

**Agenda**  
**Language Access Committee Meeting**  
 May 17, 2019  
 12:00 – 2:00 p.m.

Administrative Office of the Courts  
 Scott M. Matheson Courthouse  
 450 South State Street  
**Council Room, 3<sup>rd</sup> Floor, N31**

12:00	Welcome, Discussion and Approval of Minutes <ul style="list-style-type: none"> <li>• January 18, 2019 Minutes</li> <li>• Proposed January 18, 2019 Minutes</li> <li>• March 15, 2019 Minutes</li> </ul>	Discussion/ Action	Tab 1 Tab 2 Tab 3	Michelle Draper
12:15	Language Access Plan <ul style="list-style-type: none"> <li>• Analysis of DOJ Toolkit and Utah’s LAP</li> <li>• LAP</li> <li>• DOJ Toolkit</li> <li>• Maine LAP</li> <li>• Rhode Island LAP</li> </ul>	Discussion/ Action	Tab 4 Tab 5 Tab 6 Tab 7 Tab 8	Kara Mann
1:00	Interpreter Coordinators’ Handbook	Discussion/ Action	Tab 9	Kara Mann
1:30	Recorded Evidence Guidelines <ul style="list-style-type: none"> <li>• Proposed Guidelines</li> <li>• Oregon’s Guidelines</li> <li>• New Mexico’s Guidelines</li> </ul>	Discussion/ Action	Tab 10 Tab 11 Tab 12	Kara Mann
1:50	<b>Confidential:</b> Notice of a Formal Complaint	Discussion		Kara Mann
2:00	Adjourn			Michelle Draper

**2019 Meeting Schedule:**

July 12, 2019  
 September 20, 2019  
 November 15, 2019

# Tab 1

**Language Access Committee**  
Matheson Courthouse  
Executive Dining Room  
450 South State St.  
Salt Lake City, Utah 84111

January 18, 2019

**Draft**

**Members Present**

Michelle Draper - Chair  
Judge Su Chon  
Mary Kaye Dixon  
Amine El Fajri  
Monica Diaz  
Megan Haney  
Randall McUne  
Judge Kelly Schaeffer-Bullock

**Members Excused**

Yadira Call  
Judge Michael Leavitt  
Russ Pearson  
Chris Kunej  
Lynn Wiseman

**Staff**

Kara Mann

**Guests**

**(1) Welcome.**

Michelle Draper welcomed everyone to the meeting.

Ms. Draper addressed the November 18, 2018 minutes. With no changes, Judge Su Chon moved to approve the minutes. Judge Kelly Schaeffer-Bullock seconded the motion. The motion carried unanimously.

**(2) English Written Exam Policy**

Kara Mann provided the committee with a revised policy, including the following changes as requested at the last meeting: 1) an interpreter would not use one of their allowed attempts for not appearing, but would forfeit their registration fee; 2) exceptions in the number of allowed attempts within a 12-month period will only be approved in an extraordinary circumstance; and 3) straight forward claims can be determined by the program coordinator, while all other requests will be forwarded to the Language Access Committee to consider at their sole discretion.

Ms. Mann explained that a straight forward request is one that is documented, such as an auto accident or hospital stay. Ms. Mann noted regarding all other requests, she would forward the request to the committee, and notify the requestor of the status and the anticipated decision date, which would be the next normally scheduled meeting. There was discussion on if the procedure should be included in the policy after Ms. Mann noted it was not included but could be added. The Committee decided not to add the procedure into the Policy. Judge Chon recommended correcting this sentence: "The Language Access Program Coordinator has the discretion to approve an

exception for any straight forward request. All other requests for an exception will be considered . . .” Judge Chon noted this removes the negativity in the sentence. Ms. Draper suggested removing this statement: “All decisions by Language Access Committee will be final.” There was a brief discussion on if the policy needed to include a statement about an appeal. The committee felt the statement about an appeal should remain.

The committee discussed if the appeal process should mirror the current grievance process, where a subcommittee makes the decision. Ms. Mann clarified that if there was a subcommittee assigned to review the requests then the subcommittee would make a determination, but the applicant would then have the right to file an appeal to the full committee. The full committee’s decision would be final and not appealable. It was noted most applicants would appeal a negative decision from a subcommittee, which would make a subcommittee redundant. The committee decided not to create a subcommittee.

Judge Chon moved to approve amending the Policy to state: “The Language Access Program Coordinator has the discretion to approve an exception for any straight forward request. All other requests for an exception will be considered . . . All decisions by the Language Access Committee will be final and cannot be appealed” as presented. Megan Haney seconded the motion. The motion carried unanimously.

Ms. Mann will post the revised Policy on the website.

### **(3) Guidelines for Conditionally-Approved Interpreters**

Ms. Mann incorporated changes the committee recommended at the last meeting for conditionally approved interpreters, including: 1) to observe court proceedings if they do not have experience interpreting; 2) to contact the program coordinator with questions if they unable to observe hearings; 3) to not engage in personal conversation with the individual before, during, or after a hearing; and 4) to accurately interpret everything said during the proceeding. Ms. Mann noted the changes were moved for approval at the last meeting, however, they were not seconded and voted on by the entire committee, therefore, the committee will need to complete a new vote.

Judge Schaeffer-Bullock noted a spelling error “interpreter request the court” should be “requests.” Mr. Randall McUne pointed out an error in the prior to hearing section “bring a notebook, pencil, and pen to with you” should not have “to.”

It was noted there should be a general email for the interpreter coordinator, rather than using individual email accounts. Ms. Mann agreed this would be a good idea.

Judge Schaeffer-Bullock moved to approve the guideline, as amended. Monica Diaz seconded the motion. The motion carried unanimously.

### **(4) Conditionally Approved Interpreter Appointment Order Form**

Ms. Mann reviewed the district and juvenile Conditionally Approved Interpreter Appointment Order. The Forms Committee edited the proposed order and sent it back to the committee due to concerns that: 1) judges would still be required to prepare an order each time a conditionally

approved interpreter is used; 2) taking time to complete the order would take more time than it currently does to verbally approve the conditionally approved interpreter in on the record; and 3) an order would change duties between judges and clerks, giving clerks more responsibility.

It discussed if the committee could approve the conditionally approve interpreters before they are in court. Ms. Mann noted it can be difficult locating qualified interpreters for unique languages. There was a suggestion that there are two different goals; the committee's goal seems to be to notify the court on the credentialing of the interpreter, while the judges' goal appears to have the committee or program vet and approve the conditionally approved interpreters in order to expedite the process. The committee discussed that there isn't a process in place to vet or approve the conditionally approved interpreters, and in a general sense that's why they're considered conditionally approved. Mr. McUne suggested having an online system available for feedback where judges or clerks could include notes on the ability of each conditionally approved interpreter for other judges or clerks to review. Ms. Draper asked if the conditionally approved appointment form currently being used could be utilized to answer the questions required under CJA Rule 3-306.04(1)(D), so that a judge then just has to review the form and can approve them based on the form on the record. Judge Chon explained that because they are findings, judges need to have evidence before the hearing begins.

There was a discussion on if a judge approves an interpreter, can the judge can make findings on the record that the interpreter has already been approved. It was noted that at least in one district this is the current process, where judges review the form and make the requisite findings on the record, but if the interpreter comes back for another hearing in the same case the judge doesn't re-review the form and make the requisite findings on the record again. Ms. Mann clarified, that according to Brent Johnson, General Counsel for the AOC, judges should be reviewing the conditionally approved form and making the requisite findings on the record each time a conditionally approved interpreter is used, even if it is for multiple hearings for the same case. The committee discussed using a standing order for conditionally approved interpreters, and what a standing order would need to look like. The committee asked if Mr. Johnson could attend a future meeting for further discussion, including if there are legal reasons a standing order for conditionally approved interpreters couldn't be utilized. There was a suggestion that rather than a judge issue an order for a specific case, they could issue a bench order for that interpreter. It was also recommended that judges receive additional training on conditionally approved interpreters.

The committee discussed if interpreter coordinators could use a calendar note in Judicial Workspace to inform judges that the interpreter is conditionally approved and the judge needs to make requisite findings verbally on the record. The committee ultimately decided most likely the JA and not the interpreter coordinator would have to add the note in Judicial Workspace as only those who have access to the judge's cases or calendar could add a note, and judges might be reluctant to give access to others outside of their team. Judge Chon suggested creating a working group to get feedback from criminal judges and their teams about their needs when it comes to conditionally approved interpreters.

Ms. Draper noted the Forms Committee is suggesting an integrated solution to make it part of the process rather than an exception to the process. Ms. Mann advised she would establish a work group to meet with judges and their teams to see what their needs are for conditionally approved interpreters, and what possible solutions could be integrated into the current system. Ms. Mann

said she would speak with legal about the forms and to see about the possibility of having bench orders for the entire case.

### **(5) Update on 2019 Training and Testing**

Ms. Mann provided the committee with the 2019 training and testing schedule.

#### **English Written Exam**

January 18, 2019- English Written Exam

July 1, 2019- Mock English Written Exam

July 12, 2019- English Written Exam

April 8, 2019- Mock English Written Exam

April 19, 2019- English Written Exam

October 7, 2019- Mock English Written Exam

October 18, 2019- English Written Exam

#### **Orientations**

March 20-21, 2019- Spring Orientation

September 5-6, 2019- Fall Orientation

#### **Skill-Building Workshops**

April 22-24, 2019- 3-Day Skills Building Workshop (propose opening it to all interpreters)

May 9-10, 2019- 2-Day Advance Skill-Building Workshop (for interpreters taking the OPE only)

#### **Oral Proficiency Exam**

May 30, 2019 - Mock Oral Proficiency Exam

June 20-21, 2019- Oral Proficiency Exam

#### **Additional Workshop**

Mock Trial on April 5, 2019 (held in conjunction with Idaho Administrative Office of the Courts, in Pocatello, ID)

#### **ASL Orientation**

February 1, 2019- Winter Orientation

August 2, 2019- Summer Orientation

Amine El Fajri suggested opening the three-day skills-building workshops to conditionally approved interpreters. Ms. Draper suggested opening the mock trial to ASL interpreters, and looking into if it can be approved for continuing education hours for ASL interpreters.

### **(6) Utah Language Access Plan**

Ms. Mann stated the Language Access Plan was created in 2009, and updated in 2011, which was eight years ago. Ms. Mann reviewed the August 9, 2011, version of the Plan and listed the out of date information includes: 1.) population data from the 2000 Census; 2.) interpreter usage numbers from 2008, 2009, and 2010; 3.) out of date court rules for using court interpreters; and 4.) the guidelines used for the basis of Plan. Ms. Mann advised she would like to update the Language Access Plan as one of the committee's projects for 2019, and asked for the committee's opinions. It was discussed if the committee should update the Plan since the 2020 Census is next year. Ms. Mann advised a Language Plan is designed to inform courts and court personnel on the process and requirements for providing a court interpreter, and census data doesn't necessarily have to be included. Ms. Mann suggested the committee not wait to update the Plan solely because of an upcoming Census. The committee discussed having Ms. Mann flag the problem areas of the Plan in

a Microsoft Word doc for committee members to review, and then having members volunteer to work on the Plan. The committee discussed if the Plan should be updated by a subcommittee or by having each member work on certain sections.

Mr. McUne asked if the checklist created by the Brennan Center for Justice has been updated since 2011. Ms. Mann advised the DOJ release a toolkit for states to develop their Language Access Plan in 2013, and she would suggest the committee consider the DOJ's toolkit when updating the Plan.

The committee discussed if the Judicial Council needs to grant approval if the committee is going to make major changes to the Language Access Plan.

Ms. Mann confirmed she will provide the committee with the Plan in a Word format for the next meeting with comments and ask for volunteers.

**(7) Other Business.**

Ms. Draper noted that she and Ms. Mann would be presenting to the Judicial Council next month and they would share the feedback from the Council at the next committee meeting in March.

**(8) Adjourn**

There being no further business, the meeting adjourned at 1:34 p.m.

# Tab 2

**Language Access Committee**

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Executive Dining Room  
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January 18, 2019

**Draft**

**Members Present**

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Randall McUne  
Judge Kelly Schaeffer-Bullock

**Members Excused**

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**Guests**

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Ms. Draper addressed the November 18, 2018 minutes. With no changes, Judge Su Chon moved to approve the minutes. Judge Kelly Schaeffer-Bullock seconded the motion. The motion carried unanimously.

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~~correcting this sentence: "The Language Access Program Coordinator has the discretion to approve an exception for any straight forward request. All other requests for an exception will be considered . . ." Judge Chon noted this removes the negativity in the sentence. Ms. Draper suggested removing this statement: "All decisions by Language Access Committee will be final." There was a brief discussion on if the policy needed to include a statement about an appeal. The committee felt the statement about an appeal should remain.~~

The committee discussed if the appeal process should mirror the current grievance process, where a subcommittee makes the decision. Ms. Mann clarified that if there was a subcommittee assigned to review the requests then the subcommittee would make a determination, but the applicant would then have the right to file an appeal to the full committee. The full committee's decision would be final and not appealable. It was noted most applicants would appeal a negative decision from a subcommittee, which would make a subcommittee redundant. The committee decided not to create a subcommittee.

Judge Chon moved to approve amending the Policy to state: "The Language Access Program Coordinator has the discretion to approve an exception for any straight forward request. All other requests for an exception will be considered . . . All decisions by the Language Access Committee will be final and cannot be appealed" as presented. Megan Haney seconded the motion. The motion carried unanimously.

Ms. Mann will post the revised Policy on the website.

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~~Judge Schaeffer-Bullock noted a spelling error "interpreter request the court" should be "requests." Mr. Randall McUne pointed out an error in the prior to hearing section "bring a notebook, pencil, and pen to with you" should not have "to." The Committee noted typos in the language of the guidelines for revision.~~

It was noted there should be a general email for the interpreter coordinator, rather than using individual email accounts. Ms. Mann agreed this would be a good idea.

Judge Schaeffer-Bullock moved to approve the guideline, as amended. Monica Diaz seconded the motion. The motion carried unanimously.

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possibly creating a working group to get feedback from criminal judges and their teams about their needs when it comes to conditionally approved interpreters.

~~Ms. Draper~~ It was discussed that ~~noted~~ the Forms Committee is suggesting an integrated solution to make it part of the process rather than an exception to the process. Ms. Mann advised she would establish a work group to meet with judges and their teams to see what their needs are for conditionally approved interpreters, and what possible solutions could be integrated into the current system. Ms. Mann said she would speak with legal counsel about the forms and to see about the possibility of having bench orders for the entire case.

#### (5) Update on 2019 Training and Testing

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##### Orientations

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##### Skill-Building Workshops

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##### Oral Proficiency Exam

May 30, 2019 - Mock Oral Proficiency Exam	June 20-21, 2019- Oral Proficiency Exam
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##### Additional Workshop

Mock Trial on April 5, 2019 (held in conjunction with Idaho Administrative Office of the Courts, in Pocatello, ID)

##### ASL Orientation

February 1, 2019- Winter Orientation	August 2, 2019- Summer Orientation
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~~The Committee discussed Amine El Fajri suggested~~ opening the three-day skills-building workshops to conditionally approved interpreters and. ~~Ms. Draper suggested~~ opening the mock trial to ASL interpreters. It was requested to see, and looking into if the mock trial training could ~~can~~ be approved for continuing education hours for ASL interpreters.

#### (6) Utah Language Access Plan

Ms. Mann stated the Language Access Plan was created in 2009, and updated in 2011, which was eight years ago. Ms. Mann reviewed the August 9, 2011, version of the Plan and listed the out of date information includes: 1.) population data from the 2000 Census; 2.) interpreter usage numbers

from 2008, 2009, and 2010; 3.) out of date court rules for using court interpreters; and 4.) the guidelines used for the basis of Plan. Ms. Mann advised she would like to update the Language Access Plan as one of the committee's projects for 2019, and asked for the committee's opinions. It was discussed if the committee should update the Plan since the 2020 Census is next year. Ms. Mann advised a Language Plan is designed to inform courts and court personnel on the process and requirements for providing a court interpreter, and census data doesn't necessarily have to be included. Ms. Mann suggested the committee not wait to update the Plan solely because of an upcoming Census. The committee discussed having Ms. Mann flag the problem areas of the Plan in a Microsoft Word doc for committee members to review, and then having members volunteer to work on the Plan. The committee discussed if the Plan should be updated by a subcommittee or by having each member work on certain sections.

~~Mr. McUne asked~~ There was a question of whether if the checklist created by the Brennan Center for Justice has been updated since 2011. Ms. Mann advised the DOJ release a toolkit for states to develop their Language Access Plan in 2013, and she would suggest the committee consider the DOJ's toolkit when updating the Plan.

The committee discussed if the Judicial Council needs to grant approval if the committee is going to make major changes to the Language Access Plan.

Ms. Mann confirmed she will provide the committee with the Plan in a Word format for the next meeting with comments and ask for volunteers.

**(7) Other Business.**

Ms. Draper noted that she and Ms. Mann would be presenting to the Judicial Council next month and they would share the feedback from the Council at the next committee meeting in March.

**(8) Adjourn**

There being no further business, the meeting adjourned at 1:34 p.m.

# Tab 3

**Language Access Committee**  
Matheson Courthouse  
Council Room  
450 South State St.  
Salt Lake City, Utah 84111

March 15, 2019

**Draft**

**Members Present**

Michelle Draper - Chair  
Judge Su Chon  
Megan Haney  
Judge Michael Leavitt - by phone  
Randall McUne  
Russ Pearson  
Judge Kelly Schaeffer-Bullock  
Lynn Wiseman

**Members Excused**

Yadira Call  
Mary Kaye Dixon  
Amine El Fajri  
Monica Greene  
Chris Kunej

**Staff**

Kara Mann  
Jeni Wood - recording secretary

**Guests**

**(1) Welcome.**

Michelle Draper welcomed everyone to the meeting.

Ms. Draper addressed the January 18, 2019 minutes. Judge Su Chon recommended amending section (2) to generalize comments and not be committee member specific. Ms. Mann will edit the minutes and send them by email to committee members for approval.

**(2) Committee Report to the Judicial Council**

Ms. Draper stated she and Ms. Mann attended the February Judicial Council meeting. They reported on the committee memberships and projects they have completed, including a new English written exam policy, an interpreter survey, proposed revisions to CJA Rule 3-306.01-05 and HR Policy 570 - Second Language Stipend. Ms. Draper and Ms. Mann reviewed the committee's on-going projects, including training projects.

Interpreter usage data from fiscal year 2018 was also included in the report.

Total spoken language usage:

District Courts - 5,512  
Juvenile Courts - 3,939  
Justice courts - 6,743

Total sign language usage:

District courts - 56  
Juvenile courts - 118  
Justice courts - 93

Spoken language usage by district:

- 1<sup>st</sup> - 731
- 2<sup>nd</sup> - 2,161

Sign language usage by district:

- 1<sup>st</sup> - 13
- 2<sup>nd</sup> - 50

- 3<sup>rd</sup> - 7,985
  - 4<sup>th</sup>- 3,884
  - 5<sup>th</sup>- 846
  - 6<sup>th</sup>- 190
  - 7<sup>th</sup>- 104
  - 8<sup>th</sup>- 83
- 3<sup>rd</sup>- 103
  - 4<sup>th</sup> - 80
  - 5<sup>th</sup> - 20
  - 6<sup>th</sup> - 0
  - 7<sup>th</sup> - 0
  - 8<sup>th</sup> - 1

There was brief discussion on monitoring interpreters. Ms. Mann will research possible quality control methods used in other states to monitor interpreters during proceedings. Currently, interpreters are required to attend continuing education courses. Attorneys can hire “table interpreters” who interpret between attorneys and clients during proceedings, whereas, court-appointed interpreters interpret a proceeding.

### **(3) Language Access Plan**

Ms. Mann presented for discussion the August 9, 2011 Language Access Plan (Plan). Ms. Mann reviewed the outdated sections.

Plan sections to be updated or added:

- Structure of the Plan
- Outdated figures
- Outdated rules- Rule 3-306 was revised in April 2016 where it was separated into multiple rules: Rule 3-306.01. Language access definitions; Rules 3-306.02. Language Access Committee; Rule 3-306.03. Interpreter credentialing; Rule 3-306.04. Interpreter appointment, payment, and fees; and Rule 3-306.05. Interpreter removal, discipline, and formal complaints.
- Outdated credentials
- Outdated pay rates- The number of interpreters and hourly rates needs to be amended to reflect the current number of interpreters.
- Outdated disciplinary process
- Outdated committee name- the Plan uses the term “Court Interpreter Committee” rather than “Language Access Committee”
- Outdated forms
- Outdated information on appealing the right to an interpreter
- Outdated 2000 U.S. Census Bureau
- Add - Bilingual interpreters
- Add - Staff interpreters
- Add - Interpreters provided for court operations
- Add - Court-ordered mandatory programs
- Add - Credentialing for out-of-state interpreters
- Add - Frequency with which the general population of limited English proficiency use the court
- Add- Telephonic Interpretation
- Add- Assignments for interpreters is conducted in the Second and Fourth Districts

Ms. Mann discussed the Language Access Planning and Technical Assistance Tool for Courts, prepared by the Department of Justice (February 2014).

A committee member suggested Ms. Mann identify gaps in the plan. Ms. Mann agreed and will readdress it with the committee.

The committee was presented with Language Access Plans from Maine and Rhode Island.

**(4) Outreach and Recruitment**

Ms. Mann presented a pamphlet created for recruitment of interpreters. The pamphlet includes a brief explanation on the role of a court interpreter, the ethics for court interpreters, interpreter requirements, interpreter pay structure, and ASL interpreter information. Last year the brochure was distributed at the Court's booth at the Multicultural Festival, Partners in the Parks, and FanX.

Ms. Mann will present to Utah Translators and Interpreter Association (medical interpreters) and is seeking to work with the Outreach Committee for additional outreach and recruitment resources. There was a recommendation to contact the LDS Mission Center, Multicultural Center in West Valley, Utah school districts, and State Office of Ethnic Affairs. A suggestion was made to amend the flyer to this: "Courts are in need of more interpreters in numerous languages, including Somali, Vietnamese, Nepali and Arabic." Ms. Mann will review the ASL website for accuracy.

**(5) 2019 Language Access Report to Judicial Council**

Ms. Mann provided the committee with the December 25, 2016 Language Access in the Trial Court FY2016 report. Every three years this report is completed and provided to the Judicial Council. The next cycle to report is the end of 2019. Ms. Mann will update the report this year and include the ASL interpreting information.

**(6) Other Business.**

A request was made to hyperlink tabs in the meeting materials.

**(7) Adjourn**

There being no further business, the meeting adjourned at 1:11 p.m.

# Tab 4

Review of the Department of Justice's Language Access Planning and Technical Assistance Tool for Courts (Toolkit) in Comparison with Utah State Court's Language Access Plan (LAP)

**Section A: Existing Services and Ongoing Need for Language Access Services**

**Areas of concern from the toolkit not addressed in the LAP**

- Courts provide interpreters for parents/guardians of minors involved in proceedings
- Translations
  - Types
  - If costs are assessed to LEPS
- How notice of the court's language access policy is provided to:
  - Court staff
  - Parties
  - Public
- How data is gathered on
  - Language needs of parties and witnesses
  - The number of LEPs served, by language
  - The number of LEPs in our state, by language
  - Additional questions on
    - How often the court assesses the language data
    - What types of data sources courts use to identify LEP communities in the state
- Quality control to assess interpreters' skill level

**Section B: Court Rules**

**Areas of concern from the toolkit not addressed in the LAP**

- Courts providing interpreters at no costs or allowing judges to assess costs to a party in the case
- Use of family, friends, attorneys, law firm staff as interpreters
- Usage of telephonic and video remote interpreting
- Court staff who receive training on court rules, policies, and procedures on court interpreters
- Bench cards

**Section C: Implementation of the Language Access Plan**

**Areas of concern from the toolkit not addressed in the LAP**

- The court staff responsible to execute the LAP

- Including Judges/Commissioners, Court Clerks, Interpreter Coordinators, HR, IT, committees, finance, and the Language Access Program Coordinator
- Resources available to execute LAP

## **Section D: Quality Control of Language Assistance Services**

### **Areas of concern from the toolkit not addressed in the LAP**

- Qualification standards for interpreters who have not taken part in the credentialing process
- Qualification standards for remote interpreters
- Qualification standards for bilingual court staff
- Ensuring competent translators
- Working with other organizations to ensure quality interpreters and translators
  - Including NAJIT, ATA, and NCSC
- Data system to capture:
  - If translation services were delivered successfully
  - The cost of language access services, including the breakdown by type of service and by language
- Use video or audio in proceedings with interpreters
- Disciplinary process for language access service providers
- Inclusion of the public roster

## **Section E: Assigning Interpreters**

### **Areas of concern from the toolkit not addressed in the LAP**

- How courts identify language access needs through their case management system
- How the case management systems permit court staff to indicate a need for an interpreter
- How interpreters are assigned

## **Section F: Translated Materials**

### **Areas of concern from the toolkit not addressed in the LAP**

- How courts identify vital documents
- How courts translate vital documents
- Glossary of legal terms in Spanish on the court's website
- Translated signs or posters to inform the public on the availability of free interpreters
- The translation of the court's website
- How translations are completed
- How translated materials are checked for quality before being released
- How sight translation of written materials is provided for LEPs

## **Section G: Notice of Language Assistance Services**

### **Areas of concern from the toolkit not addressed in the LAP**

- How the public, parties, and attorneys are notified about the language access services the court provides, including:
  - Notices on court documents
  - In-person by court staff
  - Signage
  - Electronically
  - Outreach efforts
- How the public, parties, and attorneys are notified about to file a complaint, including:
  - In-person by court staff
  - Electronically
- How courts provide LEP communities notice about language access services, including:
  - Brochures (In Spanish and Vietnamese)
  - Community outreach events

## **Section H: Outreach and Collaboration with LEP Communities and Stakeholders**

### **Areas of concern from the toolkit not addressed in the LAP**

- How courts provide LEP communities notice about language access services, including:
  - Brochures (In Spanish and Vietnamese)
  - Community outreach events
- Who outside the courts has been invited to give feedback on the LAP

## **Section I: Monitoring, Updating, and Enforcing Compliance**

What's missing in the current LAP for this section has already been listed previously in this document. Examples include the complaint process, quality control, and collection of data.

## **Section J: Language Access Plan Review**

This section is geared towards having the LAP reviewed after it is drafted.

## **Section K: Assessing Resources**

### **Areas of concern from the toolkit not addressed in the LAP**

- How language access services are funded

## **Notes on information in the current LAP that needs to be updated, changed, or omitted**

- Outdated US Census figures
- Outdated Court Rules
- Outdated interpreter credentials
- Outdated interpreter requirements for credentialing
- Outdated pay rates
- Outdated disciplinary process
- Outdated committee name
- Needs to include Interpreter Coordinators for all districts
- Needs to include many of the pages on the court's website has been translated into Spanish (highlight on the self-help pages)
- New bilingual forms- Summons and Notice of Hearing
  - Includes notices in Vietnamese, Mandarin, Farsi, and Portuguese
- Omit the process to appeal not allowing an interpreter

# Tab 5



# Utah State Courts

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## Language Access Plan

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August 9, 2011

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**The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.**

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**(1) Analysis under the federal law**

The Department of Justice guidelines describe four factors to help governments determine whether the standard of “reasonable steps to ensure meaningful access” by people with limited English proficiency (LEP) is being satisfied:

- number or proportion of LEP persons in the eligible service population;
- frequency of contact with the program;
- nature and importance of the program; and
- resources available and costs.

**(a) Number or proportion of LEP (Limited English Proficiency) persons in the eligible service population.**

In the courts, "eligible service population" includes the public at large, citizens and non-citizens, because just about anyone can sue or be sued in criminal and civil court. The U.S. Census Bureau report for the 2000 census estimates the following number and percent of people over age 5 has the described command of English based on their primary language.

	Total	Speak English very well		Speak English well		Speak English not well		Speak English not at all	
	Number	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Speak language other than English	253,250	147,560	58.3	50,790	20.1	39,360	15.5	15,540	6.1
Spanish or Spanish Creole	150,245	78,840	52.5	28,645	19.1	28,775	19.2	13,980	9.3
Other Indo-European languages	49,865	36,710	73.6	8,185	15.9	4,500	9.0	475	0.9
French (incl Patois, Cajun)	7,905	6,150	77.8	975	12.3	765	9.7	15	0.2
French Creole	195	155	79.5	15	7.7	25	12.8	0	0.0
Italian	2,815	2,280	81.0	400	14.2	135	4.8	0	0.0
Portuguese or Portuguese Creole	5,715	4,345	76.0	890	15.6	425	7.4	60	1.1
German	12,095	9,455	78.2	1,700	14.1	885	7.3	55	0.5
Yiddish	50	45	91.8	4	8.2	0	0.0	0	0.0
Other West Germanic languages	2,545	2,040	80.3	360	14.2	130	5.1	10	0.4
Scandinavian languages	3,280	2,730	83.2	440	13.4	110	3.4	0	0.0
Greek	1,925	1,515	78.5	275	14.3	135	7.0	4	0.2

	Total	Speak English very well		Speak English well		Speak English not well		Speak English not at all	
	Number	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Russian	3,095	1,920	62.0	720	23.3	385	12.4	70	2.3
Polish	920	685	74.5	165	17.9	70	7.6	0	0.0
Serbo-Croatian	3,190	1,195	37.5	930	29.2	925	29.0	140	4.4
Other Slavic languages	895	750	83.3	105	11.7	30	3.3	15	1.7
Armenian	605	410	67.8	140	23.1	45	7.4	10	1.7
Persian	1,055	625	59.0	300	28.3	110	10.4	25	2.4
Gujarathi	115	60	50.0	50	41.7	10	8.3	0	0.0
Hindi	875	635	73.0	175	20.1	50	5.8	10	1.2
Urdu	675	500	74.6	90	13.4	70	10.5	10	1.5
Other Indic languages	695	435	62.1	180	25.7	75	10.7	10	1.4
Other Indo-European languages	1,220	790	64.8	275	22.5	125	10.3	30	2.5
Asian and Pacific Island languages	37,805	21,495	56.9	10,610	28.1	4,965	13.1	735	1.9
Chinese	7,095	3,525	49.7	2,250	31.7	1,050	14.8	265	3.7
Japanese	5,030	3,405	67.7	1,120	22.3	455	9.1	50	1.0
Korean	3,215	1,595	49.5	1,060	32.9	535	16.6	30	0.9
Mon-Khmer, Cambodian	1,530	870	57.1	395	25.9	235	15.4	25	1.6
Miao, Hmong	235	150	64.1	50	21.4	30	12.8	4	1.7
Thai	835	415	49.8	350	42.0	65	7.8	4	0.5
Laotian	2,220	1,070	48.2	795	35.8	335	15.1	20	0.9
Vietnamese	5,200	1,975	37.9	1,640	31.5	1,330	25.6	260	5.0
Other Asian languages	760	475	62.6	210	27.7	70	9.2	4	0.5
Tagalog	2,685	1,945	72.4	620	23.1	110	4.1	10	0.4
Other Pacific Island languages	9,000	6,070	67.5	2,120	23.6	745	8.3	60	0.7
Other languages	15,335	10,515	68.6	3,355	21.9	1,120	7.3	350	2.3
Navajo	9,375	6,165	65.8	2,360	25.2	620	6.6	225	2.4
Other Native North American languages	1,500	1,295	86.4	155	10.3	45	3.0	4	0.3

	Total	Speak English very well		Speak English well		Speak English not well		Speak English not at all	
	Number	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Hungarian	435	390	89.9	40	9.2	4	0.9	0	0.0
Arabic	1,655	1,075	65.2	315	19.1	225	13.6	35	2.1
Hebrew	255	205	78.9	35	13.5	20	7.7	0	0.0
African languages	1,370	810	59.1	355	25.9	155	11.3	50	3.7
Other and unspecified languages	750	575	76.7	95	12.7	45	6.0	35	4.7

Source: US Census Bureau, Census 2000 Internet Release Date: October 29, 2004 (revised 2/06). Table 46a. Utah -- Ability to Speak English by Language Spoken at Home for the Population 5 Years and Over: 2000

The U.S. Census Bureau estimates that in 2009, the latest year for which extrapolations from the 2000 census are available, the Hispanic population in Utah was about 295,000 people over age 5. Of those, approximately 191,000 speak Spanish at home. Of those, approximately 51,000 speak English "not well" or "not at all." However, the reported margins of error are quite large.

	Estimate	Margin of Error
Total Hispanic or Latino population in Utah	294,940	+/-661
Speak only English	102,845	+/-7,320
Speak Spanish:	190,866	+/-7,309
Speak English "very well"	102,072	+/-6,829
Speak English "well"	37,842	+/-4,009
Speak English "not well"	35,340	+/-4,019
Speak English "not at all"	15,612	+/-2,628
Speak other language	1,229	+/-735

Source: U.S. Census Bureau, 2009 American Community Survey. Table B16006. Language spoken at home by ability to speak English for the population 5 years and over (Hispanic or Latino)

The courts also have reliable data on the distribution of interpreter use in Utah during FY 2008 through FY 2010:

Language	2008	2009	2010
Spanish	86.27%	87.48%	85.55%
ASL	3.91%	2.39%	4.59%
Arabic	1.36%	1.59%	1.53%
Vietnamese	1.48%	1.60%	1.50%
Tongan	0.68%	1.01%	1.20%
Samoan	0.68%	0.41%	0.73%
Bosnian	0.59%	0.47%	0.53%
Laotian	0.16%	0.38%	0.47%
Somali	0.29%	0.38%	0.43%

Language	2008	2009	2010
Portuguese	0.36%	0.17%	0.43%
Navajo	0.46%	0.43%	0.37%
French	0.25%	0.27%	0.28%
Korean	0.13%	0.43%	0.25%
Russian	0.60%	0.68%	0.25%
Dinka	0.05%	0.11%	0.23%
Swahili	0.06%	0.08%	0.17%
Burmese	0.08%	0.11%	0.16%
Cambodian	0.65%	0.48%	0.15%

Language	2008	2009	2010
Farsi	0.74%	0.37%	0.14%
Tagalog	0.08%	0.02%	0.14%
Nuer	0.06%	0.10%	0.08%
Chinese	0.15%	0.32%	0.08%
Kirundi	0.02%	0.04%	0.07%
Panjabi	0.04%	0.01%	0.07%
Thai		0.03%	0.07%
Hindi	0.04%	0.06%	0.07%
Japanese	0.04%		0.06%
Tigrigna		0.07%	0.05%
Mandarin	0.09%	0.07%	0.04%
Tibetan	0.04%	0.04%	0.04%
Cantonese	0.05%		0.03%
Marshallese	0.11%	0.08%	0.03%
Chuukese	0.03%	0.04%	0.03%
Nepalese		0.02%	0.02%
Indonesian		0.01%	0.02%
Romanian		0.03%	0.02%
Armenian			0.02%
Liberian		0.01%	0.02%
Amharic	0.02%	0.02%	0.02%
German	0.03%		0.01%

Language	2008	2009	2010
Maay			0.01%
Mabaan	0.04%	0.01%	0.01%
Unknown	0.003%		0.01%
Karen			0.01%
Mongolian	0.01%	0.01%	0.01%
Yapese			0.01%
Krahn			0.004%
Zigula		0.05%	0.003%
Croatian	0.003%	0.004%	
Polish	0.004%		
Pohnpeian	0.02%		
Mende	0.02%		
Gujarati	0.04%		
Bulgarian	0.06%		
Italian	0.09%	0.05%	
Albanian	0.12%	0.02%	
Swedish		0.003%	
Czech		0.01%	
Yupik		0.01%	
Urdu		0.03%	
Source: FINET			

**(b) Frequency of contact with the program.**

The courts do not have any data on the frequency with which the general population or people of limited English proficiency use the court.

**(c) Nature and importance of the program.**

The Code of Federal Regulations defines "program" to include any "disposition" and defines "disposition" to include "any treatment, handling, decision, sentencing, confinement, or other prescription of conduct." The definition is broad enough to include any civil case.

The DOJ guidelines provide: "A recipient needs to determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual. Decisions by a Federal, State, or local entity to make an activity compulsory ... can serve as strong evidence of the program's importance." The only court process that might be considered "life-threatening," at least in an emergency sense, is a cohabitant abuse case. But certainly any case, however minor, has to be considered "serious." As for compulsory activities, other than attendance at court hearings and court conferences, a pair of statutes require that divorcing parents take a divorce orientation course and a divorce education course. A court rule requires

that many civil parties engage in or opt out of mediation. In some civil and some juvenile court cases, a good faith attempt to mediate is mandatory.

**(d) Resources available and costs.**

The DOJ guidelines describe a basic cost-benefit analysis.

**(2) Language Access Plan**

This plan is based on the checklist provided in *Language Access in State Courts (2009)*, by the Brennan Center for Justice, whose recommendations are quoted in the “black letter” section titles.

The Utah courts have been building the court interpreter program since 1995, as one of the first eight states to join the National Center for State Courts’ Consortium for State Court Interpreters. The program has been guided by the Utah Judicial Council, its Court Interpreter Committee, its Policy and Planning Committee and various plans developed and implemented along the way.

Consequently, many of the elements for a successful program suggested by the Brennan Center for Justice are already in place; many of them for a long time. For these elements, this plan describes the existing program. There is little or no further planning required, only continuing to do.

Indeed, the Utah court interpreter program is at a plateau of sorts. Having accomplished nearly all of the objectives identified by the Brennan Center for Justice, the primary planning responsibilities in this document fall to the Court Interpreter Committee to continue to investigate and consider recommendations on how to improve:

- public information and outreach;
- recruitment and training of qualified interpreters;
- interpreter competence, compensation, availability and accountability;
- education of judges and employees; and
- translations.

**(a) Legal obligation: Provide interpreters to all LEP litigants and witnesses in all civil proceedings. The state likely complies with this legal obligation if it:**

**(1) Has a law, court rule, or other written statewide mandate requiring the appointment of an interpreter for all LEP parties and witnesses in all civil proceedings.**

**Rule 3-306:**

**(4)(A)** [I]f the appointing authority determines that a party, witness, victim or person who will be bound by the legal proceeding has a primary language other than English and limited English proficiency, the appointing authority shall appoint a certified interpreter in

all legal proceedings. A person requesting an interpreter is presumed to be a person of limited English proficiency.

**(1)(H)** "Limited English proficiency" means the inability to understand or communicate in English at the level of comprehension and expression needed to participate effectively in legal proceedings.

In certain circumstances identified in Rule 3-306, the appointing authority has discretion to balance the qualifications of the interpreter with the complexity and importance of the hearing, and so appoint an "approved," "registered" or "conditionally approved" interpreter.

No interpreter is needed for a direct verbal exchange between the person and court staff if the court staff can fluently speak the language understood by the person. Otherwise an approved or registered interpreter can be appointed.

**(2) Has a clear standard and guidelines for determining who is eligible for a court interpreter, including a presumption that anyone requesting an interpreter is eligible for one.**

**Rule 3-306:**

**(4)(A)** [I]f the appointing authority determines that a party, witness, victim or person who will be bound by the legal proceeding has a primary language other than English and limited English proficiency, the appointing authority shall appoint a certified interpreter in all legal proceedings. A person requesting an interpreter is presumed to be a person of limited English proficiency.

**(1)(H)** "Limited English proficiency" means the inability to understand or communicate in English at the level of comprehension and expression needed to participate effectively in legal proceedings.

**(4)(F)** The appointing authority will appoint one interpreter for all participants with limited English proficiency, unless the judge determines that the participants have adverse interests, or that due process, confidentiality, the length of the legal proceeding or other circumstances require that there be additional interpreters.

**(3) Has a clear procedure for appealing denials of interpreters.**

**Rule 3-306(4)(G)** "A person whose request for an interpreter has been denied may apply to review the denial. The application shall be decided by the presiding judge. If there is no presiding judge or if the presiding judge is unavailable, the clerk of the court shall refer the application to any judge of the court or any judge of a court of equal jurisdiction. The application must be filed within 20 days after the denial."

**(4) Denies interpreter waivers if they are not knowingly and voluntarily made, or if a court determines an individual has limited proficiency in English.**

**Rule 3-306(6):** "A person may waive an interpreter if the appointing authority approves the waiver after determining that the waiver has been made knowingly and voluntarily. A person may retract a waiver and request an interpreter at any time. An interpreter is for the benefit of the court as well as for the non-English speaking person, so the appointing authority may reject a waiver."

**(5) In each language in which interpreter services are commonly requested, in wording comprehensible to non-lawyers, informs all litigants, witnesses and others of their right to an interpreter, by:**

**(a) posting notice on the court system's website;**

**(b) prominently placing signs in clerks' offices, courtrooms, and all other public areas;**

**(c) ensuring that the first court employee to come into contact with litigants informs them of their right to an interpreter; and**

**(d) placing language on court documents and forms informing litigants of the right to an interpreter.**

Notice of the right to an interpreter and a form with which to request an interpreter in English, Spanish, and Vietnamese are linked from the court's front webpage.

Notice of the right to an interpreter in English and Spanish, has been added to: "Notice of Hearing" forms, subpoena forms, and the civil coversheet. Parties are directed to contact the clerk three days before the hearing. 

Lawyers have been notified of the right of their clients to an interpreter in the Bar president's May 2011 electronic bulletin. The former chair of the Court Interpreter Committee is writing a longer article for publication in the Utah Bar Journal.

State court courthouses have "I speak ..." pamphlets available at counters.

**(b) Legal obligation: Do not charge for interpreters, regardless of whether litigants can pay. The state likely complies with this legal obligation if it:**

**(1) Has a law, court rule or other written mandate requiring that when an interpreter is appointed, the court system or some other governmental entity—not the LEP individual—is responsible for paying.**

**Rule 3-306(5)(A)** "The interpreter fees and expenses shall be paid by the administrative office of the courts in courts of record and by the government that funds the court in

courts not of record. The court may assess the interpreter fees and expenses as costs to a party as provided by law. (Utah Constitution, Article I, Section 12, Utah Code Sections 77-1-6(2)(b), 77-18-7, 77-32a-1, 77-32a-2, 77-32a-3, 78B-1-146(3) and URCP 54(d)(2).)"

Rule 3-306 requires that the court pay the interpreter. The rule is not independent authority to impose that cost on the person needing the service. The rule recognizes that the Legislature has granted that authority to judges and refers to the rule establishing the procedures for doing so.

Under Sections 77-32a-2 and 78B-1-146, the court is permitted to recoup the fee from the person for whom the interpreter was provided, unless that person is impecunious. URCP 54(d)(2) establishes the procedure by which costs may be imposed.

**(2) Has a clear source of funding for interpreters.**

In the state courts, interpreter fees are paid from a single line item appropriation. Because there is no ability to control the demand for interpreters, the Legislature has given the state courts the authority to spend beyond the appropriation. This line item is perennially over budget, and the courts perennially advise the Legislature.

Unlike the state courts, many, perhaps all, justice courts are expected to provide interpreters within the budget appropriated by their county or municipal legislative authority.

**(c) Legal obligation: Ensure that interpreters are competent and act appropriately. The state likely complies with this legal obligation if it:**

**(1) Assesses ability before appointing an interpreter by:**

**(a) requiring court interpreters to possess a credential requiring them to demonstrate:**

**(a)(i) fluency in both languages;**

**(a)(ii) ability to maintain the legal meaning of the original source;**

**(a)(iii) facility in the particular interpretation skill needed in that particular case (i.e. simultaneous interpretation, consecutive interpretation, or sight translation of written materials);**

**(a)(iv) familiarity with the unique culture of the courtroom, any legal matters the interpreter will need to interpret, and the ethical duties of an interpreter; and**

**(a)(v) training in any special issues likely to arise in the case that requires special legal knowledge or additional skills (such as domestic violence).**

Rule 3-306

(1)(C) “Certified interpreter” means a person who has successfully passed the examination of the Consortium for Language Access in the Courts and has fulfilled the requirements established in paragraph (3).

(1)(B) “Approved interpreter” means a person who has been rated as “superior” in the Oral Proficiency Interview conducted by Language Testing International and has fulfilled the requirements established in paragraph (3).

After submitting an application form, all candidates must:

- pass a background check;
- pass an English Diagnostic Test; 
- participate in one of the orientation workshops, either the Basic Orientation Workshop that is sufficient for candidates for Registered I and Registered II credentials, or the Advanced Orientation Workshop that is required for candidates for Certified credentials and available to candidates for Approved credentials; 
- pass the test about the Code of Professional Responsibility for Court Interpreters; and
- complete 10 hours of observation in court with a Certified Court Interpreter.

#### Registered Interpreters

Candidates who complete these steps are classified as Registered I if they interpret in a language for which an Oral Proficiency Interview to be an Approved Court Interpreter is not available. Interpreters who complete these steps are classified as Registered II if they interpret in a language for which an Oral Proficiency Interview is available.

#### Approved Interpreters

To become an Approved Court Interpreter, a candidate must complete the Basic Steps described above, and they must also take the Oral Proficiency Interview (OPI) offered by Language Testing International (LTI) and score a Superior rating. Candidates for **Approved credentials are permitted to attend the Advanced Training, but it is not required.** 

A Superior rating means that the candidate must demonstrate the ability to:

- Speak the standard form of the language without using English or slang.
- Speak the language formally, as well as informally, from both concrete and abstract perspectives.
- Speak the language with a high level of accuracy and no pattern of error.
- State and support a point of view in extended discourse on topics of personal and general interest.
- Speculate and hypothesize about possible causes, outcomes, and/or occurrences in extended discourse.

#### Certified Interpreter

Certified Court Interpreters are the most highly trained and qualified interpreters. To become a Certified Court Interpreter, the candidate must complete the Basic Steps described above, they must attend the Advanced Training for Candidates for Approved and Certified Credentials described above, and they must also pass the **Certification Examination of the Consortium for Language Access in the Courts.** 

**(b) relying on a non-credentialed interpreter only after trained, dedicated court staff assess the interpreter's qualifications.**

**(c) relying on judges or other court personnel to voir dire interpreters only as a matter of last resort.**

**Rule 3-306:**

**(4)(B)** An approved interpreter may be appointed if no certified interpreter is reasonably available.

**(4)(C)** A registered interpreter may be appointed if no certified or approved interpreter is reasonably available.

**(4)(D)** A conditionally-approved interpreter may be appointed if the appointing authority, after evaluating the totality of the circumstances, finds that:

**(4)(D)(i)** the prospective interpreter has language skills, knowledge of interpreting techniques and familiarity with interpreting sufficient to interpret the legal proceeding; and

**(4)(D)(ii)** appointment of the prospective interpreter does not present a real or perceived conflict of interest or appearance of bias; and

**(4)(D)(iii)** a certified, approved, or registered interpreter is not reasonably available or the gravity of the legal proceeding and the potential consequence to the person are so minor that delays in obtaining a certified or approved interpreter are not justified.

**(2) Ensures that interpreters remain competent by making continuing education available, and requiring interpreters to attend such trainings.**

**Rule 3-306(3)(C)** No later than December 31 of each even-numbered calendar year, certified and approved interpreters shall pass the background check for applicants, and certified interpreters shall complete at least 16 hours of continuing education approved by the administrative office of the courts.

**(3) Adopts and requires adherence to an interpreter ethics code;**

**Rule 3-306(3)(A)(vii)** [A]n applicant shall ... take and subscribe the following oath or affirmation: "I will make a true and impartial interpretation using my best skills and judgment in accordance with the Code of Professional Responsibility."

**(4) Maintains a pool of interpreters sufficient to meet the need;**

If the pool of interpreters is insufficient to meet the need, the state tries to attract interpreters by:

**(a) Providing compensation at a rate similar to that provided by neighboring states, and by other employers in your state;**

**(b) Recruiting interpreters from professional organizations and from the community; and**

**(c) Establishing relationships with other states to create and access a shared pool of interpreters.**

There are 40 certified Spanish interpreters, which is sufficient to serve current and anticipated future needs.

Certified interpreters in languages other than Spanish are limited to:

- Navajo 2
- Russian 1
- Vietnamese 1

Use of approved Spanish interpreters is rare and use of conditionally approved Spanish interpreters is almost nonexistent:

Spanish Interpretation			
Year	Certified	Approved	Conditionally Approved
2008	92.7%	7.2%	0.2%
2009	94.1%	5.9%	0.0%
2010	96.9%	3.0%	0.1%

There being fewer of them, use of certified interpreters in languages other than Spanish represents a smaller percent of the total, but certified interpreters still represent a large majority of interpretations in those languages.

Navajo Interpretation			
Year	Certified	Approved	Conditionally Approved
2008	85%	0%	15%
2009	58%	6%	35%
2010	71%	0%	29%

Vietnamese Interpretation			
Year	Certified	Approved	Conditionally Approved
2008	79%	18%	3%
2009	80%	9%	11%
2010	77%	16%	8%

There are no statistics for the use of the certified Russian interpreter because she has been added to the roster only this year.

The state courts pay certified interpreters \$38.63/hour with a formula based on distance traveled for determining the minimum payment. In 2008 that amount was the median of

several western states and \$0.85/hour below the average. There are no benefits. The Committee periodically recommends increases to the fees. Because of budget cuts the last increase in court interpreter fees was in 2009.

Justice courts are not required to pay that amount, but many do. Some pay more; some less.

The courts use interpreters from other states if no one sufficiently qualified in a language is available locally. The courts use the AT&T Language Line as necessary.

Except for the federal government, the Judicial Council is the only organization in Utah offering credentials to interpreters. Interpreters commonly use court credentials to qualify in other service sectors. The Drivers License Division requires court credentials to translate foreign birth certificates and other identification. Interpreters are coming to the courts for training, credentials and opportunities even without recruiting. It seems that everyone else is looking to us to regulate the profession, so partnering with others does not yield any direct benefits to the courts.

**(5) Uses telephonic interpretation only:**

**(a) For short proceedings or meetings, or instances in which a local interpreter is unavailable;**

**(b) With proper equipment:**

**(b)(i) interpreters must have a high-quality headset with a mute button, separate dual volume control, and an amplifier; and**

**(b)(ii) everyone expected to hear the interpretation or to have their speech interpreted should have their own headset, handset, or microphone; and**

**(c) After interpreter and court personnel are trained on telephone interpreting protocols.**

Remote interpretation with specialized telephonic hardware and software meeting these specifications is available as a pilot program in Manti, Moab, Roosevelt and Vernal.

**(6) Maintains records on the need and demand for interpreters.**

**(7) Uses census data and the court's records on the need and demand for interpreters to plan for future needs.**

Clerks record the presence of the interpreter at a hearing in CORIS or CARE. This information combined with other data elements in those case management systems allows reporting on the use of interpreters by:

- casetype
- hearing type
- location

- language
- interpreter credentials

This information is combined with the most recently available census data and reported annually to the Judicial Council, Boards of Judges, Trial Court Executives and the public.

**(8) Tells litigants whether their interpreters are credentialed, and when non-credentialed interpreters are assigned tells litigants whatever is known about the interpreter's interpreting abilities.**

The Utah program has no such requirement.

**(9) Allows litigants and court personnel to challenge the appointment of interpreters on competence and ethics grounds.**

**Rule 3-306(7)** The appointing authority may remove an interpreter from the legal proceeding for failing to appear as scheduled, for inability to interpret adequately, including a self-reported inability, and for other just cause.

**(10) Has a disciplinary procedure for court interpreters which protects interpreters' due process rights.**

**Rule 3-306(8)** Discipline.

**(8)(A)** An interpreter may be disciplined for:

**(8)(A)(i)** knowingly making a false interpretation in a legal proceeding;

**(8)(A)(ii)** knowingly disclosing confidential or privileged information obtained in a legal proceeding;

**(8)(A)(iii)** knowingly failing to follow standards prescribed by law, the Code of Professional Responsibility and this rule;

**(8)(A)(iv)** failing to pass a background check;

**(8)(A)(v)** failing to meet continuing education requirements;

**(8)(A)(vi)** conduct or omissions resulting in discipline by another jurisdiction; and

**(8)(A)(vii)** failing to appear as scheduled without good cause.

**(8)(B)** Discipline may include:

**(8)(B)(i)** permanent loss of certified or approved credentials;

**(8)(B)(ii)** temporary loss of certified or approved credentials with conditions for reinstatement;

**(8)(B)(iii)** suspension from the roster of certified or approved interpreters with conditions for reinstatement;

**(8)(B)(vi)** prohibition from serving as a conditionally approved interpreter;

(8)(B)(v) suspension from serving as a conditionally approved interpreter with conditions for reinstatement; and

(8)(B)(vi) reprimand.

(8)(C) Any person may file a complaint in writing on a form provided by the program manager. The complaint may be in the native language of the complainant, which the AOC shall translate in accordance with this rule. The complaint shall describe in detail the incident and the alleged conduct or omission. The program manager may dismiss the complaint if it is plainly frivolous, insufficiently clear, or alleges conduct that does not violate this rule. If the complaint is not dismissed, the program manager shall mail the complaint to the interpreter at the address on file with the administrative office.

(8)(D) The interpreter shall answer the complaint within 30 days after the date the complaint is mailed or the allegations in the complaint are considered true and correct. The answer shall admit, deny or further explain each allegation in the complaint.

(8)(E) The program manager may review records and interview the complainant, the interpreter and witnesses. After considering all factors, the program manager may propose a resolution, which the interpreter may stipulate to. The program manager may consider aggravating and mitigating circumstances such as the severity of the violation, the repeated nature of violations, the potential of the violation to harm a person's rights, the interpreter's work record, prior discipline, and the effect on court operations.

(8)(F) If the complaint is not resolved by stipulation, the program manager will notify the committee, which shall hold a hearing. The committee chair and at least one interpreter member must attend. If a committee member is the complainant or the interpreter, the committee member is recused. The program manager shall mail notice of the date, time and place of the hearing to the interpreter. The hearing is closed to the public. Committee members and staff may not disclose or discuss information or materials outside of the meeting except with others who participated in the meeting or with a member of the Committee. The committee may review records and interview the interpreter, the complainant and witnesses. A record of the proceedings shall be maintained but is not public.

(8)(G) The committee shall decide whether there is sufficient evidence of the alleged conduct or omission, whether the conduct or omission violates this rule, and the discipline, if any. The chair shall issue a written decision on behalf of the committee within 30 days after the hearing. The program manager shall mail a copy of the decision to the interpreter.

(8)(H) The interpreter may review and, upon payment of the required fee, obtain a copy of any records to be used by the committee. The interpreter may attend all of the hearing except the committee's deliberations. The interpreter may be represented by counsel and shall be permitted to make a statement, call and interview the complainant and witnesses, and comment on the claims and evidence. The interpreter may obtain a copy of the record of the hearing upon payment of the required fee.

**(8)(I)** If the interpreter is certified in Utah under Paragraph (3)(B), the committee shall report the findings and sanction to the certification authority in the other jurisdiction.

**(11) Has a single office or individual within the court system with responsibility for implementing and overseeing the court interpreter program.**

The Judicial Council has created a standing **Court Interpreter Committee**. The AOC assigns responsibility for the interpreter program to two people within the Legal Department. Processing interpreter invoices is assigned to one person in the Third Judicial District and to one person in the AOC for the rest of the state.

All judicial districts **except the Second and Fourth** have implemented the Judicial Council's directive to assign interpreter scheduling to one coordinator and backup. The Third Judicial District coordinator has no other responsibilities. The coordinators in other judicial districts have other responsibilities.

**(d) Legal obligation: Ensure that judges and court personnel who come into contact with LEP litigants or witnesses act appropriately. The state likely complies with this legal obligation if it:**

**(1) Trains judges in how to:**

**(a) Determine whether a party or witness needs the assistance of an interpreter,**

**(b) Determine whether a particular interpreter is competent,**

**(c) Use interpreters effectively, and**

**(d) Run courtrooms in which simultaneous or consecutive interpreting of testimony or proceedings is occurring.**

Regular judicial training is limited to new judge orientation. Interpreter topics have been part of the annual or spring conferences, but rarely.

**(2) Trains other court personnel who come into contact with the public in how to:**

**(a) Determine whether a party or witness needs the assistance of an interpreter,**

**(b) Determine whether a particular interpreter is competent, and**

**(c) Use interpreters effectively.**

**Clerks are trained how to add a language need in a case, but more intensive training is limited to interpreter coordinators (schedulers).**

**(3) Bases performance evaluations of judges and other court personnel who come into contact with the public in part on skill in using interpreters.**

The Judicial Performance Evaluation Commission includes interpreters as potential respondents in judicial evaluation surveys. Skill in using interpreters should be a routine part of the evaluation of coordinators.

**(4) Has a formal feedback process to process complaints from litigants and interpreters about how court interpretation is handled.**

The Utah program has no express "feedback" process for evaluating interpreters. Rule 3-306(8) establishes a complaint process. Informal complaints from participants in various hearings sometimes reach the AOC, and someone will meet with the interpreter if it is warranted.

- (e) Legal obligation: To the extent possible, ensure that LEP individuals receive the same treatment as other court participants, including by minimizing delays in their cases. The state likely complies with this legal obligation if it:**

**(1) Marks case files and scheduling documents with "interpreter needed" designations.**

When the need for an interpreter becomes known, that need and in what language are recorded in CORIS and CARE. Thereafter, when the judicial assistant schedules a hearing, CORIS or CARE automatically sends to the coordinator an email stating the need. The coordinator finds and schedules an interpreter for the hearing.

The more difficult problem is not knowing that an interpreter is needed. This information must come from a source outside the courts. In criminal and juvenile cases, the information usually comes from an arresting authority or detention authority. For civil cases notice of right to an interpreter is included on the court's webpage, "Notice of Hearing" forms, subpoena forms, and the civil coversheet. Parties are directed to contact the clerk three days before the hearing.

To have someone readily available on short notice, some of the courts schedule an interpreter during peak times even if there is no known need.

**(2) Includes on notice and summons documents issued to lawyers and pro se litigants language stating that they must notify court personnel immediately if an interpreter is needed.**

Notice of right to an interpreter is included on the court's webpage, "Notice of Hearing" forms, subpoena forms, and the civil coversheet. Parties are directed to contact the clerk three days before the hearing. 

**(3) Includes data elements in case management systems to indicate whether litigants or witnesses need interpreters.**

Clerks record the presence of the interpreter at a hearing in CORIS or CARE. This information combined with other data elements in those case management systems allows reporting on the use of interpreters by:

- casetype
- hearing type
- location
- language
- interpreter credentials

This information is combined with the most recently available census data and reported annually to the Judicial Council, Boards of Judges, Trial Court Executives and the public.

There are no plans at present to record whether it is a party, witness or other person who needs the interpreter.

**(4) Concentrates interpreting work among as few individuals as possible.**

Scheduling interpreters is left to local discretion. Coordinators appoint interpreters with whom they have a strong working relationship, who live in the area, and who can meet the court's schedule. Coordinators go farther afield when required, usually because there is no interpreter in the community or because the local interpreters are not available.

**(5) Calls interpreter cases promptly so the interpreter can move on to other courtrooms.**

Arranging interpreter cases on the calendar is left to local discretion. The courts face the same problems scheduling interpreters as they do with scheduling prosecutors and defense counsel and all of the other participants. Prioritizing one at the expense of the others does not serve the parties and witnesses.

**(6) Schedules interpreter cases in the same courtroom on specific days of the week or at specific times of the day.**

Arranging interpreter cases on the calendar is left to local discretion. With the current methods of case assignments, scheduling all interpreter hearings for any given day in one courtroom is not possible. Master calendaring cases around a language need has the same disadvantages as master calendaring around any other factor.

## (f) Translations

The Brennan Center checklist does not include what translations are necessary to comply with Title VI, perhaps because the Department of Justice Guidelines include a "safe harbor" provision:

The following actions will be considered strong evidence of compliance with the recipient's written-translation obligations:

(a) The DOJ recipient provides written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.

Translation of other documents, if needed, can be provided orally; or

(b) If there are fewer than 50 persons in a language group that reaches the five percent trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

....

Competence of Translators. As with oral interpreters, translators of written documents should be competent. Many of the same considerations apply. However, the skill of translating is very different from the skill of interpreting, and a person who is a competent interpreter may or may not be competent to translate.

**Rule 3-306(10)** requires that translations be "by a team of at least two people who are interpreters certified under this rule or translators accredited by the American Translators Association."

A complete—and growing—list of webpages that have been translated into Spanish, is on the court website at <http://www.utcourts.gov/howto/sp/>. The courts will continue to translate webpages identified as a priority by the Self Help Center **until money in the translation account runs out, and then begin again in the next fiscal year, giving priority to webpages over forms.** The courts will continue to sight translate other documents as needed.

# Tab 6



# Language Access Planning and Technical Assistance Tool for Courts

**Federal Coordination and Compliance Section  
Civil Rights Division  
U.S. Department of Justice**

**February 2014**

“The Department applauds courts that are promoting equal access to the judicial system for limited English proficient individuals through concerted efforts to remove language barriers.”

- Tony West, Associate Attorney General of the United States, February 2014

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# Overview

This language access planning and technical assistance tool for courts was created by the Department of Justice Civil Rights Division, Federal Coordination and Compliance Section (DOJ), to assist courts and court systems as they develop comprehensive language access programs. This tool was developed in response to requests for technical assistance from courts and others involved in planning and implementing measures to improve language assistance services in courts for limited English proficient (LEP) individuals. We received many helpful comments and feedback to the draft version of this tool from attorneys, judges, court staff, advocates, community groups, state court systems, and national state court leadership associations and advisory committee members. We appreciate the time, thought, and expertise reflected in those recommendations, all of which were considered and many of which are incorporated into this final version of the tool.

The tool is intended to facilitate planning to supplement and support the growing body of technical assistance and other resources developed by the American Bar Association, the National Center for State Courts, and other national, state, and local entities. Based on the Department of Justice Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs,<sup>1</sup> this tool is tailored for use in courts. Just as with other planning tools, the focus is on identifying suggested areas of assessment and planning for courts. In each area, considerations are provided to identify challenges and highlight opportunities for improvement. Some courts will find that they have addressed certain areas and issues in this tool but that other areas may need greater priority and attention. In addition, we hope this tool will help courts identify which actions can be taken right away, which need focused attention and resources, and which require more long term planning and implementation to accomplish. Completing this tool neither establishes nor guarantees a court's compliance with Title VI of the Civil Rights Act of 1964 or other civil rights requirements. The legal requirements for courts that receive federal financial assistance from DOJ have been explained in prior guidance documents.<sup>2</sup> Use of the tool is of course voluntary; courts are not required to use the suggested considerations in this tool or submit their responses to DOJ.

The tool is divided into sections that suggest general areas for assessment and planning. Following each section are suggested planning steps. Because of vast nationwide differences in court structures and administrative and financial authorities and responsibilities, some considerations may not be applicable to every court. Courts are encouraged to modify this tool to the particular needs and features of their court and court system.

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<sup>1</sup> Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs (May 2011), available at [http://www.lep.gov/resources/2011\\_Language\\_Access\\_Assessment\\_and\\_Planning\\_Tool.pdf](http://www.lep.gov/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf).

<sup>2</sup> Resources for State Courts, available at <http://www.lep.gov/resources/resources.html#SC>.

## What Terms are Used in the Tool?

The terms and phrases used in this tool are defined below.

- Court Operations – Offices, programs and services managed, controlled, contracted or funded by the court, other than court proceedings, with which the public, parties, or witnesses may have contact in connection with a potential or actual legal issue, claim, matter, or proceeding. Examples can include, but are not limited to, intake or filing offices, cashiers, records rooms, pro se clinics, and other similar operations.
- Court Proceedings – Civil and criminal hearings and trials, including court-annexed processes or proceedings.
- Interpreter- An individual who has received training in the skills of interpretation and can competently render a message spoken from one language into one or more other languages.
- Limited English Proficient (LEP) – Individuals for whom English is not the primary language or who may have a limited ability to read, write, speak, or understand English, are limited English proficient, or “LEP.”<sup>3</sup>
- Language Access Plan (LAP) – The plan is a management document that outlines how the court defines tasks, sets deadlines and priorities, assigns responsibility, and allocates the resources necessary to come into or maintain compliance with language access requirements.
- Language Access Policies – Policies that set forth standards, operating principles, and guidelines that govern the delivery of language appropriate services in court proceedings and operations by the court and court staff.
- Language Access Procedures – Procedures that specify for court staff the steps to follow to provide language assistance services, gather data, and deliver services to LEP individuals.
- Language Assistance Services – Oral communication by competent bilingual staff or assisted by an authorized interpreter and written communication assisted by translation.
- Provide/Provided/Providing an Interpreter – Means appointing an interpreter free of charge to an LEP individual.
- Sight Translation – The reading of text written in one language by a competent interpreter who orally translates it into another language.
- Translator – An individual who has received training in the skills of translation and can competently render written text from one language into one or more other languages.
- Vital Documents – A document will be considered vital and need to be translated if it contains information critical for obtaining access to court or it is required by law. Some examples of vital documents that courts may need to translate to ensure that LEP individuals are provided meaningful access can include applications, court forms, consent or complaint forms, notices of rights, and letters or notices that require a response.

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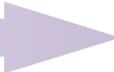
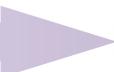
<sup>3</sup> This tool is not intended to cover considerations regarding individuals with sensory impairments, such as visual or hearing; those considerations can be addressed by the DOJ Civil Rights Division, Disability Rights Section, available at <http://www.justice.gov/crt/about/drs>.

## **What is a Language Access Plan?**

A Language Access Plan (LAP) is a management document that outlines how the court defines tasks, sets deadlines and priorities, assigns responsibility, and allocates the resources necessary to come into or maintain compliance with language access requirements. Implementing the LAP will help to provide equal access to court proceedings and operations, improve the accuracy of communications, enhance the integrity of evidence and decision making, promote efficiency in operations, and comply with Title VI and its implementing regulations.

For courts, the LAP identifies, prioritizes, coordinates and sets timeframes and responsibility for actions that are helpful to ensure that comprehensive, timely, effective, and free language assistance services are provided in court proceedings and operations. The plan should be grounded in an assessment of existing policy, practices, and capacity; it should also reflect consideration of the roles to be played by court leadership and various stakeholders. The scope of the plan will vary according to the system the court uses to deliver comprehensive, high quality, and timely language assistance services. The LAP should also seek to obtain and address stakeholder feedback. A court system that is currently delivering comprehensive language access services well, for example, might appropriately focus on monitoring performance, increasing efficiencies, and adjusting as needs change. Policy and procedures need not be set out in an LAP. Some courts prefer to include them in the LAP.



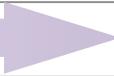
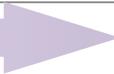
Consideration	Response
13. Does your court assign interpreters to court proceedings without requiring a motion or relying on a day-of request from the LEP person or their representative?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
14. Does your court provide language assistance services in court operations without relying on a day-of request from the LEP person or their representative?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
15. Does your court have systems in place to: a) monitor the performance of staff that provides language assistance services, b) monitor the performance of interpreters, and c) respond to complaints against staff or interpreters?	a) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed b) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed c) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
16. Does your court have a process to collect data on: a) the number of LEP individuals you serve, by language? b) the number of LEP individuals in your service area, by language spoken?	a) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed b) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
17. How often does your court assess the language data for the languages spoken by LEP communities in your service area? (Select all that apply)	<input type="checkbox"/> Annually <input type="checkbox"/> Not Sure <input type="checkbox"/> Biennially <input type="checkbox"/> Other: (please specify): _____ <input type="checkbox"/> No data is collected
18. What data sources does your court use to identify the LEP communities in your service area? (Select all that apply)	<input type="checkbox"/> US Census/ACS <input type="checkbox"/> Case management system <input type="checkbox"/> US Dept. of Education <input type="checkbox"/> Interpreter scheduling system <input type="checkbox"/> US Dept. of Labor <input type="checkbox"/> Stakeholders <input type="checkbox"/> State agencies <input type="checkbox"/> Justice system information <input type="checkbox"/> County agencies <input type="checkbox"/> Other: (please specify): _____ <input type="checkbox"/> Community organizations
19. Has your court reviewed the language access recommendations and resources of the a) American Bar Association, and b) National Center on State Courts?	a) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed b) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
20. What else might your court need in order to assess current needs and plan and project for future language assistance service needs?	

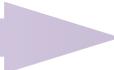
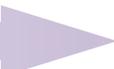
Section A Planning Steps:

- Based on the responses above, what action items will you develop?
- Who is responsible for implementing them?
- What are the timelines and priorities?
- How will you identify measures of progress?

## B. Court Rule

These considerations focus on the statutes, court rules, orders, directives, or other means by which your court or court systems sets policy on language access. While some of these considerations reflect the global issues listed in Part A, the focus here is on whether there is a consistent and published rule, order, directive or other policy providing notice to judges, clerks, court staff, attorneys, advocates, interpreters, LEP individuals, and the public regarding the obligation and right to language assistance services.

Consideration	Response	
1. Does your court have a rule (or equivalent) that addresses foreign language interpreters?	<input type="checkbox"/> Not Started	<input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
2. Does the rule require the court to provide competent language assistance services?	<input type="checkbox"/> Not Started	<input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
3. Does the rule require the court to provide language assistance services free of charge?	<input type="checkbox"/> Not Started	<input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
4. Does the rule authorize judges to assess the cost of language assistance services to the losing party in the case or proceeding?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
5. Does your court rule addressing language assistance services apply to court proceedings?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
6. Does your court rule addressing language assistance services apply to court operations?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
7. Does your court rule require the use of credentialed or certified interpreters a) in court proceedings, and b) for court operations?	<input type="checkbox"/> a) Yes <input type="checkbox"/> b) Yes	<input type="checkbox"/> a) No <input type="checkbox"/> b) No
8. Does your court rule prohibit: a) the use of family, friends, or other informal and untrained individuals from serving as an interpreter in court proceedings?; b) the use of family, friends, or other informal and untrained individual from serving as an interpreter for court operations for other than brief and simple communications?; c) bilingual court staff from serving as an interpreter for a court proceeding unless credentialed?; and d) an attorney or law firm staff from serving as the court interpreter in a proceeding where their client is a party?	<input type="checkbox"/> a) Yes <input type="checkbox"/> b) Yes <input type="checkbox"/> c) Yes <input type="checkbox"/> d) Yes	<input type="checkbox"/> a) No <input type="checkbox"/> b) No <input type="checkbox"/> c) No <input type="checkbox"/> d) No
9. Does your court rule require that in-person interpreters be sought first before considering other forms of interpretation (e.g., telephonic or video conferencing)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
10. Are there court proceedings, operations, or individuals that are not covered by your current court rule?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Consideration	Response
11. If you responded “Yes” to Consideration 10, explain the processes in place to address the language assistance service needs in the exempted areas.	
12. Can your court rule regarding language assistance services be enforced as a matter of law?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
13. a) Does your court have a written complaint protocol specific to the provision of language assistance services? b) Is the complaint process described by the protocol accessible to LEP individuals? c) Is the complaint protocol made available to the public (e.g., written notice, website)? d) Will the court process complaints alleging the court did not provide appropriate language assistance services?	a) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed b) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed c) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed d) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
14. Which staff members receive training on your court’s language access rule and related policies and procedures? (Select all that apply)	<input type="checkbox"/> Management or senior staff <input type="checkbox"/> Bilingual Staff <input type="checkbox"/> Court staff who interact with or are responsible for interactions with LEP individuals <input type="checkbox"/> New employees <input type="checkbox"/> Judicial officers <input type="checkbox"/> All employees <input type="checkbox"/> <input type="checkbox"/> Volunteers <input type="checkbox"/> <input type="checkbox"/> Other: (please specify): _____ <input type="checkbox"/> <input type="checkbox"/> None of the above
15. Are judges notified of: a) your court rule, b) the legal requirements governing the provision of language assistance services, and c) the consequences for failing to provide such services?	a) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed b) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed c) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
16. Is the provision of language assistance services addressed in mandatory judicial training?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
17. Did your court create bench cards for judges explaining the requirements of your court rule?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
18. What barriers or opportunities might be addressed so that your court can improve or expand upon its rule (or equivalent)?	

Section B Planning Steps:

- Based on the responses above, what action items will you develop?
- Who is responsible for implementing them?
- What are the timelines and priorities?
- How will you identify measures of progress?

### C. Implementation of the Language Access Plan

These considerations focus on clarifying the duties and responsibilities of court officials, staff, community stakeholders and others, to devise and implement the Language Access Plan (LAP).

Consideration	Response																				
1. Has your court designated staff with the responsibility to execute the LAP?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed																				
2. Has your court made sufficient resources available to execute the LAP?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed																				
3. Does the staff designated to implement the LAP have the skills needed to implement it?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed																				
4. For which individuals has your court identified implementation and leadership responsibilities, authorities, and roles with regard to the development and implementation of the LAP? (Select all that apply)	<table border="0"> <tr> <td><input type="checkbox"/> Chief Justice</td> <td><input type="checkbox"/> Fiscal managers</td> </tr> <tr> <td><input type="checkbox"/> Supreme Court</td> <td><input type="checkbox"/> Information technology</td> </tr> <tr> <td><input type="checkbox"/> AOC Director</td> <td><input type="checkbox"/> Prosecutors and Defenders</td> </tr> <tr> <td><input type="checkbox"/> Interpreter Manager</td> <td><input type="checkbox"/> Stakeholders committee</td> </tr> <tr> <td><input type="checkbox"/> Chief judges</td> <td><input type="checkbox"/> Expert</td> </tr> <tr> <td><input type="checkbox"/> Court clerks</td> <td><input type="checkbox"/> Other: (please specify): _____</td> </tr> <tr> <td><input type="checkbox"/> Language Access Compliance Officer</td> <td><input type="checkbox"/> None of the above</td> </tr> <tr> <td><input type="checkbox"/> Human resources</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Purchasing</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Grant managers</td> <td></td> </tr> </table>	<input type="checkbox"/> Chief Justice	<input type="checkbox"/> Fiscal managers	<input type="checkbox"/> Supreme Court	<input type="checkbox"/> Information technology	<input type="checkbox"/> AOC Director	<input type="checkbox"/> Prosecutors and Defenders	<input type="checkbox"/> Interpreter Manager	<input type="checkbox"/> Stakeholders committee	<input type="checkbox"/> Chief judges	<input type="checkbox"/> Expert	<input type="checkbox"/> Court clerks	<input type="checkbox"/> Other: (please specify): _____	<input type="checkbox"/> Language Access Compliance Officer	<input type="checkbox"/> None of the above	<input type="checkbox"/> Human resources		<input type="checkbox"/> Purchasing		<input type="checkbox"/> Grant managers	
<input type="checkbox"/> Chief Justice	<input type="checkbox"/> Fiscal managers																				
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<input type="checkbox"/> Interpreter Manager	<input type="checkbox"/> Stakeholders committee																				
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<input type="checkbox"/> Court clerks	<input type="checkbox"/> Other: (please specify): _____																				
<input type="checkbox"/> Language Access Compliance Officer	<input type="checkbox"/> None of the above																				
<input type="checkbox"/> Human resources																					
<input type="checkbox"/> Purchasing																					
<input type="checkbox"/> Grant managers																					
5. To the extent that external collaboration or assistance (support, technical assistance, financial or other resources/resource-sharing, monitoring, strategy, etc.) is needed to provide comprehensive language assistance services, what sources of help have been identified in the LAP? (Select all that apply)	<table border="0"> <tr> <td><input type="checkbox"/> Bar association</td> <td><input type="checkbox"/> Grant providers</td> </tr> <tr> <td><input type="checkbox"/> Legislature</td> <td><input type="checkbox"/> Interpreter or translator associations</td> </tr> <tr> <td><input type="checkbox"/> State administering agency</td> <td><input type="checkbox"/> Law enforcement</td> </tr> <tr> <td><input type="checkbox"/> State agencies</td> <td><input type="checkbox"/> Advocates</td> </tr> <tr> <td><input type="checkbox"/> NCSC/COSCA/CCJ</td> <td><input type="checkbox"/> Other: (please specify): _____</td> </tr> <tr> <td><input type="checkbox"/> DOJ</td> <td></td> </tr> </table>	<input type="checkbox"/> Bar association	<input type="checkbox"/> Grant providers	<input type="checkbox"/> Legislature	<input type="checkbox"/> Interpreter or translator associations	<input type="checkbox"/> State administering agency	<input type="checkbox"/> Law enforcement	<input type="checkbox"/> State agencies	<input type="checkbox"/> Advocates	<input type="checkbox"/> NCSC/COSCA/CCJ	<input type="checkbox"/> Other: (please specify): _____	<input type="checkbox"/> DOJ									
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<input type="checkbox"/> NCSC/COSCA/CCJ	<input type="checkbox"/> Other: (please specify): _____																				
<input type="checkbox"/> DOJ																					
6. What steps can your court take to ensure the clarity of roles and responsibilities, input from stakeholders, and the use of external resources when developing and implementing the LAP?																					

#### Section C Planning Steps:

- Based on the responses above, what action items will you develop?
- Who is responsible for implementing them?
- What are the timelines and priorities?
- How will you identify measures of progress?

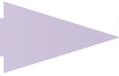
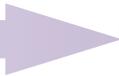
## D. Quality Control of Language Assistance Services

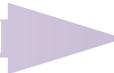
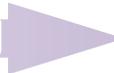
The considerations below focus on the quality and competency of court interpreters and translators who provide language assistance services.

Consideration	Response												
<p>1. Does your court system have a credentialing system in place for:</p> <p>a) staff interpreters,</p> <p>b) contract interpreters,</p> <p>c) remote interpreters (telephone and video),</p> <p>d) translators, and</p> <p>e) bilingual staff (for court operations)?</p>	<p>a) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed</p> <p>b) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed</p> <p>c) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed</p> <p>d) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed</p> <p>e) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed</p>												
<p>2. Does your system for ensuring the provision of competent interpreters and bilingual staff include: (Select all that apply)</p>	<table border="0"> <tr> <td><input type="checkbox"/> Tiered credentialing</td> <td><input type="checkbox"/> Voir dire to assess the competency of interpreters who are not certified and/or qualified</td> </tr> <tr> <td><input type="checkbox"/> Testing standards for languages that have oral exams and those that do not have oral exams</td> <td><input type="checkbox"/> Qualification standards for bilingual staff</td> </tr> <tr> <td><input type="checkbox"/> Qualification standards for interpreters who have not taken part in the credentialing process</td> <td><input type="checkbox"/> Provisions in contracts with interpreter service providers that specify minimum interpreter qualifications</td> </tr> <tr> <td><input type="checkbox"/> Qualification standards for remote interpreters</td> <td><input type="checkbox"/> A roster of approved interpreters</td> </tr> <tr> <td><input type="checkbox"/> Recertification and continuing education</td> <td><input type="checkbox"/> Other: (please specify): _____</td> </tr> <tr> <td><input type="checkbox"/> Ethics and professional requirements</td> <td></td> </tr> </table>	<input type="checkbox"/> Tiered credentialing	<input type="checkbox"/> Voir dire to assess the competency of interpreters who are not certified and/or qualified	<input type="checkbox"/> Testing standards for languages that have oral exams and those that do not have oral exams	<input type="checkbox"/> Qualification standards for bilingual staff	<input type="checkbox"/> Qualification standards for interpreters who have not taken part in the credentialing process	<input type="checkbox"/> Provisions in contracts with interpreter service providers that specify minimum interpreter qualifications	<input type="checkbox"/> Qualification standards for remote interpreters	<input type="checkbox"/> A roster of approved interpreters	<input type="checkbox"/> Recertification and continuing education	<input type="checkbox"/> Other: (please specify): _____	<input type="checkbox"/> Ethics and professional requirements	
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<input type="checkbox"/> Recertification and continuing education	<input type="checkbox"/> Other: (please specify): _____												
<input type="checkbox"/> Ethics and professional requirements													

Consideration	Response																								
<p>3. Does your system for ensuring the provision of ensuring competent translators include: (Select all that apply)</p>	<table border="0"> <tr> <td><input type="checkbox"/> Tiered credentialing standards for translators</td> <td><input type="checkbox"/> Qualification standards for bilingual staff</td> </tr> <tr> <td><input type="checkbox"/> Recertification and continuing education</td> <td><input type="checkbox"/> Provisions in contracts with translator service providers that specify minimum translator qualifications</td> </tr> <tr> <td><input type="checkbox"/> A review process for translations by a second translator</td> <td><input type="checkbox"/> A roster of approved translators</td> </tr> <tr> <td><input type="checkbox"/> Ethics and professional requirements</td> <td><input type="checkbox"/> Other: (please specify): _____</td> </tr> </table>	<input type="checkbox"/> Tiered credentialing standards for translators	<input type="checkbox"/> Qualification standards for bilingual staff	<input type="checkbox"/> Recertification and continuing education	<input type="checkbox"/> Provisions in contracts with translator service providers that specify minimum translator qualifications	<input type="checkbox"/> A review process for translations by a second translator	<input type="checkbox"/> A roster of approved translators	<input type="checkbox"/> Ethics and professional requirements	<input type="checkbox"/> Other: (please specify): _____																
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<input type="checkbox"/> Ethics and professional requirements	<input type="checkbox"/> Other: (please specify): _____																								
<p>4. Does your court work with any of the following organizations or entities to ensure the quality assessment of interpreters or translators? (Select all that apply)</p>	<table border="0"> <tr> <td><input type="checkbox"/> National Center for State Courts (NCSC)</td> <td><input type="checkbox"/> American Translators Association (ATA)</td> </tr> <tr> <td><input type="checkbox"/> National Association of Judiciary Interpreters and Translators (NAJIT)</td> <td><input type="checkbox"/> American Bar Association (ABA)</td> </tr> <tr> <td></td> <td><input type="checkbox"/> Other Court Systems</td> </tr> <tr> <td></td> <td><input type="checkbox"/> Other: (please specify): _____</td> </tr> </table>	<input type="checkbox"/> National Center for State Courts (NCSC)	<input type="checkbox"/> American Translators Association (ATA)	<input type="checkbox"/> National Association of Judiciary Interpreters and Translators (NAJIT)	<input type="checkbox"/> American Bar Association (ABA)		<input type="checkbox"/> Other Court Systems		<input type="checkbox"/> Other: (please specify): _____																
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	<input type="checkbox"/> Other: (please specify): _____																								
<p>5. Does your court have data systems in place that:</p> <p>a) record language assistance service needs?</p> <p>b) note the timeliness of the language assistance service?</p> <p>c) note if interpretation services were delivered successfully?</p> <p>d) document if translation services were delivered successfully?</p> <p>e) collect data on the cost of language assistance services?, and</p> <p>f) provide a) through e) above all broken down by type of language assistance service and language or dialect?</p>	<p>a)</p> <table border="0"> <tr> <td><input type="checkbox"/> Not Started</td> <td><input type="checkbox"/> In Progress</td> <td></td> <td><input type="checkbox"/> Completed</td> </tr> </table> <p>b)</p> <table border="0"> <tr> <td><input type="checkbox"/> Not Started</td> <td><input type="checkbox"/> In Progress</td> <td></td> <td><input type="checkbox"/> Completed</td> </tr> </table> <p>c)</p> <table border="0"> <tr> <td><input type="checkbox"/> Not Started</td> <td><input type="checkbox"/> In Progress</td> <td></td> <td><input type="checkbox"/> Completed</td> </tr> </table> <p>d)</p> <table border="0"> <tr> <td><input type="checkbox"/> Not Started</td> <td><input type="checkbox"/> In Progress</td> <td></td> <td><input type="checkbox"/> Completed</td> </tr> </table> <p>e)</p> <table border="0"> <tr> <td><input type="checkbox"/> Not Started</td> <td><input type="checkbox"/> In Progress</td> <td></td> <td><input type="checkbox"/> Completed</td> </tr> </table> <p>f)</p> <table border="0"> <tr> <td><input type="checkbox"/> Not Started</td> <td><input type="checkbox"/> In Progress</td> <td></td> <td><input type="checkbox"/> Completed</td> </tr> </table>	<input type="checkbox"/> Not Started	<input type="checkbox"/> In Progress		<input type="checkbox"/> Completed	<input type="checkbox"/> Not Started	<input type="checkbox"/> In Progress		<input type="checkbox"/> Completed	<input type="checkbox"/> Not Started	<input type="checkbox"/> In Progress		<input type="checkbox"/> Completed	<input type="checkbox"/> Not Started	<input type="checkbox"/> In Progress		<input type="checkbox"/> Completed	<input type="checkbox"/> Not Started	<input type="checkbox"/> In Progress		<input type="checkbox"/> Completed	<input type="checkbox"/> Not Started	<input type="checkbox"/> In Progress		<input type="checkbox"/> Completed
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<input type="checkbox"/> Not Started	<input type="checkbox"/> In Progress		<input type="checkbox"/> Completed																						
<p>6. Can your court data system create a usable report that includes the following information about the language assistance services that were provided in a court proceeding or operation? (Select all that apply)</p>	<table border="0"> <tr> <td><input type="checkbox"/> Type of court or court operation</td> <td><input type="checkbox"/> Length of delay or denial or services and the reason for each delay or denial</td> </tr> <tr> <td><input type="checkbox"/> Location where it was provided</td> <td><input type="checkbox"/> Interpreter type and qualifications</td> </tr> <tr> <td><input type="checkbox"/> Type of case or proceeding</td> <td><input type="checkbox"/> Translator type and qualifications</td> </tr> <tr> <td><input type="checkbox"/> Data on language groups encountered</td> <td><input type="checkbox"/> Other: (please specify): _____</td> </tr> <tr> <td><input type="checkbox"/> Cost of services provided</td> <td></td> </tr> </table>	<input type="checkbox"/> Type of court or court operation	<input type="checkbox"/> Length of delay or denial or services and the reason for each delay or denial	<input type="checkbox"/> Location where it was provided	<input type="checkbox"/> Interpreter type and qualifications	<input type="checkbox"/> Type of case or proceeding	<input type="checkbox"/> Translator type and qualifications	<input type="checkbox"/> Data on language groups encountered	<input type="checkbox"/> Other: (please specify): _____	<input type="checkbox"/> Cost of services provided															
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<input type="checkbox"/> Data on language groups encountered	<input type="checkbox"/> Other: (please specify): _____																								
<input type="checkbox"/> Cost of services provided																									



Consideration	Response
2. If you responded “Not Started” to Consideration 1, what system is in place for staff to identify an individual’s need for language assistance services? (Select all that apply)	<input type="checkbox"/> Notation or mark on paper case file <input type="checkbox"/> No identification system in place <input type="checkbox"/> Language need is noted on docket <input type="checkbox"/> Other: (please specify): _____
3. Does your case management system permit court staff to indicate that an interpreter is needed for a specific case or proceeding?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
4. Is the case management system able to take into account language needs when scheduling cases in order to maximize court and interpreter productivity?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
5. If you responded “Not Started” to Consideration 4, what processes outside of a case management system are in place to schedule cases taking into account language needs in order to maximize court and interpreter productivity? (Select all that apply)	<input type="checkbox"/> Written note on case listing <input type="checkbox"/> No identification system in place <input type="checkbox"/> Not sure <input type="checkbox"/> Staff in court room are told about language needs <input type="checkbox"/> Other: (please specify): _____
6. Does your court have an interpreter scheduling or assignment system in place that will: (Select all that apply)	<input type="checkbox"/> Identify and assign qualified interpreter services when a certified interpreter is not available <input type="checkbox"/> Allow court staff to assign qualified remote interpreters <input type="checkbox"/> Other: (please specify): _____ <input type="checkbox"/> None of the above
7. Does your court have any automated systems in place that notify a) court staff, and b) parties before the date of the case or proceeding that an interpreter will be provided?	a) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed b) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
8. Does your court have any automated systems in place that notify a) court staff and b) parties when an interpreter will be unavailable?	a) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed b) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
9. Does your court work with the following entities to help identify cases that may require language assistance services? (Select all that apply)	<input type="checkbox"/> Law Enforcement <input type="checkbox"/> Prosecutors <input type="checkbox"/> Public defenders <input type="checkbox"/> Social service agencies <input type="checkbox"/> Domestic violence assistance programs <input type="checkbox"/> Jails <input type="checkbox"/> Legal Aid/Legal Services <input type="checkbox"/> Community groups <input type="checkbox"/> Other: (please specify): _____ <input type="checkbox"/> None of the above
10. Does your court have a protocol in place for the assignment of: a) staff interpreters, b) in-person interpreter contractors, c) video conferencing options, and d) telephonic interpreter options?	a) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed b) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed c) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed d) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed

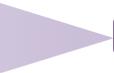
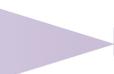
Consideration	Response
11. Has your court studied the costs and benefits of using in-house telephone interpreting by certified and qualified interpreters when it is not feasible to have an in-person interpreter?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
12. Has your court studied the costs and benefits of video remote interpreting systems to use when it is not feasible to have an in-person interpreter?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
13. Has your court studied the costs and benefits of using regional or national remote interpreting systems for less frequently encountered languages?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
14. What else might your court need in order to ensure efficient and effective notice and assignment practices that will cut down on delays, improve access, create greater efficiencies, and ensure quality?	

**Section E Planning Steps:**

- Based on the responses above, what action items will you develop?
- Who is responsible for implementing them?
- What are the timelines and priorities?
- How will you identify measures of progress?

**F. Translated Materials**

The following considerations focus on the provision of translated materials.

Consideration	Response
1. Does your court identify vital documents in the non-English languages of the LEP communities in your service area?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
2. Does your court translate vital documents in the non-English languages of the LEP communities in your service area?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed
3. Which vital written documents (or parts thereof) has your court translated into non-English languages? (Select all that apply)	<input type="checkbox"/> Consent forms <input type="checkbox"/> Case filing forms <input type="checkbox"/> Complaint forms <input type="checkbox"/> Notices of language service availability <input type="checkbox"/> Pro se materials <input type="checkbox"/> Notices of rights <input type="checkbox"/> Orders: (please specify): _____ <input type="checkbox"/> Summonses <input type="checkbox"/> Subpoenas <input type="checkbox"/> Other: (please specify): _____ <input type="checkbox"/> None are translated
4. Are all documents identified in response to Consideration 3 translated into: a) Spanish, and b) non-Spanish languages?	a) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed b) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed

Consideration	Response
5. Has your court developed a glossary of legal terms (or used a glossary developed by others) in: a) Spanish, and b) non-Spanish languages?	a) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed b) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed
6. Has your court staff walked through the courthouses imagining that they are an LEP pro se party/witness/victim and thought about what translated signs, notices, document and materials might help ensure greater access?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed
7. Does your court provide translated signs or posters announcing the availability of free language assistance services?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed
8. If you responded "Not Started" or "In Progress" to Consideration 7, what steps has the court taken to assess the signage and translated document needs of LEP individuals? (Select all that apply)	<input type="checkbox"/> Requested feedback from LEP community groups <input type="checkbox"/> Surveyed LEP individuals <input type="checkbox"/> Other: (please specify): _____
9. a) When your court updates information on its website, does it also add the same content in non-English languages? b) Is there a process for determining which materials should be translated on the website? c) Is there a process for determining the non-English language that materials should be translated into on the website?	a) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed b) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed c) <input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed
10. Does your court only use automatic translation services or software to translate the text of its website into non-English languages?	<input type="checkbox"/> Yes <input type="checkbox"/> No
11. Before translated materials are released, do you have them checked for quality?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed
12. Does your court ensure that the meaning and literacy level of the text in English is preserved in the translated non-English text?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed
13. Does your court use credentialed translators instead of bilingual staff who are not credentialed translators to translate written documents and website content?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed
14. When your court requests a document for translation, is an electronic version of the translated document stored for later use?	<input type="checkbox"/> Yes <input type="checkbox"/> No
15. Does your court share documents it has already translated with other courts?	<input type="checkbox"/> Yes <input type="checkbox"/> No
16. Does your court provide sight translations of written materials for LEP individuals?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed



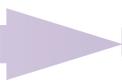
Consideration	Response
3. Indicate the manner in which your court and court staff inform the public, parties, and attorneys about how to file a complaint regarding the lack of language assistance services or inaccurate interpretations or translations: (Select all that apply)	<input type="checkbox"/> Notices on court documents <input type="checkbox"/> In-person by staff <input type="checkbox"/> Announcements at the beginning of court sessions <input type="checkbox"/> Signage <input type="checkbox"/> Electronically (e.g., email or website) <input type="checkbox"/> Outreach efforts <input type="checkbox"/> Media (e.g., radio, print, television) <input type="checkbox"/> Other: (please specify): _____
4. Indicate the methods your court and court staff use to provide LEP communities notice about the availability of language assistance services: (Select all that apply)	<input type="checkbox"/> Outreach activities <input type="checkbox"/> Non-English media (radio, print, television, internet) <input type="checkbox"/> Working with LEP community groups <input type="checkbox"/> Other: (please specify): _____
5. What else does your court need to consider to ensure that it provides appropriate notice of language assistance services?	

**Section G Planning Steps:**

- Based on the responses above, what action items will you develop?
- Who is responsible for implementing them?
- What are the timelines and priorities?
- How will you identify measures of progress?

**H. Outreach and Collaboration with LEP Communities and Stakeholders**

These considerations focus on the participation of stakeholders and partners in the development and assessment/monitoring of language access policies and procedures.

Consideration	Response
1. Does your court inform community groups about the availability of free language assistance services for LEP individuals?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed

Consideration	Response																		
2. In the process of developing or assessing the LAP and language access policies and procedures, has your court included or sought the participation of the following individuals and organizations? (Select all that apply)	<table border="0"> <tr> <td><input type="checkbox"/> LEP individuals</td> <td><input type="checkbox"/> Ethnic bar groups</td> </tr> <tr> <td><input type="checkbox"/> Community groups that work with LEP communities</td> <td><input type="checkbox"/> Court interpreters and interpreters' professional associations</td> </tr> <tr> <td><input type="checkbox"/> Private attorneys</td> <td><input type="checkbox"/> NCSC/COSCA/CCJ</td> </tr> <tr> <td><input type="checkbox"/> Criminal defense bar</td> <td><input type="checkbox"/> DOJ</td> </tr> <tr> <td><input type="checkbox"/> Court staff</td> <td><input type="checkbox"/> State Access to Justice Commission</td> </tr> <tr> <td><input type="checkbox"/> Legal Aid/Legal Services</td> <td><input type="checkbox"/> Law schools and law school clinics</td> </tr> <tr> <td><input type="checkbox"/> Legal programs that work with immigrant communities and other public interest attorneys</td> <td><input type="checkbox"/> American Bar Association</td> </tr> <tr> <td><input type="checkbox"/> Consultants/Expert</td> <td><input type="checkbox"/> State Administering Agencies for Federal Grants</td> </tr> <tr> <td><input type="checkbox"/> State and local bar associations</td> <td><input type="checkbox"/> Other: (please specify): _____</td> </tr> </table>	<input type="checkbox"/> LEP individuals	<input type="checkbox"/> Ethnic bar groups	<input type="checkbox"/> Community groups that work with LEP communities	<input type="checkbox"/> Court interpreters and interpreters' professional associations	<input type="checkbox"/> Private attorneys	<input type="checkbox"/> NCSC/COSCA/CCJ	<input type="checkbox"/> Criminal defense bar	<input type="checkbox"/> DOJ	<input type="checkbox"/> Court staff	<input type="checkbox"/> State Access to Justice Commission	<input type="checkbox"/> Legal Aid/Legal Services	<input type="checkbox"/> Law schools and law school clinics	<input type="checkbox"/> Legal programs that work with immigrant communities and other public interest attorneys	<input type="checkbox"/> American Bar Association	<input type="checkbox"/> Consultants/Expert	<input type="checkbox"/> State Administering Agencies for Federal Grants	<input type="checkbox"/> State and local bar associations	<input type="checkbox"/> Other: (please specify): _____
<input type="checkbox"/> LEP individuals	<input type="checkbox"/> Ethnic bar groups																		
<input type="checkbox"/> Community groups that work with LEP communities	<input type="checkbox"/> Court interpreters and interpreters' professional associations																		
<input type="checkbox"/> Private attorneys	<input type="checkbox"/> NCSC/COSCA/CCJ																		
<input type="checkbox"/> Criminal defense bar	<input type="checkbox"/> DOJ																		
<input type="checkbox"/> Court staff	<input type="checkbox"/> State Access to Justice Commission																		
<input type="checkbox"/> Legal Aid/Legal Services	<input type="checkbox"/> Law schools and law school clinics																		
<input type="checkbox"/> Legal programs that work with immigrant communities and other public interest attorneys	<input type="checkbox"/> American Bar Association																		
<input type="checkbox"/> Consultants/Expert	<input type="checkbox"/> State Administering Agencies for Federal Grants																		
<input type="checkbox"/> State and local bar associations	<input type="checkbox"/> Other: (please specify): _____																		
3. Does your court invite stakeholders to provide feedback on how the language access plan, policies and procedures are working or whether any challenges arose in implementation?	<div style="text-align: center;"> <input type="checkbox"/> Not Started           <span style="margin: 0 20px;">→</span> <input type="checkbox"/> In Progress           <span style="margin: 0 20px;">→</span> <input type="checkbox"/> Completed         </div>																		
4. Does your court conduct outreach in English media regarding the availability of language assistance services? (Select all that apply)	<table border="0"> <tr> <td><input type="checkbox"/> Television</td> <td><input type="checkbox"/> Online videos</td> </tr> <tr> <td><input type="checkbox"/> Radio</td> <td><input type="checkbox"/> Websites</td> </tr> <tr> <td><input type="checkbox"/> Newspaper</td> <td><input type="checkbox"/> Social media</td> </tr> <tr> <td><input type="checkbox"/> Other: (please specify): _____</td> <td><input type="checkbox"/> None of the above</td> </tr> </table>	<input type="checkbox"/> Television	<input type="checkbox"/> Online videos	<input type="checkbox"/> Radio	<input type="checkbox"/> Websites	<input type="checkbox"/> Newspaper	<input type="checkbox"/> Social media	<input type="checkbox"/> Other: (please specify): _____	<input type="checkbox"/> None of the above										
<input type="checkbox"/> Television	<input type="checkbox"/> Online videos																		
<input type="checkbox"/> Radio	<input type="checkbox"/> Websites																		
<input type="checkbox"/> Newspaper	<input type="checkbox"/> Social media																		
<input type="checkbox"/> Other: (please specify): _____	<input type="checkbox"/> None of the above																		
5. Does your court conduct outreach to non-English media regarding the availability of language assistance services? (Select all that apply)	<table border="0"> <tr> <td><input type="checkbox"/> Television</td> <td><input type="checkbox"/> Online videos</td> </tr> <tr> <td><input type="checkbox"/> Radio</td> <td><input type="checkbox"/> Websites</td> </tr> <tr> <td><input type="checkbox"/> Newspaper</td> <td><input type="checkbox"/> Social media</td> </tr> <tr> <td><input type="checkbox"/> Other: (please specify): _____</td> <td><input type="checkbox"/> None of the above</td> </tr> </table>	<input type="checkbox"/> Television	<input type="checkbox"/> Online videos	<input type="checkbox"/> Radio	<input type="checkbox"/> Websites	<input type="checkbox"/> Newspaper	<input type="checkbox"/> Social media	<input type="checkbox"/> Other: (please specify): _____	<input type="checkbox"/> None of the above										
<input type="checkbox"/> Television	<input type="checkbox"/> Online videos																		
<input type="checkbox"/> Radio	<input type="checkbox"/> Websites																		
<input type="checkbox"/> Newspaper	<input type="checkbox"/> Social media																		
<input type="checkbox"/> Other: (please specify): _____	<input type="checkbox"/> None of the above																		
6. In what non-English language(s) is the outreach in Consideration 5 conducted?																			
7. What else might your court consider to ensure that stakeholders are brought into the process of identifying needs and resources and assessing implementation of court language access policies and procedures?																			

**Section H Planning Steps:**

- Based on the responses above, what action items will you develop?
- Who is responsible for implementing them?
- What are the timelines and priorities?
- How will you identify measures of progress?

## I. Monitoring, Updating, and Enforcing Compliance

The following considerations focus on monitoring and updating language access policies, plans, and procedures.

Consideration	Response
1. How often are your court's language access policies reviewed and updated?	<input type="checkbox"/> Annually <input type="checkbox"/> Not Sure <input type="checkbox"/> Biennially <input type="checkbox"/> Other: _____
2. Does your court have a language access coordinator or an equivalent?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Does your court have a system for collecting data on LEP court user satisfaction?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed
4. Is there an individual responsible for walking through the public areas of your courthouse to ensure that signs are posted in frequently encountered non-English languages?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Is there an individual responsible for observing and evaluating the use of interpreters in court proceedings?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6. Is there an individual responsible for observing and evaluating the use of interpreters in court operations?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7. Does your court monitor the complaint system for evidence of language access-related problems to address?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress <input type="checkbox"/> Completed
8. If you responded "In Progress" or "Completed" to Consideration 7, how often do you monitor your complaint system?	<input type="checkbox"/> Annually <input type="checkbox"/> Not Sure <input type="checkbox"/> Biennially <input type="checkbox"/> Other (specify): _____
9. What else might assist your court in ensuring that language access plans, policies, and procedures are meeting the needs of the courts and LEP individuals in an efficient and effective manner?	

### Section I Planning Steps:

- Based on the responses above, what action items will you develop?
- Who is responsible for implementing them?
- What are the timelines and priorities?
- How will you identify measures of progress?

## J. Language Access Plan Review

Once a plan is drafted, it should be reviewed with several considerations in mind, and receive input from internal and external stakeholders.

Consideration	Response
1. Does your language access plan refer to legal and policy authorities?	<input type="checkbox"/> Yes <input type="checkbox"/> No

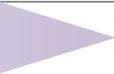
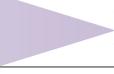
Consideration	Response	
2. Is your language access plan sufficiently detailed to implement the legal and policy authorities it references?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Are tasks in the language access plan prioritized appropriately?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. Are deadlines set forth in the language access plan for each task?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
5. Are the deadlines set forth in the language access plan for each task reasonable?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
6. Are deadlines in the language access plan in the proper or most logical sequence?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
7. Does the language access plan provide for future adjustments?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
8. Does the language access plan provide for ongoing internal and external review?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
9. What other considerations might your court want to review in developing, assessing, and implementing your language access plan?		

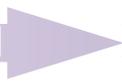
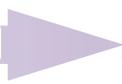
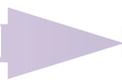
**Section J Planning Steps:**

- Based on the responses above, what action items will you develop?
- Who is responsible for implementing them?
- What are the timelines and priorities?
- How will you identify measures of progress?

**K. Assessing Resources**

The following considerations focus on the resources your court uses to provide language assistance services, how it assesses these resources, and how it identifies other resources.

Consideration	Response	
1. Does your court have a line item in its budget for language assistance services for LEP individuals?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Do you account for language assistance services when developing your court budget?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed	
3. Does your court have a system to assess the actual cost of language assistance services?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed	
4. If you responded "In Progress" or "Completed" to Consideration 3, how often does your court assess this cost information? (Select all that apply)	<input type="checkbox"/> Every six months <input type="checkbox"/> Annually <input type="checkbox"/> Biennially	<input type="checkbox"/> Not Sure <input type="checkbox"/> Other: (please specify): _____

Consideration	Response	
5. If you answered “In Progress” or “Completed” to Consideration 3, does your assessment of language assistance services costs include: (Select all that apply)	<input type="checkbox"/> Loss of federal financial assistance for noncompliance with civil rights requirements <input type="checkbox"/> Cost of a federal investigation or enforcement action	<input type="checkbox"/> Administrative cost of collecting fees from parties required to pay for language assistance services <input type="checkbox"/> Burdens on court when interpreters are not provided (e.g., case scheduling delays, parties required to return to court)
6. What other entities has your court worked with to assess the cost of the language assistance services that it provides? (Select all that apply)	<input type="checkbox"/> Community groups that work with LEP communities <input type="checkbox"/> Legal Aid/Legal Services <input type="checkbox"/> Consultants/Expert <input type="checkbox"/> State and local bar associations <input type="checkbox"/> State or local agencies <input type="checkbox"/> DOJ	<input type="checkbox"/> Court interpreter or translator professional associations <input type="checkbox"/> NCSC/COSCA/CCJ <input type="checkbox"/> State Administering Agencies for Federal Grants <input type="checkbox"/> Other: (please specify): _____
7. Are the revenues generated by court fees available to pay for language assistance services?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
8. If you responded “No” to Consideration 7, how does your court pay for language assistance service costs? (Select all that apply)	<input type="checkbox"/> Charging LEP individuals or parties <input type="checkbox"/> Fund or account in the court budget <input type="checkbox"/> Federal financial assistance	<input type="checkbox"/> State funding <input type="checkbox"/> Local government <input type="checkbox"/> Not Sure <input type="checkbox"/> Other: (please specify): _____
9. If your response to Consideration 8 included “Charging LEP individuals or parties” is there any discussion of changing this practice?”	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed	
10. Has your court requested funding for language assistance services from your state legislature?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed	
11. When applying for grants and other financial assistance, does your court include language assistance services in the proposed budget?	<input type="checkbox"/> Not Started <input type="checkbox"/> In Progress  <input type="checkbox"/> Completed	
12. Has your court received federal financial assistance from a federal agency that includes funding for language assistance services?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
13. What reasons, if any, have prevented your court from expanding the language assistance services that it provides?		

Consideration	Response
14. What else might help your court assess the costs and the resources that will be needed to provide meaningful language assistance services?	

Section K Planning Steps:

- Based on the responses above, what action items will you develop?
- Who is responsible for implementing them?
- What are the timelines and priorities?
- How will you identify measures of progress?

## Department of Justice Language Access Resources for Courts

- DOJ Guidance and Information, Enforcement and Investigation Materials, and Language Access Resources are available at <http://www.lep.gov/resources/resources.html#SC>
- Additional resources can be found at <http://www.lep.gov/>

U.S. Department of Justice  
 Civil Rights Division  
 Federal Coordination and Compliance Section, NWB  
 950 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20530  
<http://www.usdoj.gov/crt/fcs>  
[lep@usdoj.gov](mailto:lep@usdoj.gov)

# Tab 7

# **Maine Judicial Branch Language Access Plan**



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## **Expanding Language Access in the Maine State Courts**

**January 1, 2019 – December 31, 2020**





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## A. Public Notice

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### Purpose

The Maine Judicial Branch's (Judicial Branch) Language Access Plan (Plan) is developed to meet the requirements of federal law and State law, orders, and rules, and to provide a comprehensive framework for engaging in the continuous improvement of access to justice in the Maine state courts for individuals with limited English proficiency. This Plan is a statewide plan to identify the needs of Maine court users who are limited English proficient, to develop and implement language services and communication aids to meet those needs, and to report on the success of the Judicial Branch's responsiveness to language access needs in the Maine state courts.

### Points of Contact

Within the Judicial Branch's Office of Court Access, the Communication Access Specialist has primary responsibility for facilitating language access in the Maine state courts.

Relying on the Office of Court Access and the Communication Access Specialist, the Judicial Branch will review, update and publish this Plan biennially (every two years). In addition, the Office of Court Access will, at a minimum, review progress on the Plan annually and post the results of that review on the [Judicial Branch Limited English Proficiency Information](#) webpage.

For assistance, or more information, please contact:

**Communication Access Specialist**  
Administrative Office of the Courts  
P.O. Box 4820  
Portland, ME 04112-4820  
[interpreters@courts.maine.gov](mailto:interpreters@courts.maine.gov)  
(207) 822-0703

**Court Access Coordinator**  
Administrative Office of the Courts  
P.O. Box 4820  
Portland, ME 04112-4820  
[accessibility@courts.maine.gov](mailto:accessibility@courts.maine.gov)  
(207) 822-0718

### Publication

This Plan is publicly available on the Judicial Branch's website. Printed copies are available upon request. The Plan will be shared with the Department of Justice, LEP.gov, various State and County Bar Associations, and other justice partners; as well as State agencies, community-based organizations, and legal services providers working with limited English proficient and deaf and hard-of-hearing populations in Maine.





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## B. Acknowledgements

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### Maine Judicial Branch

Hon. Leigh I. Saufley, Chief Justice, Maine Supreme Judicial Court  
Hon. Roland A. Cole, Chief Justice, Maine Superior Court  
Hon. Susan Oram, Chief Judge, Maine District Court  
James T. Glessner, State Court Administrator

### Limited English Proficiency Advisory Committee

Hon. Andrew M. Mead, Associate Justice, Maine Supreme Judicial Court Liaison  
Kristina Famolare, J.D., Communication Access Specialist, Chair  
Hon. Roland A. Cole, Chief Justice, Maine Superior Court or designee  
Hon. Rick E. Lawrence, Judge, Maine District Court  
Hon. Maria Woodman, Judge, Maine District Court  
Jennifer Archer, Esq., Staff Attorney, Immigrant Legal Advocacy Project  
Fatuma Hussein, Executive Director, Immigrant Resource Center of Maine  
Anita St. Onge, J.D., Executive Director, Portland Adult Education  
Alain Nahimana, Executive Director, Greater Portland Immigrant Welcome Center  
Michelle Ames, MHRTC, ESC, ASLPI 4, Program Director: Deaf Services, Disability Rights Maine  
Meryl Troop, CI, CT, SC:L, ASL Interpreter  
Janice Jaffe, Ph.D., Visiting Associate Professor of Hispanic Studies, Bowdoin College  
Susan Bement, Clerk of the Lewiston District Court  
Ted Ross, Chief Deputy, State Judicial Marshals  
Nickole Wesley, Assistant Clerk, LEP Coordinator, Portland District Court  
Allison Gray, Esq., Court Access Coordinator  
Richard E. Record, Jr., Director, Court Services

### Authors – Office of Court Access

Kristina Famolare, J.D., Communication Access Specialist  
Richard E. Record, Jr., Director, Court Services  
Allison Gray, Esq., Court Access Coordinator

### Contributors

National Center for State Courts  
Jennifer Farrington, Administrative/Data Assistant





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## C. Executive Summary

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Limited English proficiency (LEP) refers to the inability to adequately understand or communicate effectively in English. This applies to individuals whose primary language is a language other than English and whose ability to speak English is not at the level of comprehension and expression needed to participate effectively in court transactions and proceedings, including individuals whose primary language is American Sign Language (ASL).

The Judicial Branch is committed to providing equal access to the Maine courts by identifying and eliminating barriers to justice. Through this Plan, the Judicial Branch is demonstrating its ongoing commitment to its goal that individuals with limited English proficiency have full, meaningful, and fair access to justice in Maine's state courts.

The purpose of this Plan is to identify language access needs in the Maine state courts and to develop and implement language services and communication aids to meet those needs in order to provide and improve language access as required by relevant federal law, State law, and the applicable Administrative Orders, Rules, and strategic priorities of the Supreme Judicial Court. Additionally, this Plan—and successive versions of this Plan—will report on the Judicial Branch's responsiveness to language access needs, including major language access accomplishments and initiatives designed to expand language access to the Maine state courts. Specific tasks and initiatives, and allocation for responsibilities, are summarized in Appendix B, appended hereto.

This Plan represents the collaboration of a number of groups and individuals, notably the members of the LEP Advisory Committee, the Office of Court Access, and the National Center for State Courts. The LEP Advisory Committee is charged with advising Judicial Branch leadership in developing and maintaining a comprehensive system for providing and improving access to Maine state courts for individuals with limited English proficiency or hearing loss.

While Maine's LEP communities are relatively small compared to many other states, the greater Portland and Lewiston/Auburn areas are experiencing increases in the number of individuals with limited English proficiency. One of the greatest challenges facing the Maine state courts is the variety of languages being spoken compared to the language resources currently available.

Led by the Supreme Judicial Court, the Chiefs of the Trial Courts, and the State Court Administrator, the Judicial Branch is committed to providing effective and consistent language access for LEP individuals. Guided by this Plan, and the efforts of the Office of Court Access, the Judicial Branch is well-positioned to comply with the language access requirements of the law by providing LEP individuals with meaningful access to justice in the Maine state courts.





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## 1. Introduction

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*Maine Judicial Branch Mission: To administer justice by providing a safe, accessible, efficient, and impartial system of dispute resolution that serves the public interest, protects individual rights, and instills respect for the law.*

Access to justice is integral to the Judicial Branch’s mission and one of the Judicial Branch’s highest priorities. While Maine’s population of people with limited English proficiency is not extensive, the scope of diversity in Maine, especially in Southern Maine, is growing and the Maine state courts must respond to increasing language access needs. The ability of all linguistic minorities to meaningfully participate in the court system is central to the Judicial Branch’s commitment to provide full, meaningful, and fair access to the courts for all who seek justice.

This Plan<sup>1</sup> covers the period starting on January 1, 2019, and ending on December 31, 2020, and describes the current policies, procedures, and practices implemented throughout the Maine state courts to provide access to justice to all limited English proficient (LEP) individuals, including those who are deaf, hard of hearing, and late-deafened.

The Plan also describes efforts to continually improve language access services in the Maine state courts. Reports detailing the effectiveness of this Plan will be developed annually and a full report, which describes the outcomes related to goals and initiatives, will be developed and disseminated by July 1, 2020, so that any goals and initiatives that require follow-up will be identified in the succeeding Plan.

This Plan is fully supported by the Supreme Judicial Court (SJC) and will be administered by the Judicial Branch’s Office of Court Access,<sup>2</sup> and guided by the LEP Advisory Committee.

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<sup>1</sup> Judicial Branch Administrative Order JB-06-03 addresses the right to language access for all individuals with a limited ability to communicate in English, whether because their primary language is not English or because they are deaf or hard of hearing and communicate using sign language. By using the term “language access,” this Plan intends to cover court communication access for all LEP individuals.

<sup>2</sup> The Office of Court Access is comprised of the Director of Court Services, the Court Access Coordinator, and the Communication Access Specialist.

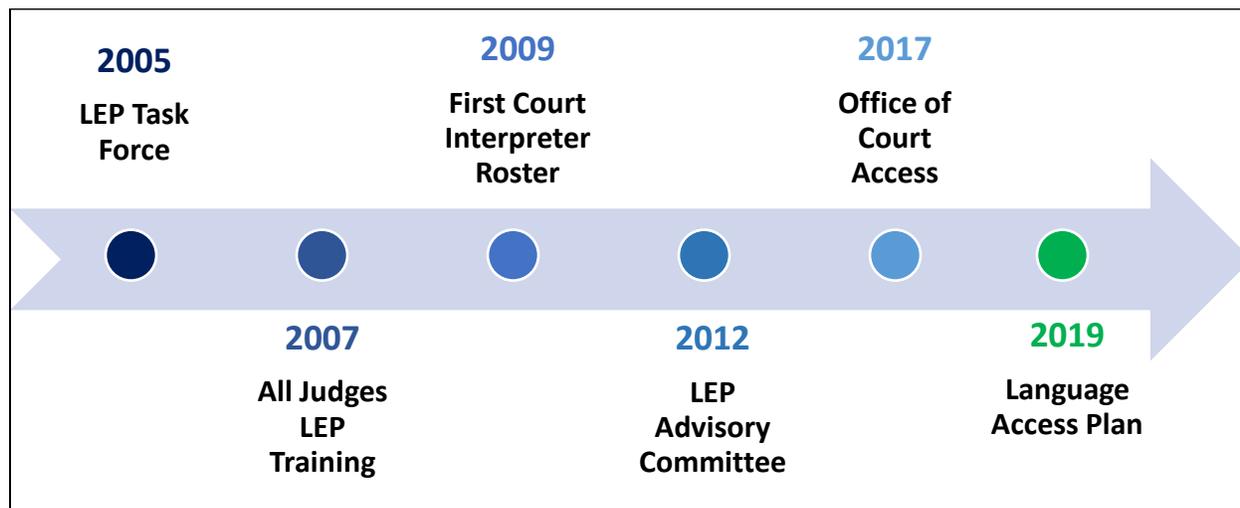




## 1.1 History of Language Access in the Maine State Courts

The Judicial Branch has been a leader in providing access to justice to LEP individuals and communities. In 2005, the SJC established the LEP Task Force to create a Branch-wide LEP Program Plan. The Task Force's work resulted in the adoption of Judicial Branch policies and administrative orders related to language access, and individual members of the Task Force continued to work on LEP projects until 2012, at which time the LEP Advisory Committee<sup>3</sup> was established.

The LEP Advisory Committee has members representing the needs and interests of people with limited English proficiency and people who are deaf, late-deafened and hard of hearing, and includes judicial officers and court staff who interact with LEP individuals. This Standing Advisory Committee exists to assist the Judicial Branch address language access needs in the Maine courts.



**Figure 1:** Timeline of Major Judicial Branch Language Access Initiatives

All substantive modifications to language access policies and practices, including all significant language access initiatives and proposals, are reviewed with the LEP Advisory Committee, as well as by the State Court Administrator and the Chiefs of the Trial Courts, and are ultimately reviewed and approved by the SJC.

Following is a brief history of the major accomplishments in the Judicial Branch's language access program until the creation of the Office of Court Access in 2017:

<sup>3</sup> Find a description of the LEP Advisory Committee's background, membership, and other information at: [www.courts.maine.gov/maine\\_courts/committees/lep.html](http://www.courts.maine.gov/maine_courts/committees/lep.html).





- **2005** – Standards of Professional Conduct for Interpreters Providing Services in Judicial Proceedings approved by the Judicial Branch.
- **2005** – Judicial Branch Task Force on Limited English Proficiency (LEP Task Force) created by the SJC to develop an LEP program for the Judicial Branch.
- **2006** – Administrative Order JB-06-03 promulgated by the SJC, formalizing for the first time that: "Maine's State Courts will provide all LEP individuals who are parties or witnesses in any type of court case, or parents of minors involved in juvenile actions, with an interpreter in all court proceedings, at the State's expense."
- **2006** – Clerk procedures for working with LEP individuals created.
- **2009** – LEP and interpreter information section of the Judicial Branch website created.
- **2012** – LEP Advisory Committee established to assume the work of the LEP Task Force and Access to Justice Coordinator position created.
- **2013** – Vital Documents Subcommittee of the LEP Advisory Committee created to identify and prioritize translation of Judicial Branch vital documents.
- **2015** – "Diversity and Sensitivity" online training developed and required for court staff.
- **2015** – Access to Justice Coordinator position divided into two positions: Civil Process and Court Access Manager and Communication Access Specialist, who focuses entirely on language access issues.

Beginning in 2017, the Judicial Branch intensified its efforts to provide full, meaningful, and fair language access to the courts with the creation of the Office of Court Access and refining the position of Civil Process and Court Access Manager to Court Access Coordinator, who focuses entirely on court access issues. The Office of Court Access includes the Director of Court Services, the Court Access Coordinator, and the Communication Access Specialist, who manages the Judicial Branch's language access program. Together, the Office of Court Access concentrates on increasing access to justice for all persons, especially LEP individuals, people with disabilities, and unrepresented litigants.

In 2017-2018, the Office of Court Access accomplished many language access improvements. It developed resource guides for judicial officers, court clerks, and judicial marshals; displayed public notification of Judicial Branch language assistance services; conducted multiple trainings for court staff; developed the Judicial Branch's first database of qualified court interpreters; upgraded all courtroom assistive listening systems; translated additional court forms and guides for the public; and designed several language access initiatives with the guidance of the LEP Advisory Committee, including, but not limited to, Video Remote Interpretation in the courts.





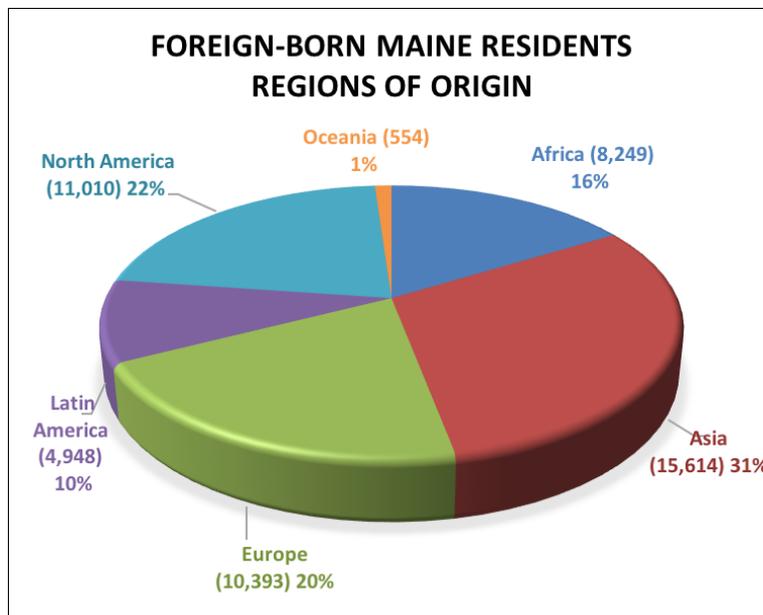
## 1.2 Demographic Snapshot of Maine

According to the U.S. Census Bureau, Maine’s population in 2016 was approximately 1.3 million people, spread over almost 31,000 square miles. The greater Portland metropolitan area is the most densely populated area in the state, with nearly 40 percent of Maine’s total population.

### Foreign-Born and Immigrant Populations

According to the U.S. Census Bureau’s American Community Survey data from 2016, approximately 3.8 percent of Mainers are foreign born,<sup>4</sup> and around 1.7 percent speak English “less than very well” and are therefore considered to be of limited English proficiency.<sup>5</sup>

The foreign-born population of Maine is small, yet diverse. As seen in Figure 2, the majority of immigrants currently in Maine are from Asia (primarily from China, the Philippines, and Vietnam); followed by North America (Canada); Europe (primarily from the United Kingdom and Germany), Africa (primarily from Eastern Africa); Latin America; and Oceania (Australia and New Zealand).<sup>6</sup>



**Figure 2:** Foreign-Born Maine Residents, Regions of Origin.

<sup>4</sup> Find the *State Immigration Data Profile: Maine*, Migration Policy Institute, at: [www.migrationpolicy.org/data/state-profiles/state/demographics/ME/](http://www.migrationpolicy.org/data/state-profiles/state/demographics/ME/). Migration Policy Institute tabulations of data from the U.S. Census Bureau’s American Community Survey and Decennial Census.

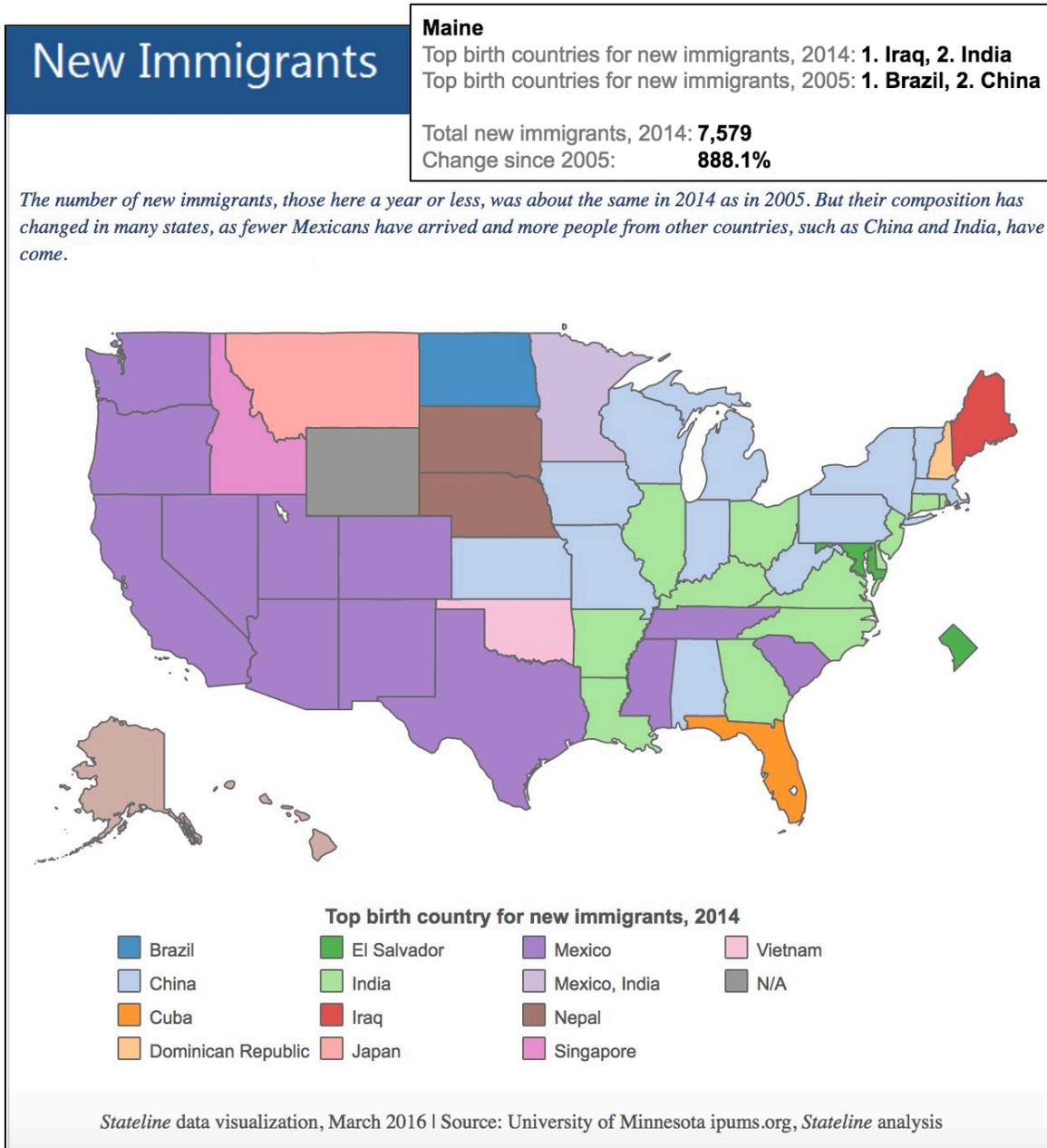
<sup>5</sup> Find the *US Immigration Trends: Total LEP Population (Age 5 and Older): Number and Share by State, 1990, 2000, 2010, 2016*, Migration Policy Institute, at: [www.migrationpolicy.org/programs/data-hub/us-immigration-trends-labor](http://www.migrationpolicy.org/programs/data-hub/us-immigration-trends-labor).

<sup>6</sup> *State Immigration Data Profile: Maine*.





While Maine’s LEP population is currently small, spoken language access needs in Maine are diverse and can change swiftly due to dynamic immigration trends. For example, as seen in Figure 3, in 2005 the top countries of origin for new immigrants in Maine were Brazil and China, whereas in 2014 new immigrants originated primarily from Iraq and India.



**Figure 3:** Top Countries of Origin for New Immigrants in Maine, 2014.<sup>7</sup>

<sup>7</sup> Find the interactive map regarding top countries of origin for new immigrants in 2014 at: [https://public.tableau.com/profile/the.pew.charitable.trusts - /vizhome/NewImmigrants\\_0/Dashboard1](https://public.tableau.com/profile/the.pew.charitable.trusts-/vizhome/NewImmigrants_0/Dashboard1). Hover over this online map for state-specific immigrant data.





Mainers also include foreign-born immigrants who were originally resettled in a different location in the United States and have since relocated to Maine—such as many of Maine’s Somali residents. This general trend is often known as “secondary migration” and is a term used in U.S. refugee policy to refer to refugees moving from the U.S. state where they were initially resettled to another state. Many of Maine’s immigrants are asylees and refugees, due in large part to this secondary migration, and now immigrants from African nations, in particular, make up approximately 16 percent of the foreign-born population in Maine, compared to only 4 percent of the foreign-born population in the United States.

To illustrate, as of 2012 there were an estimated 5,000 Somali immigrants residing in Lewiston/Auburn,<sup>8</sup> comprising about 10 percent of its total population—one of the highest concentrations of Somali immigrants in any city of the United States—and an estimated 5,000 more Somali immigrants, at least, residing in Portland.<sup>9</sup>

Maine also has a significant number of seasonal migrant workers in industries such as agriculture, forestry, and fish processing who are also entitled to access to justice in Maine.

### The Deaf, Hard-of-Hearing, and Late Deafened Population

Based on the latest available estimates by the American Community Survey data, 2.8 percent of people in Maine (approximately 21,500) aged 21-64 reported having a hearing disability, and 4.9 percent of people in Maine of all ages (approximately 64,000), including juveniles and seniors, reported having a hearing disability.<sup>10</sup>

### Language Access Needs in the Maine State Courts

The demographic diversity in Maine accordingly presents a range of language access needs in the State’s courts. According to interpreter-usage data as of June 2017, the top expenditures statewide for language services were highest in the following languages: Somali, ASL, Arabic, Spanish, French, Vietnamese, Swahili, Chinese (including Mandarin, Cantonese, and Taiwanese), and Khmer, in that order, with some regions reporting additional needs beyond these top statewide language requests. Needs are emerging for Greek, Portuguese, Filipino/Tagalog/Cebuano, and Hindi interpreters. Additionally, the greater Portland and Lewiston/Auburn regions have seen an increase in state court interpreter requests for Lingala and Kinyarwanda.<sup>11</sup>

<sup>8</sup> Jakimides, Annaliese. “*The Story of Us - Perspectives on Immigration*”. The Maine Humanities Council Newsletter, Winter 10-11. Found at: [www.mainehumanities.org/blog/print-newsletters/](http://www.mainehumanities.org/blog/print-newsletters/)

<sup>9</sup> “*A New Group Seeks to Be Voice of Somali Community in Portland*”. MPBN. June 24, 2011.

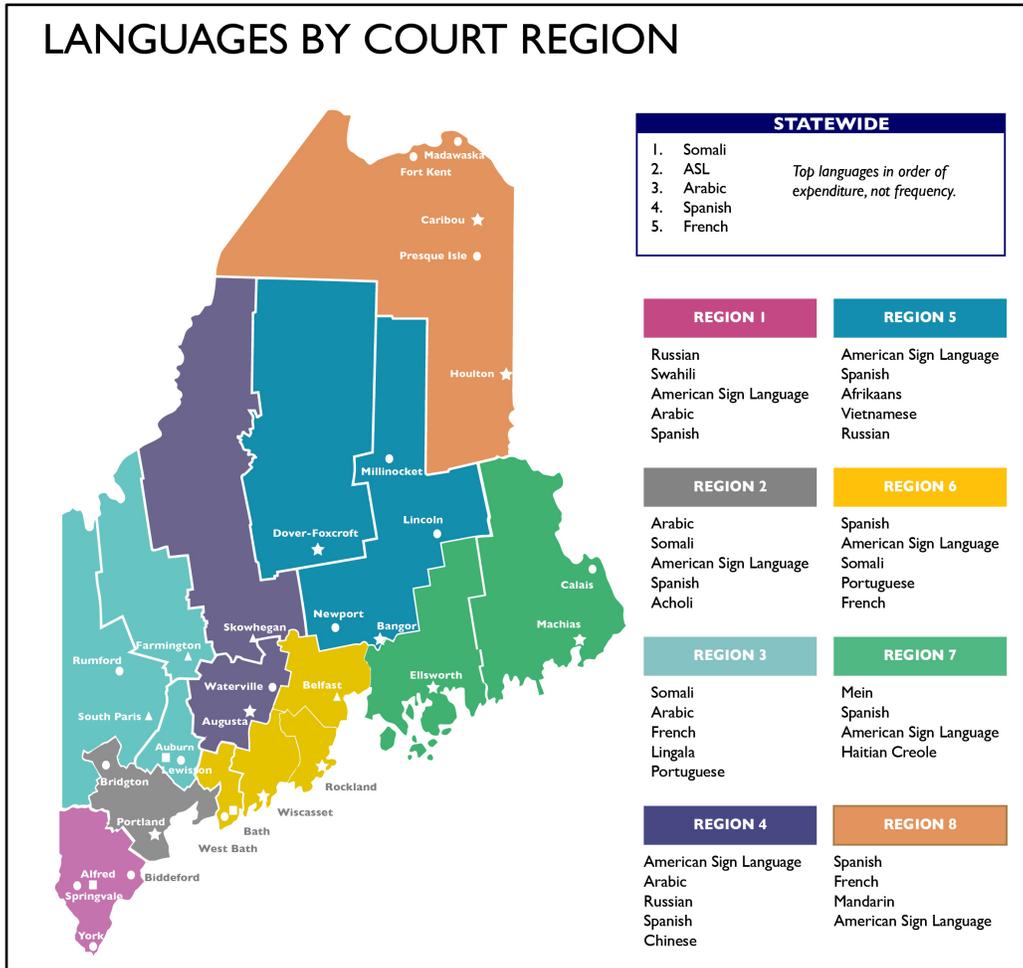
<sup>10</sup> Find *2016 Disability Status Report, Maine*, compiled by Cornell University, at: [www.disabilitystatistics.org/](http://www.disabilitystatistics.org/).

<sup>11</sup> Lingala is a Bantu language spoken in parts of the Republic of the Congo and the Democratic Republic of the Congo, as well as, to some degree, in Angola and the Central African Republic. Kinyarwanda is the official language of Rwanda and is also spoken in Eastern Congo and adjacent parts of southern Uganda.





As seen in Figure 4, the language services demanded by each of Maine’s eight (8) court regions vary considerably.



**Figure 4:** Top Interpreter Needs by Court Region (FY 2017).

Because this interpreter-usage information is currently based only on amounts spent per language per courthouse, it may not reflect the actual number of individual requests for a particular language and is, accordingly, only a general indicator of language use.

*Maine State Courts will provide all LEP individuals who are parties or witnesses in any type of court case, or parents of minor involved in juvenile actions, with an interpreter in all court proceedings, at the State’s expense.*

— Administrative Order JB-06-03





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## 2. Framework

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### 2.1 Legal Framework for Language Access

Access to the Maine state courts for LEP individuals is directed by federal law, Maine state law, and Administrative Orders, Court Rules, and policies set by the SJC. The SJC has identified improving language access as a strategic priority for the Judicial Branch, in accordance with its mission.

#### Spoken Language Access under Federal Law

An LEP person's right to spoken language assistance is federally provided under Title VI of the Civil Rights Act of 1964,<sup>12</sup> which prohibits any agency receiving federal funds from discriminating on the basis of race, color, or national origin. As a recipient of federal funds, Title VI of the Civil Rights Act of 1964 (Title VI) applies to the Judicial Branch.

*No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.*

— Title VI of the Federal Civil Rights Act of 1964

Language is an element of national origin and therefore covered under Title VI protections.<sup>13</sup> In accordance with guidance issued by the United States Department of Justice (DOJ) to meet the requirements of Title VI, the Judicial Branch must take reasonable steps to ensure meaningful access to court services, programs and activities by LEP individuals.<sup>14</sup>

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<sup>12</sup> 42 U.S.C. §§ 2000d *et seq.*

<sup>13</sup> "In Lau v. Nichols, 414 U.S. 563 (1974), the Supreme Court faced a challenge by Chinese-speaking students to a school district's policy of offering instruction only in English. Siding with the students, the Court concluded that the failure to provide information and services in languages other than English could result in discrimination on the basis of national origin where the failure to do so resulted in a significant number of limited English proficiency (LEP) beneficiaries from the same language minority being unable to fully realize the intended benefits of a federally assisted program or activity.... The core holding in Lau—that the failure to address limited English proficiency among beneficiary classes could constitute national origin discrimination—has equal vitality with respect to any federally assisted program or activity providing services to the public." DOJ Title VI Legal Manual, January 11, 2001, found at: [www.justice.gov/crt/fcs/Title-6-Manual](http://www.justice.gov/crt/fcs/Title-6-Manual).

<sup>14</sup> Find *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 Fed. Reg. 41455 (June 18, 2002), at: [www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf](http://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf).





Designed to be a flexible and fact-dependent standard, the Judicial Branch shall provide language assistance services by balancing four factors:

1. the number or proportion of LEP persons served or encountered by the Judicial Branch;
2. the frequency with which LEP individuals come in contact with the Judicial Branch;
3. the nature and importance of the program, activity, or service provided by the Judicial Branch to people's lives; and
4. the resources available to the Judicial Branch and costs.<sup>15</sup>

According to the DOJ, after considering these four (4) factors, the Judicial Branch may conclude that different language assistance measures are sufficient for its different types of services, programs and activities. The intent of this DOJ guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens.<sup>16</sup>

After considering these four factors and deciding what language assistance services are appropriate, a recipient of federal funds should develop an implementation plan to address the identified needs of the LEP populations it serves.<sup>17</sup> The DOJ suggests that an effective LEP plan would likely include: identification of LEP individuals who need language assistance; the ways language assistance will be provided; staff training; notice to LEP individuals of language assistance services; and, where and when appropriate, a plan for reevaluating the LEP plan.<sup>18</sup>

This Language Access Plan is largely designed in response to this DOJ guidance.

### Language Access for Deaf and Hard-of-Hearing Individuals Under Federal Law

At the federal level, the Americans with Disabilities Act (ADA) protects the right of deaf and hard-of-hearing individuals to access the courts and mandates the provision of reasonable accommodations.<sup>19</sup> Under the ADA, all deaf, hard-of-hearing, and late-deafened individuals accessing the Maine state courts, including court users and court observers, are entitled to a sign language interpreter and other reasonable accommodations.

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<sup>15</sup> 67 Fed. Reg. at 41459.

<sup>16</sup> 67 Fed. Reg. at 41459.

<sup>17</sup> 67 Fed. Reg. at 41464.

<sup>18</sup> 67 Fed. Reg. at 41464-65.

<sup>19</sup> 42 U.S.C. §§ 12131-12134; 28 CFR §§ 35.101-35.190 (ADA Title II Regulations).





## Spoken Language Access Under Maine State Law

Under Maine state law, Title 5 of the Maine Revised Statutes, [5 M.R.S. §51](#),<sup>20</sup> the Maine state courts must appoint a qualified interpreter or use a professional telephone-based interpretation service for an LEP person appearing before the court.

## Language Access for Deaf and Hard-of-Hearing Individuals Under Maine State Law

Interpretation services for individuals who are deaf, hard of hearing, and late-deafened are governed by [5 M.R.S. § 48-A](#),<sup>21</sup> entitled “Communication services for deaf persons, hard-of-hearing persons, and late-deafened persons in court and other legal settings.” [5 M.R.S. §48-A](#) sets forth the requirements for providing a qualified legal interpreter for deaf and hard-of-hearing individuals. The statute also specifies the requirements for “qualified legal interpreter,”<sup>22</sup> namely that the interpreter “possess qualifications, certifications or credentials to interpret in court proceedings as established by the Supreme Judicial Court”<sup>23</sup> or be licensed.<sup>24</sup>

## Maine Supreme Judicial Court Administrative Orders

[Administrative Order JB-06-03](#) provides the “Guidelines for Determination of Eligibility for Court-Appointed Interpretation and Translation Services,” under which the Judicial Branch provides interpreter or translation services for LEP individuals in the Maine state courts.<sup>25</sup> Limited English Proficiency is defined as the “inability to adequately understand or communicate effectively in English in a court proceeding. This phrase applies to individuals whose primary language is a language other than English and whose ability to speak English is not at the level of comprehension and expression needed to participate effectively in court transactions and proceedings, including individuals whose primary language is American Sign Language” (ASL).<sup>26</sup>

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<sup>20</sup> [5 M.R.S. §51](#), found at: [www.mainelegislature.org/legis/statutes/5/title5sec51.html](http://www.mainelegislature.org/legis/statutes/5/title5sec51.html).

<sup>21</sup> [5 M.R.S. § 48-A](#), found at: [www.mainelegislature.org/legis/statutes/5/title5sec48-A.html](http://www.mainelegislature.org/legis/statutes/5/title5sec48-A.html).

<sup>22</sup> The Registry of Interpreters for the Deaf, Inc. announced, effective June 1, 2016, a moratorium on offering specialized testing—including the Specialist Certificate: Legal (SC:L) exam—due to a lack of fiscal resources for test development. [5 M.R.S. §48-A](#) was amended in 2017 in response to the moratorium on SC:L testing and certification in Maine.

<sup>23</sup> [5 M.R.S. §48-A\(M\)\(1\)\(d\)](#).

<sup>24</sup> Licensure requirements are established in [32 M.R.S. §1524-B](#), found at: [www.mainelegislature.org/legis/statutes/32/title32sec1524-B.html](http://www.mainelegislature.org/legis/statutes/32/title32sec1524-B.html).

<sup>25</sup> [JB-06-03](#) became effective initially on October 11, 2006 and was significantly amended on October 24, 2017 to reflect statutory changes to [5 M.R.S. § 48-A](#) in 2017 establishing updated qualification, certification, and credentialing standards for ASL interpreters serving in court proceedings. [JB-06-03](#), as amended, became effective November 1, 2017 and is found at: [www.courts.maine.gov/rules\\_adminorders/adminorders/JB-06-3.html](http://www.courts.maine.gov/rules_adminorders/adminorders/JB-06-3.html).

<sup>26</sup> [JB-06-03](#).





Importantly, “Maine’s State Courts will provide all LEP individuals who are parties or witnesses in any type of court case, or parents of minors involved in juvenile actions, with an interpreter in all court proceedings, at the State’s expense. ‘All court proceedings’ includes case management conferences, CADRES and judicially-assisted mediations, dispositional conferences, motion hearings, arraignments, commitment hearings, competency hearings, jury selection, trials, sentencing, appellate arguments, grand jury proceedings, and any other court events or proceedings authorized by the presiding judge or justice.”<sup>27</sup>

In response to the 2017 statutory changes to 5 M.R.S. §48-A, JB-06-03 now also provides guidance on ASL interpreter qualifications for court proceedings.<sup>28</sup>

[Administrative Order JB-12-01](#) provides governing standards and procedures for the electronic recording of court proceedings.<sup>29</sup> It requires that all proceedings in which a spoken language interpreter is used must be recorded and monitored by a court clerk or other appropriate court staff, whether or not a court reporter is present.<sup>30</sup>

[Administrative Order JB-05-20](#), regarding “Public Information and Confidentiality,”<sup>31</sup> provides, in Section V titled “Provision of Information to Interpreters,” that an interpreter assigned in a case must be allowed to review all public portions of a court file in order to prepare for a hearing, conference, or trial.<sup>32</sup> It also includes provisions for viewing portions of a child protective case and juvenile case.<sup>33</sup> In addition, JB-05-20 provides that an interpreter may, with the consent of the parties, review other case information needed to confirm “that the interpreter has no conflicts that would limit his or her participation in the case, and to ensure that the interpreter is fully prepared for the proceeding.”<sup>34</sup>

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<sup>27</sup> JB-06-03(I).

<sup>28</sup> JB-06-03(II).

<sup>29</sup> JB-12-01, as amended, became effective September 25, 2017 and is found at:  
[www.courts.maine.gov/rules\\_adminorders/adminorders/JB-12-1.html](http://www.courts.maine.gov/rules_adminorders/adminorders/JB-12-1.html).

<sup>30</sup> When present, court reporters are unable to create a record of the non-English spoken language interpretation. Recording proceedings in which a spoken language interpreter is utilized is vital to due process, so that if the quality of the spoken language interpretation is called into question, there is a recording that may be reviewed by a third-party expert.

<sup>31</sup> JB-05-20, was amended to clarify that the record taken by an Official Court Reporter at a court proceeding is the official court record, regardless of whether an electronic recording is made at the same time, as in the instance of a court proceeding recorded because a spoken language interpreter is used. JB-05-20, as amended, became effective September 25, 2017 and is found at:  
[www.courts.maine.gov/rules\\_adminorders/adminorders/JB-05-20.html](http://www.courts.maine.gov/rules_adminorders/adminorders/JB-05-20.html).

<sup>32</sup> JB-05-20(V)(A).

<sup>33</sup> JB-05-20(V)(B-C).

<sup>34</sup> JB-05-20(V)(D).





## Maine State Court Rules

The Judicial Branch Court Rules also address the use of interpreters. [M.R. Civ. P. 43\(l\)](#), provides that Maine state courts may appoint and compensate a neutral interpreter—for a spoken language or for sign language—to interpret the testimony of a witness in court.

[M.R. Evid. 604](#), titled “Interpreters,” establishes that “[a]n interpreter must be qualified and give an oath or affirmation to make a true translation.”

### Priorities and Strategies for Maine’s Judicial Branch

In March 2015, the SJC issued its “Priorities and Strategies for Maine’s Judicial Branch” for 2015-2017 ([Strategic Plan](#)). The priorities and strategies in this Strategic Plan are ongoing and designed to support and advance the mission of the Judicial Branch, which is:

[t]o administer justice by providing a safe, accessible, efficient and impartial system of dispute resolution that serves the public interest, protects individual rights and instills respect for the law.

In its Strategic Plan, the SJC identifies three strategic priorities: (1) Access to Justice; (2) Effective and Efficient Delivery of Justice; and (3) Public Trust and Confidence. Under Strategic Priority (1): Access to Justice, the SJC recognizes that “access to justice for all citizens is an enduring concern for Maine’s Judicial Branch” and prioritizes “a justice system that is safe, accessible, affordable, and understandable.” This access to justice priority focuses on “informed participation in court proceedings by all litigants, including those who are unrepresented[,] and the needs of linguistic minorities.”

The Strategic Plan goes on to list strategies for meeting Priority (1) and provides for the expansion of language access by improving services through collaborations at the national and regional levels, surveying courts to assess language access needs, and seeking grant funding if possible and legislative funding if necessary. Although not directly aimed at language access, other strategies that will improve court access for LEP and deaf and hard-of-hearing individuals include efforts to better inform litigants about how to meaningfully participate in their court matters and to eliminate unnecessary appearances and reduce costs and expenses related to court access.

The Judicial Branch has already undertaken many of these strategies. Most directly, it completed a survey and language assistance needs assessment of the Maine state courts.<sup>35</sup> This Plan incorporates the survey findings where appropriate.

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<sup>35</sup> In October 2016, the National Center for State Courts (NCSC), as a consultant to the Judicial Branch, conducted a survey of Maine state courts to determine language access needs, services provided, language access practices, and use of technology to provide language access. The NCSC’s findings were reported to the Judicial Branch in January 2017.





In addition, this Plan further addresses Priority (1) by setting forth a formalized plan for language access, including: provisions to ensure the quality of language assistance service providers so that court users can more effectively participate in proceedings; collaboration with other courts and regional and national justice partners; and identification of additional initiatives to assist the Judicial Branch in improving access for all residents in the State.

### Policy on Access for People with Disabilities

In addition, the Judicial Branch's *Policy on Access for People with Disabilities* clearly delineates, among other accessibility provisions, the obligation of the Judicial Branch under the ADA to provide qualified sign language interpreters at no cost to deaf or hard-of-hearing individuals.<sup>36</sup>



### No Private Right

Other than as required by relevant law and administrative order, the guidelines, goals and tasks identified in this Plan may be modified, superseded or rescinded at any time and do not create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

<sup>36</sup> Found at: [www.courts.maine.gov/maine\\_courts/admin/ada/policy.html](http://www.courts.maine.gov/maine_courts/admin/ada/policy.html).





## 2.2 Overview of the Maine Judicial Branch

Maine's Judicial Branch is a unified system operating in each of Maine's sixteen (16) counties and consisting of District Courts, Superior Courts, and the Supreme Judicial Court (SJC). Maine's Probate Courts are extensions of County Government and do not fall under the authority of the Judicial Branch.

The SJC is the highest court in the State, principally responsible for deciding appellate matters from the lower courts, and consists of a Chief Justice and six (6) Associate Justices. The SJC is also charged with promulgating all Rules of Court, oversight of all administrative functions and budgets, and other court-related administrative matters.

The Superior Courts are the only courts in which civil jury trials are held and consist of a Chief Justice, a Deputy Chief Justice and fifteen (15) full-time justices. Superior Court justices also hear jury-waived matters, handle certain initial appeals, administrative actions, post-conviction reviews, and rule on other pre-trial and post-verdict matters.

The District Courts are Maine's primary non-jury trial courts and consist of a Chief Judge, a Deputy Chief Judge, thirty-eight (38) full-time judges and eight (8) Family Law magistrates. Almost all family law, protection from abuse, protection from harassment, child protective, small claims, juvenile, forcible entry and detainer, and other civil violations such as contested traffic infractions are heard in the District Court.

Maine is divided into eight (8) court regions, tracking the eight (8) prosecutorial divisions, and there are thirty-five (35) court locations across the State. Trial schedules are set by regional scheduling judges, in consultation with the Chiefs of the Trial Courts in each respective court. The State's criminal dockets in the District and Superior Courts have been consolidated into a Unified Criminal Docket and now all criminal matters are heard by judicial officers from each trial court.

The Administrative Office of the Courts (AOC) provides statewide, centralized administration to the Judicial Branch and all Maine state courts, including fiscal and staffing services, planning, facilities management, technology, statistical reporting, public information, and oversight of court clerks' offices and court services.





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## 3. Assessment

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The first step toward improving access to justice for LEP individuals is the identification of unmet language access needs. The Judicial Branch as a whole, and local courts individually, must understand the needs of the populations they serve in order to meet those needs.

### 3.1 Data Collection and Analysis

The current case management system (the Maine Judicial Information System, known as MEJIS) does not track interpreter use information. To compensate for this, the Communication Access Specialist currently collects statistics on court interpreter use in the State through the submission, by local courts, of interpreter invoices and requests for reimbursement for interpreter costs. The AOC Finance Office codes payment of invoices as they are entered into the accounting system, allowing for Judicial Branch expenditure reporting by language and court location.

The Finance Office provides quarterly reports and annual summary reports of expenditures on interpreter services. In addition, Language Line Services, Inc. (Language Line), the company with which the Judicial Branch contracts to provide telephonic interpretation services, tracks the languages interpreted and the number of minutes per language provided. This information is provided to the Finance Office on monthly billing statements and can be aggregated for any time frame to create reports upon request.

Interpreter data derived only from expenditures may not accurately reflect actual language assistance needs at the local court level due to factors such as travel costs or varying rates. For example, ASL costs may be greater than spoken language interpreter costs due in part to higher negotiated hourly rates and paid travel time<sup>37</sup> versus paid mileage, but do not necessarily represent a greater number of ASL interpreter requests than for some spoken languages. Language-use information based on expenditures also may be skewed because cost information does not differentiate between amounts paid for interpreter services and other language access services, such as translation. Because costs incurred for translations are not separately identified, one (1) case requiring spoken language interpretation as well as extensive translation of case-specific documents would result in greater expenditures than another case not requiring as many translations and, consequently, suggest a greater need for services in that language than actually exists.

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<sup>37</sup> Travel costs for ASL interpreters are significant given that the majority of the State's legally qualified ASL interpreters are located in Southern Maine. In addition, no video remote interpreting options are currently available for court proceedings to alleviate these travel costs.





Nevertheless, these financial reports provide the Communication Access Specialist some information regarding the language assistance needs of LEP court users and aid in determining language trends. In addition, calls from court clerks requesting special assistance in locating interpreters for spoken languages not represented on the Judicial Branch's roster of in-state qualified court interpreters also help the Communication Access Specialist focus on which languages need more interpreter recruitment and court form translations.

It is often difficult to predict future needs for language assistance as new populations with new languages may appear in court unexpectedly. In order to ensure that the Maine state courts are meeting evolving language access needs of LEP individuals effectively, the Communication Access Specialist will: (1) assess financial reports relating to specific expenditures for language services identified by particular languages; (2) monitor court clerk requests for specific language assistance; (3) continue to develop existing and new relationships with community organizations and justice partners serving immigrant and refugee populations in Maine; and will incorporate this information in the annual LEP Advisory Committee Report.

### 3.2 Identification of Language Assistance Needs

A critical component of an effective and efficient language access plan is identifying a court user's language assistance needs early and building systems to ensure that, once identified, those needs are met on an ongoing basis.

The Judicial Branch has implemented a number of mechanisms to help identify a court user's language assistance needs. These mechanisms include: self-identification by court users; identification by court staff and judicial officers; and information provided by justice partners about known needs of parties and witnesses. The implementation of the new case management system will aid in tracking trends related to serving LEP court users.





## Self-identification by LEP Court Users

All Maine state courts publicly display multilingual signage informing court users that interpreting services are available. In 2017, the Office of Court Access created signs for waiting areas and court clerks' offices. These signs, translated into the eight (8) most frequently requested languages in Maine state courts, alert court users that the court will provide an interpreter free of charge. Any LEP individual may request an interpreter simply by notifying a court clerk—written requests for an interpreter are not required.



Figure 5: Judicial Branch Language Services Sign.

Deaf, hard-of-hearing, and late-deafened court users, in particular, may request additional communication assistance using the [Interpreter Request Form](#),<sup>38</sup> the [Disability Accommodation Request Form](#),<sup>39</sup> or by notifying a court clerk. Written requests for a sign language interpreter or other disability accommodation are not required.

*No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity.*

— Americans with Disabilities Act, Title II, 28 C.F.R §35.130

<sup>38</sup> Found at: [www.courts.maine.gov/citizen\\_help/access\\_interp.html](http://www.courts.maine.gov/citizen_help/access_interp.html).

<sup>39</sup> Found at: [www.courts.maine.gov/citizen\\_help/access\\_interp.html](http://www.courts.maine.gov/citizen_help/access_interp.html).





## Identification by Court Staff and Judicial Officers

Court staff and judicial officers may determine that an interpreter is necessary for a court user's meaningful access to justice and proactively inform them of their right to an interpreter provided by the court. If an individual appears to have difficulty communicating due to a language or other communication barrier, court staff have language identification ("I Speak") cards featuring 100 translations of the phrase: "Point to your language. An interpreter will be called. The interpreter is provided at no cost to you." As appropriate, a spoken language interpreter will be contacted—telephonically through Language Line—to interpret information about available court services. These language identification ("I Speak") cards also have ASL listed. The Communication Access Specialist, on an annual basis, shall remind all court staff who regularly have contact with the public of their role in facilitating language services where the need is indicated.

In 2017, the Communication Access Specialist visited every district and superior court in Maine and trained court clerks and designated LEP Coordinators on best practices for interpreter scheduling and communicating with LEP individuals. The Communication Access Specialist will continue to provide court clerks on-site training and additional support as needed so that the language assistance needs of all court users are efficiently and appropriately addressed.

There are currently no statewide standards for the assessment of bilingual proficiency for court staff and so court staff are strongly discouraged from providing interpreting services. For communications in clerks' offices, clerks should access Language Line for qualified spoken language interpreters or use Video Remote Interpretation, where available, to communicate with deaf court users. Under exceptional circumstances of immediate need, bilingual staff may interpret limited court communications, such as notification of a continuance or other short, non-evidentiary events. Otherwise, the Judicial Branch will schedule qualified interpreters to provide legal interpretation, at no cost to the LEP individual.

As LEP Coordinators and other court staff identify additional strategies that may assist LEP and deaf or hard-of-hearing individuals to self-identify their language assistance needs, they are invited to direct those suggestions to the Communication Access Specialist.

## Identification by Justice Partners

Justice partners, such as civil legal aid organizations and law enforcement and local jail staff, may know about the language assistance needs of parties or witnesses and may indicate those needs, or even request interpreter services on their behalf, by asking a court clerk, emailing [interpreters@courts.maine.gov](mailto:interpreters@courts.maine.gov), or contacting the Communication Access Specialist directly. Alternatively, the Judicial Branch has an [Interpreter Request Form](#) publicly available on its "Accessibility and Interpreters" webpage, which may be completed and submitted to the clerks' office to request a spoken language interpreter for a court matter.<sup>40</sup>

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<sup>40</sup> Found at: [www.courts.maine.gov/citizen\\_help/access\\_interp.html](http://www.courts.maine.gov/citizen_help/access_interp.html).





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## 4. Delivery

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*Maine has become increasingly diverse, and the Maine Judicial Branch continues to respond to a more diverse community. In addition, the Judicial Branch continues to respond to the needs of Maine’s deaf, late-deafened, and hard-of-hearing communities. Assuring language and hearing access to justice requires planning and a consistent commitment to quality service in court proceedings.*

— Judicial Branch, LEP Advisory Committee

### 4.1 Providing Language Access

Responsibility for implementing this Language Access Plan in the Judicial Branch rests with: the Office of Court Access and the Communication Access Specialist, the local trial courts, and the LEP Advisory Committee.

#### The Office of Court Access

In 2017, the current Office of Court Access was established and is comprised of the Director of Court Services, the Court Access Coordinator, and the Communication Access Specialist. Together they monitor and further language access in the courts, relying on the training and experience of the Communication Access Specialist.

#### The Communication Access Specialist

The work to establish and expand language access to the Maine state courts is currently driven by the Communication Access Specialist, with the active support of the other members of the Office of Court Access and guidance from the LEP Advisory Committee.

The Communication Access Specialist position was created in 2012 to address the Judicial Branch’s language access priorities. The Communication Access Specialist must be familiar with laws, regulations, court rules, and policies related to language access, and have an active understanding of current best practices for interacting with LEP individuals. The position is currently filled by an employee with a Juris Doctor degree who annually attends the National





Center for State Courts (NCSC) Conference of the Council of Language Access Coordinators (CLAC) for professional development through educational and networking events.<sup>41</sup>

The Communication Access Specialist is primarily responsible for managing the court interpreter program for LEP individuals, which includes:

- responding to requests from court clerks, judicial officers, and other court staff for assistance in securing interpreters or other communication services, including Communication Access Real-Time Translation (CART) Services;
- locating qualified interpreters for rarely requested languages, including from out of state;
- providing staff education on scheduling and working with interpreters;
- recruiting and training qualified court interpreters;
- translating Judicial Branch information, particularly court forms, publications, and videos; and
- establishing contracts and relationships with outside agencies and organizations for the provision of in-person, telephonic, and video remote interpreting services.

The Communication Access Specialist also:

- manages the courtroom assistive listening system;
- works with the Judicial Branch Office of Transcript Operations (OTO) on matters related to the recording of court proceedings involving spoken language interpreters; and
- develops training and resource tools for interpreters, lawyers, litigants, judicial officers, court clerks, and other Judicial Branch staff.

The Communication Access Specialist is the primary Judicial Branch contact for all who either seek language access or provide language assistance and is a key resource for judicial officers and court staff who are at the front lines of working to ensure access to justice for LEP individuals.

## The Local Trial Courts

The local trial courts are responsible for identifying LEP individuals in court proceedings and court clerks are responsible for scheduling interpreters for court events. Court clerks also collect information for payment and contact the Communication Access Specialist when language access services assistance is needed.

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<sup>41</sup> “The mission of the Council of Language Access Coordinators (CLAC) is to inspire and enable its members to promote equal access to justice in courts and tribunals by eliminating language barriers for persons with limited English proficiency.” Find more information about CLAC at: [www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/About-us.aspx](http://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/About-us.aspx).





In 2006, the Judicial Branch began to designate LEP Coordinators in the clerks' offices of local trial courts that regularly required interpreter services. An LEP Coordinator is a court clerk trained to: be familiar with Judicial Branch LEP policies and procedures; know techniques for identifying language access needs; be a resource to others in the court; schedule interpreters for court users; and act as the liaison to the Communication Access Specialist. The Communication Access Specialist will work to develop a set of expectations for and establish an LEP Coordinator in each Maine state court location where interpreter services are required at least once a week.

### The LEP Advisory Committee

The purpose of the LEP Advisory Committee is to “advise Judicial Branch leadership in developing and maintaining a comprehensive system for providing and improving access to Maine courts for individuals with limited English proficiency or hearing loss.”<sup>42</sup>

The LEP Advisory Committee accomplishes its role by:

- assessing and evaluating language access to the Maine state courts;
- assist in the prioritization of needed improvements and making recommendations regarding LEP policies and practice, including in this Language Access Plan;
- identifying additional resources to improve language access to the Maine state courts;
- developing new language access initiatives and pilot projects;
- providing strategic support for requests that require legislative approval; and
- making language access recommendations to the leadership of the Judicial Branch.

## 4.2 Interpreter Services and Skills Development

[Administrative Order JB-06-03](#) is explicit: LEP individuals must be provided with communication access to the courts and must be provided with interpreter services in all court proceedings, at no cost to them. Similarly, the Judicial Branch's [Policy on Access for People with Disabilities](#) provides for communication access to deaf, hard-of-hearing, and late-deafened individuals, at no cost, in all court programs, activities, services, and facilities.

The Judicial Branch has a rigorous system in place to qualify individuals who wish to provide language access services in the Maine courts. All interpreters must abide by the Judicial Branch [Standards of Professional Conduct for Interpreters Providing Services in Judicial Proceedings](#), which sets out the code of professional ethics and conduct for interpreters in the Maine courts.<sup>43</sup>

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<sup>42</sup> See Appendix A, LEP Advisory Committee Charter.

<sup>43</sup> These Standards were recently revised in 2015 and currently translated into eight (8) languages in addition to English: [Arabic](#), [Chinese](#), [French](#), [Khmer](#), [Russian](#), [Somali](#), [Spanish](#), and [Vietnamese](#).





The policies and procedures for communication access in the Maine courts—including the assignment of interpreters, qualifications and requirements for court interpreters, and other mechanisms for providing language access services—are established by the Judicial Branch and listed in the *Judicial Branch Interpreter Manual (Rev. 2017)*.<sup>44</sup>

## Qualified Interpreters

The Communication Access Specialist maintains a roster of spoken language interpreters, independent contractors qualified to work in Maine state courts (rostered court interpreters). To qualify for inclusion on the court interpreter roster, spoken language interpreters must meet certain requirements and are categorized into three (3) tiers according to skill level, examination performance, training and education, and experience:<sup>45</sup>

### **Tier I:**

- Pass Judicial Branch Background Check;
- File an approved *Application for Maine Court Interpreter Work*;
- Score at least 70% on the *National Center for State Courts Written Examination*;
- Obtain a minimum of "Advanced-Low" rating on *ACTFL Oral Proficiency Interview* in the target language; and
- Complete the Maine Court Interpreters Orientation Program (two (2)-days).

### **Tier II:**

- Successful Completion of Tier I requirements;
- Must have at least two (2) years of post-secondary education;
- Score at least 80% on the *National Center for State Courts Written Examination*;
- Must complete the Advanced Legal Interpreter Training Program (four (4)-days); and
- Must demonstrate at least 50 hours of documented legal interpreting experience.

### **Tier III:**

- Successful completion of Tier II requirements AND
- Obtain *Federal Court certification* OR
- Pass all three (3) sections of the *National Center for State Courts Oral Examination*: Sight translation; simultaneous interpretation; and consecutive interpretation.

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<sup>44</sup> Found at: [www.courts.maine.gov/maine\\_courts/admin/interpreters/index.html](http://www.courts.maine.gov/maine_courts/admin/interpreters/index.html).

<sup>45</sup> Judicial Branch Court Interpreter Requirement information is found at:  
[www.courts.maine.gov/maine\\_courts/admin/interpreters/requirements.html](http://www.courts.maine.gov/maine_courts/admin/interpreters/requirements.html).





## Interpreter Compensation

Compensation for Maine’s rostered court interpreters is determined by the AOC, and the rate corresponds to the applicable tier. The *Judicial Branch Interpreter Manual*, provided to interpreter agencies used by the Judicial Branch and to all court interpreters who contract directly with the Judicial Branch, specifies additional information on interpreting payment policies. The main provisions include:

- Spoken language interpreters on the court roster are compensated pursuant to the following tier rates:
  - **Tier I** – \$35 per interpreting hour.
  - **Tier II** – \$45 per interpreting hour.
  - **Tier III** – \$50 per interpreting hour.
- Spoken language interpreters assigned through a private agency, or not on the court roster, are paid according to the contract between the Judicial Branch and the private agency or non-rostered interpreter.
- Sign language interpreters assigned through a private agency are compensated according to the agency’s rates.

In addition, all interpreters are paid for travel time and are reimbursed for mileage expenses pursuant to current Judicial Branch policy.

## Orientation, Coaching, and Skills Development of Court Rostered Interpreters

While court rostered interpreters are not formally required to complete continuing education requirements in order to stay on the court roster, they must comply with the *Standards of Professional Conduct for Interpreters Providing Services in Judicial Proceedings*, which, under Standard 10, addresses professional development and requires interpreters to “continually improve their skills and knowledge and advance the profession through activities such as professional training and education...”

In order to advance to a higher tier, court rostered interpreters must augment their skills in a number of ways. As part of managing the court interpreter program, the Communication Access Specialist periodically offers court rostered interpreters opportunities to improve their legal interpretation skills.





## Priorities for Appointing Qualified Interpreters

The Judicial Branch is aware of its responsibility to provide interpreters in all court proceedings where there is a need. The procedures for assigning interpreters are available to court staff in an internal document on the Judicial Branch's intranet—maintained and updated by the Communication Access Specialist—and any questions about assigning interpreters should be directed to the Communication Access Specialist at [interpreters@courts.maine.gov](mailto:interpreters@courts.maine.gov).

### Communicating with LEP Individuals in Order to Request and Assign Interpreters

- If an individual appears to have difficulty communicating, court staff should offer the language identification (“I Speak”) cards—featuring 100 languages, including ASL—to the court user for the court user to identify his or her preferred language.
- For interactions with LEP individuals who require spoken language assistance, court clerks should use designated interpreter telephones, available on site in all clerks’ offices, to communicate with the LEP individual in his or her identified language using Language Line.
- For deaf or hard-of-hearing individuals, court staff should attempt to communicate with the deaf or hard-of-hearing court user by writing notes to request which type of sign language the court user prefers, if necessary, and to notify the court user that an interpreter will be provided. In clerks’ offices where available, video remote interpretation for ASL users is preferred and should be used instead.
- Telephone contact with any LEP member of the public is to be handled by use of Language Line for spoken languages or TTY: Maine Relay 711 for deaf or hard-of-hearing individuals.
- Court clerks should avoid using minors or family members of a LEP or deaf or hard-of-hearing person as interpreters for clerk interactions if possible and, importantly, **may not** schedule minors or family members as interpreters for court appointments.

### Assigning Spoken Language Interpreters

When assigning a spoken language interpreter, court clerks must:

- First, contact the highest tiered interpreter from the court roster.
- If no court rostered interpreter is available, clerks may contact a listed and approved interpreting agency to request an experienced court interpreter in the target language.
- If no interpreter is available through an agency, clerks should contact the Communication Access Specialist as soon as possible.





## **Assigning American Sign Language (ASL), Oral Interpreters and Cued Speech Transliterators**

When assigning interpreters for individuals requesting a sign language interpreter, court clerks must:

- Contact an interpreter agency and request a legally qualified interpreter. A list of agencies and contact information is provided on the Judicial Branch's intranet.
- If no interpreter is available through an agency, clerks should contact the Communication Access Specialist as soon as possible. The Communication Access Specialist may contract with a sign language interpreter qualified in another state or discuss continuing the matter with the Court until a qualified court interpreter is available.

### Recommended Practices for Assigning Teams of Interpreters

Team interpretation, in which multiple interpreters are assigned specific roles during a single court proceeding, is becoming the standard in court interpretation. Guidance given to court staff and judicial officers provides that the court should appoint more than one (1) interpreter in the following court proceedings:

- Expected to last two (2) or more hours—appoint two (2) or more interpreters to help prevent interpreter fatigue and avoid a decrease in the quality of interpretation.
- Involving an LEP or deaf or hard-of-hearing party where the party is represented by an attorney and expected to testify at a hearing—appoint an additional, proceedings interpreter<sup>46</sup> to ensure that the first interpreter remains available at the attorney table to interpret confidential attorney-client communications.
- Involving an LEP or deaf or hard-of-hearing party and witnesses—appoint separate proceedings interpreters to interpret for the party and for the witnesses when testifying to ensure that the table interpreter for the party can interpret attorney-client communications.
- In which both parties are LEP—appoint a minimum of two (2) table interpreters (one (1) for each represented party), and one (1) or more proceedings interpreters, depending upon the length of the assignment.
- Jury trials—the court must contact the Communication Access Specialist as soon as possible for guidance on interpreter assignment.
- For a Deaf Person Called to Jury Duty—the court must provide a qualified sign language interpreter.

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<sup>46</sup> The proceedings interpreter is responsible for interpreting the court proceedings for the record. The table interpreter is responsible for interpreting confidential attorney-client communications.





## Interpreters for Court Observers

The Judicial Branch recognizes its requirement under the ADA to schedule and pay for an ASL or other sign language interpreter for deaf or hard-of-hearing court observers (persons without a legal interest or formal involvement in a case).

The Judicial Branch also recognizes that it is not required to provide spoken language interpreters for hearing, LEP court observers, but may do so as a matter of courtesy. Such requests will be directed to and decided by the Communication Access Specialist on a case-by-case basis.

## Interpreters for Court Programs and Services

The Judicial Branch assigns interpreters as needed for mediation in the courts. Typically, courts are able to arrange an in-person interpreter for mediation because mediation is a scheduled court event. If an interpreter is needed but had not been scheduled, the mediator is advised to notify the clerks' office of the need for an interpreter and reschedule the mediation for a later date when an interpreter is available. The mediator may use Language Line for brief, non-substantive communications with the LEP individual, such as to explain the need to re-schedule the mediation until an in-person interpreter is available.

For certain court-operated programs, such as Drug Court Coordinator Services, courts may have difficulty scheduling an in-person interpreter. Therefore, where possible and appropriate, courts may use Language Line to provide interpreting services during these programs or services.

## Interpreters for Non-Court Proceedings

The Judicial Branch is not responsible for the assignment or payment of interpreters who provide services outside the court. For example, court orders may require LEP parties or parents of minors in juvenile or family matters to participate in services such as co-parenting education classes; Driver Education Evaluation Programs (DEEP); Batterer Intervention Programs (BIPs); and mental health examinations. Where available, LEP individuals should be offered referrals to agencies that offer interpretation and translation services in the target language(s). Counseling agencies and community service providers are generally able to provide language access services.

When an LEP individual has court-appointed counsel, that attorney may request authorization from the [Maine Commission on Indigent Legal Services \(MCILS\)](#) for it to assume expenses for interpreter and/or translator services needed for legal communications outside of a court proceeding, including for client conferences, court-authorized evaluations, and depositions.<sup>47</sup>

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<sup>47</sup> Interpreter and/or translator services paid for by MCILS must be secured by the attorney and will not be provided by the Judicial Branch. Find more information about MCILS at: [www.maine.gov/mcils/](http://www.maine.gov/mcils/)





## 4.3 Communication Technologies

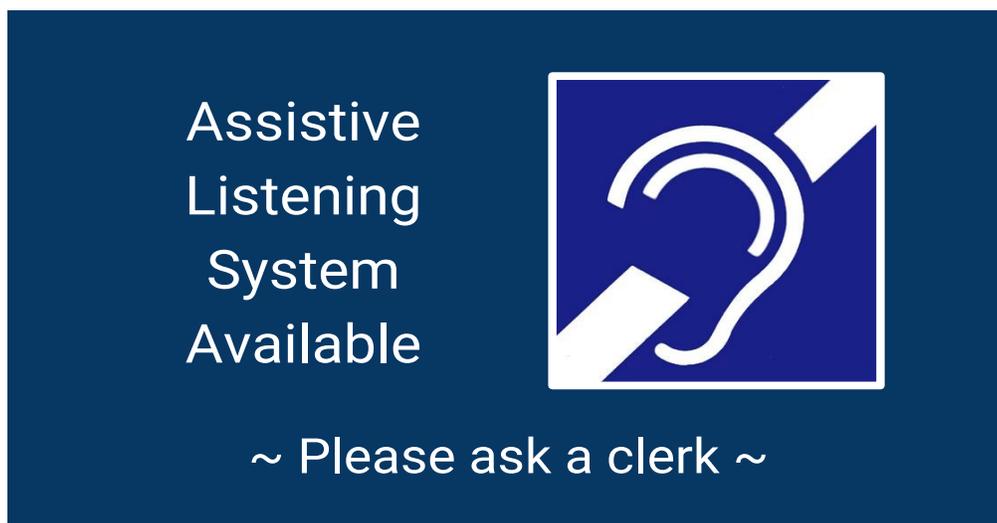
### Assistive Listening Systems

All Maine state courtrooms have been equipped with assistive listening systems, and in 2018 the Communication Access Specialist, in concert with OTO, inventoried and assessed the assistive listening systems and devices in every courtroom, and replaced and renewed them as needed so that every courtroom will be equipped with a state-of-the-art infrared (IR) Williams Assistive Listening device system in early 2019.

This uniformity of assistive listening systems simplifies use for court staff, provides hard-of-hearing court users with consistently clear audio access to court proceedings, and allows for more efficient resource allocation, meaning headsets and receivers can now be used in any courtroom.

Hard-of-hearing court users do not need to specially request assistive listening devices in advance and may simply request assistive listening devices from court clerks or judicial marshals upon arrival in court. Any issue with an assistive listening system or device not working properly should be reported to the clerks' office and the clerks' office shall inform the Communication Access Specialist.

Every courthouse in Maine has signage to notify the public that the courts are equipped with assistive listening systems and to ask a clerk for assistance.



**Figure 6:** Judicial Branch Assistive Listening System Sign





## Wireless Interpreter Equipment

A recent improvement to the court interpreter program is the implementation of wireless interpreting equipment for simultaneous interpretation of lengthy court proceedings by court interpreters. Wireless interpreting equipment allows spoken language interpretation to be conducted more discreetly during court proceedings because the interpreter may quietly interpret—from anywhere within the courtroom—into a microphone while the interpretation is heard by the LEP court user through headphones attached to a wireless receiver. The Communication Access Specialist has worked in concert with the Office of Transcript Operations (OTO) to set up the wireless interpretation equipment so that all interpretation is recorded—and on a separate track than the English—in compliance with JB-12-1.

## Personal Amplification Devices

New in 2018, all Maine courthouses are equipped with personal amplifier units (PockeTalkers™) for use by hard-of-hearing individuals in areas of the courthouses where the integrated assistive listening systems do not reach, such as in hallways, mediation rooms, and chambers. PockeTalkers are also useful for hard-of-hearing attorneys or judicial officers during private sidebar conversations, when the courtroom assistive listening systems are temporarily disengaged, and for hard-of-hearing jurors during jury deliberation. The obvious advantage of PockeTalkers is that attorneys, court staff, and other individuals do not have to raise their voices to speak with a hard-of-hearing individual and so conversations occurring outside of any courtroom—and beyond the reach of the integrated assistive listening systems—can retain some amount of privacy. Signage has been posted in all courthouses to notify the public of the availability of this new resource.

A sign with a dark blue background and white text. The top section has a white background with red text. The text reads: "Hard of Hearing? A Personal Amplification Device May Help". Below this, in white text on the dark blue background, it says: "Please go to the Clerks' Window and ask to borrow a Personal Amplification Device to use during mediations, meetings, and at clerk counters." and "All devices must be signed out and returned after use." At the bottom, it says: "Assistive Listening Systems are available in every courtroom."/>

**Hard of Hearing?  
A Personal Amplification Device  
May Help**

Please go to the Clerks' Window and ask to borrow a Personal Amplification Device to use during mediations, meetings, and at clerk counters.

All devices must be signed out and returned after use.

Assistive Listening Systems are available in every courtroom.

Figure 7: Judicial Branch Personal Amplification Device Sign





## Communication Access Real-time Translation

The use of Communication Access Real-time Translation (CART) Services is available for deaf and hard-of-hearing individuals. CART services provide the instant translation of the spoken word into English text by a CART services provider using a stenotype machine, computer, and real-time software. During court proceedings, the text typed by the CART services provider is displayed on a screen so that the hard-of-hearing court user may read what is being communicated in court. This speech-to-text service is provided by the Judicial Branch on location during court proceedings. Because of the limited number of CART services providers in Maine, court proceedings requiring CART services may need to be continued to a later date until a CART services provider is next available; however, CART services can be provided remotely and the Office of Court Access is exploring this technology for the Maine state courts in order to provide CART services more efficiently.

### 4.4 Remote Interpreting

The use of telephonic and video remote interpreting technologies is an important element of any language access plan. While in-person interpretation is always preferable, courts throughout the State may be unable to secure an in-person interpreter to assist an LEP or deaf or hard-of-hearing court user in a timely manner and may need to resort to remote interpreting.

Remote technologies can assist in prioritizing existing resources by focusing on obtaining in-person interpreters when they are most critical—for court hearings and trials. In addition, using remote interpreting for other court encounters—such as in clerks’ offices or during short, non-evidentiary matters when attempting to schedule an in-person interpreter may be impossible or would cause significant delay—can help an LEP person gain greater access to justice. Finally, remote interpreting may reduce the number of interpreters paid to travel from out of state to Maine for court proceedings and result in substantial cost savings to the State of Maine.

### Telephonic Interpreting

Judicial Branch policies and procedures provide for the use of telephonic interpreting, specifically through Language Line. Every courthouse in Maine has a telephone in its clerks’ office dedicated for telephonic interpreting for the public, and the Communication Access Specialist has instructed clerks in every office on best practices for communicating with LEP court users through Language Line. Telephonic interpretation is best suited for providing language access at points of contact other than in the courtroom, such as in clerks’ offices, where the encounter is relatively brief and the scope of the communication is limited. Telephonic interpreting may also be adequate for brief court proceedings and useful in emergency situations and each courtroom can access Language Line if necessary. Notably, the Communication Access Specialist recently determined Language Line has a dedicated telephone number for “rare” languages—of which Somali is one—so that clerks can now schedule Somali interpreters through Language Line for





brief court proceedings as needed. There are, however, potential shortcomings to the use of telephones for providing meaningful access during lengthy or complex court proceedings and such events should be kept to a minimum.

## Video Remote Interpreting

The Judicial Branch is committed to investing in video remote interpretation (VRI). In 2016-2017, the Judicial Branch requested that the NCSC conduct a VRI technology assessment of the Maine state courts and, in early 2018, the LEP Advisory Committee voted to convene a subcommittee devoted to the development of VRI. This VRI subcommittee presented proposals for two (2) VRI pilot projects at the July 2018 LEP Advisory Committee meeting.

The goal of the first proposal is to improve language access services for ASL users at clerk windows through the use of VRI. The goal of the second proposal is to improve spoken language access services and make efficient use of court resources by utilizing VRI in designated, limited court proceedings. The Chiefs of the Maine Courts approved both proposals and these projects are well on their way to being launched.

### (1) ASL VRI in Clerks' Offices

Communication with ASL users in clerks' offices has been limited to the exchange of written notes. However, in many instances, the deaf person seeking assistance from the court has a limited ability to read or write English. VRI will improve access to justice by providing more effective access to information for ASL users that is routinely provided to other court users.

The courts will use existing Polycom software to connect to ASL interpreters at the Pine Tree Society in Scarborough, Maine. Pine Tree has an on-site staff of seven (7) ASL interpreters, which should guarantee a connection to the court within minutes. An informational video in ASL will be embedded in the court's laptop and shown to the court user while he or she waits for the interpretation session to begin. This video explains services provided by the Maine state courts as well as how the VRI session will take place.

Because the population served by this VRI project is relatively small, the project launched in Portland on November 1, 2018 and will be expanded to courts in Bangor, Lewiston, and Augusta in 2019. The Portland court clerks have been trained on initiating and managing a VRI session for ASL users and informational signs have been posted for the public's notice of this service.





**Figure 8:** Judicial Branch VRI for ASL Sign

## (2) Spoken Language VRI in Court Proceedings

VRI offers an exciting opportunity to improve language access for LEP individuals and offers effective court interpretation at lower costs. VRI provides the LEP individual with improved language access as compared to telephonic interpretation and has the added benefit of cost savings by reducing travel costs as compared to in-person interpretation. The long-term goal of this project is to access interpreters remotely from outside Maine who otherwise would need to travel to Maine to provide these services.

This project is expected to start in 2019 and is limited to self-represented litigants appearing in Family Matter Case Management Conferences, Uncontested Divorces, and Status Conferences scheduled to last fewer than 30 minutes. The Lewiston District Court is the pilot project site, largely because of the frequency of need for interpretation.

VRI interpreter services will initially be available in four languages: Arabic, French, Somali, and Spanish. Interpretation will be provided by well-qualified rostered court interpreters from the Portland area and these interpreters will provide VRI services to the Lewiston courthouse from the Portland AOC using existing Polycom software.

## 4.5 Translation

In addition to access to spoken language and sign language interpreters as described throughout this Plan, [Administrative Order JB-06-03](#) addresses access to translation services for LEP individuals in the Maine state courts. Translation efforts include the translation of Judicial Branch materials, including court forms, informational content, web and video resources and signs and





notices for the public in addition to translation of case-specific documents as needed, such as declarations, witness statements, and other evidence in a case.

### Translation of Judicial Branch Materials

In 2013, the LEP Advisory Committee formed a Vital Documents Subcommittee to identify and prioritize the translation of Judicial Branch vital documents. This Subcommittee prioritized case types for translation based on their potential effect on litigants and their families, utilizing DOJ guidance.<sup>48</sup>

Issue / Effect	Relevant Case Types
Safety	Protection from Abuse and Harassment
Loss of Children	Protective Custody, Family, and Juvenile Matters
Loss of Liberty	Criminal, Mental Health, and Juvenile Matters
Loss of Immigration Status	Criminal, Protection from Abuse, Civil, and Juvenile Matters
Loss of Home, Money, or Property	Forcible Entry & Detainer, Foreclosure, Personal Property Recovery, and Small Claims
License Suspension	Violations Bureau and Criminal Matters
Other	Civil Violations and Civil Matters

**Figure 9:** Determination of Effect per Case Type, Used to Prioritize Vital Documents.

Within each of these case types, the Subcommittee identified vital documents for translation and created a list of priority documents for 2013–14. The Subcommittee also recommended topics for development of informational sheets to be created by the Judicial Branch. Translation projects began in 2013–14 and are ongoing as grant funding is available. The Communication Access Specialist submits proposals for translation of vital documents at every opportunity and will continue to do so during the period covered by this Plan.

When determining the languages for translation, the Vital Documents Subcommittee analyzed available language data in matters involving one or more LEP parties for fiscal year 2012, specifically to determine priorities within the Protection from Abuse and Family Matter case types. The Subcommittee completed its initial work by recommending the following languages for prioritization: Arabic, French, Somali, and Spanish. In subsequent years, the Subcommittee expanded the authorized language list to include Chinese (Mandarin/Cantonese), Khmer (Cambodian), Russian, and Vietnamese. As forms are updated in English, they are targeted for updated translation.

<sup>48</sup> Under DOJ guidance, written materials that are considered vital should be translated into the non-English language of each regularly encountered LEP group eligible to be served or likely to be affected by the program or activity. See 67 Fed. Reg. 41455, 41463 (June 18, 2002).





The Judicial Branch has translated many court forms into these eight (8) most frequently requested languages—Arabic, Chinese (Mandarin/Cantonese), French, Khmer (Cambodian), Russian, Somali, Spanish, and Vietnamese (in alphabetical order)—for reference. All translated documents are published, along with their original English versions,<sup>49</sup> on the [Judicial Branch Court Forms](#) webpage<sup>50</sup> and on the [Judicial Branch Translated Court Forms and Documents](#) webpage.<sup>51</sup>

Court clerks are instructed to print out and provide the appropriate translated forms to LEP individuals as needed. Many of these translated forms and documents are related to Protection from Abuse, Child Protection, Criminal, and Family case types, but also include other vital documents, such as the Judicial Branch’s Policy on Access for People with Disabilities, the Disability Accommodation Grievance Procedure, and others.

The Judicial Branch is committed to translating vital court forms and critical public notices into the eight (8) most frequently requested languages in the Maine state courts and into more languages as the need is identified. All translation vendors must be qualified, such as through certification by the American Translators Association in the language(s) in which they work, with a court or legal specialization. For languages that are less common, or for which there is a smaller market of professionals, the Communication Access Specialist considers qualified translators who demonstrate competence through experience, education, and references.

The Communication Access Specialist manages approved Judicial Branch translation projects, proposes new documents for prioritization on the vital documents list, and submits translated forms and documents to the webmaster for posting. As recently as September 2018, updated JB-06-03, the script of the new [Arraignment Video](#),<sup>52</sup> and five (5) Juvenile (JV) forms were translated in those eight (8) languages. The Office of Court Access has also coordinated the translation of the new Arraignment Video into ASL on video and distributed it to all local Maine state courts and posted it online.



**Figure 10:** Screenshot of Judicial Branch Arraignment Video with ASL (2018)

<sup>49</sup> English is the official language of the Maine state courts.

<sup>50</sup> Found at: [www.courts.maine.gov/fees\\_forms/forms/index.shtml](http://www.courts.maine.gov/fees_forms/forms/index.shtml).

<sup>51</sup> Found at: [www.courts.maine.gov/fees\\_forms/forms/trans\\_docs/index.html](http://www.courts.maine.gov/fees_forms/forms/trans_docs/index.html).

<sup>52</sup> Found at: [www.courts.maine.gov/citizen\\_help/criminal.html](http://www.courts.maine.gov/citizen_help/criminal.html).





In addition, using Court Improvement Program grant funds the *new Guide for Families in Child Protection Cases* (January 2018)<sup>53</sup> will be translated into the eight (8) languages and the Judicial Branch has recently been approved to use STOP Violence Against Women grant funds to translate the new *Guide to Protection from Abuse and Protection from Harassment* (June 2018)<sup>54</sup> into those eight (8) languages.

## Translation of Case-Specific Documents

Translation of case-specific documents is determined by the presiding judge or justice on a case-by-case basis. When contacted by the court and so ordered, the Communication Access Specialist contracts with qualified translation vendors so that the required translations are provided in a timely manner.

### 4.6 Public Notification

Because many LEP and deaf or hard-of-hearing court users never see the inside of a courtroom, a comprehensive language access plan must provide them with meaningful access to services at all the points of contact with the court, including outside of the courtroom, and, importantly, must adequately notify them of the availability of those services.

*Equal justice under law ... is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists [and] it is fundamental that justice should be the same, in substance and availability, without regard to economic status.*

—Lewis Powell, Jr., U.S. Supreme Court Justice

Public notice that all LEP individuals have the right to an interpreter at no cost, that assistive listening systems are available, and that personal amplification devices are available is prominently posted in every courthouse lobby—and on courthouse video monitors where they exist. See Figures 5, 6 and 7. The local trial courts shall review posted signage every administrative week and make sure it is up to date and readable. To assist the court clerks with this, prior to an administrative week the Communication Access Specialist will provide to each court location a list of current language assistance signs that must be displayed.

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<sup>53</sup> Found at: [www.courts.maine.gov/maine\\_courts/family/child-protect-main.html](http://www.courts.maine.gov/maine_courts/family/child-protect-main.html).

<sup>54</sup> Found at: [www.courts.maine.gov/maine\\_courts/district/protection\\_orders.html](http://www.courts.maine.gov/maine_courts/district/protection_orders.html)





The Judicial Branch also posts notice online, on its public website. It has a dedicated “Accessibility and Interpreters” webpage from which anyone may download and print an Interpreter Request Form for a spoken language interpreter, an ASL interpreter, or other communication accommodations for deaf and hard-of-hearing court users.<sup>55</sup> There is a another webpage for “Court Interpreters” from which anyone may download and print an application to become a rostered court interpreter and find more information about interpreter requirements and testing.<sup>56</sup> The Judicial Branch also posts all of its translated court forms online for LEP court users to access for reference at anytime from anywhere they have internet access.<sup>57</sup>

The Office of Court Access also notifies attorneys of the availability of court accommodations and interpreter services for their clients and witnesses. The Court Access Coordinator or Communication Access Specialist will periodically contact various State and County Bar Associations, Board of Overseers of the Bar, and the Cleaves Law Library and request that those organizations publish notices of these accommodations and services on their public websites or through their email lists specifically to inform attorneys about available services and how to obtain them.



<sup>55</sup> Found at: [www.courts.maine.gov/citizen\\_help/access\\_interp.html](http://www.courts.maine.gov/citizen_help/access_interp.html).

<sup>56</sup> Found at: [www.courts.maine.gov/maine\\_courts/admin/interpreters/index.html](http://www.courts.maine.gov/maine_courts/admin/interpreters/index.html).

<sup>57</sup> Found at: [www.courts.maine.gov/fees\\_forms/forms/trans\\_docs/index.html](http://www.courts.maine.gov/fees_forms/forms/trans_docs/index.html).





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## 5. Initiatives

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To continue to improve access to justice for LEP individuals in Maine, the Office of Court Access and LEP Advisory Committee have identified several initiatives for which they will pursue needed Judicial Branch support, funding, and resources to develop.

### 5.1 LEP Tracking Within the New Case Management System

The existing Judicial Branch case management system, MEJIS, cannot track interpreter need or use. Therefore, all interpreter scheduling is done manually and language assistance needs are flagged on court files via a separate notation. Data on interpreter use is currently gathered through the Finance Office, based solely on costs and expenditures for interpreter and translation services, which is not ideal.

The Judicial Branch is in the process of developing a new statewide case management system, Odyssey, which should be fully implemented in the next five (5) years and has the potential to more reliably collect language services data. While at this point it is not clear what functionality will be included in the new case management system, in order to gain greater information about interpreter usage and capture better cost information, it is imperative that interpreter usage by event, case type, and other parameters be tracked. Doing so will allow the Judicial Branch to identify the language access needs of court users throughout all Maine courts more accurately and ultimately respond more efficiently to those needs, including improved budgeting for interpreter and translation services.

To this end, the Office of Court Access has advocated within the Judicial Branch to ensure that the new statewide case management system tracks interpreter needs through two (2) methods in particular, by case and by party.

- (1) By tracking language assistance need by case, court staff will be able to secure a qualified interpreter for an LEP or deaf or hard-of-hearing person for all relevant court proceedings.
- (2) By flagging language assistance need on the record of the party needing the language services, new or different case filings involving that same party will contain an alert to all court staff that an interpreter will be required, thus reducing the risk that a returning party's language assistance needs may go unmet in future proceedings.

According to the Judicial Branch's Chief Information Officer, during 2019, the Judicial Branch's Office of Information Technology (OIT) will work with Tyler Technologies (Tyler), the designer of Odyssey, to address the Judicial Branch's requirements for managing, monitoring, and improving services, including scheduling and payment, related to interpreters—as well as other independent contractors providing court services, specifically mediators and guardians ad litem.





Once Tyler understands and considers these provider management requirements, the company will deliver a proposal for developing and implementing possible provider management features in Odyssey, to be considered for approval by the Judicial Branch’s Project Oversight Group.

## 5.2 Court Form Translations

With the launch of the new case management system, existing court forms will be revised or altogether replaced, necessitating new translations that are consistent with the new forms. The Judicial Branch contracts for translations on a per word basis, and bulk translations of new court forms, into the eight (8) selected languages at minimum, will require a significant funding commitment. With the LEP Advisory Committee’s endorsement, the Office of Court Access will coordinate with legal aid organizations to secure grant funding to translate court forms and will otherwise seek support from within the Judicial Branch to fund these translations so that LEP court users have language access to the new forms generated by the new case management system. The Office of Court Access has budgeted \$35,000 per year for Fiscal Year 2020 and Fiscal Year 2021 to translate forms resulting from the new case management system.

## 5.3 Language Access Information on Video Displays

Beginning in 2017, the Office of Court Access utilized the few existing courthouse video monitors to publicly display court access and language access information and, in 2019, with the LEP Advisory Committee’s endorsement, will seek Judicial Branch support and funding to purchase and install more video monitors in more courthouses in Maine. The Office of Court Access will work collaboratively with OIT to identify funding for this initiative. It is anticipated that this need can be met incrementally over a three (3) year period with an annual budget of \$10,000. Video monitors in courthouse lobbies are highly visible and dynamic—drawing the eye in a way that laminated signs posted on courthouse walls do not—and, once installed, are able to display updated court access and language access information efficiently and cost effectively.



**Figure 11:** Photograph of Courthouse Video Display of Court Access Information





## 5.4 Arraignment Video Translation Project

In 2018, the script of the new Judicial Branch arraignment video was translated into the eight (8) selected languages and will be posted on the Judicial Branch website for LEP court users to access and read prior to appearing in court. In 2019, with the LEP Advisory Committee’s endorsement, the Office of Court Access will seek Judicial Branch support and funding to produce the new arraignment video in the eight (8) languages—dubbing over the original video—and obtain tablets and headphones on which to play the translated arraignment videos, so that LEP court users can access the arraignment video in their preferred language while in court for their arraignment. The total cost of this project is \$40,000. \$15,000 is required for hardware costs and \$25,000 will be required to produce the videos in the eight (8) selected languages.



**Figure 12:** Screenshot of Court Rostered Interpreter in Arraignment Video

## 5.5 Video Remote Interpretation Expansion

As VRI for ASL in clerks’ offices proves to be a significant language access improvement for deaf individuals—as it has at the Maine Department of Health and Human Services (DHHS) and Maine Department of Labor (DOL)—the Office of Court Access, with the LEP Advisory Committee’s endorsement, will seek Judicial Branch support and funding to expand VRI for ASL to all court locations. The cost of establishing VRI for ASL in the four (4) initial locations—Portland, Bangor, Lewiston, and Augusta—including hardware, is not expected to exceed \$5,000. Therefore, the Office of Court Access anticipates the cost of expanding VRI for ASL fully to all court locations will not exceed \$45,000.





Similarly, with the LEP Advisory Committee's endorsement, the Office of Court Access will seek Judicial Branch support and funding to develop and expand VRI for spoken languages in courtrooms for court proceedings. Ultimately, successful installation of VRI for court proceedings will conserve judicial resources and improve access to justice.

## 5.6 Video Recording of Court Proceedings Involving ASL

Audio-recording court proceedings in which a spoken language interpreter is utilized is vital to due process, so that if the quality of that interpretation is called into question, there is a recording that may be reviewed. Recognizing the importance of this due process protection, [JB-12-01](#) was promulgated, requiring that all proceedings in which a spoken language interpreter is used must be recorded.

While JB-12-01 protects the integrity of proceedings in which spoken language interpreters are used, currently there is no similar protection for deaf parties who rely on ASL interpreters in their proceedings. In order to establish and preserve a record of ASL interpretation, should it be called into question and require review, the proceeding must be video-recorded.

The Office of Court Access, with the LEP Advisory Committee's endorsement, will seek Judicial Branch support and funding to develop and implement a pilot to video-record proceedings involving ASL interpretation. The cost of implementing a video-recording system that syncs with the courts' FTR digital recording system is estimated to be \$15,000 per courtroom.

The Office of Court Access proposes piloting video-recording of proceedings initially in one courtroom in the Portland, Augusta and Bangor courts each, for a total estimated cost of \$45,000. Beyond keeping a record of ASL interpretation for quality assurance, another advantage to developing a video-recording system for court proceedings is that aspects of communication other than word-choice, including, but not limited to, body language, tone, volume, and any hesitation, are also recorded and preserved.

## 5.7 Wireless Interpretation Equipment Expansion

Wireless interpretation equipment allows for simultaneous interpretation of lengthy court proceedings by court interpreters so that their interpretations are non-obtrusive to court proceedings while being clearly recorded on a separate audio track for review as necessary. Wireless interpreting equipment allows spoken language interpretation to be conducted more discreetly during court proceedings because the interpreter may interpret from anywhere in the courtroom into a microphone while the interpretation is heard by the LEP court user through headphones attached to a wireless receiver.





There are many advantages to wireless interpreting equipment, including but not limited to:

- fewer interpreters may need to be scheduled and opposing parties may keep their distance from one another because one interpreter can transmit to multiple receivers and therefore interpret for multiple LEP court users without requiring them to be in close proximity;
- clearer reception of the interpretation because the headphones allow the LEP court user to hear the interpretation with fewer noise interferences and manage the volume of the interpretation using a dial on their receiver, which is especially useful for hard-of-hearing individuals;
- better comprehension of the original message because the LEP court user is free to look directly at the person speaking; and
- higher quality electronic recording of the interpretation because the wireless interpreting equipment connects directly to the For the Record (FTR) digital court recording system to record the interpretation on a separate track than the English.

The Office of Court Access, with the LEP Advisory Committee's endorsement, will seek Judicial Branch support and funding to purchase additional wireless interpreting equipment for expanded use in Maine's state courts. The cost of purchasing additional equipment and interpreter training is estimated to be \$7,500.

## 5.8 Remote CART Services

CART services provide the instant translation of the spoken word into English text by a CART services provider using a stenotype machine, computer, and real-time software. Because of the limited number of CART services providers in Maine, court proceedings requiring CART services often must be continued to a later date until a CART services provider is next available to travel to the courthouse.

The Judicial Branch is billed for service provider travel time and mileage in addition to hourly CART services rates. Remote CART services may provide an opportunity to reduce Judicial Branch CART service provider travel costs and streamline scheduling. Remote CART services are available from multiple vendors across the country and use a robust microphone system connected to a hard-wired laptop to provide captioning to the LEP, deaf, or hard-of-hearing individual in the courtroom via a secure weblink.

The Office of Court Access, with the LEP Advisory Committee's endorsement, will seek Judicial Branch support and funding to purchase the equipment required for remote CART services in Maine's state courts. The cost of purchasing the required audio equipment and computer hardware is estimated to be \$3,500.





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## 6. Recruitment

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### 6.1 Challenges

There are several challenges with regard to the recruitment of potential interpreters in Maine. One challenge is that many local immigrant communities are small and close-knit and so individuals may not want to become involved in private matters of known community members. Also, cultural elements such as beliefs about professions appropriate for men and for women—which may result in fewer women pursuing the traditionally male profession of interpreting—affect recruitment efforts.

Further, current compensation rates in the Judicial Branch may lead aspiring interpreters to choose other interpreter assignments, such as medical interpreting, or work provided through interpreter agencies, rather than contracting with the Judicial Branch directly for court assignments. The work offered through interpreter agencies may offer more competitive wages and possibly more consistent work (depending on the language). In addition, the Judicial Branch, particularly for some languages and in some court regions, does not have enough court interpreting work to support a career. Interpreters may need to have a career outside of interpreting, which in turn limits their availability to interpret in courts. Interpreter compensation rates were last adjusted by the Judicial Branch in 2009, and so the Communication Access Specialist will research compensation rates in similarly sized court systems and make recommendations to the LEP Advisory Committee on whether changes to interpreter compensation is needed to attract more qualified interpreters to court interpreting.



In addition to these challenges, the Maine state courts increasingly need language providers for emerging languages across the State. The language services vendors that work with the Judicial Branch are sensitive to this and assist the Maine state courts by actively recruiting interpreters to fulfill these new language demands. The Communication Access Specialist is committed to collaborating with Maine’s language services vendors, as well as other LEP community partners, to recruit more interpreters and improve language access to the courts.





## 6.2 Community Outreach

The Office of Court Access will work with the LEP Advisory Committee and Judicial Branch leadership to formulate an effective strategy to promote awareness of the availability of language access services in the Judicial Branch and the right of LEP individuals to have an interpreter for court proceedings.

Strategies include working in partnership with community-based providers to disseminate information to their clients regarding the Judicial Branch's commitment to meaningful access to justice for LEP and deaf and hard-of-hearing individuals and improve stakeholder understanding of best practices when working with LEP individuals.

In addition, the Communication Access Specialist will continue to reach out to LEP communities and service providers throughout Maine in an effort to recruit new, qualified court interpreters. Outreach and recruitment efforts that will be considered by the Communication Access Specialist include but are not limited to:

- focusing recruitment efforts on contacting adult education programs, university or community college language programs, language instructors, immigrant associations and organizations, and organizations that provide services to LEP and deaf or hard-of-hearing communities;
- creating and distributing informational materials for LEP communities regarding the benefits of becoming a qualified, rostered court interpreter;<sup>58</sup>
- speaking at language access programs to bring attention to the demand for well-qualified court interpreters;
- working with language access community partners to prepare and provide effective examination preparatory programs and materials for court interpreter candidates, including information on court interpreter ethics and legal terminology;
- sharing non-confidential court interpreter recruitment and testing information with cultural organizations, language professional organizations, educational institutions, social services, community partners, and government agencies;
- working with language services providers and partners to provide continuing legal interpretation education and trainings; and
- developing continuing education opportunities for Maine attorneys and court services providers about the right to an interpreter in court proceedings, best practices when working with an LEP individual, and best practices when working with an interpreter.

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<sup>58</sup> Newly designed court interpreter recruitment materials have been published for distribution in 2019.





## Stakeholder Engagement

While this Plan pertains to the Judicial Branch, many Maine community organizations and other stakeholders are also dedicated to serving Maine’s LEP populations. Working together with these stakeholders toward improved language access to justice in Maine will benefit these groups as well as contribute to the improvement of public trust and confidence in the Judicial Branch.

In order to engage key stakeholders to promote and improve language access to the Maine state courts, the Communication Access Specialist, the Office of Court Access, and the LEP Advisory Committee will engage in ongoing outreach to community members, new immigrant community organizations, schools, and justice partners to invite feedback and improve community awareness of language access in the Maine state courts.

In addition, the Maine Justice Action Group (JAG)—a judge-led coalition of Maine legal community leaders<sup>59</sup> that advocates for access to justice and fairness to low-income Maine residents—can help raise awareness in the legislature, legal community, and the public about barriers to justice and the need for language access initiatives.

*Equal Justice is the objective of a fully evolved democratic republic as envisioned by the founding principles of this great nation. The Justice Action Group (JAG) is committed to making that objective a reality. The members of the Maine Justice Action Group envision a future where every resident of the State of Maine, regardless of their economic or social circumstances, enjoys equal justice under law.*

— Maine Justice Access Group

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<sup>59</sup> JAG includes state and federal judges, legislative leaders, nonprofit civil legal aid providers, and representatives from the University of Maine’s School of Law, the Maine Justice Foundation, the Maine State Bar Association, the Maine Trial Lawyers Association, practicing attorneys, and others committed to access to justice in Maine. More information about JAG is found at: [www.justicemaine.org/grants-and-programs/justice-action-group/](http://www.justicemaine.org/grants-and-programs/justice-action-group/).





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## 7. Training

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Language access training—including but not limited to best practices for working with interpreters and LEP and deaf and hard-of-hearing court users—for judicial officers and other court staff is vital to the implementation and success of this Plan.

### 7.1 Judicial Officer Training

The Communication Access Specialist provides training and information to judicial officers in every aspect of the Judicial Branch’s Language Access Plan, including how to work with interpreters, interpreter qualifications, the appropriate use of remote technologies, and cultural awareness.

Past training for judicial officers conducted in recent years included a language access training presented in 2014 at the Maine Judicial Branch Judicial College and a Judicial Branch language services update and training presented by the Court Access Coordinator in October 2017 as part of a presentation on all court access issues and efforts.

Ongoing judicial officer training managed by the Communication Access Specialist includes:

- language access training as part of the New Judge Orientation that is required of all judicial officers new to the Judicial Branch;
- informational sessions by community organizations representing immigrant and refugee communities to inform judicial officers of cultural norms and other issues to increase understanding, cultural awareness, and improve access; and
- individualized support by the Communication Access Specialist upon request.

The Office of Court Access has also recently developed and distributed reference and resource materials for judicial officers, including:

- a bench card, titled “Bench Card and Best Practices for Working with Spoken Language Interpreters,” distributed to all judicial officers and courtrooms in 2018;
- a bench card, titled “Bench Card and Best Practices for Working with People with Disabilities Including Deaf and Hard-of-Hearing Individuals,” distributed to all judicial officers and courtrooms in 2018; and
- District and Superior Court bench books that contain information on language access, including *voir dire* for interpreters and questions to direct to an LEP court user, which were updated in 2018 and undergo periodic review and revision.





## 7.2 Court Staff Training

Training for court staff, particularly court clerks, includes: language access laws and policies; best practices for working with LEP and deaf and hard-of-hearing court users; best practices for scheduling and working with interpreters; the appropriate use of language services technologies such as Language Line and VRI; and furthering cultural awareness.

Currently, training efforts used by the Communication Access Specialist for court staff include in-person trainings, printed guidance and information, and online training modules that can be accessed at any time. Specific training for court staff includes:

- mandatory training all new court employees are required to take upon commencing their employment with the Judicial Branch that includes an LEP unit;
- mandatory online training, required of all court employees every other year, which includes an LEP unit;
- in-person instruction and guidance provided by the Communication Access Specialist during biennial courthouse visits, initiated by the Office of Court Access in 2017; and,
- individualized instruction and guidance provided by the Communication Access Specialist as needed or in response to court staff inquiries and requests.

The Office of Court Access has also recently developed and distributed reference and resource materials specifically for court clerks and judicial marshals, including:

- a court clerk card, titled “Clerk Card and Best Practices for Working with LEP Individuals and Interpreters” on one side and “Clerk Card and Best Practices for Working with People with Disabilities” on the other side, distributed to all clerks in 2018;
- a judicial marshal card, titled “Marshal Card and Best Practices for Working with People with Disabilities and Limited English Proficiency (LEP) and Interpreters,” distributed to all marshals in 2018; and
- language identification (“I Speak”) cards distributed to all clerks and marshals in 2018.

Other training tools to be considered and developed by the Office of Court Access include but are not limited to:

- specific trainings for court administrators, clerks, and marshals regarding language and communication issues of particular relevance and importance to each; and
- more online training units regarding language services in the Maine state courts and increasing cultural awareness.<sup>60</sup>

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<sup>60</sup> As requested by a majority of local courts in the NCSC 2016 survey.





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## 8. Monitoring

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### 8.1 Responsible Parties

This Plan will primarily be administered and maintained by the Communication Access Specialist, under the guidance of the Office of Court Access and the LEP Advisory Committee. The Communication Access Specialist will monitor the implementation of this Plan, track the need for adjustments and updates, and address necessary expansion.

Local Clerks of Court and LEP Coordinators will be responsible for the day-to-day operations related to language access in their courts in order to provide for the consistent and effective application of this Plan. When appropriate, LEP Coordinators and/or Clerks of Court shall communicate any issues with the implementation of this Plan to the Communication Access Specialist.

Any issues that may arise with respect to implementation of this Plan, should be communicated to the Communication Access Specialist, whether by court administrators, judicial officers, or other court staff. Similarly, the public, attorneys, justice partners, and other outside entities may direct any questions or concerns to the Communication Access Specialist.

The Office of Court Access and the LEP Advisory Committee will review this Plan, at minimum, on an annual basis and issue a revised Plan every two (2) years. Prior to any revised Plan being finalized, the draft changes will be reviewed by the State Court Administrator and Chiefs of the Trial Courts, with final review and approval coming from the Maine SJC.

To monitor the Plan, the Communication Access Specialist and Office of Court Access will:

- collect data on interpreter use, and, once available through the new case management system, language services requests, denial of requests (if any), delays in provision of services, and costs;
- assess language access needs and demographic data to determine if additional services, translated materials, language access tools, or training and education should be provided or if new languages are emerging in the State;
- stay informed on new laws or policies, and exploring needed changes to existing policies or rules affecting any aspect of the provision of language access services;
- ensure court staff and judicial officers are informed and up to date on Judicial Branch communication access policies and procedures, and are effectively implementing them;
- update, as needed, the list of translated forms and the priorities established by the Vital Documents Subcommittee;





- evaluate language access-related complaints regarding the provision (or lack of provision) of language access services, including but not limited to questions about interpreter conduct, quality of translations, and availability of language access information to the public; and will
- post and publish notification of any updated Language Access Plan or related policies and procedures.

## 8.2 Language Access Services Complaints

Complaints or grievances about the Judicial Branch’s language access for LEP court users or communication access for deaf, hard-of-hearing, or late-deafened individuals—including complaints that the Judicial Branch failed to provide or denied needed language services—should be filed directly with the Communication Access Specialist or at the local state court where the issue or denial of language access occurred, to be forwarded to the Communication Access Specialist. In consultation with the Office of Court Access, the Communication Access Specialist will investigate and issue a finding and corrective action, if necessary.

Grievances regarding accommodations for people with disabilities, including failure to provide an interpreter for deaf, hard-of-hearing, and late-deafened court users and court observers, are addressed under the *Grievance Procedure for Disability Accommodation* available on the Judicial Branch website and currently translated into: [Arabic](#), [Chinese](#), [French](#), [Khmer](#), [Russian](#), [Somali](#), [Spanish](#), and [Vietnamese](#).<sup>61</sup> These grievances should also be in writing, and can be filed on the [Grievance Form for Disability Accommodation](#).

Review of complaints regarding a court interpreter, including sign language interpreters, may be initiated by filing a signed, written complaint with the Communication Access Specialist. If a complaint is filed with a local state court, it shall be forwarded promptly to the Communication Access Specialist. All complaints are reviewed by the Communication Access Specialist, in consultation with the Office of Court Access. If the complaint is found to have merit, an investigation will commence and discipline, including removal of the interpreter from the court roster, may result. The disciplinary process is set forth on the Judicial Branch’s webpage, [Complaints Against Interpreters](#), and is currently translated into: [Arabic](#), [Chinese](#), [French](#), [Khmer](#), [Russian](#), [Somali](#), [Spanish](#), and [Vietnamese](#).<sup>62</sup> The Judicial Branch holds court interpreters to its standards of professional ethics and takes all complaints about interpreter conduct seriously.

*The Judicial Branch is committed to full, meaningful, and fair  
access to justice in the Maine state courts.*

<sup>61</sup> Found at: [www.courts.maine.gov/maine\\_courts/admin/ada/grievance.html](http://www.courts.maine.gov/maine_courts/admin/ada/grievance.html).

<sup>62</sup> Found at: [www.courts.maine.gov/maine\\_courts/admin/interpreters/complaints.html](http://www.courts.maine.gov/maine_courts/admin/interpreters/complaints.html).





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## Appendix A. LEP Advisory Committee Charter

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### STATE OF MAINE JUDICIAL BRANCH LIMITED ENGLISH PROFICIENCY ADVISORY COMMITTEE

#### Background

Maine has become increasingly diverse, and the Maine Judicial Branch continues to respond to the needs of a more diverse community. In addition, the Judicial Branch continues to respond to the needs of Maine’s deaf, late-deafened, and hard-of-hearing communities. Assuring language and hearing access to justice requires planning and a consistent commitment to quality services in court proceedings.

Supported and encouraged by the Justice Action Group, the Judicial Branch has implemented policies and Administrative Orders related to language and hearing access. In recent years, the Judicial Branch has improved its capacity to address Limited English Proficiency (LEP) and cultural competency issues in a more direct and structured way, including the creation of an “Access Team” made up of the Director of Court Services, the Court Access Coordinator, and the Communication Access Specialist. This team’s primary goal is to identify and remove barriers that may affect access to justice.

The creation of this Standing Advisory Committee is intended to assist the Administrative Office of the Courts, judicial leadership, trial court judges, and the rest of the Judicial Branch personnel with issues associated with access to the court system by LEP individuals.

#### **I. Purpose:**

The purpose of the Limited English Proficiency Advisory Committee is to advise Judicial Branch leadership in developing and maintaining a comprehensive system for providing and improving access to Maine courts for individuals with limited English proficiency or hearing loss.





## II. Authority and Responsibilities:

The Advisory Committee may seek input, suggestions, and recommendations from individuals and groups within and outside of the Judicial Branch. The Advisory Committee is authorized to study procedures considered by or in effect in other court systems and any other model procedures. It is authorized to consult with any person or organization as necessary.

The Advisory Committee will:

- A. Review the current state of LEP and interpretation services in the Judicial Branch;
- B. Assist in the prioritization of needed improvements;
- C. Make recommendations regarding LEP policies and resources, including the Language Access Plan for the Judicial Branch;
- D. Identify additional resources, including grant funding sources, to improve access to Maine courts;
- E. Recommend new initiatives and pilot projects as ways to improve services provided by the Judicial Branch;
- F. Provide strategic support for requests that require legislative approval; and
- G. Make recommendations to the State Court Administrator, the Trial Court Chiefs, and the Chief Justice of the Supreme Judicial Court.

## III. Membership:

The membership on the Committee shall include the following, and may be augmented or modified from time to time at the request of the Chair with the approval of the Supreme Judicial Court. Members are appointed for three-year terms by the Chief Justice of the Supreme Judicial Court, and may be reappointed for up to three additional terms by the Chief Justice of the Supreme Judicial Court.

Clerk of Court  
Judicial Branch Employee with background in communication access  
State Judicial Marshal Representative  
Justice, Maine Superior Court  
Judge, Maine District Court  
Immigration Attorney





Community stakeholder representatives engaged in LEP issues, including the deaf community  
Communication Access Specialist  
Court Access Coordinator  
Director, Court Services  
Justice, Maine Supreme Judicial Court, Liaison

#### IV. Meetings:

The LEP Advisory Committee will meet on a schedule established by the Chair, but no less often than three times a year. The Chair may also establish subgroups to study designated issues and report recommendations for consideration by the Committee as a whole. Those subgroups will meet on a schedule established by the Chair. The Committee may use video conferencing to assist with meeting capacity.

#### V. Reporting:

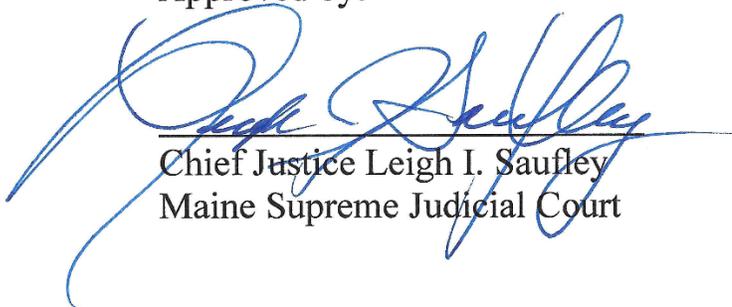
The LEP Advisory Committee will submit a written report of its progress to the Supreme Judicial Court annually on October 1 or as otherwise requested.

#### VI. Committee Duration:

The LEP Advisory Committee will be a Standing Committee of the Judicial Branch.

Dated: 11/28/18

Approved by:

  
Chief Justice Leigh I. Saufley  
Maine Supreme Judicial Court





## Appendix B. Language Access Goals and Tasks

### Framework for Providing Language Access

The responsibility for implementing this Language Access Plan, and achieving the goals and tasks contained in the Plan rests with: the Office of Court Access and the Communication Access Specialist, the local trial courts, and the LEP Advisory Committee.

#### The Office of Court Access

The Office of Court Access includes the Director of Court Services, the Court Access Coordinator, and the Communication Access Specialist who manages the Judicial Branch’s language access program. The Office of Court Access concentrates on increasing access to justice for all persons.

Goal:	Task(s):	Page(s) in Plan:
1. Ensure that the new case management system (CMS) can track and report the Judicial Branch’s interpreter needs and usage.	A. The Director of Court Services will represent the need to enhance interpreter tracking and reporting in the new CMS to the CMS Project Oversight Group (POG).	Page 40.
	B. The Communication Access Specialist will advocate for the needs of an interpreter module in the CMS.	Page 40.
2. Translate forms affected by the new CMS.	A. Secure funds through the Judicial Branch’s budget request process to support translation of forms, based on priority.	Pages 36, 41.
	B. Seek additional grant funds.	Page 53.
3. Improve public awareness of availability of interpreters and other language access services in the Maine state courts.	A. Contact various State and County Bar Associations, Board of Overseers of the Bar, and Cleaves Law Library to publish information on their websites and through their email lists.	Pages 1, 39.
	B. Work with OIT to secure funding for monitors to be placed in every courthouse lobby.	Page 41.
4. Provide LEP individuals with an arraignment video in their primary language which explains their rights and responsibilities.	Secure funds to produce the new arraignment video in eight (8) languages. Also, purchase hardware and headphones to play the video.	Page 42.





## Communication Access Specialist

The Communication Access Specialist is the primary Judicial Branch contact for all who either seek language access or provide language services and is a key resource for judicial officers and court clerks who are at the front lines of working to ensure access to justice for people with limited English proficiency.

The Communication Access Specialist is responsible for carrying out responsibilities for language access, managing approved translation projects, providing guidance and training to the local trial courts, and assisting with interpreter scheduling challenges, such as locating qualified interpreters for rarely requested languages, including from out of state.

Within the Language Access Plan there are numerous tasks assigned to the Communication Access Specialist. These tasks, and the goals they roll up to, are listed in this section.

<b>Communication Access Specialist</b>		
<b>Goal:</b>	<b>Task(s):</b>	<b>Page(s) in Plan:</b>
1. Notify stakeholders and the public about the LAP.	Send electronic and hard copies of the Plan to stakeholders and the public. Also, ensure the Plan is posted on the Judicial Branch website.	Pages 1, 51.
2. Maximize relationships with community organizations serving immigrants and refugees.	Obtain information on emerging languages and immigration trends.	Pages 20, 47, 51.
3. Ensure court language assistance signage is current.	Work with the Director of Clerks of Court to provide each court location a list of current language assistance signs that must be displayed and have clerks review posted language and access notices during administrative week to make sure they are current and readable.	Pages 22, 38.
4. Keep rosters current.	Maintain a roster of qualified interpreters available to work in the Maine state courts.	Pages 20, 26.
5. Determine language trends and language access needs in the Maine state courts.	A. Assess financial reports relating to specific expenditures for language services.	Page 19.
	B. Monitor clerk requests for specific language assistance.	Page 20.





<b>Communication Access Specialist</b>		
<b>Goal:</b>	<b>Task(s):</b>	<b>Page(s) in Plan:</b>
6. Implement a system of LEP coordinators in courts where there is a need for such a role.	A. Identify courts where there is a high frequency of spoken language access needs and identify a LEP coordinator.	Page 22.
	B. Develop a set of expectations for the LEP coordinator(s).	Page 25.
7. Visit each clerks' office biennially.	Train clerks on how to schedule interpreters and use Language Line; check and update court access signage.	Page 49.
8. Help interpreters improve their interpreting skills.	Offer periodic training and educational opportunities.	Pages 24, 27, 47, 50.
9. Successfully lead and expand the VRI projects.	Manage ASL and spoken language VRI pilot projects with proper oversight, communications, and leadership.	Pages 34, 35, 42.
10. Manage Judicial Branch translation projects, including forms affected by the new case management system.	A. Request funds through the Judicial Branch's budget request process to support translation of forms, publications, and documents, based on priority.	Page 41.
	B. Submit proposals for grant and other outside funding.	Page 41.
	C. Contract with qualified translation vendors to translate approved court forms and documents in accordance with Judicial Branch policy.	Pages 37, 38.
	D. Propose new forms for translation and submit new or updated translated forms or documents for posting on the website.	Pages 20, 36, 37.
	E. Identify and contract with qualified vendors to produce the new arraignment video in eight (8) languages.	Pages 37, 42.
11. Determine whether interpreter compensation is sufficient to recruit and retain interpreters.	Research compensation rates in similarly sized courts and share data with Office of Court Access.	Page 45.
12. Manage Assistive Listening Systems.	Receive and respond to issues with Assistive Listening Systems.	Page 31.





Communication Access Specialist		
Goal:	Task(s):	Page(s) in Plan:
13. Promote the availability of language access services in the Judicial Branch.	A. Update the language services section in the Judicial Branch website.	Page 39.
	B. Speak publicly to promote the language assistance services in the Judicial Branch.	Pages 46, 47.
14. Ensure judicial officers, clerks, and marshals have latest information on how to work with interpreters and LEP individuals.	A. Annually remind all court staff who regularly have contact with the public of their role in facilitating language services where the need is indicated.	Pages 22, 49.
	B. Develop and disseminate annual policy updates and training information to judges and court staff on best practices working with interpreters and LEP individuals.	Pages 22, 48.
15. Ensure the goals and tasks in the Plan are monitored and implemented.	Report annually to the LEP Committee and Office of Court Access on the progress of the tasks and goals of the Plan.	Page 50.
16. Recruit additional interpreters to meet emergent needs.	A. Monitor language requests from clerks and when a particular language is requested multiple times, initiate a recruitment strategy.	Page 20.
	B. Continue to work with leaders in adult education, community colleges, and new immigrant associations that provide services to LEP individuals.	Page 46.
	C. Create and distribute informational materials on the benefits of becoming a court interpreter.	Page 46.
	D. Collaborate with language services vendors to share recruitment strategies to fulfill unmet language access needs.	Pages 46, 47.
	E. Continue to reach out to LEP communities throughout Maine to identify potential interpreters.	Page 46.
17. Record complaints, questions, and concerns regarding the Plan.	Report annually to the LEP Committee and Office of Court Access on complaints, questions, and concerns regarding the tasks and goals of the Plan.	Pages 20, 51.





### The Local Trial Courts

The local trial courts are responsible for identifying LEP individuals in court proceedings and court clerks are responsible for scheduling interpreters for court events. Court clerks also collect information for payment and contact the Communication Access Specialist when assistance on language access services is needed.

Goal:	Task(s):	Page(s) in Plan:
1. Assist LEP individuals.	A. If a court user has difficulty communicating, use “I Speak” cards or other resources to inform the person of their right to an interpreter.	Pages 22, 28.
	B. Schedule interpreter services as needed.	Pages 28, 29.
2. Have a key resource in the court clerk’s office who is familiar with Judicial Branch LEP policies and procedures, especially the process to provide interpreter services to LEP individuals.	If a court has a need for an interpreter at least once per week, designate someone in the clerks’ office to be a LEP Coordinator.	Page 25.
3. Monitor assistive listening systems and devices.	Report any issues of assistive listening systems or devices not working properly to the Communication Access Specialist.	Page 31.
4. Keep court access signage up to date and readable.	Review public signage every administrative week and make sure it is up to date and readable.	Page 38.





### The Limited English Proficiency Advisory Committee

The purpose of the Limited English Proficiency Advisory Committee is to advise Judicial Branch leadership in developing and maintaining a comprehensive system for providing and improving access to Maine state courts for individuals with limited English proficiency or hearing loss.

The creation of this Standing Advisory Committee is intended to assist the Administrative Office of the Courts, judicial leadership, trial court judges, and the rest of the Judicial Branch staff with issues associated with access to the court system by LEP individuals.

Goal:	Task(s):	Page(s) in Plan:
1. Advise Judicial Branch Leadership in developing and maintaining a comprehensive system for providing and improving language access to Maine state courts.	A. Provide feedback to the Court Access Team on the needs of LEP individuals in the Maine state courts as well as solutions to address these needs.	Page 25.
	B. Help to develop new and improved language access initiatives.	Page 25.
	C. Actively participate in meetings and make language access recommendations to Judicial Branch leadership.	Page 25.
	D. Seek additional grant funds to support this effort.	Page 41.
2. Review Plan and ensure progress and momentum is maintained.	Review Plan annually and assist with the development of a new Plan every two (2) years.	Page 50.





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## Appendix C. Online References

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# Tab 8



**RHODE ISLAND JUDICIARY  
ADMINISTRATIVE OFFICE OF STATE COURTS**

**LANGUAGE ACCESS PLAN**

Effective April 1, 2014

In cooperation with the  
Rhode Island Supreme Court Language Access Committee

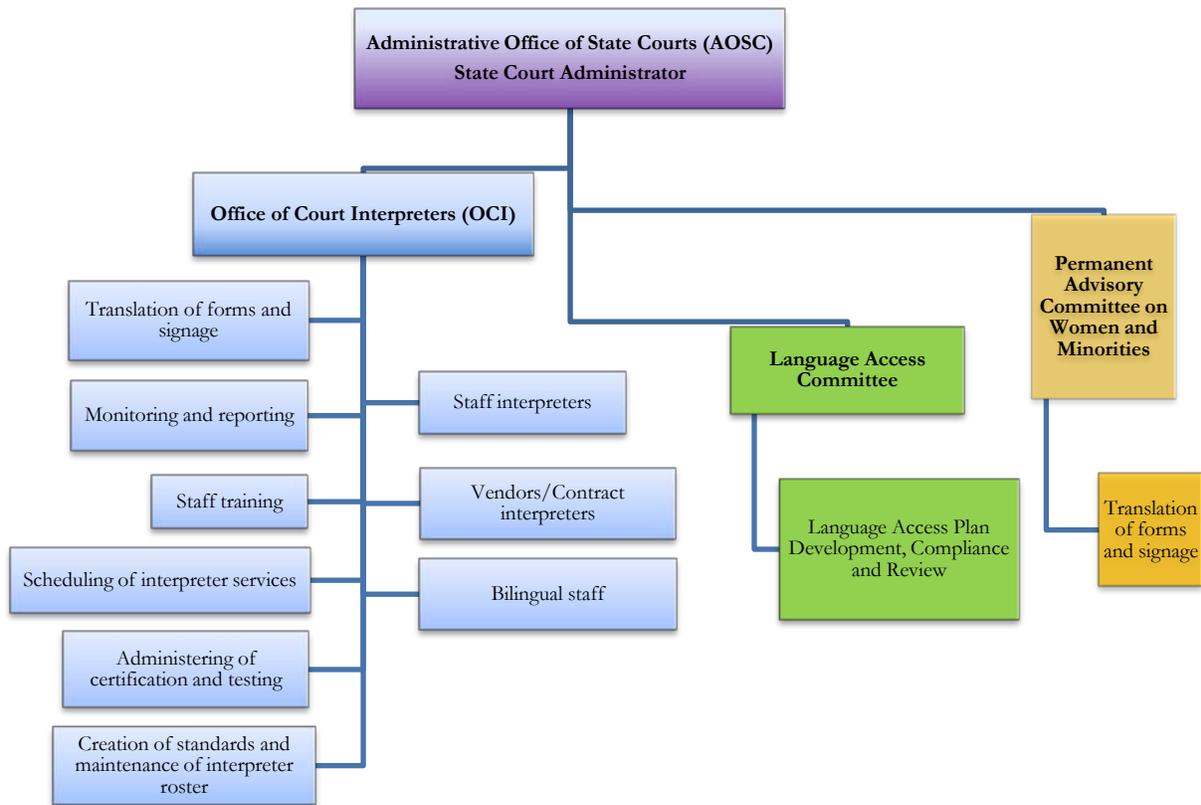
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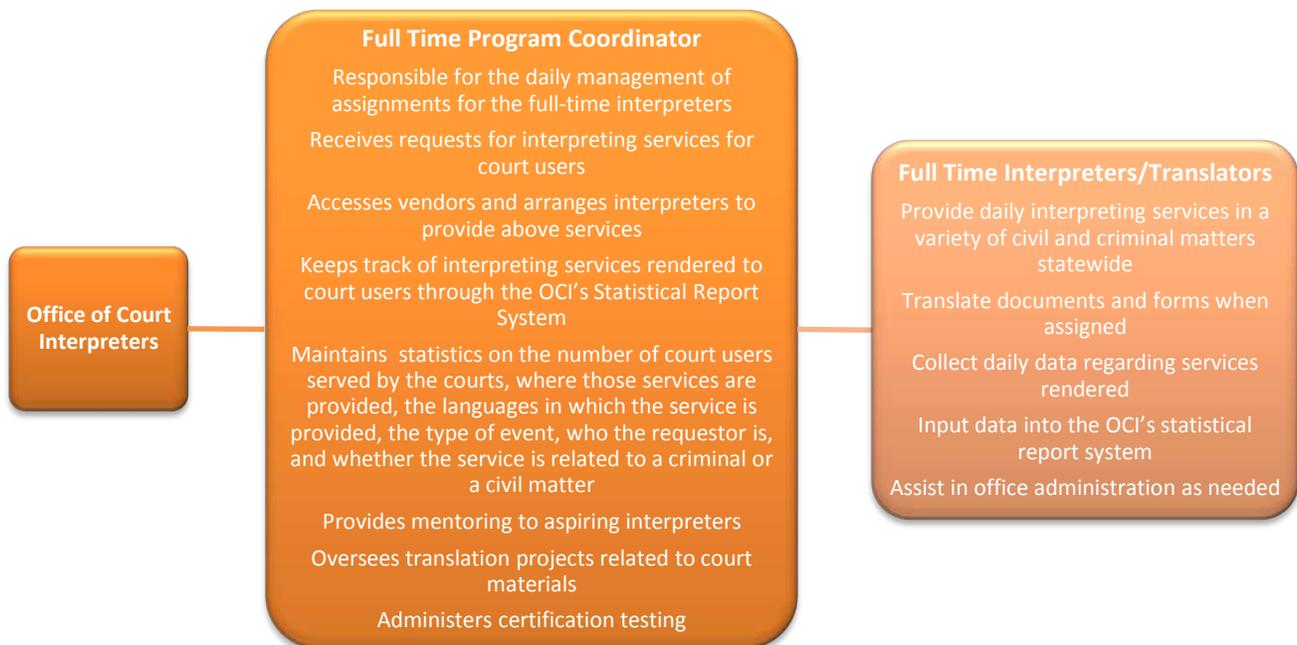
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## I. Legal Basis and Purpose

This document serves as the plan for the Rhode Island Judiciary to provide services to limited English proficient (LEP) individuals in accordance with Rhode Island Supreme Court Executive Order 2012-05 entitled “Language Services in the Courts” (copy attached as *Appendix A*) and in compliance with Title VI of the Civil Rights Act of 1964; 28 CFR § 42.101, et seq.; and Title 8, Chapter 19 of the Rhode Island General Laws. Paragraph G.1 of Executive Order 2012-5 provides that the Plan “shall set forth the management actions needed to implement this Executive Order, including the tasks to be undertaken, assignment of responsibility, deadlines and processes, and shall include provisions which require the AOSC [Administrative Office of State Courts] to make good faith efforts to expand the Courts’ capacity to generate audio recordings of interpreted proceedings, and when proceedings are recorded, to make the audio recordings of interpreted proceedings available to interested persons.” 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 Rhode Island Judiciary based on the Executive Order (EO) and the four (4) factor analysis provided in 67 FR 41455 (June 18, 2002). This Language Access Plan (LAP) does not include interpreter services for deaf and hard of hearing individuals.

The structure governing the management of language access services is as follows:





## II. Needs Assessment

### A. Needs

According to a recent statistical report compiled by the Rhode Island Judiciary Office of Court Interpreters (OCI), approximately 8,000 persons were served in 2012 and the most widely used languages for interpreters in Rhode Island courts were (in descending order of frequency):

1. Spanish
2. Portuguese
3. Cape Verdean
4. Cambodian
5. Chinese

The State of Rhode Island provides court services to a wide range of persons, including people who do not speak English or speak English with limited proficiency<sup>1</sup>. Service providers include the Rhode Island Supreme Court, Superior Court, Family Court, District Court, Workers' Compensation Court, and the Rhode Island Traffic Tribunal. The Legislature pursuant to Title 8, Chapter 19 of the Rhode Island General Laws has determined that the greatest need for interpreting services exists for criminal matters before the Superior Court, District Court, and in juvenile matters in the Family Court.

<sup>1</sup> Although the Rhode Island General Laws § 8-19-2 defines a non-English speaking person as "any person who can not readily speak or understand the English language and whose native language is either Spanish, Portuguese, Cape Verdean or Cambodian," the Rhode Island Judiciary provides languages services to all limited English proficient court users irrespective of their language.

## **B. Notice**

LEP persons receive notification of interpreter services on a daily basis through our website, and directly from court staff. Presently, when an LEP person needs interpreting services, a court staff member will promptly contact the staff interpreter directly, or will obtain a staff or contract interpreter through the OCI.

Rhode Island Supreme Court Executive Order 2012-05 requires that the OCI shall create a written notice in English, Spanish, Portuguese, and such other languages for which a significant demand exists as determined by the AOSC, stating that the court will provide a competent interpreter for any limited English proficient party or witness at no charge, explaining the procedure to request an interpreter and to request a translation of the notice into other languages. The AOSC shall provide or require the filing party to provide such notice to each defendant in a proceeding. In civil matters, the notice shall be incorporated in or attached to the initial pleading to be served upon the defendant. In criminal matters, the notice shall be incorporated in or attached to the initial charging documents provided to the defendant, in the forms completed by a bail commissioner, and/or provided by the court to the defendant at his or her initial court appearance.

The notice has been drafted by the OCI and was reviewed, modified, translated, and printed by OCI in consultation with the Language Access Committee. *See Appendix B.* Distribution of the notices has commenced in courtrooms and clerks' offices, and provided to bail commissioners. The AOSC has requested that local law enforcement and other enforcement agencies that issue summonses or violation notices heard within the Rhode Island state court system consider including information therein about the ability to obtain interpreting services for their upcoming state court hearing and has provided them with the appropriate notices in English, Spanish, Portuguese and Cambodian. The State Court Administrator, in consultation with the LAC, shall ensure that procedures are devised to distribute the notice in all proceedings upon the implementation of the e-filing system and the amendment of any applicable court rules.

At the beginning of court sessions the judicial officer or court staff, with the assistance of a bilingual staff person or interpreter where available, shall announce that a court interpreter can be provided to assist a limited English proficient party or witness. Court staff is to include information in the file for future reference regarding the language needed, the name of the person(s) needing language access services and the role of the party in the proceeding.

Information about the availability of interpreting services is displayed and distributed by the OCI in these locations in every state courthouse and the OCI contact information is included in all court building directories:

- The Judiciary's website
- The Office of Court Interpreters' webpage

- Information desks and kiosks in main lobbies
- Informational monitors in halls and lobbies (where available)
- Clerk’s Offices
- Main hallways on each floor
- Holding cells
- Bulletin boards
- Law libraries

Materials that are posted and distributed include the phrase “You have a right to an interpreter at no cost to you” in at least the four required languages: English, Spanish, Portuguese, and Cambodian.<sup>2</sup> The materials include the telephone number and email address of the Office of Court Interpreters and contact information for questions and complaints.

At all points of first contact, over one hundred twenty (120) frontline court staff members have been equipped and trained to use language identification flashcards and provide language access services to members of the public. Trainings will continue on a quarterly basis throughout each court. The OCI has explored the use of a telephone voice menu in common languages and will be translating and recording the telephone menu in Spanish starting with the Rhode Island Traffic Tribunal in Cranston.

### **C. Language Data**

In order to facilitate efficient utilization of court interpreters, the AOSC and OCI will work to enhance the court’s ability to gather language data at the earliest point of contact in all proceedings, record it, and utilize it. AOSC has engaged a contractor to implement a new case management system. The AOSC will continue to work with the contractor on system design issues and will review existing forms, rules, and procedures for improvements to facilitate the collection and modification of language data from filing parties and others and the utilization of such data to assign interpreters efficiently on an incremental basis as each court goes live. The AOSC projects that the first court will be able to “go live” by approximately July 2014.

## **III. Language Assistance Resources**

### **A. Types of Language Assistance**

There are three (3) different types of individuals available to provide language services within the Rhode Island State court system:

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<sup>2</sup> Notices are not translated into Cape Verdean because it is dialect of Portuguese and is primarily a verbal language, not a written.

### 1. Staff Interpreters

Staff interpreters are employees hired specifically to perform interpreting functions. The Rhode Island Judiciary currently employs six (6) full-time Spanish interpreters for civil and criminal matters providing services in all four counties, as well as two (2) part-time Spanish interpreters providing services at the Rhode Island Traffic Tribunal.

### 2. Bilingual Staff Members

The Executive Order defines a bilingual staff as: “[a]n employee of the Court other than an interpreter who has demonstrated proficiency in English and a second language in accordance with standards set by the AOSC and is authorized by the AOSC to engage in court operations in a language other than English.” Thus, bilingual staff members are designated employees of the Judiciary who perform various job functions, but who have also demonstrated a proficiency in a language other than English. There are currently twenty-two (22) bilingual court staff members providing information and assistance in all counties in four (4) languages including Spanish. Bilingual staff:

- a. Provide court services directly to court users in languages other than English.
- b. Only function as a court interpreter in a proceeding if separately classified as a certified or qualified interpreter.

### 3. Contract Interpreters/Vendors

There are eleven (11) listed vendors authorized by the State of Rhode Island to provide services in all languages. The OCI maintains an up-to-date roster of available certified and qualified interpreters from Rhode Island and neighboring states.

## B. Use of Language Assistance Resources

The structure of Language Assistance Resources is as follows:



## 1. Bilingual Staff and Interpreters Used in Court Operations

*Court operations* are defined by Supreme Court Executive Order 2012-05 as “[o]ffices, services and functions of the court, other than court proceedings, that may have contact with the public or any party, including:

- The Clerk’s Offices and Judicial Records Center;
- Programs or services operated, managed or contracted by the court for mandatory use by parties or the court;
- Court appointed professionals, and other individuals, employed, contracted or supervised by the court to assist the court or mandated by the court for a party in connection with a court proceeding.”

Language services will be provided in this context by an authorized bilingual staff person, or a qualified or certified interpreter if and when available.<sup>3</sup> These court staff members presently cover the following languages:

<b>Court</b>	<b>Language</b>	<b>Employees</b>
Superior Court	Portuguese	1
District Court	Spanish	8
	Cambodian	2
	Polish	1
Family Court	Spanish	5
	Portuguese	1
Workers’ Compensation Court	Spanish	1
Traffic Tribunal	Spanish	3
	Portuguese/Spanish	1

The OCI shall also be responsible for creating and applying standards for designation of bilingual staff, including training per the terms of the Executive Order, and procedures for the use of bilingual staff in court operations. The standards and procedures below have been drafted and finalized after consideration of input from the LAC.

In order to provide language assistance in court operations, a bilingual staff member must have:

- A minimum of five (5) years’ experience interpreting in legal setting or

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<sup>3</sup> Language services are not required for Supreme Court Appellate Mediation Program cases in which all parties are represented by counsel; supervised child custody visitation and attorney/client meetings (other than with court appointed counsel or a public defender) occurring off court premises; and any function operated, managed, contracted or supervised by another state department, agency or division. An off-site activity that is related to a court matter but that does not constitute a court operation will not require the provision of language services by the Rhode Island Judiciary.

- Successfully completed an assessment of oral proficiency by the OCI or an accredited program in the fields of translation and/or interpretation; and
- Completes a training session conducted by the OCI; and
- Knows and adheres to the Code of Ethics and Professional Responsibility for Court Interpreters.

## 2. Interpreters Used During Court Proceedings

The Executive Order requires the court to assign a certified or qualified interpreter in all proceedings involving an LEP party or witness. A *court proceeding* is defined by Supreme Court Executive Order 2012-05 as “[a]ny hearing, trial or other appearance before any court in this state in an action, appeal or other proceeding, including any matter conducted by a judicial officer.”<sup>4</sup>

Staff interpreters are assigned by the Coordinator (who is also an interpreter<sup>5</sup>) to each of the courthouses. At the first of each month a calendar detailing the assignment and pager numbers of the interpreters at each location is distributed by email and/or hand-delivered to each clerk and sheriff, as well as the cellblock and switchboard. Since 2005 a written protocol has been in place that was distributed to the court administrators formalizing the process for contacting an interpreter. In September 2009, a detailed memorandum was distributed to each court administrator reinforcing the protocol for requesting interpreter services.

The court will provide contracted certified interpreters for those proceedings that cannot be covered by staff interpreters. If no certified interpreter is available, the court will provide a qualified interpreter consistent with the prerequisites contained in Executive Order 2012-05 and Section C.2 below. In addition, interpreter services are provided at no cost in all court proceedings including traffic violation hearings, and to court customers seeking information or otherwise communicating with court staff and programs.

LEP persons, or their representatives, are requested to contact the OCI, preferably 48 hours in advance of the court matter, in order to notify the OCI that an interpreter will be needed. In the event that an LEP person is unable to contact the OCI in advance, courtroom staff has been instructed via a written protocol regarding the process of obtaining interpreter services through the OCI.

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<sup>4</sup> Rhode Island law is more limited and provides that it is “the policy of the state of Rhode Island to guarantee the rights of persons who, because of a non-English speaking background, are unable to readily understand or communicate in the English language, and who consequently need the assistance of an interpreter be fully protected in legal proceedings in criminal matters before the Rhode Island superior court, the Rhode Island district court, and in juvenile matters in the Rhode Island family court.”

<sup>5</sup> The Coordinator’s position requires a minimum of five (5) years’ experience or an equivalent combination of education and experience.

a. Determining the Need for an Interpreter in the Courtroom

There are various ways that the courts will determine whether an LEP person needs an interpreter for a court hearing. First, the court has devised procedures to require that persons filing civil or criminal matters notify the court of language needs at that time and to require that notice of the availability of language services is provided to all responding parties and those appearing in court offices. The OCI has created a standardized reporting system that requires court staff to record or report data on the language needs of the persons they encounter.

In the remaining cases, the LEP person may request an interpreter by contacting the OCI in person, via email, or by telephone, by informing court staff upon arrival, or by informing his or her counsel.<sup>6</sup>

Additionally, court personnel and judges may determine that an interpreter is appropriate for a court hearing. Many persons who need an interpreter may not request one in advance 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. Therefore, at the commencement of the daily court session, court staff shall make an announcement that arrangements can be made to obtain an interpreter for an LEP party or witness, or when it appears that an individual has difficulty communicating, the court clerk or judge should make arrangements to have an interpreter present to ensure full access to the courts. The judge may conduct a *voir dire* to determine the need for a foreign language interpreter. See *Appendix C*. Court staff shall contact the OCI as soon as practicable to arrange to have an interpreter present and should stop the proceedings until interpreting services are provided.

Lastly, outside agencies such as the Department of Attorney General, attorneys, probation and parole, the arresting law enforcement agency, the correctional facilities, or the municipal or probate upon appeal should also notify the state court, in advance if possible, about an LEP individual's need for an interpreter at an upcoming court hearing. As mentioned in Part II, Section C above, the AOSC will seek to devise procedures to gather language data when criminal charges are initially filed with the court.

### **C. Court Interpreter Qualifications**

The Rhode Island Judiciary utilizes two tiers of interpreters authorized to interpret in the courtroom: certified and qualified.

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<sup>6</sup> The Rhode Island Judiciary has also recently created a separate webpage on its website specifically relating to Interpreter services. This website has been translated into Spanish, Portuguese and Russian. In addition, a brochure entitled "Your Day in Court" in English, Spanish, Portuguese, Cambodian and Russian contains directions on how to obtain a court interpreter for an upcoming court date. These brochures are available online and in person at each of our courthouses.

## 1. Certified Interpreter<sup>7</sup>

Pursuant to Executive Order 2012-05 and Rhode Island General Laws Title 8, Chapter 19, when a non-English speaking person is a party to a defined legal proceeding, a certified interpreter must be appointed to assist such person during the legal proceeding if one is available.

Supreme Court Executive Order 2009-05, dated May 5, 2009 establishes the standard for certification as a passing score on both the written and oral portions of one of the following standardized tests: the National Association of Judiciary Interpreters and Translators (NAJIT) exam (Spanish only); the Federal Court Interpreter Certification exam (Spanish only); or the National Center for State Court Consortium for State Court Interpreters full exam<sup>8</sup> (currently Cantonese, French, Haitian Creole, Hmong, Ilocano, Korean, Laotian, Mandarin, Polish, Portuguese, Russian, Somali, Spanish, and Vietnamese languages) as well as any other future languages available for full examination offered by the National Center for State Courts Consortium for State Court Interpreters. Certified court interpreters must also adhere to the code of professional ethics and responsibility for court interpreters.<sup>9</sup>

Certified interpreters undergo a rigorous testing process and meet other conditions required by the certifying state, and as such are presumed to meet the minimum standards needed to interpret in court. The OCI has established certification procedures and continuing educational requirements for certified interpreters which are summarized below. In addition, the OCI is offering the National Center for State Courts (NCSC) interpreter certification exam periodically. The Supreme Court Finance Office shall be responsible for establishing a process for the collection of interpreter certification examination and training fees. The Office of Court Interpreters shall be responsible for collecting and transmitting to the Supreme Court Finance Office all of the funds received by it pursuant to these rules, which shall be maintained and used exclusively for interpreter certification and qualification purposes.

## 2. Qualified Interpreter

The appointing authority may appoint a qualified interpreter in place of a certified interpreter if a certified interpreter is unavailable after a good faith effort to locate one, and the proposed qualified interpreter has adequate training, experience, and skills to perform her/his duties as interpreter. Pursuant to Rhode Island Supreme Court Executive Order

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<sup>7</sup> A “certified interpreter” is one “who is able to interpret simultaneously and consecutively and sight translate from English to the language of the person needing an interpreter, and from said language to English, and who has been certified...” R.I.G.L. § 8-19-2.

<sup>8</sup> This program has been renamed the “Language Access Services Section” and now includes Tagalog.

<sup>9</sup> The Rhode Island Interpreters’ Code of Ethics and Professional Responsibility is available in print format at the OCI and on the OCI webpage.

2012-05, the OCI shall assign a certified interpreter to each court proceeding for which an interpreter appointment may be required. If a certified interpreter is not available, the Office of Court Interpreters shall assign a qualified interpreter; and report to the judicial officer the efforts made to obtain a certified interpreter. In addition, the judicial officer is required to make findings to comply with the requirements of Rhode Island Supreme Court Executive Order 2012-05 paragraph C(4)(b) before using a qualified interpreter as well as those in § 8-19-3 in the relevant cases.

A qualified interpreter is defined by Executive Order 2012-05 as “an interpreter other than a certified interpreter who appears on the roster of qualified interpreters maintained by the AOSC and administered by the Office of Court Interpreters, or is found by the judicial officer on the record to have met the requirements of §8-19-3(b)(2) and (c) of the Rhode Island General Laws and the requirements set by the AOSC....”<sup>10</sup>: Specifically, a qualified interpreter:

- Has passed the written portion of an exam offered by any of the recognized certifying entities as set forth in Rhode Island Supreme Court Executive Order 2009-05,
- Completes an assessment of oral proficiency by the OCI including but not limited to consideration of a non-passing score for the oral examination, or where no examination is available;
- Completes a training session conducted by the OCI; and
- Knows and adheres to the Code of Ethics and Professional Responsibility for Court Interpreters.

The Rhode Island Judiciary through the Office of Court Interpreters currently employs six (6) full-time staff members, as well as two (2) part-time staff members who are either certified or qualified and who interpret predominantly in court settings, as well as provide supplemental interpreter services for other professionals in the courts on a daily basis. Staff interpreters are required to have a Bachelor’s degree from an accredited college or university, plus a minimum of three (3) years’ experience in Spanish/English interpretation and translation, successful completion of a recognized bilingual judicial and translating program, or an equivalent combination of education and experience. In addition, staff interpreters are bound by the State Code of Ethics, the Judiciary’s twelve (12) point Code of Ethics, the Code of Ethics and Professional Responsibility for Court Interpreters in the Rhode Island Judiciary (adopted August 2009), and are required to take an oath to interpret accurately, faithfully, and impartially.

#### **D. Procedures for certified and qualified interpreters.**

##### **1. Staff court interpreters**

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<sup>10</sup> Rhode Island General Laws §8-19-2 defines a “qualified interpreter” as “a person who through experience and training is able to interpret a particular foreign language into English but who does not have a state certification.”

Staff court interpreters are required to agree to abide by:

- The Code of Ethics and Professional Responsibility for Court Interpreters;
- The Office of Court Interpreters (OCI) handbook; and
- Rhode Island Judiciary Personnel Rules and Regulations and Employee Handbook

2. Vendor/contract interpreters

Before being placed on the roster of court interpreters who are permitted to interpret in court proceedings and court operations within the Rhode Island Judiciary, each interpreter shall agree to abide by:

- The Code of Ethics and Professional Responsibility for Court Interpreters; and
- The Office of Court Interpreters (OCI) handbook

3. Recognition and recertification procedures

a. Certification by the National Association of Judiciary Interpreters and Translators (NAJIT), the National Center for State Courts, and the Federal Court Interpreter Certification Exam shall be valid in Rhode Island regardless of the issuing state or the state in which the interpreter obtained her/his certification so long as the passing scores in the test state comply with Rhode Island requirements.

b. Interpreters who have attained Rhode Island state certification will not be required to apply for recertification unless appropriate following disciplinary action pursuant to section D.5.

4. Continuing education requirements

a. Continuing education is required to ensure that certified and qualified interpreters who serve in the Rhode Island state court system maintain and improve their interpreting skills and expand their vocabulary and legal knowledge. Continuing education ensures that all interpreters are in compliance with the Rhode Island Code of Ethics and Professional Standards for Court Interpreters.

b. Continuing education credit hours shall be earned in participatory activities closely related to the fields of interpreting or translating or language acquisition, development or improvement, such as a formal educational course, conference, workshop, lecture, webinar, on-line course, and may include courses offered at accredited institutions of higher learning. Continuing education credits may also be obtained through programs, conferences, and workshops offered by the American Bar Association (ABA), the International Medical Interpreters Association (IMIA), the New England Translator's Association (NETA), the American Translators' Association (ATA), the National Association of Judiciary

Interpreters and Translators (NAJIT), and other professional organizations, along with other educational or training programs such as those offered by other states who are members of the National Center for State Courts (NCSC). All credits are subject to approval by OCI.

- c. Staff and contract interpreters shall accrue a minimum of six (6) credit hours per year.
  1. Staff certified and qualified interpreters shall document completion of continuing education activities and forward proof to the OCI by the end of each calendar year in order to receive continuing education credits.
  2. Vendors/contract interpreters shall be required to submit to the OCI, no later than January 31 of each calendar year, documentation containing the names of their contract interpreters assigned to the Judiciary during the previous calendar year who have complied with the minimum annual six (6) hour-credit continuing education requirement.
  3. Bilingual staff shall complete training offered by the OCI once every other year or obtain the equivalent of 6 hours of continuing education activities during a twenty four (24) month time period.
  5. Suspension and disqualification of interpreters or bilingual staff.

An interpreter or bilingual staff member may be prohibited from engaging in the provision of language services as a result of noncompliance with the Code of Ethics and Professional Responsibility for Court Interpreters, the Office of Court Interpreters Handbook, and/or any violation of the interpreter's oath, failure to adequately perform interpreting/language assistance duties, failure to complete the required CLE minimum credit hours, or any other conduct that impairs the provision of effective language services within the state court system. Sanctions may include reassignment, restricted assignments, suspension, or disqualification from the roster of authorized interpreters, in accordance with the Rhode Island Judiciary's Personnel Rules and Regulations, the employee's Collective Bargaining Agreement (if applicable) and the Rhode Island Judiciary's Purchasing Rules and Regulations and General Terms and Conditions of Purchase.

In the case of a formal written complaint involving an interpreter, a copy of the complaint will be forwarded to the administrator of the Court where the alleged incident occurred, and to the State Court Administrator or his or her designee. The OCI will have an opportunity to provide further information and the complaint will be reviewed and responded to by the State Court Administrator, or his or her designee, within thirty (30) days of receipt. In the case of a complaint against the Coordinator of the Office of Court Interpreters the complaint will be handled by the State Court Administrator for the Supreme Court or his or her designee.

## **E. Exigent Circumstances**

In exigent circumstances when a needed language is rare, or the availability of testing or predetermined standards have not been met, the Courts may also be required to determine by other means whether the proposed interpreter is qualified to participate adequately in a court proceeding. In such cases, the judge may conduct a *voir dire* of the proposed interpreter. *See Appendix C.* For rare languages, the only interpreter available in person might be someone with no interpreter credentials and limited experience. Therefore, the need for the judge's inquiry is increased as is consideration of the requirements of the Executive Order, paragraph C.4.b.

In the event that a certified or qualified interpreter is unavailable, LEP persons can also utilize any bilingual court staff members (currently 22) who are able to help secure an interpreter. Bilingual staff members are not authorized to interpret in a proceeding unless they are certified or qualified, so their role is limited to assisting the court and party in obtaining an interpreter.

The AOSC in conjunction with OCI will, by December 31 of each calendar year, recommend such changes to court rules and Executive Orders, if any, as will support the proper utilization of appropriately skilled court interpreters in proceedings and court operations.

## **F. Training**

With the assistance of each Court's Administrator, the OCI is providing ongoing specialized training sessions and workshops for judges and staff. These workshops will focus on the specific interactions each court has with LEP persons, the requirements of the Executive Order, and procedures. Training will offer methods for needs assessment, efficient interaction, and ways to maximize mutual communication, as well as practical knowledge on how to work efficiently with an interpreter. As part of the implementation of training, the OCI has developed a bench card for the use of judges and clerks as a quick reference guide. The OCI shall also establish an annual training schedule for court staff.

The OCI has identified several annually occurring dates on which judges are available, in order to conduct training sessions about the contents of the Executive Order, procedures for procuring an interpreter, and how to interact with interpreters effectively, but the sessions are limited (i.e. Law Days, Judges' conference days). The OCI will work with the Administrators of each court to find a training schedule tailored to each court's needs and availability.

By January 31, 2014, OCI shall complete a draft handbook for use by court interpreters. After considering input from the LAC, the handbook will be completed by March 31, 2014.

## **G. Remote Technology Standards**

High quality remote interpreting technology can allow the court to increase the quality, availability, and efficiency of court interpreters while controlling costs and delay. The OCI has established standards in its remote interpreting user guide for judges and staff for the use of the existing telephone interpreting system where appropriate, and will institute training periodically.

## **H. Interpreted Proceedings**

The AOSC is exploring the incremental implementation of digitally recorded proceedings in various courtrooms located throughout the state for interpreted proceedings, and will make an assessment of need and practicality in light of budgetary constraints, and will review existing policy and procedures regarding the use of audio recordings. The AOSC will draft appropriate modifications and additions as needed to cover storage, retrieval, transcription and translation, and fees for audio recordings. The AOSC will finalize any potential policy and procedure changes by June 30, 2014, and will continue to assess the need for and practicality of expansion of the court's capacity to record interpreted proceedings annually.

## **I. Translated Forms and Documents**

The Rhode Island Judiciary understands the importance of accurately translating forms and documents so that LEP individuals from groups who have demonstrated the highest need as revealed by data collected by the OCI and based on changing demographics, have greater access to the courts' services. The Rhode Island Judiciary's website contains a webpage dedicated to informing the public about Interpreter Services. The webpage is available in English, Spanish, Portuguese, and Russian, and will be updated with information in other languages based on an evaluation of need. In addition, numerous court forms have been translated into Spanish. *See Appendix D.*

A comprehensive listing of these forms is available on the website in addition to a language identification flashcard, the certification process, frequently asked questions, and answers, the Interpreters' Code of Ethics and contact information. The Forms Subcommittee of the Supreme Court Permanent Advisory Committee on Women and Minorities in the Courts will be responsible for the continued translation of forms and signs in the remaining languages. Judiciary staff and members of both the aforementioned Committee and Subcommittee will continue to work with community representatives to identify forms, signs, and brochures needing translation.

The OCI has produced and posted multilingual signs in each courthouse making individuals aware of available interpreter services and will maintain the signs on an as needed basis. All courthouses shall display information in the most common languages on how to

access interpreting services. Any electronic signage currently used in any court facilities will also be updated to include languages other than English. These signs will be translated as necessary based on continuing assessments of need and changes in demographics.

The State Court Administrator has developed a notice and complaint form for any alleged violations of Executive Order 2012-05 and has established a process to respond to such complaints as required by Paragraph I of that Order. The complaint form has been translated into Spanish and Portuguese, and will be translated into other languages on the basis of need. The AOSC has distributed the complaint form and made it available on the court's website, in court clerk's offices, at the OCI, and other suitable locations. *See Appendix E.*

The OCI will include in each of the monitoring reports required by Executive Order 2012-05, paragraph H, a report on the number and nature of complaints received and the disposition of each of the complaints. At least annually, AOSC will consider the need for revisions to policy, procedures, or this plan to respond to needs identified through the complaint process or otherwise.

#### **IV. Outreach and Publication**

The Rhode Island Judiciary is committed to providing outreach opportunities to notify LEP persons about the services available, as well as maintaining high standards of training throughout the judicial process to better identify and communicate with LEP persons despite language barriers. The Judiciary will continue to use both mainstream and foreign-language radio, newspapers, and television, as well as appearances at conferences, professional meetings, and community events to inform the public of the availability of interpreter services in the courts.

The Supreme Court Permanent Advisory Committee on Women and Minorities in the Courts has been established in order to foster the Court's relationship with the LEP community and to provide leadership on new initiatives in the courts to address the needs of LEP and minority citizens. In addition, the Rhode Island Language Access Committee will continue to provide input to the implementation process as provided by the EO and to assess the qualifications and resources of interpreter services to comply with the dictates of Title 8, Chapter 19 and the Executive Order.

In addition, the Rhode Island Judiciary has sponsored a number of diversity awareness seminars for front line employees and supervisors in the field of diversity awareness training. To date, approximately 400 court employees have participated in these seminars. Judges also participate in program discussions at various Rhode Island Judiciary Judicial Conferences to address the future of interpreting services, as well as the effects of race and culture in the court system. The Rhode Island Judiciary will continue its commitment to education by offering training to court staff and periodic updates of written instructions on available interpreter services.

On an ongoing basis, judges appear on local Spanish language radio to do a call-in informational show where the Spanish community is invited to ask questions about the Judiciary. Presently, twenty-three (23) judges from each of the courts have appeared at least once on the program. Training in conversational Spanish has also been offered by the Judiciary in order to provide employees with a basic knowledge of Spanish words and phrases. New attorneys are provided an orientation to interpreter use at their mandatory *Introduction to Practice* course conducted twice per year. Additionally, OCI staff members have conducted several presentations at the Rhode Island Bar Association which is widely attended by attorneys, judges, and some court staff members, as well as at several community organizations including *Fuerza Laboral* and Dorcas International Institute of Rhode Island. Workshops included information regarding language services offered by the Rhode Island Judiciary, and the distribution of foreign language materials.

The Rhode Island Judicial Technology Center, in conjunction with the OCI has established and implemented a statistical reporting system in our central case management system. The system enables the OCI to track information on cases where language services were provided either by a staff interpreter, a contract interpreter obtained through a vendor, or a bilingual staff member, and which includes the numbers of times an interpreter has been utilized, when a certified, qualified, or contract interpreter is used, the language requested, as well as other information.

## **V. Approval and Evaluation of LAP Plan**

On an annual basis the OCI in conjunction with the Administrative Office of State Courts, will review the effectiveness of the LAP, and evaluate potential changes to improve this Plan and its policies and procedures. This assessment may be done by tracking the number of interpreters requested by language in the courts, assessing changes in the population of LEP persons, the frequency of encounters with LEP groups, and the availability of resources including technological advances and otherwise. The evaluation may include identification of areas of improvement and development of any corrective action including the number of persons requesting services, the assessment of both written and verbal language needs, the review of whether staff members adequately understand and implement LEP policies and procedures, and the collection of feedback from court users, staff, and LEP communities and groups in the State of Rhode Island.

The Judiciary is committed to increasing language access to all LEP persons and will continue to request funding for new interpreters and other related expenses as appropriate in the Judiciary's budget each fiscal year.

The Rhode Island Judiciary's LAP has been approved by the Administrative Office of State Courts in consultation with the Supreme Court Committee on Language Access and the OCI. Any revisions to the plan will be submitted to the AOSC for approval, and then

communicated to court staff. Copies of the LAP will be provided upon request and posted on the Judiciary's website [www.courts.ri.gov](http://www.courts.ri.gov).

**Interpreters contact person:**

Susana E. Torres, Coordinator  
Office of Court Interpreters  
Rhode Island Supreme Court  
250 Benefit Street  
Providence, Rhode Island 02903  
Telephone (401) 222-8710  
[storres@courts.ri.gov](mailto:storres@courts.ri.gov)



\_\_\_\_\_  
J. Joseph Baxter  
State Court Administrator

Date: 3-28-14

The effective date of this Language Access Plan is April 1, 2014.

**EXECUTIVE ORDER**  
**(Language Services in the Courts)**

Pursuant to the authority granted to the Chief Justice of the Rhode Island Supreme Court by § 8-15-2 of the Rhode Island General Laws (1997 Reenactment), it is hereby ordered as follows:

In an effort to promote the accuracy and integrity of judicial proceedings and to preserve fundamental principles of fairness and access to justice, the Rhode Island unified judicial system is committed to continuing to provide language access services to limited English proficient (LEP) persons who come in contact with the Rhode Island state court system. LEP persons should have meaningful access to the courts in a language that they are able to understand, and in which they are able to be understood by the Court. This Executive Order governs the appointment and use of oral interpreters and bilingual staff in court proceedings and operations conducted by the Rhode Island Judiciary and shall be applicable as described herein.

**A. Definitions**

1. *Authorized interpreter.* A certified interpreter, and a qualified interpreter, person or entity authorized by the Administrative Office of State Courts (AOSC) to interpret in specified court operations.
2. *Bilingual staff.* An employee of the Court other than an interpreter who has demonstrated proficiency in English and a second language in accordance with standards set by the AOSC and is authorized by the AOSC to engage in court operations in a language other than English.
3. *Certified interpreter.* An interpreter who appears on the roster maintained by the Office of Court Interpreters (OCI) as certified in accordance with the standards set forth in Executive Order No. 2009-05, and in compliance with the requirements of the AOSC.
4. *Court operation.* Offices, services and functions of the court, other than court proceedings, that may have contact with the public or any party, including:
  - a. The Clerk's Offices and Judicial Records Center;
  - b. Programs or services operated, managed or contracted by the court for mandatory use by parties or the court;
  - c. Court appointed professionals, and other individuals, employed, contracted or supervised by the court to assist the court or mandated by the court for a party in connection with a court proceeding;
5. *Court proceeding.* Any hearing, trial or other appearance before any court in this state in an action, appeal or other proceeding, including any matter conducted by a judicial officer.
6. *Filing party.*
  - a. The plaintiff or petitioner in a civil action.
  - b. The Attorney General or police department submitting an arrest warrant, information or indictment in a criminal case.

7. *Interpret.* The oral rendering of spoken communication from one language to another without change in meaning.
8. *Judicial officer.*
  - a. A justice, judge or magistrate of the court who presides over a court proceeding; or
  - b. Any other person presiding over a court proceeding, including an arbitrator, master, hearing officer, review officer or other like officer of the court.
9. *Language services.* Court services provided by an interpreter, bilingual staff, or by means of translation.
10. *Limited English proficient.* With respect to persons whose primary language is not English, and who are not Deaf or hard of hearing, the inability to adequately understand or communicate effectively in English in a court proceeding or contact with a court operation.
11. *Party.*
  - a. In a civil action, a plaintiff, defendant (or petitioner and respondent), including a person who brings or defends an action on behalf of a minor or incompetent, the parent or legal guardian of a minor party, and a legal guardian of a plaintiff or defendant;
  - b. In a criminal case, the defendant, the alleged victim, and the parent or guardian of a minor alleged victim or of a juvenile in a juvenile proceeding.
12. *Qualified interpreter.* An interpreter other than a certified interpreter who appears on the roster of qualified interpreters maintained by the AOSC and administered by the Office of Court Interpreters; or is found by the judicial officer on the record to have met the requirements of § 8-19-3(b)(2) and (c) of the Rhode Island General Laws (1997 Reenactment) and the requirements set by the AOSC in the Judiciary's Language Access Plan.
13. *Remote interpreting.* A process utilizing remote technology by which an interpreter assists in a court proceeding or operation without being physically present.
14. *Remote technology.* A system comprised of various equipment, software, and audio and visual communication linkage components to facilitate remote interpreting.
15. *Translation.* The rendering of a writing from one language to another without change in meaning.
16. *Witness.* A person who testifies in a proceeding.

## **B. General Rules**

1. The judicial officer in any court proceeding shall appoint an interpreter for a limited English proficient person upon request of a party or whenever a party or testifying witness in the proceeding is limited English proficient, subject to the provisions of Section C(4) below.
2. Court staff members shall upon request or in any oral communication between a court staff member and a limited English proficient person provide service through bilingual staff or contact the Office of Court Interpreters to obtain the assistance of an authorized interpreter.
3. The judicial officer in any court proceeding may appoint an interpreter for a non-party individual with a "significant interest" based on an evaluation of the following four factors:
  - a. The relationship of the individual to the matter;

- b. the seriousness of the matter;
  - c. the impact of the outcome on the individual;
  - d. and whether interpretation is already being provided to another party in the proceeding and could be easily transmitted with the use of available technology.
4. The Court should provide the most competent interpreter services in a manner that is best suited to the nature of the proceeding.

**C. Procedure – Proceedings**

1. Notice to court.
  - a. As shall be set forth in the Judiciary’s Language Access Plan, the Office of Court Interpreters shall establish procedures to gather available information from all filing parties as to the identity of any limited English proficient party or witness and the primary language of such persons at the time of the initial filing.
  - b. Any party to a pending proceeding may at any time provide or amend available information to the Office of Court Interpreters (OCI) as to the identity of any limited English proficient party or witness and the primary language of such persons.
  - c. Any court employee who becomes aware that a party or witness in a pending proceeding is limited English proficient shall inform the Office of Court Interpreters.
2. Notice to parties.
  - a. As shall be established in the Judiciary’s Language Access Plan, the OCI shall create a written notice in English, Spanish, Portuguese, and such other languages for which a significant demand exists as determined by the AOSC, stating that the court will provide a competent interpreter for any limited English proficient party or witness at no charge, explaining the procedure to request an interpreter and to request a translation of the notice into other languages. The AOSC shall provide or require the filing party to provide such notice to each defendant in a proceeding.
    - (1) In civil matters, the notice shall be incorporated in or attached to the initial pleading to be served upon the defendant.
    - (2) In criminal matters, the notice shall be incorporated in or attached to the initial charging documents provided to the defendant, or provided by the court to the defendant at his or her initial court appearance.
  - b. At any proceeding for which an interpreter has not been assigned or appointed, the judicial officer or court staff shall inform the parties to a case that may involve a limited English proficient party or witness of the availability of a court interpreter.
3. The Office of Court Interpreters shall assign a certified interpreter to each court proceeding for which an interpreter appointment may be required under Section B(1) provided that if a certified interpreter is not available, the Office of Court Interpreters shall:
  - a. Assign a qualified interpreter; and
  - b. Report to the judicial officer the efforts made to obtain a certified interpreter in the event a qualified staff interpreter is not available.
4. Appointment of interpreter.
  - a. A judicial officer shall appoint a certified interpreter for a person who is limited English proficient when required by Section B(1); provided, however, that:
  - b. A judicial officer may appoint a qualified interpreter if the officer finds:

- (1) In any civil or criminal proceeding that a certified interpreter is unavailable and the abilities of an available qualified interpreter meet the requirements set forth in § 8-19-3(b)(1) and (2) of the Rhode Island General Laws (1997 Reenactment); and
  - (2) In a civil proceeding after consideration of the nature and duration of the proceeding, the potential cost and delay to appoint a certified interpreter, and the abilities of the available qualified interpreter, that use of a qualified interpreter is in the interests of justice; or
  - (3) In a criminal proceeding, that the nature and duration of the proceeding permit the use of a qualified interpreter pursuant to § 8-19-3(b)(3) of the Rhode Island General Laws (1997 Reenactment).
- c. A judicial officer may appoint more than one interpreter after consideration of the nature and duration of the proceeding; the number of parties in interest and witnesses requiring an interpreter; the primary languages of those persons; and the quality of the remote technology that may be utilized.
5. Oath. The judicial officer or court clerk shall administer an oath or affirmation to a non-staff court interpreter in the proceeding as set forth in the Judiciary's Language Access Plan.
  6. Remote Technology.
    - a. A judicial officer may allow an interpreter appointed pursuant to this section to interpret remotely only if remote technology is available and:
    - b. The proceeding is conducted such that:
      - (1) The officer, a party in interest or attorney is also appearing remotely in addition to the interpreter;
      - (2) The interpreter, if practicable, is in the same location as the limited English proficient party in interest or witness; or
      - (3) The proceeding is non-evidentiary, less than thirty minutes in duration, and does not utilize more than one interpreter; and
    - c. The remote technology meets the standards set by the AOSC and allows the officer, parties, attorneys and witnesses to hear each other and the interpreter clearly.
  7. The judicial officer shall dismiss an interpreter and appoint a replacement if the interpreter:
    - a. Is unable effectively to communicate with the judicial officer, the parties, or a limited English proficient person, including cases in which the interpreter self-reports such inability;
    - b. Has a conflict of interest due to a relationship with a person involved in the proceeding or an interest in the outcome; or
    - c. Is acting in violation of the Code of Ethics and Professional Responsibility for Court Interpreters in the Rhode Island Judiciary, the Rhode Island Code of Ethics, or the Judiciary's Code of Ethics.

The judicial officer shall notify the Office of Court Interpreters of the dismissal of any interpreter and the grounds therefor.
  8. Audio Recording.
    - a. The court shall create an audio recording of any interpreted proceeding in a courtroom with audio recording equipment that shall include anything said by a limited English proficient witness or party while testifying or responding to a

colloquy, together with the rendition of the interpreter during those portions of the proceeding. The court shall maintain such recordings in accordance with the requirements applicable to other records of proceedings.

- b. Transcriptions of such proceedings shall be made available at a rate established by the Office of Court Interpreters.
9. Absent a finding of good cause, nothing herein shall be construed to prevent a party from procuring the assistance of an interpreter in addition to one appointed by the judicial officer to assist that party or to monitor the performance of the appointed interpreter.

#### **D. Language Services in Court Operations.**

1. A court entity, employee or judicial officer that appoints, contracts, or authorizes non-court entities and persons not employed by the court to engage in court operations as set forth in Section A(4), shall ensure that language services are provided to limited English proficient persons at no charge utilizing standards equivalent to those defined in the Judiciary's Language Access Plan for other court operations.
2. As set forth in the Judiciary's Language Access Plan, the AOSC may establish and utilize tiered standards for bilingual staff or authorized interpreters that take into account the nature and purpose of communications engaged in by different operations or job positions.
3. Nothing in this Order is intended to require language services for:
  - a. Supreme Court Appellate Mediation Program cases in which all parties are represented by counsel; and
  - b. Supervised child custody visitations not occurring on court premises;
  - c. Any function operated, managed, contracted or supervised by another state department, agency or division.

#### **E. Interpreter costs**

1. The AOSC shall be responsible for paying the reasonable fees of court interpreters, other than court employees, for an interpreter assigned to or appointed in a proceeding or for interpreting work ordered or directed by the Court in a court operation.
2. The court shall not charge, assess, or obtain reimbursement for interpreter costs or fees from any party to a proceeding in which an interpreter is utilized or from any person utilizing the assistance of an interpreter in a court operation.

#### **F. Privilege**

It is the intent of this Executive Order that:

1. No communication deemed privileged under applicable law shall be rendered unprivileged on account of an interpreter's presence provided that the interpreter is engaged in interpreting authorized by this Order; and
2. No interpreter shall be permitted or compelled to testify in any proceeding as to statements made or interpreted during a communication privileged under applicable law.

## **G. Implementation**

### **1. Language Access Plan**

The AOSC shall establish and implement a Language Access Plan (LAP) by December 31, 2012 which shall set forth the management actions needed to implement this Executive Order, including the tasks to be undertaken, assignment of responsibility, deadlines and processes, and shall include provisions which require the AOSC to make good faith efforts to expand the Courts' capacity to generate audio recordings of interpreted proceedings, and when proceedings are recorded, to make the audio recordings of interpreted proceedings available to interested persons.

### **2. Language Access Stakeholders**

The Office of Court Interpreters (OCI) shall work in conjunction with any newly established language access stakeholder committees, or any such other committees as determined by the Chief Justice to implement this Executive Order by providing input to the LAP, considering the need for conforming changes to court rules, suggesting ongoing improvements to language access, assisting in outreach and training efforts, evaluating the implementation of this Executive Order and the Language Access Plan, and assisting in other activities to improve language access in the courts. Such committee(s) shall include relevant stakeholders including court staff and non-court staff persons with expertise in court language access issues, lawyers or advocates for limited English proficient clients, and at least one representative from the Attorney General's office, the Public Defender, and Rhode Island Legal Services.

## **H. Monitoring**

Within six (6) months after the effective date of this Order and annually thereafter, the Office of Court Interpreters shall submit detailed reports to the Chief Justice and the State Court Administrator, a copy of which shall be available on the Judiciary's website, documenting the efforts made to comply with this Executive Order and shall include the following categories of information:

- a. The actions the OCI has taken or intends to take to implement this Executive Order, and execute the completed LAP including any further policies or procedures drafted or issued for these purposes; and any language-related notices, forms, and signs drafted, translated, or issued;
- b. Data on services provided pursuant to this Executive Order and the LAP, by court or court program, location, language, and form and mode of language assistance, including any data indicating:
  - i. Any delays resulting from unavailable language assistance; and
  - ii. Instances in which language assistance is not provided and the reasons therefor.
- c. Data on the utilization of interpreters and bilingual staff broken down by:
  - i. Language;
  - ii. Qualification level (certified or qualified) of interpreters;
  - iii. Interpreter employment status as staff interpreter or contractor;
  - iv. Interpreters' state of residence/business;
  - v. Court or court program, including location; and
  - vi. Type of proceeding and case type.

- d. Information regarding any problems encountered in implementing this Executive Order and the LAP, including feedback gathered from the stakeholders committee, bench, bar, staff, and public; and
  - i. The process established to receive and respond to language access complaints; and
  - ii. The number, nature, and disposition of any language access complaints;
- e. The steps taken to notify the bench, bar, litigants, and public, including LEP communities, of any policies or procedures to implement this Executive Order and the LAP, and any response thereto;
- f. The trainings provided to judges, staff, and others regarding this Executive Order and any related language access matters, including the content of the trainings, training materials, dates held, trainers, and names and positions of attendees;
- g. Steps taken to recruit, train, set standards for, qualify, and certify interpreters, translators, and bilingual staff;
- h. Lists of authorized interpreters, translators, and bilingual staff specifying language, test results, and type of authorization;
- i. Lists of documents, signage, forms, web content, and audio or video content that have been or will be translated, the languages completed or intended for each, and the means by which the items will be distributed internally and made available to litigants;
- j. Figures on budget requests and spending for language services.

**I. Administrative complaints**

- 1. Any person aggrieved by an alleged violation of this Order in a court proceeding or operation may file an administrative complaint with the Office of Court Interpreters.
- 2. The State Court Administrator or his or her designee shall review and respond to an administrative complaint within thirty (30) days of its receipt.
- 3. The AOSC shall make complaint forms readily available in court houses, court offices and on the website of the Rhode Island Judiciary, and shall also provide complaint forms translated into Spanish, Portuguese, and such other languages for which a significant demand exists as determined by the AOSC. Such complaint shall include a notice that no court personnel may retaliate against any person filing a complaint or assisting in the investigation or resolution of a complaint.
- 4. Nothing herein shall be construed to:
  - a. restrict an aggrieved person from seeking to enforce this Order in a proceeding, including an appeal; or
  - b. provide any authority to alter, satisfy or vacate any judgment or order.

**J. Effective Date**

This Executive Order shall be effective on July 1, 2012 and shall be implemented in accordance with the Language Access Plan.

Entered as an Order of this Court this **13<sup>th</sup>** day of **June, 2012**.

ENTER:

By Order,

\_\_\_\_\_  
/s/  
Paul A. Suttell  
Chief Justice

\_\_\_\_\_  
/s/  
Clerk

See this notice in Cambodian, Spanish, and Portuguese on the attached pages.  
**Español:** Véase esta notificación en camboyano, español y portugués en las páginas adjuntas.  
**Português:** Leia esta notificação em cambojano, espanhol e português nas páginas em anexo.

## NOTICE



**You have a case in the Rhode Island state court system.**

**You have the right to an interpreter at no cost to you.**

Rhode Island Supreme Court Executive Order 2012-05 states that when a Limited-English Proficient (LEP) person appears in court, the Rhode Island Judiciary will provide a free authorized interpreter for the defendant, plaintiff, witness, victim, parent of a juvenile, or someone with a significant interest in the court proceeding. This interpreting service is provided at no cost to the parties and in all types of cases, both civil and criminal. Court interpreters work in all the courthouses of the Rhode Island state court system.

**To schedule an interpreter for your day in court, you have the following options:**

- 1. Call the Office of Court Interpreters at (401) 222-8710, or**
- 2. Send an email message to [interpreterfeedback@courts.ri.gov](mailto:interpreterfeedback@courts.ri.gov), or**
- 3. Visit the interpreters' office to schedule an interpreter:**

**The Office of Court Interpreters  
Licht Judicial Complex  
Fourth Floor, Room 401  
250 Benefit Street  
Providence, RI 02903**

**When requesting an interpreter, please provide the following information:**

- The name and number of your case**
- The language you are requesting**
- The date and time of your hearing**
- The location of your hearing**
- Your name and a telephone number where we can reach you or your lawyer**

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For more information in Portuguese, Russian, and Spanish, including a listing of court forms that are available in Spanish, please visit our website on the internet:

<http://www.courts.ri.gov/Interpreters/englishversion/default.aspx>.

To request a translation of this notice into any other language, please call the Office of Court Interpreters at (401) 222-8710. It would be helpful to have an English speaker with you when you call.

The Rhode Island Judiciary is committed to making the courts accessible to all.

The Office of Court Interpreters  
Licht Judicial Complex  
Fourth Floor Room 401  
250 Benefit Street  
Providence, RI 02903

See this notice in Cambodian, Spanish, and Portuguese on the attached pages.  
**Español:** Véase esta notificación en camboyano, español y portugués en las páginas adjuntas.  
**Português:** Leia esta notificação em cambojano, espanhol e português nas páginas em anexo.

## A V I S O

**Usted tiene un caso en el sistema judicial de Rhode Island.**

**Usted tiene el derecho a tener un intérprete sin costo para usted.**



La Orden Ejecutiva 2012-05 del Tribunal Supremo de Rhode Island dicta que cuando una persona que tiene un dominio limitado del inglés (LEP) comparece ante la corte, el Sistema Judicial de Rhode Island le proveerá un intérprete autorizado gratis sea el acusado/demandado, demandante, testigo, víctima, padre de un menor de edad alguien que tenga con un interés importante en el proceso de la corte. Este servicio de interpretación se le proveerá sin costo alguno a los participantes en toda clase de caso, sea civil o penal.

Los intérpretes judiciales trabajan en todos los tribunales del Sistema Judicial de Rhode Island.

**Para solicitar un intérprete para su comparecencia en el tribunal, usted tiene las siguientes opciones:**

1. **Llamar a la Oficina de Intérpretes en el tribunal al 401-222-8710 ;**
2. **Mandar un correo electrónico a [interpreterfeedback@courts.ri.gov](mailto:interpreterfeedback@courts.ri.gov); o**
3. **Presentarse a la Oficina de Intérpretes para solicitar un intérprete:**

**The Office of Court Interpreters  
Licht Judicial Complex  
Cuarto Piso, Oficina 401 A-B  
250 Benefit Street  
Providence, RI 02903**

**Al solicitar un intérprete, por favor provea la siguiente información:**

- **El nombre y el número de su caso**
- **El idioma que solicita**
- **La fecha y hora de su audiencia**
- **Dónde va a tomar lugar su audiencia**
- **Su nombre y número de teléfono por el cual nos podamos poner en contacto con usted o con su abogado.**

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Para obtener más información en portugués, ruso o español, incluyendo una lista de formularios de la corte que están disponibles en español, visite nuestra página de internet:

<http://www.courts.ri.gov/Interpreters/englishversion/default.aspx>.

Para solicitar la traducción de este aviso en cualquier otro idioma, por favor llame a la oficina de intérpretes al (401) 222-8710. Ayudaría si usted puede estar en compañía de una persona que habla inglés cuando llame.

El sistema jurídico de Rhode Island se compromete a proporcionar a todas las personas mejor acceso a los tribunales.

The Office of Court Interpreters  
Licht Judicial Complex  
Fourth Floor Room 401  
250 Benefit Street  
Providence, RI 02903

See this notice in Cambodian, Spanish, and Portuguese on the attached pages.

**Camboyano:** SAMPLE: [Véase esta notificación en camboyano, español y portugués en las páginas adjuntas.]

**Español:** Véase esta notificación en camboyano, español y portugués en las páginas adjuntas.

**Português:** Leia esta notificação em cambojano, espanhol e português nas páginas em anexo.



## NOTIFICAÇÃO

**V. Ex.<sup>a</sup> tem um processo em curso no sistema judiciário do Estado de Rhode Island,**

**V. Ex.<sup>a</sup> tem direito aos serviços gratuitos de um intérprete.**

A Ordem Executiva 2012-05 do Supremo Tribunal de Rhode Island prevê que quando uma pessoa com conhecimentos limitados da língua inglesa (*Limited-English Proficient*) (LEP) comparece em tribunal, a Administração Judiciária de Rhode Island disponibiliza-lhe gratuitamente os serviços de um intérprete autorizado a um réu, autor, testemunha, vítima, pai ou mãe de um menor ou alguém com interesse significativo no processo judicial. O serviço de intérprete é prestado gratuitamente às partes e em todos os tipos de processos, sejam eles civis ou penais. Os intérpretes do tribunal trabalham em todos os tribunais do sistema judiciário do Estado de Rhode Island.

**Para agendar os serviços de um intérprete para o seu dia no tribunal, tem as seguintes opções:**

- 1. Telefonar para o Gabinete de Intérpretes Judiciais através do n.º (401) 222-8710, ou**
- 2. Enviar uma mensagem de correio eletrónico para [interpreterfeedback@courts.ri.gov](mailto:interpreterfeedback@courts.ri.gov), ou**
- 3. Deslocar-se ao gabinete de intérpretes para agendar os serviços de um intérprete:**

**Gabinete de Intérpretes Judiciais  
Complexo Judicial Licht  
Quarto Piso, Sala 401  
250 Benefit Street  
Providence, RI 02903**

**Quando solicitar os serviços de um intérprete deve fornecer os seguintes dados:**

- O nome e número do seu processo**
- O idioma que solicita**
- A data e hora da sua audiência**
- O local da sua audiência**
- O seu nome e um número de telefone para o podermos contactar a si ou ao seu advogado**

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Para obter mais informações em português, russo e espanhol, incluindo uma lista dos formulários judiciais disponíveis em espanhol, visite o nosso website na internet: <http://www.courts.ri.gov/Interpreters/englishversion/default.aspx>.

Para solicitar uma tradução desta notificação para qualquer outro idioma, telefone para o Gabinete de Intérpretes Judiciais através do número (401) 222-8710. Recomenda-se que esteja acompanhado por alguém que fale inglês quando fizer a chamada.

A Administração Judiciária de Rhode Island está empenhada em tornar os tribunais acessíveis para todos.

**Gabinete de Intérpretes Judiciais  
Complexo Judicial Licht  
Quarto Piso, Sala 401  
250 Benefit Street  
Providence, RI 02903**

មើលសេចក្តីជូនដំណឹងនេះជាភាសាខ្មែរ អេស្បាញ និងព័រទុយហ្គាល់នៅលើទំព័រដែលបានភ្ជាប់។

**សេចក្តីជូនដំណឹង**

**លោកអ្នកមានបណ្តឹងនៅក្នុងប្រព័ន្ធតុលាការនៃរដ្ឋ Rhode Island។**

**លោកអ្នកមានសិទ្ធិស្នើសុំអ្នកបកប្រែដោយឥតគិតថ្លៃសម្រាប់ខ្លួនឯង។**



ដីកាប្រតិបត្តិរបស់តុលាការកំពូលនៃ Rhode Island (Rhode Island Supreme Court Executive Order) លេខ 2012-05 បានចែងថានៅពេលបុគ្គលដែលមានចំណេះដឹងផ្នែកភាសាអង់គ្លេសមានកំណត់ (LEP) បង្ហាញខ្លួននៅក្នុងតុលាការ តុលាការនៃ Rhode Island នឹងផ្តល់អ្នកបកប្រែដែលបានអនុញ្ញាតដោយឥតគិតថ្លៃសម្រាប់ចុងចោទ ដើមចោទ សាក្សី ជនរងគ្រោះ

មាតាបិតារបស់អនីតិជន ឬនរណាម្នាក់ដែលពាក់ព័ន្ធយ៉ាងសំខាន់នៅក្នុងដំណើរការតុលាការ។ សេវាកម្មបកប្រែនេះ ត្រូវបានផ្តល់ជូនដោយឥតគិតថ្លៃសម្រាប់គូភាគី និងនៅគ្រប់ប្រភេទនៃបណ្តឹង ទាំងរដ្ឋប្បវេណី និងព្រហ្មទណ្ឌ។ អ្នកបកប្រែក្នុងតុលាការធ្វើការនៅក្នុងគ្រប់តុលាការទាំងអស់របស់ប្រព័ន្ធតុលាការនៃរដ្ឋ Rhode Island។ ដើម្បីគ្រោងពេលវេលាអ្នកបកប្រែសម្រាប់ថ្ងៃចូលសវនាការរបស់លោកអ្នក លោកអ្នកមានជម្រើសដូចខាងក្រោម ៖

1. ទូរស័ព្ទមកកាន់ការិយាល័យអ្នកបកប្រែប្រចាំតុលាការតាមរយៈលេខ (401) 222-8710 ឬ
2. ផ្ញើអ៊ីម៉ែលទៅកាន់ [interpreterfeedback@courts.ri.gov](mailto:interpreterfeedback@courts.ri.gov) ឬ
3. ទៅកាន់ការិយាល័យអ្នកបកប្រែដើម្បីគ្រោងពេលវេលាអ្នកបកប្រែ ៖

**The Office of Court Interpreters  
Licht Judicial Complex  
Fourth Floor, Room 401  
250 Benefit Street  
Providence, RI 02903**

នៅពេលស្នើសុំអ្នកបកប្រែ សូមផ្តល់នូវព័ត៌មានដូចខាងក្រោម ៖

- ឈ្មោះ និងលេខបណ្តឹងរបស់លោកអ្នក
- ភាសាដែលលោកអ្នកស្នើសុំ
- កាលបរិច្ឆេទ និងម៉ោងសវនាការរបស់លោកអ្នក
- ទីតាំងនៃសវនាការរបស់លោកអ្នក
- ឈ្មោះ និងលេខទូរស័ព្ទលោកអ្នកដែលយើងខ្ញុំអាចទំនាក់ទំនងលោកអ្នក ឬមេធាវីលោកអ្នកបាន

សម្រាប់ព័ត៌មានបន្ថែមជាភាសាព័រទុយហ្គាល់ រូស៊ី និងអេស្បាញ រួមទាំងបញ្ជីទម្រង់បែបបទតុលាការដែលមានជាភាសាអេស្បាញនោះ សូមចូលទៅកាន់គេហទំព័រយើងខ្ញុំនៅលើគំនរដីណាត ៖

<http://www.courts.ri.gov/Interpreters/englishversion/default.aspx>។

ដើម្បីស្នើសុំការបកប្រែសេចក្តីជូនដំណឹងនេះជាភាសាណាមួយផ្សេងទៀត សូមទូរស័ព្ទមកការិយាល័យអ្នកបកប្រែប្រចាំតុលាការតាមរយៈលេខ (401) 222-8710។ វាជាការចាំបាច់ដែលត្រូវមានអ្នកនិយាយភាសាអង់គ្លេសជាមួយលោកអ្នកនៅពេលដែលលោកអ្នកទូរស័ព្ទចូល។

តុលាការ Rhode Island ប្តេជ្ញាធ្វើឲ្យតុលាការអាចប្រើប្រាស់បានសម្រាប់មនុស្សគ្រប់គ្នា។

ការិយាល័យអ្នកបកប្រែប្រចាំតុលាការ  
Licht Judicial Complex  
Fourth Floor Room 401  
250 Benefit Street  
Providence, RI 02903

## APPENDIX C

### **Model *Voir Dire* for Establishing the Need for an Interpreter**

“How did you come to court today?”

“What kind of work do you do?”

“How comfortable are you speaking and understanding English?”

“Would you feel more comfortable with an interpreter?”

### **Model *Voir Dire* for Establishing Qualifications**

The following are samples of questions the court or counsel should ask in an informal inquiry or *voir dire* to determine whether a proposed non-certified interpreter is qualified to participate in a court proceeding.

- Do you have any training or credentials as an interpreter?
- If so, what was the granting authority and who sponsored the training?
- What is your native language?
- How did you learn English?
- How did you learn the [foreign language]?
- What was the highest grade you completed in school?
- Have you spent any time in the foreign country?
- Did you formally study the language in school? How long?
- How many times have you interpreted in court?
- How did you become familiar with legal terminology?
- Have you interpreted for this type of hearing or trial before? How many times?
- Are you familiar with the Code of Professional Responsibility for Court Interpreters? Explain some of its main points (e.g., accuracy, interpret everything said, impartiality, no conflicts of interest).
- Are you a potential witness in this case?
- Do you know or work for any of the parties?
- Do you have any other potential conflicts of interests with respect to this case?
- Have you had an opportunity to speak with the non-English-speaking person prior to these proceedings? Were there any particular communication problems?
- Are you familiar with the dialectal or idiomatic peculiarities of the parties or witnesses?
- Are you able to interpret simultaneously without leaving out or changing anything that is said?
- Are you able to interpret consecutively?

#### c. Questions Regarding Ethical Conduct for the Interpreter

- Do you understand that while serving in an official capacity, all information said or revealed to you or exchanged in your presence by any of the parties must be kept confidential?
- Do you understand you cannot give any legal or other advice to anyone or interject any opinion of your own, whether or not it is solicited by any person involved in the case?

After carrying out the *voir dire*, the court may ascertain whether counsel is satisfied with the interpreter's qualifications by asking: "Are you satisfied with the qualifications of the interpreter?" The record should reflect the parties' acceptance of the interpreter and his or her qualifications. The following is a sample statement to be read into the record:

The court finds the interpreter is a qualified court interpreter, that the [defendant][witness] has indicated and the interpreter has represented that he/she is able to understand and communicate with the [defendant][witness]. Therefore, I will appoint [Mr.][Ms.] \_\_\_\_\_ as the interpreter in this matter.

## **APPENDIX D**

### **Listing of Translated Court Forms**

#### ***All Courts:***

- Notice of Right to Assistance
- Signs: Requesting an Interpreter

#### ***Supreme Court, Community Outreach and Public Relations Office:***

- CASA poster

#### ***Superior, Family and District Courts:***

- Bail and Recognizance Form (universal form for Superior, District and Family Courts)

#### ***Superior and Family Courts:***

- Deferred Sentence Agreement

#### ***Superior Court:***

- Defendant's Petition to Waive Indictment/Information Form
- Superior Court Nolo Plea Form
- Financial Obligation Form
- Affidavit in Support of Motion to Expunge forms (Misdemeanor and Felony)
- Motion to Expunge/Seal Records
- Waiver of Extradition
- In Forma Pauperis Motion/Affidavit
- Sign: Proper Court Attire
- Several signs to direct court users
- Rules of Professional Conduct

#### ***Superior Court, Adult Drug Court:***

- Memorandum of Understanding
- Waiver of Constitutional Rights
- Contract
- Release of Confidential Information
- Important Notice
- Pre-Graduation Survey
- Adult Drug Court Brochure
- RI Adult Court Referral Form

#### ***Family Court:***

- Request for an Admission of Sufficient Facts or Admission

- Re-entry Court Form
- Referral to RI Legal Services
- Office of Child Support – Payment Notice
- Juvenile Correction’s Office letter (RITSY/YAC)
- Truancy Court “Sam’s School”
- Court Referred Evaluation (Family Drug Court)
- Program SCORE (3), Project Peer
- Peer Dress Code
- Agreement to Participate in Research Study (3 versions)
- All Parents Filing with Family Court
- Programs Offered by the Family Court
- Education for Divorcing Parents
- Directions to Women’s Prison
- Directions to RI Training School
- Consent forms (3) for Agreement to Participation in Research Study for HIV and Teens in RIFC
- Mental Health Clinic Intake Questionnaire
- Score Program Brochure
- Key Program Inc. Brochure
- Project Peer Brochure
- FC-19 Client Survey
- FC-20 Supervised Parenting Time: Drug and Alcohol Policy
- FC-21 Supervised Parenting Time: Receipt of Policies and Procedures
- Supervised Parenting Time Program: Policies and Procedures Brochure

***District Court:***

- Nolo Plea Form
- Waiver of Extradition Form
- Important Notice
- 8 Notification Notices (Pre-Trial Services Unit)
- No Contact Order
- Bail Requirement Information – PTS
- Authorization for Release of Information – PTS

***Workers’ Compensation Court***

- Work Readiness Program
- “Ticket to Work” Program

***RITT:***

- Payment Instruction Sheet

- Motion Procedure
- Appeal Procedure
- Notice to all Motorists
- Credit Card Payment Procedure
- Payment Sign
- “Know Your Rights” Form

***Sheriff's and Capitol Police Departments:***

- RI State Sheriff's Civil Division – Information Sheet
- Notice
- Sign for Capitol Police
- Capitol Police Announcement

***Probation and Parole:***

- Notification of Supervision Status (Superior Court Cases)
- Final Notice to Report

***Miscellaneous:***

- Informational Flyer: *Your Day in Court* (original and revisions)
- Two courthouse signs
- No Phone Use sign
- Court Attire Protocol sign
- Probation Office sign
- DNA Office Directions
- Several ADA-related signs
- No Beverages sign
- Office of Court Interpreters Complaint Form



# Tab 9

## INTRODUCTION AND RESPONSIBILITIES

### *Introduction*

This manual provides Interpreter Coordinators with an overview of information on language access, court interpreters, and their job responsibilities as the interpreter coordinator for their district.

Court interpreters are provided for court patrons who have a limited English proficiency, are deaf, or are hard of hearing. There are two types of interpreters; spoken language interpreters interpret a language other than English and English, while sign language interpreters interpret American Sign Language and English. The interpreter's job is to place the court patron on equal footing by giving a complete and accurate interpretation, without changing, omitting, or adding anything to what is said. Interpreters are vital for court proceedings to ensure the court patron has the ability to understand, communicate, and participate in court proceedings. It is important to note that interpreters do not interpret word for word, but rather concept to concept.

In 2018, Utah State Courts provided spoken language interpreters for over 16,000 proceedings. Utah State Courts are responsible for providing spoken language interpreters under Title VI of the Civil Rights Act of 1962, which bans discrimination based on national origin, and makes providing court interpreters mandatory. In Utah, Court Judicial Administration Rules 3-306.01-.05 directs the use of spoken language interpreters in court [see Appendix A].

In 2018, ASL was provided for 267 proceedings, making it the third most requested language. Utah State Courts are responsible for providing sign language interpreters under Title II of the Americans with Disabilities Act, which ensures equal access to the courts for deaf and hard of hearing individuals. In Utah, Utah Code §78B-1-201 et seq. directs the use of sign language interpreters in court [see Appendix B].

### *Job Responsibilities*

Interpreter Coordinators are tasked with various responsibilities including:

- Act as the primary court contact in their district for all interpreter assignments
- Maintain a schedule of requests and assignments
- Handle minor problems/issues with schedules and invoices
- Review and verify **all** district interpreter invoices
- Report consistent problems to the Language Access Program Coordinator
- Understand and follow CJA Rules 3-306.01-05, Utah Code §78B-1-201 et. seq., and the Accounting Manual
- Monitor work of freelance interpreters
- Assist interpreters with obtaining information on difficult interpreter assignments
- Develop and maintain relationships with existing, new, and potential interpreters

- Give simple instructions to new “rare language” interpreters
- Submit approved interpreter invoices to finance for processing in a timely manner
- Proctor interpreter testing requirements and provide observation hours information to interpreter

## **SECTION I: WHO HAS THE RIGHT TO AN INTERPRETER**

### **1. Spoken Language**

Limited English proficiency (LEP) court patrons who have the right to an interpreter include:

- Defendants
- Parents/guardians of a minor who is involved in criminal proceedings
- Witnesses
- Victims

An interpreter must be provided for all legal proceedings under CJA Rule 3-306.04(1).

LEPs, or their attorneys, cannot be required to provide an interpreter.

### **2. Sign Language**

Deaf and Hard of Hearing court patrons who have the right to an interpreter include:

- Defendants
- Parents/guardians of a minor who is involved in criminal proceedings
- Witnesses
- Victims
- Courtroom visitors

A note on courtroom visitors- Under the ADA, courtroom visitors have the right to an interpreter as long as it is a reasonable accommodation. A reasonable accommodation means the court has advance notice that an interpreter is needed, and the length of the proceeding is considered (a five day jury trial vs. a preliminary hearing).

Deaf or hard of hearing court patrons, or their attorneys, cannot be required to provide an interpreter.

## **SECTION II: WHEN TO PROVIDE AN INTERPRETER**

### **1. Spoken Language**

Utah State Courts must provide qualified court interpreters for all legal proceedings, including:

- Any proceeding before the Appointing Authority
- Court-Annexed Mediation
- Mandatory Court Programs

## **2. Sign Language**

Utah State Courts must provide qualified court interpreters for all legal proceedings, including:

- Criminal Court proceedings, including first appearances
- Civil Court proceedings
- Grand Jury proceedings
- Mental Health Commitment proceedings
- Juvenile proceedings
- Adoption proceedings
- Any proceeding in which the individual may be subjected to confinement or criminal sanction

## **3. SPOTLIGHT: Non-Court Proceedings**

### **a. Spoken Language**

Utah State Courts provide interpreters for select non-court proceedings in compliance with Title VI of the Civil Rights Act of 1964 and Code of Judicial Administration Rules 3-306.01-.05.

The Court will pay for interpretation of:

- “Front counter” conversations, including communication with court staff
- Interviews by juvenile court probation officers, regardless of location
- Child Welfare Mediation and co-parenting mediation, which are court annexed mediation programs
- Divorce education and divorce orientation classes, which are court annexed programs
- Short (10 minutes or less) attorney/client consultations conducted in the courthouse as an adjunct to a hearing
- Interviews of protective order clients by the Legal Aid Society of Salt Lake in the Matheson Courthouse

The court will not provide interpreters for non-court proceedings such as:

- Depositions
- Attorney-client meetings
- Interviews by lawyers, investigators, DCFS case workers, custody or parent time evaluators, or AP&P probation officers

- Divorce or other mediation, although the court will pay the interpreter if the parties qualify for pro bono mediation
- Case preparation with their attorney or the prosecuting attorney

#### **b. Sign Language**

Utah State Courts provide interpreters for select non-court proceedings in compliance with Title II of the Americans with Disabilities Act and Utah Code.

#### **The court will provide interpreters for:**

- “Front counter” conversations, including communication with court staff
- Interviews by juvenile court probation officers, regardless of location
- Child Welfare Mediation and co-parenting mediation, which are court annexed mediation programs
- Divorce education and divorce orientation classes, which are court annexed programs
- Short (15 minutes or less) attorney/client consultations conducted in the courthouse as an adjunct to a hearing
- Interviews of protective order clients by the Legal Aid Society of Salt Lake in the Matheson Courthouse

The court will not provide interpreters for non-court proceedings such as:

- Depositions
- Attorney-client meetings\*
- Interviews by lawyers, investigators, DCFS case workers, custody or parent time evaluators, or AP&P probation officers
- Divorce or other mediation, although the court will pay the interpreter if the parties qualify for pro bono mediation

\*A note on attorney-client meetings- A court patron who is found **indigent** and granted **court appointed counsel** has the right to an interpreter for attorney-client meetings. The court will appoint and pay for an interpreter for the court patron to communicate with their counsel in all case preparations (Utah Code §78B-1-202(5)).

### **SECTION III: INTERPRETER CREDENTIALS**

#### **1. Spoken Language**

From the highest to lowest qualifications, Utah Court Interpreters are credentialed as:

**Certified:** Interpreters who are the highest qualified and are required to complete all of the following requirements:

- An application to become a court interpreter
- Pass a background check
- Score 80% on the National Center for State Courts' English Written Exam
- Attend Utah's 2-day Orientation
- Score 70% on the Code of Professional Responsibility for Court Interpreters test
- Complete 10 in-court observation hours of a certified court interpreter
- Score a superior rating on Language Testing International's Oral Proficiency Interview
- Attend a 3-day skills-building workshop
- Attend a 2-day advanced skills-building workshop
- Score 70% on each section of the National Center for State Courts' Oral Proficiency Exam

**Approved:** Interpreters who are the next most qualified and have passed some of the requirements. They are required to complete the following requirements:

- An application to become a court interpreter
- Pass a background check
- Score 80% on the National Center for State Courts' English Written Exam
- Attend Utah's 2-day Orientation
- Score 70% on the Code of Professional Responsibility for Court Interpreters test
- Complete 10 in-court observation hours of a certified court interpreter
- Score a superior rating on Language Testing International's Oral Proficiency Interview

**Registered:** Interpreters who complete the basic requirements but are unable to become certified or approved due to a lack of available examinations in their language. They are required to complete the following requirements:

- An application to become a court interpreter
- Pass a background check
- Score 80% on the National Center for State Courts' English Written Exam
- Attend Utah's 2-day Orientation
- Score 70% on the Code of Professional Responsibility for Court Interpreters test
- Complete 10 in-court observation hours of a certified court interpreter

**Conditionally-Approved:** Individuals who complete an application and pass a background check but do not have any formal training in legal interpreting.

In accordance with [CJA Rule 3-306.04\(1\)\(D\)](#), a conditionally-approved interpreter may only be appointed if the appointing authority, after evaluating the totality of the circumstances, finds that:

- i. the prospective interpreter has language skills, knowledge of interpreting techniques and familiarity with interpreting sufficient to interpret the legal proceeding;
- ii. appointment of the prospective interpreter does not present a real or perceived conflict of interest or appearance of bias; and
- iii. a certified, approved, or registered interpreter is not reasonably available or the gravity of the legal proceeding and the potential consequence to the person are so minor that delays in obtaining a certified or approved interpreter are not justified.

## **2. Sign Language**

Sign language interpreters are required by Utah Code §78B-1-206 to meet the requirements of the Utah Interpreter Program (UIP), a separate state agency. Interpreters who have met the additional requirements set by Utah State Courts are placed on the Approved ASL Court Interpreter List located on the UIP's website.

Court Interpreters must:

- possess an RID SC:L (Specialist Certification: Legal) certification in good standing and pass a background check,

OR

- possess a certification in good standing from:
  - Utah Master
  - Utah Professional
  - RID CI and CT
  - RID CDI
  - RID RSC
  - NIC Master
  - NIC Advanced
  - NIC
  - NAD IV
  - NAD V

AND

- Complete an online application
- Pass a background check
- Complete a 1-day Court Orientation
- Pass the Ethics Exam
- Provide proof of 10 observation hours of court interpreting in any language

## **SECTION IV: SCHEDULING AN INTERPRETER**

Interpreter Coordinators will receive an automatic email notification through CORIS or CARE to their dedicated interpreter coordinator email account when an interpreter is needed for an upcoming proceeding.

Family members, friends, court employees, and attorneys should not be used as the interpreter since interpreters are required to be neutral third parties.

### **1. Spoken Language**

Once a notice from CORIS or CARE is received, Interpreter Coordinators must contact an interpreter from the court's interpreter roster. The court's public interpreter roster can be found online at: <https://www.utcourts.gov/resources/interp/interpreters.html>. The public roster only lists interpreters who have completed the training and testing requirements necessary to become Certified, Approved, or Registered. Conditionally-approved interpreters are not on the court's public roster since they have not been trained or tested in their interpreting ability.

By court rule Interpreter Coordinators are required to secure certified interpreters for all requests. Only if a certified interpreter is not available, or that language does not have a certified interpreter, can the Interpreter Coordinator move down the roster to approved interpreters. Only if an approved interpreter is not available, or that language does not have an approved interpreter, can the Interpreter Coordinator move down the roster to registered interpreters. And, it is only when a certified, approved, or registered interpreter is not available that conditionally-approved interpreters can be contacted. A non-public roster of conditionally-approved interpreters is maintained by the Third District Interpreter Coordinator.

Interpreter Coordinators should secure only one interpreter for an assignment, unless the hearing is expected to last more than one hour; or the judge or commissioner determines the participants have adverse interest, or that due process, confidentiality requires additional interpreters.

If the assignment is expected to last more than one hour, two interpreters should be scheduled to team interpret the assignment. Mental fatigue starts to set in with court interpreters after the first 30 minutes. With team interpreting, interpreter A interprets for a set period of time before interpreter B takes over interpreting, which allows interpreter A to rest. Team interpreting is a standard in the field of court interpreting to help reduce interpreting mistakes due to mental fatigue.

#### **a. Conditionally-Approved**

Conditionally-approved interpreters have no formal training in legal interpreting and are required to complete an application and a background check. These individuals are meant to be appointed on a hearing-by-hearing basis for extremely rare languages when all other resources have been exhausted.

[Conditionally-Approved Court Interpreter Appointment Form](#)

Since conditionally-approved interpreters have no formal training and/or limited experience, anyone who will be used as a conditionally-approved interpreter must complete the Conditionally-Approved Court Interpreter Appointment Form [see Appendix C]. The form is designed for judges or commissioners to determine if the interpreter has the skill level necessary to interpret each proceeding. The Conditionally-Approved Court Interpreter Appointment Form can also be found on the Court's website at [http://www.utcourts.gov/resources/interp/docs/Conditional\\_Application.pdf](http://www.utcourts.gov/resources/interp/docs/Conditional_Application.pdf).

Prior to the proceeding:

- the form must be completed and signed by the proposed interpreter,
- a copy of the form must be sent to the Language Access Program Coordinator,
- a background check must be completed, and
- the form must be provided to the judge/commissioner presiding over the proceeding.

If the Interpreter Coordinator finds a new conditionally-approved interpreter, prior to the hearing they should email the new interpreter the Court Interpreting Guidelines for Conditionally-Approved Interpreters [see Appendix D].

If a background check is needed for a new conditionally-approved interpreter, email a copy of the conditionally-approved form to the Program Coordinator. The Program Coordinator will have the background check completed and email the results. Interpreter Coordinators should delete all background check results email. All background check results are valid for two years.

Interpreter Coordinators must inform the judge/commissioner's teams when a conditionally-approved interpreter is scheduled for an assignment and provide the form to for the judge/commissioner. The judge/commissioner must make the requisite findings under CJA Rule 3-306.04(1)(D), on the record, each time a conditionally-approved interpreter is used because the interpreter lacks the training or testing necessary to ensure they have the ability to interpret all court proceedings. The requisite findings should be made by the judge/commissioner each time a conditionally approved interpreter is used, even if it's for the same case.

Interpreter Coordinators can keep a copy of the form for any future hearings so the interpreter does not have to continuously complete the form.

After the proceeding, the form should be filed by the judge/commissioner's Judicial Assistant in the official court record as "private" pursuant to CJA Rule 4-402.02(4).

#### **b. Out of State Interpreter Requests**

For some languages, there simply are not any in-state interpreter resources. The courts will fly in interpreters for longer hearings, special set proceedings, complex proceedings, trials, and sentencing hearings.

If all in-state interpreter leads have been exhausted, contact the Program Coordinator. The Program Coordinator will try to locate in-state leads or search out of state for an interpreter. The Program Coordinator will need the following information in order to search for an out of state interpreter.

- Hearing Date and Time
- Case Name
- Case Number
- Judge
- Charges (if applicable)
- Identify of individual needing an interpreter

The Program Coordinator will conduct a search to find a certified, or a qualified court interpreter if that language lacks certification, for the assignment. The Program Coordinator will receive approval from the Deputy State Court Administrator for the costs, and make the necessary travel arrangements.

The out of state interpreter will be instructed to submit an invoice after the assignment has concluded to the Program Coordinator in order to be paid. They will not be required to complete one of Utah State Court's interpreter invoices.

### **c. Second Language Stipend Employees**

Court employees who speak a second language can receive a stipend for their skill and their ability to use this additional skill in the workplace speaking Limited English proficiency court patrons. There are 67 stipends available, with each district allotted a different number of stipends based on the language access need in that district.

Second language stipend employees can be used in the following situations:

- Conversations at the "front counter"
- Conversations with court staff
- Interviews by juvenile court probation officers

Second Language Stipend employees can be used to sight translate and complete court forms so long as:

- the court patron cannot be asked to return at a set time when an interpreter can be present due to the time sensitive nature of the form (ex: motion for a temporary protective order)

- a staff interpreter isn't available (at Matheson Courthouse only)
- the court employee is able to determine they have the ability to accurately write down the court patron's words without changing, adding, or omitting anything (which is made more difficult when interpreting)

Second language stipend employees must follow these guidelines when they complete the form for the court patron. Second Language Stipend employees must not:

- substitute words
- provide input on what should be said or how it should be said
- provide legal advice or assistance that would equate with the practice of law

#### **d. Using Court Employees as Interpreters**

In extremely rare circumstances, court employees who speak rare languages may be used to interpret during legal proceedings on a conditionally-approved basis only after **all potential leads have been exhausted** and the employee receives prior approval from:

- their direct supervisor,
- TCE,
- HR, and
- the Language Access Program Coordinator

As with all conditionally-approved interpreters, the Conditionally-Approved Court Interpreter Appointment Form must be completed for court employees and sent to the individuals noted above.

Coordinators must ensure judges are made aware that the applicant is a court employee. Because the risks for conflicts of interest are higher when a court employee is used, special attention should be paid by the coordinator, employee, and judge to ensure the employee does not have a conflict of interest related to that particular proceeding. It is recommended that judges disclose the interpreter's employment status on the record to obtain any necessary waivers from the parties.

Employees will be paid their regular wage. No additional money or leave time is authorized. The employee's supervisor must be willing to allow them to conduct their regular "work time" at the legal proceeding.

Please remember court employees can only be used as **the last resort** if an interpreter cannot be found in or out of state.

## **2. Sign Language**

For court interpreting, only court approved ASL interpreters can be used. The Utah Interpreter Program (UIP) certifies and maintains the roster of ASL court approved interpreters.

To schedule an ASL interpreter, Interpreter Coordinators must:

- Contact InterWest Interpreting, which holds the state contract for ASL interpreters;
- Contact ASL Communication based in Henderson, NV (only if InterWest cannot complete the request); or
- Visit Utah Interpreter Program's website to find the list of court approved ASL interpreters.

If the hearing last more than an hour, two ASL interpreters must be scheduled to team interpret. If the hearing last all day, three ASL interpreters must be scheduled.

**a. Certified Deaf Interpreters (CDIs)**

A Certified Deaf Interpreter (CDI) is a deaf or hard of hearing interpreter who has specialized training and/or experience in the use of gesture and other tools to enhance communication. CDIs would be used in situations when a deaf court patron:

- does not know American Sign Language
- uses non-standard signs or gestures, known as "home signs" which the family created for communication
- uses a foreign sign language
- has minimal or limited communication skills
- is deaf-blind or deaf with limited vision
- use signs particular to a given region, ethnic, or age group.

When a CDI interpreter is used an ASL interpreter must also be present, as they work in tandem in relay interpreting. The CDI establishes communication with the individual, signs it in ASL to the ASL interpreter, and then the ASL interpreter verbalizes the communication.

**b. Auxiliary Aids**

If a court participant is deaf or hard of hearing and does not understand sign language, the court is still responsible for providing effective communication for the court participant. Court patrons should be asked in writing what communication method they prefer if they do not know sign language. Possible other methods of communication include:

- CART Services\*
- Written Materials
- Assisted Listening Devices
- Notetakers
- Readers

A list of auxiliary aids can be found at <https://www.ada.gov/reachingout/t3regl2.html>.

\*A Note on CART Services- The most common auxiliary aid used for hard of hearing court patrons is CART Services, as many do not know American Sign Language. CART Services are computer-aided transcription services, where an individual, such as a real-time reporter, captures by typing what is being said so that the court patron can read on a screen the verbal communication in real time.

### **3. SPOTLIGHT: Video Remote Interpreting (VRI)**

Video remote interpreting (VRI) allows for language access to be provided for court patrons who require a spoken or sign language interpreter by a remote or offsite interpreter by using videoconferencing equipment in the courtroom and at the interpreter's location.

Matheson Courthouse has two dedicated rooms with the technological equipment for video remote interpreting. Districts with courthouse locations that have the necessary technology equipment in the courtroom and access to Videyo should utilize VRI as a possible language access solution.

VRI is not meant to replace in-person interpreters for all proceedings. VRI is only an option for non-complex proceedings lasting one hour or less.

Interpreter Coordinators should contact the interpreter to confirm availability before contacting the Program Coordinator to arrange for the interpreter to have access to the VRI rooms at Matheson. Due to this, requests should be made at least 24 hours in advance.

An interpreter will be paid in accordance to the accounting manual based on their mileage to Matheson, rather than the location of the assignment, whenever VRI is used.

### **4. SPOTLIGHT: Overnight Stay Requests**

On occasion an interpreter might request a hotel stay due to a multi-day assignment, weather, or an early hearing time. All hotel requests must be approved in advance by the Deputy State Court Administrator.

If a hotel is requested, email the Program Coordinator with the following information-

- Interpreter's Name
- Hearing Date and Time
- Case Name
- Case Number
- Judge
- Charges (if applicable)
- Reason for hotel (i.e. weather, early morning, distance interpreter will be traveling, etc.)
- Expected costs for the hotel

Once approval is granted for the overnight stay, the Language Access Program Coordinator will notify the Interpreter Coordinator to arrange a direct bill hotel stay for the interpreter, if one is available in the area of the assignment. If a hotel is not available, the Interpreter Coordinator will arrange a hotel reservation through State Travel, and the interpreter will have to be reimbursed once the invoice and receipts are turned in.

If an overnight request is granted, the interpreter has the right to a per diem at the state rate. The interpreter must complete the F151N Reimbursement Form [see Appendix E], which can also be found on the Intranet under the Travel Reimbursement Forms tab.

## **SECTION V: INVOICING**

### **1. Spoken Language**

Interpreters are paid by the hour based on their credentialing, and in accordance with the accounting manual [see Appendix F].

Certified- \$39.80/hour

Registered-\$34.11/hour

Approved- \$34.11/hour

Conditionally-Approved: \$18.57/hour

Interpreters are paid for the time of their assignment or the minimum fee based on miles actually driven, whichever is more.

<b>Interpreters who drive at least this far (one way) from their home base or from their previous assignment:</b>	<b>Will be paid at least this much time:</b>
0-24.9 miles	1 hour
25-49.9 miles	2 hours
50-74.9 miles	3 hours
75+ miles	4 hours

**Start Time-** Interpreters are paid from the scheduled start time or the actual start time (whichever is earlier) to the end of the proceeding.

If scheduled start time is delayed due to the lateness of the interpreter, then they will only be paid from the actual start time.

**Wait Time-** Interpreters who have assignments at the same courthouse can receive up to one hour of wait time per day for the time spent waiting for their next assignment.

**Mileage-** Interpreters are entitled to receive mileage reimbursement at the state rate after the first 25 miles. Unless coming from their home base, mileage must be the distance between courthouses using the finance department's mileage chart [see Appendix G].

### **a. Invoices**

In-state interpreters are to complete one invoice per day for each district on the court's invoice for payment [see Appendix H]. Interpreter Coordinators are to inspect each invoice that is submitted by an interpreter. Interpreter Coordinator must check that all of the required fields are filled in correctly, including the assignment start and end time.

Interpreters must be instructed to turn in their invoices in a timely manner. Ideally, all interpreter invoices should be submitted within two weeks to a maximum of a month from the date of the assignment.

Interpreter Coordinators must sign off on each invoice to confirm the information is accurate. Signed off invoices should then be submitted to the finance department in the AOC. If a submitted invoice has not been properly filled out or is illegible, finance will reject the invoice for payment until it is corrected.

### **Quick Tips**

- Check the miles are correct using the AOC mileage chart
- Make sure the appropriate box is checked for court type (district vs. juvenile)
- If there are multiple assignments on one invoice, make sure the times **do not** overlap

### **b. Cancelled Assignments**

The interpreter will be paid for a cancelled assignment as long as:

- The assignment has been scheduled for more than 48 hours before the scheduled start time (excluding weekends and holidays)
- Interpreter has been notified of the cancellation less than 48 hours before the scheduled start time (excluding weekends and holidays)
- The cancellation is not due to the interpreter's absence or tardiness

There are two cancellation policies depending on the length of the assignment.

For assignments scheduled for less than six hours, interpreters will be paid the minimum fee for miles actually driven **or** one hour, whichever is greater.

For assignments scheduled for six hours or more, interpreters will be paid 50% of the fee for the scheduled time up to a maximum of 6 hours **or** the minimum fee for miles actually driven, whichever is more. Interpreter Coordinators will need to complete a cancellation/early termination form for assignments lasting six or more hours that are cancelled or terminated early [see Appendix I].

## **2. Sign Language**

The ASL interpreters pay rate is not a set standard as it is for spoken language interpreter. ALS interpreters are to be paid a reasonable fee for their service in accordance with Utah Code §78B-1-201. However, the normally accepted hourly rate is \$55 per hour for all court approved ASL interpreters.

InterWest and ASL Communication will send an invoice to the dedicated interpreter coordinator email account for each district. Once the invoice is received, Interpreter Coordinators must confirm the assignment details are correct before forwarding the email to the Program Coordinator for processing.

If a freelance sign language interpreter is contacted, they must be instructed to email an invoice after the assignment. Once the invoice is received, Interpreter Coordinators must confirm the assignment details are correct before forwarding the email to the Program Coordinator for processing.

**a. Cancelled Assignments**

InterWest or ASL Communication will charge the full rate for the scheduled time for any cancellations received less than 48 hours before the scheduled start time.

A freelance interpreter will be paid the full rate for the scheduled time if the cancellation is received less than 24 hours before the scheduled start time in accordance with the accounting manual.

**SECTION VI: TESTING AND OBSERVATION**

As stated in section III above, there are many requirements interpreters must complete in order to become a credentialed court interpreter. As interpreters complete necessary steps to become credentialed, Interpreter Coordinators are required to assist with certain requirements.

**a. English Written Exam**

Interpreters must pass an English Written Exam provided by the National Center for State Courts (NCSC) to reach any of the three credentials. The exam tests the interpreter's English skills in sentence completion and understanding of English synonyms, antonyms, and idioms. The exam is offered four times a year, on a Friday, in the months of:

- January
- April
- July
- October

The Interpreter Coordinators in the following locations are responsible for administering the test.

- Logan
- Salt Lake City
- Vernal
- Ritchfield
- Ogden
- Provo
- Moab
- St. George

Interpreter Coordinators at the above locations will receive an email from the Program Coordinator the Monday or Tuesday prior to the exam date that contains the sign in sheet, the answer sheet, the oaths, a list of the assigned exam version for each interpreter, the exam instructions, and each version of the exam.

A note on exam security- NCSC has stringent test security measures that Utah State Court must abide by in order to offer the English Written Exam. Interpreter Coordinators must be extremely careful to ensure each exam is always accounted for, and they must never leave exams unattended with interpreters. Interpreter Coordinators must shred all exams after each exam date as a security measure.

#### Prior to the Exam

Before the day of the exam, compile a packet of material for each registered candidate. Each packet must include:

- Sealed envelopes containing the exam. The exams and envelopes should be numbered sequentially and inventoried prior to and at the conclusion of the exam to ensure all copies of the exam are accounted for when the exam is completed.
- An Answer Sheet placed on top of the sealed envelope [see Appendix J].
- An Agreement and Oath placed on top of the Answer Sheet [see Appendix K].

#### On Exam Day

On exam day Court Interpreter Coordinators proctoring the exam must bring:

- The sign in sheet for interpreters, containing the name and identification number of each interpreter registered to participate in the examination on this date.
- The packet of materials listed above for each candidate.
- A minimum of two #2 pencils for each candidate.
- The exam instructions to read out loud at the start of the exam.

Check the valid photo ID of each candidate.

If possible, have the interpreters sit with a space between them. Interpreters are assigned exam versions, so ensure that no one sits beside, in front of, or behind another with the same exam version.

Each testing location requires a clock that can be seen by the candidates. If the test room does not have a wall clock, one should be brought in, if possible.

Read the exam instructions when the exam is scheduled to start [see Appendix L].

#### After the Exam

- Collect the exam, answer sheet, oath, and the envelope from each candidate.
- Confirm all numbered envelopes and contents that were distributed are accounted for.
- Scan and email the answer sheets to the Program Coordinator.

After the Program Coordinator confirms receipt of the email, Interpreter Coordinators must shred the exams, oaths, and answer sheets.

#### **b. Code of Professional Responsibility Exam (Ethics Exam)**

Interpreters must pass an ethics exam on the Code of Professional Responsibility for Court Interpreters after they successfully pass the English Written Exam and attend the Orientation. The interpreter will directly contact the closest Interpreter Coordinator to arrange a date and time to take the exam.

#### Prior to exam

Prior to the day of testing, compile a packet of material for each registered candidate. The packet should include:

- An Answer Sheet placed on top of the exam [see Appendix M].
- A copy of the exam [see Appendix N and O].

#### On Exam Day

On test day Interpreter Coordinators proctoring the exam must bring:

- The packet of materials listed above for each candidate.
- A minimum of two #2 pencils for each candidate.

Interpreters have 30 minutes to complete the exam, and Interpreter Coordinators should remain in the room during the test.

#### After the Exam

- Collect the test and answer sheet from each candidate.
- Scan and email the answer sheets to the Program Coordinator.

After the Program Coordinator confirms receipt of the email, the tests and answer sheets must be shredded.

### **c. Oral Proficiency Interview (OPI)**

The Oral Proficiency Interview (OPI) tests spoken language interpreters in their non-English language, and it is a requirement for anyone who wishes to reach the approved credentialing. Interpreters take the OPI through a company called Language Testing International (LTI) over the telephone from the closest courthouse where the district Interpreter Coordinator is based. Interpreter Coordinators must proctor the OPI for the interpreter.

#### Before the OPI

- Interpreters are instructed on the court's website to contact the Interpreter Coordinator for two possible dates they are available to proctor the exam.
- After LTI schedules the test, the Program Coordinator will email the Interpreter Coordinator to confirm availability before emailing LTI's instructions along with the telephone number and passcode.
- The Program Coordinator will also email the interpreter confirmation of their test date, time, and location.

#### At Test Time

- Call the telephone number and enter in the access code, which will be provided via email from the Program Coordinator.
- Remain in the room while the interpreter completes the test to ensure they do not use any reference materials during the test.
- The test can take up to 45 minutes to complete.

### **d. Observation Hours**

Spoken and sign language interpreters are required to complete 10 observation hours in court of a certified interpreter. The interpreter, including sign language interpreters, can observe a certified spoken language interpreter in any language and must track their observation hours.

The interpreter will contact the closet Interpreter Coordinator to start their observation hours. Interpreter Coordinators will supply the interpreter with a schedule of upcoming hearings involving certified interpreters and an observation log [see Appendix P].

Any completed observation logs that are turned in must be emailed to the Program Coordinator.

## **SECTION VII: TRANSLATIONS**

If a translation of a document is needed, it should be translated by the staff interpreters. The court should contact the Interpreter Coordinator with the document that needs to be translated. The Interpreter Coordinator will contact the Program Coordinator at the AOC and send the document electronically for translation. The Program Coordinator will arrange to have the document translated.

### **Translations of vital court documents are completed if:**

1. The judge orders it,
2. The party is deemed indigent, and
3. There are no local resources to help them with the translations.

Vital documents determined by the appointing authority can also be sight translated during the proceeding.

### **Unless ordered by the judge, the court will not translate:**

- taped interrogations;
- proof of service in order for it to be submitted to the court;
- evidence (ex. Facebook messages, text messages, recordings, letters);
- a transcript or audio recording of a court hearing; or
- a service plan completed by DCFS.\*

\*Judges continue to have the discretion to order the court to pay and translate a DCFS service plan. However, judges should be aware that other state agencies have their own Title VI obligations, just as the court has the obligation to provide interpreters for court proceedings.

Every effort will be made to complete the translation in a timely manner. However, since translation work is completed around the staff interpreters' scheduled time to interpret in court a deadline of when the translation will be completed cannot be guaranteed.

# **Tab 10**

## **Utah State Court Language Access Program Guidelines for Interpreting Recorded Evidence**

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### **Recorded Evidence**

Occasionally, audio or video taped evidence will be introduced during a court proceeding that involves a Limited English Proficiency (LEP) party. Examples may include a video-taped police interrogation, voicemails, dash-cam video, or audio recordings of a 911 call. The court may be asked to direct the onsite interpreter to interpret the recording on the spot.

### **Issues**

Onsite interpreters should not be asked to provide instantaneous interpretation of audio or video evidence due to numerous reasons. The following issues can impede the interpreter's ability to give an accurate interpretation.

- Length of recording
- Overlapping voices
- Poor quality of the recording
- Background noises
- Regional variations of words or phrases
- Unintelligible portions
- Specialized vocabulary

### **Recommended Practice**

The court should not ask the onsite interpreter to provide instantaneous interpretation of audio or video recordings, and should explain to the attorneys and parties that instantaneous interpretation of a recording often goes against recognized best practices<sup>1</sup> and the Code of Professional Responsibility for Court Interpreters.

#### **Non-English recordings**

The party wishing to use the recording is responsible to have the recording properly transcribed and translated into English, and to pay for the associated costs. Having a recording translated is a two-step process. First, a transcription of the recording must be prepared in the source language. The transcriber must listen to the audio or video recording and prepare a written record of what was said in the source language. Then the translator, who may or may not be the same individual as the transcriber, uses the transcription to complete the translation into English. The standard unit of measure for transcription and translation of a recording is one hour of work for each one minute of sound in

accordance with the National Association of Judiciary Interpreters and Translators (NAJIT).

### **English Recordings**

The court can allow the onsite interpreter to privately review the recording to determine if they are able to provide an accurate interpretation. Interpreters must review the recording to ensure they can competently interpret the recording and to make any necessary notes if they do determine they are able to interpret the recording.

If the interpreter determines they are not able to provide an accurate interpretation for any of the reasons listed above, the court should consider the interpreter's opinion. Utah State Courts does not have the responsibility of translating evidence into the court patron's native language.

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<sup>1</sup> NAJIT Position Paper, [Onsight Simultaneous Interpretation of a Sound File is Not Recommended](https://www.najit.org), 2006, at [www.najit.org](https://www.najit.org).

# Tab 11



OREGON JUDICIAL DEPARTMENT  
Office of the State Court Administrator

October 26, 2010  
(SENT BY EMAIL)

TO: Oregon Court Interpreters

FROM: Court Interpreter Services (CIS)  
Kelly Mills, Program Manager  
Max Christian, Interpreter Supervisor

RE: **Interpreting Concerns When the Court Interpreter Is Asked to Interpret non-English Recorded Evidence into English**

CIS Non-English Sound Recording Evidence Interpretation Guideline

“Court Interpreter Services advises that non-English recorded evidence be transcribed and translated by the moving party prior to being submitted as evidence, and that the court interpreter not perform interpretation of recorded evidence into English, except as instructed by the court.”

The *Code of Professional Responsibility for Interpreters in the Oregon Courts* requires that you, the court interpreter, render “a complete and accurate interpretation or sight translation, without altering, omitting anything from, or adding anything to what is stated or written, and without explanation.” You may be hindered or precluded from doing so by obstacles frequently encountered in sound recordings (recorded 911 calls, recorded jail calls, recorded voice mail, etc.). Three common impediments are:

- Lack of opportunity to request clarification of a word or an ambiguity
- Poor quality recordings
- Overlapping voices and sounds

Due to these obstacles transcribers and translators of sound recordings employ explanatory footnotes. However, such explanations go beyond the scope of the court interpreter’s role which is to interpret “without explanation.”

Additionally, interpreting recorded non-English evidence for a party may cause you to be called as a witness by a party in order to explain or defend an interpretation in question. A court interpreter’s neutral role as described in the *Code of Professional Responsibility* requires that you remain impartial, avoiding the appearance of bias. Being called as a witness by a party may create a situation which is perceived as a bias.

Therefore, Court Interpreter Services recommends that you, the interpreter, carefully evaluate requests to interpret sound recordings being presented as evidence, and that you inform the judge and the parties of potential practical and ethical difficulties.

# **Tab 12**

# Administrative Office of the Courts

Supreme Court of New Mexico

Paula Couselo  
Language Access Services



237 Don Gaspar, Room 25  
Santa Fe, NM 87501  
(505) 827-4800  
(505) 827-4824 (fax)  
www.nmcourts.gov

## MEMORANDUM

**TO:** District Court Judges  
Metropolitan Court Judges  
Magistrate Court Judges  
Court Executive Officers  
Administrative Office of the Courts Program Staff

**FROM:** Paula Couselo, Language Access Services

**DATE:** July 22, 2016

**SUBJECT:** Guidelines for audio recorded, video recorded, or written materials in languages other than English – Rule 1-103(E)(8) NMRA

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As the use of dash-cam video, lapel video, belt tapes, social media, wiretaps, and cell phone audio and video recordings increase in the courts, the demands on spoken and signed language interpreters to provide on-the-spot interpretations of these materials that are presented in languages other than English have greatly increased.

The guidelines herein seek to balance respect for best practices for interpreters with the challenges a court faces when confronted with recorded or written materials that require translation.

On-demand sight translation of complex recorded or written materials is often in conflict with recognized best practices and with the Codes of Professional Conduct of the interpreting profession, as well as the Supreme Court Rules of Criminal and Civil Procedure. Best practices are designed to create the greatest degree of accuracy of interpretations and translations.

## **Materials in a Language Other than English**

To ensure accuracy, sound and video files that a party will use in court should first be transcribed in its source language and then translated to English by the party. Materials presented in signed language require the same steps in the opposite order – they must first be interpreted into spoken English, then the interpretation transcribed into written form.<sup>1</sup> This process must take place prior to the presentation of the materials. The case participants wishing to use the materials are responsible for assuring the materials are properly prepared in English and for paying the cost of such preparation.<sup>2</sup>

In accordance with the rules of evidence, the offering party must establish its translation witness's expertise in both English and the language other than English and the ability to translate from one to the other. If the party fails to provide testimony attesting to the accuracy of the translation, the court may not admit the translation.

Once approved by the parties and ruled admissible by the court, the written English rendition and a copy of the original material shall be provided to the court interpreter, if any, assigned to the court proceeding at which it will be introduced, with sufficient time to prepare for the court proceeding.

## **Materials in English**

Audio and video files recorded in English that will be played in open court for a case involving a Limited English Proficiency (LEP) party or juror should be reviewed by the interpreter(s) who will be providing language services for that hearing prior to the proceeding.<sup>3</sup>

Court interpreters assigned to a given proceeding shall inform the judge if they are unable to provide an on-site interpretation of audio or video recordings, or sight translations of written documents in English. This can be due to:

- Length of material
- Quality of recording or legibility of written document
- Number of speakers or signers
- Variety of accents or regional variations
- Sufficiency of contextual information
- Degree of deviation from standard forms of language
- Level of audio or video intrusions and distractions
- Degree of technicality or specialization of vocabulary and content

The judge will consider the interpreter's opinion and decide whether to continue or proceed with the case. The factors listed above are the type of considerations taken into account when the judge determines whether the brief and/or non-complex nature of the materials permits on-site interpretation or, if not, what is a reasonable amount of time to provide for the interpreter to address the materials.

### **Interpreters as Expert Witnesses**

Court Interpreters assigned to interpret during a given proceeding shall not be used as expert witnesses to evaluate, during that proceeding, the quality of a previously completed interpretation or translation provided for audio, video or written material originally in a language other than English. The party wishing to question or evaluate the quality of an interpretation or translation for the record shall arrange for a qualified individual to serve as an expert witness during the proceeding in accordance with NM rules of evidence.

Any questions regarding this matter or other questions regarding language access services please contact me at (505) 827-4853 or [aocpvc@nmcourts.gov](mailto:aocpvc@nmcourts.gov).



**Paula Couselo-Findikoglu**  
*Senior Statewide Program Manager*  
*Language Access Services*  
*NM Center for Language Access*  
**New Mexico Administrative Office of the Courts**

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<sup>1</sup> Onsite Simultaneous Interpretation of a Sound File is Not Recommended, National Association of Judiciary Interpreters and Translators (NAJIT), 2006.

<sup>2</sup>“(…) the court is not responsible for providing court interpretation services for confidential attorney-client communications during a court proceeding, nor is the court responsible for providing court interpretation services for witness interviews or pre- trial transcriptions or translations that the party intends to use for a court proceeding. When the court is responsible for paying the cost of the court interpretation services, the AOC standards control the amounts and procedures for the payment of court interpreters.” Rules 1-103, 2-113, 3-113

<sup>3</sup>“The court shall allow the court interpreter a reasonable amount of time to prepare an accurate and complete translation or transcription and, if necessary, shall continue the proceeding to allow for adequate time for a translation or transcription.” Rule 1-103 (E) (8) NMRA.