

**Agenda**  
**Language Access Committee Meeting**  
 July 26, 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	Discussion/ Action	Tab 1	Michelle Draper
12:05	Update on Committee Members	Discussion		Kara Mann
12:15	Language Access Plan <ul style="list-style-type: none"> <li>• LAP</li> <li>• New Mexico LAP</li> <li>• Oregon LAP</li> <li>• Proposed Outline</li> </ul>	Discussion/ Action	Tab 2 Tab 3 Tab 4 Tab 5	Kara Mann
1:00	CONFIDENTIAL- Updating the Code of Professional Responsibility for Court Interpreters Exam <ul style="list-style-type: none"> <li>• Proposed Update Exam 1</li> <li>• Proposed Update Exam 2</li> </ul>	Discussion/ Action	Tab 6 Tab 7	Kara Mann
1:30	Recorded Evidence Guidelines <ul style="list-style-type: none"> <li>• Proposed Guidelines</li> <li>• New Mexico's Guidelines</li> <li>• Oregon's Guidelines</li> </ul>	Discussion/ Action	Tab 8 Tab 9 Tab 10	Kara Mann
2:00	Adjourn			Michelle Draper

**2019 Meeting Schedule:**

September 20, 2019  
 November 15, 2019

# Tab 1

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

May 17, 2019

**Draft**

**Members Present**

Michelle Draper - Chair  
Yadira Call - by phone  
Judge Su Chon  
Monica Diaz - by phone  
Megan Haney  
Judge Michael Leavitt  
Randall McUne  
Russ Pearson  
Lynn Wiseman - by phone

**Members Excused**

Mary Kaye Dixon  
Amine El Fajri  
Chris Kunej  
Judge Kelly Schaeffer-Bullock

**Staff**

Kara Mann  
Jeni Wood - recording secretary

**Guests**

**(1) Welcome.**

Michelle Draper welcomed everyone to the meeting. The committee agreed to have more generalized minutes moving forward. The Third District staff interpreter vacancy will be posted in August because the first posting did not retrieve any qualified candidates.

Ms. Draper addressed the amended January 18, 2019 minutes. Megan Haney moved to approve the January 18, 2019, as amended. Russ Pearson seconded the motion. The motion carried unanimously.

Ms. Draper addressed the March 15, 2019 minutes. With no changes, Judge Su Chon moved to approve the March 15, 2019 minutes, as presented. Randall McUne seconded the motion. The motion carried unanimously.

**(2) Language Access Plan**

Ms. Mann presented revisions to the Language Access Plan as addressed during the March meeting. Ms. Mann compared the Department of Justice's Language Access Planning and Technical Assistance Tool for Courts (Toolkit) with the Utah State Court's Language Access Plan (LAP). Many of the discrepancies can be remedied, however, some issues such as quality control, may take further consideration. The possibility of creating working groups to review each section was discussed. Ms. Mann will research western states for a Language Access Plan that this committee can mirror and will distribute to committee members to review before the next meeting. The committee will create working groups at the next meeting.

### **(3) Interpreter Coordinators' Handbook**

Ms. Mann presented a manual that provides Interpreter Coordinators with an overview of information on language access, court interpreters, and their job responsibilities as the interpreter coordinator. Currently, the Third District is the only district that has a full-time dedicated interpreter coordinator. In section I page 2, Ms. Mann will add "juror" as someone who would be entitled to an interpreter. There was discussion on what constitutes a "reasonable accommodation" in section I page 2. Ms. Mann will conduct further research and speak with General Counsel to ensure the handbook follows the requirements of ADA and the courts.

Ms. Mann will clarify section III page 6 ASL interpreter requirements, that court approved ASL interpreters are overseen by the Utah Interpreter Program, a program within the Department of Workforce Services Rehabilitation. Ms. Mann will verify if InterWest Interpreting is the only state contract for ASL interpreters and will add that any person can request a certified deaf interpreter.

Ms. Mann will speak with the Deputy State Court Administrator on rules/exceptions surrounding hotel stays and mileage due to weather or an early morning assignment.

Ms. Mann will confirm that there is a 2-hour minimum for ASL interpreters. Ms. Mann will amend the accounting manual section and clarify if necessary. Ms. Mann will include testing locations. Ms. Mann will clarify sight-translation. Ms. Mann will add delinquency to juvenile cases.

Ms. Mann will revise the handbook, distribute it to some long-standing coordinators for review and edit, and then re-address it with the committee.

### **(4) Recorded Evidence Guidelines**

This item was not addressed.

### **(5) Notice of a Formal Complaint**

Ms. Mann instructed the recording to be turned off and non-essential people to leave the room for an executive session to address a formal complaint.

After discussion, the meeting continued.

### **(6) Other Business.**

No further business was discussed.

### **(7) Adjourn**

There being no further business, the meeting adjourned at 1:55 p.m.

# Tab 2

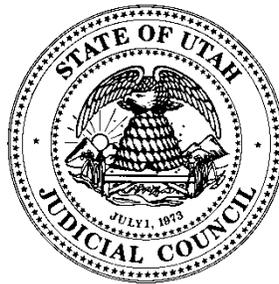


# Utah State Courts

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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 3

# Language Access Plan 2017-2019



Sec. 3. The right of any citizen of the State to vote, or sit upon juries, shall never be restricted, abstractly or concretely, on account of religion, race, language or color, or in favor of or against the use of the English or Spanish languages as provided in this Constitution; and the provisions of section one of this article shall never be construed to deprive the vote of the people of this State in an election of the whole or parts of the electors voting in the whole or parts of those voting in each county of the State.

# New Mexico Judiciary Administrative Office of the Courts



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*"Celebrating diversity, advancing equality."*

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## PROGRAM HIGHLIGHTS

- In 2016, the Language Access program of the NM Administrative Office of the Courts was ranked #2 in the nation in the *Justice Index* published by the National Center for Access to Justice and the *Language Access in State Courts* report published by the United States Department of Justice.
- New Mexico is the only state that seats Limited-English-Proficient jurors, by constitutional mandate.
- New Mexico created a Language Access Specialists program, in which bilingual court employees are trained to ensure the delivery of meaningful language access services in out-of-courtroom settings.
- New Mexico developed software that can be used to provide flexible training and maximize resources.
- The website of the New Mexico Judiciary contains hundreds of pages of content that has been professionally translated to Spanish.
- The *Improving Access to Justice for Native Peoples in State Courts* project developed a training and qualification process for court interpreters of Pueblo languages and Navajo, which protects the rights of tribal members as they function within the state court system.
- Beginning on January 1st, 2018, the NM state courts will accept and translate pleadings submitted by Self Represented Litigants in languages other than English.

## I. LEGAL BASIS AND PURPOSE

This document serves as the New Mexico Judiciary's plan for the provision of services to persons with Limited-English-Proficiency (LEP) that are in compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.; 45 C.F.R. § 80.1 et seq.; and 28 C.F.R. § 42.101–42.112) and Title II of the Americans with Disabilities Act of 1990 ("ADA:" 42 U.S.C. § 12132).

The purpose of this plan is to provide a framework for the provision of timely and reasonable language assistance, ensuring meaningful access to court services for LEP, Deaf and Hard-of-Hearing persons who come in contact with the New Mexico Judiciary.

Under Department of Justice (DOJ) regulations implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. (Title VI), recipients of Federal financial assistance have a responsibility to ensure meaningful access to their programs and activities by LEP persons. See 28 CFR 42.104(b)(2). Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person 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.”

DOJ regulations forbid recipients from “utilizing criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin...” (28 CFR 42.104(b)(2)). Law requires all recipients of Federal financial assistance from DOJ to provide meaningful access to LEP persons.

Executive Order 13166 signed August 11, 2000 extended Title VI requirements to federal agencies and those agencies which they fund.

New Mexico Statutes 38-9-1 to 38-9-10 and 38-10-1 to 38-10-8 NMSA 1978, respectively the Deaf Interpreter Act and the Court Interpreter Act, clearly delineate the responsibilities of the Court to provide credentialed Court Interpreters.

The New Mexico State Constitution, Article II, Section 14, provides that: “In all criminal prosecutions, the accused shall have the right [. . .] to have the charge and testimony interpreted to him in a language that he understands.”

The New Mexico State Constitution, Article VII, Section 3, provides that: “The right of any citizen of the state [. . .] to sit upon juries, shall never be restricted, abridged or impaired on account of [. . .] inability to speak, read or write the English or Spanish languages.”

### NOTE:

**This plan represents a work in progress as it documents the NM Administrative Office of the Courts' ongoing efforts to provide quality language access.**

## II. SCOPE

This plan identifies the efforts of the New Mexico Administrative Office of the Courts (AOC) and the New Mexico Supreme Court to ensure Title VI compliance across New Mexico State Courts through an ongoing, collaborative planning and assessment process. In addition to this Statewide Report and Plan, every metropolitan, magistrate and district court in New Mexico has a locally-tailored Language Access Plan (LAP) in place. These plans (which are regularly updated) may be viewed at: <https://languageaccess.nmcourts.gov/language-access-plans.aspx>

## III. NEEDS ASSESSMENT

### Ethnic and Linguistic Composition of NM Residents

- 47% Hispanic or Latino origin
- 22 federally recognized tribes
- 36% of population speak a language other than English at home
- 10% of population report speaking English “less than very well”
- Top languages other than English: Spanish, ASL, Navajo, Vietnamese, Mandarin, Arabic
- 92 languages or language groups spoken in the home throughout the state

### Challenges

- 19.5% of individuals living below poverty line
- 60% of prison population of Hispanic or Latino origin
- Scarcely populated: 17 persons per square mile
- Border state
- Increasing demand for language access services

### Demographic Data

To build the most accurate picture possible of LEP needs in New Mexico, AOC mines and cross-references data from the sources below. New Mexico's courts are committed to serving LEP speakers of all languages, but this data on the most frequently used languages is used to anticipate need:

- Modern Language Association (MLA) map: Information by state and county on language spoken at home. MLA further breaks down data into those who speak English well or not well. Data for NM can be viewed at: [http://www.mla.org/map\\_data&dcwindow=same](http://www.mla.org/map_data&dcwindow=same)
- Migration Policy Institute (MPI): MPI provides true LEP data, by state and county, when the number of LEP speakers of a language is above 5% of the population or 500 persons. MPI data for New Mexico is *Attachment A*

to this plan

- “On the ground” information: During initial language access planning, community organizations shared their expertise about recent refugee populations and about census completion rates. Surveys were conducted with community organizations in each judicial district regarding the languages their clients speak. Similar surveys will again be conducted in 2017-2019. “Through the doors” information: Court staff track numbers of encounters with LEP individuals in out-of-courtroom settings, such as the clerk’s window and the telephone. Staff were surveyed during initial language access planning regarding languages encountered in the courthouse and will be surveyed again in 2017-2019. This data forms part of each judicial district’s LAP, accessible at: <https://languageaccess.nmcourts.gov/language-access-plans.aspx>
- Interpreter scheduling management system reports: The AOC’s web-based interpreter scheduling system allows AOC to pull reports on the number of courtroom interpreters used by New Mexico courts in any given period.
- On-demand telephonic interpreting services: For out-of-courtroom needs, as well as occasional in-courtroom needs for languages of lesser diffusion, courts rely on an-demand telephonic interpreting service provider, a service connecting to interpreters in 175 languages. Monthly reports on use are provided to AOC. As a sample, a statewide report on use during the month of July, 2017 comprises *Attachment B* of this plan.

### Surveys

AOC has conducted surveys throughout the various stages of its ongoing needs assessment, and is committed to continuing to do so.

- Surveys of New Mexico Justice System Partners and of staff at every district, magistrate and metropolitan court (2009 Surveys of court staff, judges and community stakeholders within each court and judicial district (2011 and 2012) as part of each court’s language access planning process. These surveys form part of each judicial district’s LAP, accessible at: <https://languageaccess.nmcourts.gov/language-access-plans.aspx>
- Moving forward, additional surveys will be conducted as deemed necessary. The AOC Language Access Planning Consultant is assisting districts to conduct new surveys of their staff, judges and community stakeholders in 2017-2019.

The findings of the various surveys have helped AOC and the judicial district LAP teams identify areas for improvement in language access services throughout NM. They have helped determine the initiatives and training discussed in this plan, and continue to identify the priorities moving forward.

## IV. MANAGEMENT STRUCTURE

### Administrative Office of the Courts, Language Access Services

The Language Access Services Unit of the Court Services Division of the New

Mexico Administrative Office of the Courts develops and delivers guidance, policies, procedures and training for employees working in the courts to ensure comprehensive language access inside and outside the courtroom for Limited English Proficient, deaf and hard-of-hearing individuals under Title VI of the Civil Rights Act of 1964, Title II of the ADA and Executive Order 13166.

Language Access Services funds and schedules interpreting and other communication access services for:

- Courts' operations, services and programs
- Deaf or hard-of-hearing litigants, jurors, observers or witnesses in any type of court proceeding
- Non-English-speaking persons who are a principal party in interest, witness or juror in a criminal or civil case, including for court-ordered services

The program supports the NM State Courts through: language access planning, training, signage, assistive listening devices, on-demand remote interpreting services and translation of documents.

The Language Access Services Senior Statewide Program Manager oversees overall program operations and budget; assists all state courts in the development and implementation of their language access plans; oversees the testing, credentialing, and credential maintenance of court interpreters, and administers the New Mexico Center for Language Access (NMCLA) (see Section XI).

A full-time Management Analyst provides support to the Senior Statewide Program Manager; processes interpreter invoices and expenses; compiles and analyzes data, and coordinates spoken language interpreters for selected courts in the Fifth Judicial District.

Five full-time Language Access Coordinators, assigned to respective regions of the state, provide Spanish interpretation, oversee and coordinate spoken language interpreters, and assist courts with the implementation of their language access plans and services.

AOC Language Access Services contracts with a part-time American Sign Language Coordinator and with a part-time Language Access Planning Consultant. Other contractual support includes faculty, technical support, instructional design, curriculum development and more.

Additionally, the following state courts employ Spanish staff interpreters: First Judicial District Court, 1 FTE Certified Court Interpreter; Second Judicial District Court, 1 FTE Certified Court Interpreter/Interpreter Supervisor; Bernalillo Metropolitan Court, 3 FTE Certified Court Interpreters.

### **Language Access Advisory Committee (LAAC)**

The Supreme Court-appointed Language Access Advisory Committee provides support to AOC's Language Access Services through the identification of language access needs and the recommendation of policies.

The following subcommittees support the work of the LAAC. The composition of

the LAAC and its subcommittees demonstrate AOC's commitment to inclusivity and to seeking multiagency and community input in its work (see also Section XII):

- New Mexico Judicial Translation Project Team (see Section VII)
- Remote Interpreting Subcommittee: this subcommittee created Remote Interpreting Guidelines for spoken languages (see Section VI) and continues to work on guidelines for sign language
- Literacy Challenges Working Group: addresses challenges related to serving individuals who cannot read or write the English language due to disability, limited English proficiency or illiteracy

## **V. LANGUAGE ACCESS PLANNING**

With the support of the State Justice Institute (SJI), the AOC developed a planning model and contracted with a Language Access Planning Consultant to assist all New Mexico's judicial districts in developing comprehensive, district-specific Language Access Plans (LAPs) in 2012.

As a result of this effort, the first districts began implementing LAPs in 2012, and every district, magistrate and metropolitan court in New Mexico has had an LAP in place since 2013. The locally-tailored nature of New Mexico's LAPs reflects the cultural and linguistic diversity that exists in different regions of the state and provides for the differing needs.

New Mexico has a total of 18 Language Access Plans in place, including this Statewide Report and Plan. These Language Access Plans – in English and Spanish, as well as Navajo for certain judicial districts – can be viewed at: <https://languageaccess.nmcourts.gov/language-access-plans.aspx>

### **Monitoring and Tracking Progress**

In order to ensure continued compliance with and relevance of local LAPs, the AOC Language Access Planning Consultant holds meetings with each of the judicial districts on a yearly basis. The purposes of the meetings include:

- To thoroughly review the district's written LAP, updating any outdated information and ensuring that court staff is familiar with the content,
- To collect and review the courts' statistics for the year
- For court staff to update AOC Language Access Services staff about new developments in the district,
- To identify any problems in language access service delivery and develop solutions,
- For AOC to update court staff about developments at the statewide level,
- For AOC, district court and magistrate court staff to have the opportunity to meet in person and foster working relationships and open communication channels.

## **VI. SERVICES INSIDE THE COURTROOM**

### **Provision of Interpreters and Other Accommodations**

The provision of spoken-language and sign language interpreters, and other communication access accommodations, in court proceedings is based in New Mexico State statute and the Constitution. The Constitution references language access in multiple sections, including Article II, Section 14 and Article VII, Section 3. Interpreters will be provided, consistent with the Court Interpreter Standards of Practice and Payment Policies, at no cost to court customers, witnesses, jurors and other parties who need such assistance under the following circumstances:

- For a deaf or hard-of-hearing litigant, juror, observer (when an observer has submitted a request to the court prior to the proceeding), or witness in any type of court proceeding. Title II of the Americans with Disabilities Act requires local and state courts to provide qualified sign language interpreters or other accommodation to ensure effective communication with deaf and hard-of-hearing individuals.
- For a non-English speaking person who is a principal party in interest or a witness in a criminal case.
- For a non-English speaking person who is a principal party in interest or a witness in a domestic violence case, domestic relations case, and/or Children's Court case, including court-ordered domestic relations mediation.
- For a non-English speaking person who is a principal party in interest in a civil case or that party's witness.
- For victims who are active case participants, i.e., testifying as a witness or when making a statement at sentencing.
- For any non-English speaking juror. A certified court interpreter shall be provided to petit and grand jurors, including jury orientation, voir dire, deliberations, and all portions of the trial.

It is the responsibility of the private attorney, Public Defender or District Attorney to provide interpretation and translation services for pre-trial witness interviews, transcriptions and translations and for attorney/client communications during proceedings.

### **Limited English Proficient Jurors**

New Mexico is the only state in the U.S. that seats LEP jurors. As such, the courts provide interpreters so that the rights and duties of LEP citizens to complete jury service may be upheld.

The Judges' Portal at [www.nmcenterforlanguageaccess.org](http://www.nmcenterforlanguageaccess.org) features videos with tips for judges for working with LEP jurors.

For a list of resources available to Spanish-speaking, Navajo-speaking, Deaf or hard-of-hearing jurors, see Section VII.

## Equipment

AOC places assistive listening (ALD) and interpreting equipment throughout the state courts. Availability of the equipment is advertised to the public by means of signs throughout the courthouses. A training DVD is available online to orient both court employees and interpreters on the equipment's use (<http://www.teltex.com/landing-pages-custom/nm-courts>). The Language Access Services staff work with courts on a regular basis to maintain the integrity of the equipment.

## Remote Interpreting

New Mexico courts frequently schedule credentialed interpreters to appear by telephone or video for short proceedings, most often for languages other than Spanish. Many New Mexico courts regularly conduct video arraignments, with the interpreter providing services either from the court or at the jail.

The Supreme Court has approved a set of Remote Interpreting Guidelines which give protocols for effective remote interpreting and clarifies the types of proceedings for which it can be used. The Guidelines can be viewed at: <https://languageaccess.nmcourts.gov/rules-guidelines-memos-1.aspx>

Tips for judges for facilitating effective remote interpreting are provided on the Judges' Portal at: <https://www.nmcenterforlanguageaccess.org/cms/en/courts-agencies/judges-portal>.

Since early 2012, the AOC Language Access Services program and the Judicial Information Division have been working to test various options for remote interpreting for both sign and spoken languages.

## VII. SERVICES OUTSIDE THE COURTROOM

The New Mexico Administrative Office of the Courts has implemented the following out-of-courtroom language access services in New Mexico courts:

### Signage

- Signage in English, Navajo, Vietnamese, and Spanish that states: "You have the right to an interpreter at no cost to you. If you cannot speak or understand English, or if you need an American Sign Language Interpreter, please contact the clerk for assistance"
- Signage regarding the availability of assistive listening devices
- Language Access Specialists (see below) have requested to be made identifiable to the public by means of a badge in their language

### Language Identification

AOC provides language identification resources to all state courts, who are instructed to train their employees on the use of these resources.

### Remote Interpreting Services

AOC relies on an on-demand telephonic interpreting service, through which court employees can communicate with court users within minutes in 175

languages.

During the most recent fiscal year (July 2016 to June 2017), the service was used by New Mexico courts to facilitate communication in 40 languages.

An on-demand video remote interpreting service for sign language has also been added at various court locations to serve the needs of walk-in customers.

### **Language Access Specialists**

Language Access Specialists (LASs) are a category of employee unique to the New Mexico Judiciary, created to ensure the delivery of meaningful language access services in out-of-courtroom settings. Bilingual employees of the Judiciary are trained and certified through the New Mexico Center for Language Access.

A certified LAS may be awarded a \$1.00 per hour wage incentive per New Mexico Judiciary Personnel Policies. Once certified, an LAS must comply with the continuing education requirements established by the AOC, currently four continuing education units per year.

As of the latest revision of this plan, New Mexico has:

- 110 LASs
- Spanish, Navajo, Mandarin, Polish and Keres-speaking LASs
- LASs working throughout the district, magistrate, metropolitan and municipal courts, as well as at the Supreme Court, Supreme Court Law Library, and Court of Appeals

Written LAS Protocols and a Code of Ethics are in development, with an anticipated completion date of Fiscal Year 2018.

### **Tracking Services Outside the Courtroom**

Data on out-of-courtroom LEP encounters must be tracked manually by court employees. A tally sheet has been developed and is provided to each court.

Data on numbers of out-of-courtroom encounters is included in each court's individual language access plan and may be viewed at:

<https://languageaccess.nmcourts.gov/language-access-plans.aspx>.

### **Translation of Forms and Documents**

The New Mexico Judiciary recognizes the importance of translating forms and documents so that LEP individuals have access to needed information and services.

### **Pleadings in Other Languages**

The New Mexico Judicial Translation Project Team (NMJTPT) was convened in 2013 to translate and discuss the handling of bilingual forms. After conducting extensive research and pilots, NMJTPT recommended to the New Mexico Supreme Court that Domestic Violence and Domestic Relations forms be made available exclusively in bilingual (English/Spanish) format and that should a Self-Represented Litigant (SRL) complete these forms in Spanish, the courts should treat them the same as English submissions and AOC should process the translation. The same applies should an SRL submit any type of pleading in any language. The Supreme Court approved NMJTPT's proposal in 2017 and bilingual

forms are due to launch January 1, 2018.

### Resources in Other Languages

The following professionally translated resources are available in New Mexico's courts:

- Website mirror pages (Spanish)
- District Court Self Help Guide covering the following topics: Representing Yourself; Domestic Violence; Divorce; Kinship Guardianship; Name Change; Probate; Appeals; Resource Directory (Spanish)
- 8 pamphlets for self-represented litigants, explaining civil procedures and terminology in the magistrate courts, provided by AOC (Spanish)
- Magistrate Court bilingual (Spanish) intake form
- Interpreter needed check sheet/rights advisory (Spanish, Navajo, Vietnamese, Chinese, Arabic, French, German, Korean, Thai, Tagalog)
- As the only state in the United States that seats LEP jurors, the New Mexico AOC provides the following materials (*available at <https://jury.nmcourts.gov>*):
  - **Spanish:** juror questionnaire, qualification form, handbook, FAQs, Creed, Tips for after jury service, affidavit of age request for permanent exemption, affidavit of non-resident; orientation video open-captioned in Spanish,
  - **Navajo:** juror questionnaire and qualification form,
  - **Deaf and Hard-of-Hearing:** orientation video open-captioned in English.
- Language Access Plans (Spanish; some Navajo)
- The majority of informational handouts used in New Mexico's courts are not standardized statewide, but are instead created by each local court. AOC has extensively translated courts' materials, continues to process their requests and maintains a Document Bank of all translated materials available throughout the state.

## VIII. COURT-ORDERED SERVICES

Court-ordered services and programs include treatment, supervised visits, dispute resolution services, diversion programs, educational schools and many more.

When court-ordered services and programs are operated and managed by the courts, AOC is responsible for providing language access services. When court-ordered services and programs are operated and managed by contracted service providers, those contractors are responsible for providing language access services.

The AOC Memorandum dated August 3, 2016, "Providing Interpreters for Court-Ordered Programs, Services or Events," explains when the obligation to provide language access services falls on the court and when it falls on the service provider. See: <https://languageaccess.nmcourts.gov/rules-guidelines-memos-1.aspx>

## **IX. STAFF TRAINING AND PROFESSIONAL DEVELOPMENT**

### **Mandatory Language Access Training**

The New Mexico Supreme Court and AOC produced a language access training video which, since October 2011, is required viewing for all current and incoming employees of the New Mexico Judiciary. The 30-minute video reviews the courts' obligations to ensure language access under Title VI of the Civil Rights Act of 1964 and Executive Order 13166 and identifies the responsibilities and specific resources available to each employee in fulfilling this obligation. This training was required of all current employees at the time of the Supreme Court Order and is incorporated into new employee orientation. Each employee is required to have a signed form acknowledging that they have participated in this training in their personnel file. The Supreme Court Order (#11-8500) and Training Policy can be found in *Attachment C*.

### **Language Access Specialist Certification**

The AOC continues to provide scholarships and wage incentives to bilingual court employees to pursue certification as Language Access Specialists (see Section VII). In addition to the 12-week online certification course, the AOC offers continuing education webinars throughout the year and an annual face-to-face full-day LAS Symposium.

A Language Access Specialist symposium is held annually. LASs from all over the state are encouraged to travel to Albuquerque to receive training and continuing education units and to collaborate with their peers.

### **Other Training for Judges and Judicial Employees**

In addition to the mandatory language access training, AOC continues to include language access information in various trainings offered for court staff and judges. Settings have included:

- Judicial Conclave
- New Judges Training
- Magistrate Court Judges Conference
- Municipal Court Staff and Judges Conference
- Judges' Portal
- Video trainings
- Webinars
- Language Access Planning team meetings

Individual courts are encouraged to provide training to their staff and judges and are assisted with planning this during their regular LAP update meetings. AOC is available to assist in this training as requested. The Senior Statewide Program Manager, Language Access Planning Consultant, Sign Language Interpreter Coordinator and Language Access Coordinators regularly do so.

Additionally, Language Access Coordinators and LASs are tasked with educating judges and staff in their courts around language access issues.

## **Training for Justice System Partners**

AOC has provided language access training for Public Defenders, including District Defenders and support personnel at the statewide Department of Public Defenders conference. Similar training has been provided for domestic violence advocates and Hearing Officers. AOC aims to expand its training offerings to additional justice system partners.

### **Language Access Basic Training**

The Language Access Basic Training (LABT) Suite is an interactive training that is downloaded by trainees and provides an introduction to language access for all court employees. It is a collaborative project funded by the State Justice Institute and supported by the National Center for State Courts (NCSC) and the Language Access Advisory Committee of the Council of State Court Administrators (COSCA). The purpose of the training is to ensure that all court employees have a basic understanding of their ethical and legal obligations, as well as current best practices in serving LEP individuals. Available in Spanish and Language Neutral (all spoken languages) versions, the LABT also provides a training module and an optional skills assessment for bilingual court employees.

The New Mexico AOC uses the LABT in webinars and in-person staff and judges' trainings throughout the year.

More detail on the LABT is available on the NMCLA website at:

<https://www.nmcenterforlanguageaccess.org/cms/en/courts-agencies/about-language-access-basic-training>

## **X. COURT INTERPRETER CREDENTIALING AND MAINTENANCE**

The credentialing of court interpreters, and the maintenance of those credentials, is managed by the AOC. Training of court interpreters and court interpreter candidates is done through the NM Center for Language Access (NMCLA). For more on NMCLA, see Section XI.

### **Recruitment and Training of Spoken Language Interpreter Candidates**

The AOC is actively involved with local organizations throughout New Mexico in an effort to publicize the availability of Court Interpreting as a professional career option. Information is available via the NMCLA website and regular distribution to individuals and community groups serving New Mexico's immigrant and multilingual communities.

The Improving Access to Justice for Native Peoples in State Courts project (see Section XI) has had a significant impact on building relationships with local Native American communities to recruit and train interpreter candidates for Navajo and Pueblo languages.

Efforts to recruit candidates for all languages through laboratories, military bases, and universities are ongoing.

Additionally, AOC encourages credentialed interpreters in languages other than Spanish who are frequently assigned to New Mexico court proceedings to complete New Mexico's requirements for reciprocal credentialing.

In accordance with AOC Policy, court interpreter certification candidates have two paths to becoming certified in the state of New Mexico. Candidates can either take the Introduction to Court Interpreter (mandatory) course and prepare on their own for the certification exams, or they can take the Justice System Interpreter Certificate Program (JSI). Candidates with little or no experience as court interpreters are encouraged to take the full JSI program.

**Introduction to Court Interpreting:** The two-week mandatory pre-testing course is offered online through NMCLA four times per year. Soon, NMCLA will be moving to a downloadable orientation: a collaborative effort being developed in tandem with seven other states and designed for potential national application. This self-paced court interpreter orientation and skills building program will reduce instructor and therefore candidate costs, provide self-assessment and feedback tools, and be available on a flexible schedule.

**Justice System Interpreting Program:** The 26-week instructor-led online program is designed to train candidates interested in pursuing court interpreting certification. Attorneys and experienced certified court interpreters and translators with a variety of backgrounds have designed this interdisciplinary curriculum. The program also includes a flexible internship and complementary in-person training sessions. The program is available in Spanish and Language Neutral.

The AOC continues to credential spoken language court interpreters through the National Center for State Courts (NCSC) standardized written and oral examinations. The AOC tests and credentials court interpreters in all languages for which the NCSC provides oral examinations. For languages not available through NCSC, the Oral Proficiency Interviews of Language Testing International are used.

### **Recruitment and Credentialing of Sign Language Interpreters**

Three tiers of sign language interpreters work in the New Mexico courts: 1) Certified: Legal Apprentice; 2) Certified: Legal Qualified; 3) Certified: Legal Specialist. The qualification requirements for each are set out in *Attachment D*.

As of the latest revision of this plan, Registry of Interpreters for the Deaf had established a moratorium on awarding its Specialist Certificate: Legal (SC:L). New Mexico continues to recognize the SC:L for those who obtained it prior to the moratorium.

In order to be able to qualify sign language interpreters moving forward and increase the pool of interpreters available to the courts, the New Mexico Supreme Court approved the AOC's proposal to offer an alternative path to certification through the Texas Board of Evaluation of Interpreters. See *Attachment D*.

American Sign Language (ASL) webinars and in-person trainings with national experts are offered regularly throughout the year.

### **Background Checks**

Upon successful completion of the Court Interpreter examinations, qualification Page 16 of 41

as a Justice System Interpreter, or classification as a court qualified sign language interpreter, the interpreter is required to undergo a National Crime Information Center (NCIC) background check (see *Attachment E*). Upon successful completion of the process, the interpreter is added to the New Mexico Directory of Certified Court Interpreters and Registry of Justice System Interpreters. Photo identification badges are also provided at this time at a small cost to the interpreter.

### **Post-Credentialing Training**

Requirements are in place for all interpreters becoming court certified or qualified as justice system interpreters to attend mandatory post-credentialing training. The objectives of training are to ensure that newly certified interpreters at the conclusion of the training:

- Are aware of courtroom protocol and positioning
- Are well-versed in the New Mexico Court Interpreter Code of Professional Responsibility
- Understand the cases and hearings handled at the Magistrate Courts and at the District Courts
- Understand how they are going to be queried for jobs and how to enter their availability in the web based scheduling system

The AOC offered training on interpreting for jurors at its 2017 court interpreter symposium. It is the goal of the AOC to make this training mandatory.

### **Professional Development**

Online and in-person continuing education opportunities are offered throughout the year. See: <https://www.nmcenterforlanguageaccess.org/cms/en/training/other-classes>

### **Continuing Education Requirements**

AOC credentialed spoken language interpreters must comply with the continuing education policy, which requires membership in a state or national interpreters' association and participation in a minimum of 20 hours of professional development conferences or courses over a two-year period. Spoken language interpreters can monitor their Continuing Education compliance at: <https://languageaccess.nmcourts.gov/continuing-education.aspx>

Sign Language interpreters must comply with 2.0 Legal CEUs in each 4-year Registry of Interpreters for the Deaf CMP cycle.

Interpreters who meet AOC requirements at the end of each cycle, are provided with photo identification badges. They remain in the Directory/Registry with current contact information and are included in the interpreter scheduling management system.

## **XI. NEW MEXICO CENTER FOR LANGUAGE ACCESS**

Since 2009, the New Mexico Center for Language Access (NMCLA) fills a significant role in the New Mexico Judiciary's language access services. The Center also receives out-of-state students and is financially self-sustaining

through student tuition. See: <http://www.nmcenterforlanguageaccess.org>

In addition to the training of court interpreters and Language Access Specialists, NMCLA is engaged in the ongoing projects detailed below.

### **Municipal Courts: Language Access Specialist and Justice System Certificate Programs**

In 2013, AOC/NMCLA began providing training to Municipal Court Clerks regarding language access and, in collaboration with the Judicial Education center (JEC), began providing training and certification for bilingual Municipal Court clerks as Language Access Specialists.

As of the latest revision of this plan, 27 municipal court employees were working as Language Access Specialists. In addition, several municipal court employees have registered for the Justice System Interpreting Program, which allows graduates to interpret in the courtroom.

### **Language Access Specialist Continuing Education**

NMCLA provides ongoing continuing education for both State and Municipal Court Language Access specialists. Webinars are offered at no charge throughout the year to help LASs maintain their certification, which requires four hours of continuing education each calendar year. Additionally, NMCLA holds an annual face-to-face symposium for Language Access Specialists. Participants receive a total of four continuing education credits for attending the full day session, which includes workshops on sight translation, consecutive interpreting, legal terminology, cultural competency and assisting self-represented litigants.

### **Improving Access to Justice for Native Peoples in State Courts Project**

The Improving Access to Justice for Native Peoples in State Courts project was funded by SJI – with additional funding from AOC, the Judicial Education Center and the University of NM – and was completed in 2016. The primary objective of the project was to develop a training and qualification process for court interpreters of the Navajo language and the languages of New Mexico's Pueblos, which is culturally appropriate and protects the rights of tribal members as they function within the state court system.

Underlying this work is the common thread of culture within each language group. Cultural mores have an impact on defining the abstract legal concepts, understanding modes of interpreting, and framing ethical parameters that respect the relationship of interpreter and "client" within the specific cultural context.

The project was driven by Core Design Teams comprised of tribal members with expertise in native languages, law, and education, including:

- Prof. Barbara Creel, Director of the UNM School of Law Southwest Indian Law Clinic, Jemez Pueblo
- Sarah Pino, Former Education Director for the Pueblo of Zia
- Hon. William Johnson, Tribal Court Judge, Isleta Pueblo
- Diane Williams, Keres Language Teacher, Cochiti Pueblo

- Dr. Christine Sims, UNM College of Education Associate Professor, Acoma Pueblo
- Frank Morgan, Navajo interpreter and translator
- Blanche Raymond, Navajo interpreter and Language Access Specialist

### **Downloadable Court Interpreter Orientation Suite**

This project is ongoing and a collaborative effort between the New Mexico, Kentucky, Minnesota, Idaho, Alaska, Michigan, Virginia and Nevada State Courts. The objective is to develop, test, and implement a downloadable court interpreter orientation and skills building suite, built around identified core competencies, designed for potential national application. This collaborative, jointly-funded effort will streamline and strengthen the way state court programs recruit and provide orientation to prospective interpreters. The online training module will be designed to introduce prospective interpreters to the basics of court interpreting. It will also include immediate feedback and an option for self-assessment of the skills required in order to proceed with registering for credential testing.

### **Workforce Connections**

NMCLA has been receiving students through Workforce Connections since 2009. Under the Workforce Investment Act, Workforce Connections funds qualifying candidates to undertake NMCLA's professional development and credentialing programs. NMCLA continues to strengthen its relationship with Workforce Connections to be able to reach more potential students and increase the pool of qualified interpreters available to the New Mexico courts while offering well-paid work opportunities for bilinguals.

## **XII. COLLABORATIONS**

### **Collaborations Within the NM Judiciary**

AOC Language Access Services staff lends expertise to the following initiatives led by other divisions within the New Mexico Judiciary:

- Jury Improvement Committee. The Senior Statewide Program Manager for Language Access Services sits on the Jury Improvement Committee, advising on issues surrounding the constitutional rights and obligations of LEP individuals to serve on juries in NM
- Domestic Violence (DV) kiosks. The Senior Statewide Program Manager currently participates in a grant project coordinated by the AOC Domestic Violence Staff Attorney to pilot DV kiosks in courts located in underserved areas. The kiosks will assist DV victims to complete forms by means of an automated interview format and will be available in English, Spanish and Navajo
- Judicial Information Division's (JID) website project. The Language Access Planning Consultant collaborates with JID and individual courts to ensure that all relevant English website pages have professionally-translated and up-to-date Spanish mirror pages

## Collaborations with Community Organizations

The NM AOC is committed to inclusivity and to seeking multiagency and community input in its work. The following organizations, among others, are invited to give input, serve on working groups, or partner in delivering training:

- Judicial Education Center
- Legal Aid
- Law Access NM
- University of NM School of Law
- NM Human Services Department
- NM Asian Family Center
- NM Commission for the Deaf and Hard-of-Hearing
- NM Commission for the Blind
- ReadWest Adult Literacy Program
- NM Pueblos and the Navajo Nation
- Local community partners at the judicial district level

## National Collaborations

The NM AOC regularly participates in language access committees and conferences at the national level and in addition, is currently collaborating on projects with the following entities:

- National Center for State Courts
- Kentucky, Minnesota, Idaho, Alaska, Michigan, Virginia and Nevada State Courts (see Section XI)

## XIII. PUBLIC OUTREACH

AOC recognizes the importance of informing the public and key community stakeholder organizations about the accessibility of New Mexico's courts. In addition to the diverse community partnerships detailed elsewhere in this report, AOC conducts and assists local courts to conduct outreach/informational initiatives to members of the public.

### Annual Report

AOC Language Access Services releases an annual report in December each year. The reports detail language access initiatives and statistics and serve as an outreach tool to educate court staff, judges, community partners and the public about language access services in the New Mexico courts.

Annual reports can be viewed at: <https://languageaccess.nmcourts.gov/annual-report.aspx>

### NM Judiciary Website

#### Language Access Services Page

AOC has maintained a Language Access Services webpage on the NM Judiciary website since 2013, which can be viewed at: <https://languageaccess.nmcourts.gov>

The page is available in English and Spanish, and also offers some resources in additional languages. Content includes:

- Resources for the general public, jurors, community organizations, attorneys, interpreters, court employees and judges
- Language Access Plan repository
- Interpreter Portal
- Video and audio materials
- Americans with Disabilities Act information
- Language data for New Mexico

### **Translation of NM Judiciary Website**

In June 2016, the Judicial Information Division launched a completely revamped website for the entire Judiciary. AOC Language Access Services committed significant resources to ensuring the new sites would be fully accessible to the Spanish-speaking public. Certified translators translated hundreds of pages of content for all 13 district courts, the Bernalillo County Metropolitan Court, the Supreme Court, the Court of Appeals and AOC's programs and divisions. Navajo pages are also included for certain districts and programs.

An *Español* button appears clearly at the top of every page, as well as a Navajo/ *Diné* button where applicable. Navigational tabs to the ADA page and to Language Access Services' own webpage are likewise clearly visible from every area of the Judiciary's website.

The AOC Language Access Planning Consultant works on an ongoing basis to ensure that Spanish content continues to mirror English content for all sites.

### **Public Service Announcements**

In 2013 and 2014, AOC placed Public Service Announcements (PSAs) on radio stations across the state. The PSAs informed the public that the state's courts are accessible to all residents, including those who speak limited English and those who are deaf or hard-of-hearing, and provided the address of the Language Access Services webpage. The PSAs were produced in English, Spanish, Navajo and Vietnamese.

Audio files of the PSAs are posted on the webpage at:

<https://languageaccess.nmcourts.gov/index.php/additional-links-and-resources.html>

AOC plans to continue issuing PSAs on an ongoing basis.

**Spanish Phone Services** The telephone is an important early point of contact conveying courthouse accessibility to the LEP public. The great majority of district, metropolitan and magistrate courts have Spanish phone messages or phone trees in place. Ensuring that the few remaining magistrate courts put Spanish phone services in place is a priority for AOC.

## **XIV. FUNDING**

The New Mexico Administrative Office of the Courts commits significant resources to fund all projects and services described in this plan and will

continue to work to identify new funding opportunities to support language access efforts across the Judiciary.

## **XV. PRIORITIES MOVING FORWARD**

- Develop and implement quantifiable performance measures,
- Continue to improve the efficacy and efficiency of services,
- Expand remote interpreting,
- Refine and implement a process for handling pleadings submitted by Self-Represented Litigants in languages other than English.

## **XVI. PLAN MANAGEMENT**

### **Plan Notification and Access**

The AOC will notify state and local courts, executive branch agencies, and advocacy groups with direct or indirect interest in language access issues of the plan's availability and post the plan at:

<https://languageaccess.nmcourts.gov/language-access-plans.aspx>

### **Maintaining the Plan**

To keep this plan current and to ensure that the NM Judiciary addresses the needs of an increasingly diverse population, the AOC and the LAAC will review and update this plan at minimum every two years. Reviews will include an update of population data, consideration of new technologies and best practices, and an analysis of available service data.

### **Complaint Procedure**

The AOC and every district, magistrate and metropolitan court have a complaint procedure for persons who feel their rights to language access have been violated. Should any individual wish to make a complaint, the attached complaint procedure and form will be provided to them by the LAP Coordinator of the relevant district or by the AOC. The complaint procedure and form are available in English, Spanish and Navajo and can be translated into additional languages on request. The statewide procedure and form can be found in *Attachment F* and are also available to the public at:

<https://languageaccess.nmcourts.gov/complaints.aspx>

### **AOC Language Access Plan Coordinator**

Paula Couselo, Senior Statewide Program Manager, Language Access Services

New Mexico Administrative Office of the Courts

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505-827-4853

**Language Access Plan Effective Date:** July 1, 2011

Review and Update: September, 2012

Review and Update: November, 2013

Review and Update: July, 2015

Review and Update: September, 2017

**Approved By:**

\_\_\_\_\_ DATED: \_\_\_\_\_

HON. JUDITH NAKAMURA  
CHIEF JUSTICE  
NM SUPREME COURT

\_\_\_\_\_ DATED: \_\_\_\_\_

ARTHUR PEPIN  
DIRECTOR  
NM ADMINISTRATIVE OFFICE OF THE COURTS



**New Mexico: Languages Spoken by Limited English Proficient (LEP) Individuals Statewide and by County: Number and Share of Total State/County Population\***

\*LEP number estimates by language are displayed only if 500 persons or more; LEP percentage estimates by language are displayed only if 5 percent or more

State	County	Total Population	Total LEP Population	Language 1 (LEP name)	Language 1 (LEP number)	Language 1 (LEP % of total pop)	Language 2 (LEP name)	Language 2 (LEP number)	Language 2 (LEP % of total pop)	Language 3 (LEP name)	Language 3 (LEP number)	Language 3 (LEP % of total pop)	Language 4 (LEP name)	Language 4 (LEP number)	Language 4 (LEP % of total pop)	Language 5 (LEP name)	Language 5 (LEP number)	Language 5 (LEP % of total pop)	Language 6 (LEP name)	Language 6 (LEP number)	Language 6 (LEP % of total pop)	Language 7 (LEP name)	Language 7 (LEP number)	Language 7 (LEP % of total pop)	Language 8 (LEP name)	Language 8 (LEP number)	Language 8 (LEP % of total pop)	
United States		289,077,900	25,227,900	Spanish	16,959,900	5.7	Chinese	1,556,500	0.5	Vietnamese	603,200	0.2	Korean	633,900	0.2	Tagalog	602,300	0.2	Russian	426,100	0.1	Arabic	323,900	0.1	French Creole			
New Mexico		1,817,300	183,800	Spanish	155,300	8.1	Navajo	12,800	0.7	Vietnamese	3,700	0.2	Chinese	1,700	0.1	Other Native America												
New Mexico	Bernalillo County	610,200	54,000	Spanish	46,600	7.6	Vietnamese	1,700	0.3	Chinese	1,300	0.2	Navajo	700	0.1													
New Mexico	Catron County	3,600	100																									
New Mexico	Chaves County	89,700	7,200	Spanish	6,800	7.6																						
New Mexico	Cibola County	25,400	1,800	Spanish	1,200	4.7																						
New Mexico	Colfax County	13,100	600	Spanish	500	3.8																						
New Mexico	Curry County	43,200	3,500	Spanish	3,300	7.5																						
New Mexico	De Baca County	1,900	100	Spanish		5.3																						
New Mexico	Dona Ana County	180,000	31,300	Spanish	30,500	16.1																						
New Mexico	Edra County	49,400	3,300	Spanish	3,200	6.5																						
New Mexico	Grant County	27,800	1,800	Spanish	1,600	5.8																						
New Mexico	Guadalupe County	4,500	200	Spanish		4.4																						
New Mexico	Harding County	500	-	Spanish		0.0																						
New Mexico	Hidalgo County	4,600	300	Spanish		6.5																						
New Mexico	Lea County	58,000	7,200	Spanish	7,100	12.2																						
New Mexico	Lincoln County	19,000	1,400	Spanish	1,200	6.3																						
New Mexico	Los Alamos County	17,100	400			2.3																						
New Mexico	Luna County	23,600	3,800	Spanish	3,800	16.3																						
New Mexico	McKinley County	65,300	10,400	Navajo	7,800	11.9	Spanish	1,400	2.1	Other Native America	1,000	1.5																
New Mexico	Mora County	4,800	900	Spanish		18.8																						
New Mexico	Otero County	58,800	8,200	Spanish	5,200	8.8	German	600	1.0																			
New Mexico	Quay County	8,500	300			3.5																						
New Mexico	Rio Arriba County	37,400	2,800	Spanish	2,500	6.7																						
New Mexico	Roosevelt County	18,100	1,300	Spanish	1,200	6.6																						
New Mexico	Sandoval County	119,300	6,900	Spanish	4,300	3.6	Other Native America	1,500	1.2																			
New Mexico	San Juan County	117,400	6,600	Spanish	3,300	2.8	Navajo	3,100	2.6																			
New Mexico	San Miguel County	27,700	2,600	Spanish	2,200	8.1																						
New Mexico	Santa Fe County	134,900	15,400	Spanish	15,000	11.1																						
New Mexico	Sierra County	11,500	400			3.5																						
New Mexico	Socorro County	16,600	2,300	Spanish	1,400	8.6	Navajo	700	4.2																			
New Mexico	Texas County	36,900	1,700	Spanish		4.6																						
New Mexico	Torrance County	15,600	1,200	Spanish	1,100	7.3																						
New Mexico	Union County	4,200	200			4.8																						
New Mexico	Valencia County	76,400	6,300	Spanish	6,000	7.8																						

Notes: \*LEP number estimates by language are displayed only if 500 persons or more; LEP percentage estimates by language are displayed only if 5 percent or more. Consistent with US Census Bureau reporting, estimates for the United States overall do not include data from Puerto Rico.

Population estimates are for individuals age 5 and older.

The term LEP refers to any person age 5 and older who reported speaking English "less than very well," as classified by the US Census Bureau.

\*Spanish\* includes Spanish and Spanish Creole; \*Portuguese\* includes Portuguese and Portuguese Creole; \*French\* includes Patois and Cajun; \*French Creole\* includes Haitian Creole; \*Chinese\* includes Mandarin, Cantonese, and Chinese.

\*Other Pacific Island languages\* excludes Tagalog, which is shown separately.

\*Other West Germanic languages\* excludes German and Yiddish, which are shown separately.

\*Other Native North American languages\* excludes Navajo, which is shown separately.

No further detail exists for the "African languages" category in the original source data.

Source: Migration Policy Institute tabulations from the US Census Bureau's pooled 2009-2011 American Community Survey (for the United States and states, except Wyoming and Puerto Rico) and 2007-2011 ACS (for counties, plus Wyoming and Puerto Rico), Table B16001 "Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over," available through the American FactFinder at <http://factfinder2.census.gov/faces/hist/jsp/pages/index.xhtml>. Data were compiled by

# Language Summary Report

Customer: 9524

Start Date:

07/01/2017

Minutes	Language	Number of Orders	Avg Call
10	Amharic	1	10.00
29	Arabic	3	9.67
11	Armenian	2	5.50
20	Chinese Cantonese	1	20.00
11	Farsi	1	11.00
40	Indonesian	3	13.33
39	Kinyarwanda	1	39.00
50	Kirundi	3	16.67
60	Navajo	2	30.00
30	Punjabi	1	30.00
801	Spanish	105	7.63
4	Swahili	1	4.00
<b>1,105</b>		<b>124</b>	<b>8.91</b>

RECEIVED A TRUE COPY  
Kathleen J. Velazquez  
Clerk of the Supreme Court  
of the State of New Mexico

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**IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

**April 6, 2011**

**NO. 11-8500**

**IN THE MATTER OF THE APPROVAL  
OF THE MANDATORY LANGUAGE ACCESS TRAINING  
FOR THE JUDICIAL BRANCH OF GOVERNMENT**

**ORDER**

WHEREAS, this matter came on for consideration by the Court upon recommendation of the Administrative Office of the Courts to approve the language access training DVD, *Language Access is Equal Access*, and to ensure that all present and future judicial employees view the training DVD; and

WHEREAS, the language access training DVD is part of the New Mexico Judiciary's effort to ensure that all New Mexico residents, regardless of their ability to speak or understand the English language, receive qualified language assistance when involved with the New Mexico state courts, and the Court having considered said recommendation and being sufficiently advised, Chief Justice Charles W. Daniels, Justice Patricio M. Serna, Justice Petra Jimenez Maes, Justice Richard C. Bosson, and Justice Edward L. Chávez concurring;

NOW, THEREFORE, IT IS ORDERED that the recommendation is ADOPTED and the language access training DVD, *Language Access is Equal*

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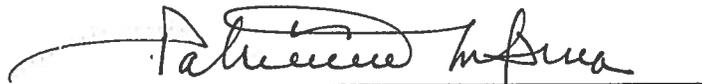
Access, is APPROVED; and

IT IS FURTHER ORDERED that all New Mexico judicial entities shall ensure that present and future judicial employees view the language access training DVD as soon as practicable.

Done in Santa Fe, New Mexico, this 6<sup>th</sup> day of April 2011.



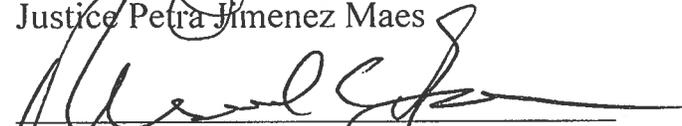
Chief Justice Charles W. Daniels



Justice Patricio M. Serna



Justice Petra Jimenez Maes



Justice Richard C. Bosson



Justice Edward L. Chávez

# NEW MEXICO JUDICIAL BRANCH

## GENERAL POLICY AND PROCEDURE

### LANGUAGE ACCESS TRAINING POLICY

#### 1. PURPOSE

The purpose of this policy is to ensure that all employees of the New Mexico Judiciary understand the importance of, the basis for, and their role in providing qualified language assistance to all individuals who use or may use the services of the New Mexico state courts.

The New Mexico Judicial Branch is committed to ensuring access to justice for all New Mexico residents and recognizes that language access is a significant aspect of equal access to justice at all points of public contact with the judiciary, within and outside the courtroom and courthouse. This commitment is consistent with both state and federal law.

Title VI of the Civil Rights Act of 1964 provides that “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.” 42 U.S.C. §2000d (2010). The U.S. Supreme Court has determined that discrimination based on language (whether intended or not) is a form of national discrimination prohibited by Title VI.

The Constitution of the State of New Mexico references language access in multiple sections including the following.

Article II, Section 14 *“In all criminal prosecutions, the accused shall have the right to appear and defend himself in person, and by counsel; to demand the nature and cause of the accusation; to be confronted with the witnesses against him; to have the charge and testimony interpreted to him in a language that he understands; ...”*

and

Article VII, Section 3 provides that “[t]he right of any citizen of the state to...sit upon juries, shall never be restricted, abridged or impaired on account of...inability to speak, read or write the English or Spanish languages.” To comply with this constitutional mandate, the Supreme Court has charged that “all courts should strive to incorporate all New Mexico citizens into our jury system regardless of the language spoken by a prospective NES (non-English speaking) juror.” (Non-English Speaking Juror Guidelines, p. 2)

**NEW MEXICO JUDICIAL BRANCH**  
**GENERAL POLICY AND PROCEDURE**

This policy has a broad application and applies to justices, judges, and all employees (probationary, term, classified, at-will and temporary employees).

**2. EDUCATIONAL PROGRAMS**

- A. Each judicial entity shall ensure every employee completes the AOC-approved language access training within six (6) months of hire.
- B. The Administrative Authority or designee shall certify to the Director by the first of January each year that all current employees of that judicial entity have previously received training or will receive the above training within the next six (6) months.
- C. Follow-up language access training and training on the court's language access plan may be provided, as appropriate.
- D. Each employee who attends language access training shall sign an acknowledgement that the employee has attended the training.
- E. Viewing of the Language Access Video is required by all New Mexico Judicial Branch employees (at-will employees, term, temp) and provides information that includes:
  - (1) an overview of pertinent state and federal law;
  - (2) what constitutes meaningful language access;
  - (3) a review of the role of the certified court interpreter;
  - (4) the employee's role in ensuring meaningful language access;
  - (5) a review of the language access resources provided by the Administrative Office of the Courts.

Effective Date:

  
\_\_\_\_\_  
Arthur W. Pepin, Director  
Administrative Office of the Courts



\_\_\_\_\_  
Date

Dev: 5/2011

**NEW MEXICO JUDICIAL BRANCH**  
**LANGUAGE ACCESS TRAINING**  
**ACKNOWLEDGMENT FORM**

My signature below acknowledges:

- (1) That I viewed the AOC approved Language Access Training Video.
- (2) Receipt of the New Mexico Judicial Branch Language Access Training Policy and Supreme Court Order #11-8500 approving the policy on April 6, 2011.
- (3) My commitment to read and understand the Policy.
- (4) That should I have any questions or concerns regarding the training or policy I will contact the AOC Court Services Division, at 827-4822.

\_\_\_\_\_  
Court (Please Print)

\_\_\_\_\_  
Employee Name (Please Print)

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Employee Signature

\_\_\_\_\_  
Date

Original: Employee Personnel File  
Copy: Employee & Court Services Division  
Copy: AOC HR

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**IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

**May 5, 2017**

**NO. 17-8500-006**

**IN THE MATTER OF THE  
APPROVAL OF QUALIFICATIONS  
FOR SIGN LANGUAGE INTERPRETERS**

**ORDER**

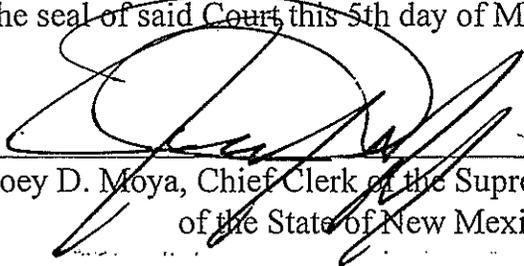
WHEREAS, this matter came on for consideration upon recommendation of the New Mexico Language Access Advisory Committee to adopt revised qualification requirements for sign language interpreters, and the Court having considered the recommendation and being otherwise sufficiently advised, Chief Justice Charles W. Daniels, Justice Petra Jimenez Maes, Justice Edward L. Chávez, Justice Barbara J. Vigil, and Justice Judith K. Nakamura concurring;

NOW, THEREFORE, IT IS ORDERED that the recommendation of the New Mexico Language Access Advisory Committee to adopt revised qualification requirements for sign language interpreters is APPROVED, effective March 1, 2017.

IT IS SO ORDERED.

WITNESS, Honorable Charles W. Daniels, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 5th day of May, 2017.

(SEAL)

  
Joey D. Moya, Chief Clerk of the Supreme Court  
of the State of New Mexico

# Administrative Office of the Courts

Supreme Court of New Mexico

Arthur W. Pepin, Director  
Paula Counselo-Findikoglu, Program Manager



237 Don Gaspar, Room 25  
Santa Fe, NM 87501  
(505) 827-4800  
(505) 827-4824 (fax)  
www.nmcourts.gov

April 10, 2017

Chief Justice Charles Daniels  
New Mexico Supreme Court  
237 Don Gaspar  
Santa Fe, NM 87501

Language Access Services - Language Access Advisory Committee  
Qualification of Sign Language Interpreters

Dear Justice Daniels and Supreme Court Justices,

I am enclosing a proposal regarding revised qualification requirements for sign language interpreters (hearing). The NM Language Access Advisory Committee recommends this proposal.

The revisions are necessary because Registry of Interpreters for the Deaf, Inc. (RID) has established a moratorium on awarding its Specialist Certificate: Legal (SC:L). We have corresponded with RID and they have confirmed that they have no plans to alter or address this shortfall that now confronts us.

Three tiers of sign language interpreters work in the New Mexico courts:

- 1) Certified: Legal Apprentice. This category is unaffected.
- 2) Certified: Legal Qualified. Previously required to pass the SC:L written test. Would now be required to pass the National Center for State Courts written test for court interpreters that is regularly administered by the NM AOC.
- 3) Certified: Legal Specialist. Previously required to hold the SC:L. Would now have the option of holding the Texas Board of Evaluation of Interpreters (BEI) Court Interpreter Certification.

RID continues to recognize, and the NM AOC will continue to recognize, the SC:L for those who obtained it prior to the moratorium.

Proposal objectives:

- Continue to qualify ASL (hearing) interpreters to work in the NM State Courts

- Continue to recognize the SC:L for those who obtained it prior to the moratorium
- Qualify ASL interpreters through the BEI Court Interpreter Certification as an alternative to the SC:L
- Open the NM AOC written test (also used by BEI as their written test) to ASL interpreters. Upon passing, furnish documentation that ASL interpreters can provide to BEI as proof of eligibility to take the BEI performance exam
- Increase the pool of certified ASL court interpreters in the state of NM to keep pace with current and future needs

The NM AOC is currently unable to qualify sign language interpreters and has a pressing need to do so. Due to the urgency of resolving this matter, we are asking for your approval of this proposal.

Sincerely,



*Paula Couselo-Findikoglu*  
Senior Statewide Program Manager  
Language Access Services  
NM Center for Language Access  
New Mexico Administrative Office of the Courts

Attachments:

1. Proposed revised qualifications for Sign Language Interpreters.

## Proposed Requirements for Hearing Interpreters

These requirements were revised in March 2017 in light of the Registry of Interpreters for the Deaf (RID) establishing a moratorium on awarding its Specialist Certificate: Legal (SC:L). New qualification options as of March 2017 have been added to the existing requirements in bold/italics.

### Certified: Legal Specialist:

RID Generalist Certification • Specialist Certificate: Legal (SC:L) **or Board of Evaluation of Interpreters (BEI) Court Interpreter Certification** • BA degree or RID's Alternative Pathway • NM Community License • Introduction to NM Courts Seminar & AOC Orientation • 2.0 Legal CEUs in each 4-year RID CMP cycle • Background Check • **Maintain and comply with (BEI) Court Interpreter Certification and CEU requirements (if holding BEI Court Interpreter Certification)** • 3 professional references

### Certified: Legally Qualified:

RID Generalist Certification • Pass SC:L Written Test **or Texas Department of Assistive and Rehabilitative Services (DARS) Office for Deaf and Hard of Hearing Services (DHHS)-approved court interpreter written test\*** • BA degree or RID's Alternative Pathway • NM Community License • Introduction to NM Courts Seminar & AOC Orientation • **20-hour in-court observation, supervised work and/or mentoring** • 2.0 Legal CEUs in each 4-year RID CMP cycle • Background Check • 3 professional references

### Certified: Legal Apprentice

RID Generalist Certification • NM Community License • BA degree or RID's Alternative Pathway • Introduction to NM Courts Seminar & AOC Orientation • 2.0 Legal CEUs in each 4-year RID CMP cycle • Background Check • 3 professional references

\* The court interpreter written examination that New Mexico currently administers is approved by the Texas Department of Assistive and Rehabilitative Services (DARS) Office for Deaf and Hard of Hearing Services (DHHS). Texas requires a minimum passing grade of 80% on the written examination before a candidate can be considered for the Court Performance Test.

A description of the written examination is available here:

[http://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Language%20Access/Written%20and%20Oral/2014%20January\\_Written%20Exam%20Overview%201%2029%2014.ashx](http://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Language%20Access/Written%20and%20Oral/2014%20January_Written%20Exam%20Overview%201%2029%2014.ashx)

Examination dates are available here:

<http://www.nmcenterforlanguageaccess.org/cms/en/calendar/class-schedule>

Passing this exam at 80% or above does not automatically make a candidate eligible to take the BEI Court Performance Test. Candidates interested in pursuing BEI's Court Interpreter Certification must additionally comply with BEI's requirements for testing/certification. (See relevant extracts from the Texas Rule at the end of this document).

Candidates must show proof of having passed the court interpreter written examination in NM when applying for BEI's Court Interpreter Certification. Once eligibility is established, DHHS is able to coordinate a testing date in Austin, TX for the Court Performance Test.

See: <https://hhs.texas.gov/laws-regulations/handbooks/board-evaluation-interpreters/chapter-4-court-interpreter-certification/4-4-applying-court-interpreter-certification/4-4-2-applying-a-court-interpreter-performance-test>

### **BEI Court Interpreter Certification Eligibility Requirements**

#### **RULE §109.315                      Qualifications and Requirements for Court Certificate**

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(a) An applicant who is hearing must meet the following qualifications to become a Board for Evaluation of Interpreters (BEI)-certified court interpreter:

- (1) hold at least one BEI certificate at Level III, IV, V, IIIi, IVi, Vi, Advanced, Master, or Oral: Comprehensive; or hold certification from Registry of Interpreters for the Deaf (RID) with a Comprehensive Skills Certificate, Certificate of Interpretation/Certificate of Transliteration, Reverse Skills Certificate, Certified Deaf Interpreter, or Master Comprehensive Skills Certificate, or National Interpreter Certification Advanced or National Interpreter Certification Master;
- (2) pass the DARS DHHS-approved court interpreter written test, which may only be taken by applicants who hold one of the certificates listed in paragraph (1) of this subsection; and
- (3) pass the court performance test, which may only be taken by applicants who have passed the court interpreter written test.

(c) An applicant must provide DARS DHHS with documentary proof that the applicant meets the requirements for testing and for certification.

# Administrative Office of the Courts

Supreme Court of New Mexico

Arthur W. Pepin, Director



237 Don Gaspar, Room 25  
Santa Fe, NM 87501  
(505) 827-4800  
(505) 827-4824 (fax)  
[www.nmcourts.gov](http://www.nmcourts.gov)

## NEW MEXICO COURT INTERPRETER BACKGROUND CHECK POLICY

Candidates for court interpreter certification who have passed the written and oral examinations required for certification as a New Mexico Court Interpreter and New Mexico Center for Language Access qualified Justice System Interpreters must submit an application and complete an NCIC (National Crime Information Center) background check. After submitting an Application and Background Check Waiver Authorization form to the Administrative Office of the Courts (AOC), the AOC will conduct the background check.

1. Any candidate who refuses to comply with this Policy shall not be certified as a New Mexico court interpreter.
2. Any background information obtained shall be marked "CONFIDENTIAL" and shall not be used for any purpose other than the application for court interpreter certification or any process related to the certification.
3. No information obtained from the background check shall be given to any person, firm or corporation.
4. . If information obtained does not indicate a need for further action, pending the results of the candidate's reference checks, the candidate will be notified of certification, and included in the New Mexico Directory of Certified Court Interpreters and Justice System Interpreters.
5. If relevant adverse information, which is determined to directly impact the candidate's appropriateness for providing court interpreting, is confirmed, AOC will notify the candidate and allow forty-five (45) days from notification to clarify the information.

6. The AOC is prohibited from sharing with the candidate any information obtained from the background checks. The candidate may obtain a copy of the criminal history reports directly from the Department of Public Safety at the candidate's expense.
7. The candidate's criminal history and any clarifying information will be reviewed by the Court Services Division Director. The Court Services Division Director, in consultation with the Language Access Services Manager, will consider the relevance of the criminal history to the profession of court interpreting, the period of time since the conviction date(s) and any evidence of rehabilitation submitted by the candidate.
8. Based upon this review, the Court Services Division Director will decide whether to grant or deny the New Mexico Court Interpreter Certification. If the Court Services Division Director denies certification based on a candidate's criminal history, the candidate may appeal the Court Services Division Director's decision to the Director of the AOC by filing a written appeal with the AOC within 30 calendar days of the date of the Court Services Division Director's decision.
9. Upon receiving a written appeal by a candidate, the Director of the AOC shall consider only the written information in the candidate's application file, including information submitted by the candidate. The Director may permit the candidate to file additional written information. The Director of the AOC shall issue a written decision on the candidate's appeal within 45 days of submission of the appeal.
10. Each candidate will be required to sign a Waiver Authorization form.



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Arthur W. Pepin  
Director of the Administrative Office of the Courts

Effective: November 1, 2009  
Revised: April 21, 2017



## **New Mexico Administrative Office of the Courts Language Access Complaint Procedure**

Should a court client/customer feel that his/her rights to meaningful language access have not been met by the Court, the following procedure may be followed to register a complaint:

1. The person with the complaint (the complainant) should contact the New Mexico Administrative Office of the Courts' (AOC) Language Access Services Director to report the complaint by completing and submitting the attached Complaint Form, or by telephone.

Contact information: Paula Couselo, New Mexico Administrative Office of the Courts, 237 Don Gaspar, Santa Fe, New Mexico 87501; [aocpvc@nmcourts.gov](mailto:aocpvc@nmcourts.gov); (505) 827-4853.

2. If the complainant does not believe that his/her concerns have been adequately addressed or resolved with the AOC Language Access Services Director, the complainant should contact the Court Services Division Acting Director:

Contact information: Peter Bochert, New Mexico Administrative Office of the Courts, 237 Don Gaspar, Santa Fe, New Mexico 87501; [aocpwb@nmcourts.gov](mailto:aocpwb@nmcourts.gov); (505) 827-4834.

3. The complainant may also, at any time in this process, contact the United States Department of Justice.

Contact information: Federal Coordination and Compliance Section, Civil Rights Division, United States Department of Justice, 950 Pennsylvania Avenue NW, Washington, D.C. 20530; (202) 514-4609 or (202) 514-0716 (TTY).

**New Mexico Administrative Office of the Courts  
Language Access Complaint Procedure**

**Complaint Form**

The following information is necessary to assist us in processing your complaint. Should you require assistance in completing this form, please contact us at: New Mexico Administrative Office of the Courts, 237 Don Gaspar, Room 25, Santa Fe, New Mexico 87501; [aocpvc@nmcourts.gov](mailto:aocpvc@nmcourts.gov); (505) 827-4853.

Please complete and return this form to:  
Paula Couselo, Language Access Services Director  
New Mexico Administrative Office of the Courts  
237 Don Gaspar, Santa Fe, New Mexico 87501  
[aocpvc@nmcourts.gov](mailto:aocpvc@nmcourts.gov)  
Phone: (505) 827-4853  
Fax: (505) 827-4627

1. Name of person filing complaint (the complainant):
2. Complainant's Address:
3. Complainant's Contact Information:  Home Phone: Work Phone: Mobile Phone: E-mail:
4. If you are filing on behalf of another person, please include your name, address, phone number, and relation to the complainant:  Name: Address: Phone: E-mail: Relationship to Complainant:
5. Please describe, in your own words, in what way you believe that your rights to language access were not met and whom you believe was responsible.

**New Mexico Administrative Office of the Courts  
Language Access Complaint Procedure**

Please use the back of this form or additional pages as needed.

6. Please indicate the date/s when the above occurred:

7. Please sign below:

Signature\_\_\_\_\_

Date Signed\_\_\_\_\_

Return this form to:

Paula Couselo, Language Access Services Director  
New Mexico Administrative Office of the Courts  
237 Don Gaspar, Santa Fe, New Mexico 87501

[aocpvc@nmcourts.gov](mailto:aocpvc@nmcourts.gov)

Phone: (505) 827-4853

Fax: (505) 827-4627

# Tab 4



# OREGON JUDICIAL DEPARTMENT LANGUAGE ACCESS PLAN

---

*A Strategic Plan for Implementing  
Enhanced Language Access in the Oregon State Courts*



*Cover photo: Image of the Oregon Supreme Court Building*

COURT LANGUAGE ACCESS SERVICES  
Oregon Judicial Department  
September 2016

## PURPOSE

The OJD Language Access Plan (LAP) is a management document that outlines how the Oregon Judicial Department (OJD) allocates and regulates its resources, services, and administrative operations to maintain compliance with federal and state language access requirements. The LAP also provides a framework for engaging in the continuous improvement of access to courts and operations, and in enhancing the integrity of OJD's communications and proceedings for the limited English proficient (LEP) individuals within its jurisdiction.

## PLAN MAINTENANCE

The State Court Administrator's Court Language Access and Services program prepared this LAP. The manager of the Court Language and Access Services program will update the LAP on a biennial basis for necessary changes and substantive milestones. Comments or questions about this LAP or on the operations of the Court Language and Access Services program may be sent to:

[court.interpreter.program@ojd.state.or.us](mailto:court.interpreter.program@ojd.state.or.us)

or

Manager, Court Language and Access Services  
Office of the State Court Administrator  
Oregon Judicial Department  
1163 State Street  
Salem, Oregon 97301-2563

The Court Language Access Services webpage can be accessed through the following link: <http://courts.oregon.gov/CLAS>

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# 1| Policy Directive and Legal Basis

Oregon Judicial Department (OJD) is dedicated to providing limited English proficient (LEP) court users with meaningful language access to court programs and services. The OJD Language Access Plan (LAP) documents initiatives of the State Court Administrator (SCA) to ensure access and serves as a blueprint for future efforts. OJD complies with all federal statutory requirements and Oregon Revised Statutes (ORS).

## 1.1 Federal Laws

Relevant federal laws include Title VI of the Civil Rights Act of 1964,<sup>1</sup> the Omnibus Crime Control and Safe Streets Act of 1968,<sup>2</sup> (Safe Streets Act) and Executive Order 13166.<sup>3</sup> Section 602 of Title VI of the Federal Civil Rights Act of 1964, 42 U.S.C. 2000d states:

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*“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.”*

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As a recipient of direct and indirect federal funding, OJD provides language access for the public, for parties, for victims in certain stages of proceedings, and for certain persons in juvenile proceedings in accordance with applicable laws.

## 1.2 Oregon Statutory Authority

Oregon Revised Statutes, chapter 45, ([ORS chapter 45](#)) is the main chapter providing authority for language access. ORS 45.273 as the state’s policy provides:

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*“It is declared to be the policy of this state to secure the constitutional rights and other rights of persons who are unable to readily understand or communicate in the English language because of a non-English-speaking cultural background or disability, and who as a result cannot be fully protected in administrative and court proceedings unless qualified interpreters are available to provide assistance.”*

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<sup>1</sup> 42 U.S.C. §2000d

<sup>2</sup> 42 U.S.C. §3789d(c)

<sup>3</sup> Exec. Order No. 13, 166, 65 FR 50121(2000)

In Oregon, court interpreting services are provided free of charge to LEP parties, victims, and certain persons in juvenile proceedings per state law.

## 1.3 Compliance Standards

In 2011, the National Center for State Courts (NCSC) addressed the legal obligations underlying the state courts' responsibilities to meet the needs of LEP individuals.<sup>4</sup> According to NCSC's legal analysis, state courts are obligated to provide necessary and reasonable language access services based on four levels of authority:

- 1) Title VI and the Safe Streets Act of 1968,<sup>5</sup>
- 2) US Department of Justice (USDOJ) rules and regulations,
- 3) USDOJ Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting LEP persons (2002),<sup>6</sup> and
- 4) USDOJ Assistant Attorney General's Letter to State Chief Justices (August 16, 2010).<sup>7</sup>

## 2| Needs Assessment

### 2.1 Data on Limited English Proficient Persons

Unless otherwise noted, OJD uses US Census data (<http://www.census.gov>) for Oregon demographic information. Much of the specific annual LEP data comes from the US Census' American Community Survey (ACS).<sup>8</sup>

### 2.2 Population

According to the ACS, an LEP person is someone five years or older who speaks English less than "very well." In 2014, the estimated population of Oregon was 3,900,343, and 6.1% of the population identified themselves as LEP individuals. Over 60% of all Oregon LEP individuals reside in just five counties: Marion, Multnomah, Washington, Clackamas, and Lane. Table 1 shows the highest LEP populations by county.

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<sup>4</sup> NCSC, Title VI Considerations in State Courts Providing LEP Services (2011), <http://www.ncsc.org/~media/Files/PDF/Conferences%20and%20Events/Language%20Access/Briefing%20Paper-Title%20VI%20Requirements%20for%20Individuals%20with%20LEP-Feb28-11.ashx>

<sup>5</sup> 42 U.S.C. §2000d and 42 U.S.C. §3789d(c)

<sup>6</sup> 67 FR 41455 (June 18, 2002)

<sup>7</sup> Thomas Perez, USDOJ, [http://www.lep.gov/final\\_courts\\_ltr\\_081610.pdf](http://www.lep.gov/final_courts_ltr_081610.pdf)

<sup>8</sup> US Census Bureau, American Fact Finder, 2010-2014 5-Year Estimates

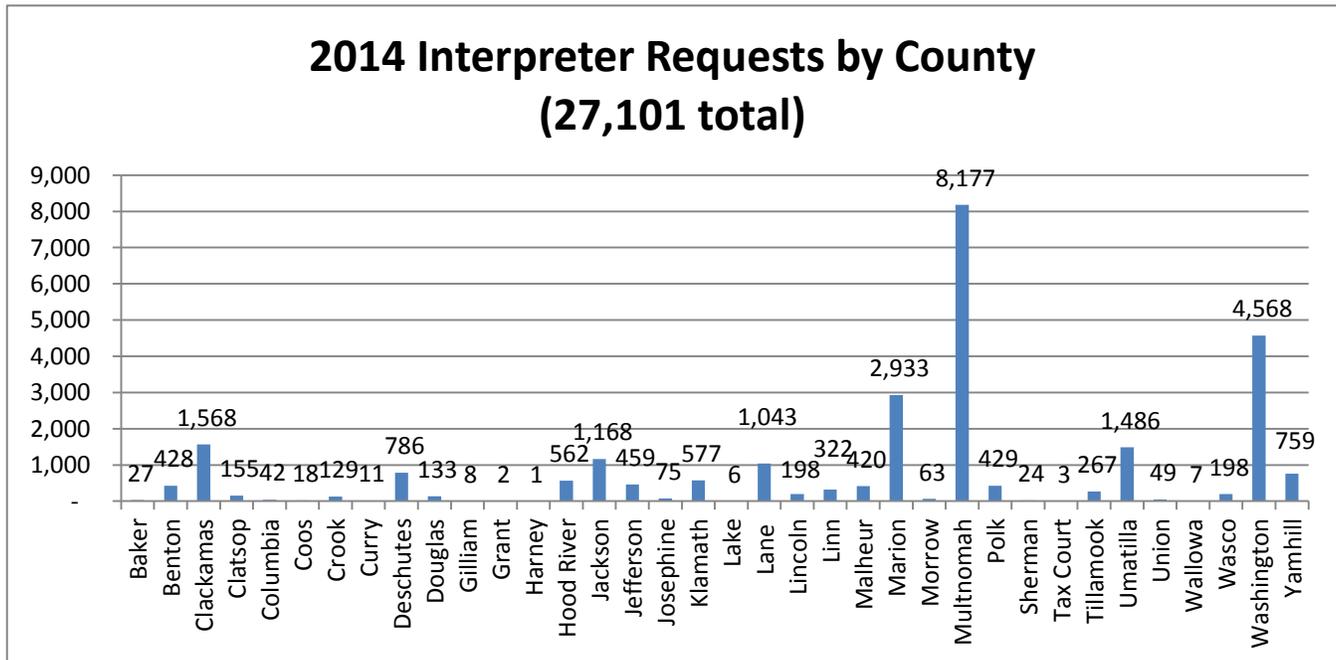
**Table 1 – 2014 LEP Populations by County<sup>9</sup>**

	2014 LEP Population	2014 County Population	% of County Population Identified as LEP
Multnomah County	66,175	711,200	9.30%
Washington County	47,624	510,100	9.30%
Marion County	31,994	297,593	10.80%
Clackamas County	16,687	363,666	4.60%
Lane County	10,029	336,950	3.00%
Jackson County	6,885	194,614	3.50%
Umatilla County	6,488	71,077	9.10%
Yamhill County	5,870	94,440	6.20%
Deschutes County	3,874	153,966	2.50%
Clatsop County	3,157	35,296	3.60%
Polk County	3,084	71,862	4.30%
Hood River County	2,985	21,104	14.10%
Benton County	2,914	82,342	3.50%
Malheur County	2,843	28,570	10.00%
Linn County	2,471	110,856	2.20%
Klamath County	2,079	62,144	3.30%
Wasco County	1,880	23,831	7.90%
Morrow County	1,530	10,428	14.70%
Lincoln County	1,482	43,818	3.40%
Douglas County	1,050	101,694	1.00%
Jefferson County	1,020	20,318	5.00%
Josephine County	824	78,852	1.00%
Coos County	765	59,598	1.30%
Tillamook County	621	24,067	2.60%
Columbia County	608	46,701	1.30%
Union County	365	24,196	1.50%
Crook County	251	19,885	1.30%
Baker County	202	15,242	1.30%
Lake County	158	7,546	2.10%
Harney County	131	6,885	1.90%
Curry County	110	21,332	0.50%
Grant County	68	6,993	1.00%
Wallowa County	40	6,553	0.60%
Sherman County	28	1,690	1.70%
Wheeler County	17	1,308	1.30%
Gilliam County	3	1,819	0.20%

<sup>9</sup> US Census Bureau, American Fact Finder 2010-2014 5-Year Estimates

Chart 1 provides data on where OJD uses court interpreters most frequently.<sup>10</sup>

Chart 1



## 2.3 Internal Needs Assessments

OJD conducted several internal and external language access needs assessments between 2010 and 2015.

### External Users' Feedback and Surveys

#### Outside Interpreters – Feedback

In 2013, OJD held a continuing education event with interpreters to discuss the court's responsibility to provide access to LEP customers and to gather feedback about potentially unmet language needs. Interpreters discussed the need for improved services at courthouse counters and the unique needs of self-represented litigants. Interpreters committed to assisting OJD in conducting customer service surveys with LEP court users.

#### LEP Court Users – Surveys

Between May and September 2014, OJD collected more than 330 surveys measuring LEP court customers' satisfaction with OJD language services.<sup>11</sup> LEP speakers of 30 different languages responded to the survey.

<sup>10</sup> Wheeler County had 0 requests for interpreters.

<sup>11</sup> An NCSC Technical Assistance Grant supported the survey development and analysis.

**Table 2 – OJD LEP Customers’ Top Five Language Concerns**

<b>Concerns</b>
1. Limited availability of bilingual staff and services
2. General customer service issues
3. Locating the courthouse or offices
4. Limited bilingual signage, forms, documents
5. Interpreter-specific procedures

**Internal Users’ Surveys**

**OJD Judges and Employees**

In 2010, OJD judges and employees responded to a survey to solicit ideas to improve overall OJD efficiency and productivity.<sup>12</sup> The top five suggestions related to language access are listed in Table 3 below.<sup>13</sup>

**Table 3 – OJD Language Access Suggestions**

<b>Suggestions</b>
1. Expand the number of translated forms and number of languages.
2. Expand the number of languages available for interpreter certification.
3. Improve technology for scheduling interpreters.
4. Increase remote interpreting at court windows, self-represented litigant service counters, and courtrooms.
5. Invest in staff training on diversity and how to work with interpreters.

**Trial Court Administrators – Feedback**

In 2013, OJD trial court administrators (TCAs) learned about the legal basis for language access services and provided feedback about common circuit court language access needs.

**Table 4 – TCA’s Language Access Priorities<sup>14</sup>**

<b>Priorities</b>
• Use technology to improve services.
• Provide universal courthouse signs and posters.
• Provide multilingual “I Speak Cards” for LEP customers.

<sup>12</sup> 2010 Court Re-engineering and Efficiency Work Group Survey

<sup>13</sup> Top non-language concerns from the survey are not reported here.

<sup>14</sup> Fall 2013 Trial Court Administrator and Division Director Meeting

## Court Language Access Services (CLAS) Personnel – Feedback

In 2013, Court Language Access Services' (CLAS) staff discussed barriers to language access in the courts. Staff interpreters, schedulers, analysts, and support staff noted, among others, the special service needs of illiterate and self-represented LEP parties.

## OJD Judges & Managers – Survey

In 2015, judges, TCAs, senior managers, and division directors responded to a survey regarding OJD access and fairness, in general. They listed interpreter services in the top five OJD access concerns to address improvement of services.

**Table 5 – Access and Fairness Priorities<sup>15</sup>**

Priorities
1. Non-represented litigants
2. Staff education
3. Customer service
4. Judicial education
5. Interpreter services

## 2.4 The USDOJ Four Factors in Oregon

In its national enforcement role, the United States Department of Justice (USDOJ) revised its Language Assessment and Planning Tool (Planning Tool), in 2014.<sup>16</sup> The Planning Tool is a resource for state programs receiving federal funds. OJD used it to develop LAP goals that:

- identify LEP individuals who need assistance,
- provide language assistance measures,
- train staff,
- provide notice to LEP persons of the availability of language services, and
- monitor and update the LAP.

OJD's responses to the Planning Tool's checklist can be found in Appendix IX.

The USDOJ also recommends recipients of Federal funding follow four factors when developing LAPs:

- 1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the program,

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<sup>15</sup> Fall 2015 Survey by the OJD ad hoc Access and Justice Committee

<sup>16</sup> [http://www.lep.gov/resources/courts/022814\\_Planning\\_Tool/February\\_2014\\_Language\\_Access\\_Planning\\_and\\_Technical\\_Assistance\\_Tool\\_for\\_Courts\\_508\\_Version.pdf](http://www.lep.gov/resources/courts/022814_Planning_Tool/February_2014_Language_Access_Planning_and_Technical_Assistance_Tool_for_Courts_508_Version.pdf)

- 2) the frequency with which LEP persons come in contact with the program,
- 3) the nature and importance of the program, activity, or service provided, and
- 4) the resources available to the program and a cost-benefit-analysis.

OJD carefully considered the four factors and needs assessment results to incorporate strategies for improvement in its LAP.

**Factor 1:** Oregon’s LEP population eligible to be served or likely to be encountered by OJD:

Because 6.1% of Oregon’s population is LEP (see [Section 2.2](#)), a substantial proportion are eligible or likely to be served by court programs. Table 6 shows the top ten languages, other than English, spoken in Oregon homes. It also shows how many foreign language speakers identified themselves as LEP in 2014.<sup>17</sup>

**Table 6 – Oregon’s 2014 Top 10 Household Languages and LEP Individuals**

Language	Individuals Who Speak a Foreign Language at Home	Household LEP Individuals
1. Spanish	324,212	140,093
2. Chinese <sup>18</sup>	27,401	13,886
3. Vietnamese	24,365	15,643
4. Russian	22,786	9,547
5. German	14,176	1,459
6. French	10,912	1,241
7. Korean	10,805	5,322
8. Japanese	9,610	3,036
9. Tagalog	9,361	2,866
10. Arabic	7,316	2,610

Over 180 languages have been interpreted for Oregon LEP court users since 1996. In 2015 the top ten court interpreted languages were:<sup>19</sup>

- |                           |               |
|---------------------------|---------------|
| 1. Spanish                | 6. Arabic     |
| 2. American Sign Language | 7. Mandarin   |
| 3. Russian                | 8. Somali     |
| 4. Chuukese               | 9. Korean     |
| 5. Vietnamese             | 10. Cantonese |

<sup>17</sup> US Census language data questions require respondents to rate their own English-speaking ability based on their own perceptions of their abilities.

<sup>18</sup> The US Census codes 381 languages and language groups. “Chinese” is reported as one language group, although at OJD it is differentiated into Cantonese, Mandarin, etc.

<sup>19</sup> Rankings are based on OJD language expenditures.

**Factor 2:** The frequency with which Oregon LEP persons come in contact with OJD:

Most circuit courts see a higher frequency of LEP court users in criminal, family, small claims, and traffic cases. As shown in Table 7, the number of court interpreter requests in Oregon Circuit Courts remains steady.

**Table 7 – 2009-2014 OJD Circuit Court Requests for Interpreter Services**

Year	Interpreter Requests
2009	28,063
2010	27,475
2011	27,013
2012	26,685 <sup>20</sup>
2013	26,183
2014	27,101
2015	32,815 <sup>21</sup>

**Factor 3:** The nature and importance of OJD court proceedings, services, and activities:

Court proceedings are critical and compulsory for many case types. The courts are often the last means available to parties to resolve a dispute.

**Factor 4:** The resources available to the program and cost-benefit analysis:

As a state-funded branch of government, OJD has access to resources of the state, subject to spending authority granted by the legislature. Due to limited state funds, OJD conducts scheduled cost-benefit-analyses of overall resources and needs. Language access services depend on using technology and economies of scale to provide efficient language services.

OJD statewide centralized scheduling is an example of using economies of scale to dispatch interpreter case assignments efficiently and to avoid duplicate interpreter travel expenses. Interpreter requests for out-of-state rare language interpreters in several locations may be scheduled on particular days of the month to bundle travel and reduce costs. For example, a Chuukese interpreter flying in from Hawaii may serve three different metro-area courts in a single day, to avoid multiple flights from Hawaii.

The use of remote interpreting by video or telephone is another centralized scheduling resource to provide efficient and high quality services. See [Section 4.5](#) for additional remote interpreting information. Descriptions of direct service delivery methods, and staff roles are detailed in [Section 4.0](#).

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<sup>20</sup> Interpreter requests decreased slightly in 2012 and 2013 due to case filing fluctuations and changes to immigration patterns related to the economy.

<sup>21</sup> Requests increased with the implementation of the Odyssey case management system, capturing more accurate data.

## 2.5 Performance Measures

Performance measures can also indicate OJD language access compliance. In 2014, the National Center for Access to Justice (NCAJ) assigned Oregon a “Justice Index” ranking of 95.8% for serving LEP customers.<sup>22</sup> NCAJ based the ranking on the existence of statutes supporting the use of certified interpreters, a court interpreter certification program, the provision of interpreter services for all criminal and civil proceedings, and judicial training on working with interpreters.

OJD reports on compliance with accessible interpreter services goals to the Oregon State Legislature.<sup>23</sup> OJD established a performance measurement goal of 95% accessibility in 2008. Since 2010, OJD has exceeded that goal, consistently reaching 99% accessibility.

# 3| OJD Management and Governance

## 3.1 Organization

OJD is a statewide, unified court system with over 190 judges and more than 1600 full- and part-time staff. Oregon state courts include the Supreme Court, Court of Appeals, Tax Court, and 36 circuit courts in 27 judicial districts. OJD includes the Office of the State Court Administrator and several judicial branch programs.

### **Chief Justice of the Oregon Supreme Court**

The Chief Justice of the Oregon Supreme Court is the administrative head and chief executive officer of OJD. The Chief Justice supervises the state court system, makes rules, and issues orders to carry out the duties of the office. The Chief Justice appoints the Chief Judge of the Court of Appeals, State Court Administrator, and the presiding judges of the state trial courts. The Chief Justice also adopts rules that establish procedures for all state courts and supervises the statewide fiscal plan and budget for all state courts.

### **Oregon Supreme Court Chief Justice Strategic Plans**

The five enduring goals of OJD’s past and present Strategic Plan are: 1) Access, 2) Trust and Confidence, 3) Dispute Resolution, 4) Partnerships, and 5) Administration. The 2014-2019 Chief Justice’s OJD Strategic Plan includes “Access to Justice” goals and strategies to “Improve Limited English Proficient Person Services” and “Improve ADA Accommodations and Services” (see [Appendix I](#)).

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<sup>22</sup> Source: [www.justiceindex.org](http://www.justiceindex.org)

<sup>23</sup> Accessible interpreter services are defined as the percentage of dollars spent on certified outside interpreters out of total expenditures.

## **Presiding Judges and Trial Court Administrators (TCAs)**

The Chief Justice appoints a presiding judge in each judicial district for a two-year term. The presiding judge has general administrative authority and supervision over the district. The presiding judge assigns the workload, makes rules, and issues administrative orders. Each district also has a trial court administrator (TCA) to help the presiding judge manage the court's operations and local budget. Judges and TCAs are active participants in the statewide policy development process.

## **Court Re-engineering Workgroup (CREW)**

In 2010, the Oregon Chief Justice appointed the Court Re-engineering Workgroup (CREW), an internal workgroup, to consider necessary re-engineering for court efficiencies. The workgroup conducts ongoing research and identifies efficiencies and innovations that cut costs, improve productivity, and enhance court services. CREW follows four guiding principles: 1) promote convenience for litigants, 2) reduce cost and complexity of judicial processes, 3) maintain or improve access to justice, and 4) improve case predictability. CREW identifies the use of technology for enhanced language access (see [Appendix II](#)).

## **Oregon Supreme Court Council on Inclusion and Fairness**

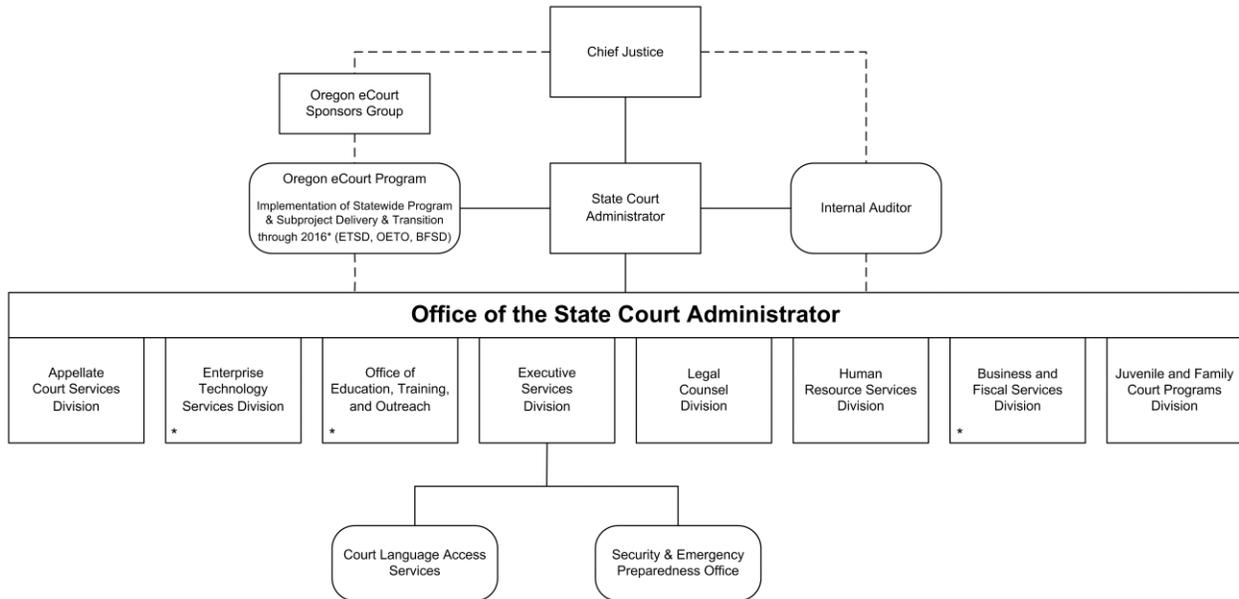
The Oregon Supreme Court Task Force on Racial/Ethnic Issues in the Judicial System (Task Force) met from 1992-1994 and implemented 72 recommendations. In 1997, the Chief Justice established the Access to Justice for All Committee. The committee's task was to pursue and coordinate implementation of the recommendations of the Task Force, the Oregon Supreme Court Implementation Committee, and the Oregon Supreme Court/Oregon State Bar Task Force on Gender Fairness (see [Appendix III](#)). The Access to Justice for All Committee was suspended in 2009 due to budget cuts. In 2015, the Chief Justice appointed an ad hoc committee to research current OJD access issues and to make recommendations regarding the feasibility of reconvening the committee. In 2016, the Chief Justice created the Oregon Supreme Court Council on Inclusion and Fairness (OSCCIF).

## **3.2 Office of the State Court Administrator (OSCA)**

The Chief Justice of the Supreme Court appoints a chief administrative officer whose title is State Court Administrator (SCA). The SCA oversees all statewide administrative and executive operations of the state trial and appellate courts, and several statutory programs, including the foster care review program. The SCA carries out these responsibilities through the OSCA division directors and program managers (see Chart 2 below). OSCA promotes efficient, statewide improvement and supports local courts in responding to community and statewide needs.

## Chart 2

### OFFICE OF THE STATE COURT ADMINISTRATOR (Organization Chart) (January 2016)



### Accommodations Under the Americans with Disabilities Act (ADA)

OJD is dedicated to providing equal access to court programs and services for people with disabilities. Persons with disabilities make accommodations requests directly to the OJD court or office that provides the service, program, or materials. Every court has an on-site ADA coordinator who responds to requests from persons with disabilities. The SCA has a staff person in OSCA appointed as the Statewide ADA Coordinator. The Statewide ADA Coordinator provides training to new employees and technical assistance to on-site local court ADA Coordinators, TCAs, and judges.

### Court Language Access Services (CLAS)

Established in 1995, CLAS (formerly called Court Interpreter Services) provides language interpretation and translation services and trains and tests interpreters for court interpreting. CLAS is part of the Office of the State Court Administrator and offers language services, interpreter certification, technical assistance to local courts, and educational outreach to LEP communities and judicial system partners. Activities are prioritized based on the 2014-2019 Chief Justice’s OJD Strategic Plan goals to “Improve Limited English Proficient Person Services.” CLAS activities are reported each year in an Annual Report, available on the OJD CLAS website, <http://courts.oregon.gov/CLAS>. [Section 4.0](#) contains detailed descriptions of 23 CLAS staff members’ duties and an explanation of how direct services are delivered.

### 3.3 Budget

In 1991, statute established language and ADA access funds for the provision and payment of services including sign language interpreters, real-time reporters, assistive devices, and foreign language interpreters where the court is required by statute to uphold any disabled or LEP persons' access to court services. These access funds are part of the General Fund Mandated Payments account which finances all costs associated with the administration of the trial and grand jury systems and federally and other legislatively mandated costs. Legislators consider access services in the budget development process for each Oregon Legislative session. OSCA monitors the budget to see if changes are needed in mandated funding levels and may request modifications every two years from the legislature, through submission of the Chief Justice's Recommended Budget.

Additional funding sources for improved access services may come from grants. In 2013, OJD received a State Justice Institute (SJI) Technical Assistance Grant to develop court counter tools to improve language access in two pilot courts. In 2014, OJD received an NCSC Technical Assistance Grant to survey LEP court customers on their experience in the courthouse (see [Section 2.3](#)). The Statewide Grants Coordinator in the OSCA Business and Fiscal Services Division provides technical assistance to ensure that OJD grantees meet policy and financial grant requirements.

### 3.4 State Court Administrator Language Access Policies

OJD enacted various policies and protocols to enhance language access in the courts. The Code of Professional Responsibility for Interpreters in the Oregon Courts (1995) is comprised of 11 canons describing the interpreter's role as an officer of the court. It is binding on all interpreters who provide services in the courts or in adjudicatory proceedings before state agencies (see [Appendix IV](#)).

In 1999, the SCA published the State Court Administrator Policies for the Oregon Judicial Department's Oregon Certified Court Interpreter Program (SCA Policies), see Appendix V, [Link to SCA Policies](#). The policies fulfill the requirements in ORS 45.291 to establish a program for the certification of court interpreters. In 2012, the SCA revised the policy to add a new category of certificate, the Oregon Registered Interpreter Credential, and expanded the Oregon Court Interpreter Certification languages to include American Sign Language.

### 3.5 National Policy Participation

Several national organizations' collaborative efforts assist in facilitating the development of language access.

#### **Council of Language Access Coordinators (CLAC)**

In 1995, Oregon was a founding member of the Consortium for State Court Interpreter Certification, renamed and reorganized as the Council of Language Access

Coordinators (CLAC) in 2012. The purpose of the group is to establish national standards for court interpreting, share costs in funding interpreter examination development, and expand the number of languages for which there is a court certification examination. CLAC membership includes all 50 states and four territories. The National Center for State Courts (NCSC) maintains court interpreter examinations, trains examination raters, facilitates judicial language access planning policy, and provides research and expertise to members. The OJD CLAS manager serves as one of three state liaisons on the Language Access Advisory Committee, a joint committee of the Conference of State Court Administrators and the Conference of Chief Judges.

### **National Summit on Language Access in the Courts**

In 2012, OJD sent representatives to the National Summit on Language Access in the Courts. Participants from 49 states, three territories, and the District of Columbia discussed language access issues and developed draft language action plans. The Summit produced nine action steps for improving language access, published in *A National Call to Action* (see [Appendix VI](#)).

### **Other Organizations**

OJD provides feedback on policy and publications when requested, including the 2010 American Bar Association's *Standards for Language Access in Courts* (see [Appendix VII](#)), and the COSCA White Paper on Court Interpretation: Fundamental to Access to Justice (see [Appendix VIII](#)). OJD follows national interpreter best practices through publications of the Registry of Interpreters of the Deaf (RID), the National Association of Judicial Interpreters and Translators (NAJIT), the American Translator Association (ATA), and the National Consortium of Interpreter Education Centers (NCIEC).

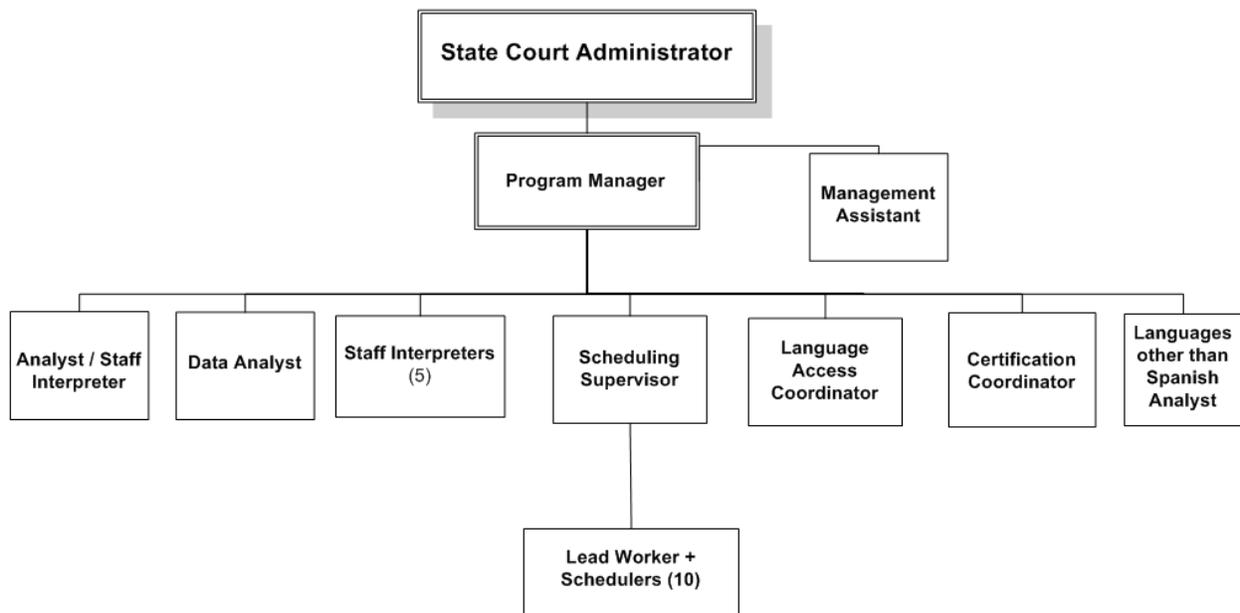
## 4| Language Access Services & Resources

OJD recognizes that individuals at all levels of the department are critical in providing access to justice.

### 4.1 OJD Court Language Access Services Staff

**Chart 3**

**Court Language Access Services**



#### **Program Manager**

The CLAS Program Manager oversees the daily operations and budget of statewide language access services. The manager supervises 22 staff and determines where to send interpreters and equipment to maximize efficiency to serve LEP court users. The manager works closely with TCAs, interpreters, judicial system partners, court staff, judges, and the LEP community. The manager works to resolve language access complaints within OJD.

#### **Interpreter Analyst**

The OJD Interpreter Analyst is responsible for observing and evaluating the use of interpreters. The analyst periodically assesses interpreters' skills for quality and mentors interpreters in the courtroom. The analyst investigates and manages initial protocol and ethics complaints.

## **Staff Interpreters**

Staff interpreters are Oregon Court Certified interpreters whose primary duty is to interpret in state court proceedings. Interpreters also provide expertise on diverse language and data projects, make written translations and promote the consistent use of Oregon Spanish legal terminology in court interpretations. Interpreters assist with continuing education programs and mentor or observe interpreter colleagues. Interpreters may perform scheduling duties, collect data, and provide bilingual assistance at OJD court counters. In fiscal year 2014, CLAS had 4.0 FTE Spanish staff interpreters and 1.3 FTE ASL staff interpreters.

## **Language Access Coordinator**

The OJD Language Access Coordinator implements and reports on tasks identified in OJD's LAP. The Coordinator manages language access grants and promotes technology initiatives to improve language services. The Coordinator evaluates the use of interpreters in the state courts, manages statewide translation projects, and improves local procedures, resources, and public relations with the courts and local LEP communities.

## **Supervisor & Judicial Support Specialists III (Schedulers)**

The CLAS supervisor provides structure for daily business operations related to interpreter scheduling, including supervising nine schedulers. The supervisor responds to and implements solutions to emerging interpreting issues from the court, attorneys, outside interpreters, and staff. Schedulers receive and assign more than 26,000 requests each year for interpreters from all over the state. Schedulers also review interpreter credentials, negotiate rates, collect data, and process vendors' invoices.

OJD schedulers follow ORS, Uniform Trial Court Rules, and industry best practices. A certified interpreter is appointed whenever one is available, able, or willing to serve. Teams of two interpreters are scheduled to work in court proceedings requiring continuous interpreting of two hours or longer to reduce interpreter fatigue and ensure accuracy.

## **Interpreter Credentialing and Education Program**

Since 1990, the number and diversity of Oregon credentialed language interpreters has steadily increased.

CLAS offers court interpreter credentials in more than 70 languages, but does not yet have credentialed interpreters for every language. In 2014, there were 151 credentialed interpreters in 24 languages.

The Oregon Court Registered Interpreter Credential requires the successful completion of English, foreign language, and ethics examinations. Registered interpreters must pass a criminal background check and attend court with an experienced interpreter. The Registered Interpreter Credential is for interpreters of languages where a court

certification interpreting examination does not exist. The Registered Interpreter Credential is available in 48 languages.

The Oregon Certified Court Interpreter Credential is available in 23 languages. Certification is achieved upon successful completion of examinations in English, court interpreting, and ethics. Certified interpreters also attend an orientation program, observe court proceedings, and pass a criminal background check.

For both the Certified Court Interpreter Credential and the Registered Interpreter Credential, the interpreter must complete a required number of continuing education hours to retain the credential.

Conditionally approved interpreters must pass a criminal background check and complete an experience interview about their relevant interpreting work.

CLAS provided more than 85 hours of orientation and continuing education programs to interpreters in 2014. Continuing education subject areas for interpreters' credential renewals are categorized into ethics, language specific, and general credits. In 2014, CLAS staff made presentations about working with interpreters to 19 stakeholder groups. CLAS allocates a 1.0 FTE Coordinator to ensure credentialing and outreach activities.

## 4.2 OJD Bilingual Employees

In 2013, OJD recognized 60 bilingual employees as important bridges to LEP court customers. Qualified employees earn a pay differential when they demonstrate language proficiency through an examination provided by an outside vendor on contract through the OJD Human Resource Services Division. Bilingual employees never interpret in court. Without giving legal advice, bilingual employees use their language skills to provide information on court procedures, forms, program services, or information about court hours and facilities.

Fourteen bilingual court employees piloted a successful online training program in 2014. The training included the legal basis for language access, best practices, and customer service skills. In the absence of bilingual employees, OJD courthouse counter staff may access contracted telephonic interpreters in 50 languages or video interpreters in 12 languages for brief conversations (see [Section 4.5](#), Remote Interpreting and Technology Resources).

## 4.3 OJD Judicial Officers and Personnel

CLAS makes regular presentations at local judicial, staff, and stakeholder meetings. Participants gain an understanding of the legal basis for services, as well as how to request interpreters, and how to work with interpreters.

At OJD's New Employee Orientation, new employees learn about OJD's obligation to provide access and reasonable accommodations under the ADA. Employees learn general information about the kinds of accommodations requested and where to go for more information.

## 4.4 Outside Interpreters

An outside interpreter working for OJD is an authorized interpreter or translator who is not a department employee. Court interpreters learn about their roles and responsibilities through orientation programs, peer mentoring, and continuing education events. Website resources for interpreters include legal glossaries, billing forms, calendars, and the Code of Professional Responsibility for Interpreters in the Oregon Courts. Interpreters and the public can also find on the website court interpreter rosters, related statutes, policies, protocols, and court rules.

## 4.5 Remote Interpreting & Technology Resources

OJD established remote interpreting (RI) services in 2003. RI is a vital component of accessible services based on a cost-benefit analysis. RI is the provision of interpreting services using technology where the interpreter is at a separate location from the LEP court customer. RI closes critical communication gaps for unexpected interpreter requests. RI also assists the court in meeting short statutory timelines required for some proceedings, such as restraining order proceedings and in-custody arraignments. Between 2004 and 2007, 13 courthouses installed telephonic interpreting lines. Additional improvements included the installation of video remote interpreting (VRI) consoles and an increase in OJD bandwidth in 2012. Currently, OJD manages over 2,000 RI court proceedings per year. SJI grant funds in 2014 allowed OJD to pilot VRI "counter interpreting" in two courthouses (see [Section 4.2](#)).

### **Court Interpreting RI Standards**

Interpreter schedulers follow guidelines when offering telephonic or video interpreting options to the court. Schedulers consider the complexity and length of hearing types, the availability of local technology, and the judge's preference for each assignment. Court staff are encouraged to report RI issues via an online feedback form for resolution. In fiscal year 2014, .5 FTE of an analyst position was dedicated to monitoring RI quality, resolving issues, and overseeing data collection.

### **Equipment**

Equipment allows LEP parties, victims, or hard-of-hearing court customers access to court proceedings. Equipment allows interpreters to work unobtrusively in the courtroom and offers interpretation to multiple parties at the same time. OJD performs a cost-benefit analysis when purchasing equipment and telecommunications. The cost-benefit analysis includes compatibility with OJD enterprise and technology parameters, the availability of technical support, and the local court infrastructure.

## 4.6 OJD Data Collection and Analysis

CLAS management utilizes data on which LEP groups appear most frequently in the courts and where services are needed to assist decision making. OJD uses internal payment, scheduling, and case management system data reports. Additional information comes from the U.S. Census Bureau data (see [Section 2.2](#)). In fiscal year 2014, CLAS allocated 1.0 FTE to an analyst position to coordinate the collection and analysis of strategic planning data.

### **Oregon eCourt**

Between 2012 and 2016, OJD launched the Oregon eCourt Program, a statewide web-based courthouse. The primary software component of Oregon eCourt is the Odyssey Case Management System (Odyssey). Odyssey is a party-based system. For LEP parties and non-parties, Odyssey reports provide CLAS with data about case types, assigned interpreters, and language needs. During the multi-year deployment of Oregon eCourt in all Oregon Judicial Districts, CLAS offered Odyssey training on interpreter related business processes.

### **Fiscal Data**

The OSCA Business and Financial Services Division (BFSD) provides CLAS summary expenditure reports of General Fund Mandated Payments, which include payment information for sign language interpreters and foreign language interpreters. The level of detail includes the possibility to review interpreter expenditure data by language, circuit court location, and interpreter credential categories. OJD uses the data to develop estimate costs for existing and future services.

### **LEP Court User Data**

In 2014, OJD collected quantitative and qualitative data directly from LEP court customers via customer surveys (see [Section 2.3](#)). The results provided information about areas for improvement in OJD language access services.

## 4.7 Translations

The SCA prioritizes the translation of OJD vital documents into the languages most frequently encountered in Oregon circuit courts based on demographics, language data, and recommendations from statewide programs and work groups. CLAS assumes responsibility for coordinating translation services. OSCA requires the use of a certified member of the American Translator Association's (ATA) for statewide translations whenever ATA offers the credential in that language.

Professional translators have translated more than 580 OJD forms into Chinese, Korean, Russian, Spanish, and Vietnamese.<sup>24</sup> A combination of local and federal funds such as Violence Against Women Act – STOP (Services, Training, Officers, and Prosecutors) funding, SJI grants, and OJD General Fund Mandated Payments allowed OJD to increase the number of translated OJD vital forms.

**Table 8 – OJD Translated Forms as of 2016**

Language	Number of Translated Forms
Spanish	188
Russian	116
Vietnamese	116
Chinese	114
Korean	93
<b>TOTAL</b>	<b>627</b>

OJD staff interpreters translate foreign-language correspondence received by the courts and provide sight translations of non-evidentiary documents in proceedings. Interpreters proofread and edit professionally translated statewide OJD forms before the forms are released for use.

### Signs

CLAS and county officials (not OJD personnel) in two pilot courts assessed the types and quantity of bilingual and universal signs for improved services. The 2014 SJI Technical Assistance Grant assisted in funding the printing of universal signs, “I Speak” cards, and multilingual notices for use at county-owned courthouses.

### Other Translation Technology

CLAS uses software to ensure the consistent use of Oregon Standardized English-Spanish Legal Terms in all OJD translations projects involving Spanish.

To ease the demand for services to self-represented LEP litigant populations, OJD established multilingual family law kiosks in two pilot courts. Software guides LEP users through a series of questions in their primary language to produce family law documents for filing in English. A 2014 SJI technical assistance grant supported this program.

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<sup>24</sup> In written form, both Cantonese and Mandarin speakers are able to read “traditional” Chinese characters.

## 4.8 Outreach Programs

In addition to the education programs described in [Section 4.1](#), CLAS promotes awareness of language policies and best practices to non-OJD groups. Audiences include legal aid attorneys, public defenders, victims' rights advocates, court mediators, law students, and district attorneys. OJD offers pre-approved Oregon State Bar continuing legal education credits for many programs. High school and university students may interact with interpreters during Classroom Law days, career fairs, or in job shadowing experiences.

## 4.9 Complaint Process

An LEP person, his or her attorney, or their advocate may initiate a complaint with OJD regarding failure to provide language access. OSCA records all complaints, investigates all pertinent information, and responds to the complainant. In 2015, OJD piloted an online OJD complaint form in four languages.

## 4.10 External Resources

OJD researches federal and local funding resources to improve LEP individuals' access to justice. In 2012, OJD consulted with the SJI and the NCSC to map out improvements in three areas: 1) conducting needs assessments of LEP communities, 2) improving OJD public counter interpreting services, and 3) increasing education and training efforts. OJD was awarded two technical assistance grants, one in 2013 from SJI, and one in 2014 from NCSC.

# 5| Strategic Plan for Implementation

The OJD Language Access Plan falls under the direction of the Chief Justice of the Supreme Court and the State Court Administrator. OJD managers in OSCA Divisions and programs, trial courts, and committees may be assigned responsibilities to monitor progress and ensure improvements.

OJD will implement the following goals in three phases over the next five years (2016-2020).

**Phase 1:** These goals are urgent and should be implemented in year one (2016).

**Phase 2:** These goals are critical and may depend on Phase 1 tasks. These goals should be implemented between years two and three (2017-2018).

**Phase 3:** These goals are complex and require significant foundational steps and resources. These goals should be implemented by year five (2019-2020).

## GOALS

<b>Goal # 1</b>	Provide language access services at all points of contact outside judicial proceedings for services that are managed or paid for by OJD.
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Phase 1: Urgent or currently underway. Will be implemented in year one.

Issue Description: LEP customer surveys and language access tools piloted in two courts provided valuable feedback that can be replicable on a statewide level.

Strategy 1: Increase statewide distribution of multilingual posters, universal signs, maps, and brochures.

Strategy 2: Provide Spanish-English telephone tree services where supported by county telecommunications systems.

Strategy 3: Increase the number of OJD multilingual webpages that enhance LEP customers' understanding of the OJD's mission, services, and how to file complaints.

Strategy 4: Provide court staff training on how to access remote interpreting services at the public counter.

Strategy 5: Establish Video Remote Interpreting technology at Family Law counters.

Strategy 6: Annually prioritize vital OJD documents suitable for translation.

<b>Goal # 2</b>	Foster productive working relationships with community and judicial stakeholders.
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Phase 2: Critical and may depend on Phase 1 tasks. Will be implemented in years two-three.

Issue Description: Community members will be more likely to use services and engage in the judicial process if they are familiar with available services.

Strategy 1: Notify stakeholders of the OJD Language Access Plan and actively seek community feedback.

Strategy 2: Establish regular opportunities for discussions with community and judicial system stakeholders to identify support, technical assistance, and resource sharing.

<b>Goal # 3</b>	Provide Resources and Training for Judges.
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Phase 2: Critical and may depend on Phase 1 tasks. Will be implemented in years two-three.

Issue Description: Effective language access services depend on enhanced accountability and awareness of bias in the judicial process.

Strategy 1: Gain Judicial Education Committee support to provide judicial training sessions on awareness of one's own biases and applying skills to consistent case management.

Strategy 2: Develop and distribute a Language Access Bench Card.

<b>Goal # 4</b>	Expand Judicial Branch training on Language Access policies and procedures.
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Phase 3: Complex. Will be completed in years four-five.

Issue Description: Effective language access services depend on enhanced accountability for services to diverse court users.

Strategy 1: Gain funds to customize online training for court staff on language access.

Strategy 2: Promote online training opportunities for court staff to local administrative authorities.

<b>Goal # 5</b>	Review and address complaints regarding language access in the courts.
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Phase 1: Critical or currently underway. Will be implemented in year one.

Issue Description: A standard complaint protocol ensures cooperative relationships between the court and complainant. In 2015, OJD piloted a written standard protocol for receiving, responding to, and collecting data on language access complaints.

Strategy 1: Post online complaint form in five of the most frequently used languages.

Strategy 2: Implement a centralized complaint resolution and archiving protocol.

<b>Goal # 6</b>	Use the Oregon eCourt Program to identify the most commonly used and emerging language service needs.
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Phase 2: Critical and may depend on Phase 1 tasks. Will be implemented in years two-three.

Issue Description: The Oregon eCourt Program will be fully deployed statewide in June 2016.

Strategy 1: Contribute to eCourt deployments to ensure that local court staff document LEP individuals' languages needs at all stages of case management.

Strategy 2: Improve data reporting of cancelled or reset interpreted proceedings and cases with non-party LEP persons.

Strategy 3: Provide interpreter business process training to Odyssey users.

<b>Goal # 7</b>	Increase the diversity of certified interpreters by providing scholarships to training and oral examinations.
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Phase 3: Critical. Will be completed in years two-three.

Issue Description: Over 180 languages are spoken in Oregon circuit courts. Certification examinations are available in 23 languages and the OJD has certified interpreters in ten languages. Ninety-one percent of certified interpreters interpret English-Spanish. More certified interpreters of other languages are needed in Oregon courts.

Strategy 1: Seek funds to provide training and oral examination scholarships for interpreters of languages that are of lesser diffusion in Oregon.

Strategy 2: Provide oral examination preparation events for interpreters of languages that are of lesser diffusion in Oregon.

## 6| Monitoring and Future Planning

The Office of the State Court Administrator will continue to work with divisions, local circuit courts, and community stakeholders to fulfill the LAP. Detailed data will continue to be gathered for management purposes. Progress reports on Language Access Plan activities will be reported as described below.

Every calendar year the CLAS Annual Report will include:

- 1) progress on LAP Goals,
- 2) interpreter event data,
- 3) inventory of languages most frequently encountered,
- 4) credentialed interpreter data, and
- 5) OSCCIF activities related to language access.

In preparation for full legislative sessions every two years, CLAS will provide a report including:

- 1) inventory of languages most frequently encountered,
- 2) biennial language access expenses,
- 3) assessment of personnel's understanding of LEP policies and procedures, and
- 4) performance measures.

Every five years, OJD will conduct additional county exit surveys to measure LEP court users' satisfaction with language access services to provide quantitative and qualitative stakeholder feedback.

The LAP may be changed or updated at any time, but will reviewed no less frequently than every two years.

**OSCA Language Access Contact:**

Kelly Mills, Program Manager  
Court Language Access Services / OSCA  
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503-986-7004  
[Kelly.Mills@ojd.state.or.us](mailto:Kelly.Mills@ojd.state.or.us)

**LAP Effective date:** *September 22, 2016*  
**Approved by:**  *Kelly Mills, SCA*

## Appendices

Appendix I [OJD 2014-2019 Strategic Plan](#)

Appendix II [CREW guiding principles](#)

Appendix III [Oregon Supreme Court Task Force on Racial/Ethnic Issues in the Judicial System recommendations](#)

Appendix IV [Code of Professional Responsibility for Interpreters in the Oregon Courts](#)

Appendix V [SCA Policies for the Oregon Judicial Departments' Oregon Certified Interpreter Program](#)

Appendix VI [\*A National Call to Action\*](#)

Appendix VII [ABA Standards for Language Access in Courts](#)

Appendix VIII [Consortium of State Court Administrators White Paper on Court Interpretation: Fundamental to Access to Justice](#)

Appendix IX [OJD Response to USDOJ Language Access Planning Tools for Courts](#)

# Tab 5

## Proposed Outline for Revised Language Access Plan

### Section I: Directive and Legal Basis

- Title VI of the Civil Rights Act of 1964
- CJA Rules 3-306.01-.05

### Section II: Needs Assessment

- Demographic Data
- Court Data

### Section III: Judicial Structure

- Program Funding

### Section IV: Language Access Services

(Potentially break each of the following into separate sections)

- Services Inside the Courtroom
- Services Outside the Courtroom
- Court Ordered Services
- Staff Training
- Court Interpreter Credentialing
- Remote Interpreting
- Translations
- Outreach
- Complaint Process
- Data Collection

### Section V: Quality Control

- Qualification Standards for Interpreters
- Ensuring Competent Translators
- Working with Other Organizations

### Section VI: Plan Management

- Plan Notification and Access for Court Employees
- Plan Notification for the Public and Stakeholders
- Maintaining the Plan
- Resources Available to Execute the Plan

**Tab 6**

**Confidential**

**Tab 7**

**Confidential**

# Tab 8

## **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](http://www.najit.org), 2006, at [www.najit.org](http://www.najit.org).

# Tab 9

# Administrative Office of the Courts

Supreme Court of New Mexico

Paula Couselo  
Language Access Services



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## 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.

# Tab 10



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.