Judge:



Laurie M. Earl

Date: 10-30-2013

Court Executive Officer:



Christina M. Volkers

Date: 10/30/13

Attachment A

Citations on the Use and Payment of Interpreters in Court Proceedings

Policies for providing interpreters in court proceedings are based on the following Constitutional provisions, case law and statutory mandates:

- Article 1, section 14 of the California Constitution provides that a “person unable to understand English who is charged with a crime has the right to an interpreter throughout the proceedings.” There is no corresponding right in civil proceedings. *Jara v. Municipal Court* (1978) 21 Cal.3d 181 held that non-English-speaking indigent civil litigants do not have a right to a court interpreter appointed at public expense. However, the court does have the inherent right to waive filing fees if justice so requires.
- *Jara* let stand an earlier opinion, *Gardiana v. Small Claims Court* (1976) 59 Cal.App.3d 412, which held that in small claims proceedings, the court has a statutory duty to appoint an interpreter free of charge if it finds the litigant unable to speak or understand English. *Jara* reasoned that because attorneys are not permitted in small claims proceeding, non-English-speaking small claims litigants without an interpreter are “effectively barred from access to the small claims proceedings.” (*Jara*, 21 Cal.3d185.) (See also the two paragraphs below regarding interpreters in small claims matters.)
- Witnesses with limited English proficiency must also be provided with an interpreter. Under Evidence Code section 752, the court must appoint an interpreter whenever “a witness is incapable of understanding the English language or is incapable of expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury. . . .” Appointment of a translator is also required whenever “the written characters in a writing offered in evidence are incapable of being deciphered or understood directly.” (Evid. Code, § 753).
- In small claims proceedings, if the court determines that a litigant does not speak or understand English sufficiently to comprehend the proceedings or give testimony and needs assistance in doing so, the court may permit another individual (other than an attorney) to assist that party. (Code Civ. Proc., § 116.550(a)). If a competent interpreter is not available at the first hearing of the case, the small claims court shall postpone the hearing one time only to allow the

Attachment A

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- party the opportunity to obtain another individual to assist that party. Any additional continuances shall be at the court's discretion. (Code Civ. Proc., § 116.550(b)). California Rules of Court, rule 3.61(5) provides that any costs for a court-appointed interpreter in a small claims action must be waived if an application to proceed in forma pauperis is granted.
- In proceedings involving domestic violence, and proceedings regarding parental rights, dissolution of marriage or legal separation involving a protective order, a party who does not proficiently speak or understand English shall have a certified interpreter present to assist communication between the party and his or her attorney (Evid. Code, § 755(a)). The interpreter's fees shall be paid by the litigants "in such proportions as the court may direct," except that the fees shall be waived for a party who has a fee waiver (Evid. Code, § 755(b) and Gov. Code, §68092). However, the authorizing statute (Evid. Code, § 755) provides that compliance with its requirements is mandatory only if funds are available under the Federal Violence Against Women Act (P.L. 103-322) or from sources other than the state. The Judicial Council provides special funding through its Trial Court Improvement Fund to allow courts to provide interpreters for these matters and for elder abuse cases. This funding may also be used for general family law matters in and out of the courtroom, on a priority basis and to the degree funding is available.