

**Superior Court of California
County of Orange**



**Limited English
Proficiency Plan**

EQUAL ACCESS PROJECT

March 2013

Table of Contents

I.	Legal Basis and Purpose	3
II.	Needs Assessment	3
A.	Statewide	3
B.	Superior Court of California, County of Orange	3
III.	Language Assistance Resources	4
A.	Interpreters Used in the Courtroom	4
1.	Providing Interpreters in the Courtroom	4
2.	Determining the Need for an Interpreter in the Courtroom	5
3.	Court Interpreter Qualifications	6
B.	Language Services Outside the Courtroom	6
C.	Translated Forms and Documents	7
IV.	Court Staff and Volunteer Recruitment	8
A.	Recruitment of Bilingual Staff for Language Access	8
B.	Recruitment of Volunteers for Language Access	Error! Bookmark not defined.
V.	Judicial and Staff Training:	8
VI.	Public Outreach and Education	9
VII.	Public Notification and Evaluation of LEP Plan	9
A.	LEP Plan Approval and Notification	9
B.	Annual Evaluation of the LEP Plan	9
C.	Trial Court LEP Plan Coordinator:	10
D.	AOC LEP Plan Coordinator:	10
E.	LEP Plan Effective date: January 3, 2012	11
F.	Approved by:	11
	Attachment A	12

Superior Court of California, County of Orange
Limited English Proficiency (LEP) Plan

I. Legal Basis and Purpose

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

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

II. Needs Assessment

A. Statewide

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

According to the Administrative Office of the Courts (AOC) Court Interpreter Data Collection System (CIDCS), which aggregates court interpreter usage data received from the California trial courts, the most frequently used languages for interpreters in California courts in 2005 were (in descending order of frequency):

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

B. Superior Court of California, County of Orange

The OCSC will make reasonable efforts to provide services to all LEP persons. In 2010, the OCSC provided interpreters in 51 different languages. The following list shows the foreign languages that are most frequently used in this court's geographic area representing approximately 98% of all interpreter usage in OCSC.

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

This information is based on 2010- data collected from the Reporter Interpreter Tracking System known as “RITS”, currently in use in OCSC.

III. Language Assistance Resources

A. Interpreters Used in the Courtroom

1. Providing Interpreters in the Courtroom

Providing spoken-language interpreters in court proceedings are based in whole or in part on statutory and case law. These are set out in Attachment A. In the OCSC, certified court interpreters will be provided at no cost to court customers who need such assistance under the following circumstances:

- For litigants and witnesses in all criminal and traffic hearings;
- For litigants and witnesses in all juvenile dependency and delinquency hearings;
- For litigants and witnesses in hearings involving domestic violence and elder abuse, family law and child support cases, to the extent that grant funding is provided; and,
- For litigants who need assistance when using family court services, to the extent that grant funding is provided and resources allow.
- For litigants and witnesses in civil cases upon request of the bench officer and depending on resource availability.

The OCSC utilizes the services of interpreters from a variety of classifications. Pursuant to Trial Court Interpreter Employment and Labor Relations Act (GC 71800-71829), interpreters must be assigned in the following order:

- Employees – Court certified interpreters who are full or part-time employees of the court.
- Opt-Outs – Independent Contractors who were given the option to “opt-out” of employment due to their age and/or years of service to the courts. Opt-out interpreters are not limited to working 100 days per year.
- Intermittent – Non-benefited, extra-help employees. Generally they have worked more than 45 days in a year, but are not utilized enough to become regular employees.
- Cross Assigned – When the court is not able to procure the services of an interpreter in one of the above categories, Court Reporter Interpreter Services (CRIS) submits a request for cross assignment through the Regional Coordinator who will attempt to find

- an employee from another region to cross-assign to our court.
- Independent Contractors – Certified/registered interpreters listed on the Judicial Council Website. Independent contractors are limited to working 100 days/half-days per region, per year.

Finally, the OCSC recognizes the significant benefits to both the public and the court by providing interpreters in civil and small claims cases and whenever possible, will attempt to provide such interpreters through incidental use.

2. Determining the Need for an Interpreter in the Courtroom

The OCSC may determine whether an LEP court customer needs an interpreter for a court hearing in various ways. Prior to a court proceeding, the need for a court interpreter may be identified by the LEP person or on the LEP person's behalf by counter or courtroom staff. Once the need for an interpreter is identified, the case is marked as interpreter required and the language is specified. The on-site interpreter coordinator from Court Reporter Interpreter Services (CRIS) is notified in order to ensure that an interpreter is provided. Spanish interpreters are assigned at all justice centers on a daily basis and assignments are coordinated through CRIS by the onsite interpreter coordinator. Occasionally, self-help center staff, family court services, or other outside justice partners such as public defenders, district attorneys, and sheriff officers inform the court of the need for an interpreter by contacting CRIS staff.

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

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

Standard 2.10(d) calls on the court to state its conclusion on the record regarding the need for an

interpreter. “The file in the case should be clearly marked and data entered electronically when appropriate by court personnel to ensure that an interpreter will be present when needed in any subsequent proceeding.”

Many people who need an interpreter will not request one because they do not realize that interpreters are available or because they do not recognize the level of English proficiency or communication skills needed to understand the court proceeding. In a case where the court is mandated to provide an interpreter, but one is not available at the time of the proceeding, even after the court has made all reasonable efforts to locate one, as outlined below in this plan (Section III, A, 3 second paragraph), the case will be postponed and continued to a date when an interpreter can be provided.

The court does not have funding to provide interpreters for non-mandated proceedings. However, the court can provide some assistance within existing funding restrictions and will endeavor to do so for non-mandated proceedings. When an interpreter is unavailable for a case in which the court is not mandated to provide one, the court takes the following actions. Upon request, the interpreter coordinator will attempt to meet the demand for interpreters on non-mandated matters by optimizing available interpreter resources, which includes efficient utilization of certified staff interpreters and grant funded interpreters. Litigants on non-mandated matters are instructed that they may have to provide their own interpreter, in the event court resources are unavailable.

3. Court Interpreter Qualifications

The OCSC hires interpreters for courtroom hearings in compliance with the rules and policies set forth by Government Code section 68561 and California Rules of Court, rule 2.893, and maintains a list of interpreters who have passed a background check and are available to provide service in Orange County. In addition, the AOC maintains a statewide roster of certified and registered interpreters who may work in the courts. This roster is available to court staff and the public on the Internet. [Click here](#) to search for an interpreter.

When an interpreter coordinator has made a “due diligence” effort to find a certified or registered court interpreter where one is mandated and none is available, the interpreter coordinator then seeks a non-certified, non-registered interpreter, in accordance with pursuant to California Rule of Court 2.893. Whenever a non-certified interpreter is used in the courtroom, to either provisionally qualify the interpreter or find good cause to permit him or her to interpret the proceeding, judges may, pursuant to rule 2.893, inquire into the interpreter’s skills, professional experience, and potential conflicts of interest. A provisionally qualified interpreter is one who, upon findings prescribed in the rule, is designated by the judge as eligible to interpret in a criminal or juvenile delinquency proceeding for a period of six months.

B. Language Services Outside the Courtroom

The OCSC is also responsible for taking reasonable steps to ensure that LEP individuals have meaningful access to services outside the courtroom. For example, LEP individuals may come in

contact with court personnel via the US Mail, the call center, the public counter, Self Help Center, and e-mail through the courts public website. Bilingual assistance is provided at the public counter and call center by the placement of bilingual staff as is practical. The court may also utilize court interpreters and other bilingual staff from elsewhere in the court to assist at a public counter. Similarly, the court's self-help center recruits and employs bilingual staff to provide self-represented litigants with assistance in understanding and completing necessary forms.

To facilitate communication between LEP individuals and court staff, the OCSC uses the following resources to the degree that resources are available:

- Court interpreters, to the extent permitted under the active *Memorandum of Understanding* or independent contractor Agreement for Interpreter Services;
- Bilingual employees who receive differential pay (Spanish & Vietnamese);
- A court Web site that utilizes machine translation into multiple languages;
- "I Speak" cards, to identify the individual's primary language;
- Multilingual signage in various locations throughout the courthouse in at least one of the following languages: Spanish, Chinese, Korean, Vietnamese and Farsi;
- Telephone interpreting services provided through Certified Languages International, which is available to provide assistance in the clerk's office and at the court's self-help centers.

To provide linguistically accessible services for LEP individuals, the OCSC provides the following:

- Self-help center services that include bilingual staff;
- Workshops presented in Spanish and Vietnamese with the assistance of bilingual staff and volunteer interns regarding dissolution, paternity and child support;
- Language assistance with processing temporary restraining orders;
- Bilingual family court services mediators for custody and visitation matters;

C. Translated Forms and Documents

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

- These translated forms are available at the court's public Web site [Click here](#) to access these forms. These forms can also be accessed in-person at the court's self-help centers;
- The court also has access to instructional materials that have been translated by other courts. [Click here](#) to access the instructional materials.

- The OCSC has translated the following locally used documents into Spanish and Vietnamese:
 - Advisement of Rights – Misdemeanors
 - Advisement of Rights – Infractions
 - Instructions to Defendant
 - Instructions for Completing Financial Statement
 - Collections financial application

These documents are located in the criminal and traffic courtrooms and at the public counters.

Correspondence written in Spanish and Vietnamese received by the Court from court customers is translated into English using Court Interpreter employees. Correspondence written in other languages received by the Court from court customers is translated into English using an outside vendor.

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

IV. Court Staff and Volunteer Recruitment

A. Recruitment of Bilingual Staff for Language Access

The OCSC is an equal opportunity employer and recruits and hires bilingual staff to serve its LEP constituents. For example, the OCSC recruits bilingual staff for the following positions:

- Certified court interpreters to serve as regular and intermittent employees of the court who speak Spanish, Vietnamese, Korean, Mandarin, Farsi, Russian and Armenian;
- Certified & registered court interpreters who serve as per diem contractors in over 50 languages;
- Spanish & Vietnamese bilingual staff to serve at public counters;
- Spanish & Vietnamese bilingual staff to serve the public through the court's call center
- Spanish & Vietnamese bilingual staff in the court's self-help centers; and,
- Spanish & Vietnamese bilingual staff who are on call to assist with contacts from LEP individuals, as needed.

V. Judicial and Staff Training:

The OCSC is committed to providing LEP training opportunities for all judicial officers and staff members. Training and learning opportunities currently offered by the OCSC will be expanded

or continued as needed. Those opportunities include:

- Interpreter management presentations at staff and bench panel meetings
- Interpreter coordinator training;
- Diversity and cultural competency training seminars:
 - “Beyond Bias: Assuring Fairness in the Courts” provided by Human Resources;
 - “Cross-Cultural Communications” provided by Public Service Institute (PSI);
 - “Continuing the Dialogue: What Do You Mean?” provided by CJER (Serranus)
 - Working with Court Interpreters AOC Video Broadcast.
- Tuition reimbursement for attendance at a college-level program in legal interpretation
- New employee orientation training; and,
- Judicial officer orientation on the use of court interpreters and language competency.

VI. Public Outreach and Education

To communicate with the court’s LEP constituents on various legal issues of importance to the community and to make them aware of services available to all language speakers, the OCSC provides community outreach and education and seeks input from its LEP constituency to further improve services. Outreach and education efforts include:

- The Court Leadership Academy – Various community organizations are invited to participate in this annual event. Participants attend a six-week academy on each area of responsibility within the court, which includes how the court provides services to the LEP public through the Court Reporter Interpreter Services office.
- Interpreting 101 lunch and learn training sessions that offer continuing education credits for attorneys, interpreters and court staff.

VII. Public Notification and Evaluation of LEP Plan

A. LEP Plan Approval and Notification

The OCSC’s LEP plan is subject to approval by the presiding judge and court executive officer. Upon approval, a copy will be forwarded to the AOC, LEP Coordinator. Any revisions to the plan will be submitted to the presiding judge and court executive officer for approval, and then forwarded to the AOC. Copies of OCSC’s LEP plan will be provided to the public on request. In addition, the court will post this plan on its public Web site. [Click here](#) to go to the OCSC public Website.

B. Annual Evaluation of the LEP Plan

The OCSC will routinely assess whether changes to the LEP plan are needed. The plan may be

changed or updated at any time but reviewed not less frequently than once a year.

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

- Number of LEP persons requesting court interpreters and language assistance;
- Assessment of current language needs to determine if additional services or translated materials should be provided;
- Solicitation and review of feedback from LEP communities within the county;
- Assessment of whether court staff adequately understand LEP policies and procedures and how to carry them out;
- Review of feedback from court employee training sessions; and,
- Customer satisfaction feedback.

C. OCSC LEP Plan Coordinator:

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E. LEP Plan Effective date: February 21, 2013

F. Approved by:

Presiding Judge:



Date:

3.27.13

Court Executive Officer:



Date:

5/26/2013

Attachment A

Citations on the Use and Payment of Interpreters in Court Proceedings

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

- Article 1, section 14 of the California Constitution provides that a “person unable to understand English who is charged with a crime has the right to an interpreter throughout the proceedings.” There is no corresponding right in civil proceedings. *Jara v. Municipal Court* (1978) 21 Cal.3d 181 held that non-English-speaking indigent civil litigants do not have a right to a court interpreter appointed at public expense. However, the court does have the inherent right to waive filing fees if justice so requires.
- *Jara* let stand an earlier opinion, *Gardiana v. Small Claims Court* (1976) 59 Cal.App.3d 412, which held that in small claims proceedings, the court has a statutory duty to appoint an interpreter free of charge if it finds the litigant unable to speak or understand English. *Jara* reasoned that because attorneys are not permitted in small claims proceedings, non-English-speaking small claims litigants without an interpreter are “effectively barred from access to the small claims proceedings.” (*Jara*, 21 Cal.3d 185.) (See also the two bulleted items below regarding interpreters in small claims matters.)
- Witnesses with limited English proficiency must also be provided with an interpreter. Under Evidence Code section 752, the court must appoint an interpreter whenever “a witness is incapable of understanding the English language or is incapable of expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury. . . .” Appointment of a translator is also required whenever “the written characters in a writing offered in evidence are incapable of being deciphered or understood directly.” (Evid. Code, § 753.)
- In small claims proceedings, if the court determines that a litigant does not speak or understand English sufficiently to comprehend the proceedings or give testimony and needs assistance in doing so, the court may permit another individual (other than an attorney) to assist that party. (Code Civ. Proc., § 116.550(a).) If a competent interpreter is not available at the first hearing of the case, the small claims court shall postpone the hearing one time only to allow the party the opportunity to obtain another individual to assist that party. Any additional continuances shall be at the court’s discretion. (Code Civ. Proc., § 116.550(b)). Rule 3.61 (5) of the California Rules of Court provides that any costs for a court-appointed interpreter in a small claims action must be waived if an application to proceed in forma pauperis is granted.

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