



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: November 16–17, 2017

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Title	Agenda Item Type
Language Access: Language Access Representatives and Language Access Services Complaints	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Adopt Cal. Rules of Court, rules 2.850 and 2.851	January 1, 2018
Submitted by	Date of Report
Language Access Plan Implementation Task Force	October 30, 2017
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### Executive Summary

The Language Access Plan Implementation Task Force recommends that the Judicial Council adopt rules 2.850 and 2.851 of the California Rules of Court to require each superior court to (1) designate a Language Access Representative, and (2) adopt a language access services complaint form and complaint procedures. The new rules support Recommendations 25, 62, and 63 in the *Strategic Plan for Language Access in the California Courts*, adopted by the council in January 2015.

### Recommendation

The Language Access Plan Implementation Task Force (Task Force) recommends that the Judicial Council, effective January 1, 2018, adopt:

1. Rule 2.850 of the California Rules of Court to require each superior court to designate a Language Access Representative; and

2. Rule 2.851 of the California Rules of Court to require each superior court to establish a complaint form and procedures to allow limited English proficient (LEP) court users, their advocates and attorneys, or other interested persons to submit a complaint to the Language Access Representative about the court's provision of, or failure to provide, appropriate language access services, including issues related to superior court-produced translations.

The text of the new rules is attached at pages 10–13.

### **Previous Council Action**

On January 22, 2015, the Judicial Council adopted the *Strategic Plan for Language Access in the California Courts* (the Language Access Plan or LAP), which provides a consistent statewide approach to ensure language access for all LEP court users in California's 58 superior courts. The Language Access Plan includes the following Phase 1 recommendations,<sup>1</sup> which specifically address the importance of language access representatives as well as complaint procedures, and form the basis for the new proposed rules:

LAP Recommendation 25. The court in each county will designate an office or person that serves as a language access resource for all court users, as well as court staff and judicial officers. This person or persons should be able to: describe all the services the court provides and what services it does not provide, access and disseminate all of the court's multilingual written information as requested, and help LEP court users and court staff locate court language access resources.

LAP Recommendation 62. The Implementation Task Force will develop a single form, available statewide, on which to register a complaint about the provision of, or the failure to provide, language access. This form should be as simple, streamlined, and user-friendly as possible. The form will be available in both hard copy at the courthouse and online, and will be capable of being completed electronically or downloaded for printing and completion in writing. The complaints will also serve as a mechanism to monitor concerns related to language access at the local or statewide level. The form should be used as part of multiple processes identified in the following recommendations of this plan.

LAP Recommendation 63. Individual courts will develop a process by which LEP court users, their advocates and attorneys, or other interested persons may file a complaint about the court's provision of, or failure to provide, appropriate language access services, including issues related to locally produced translations. Local courts may choose to model their local procedures after those developed as

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<sup>1</sup> Forty-seven (47) of the LAP recommendations are designated as Phase 1 recommendations, meaning that the recommendation should already be in place or work to implement it should have commenced in 2015. An additional 23 of the LAP recommendations are designated as Phase 2 recommendations, meaning that work to implement these recommendations should begin no later than 2016 or 2017.

part of the implementation process. Complaints must be filed with the court at issue and reported to the Judicial Council to assist in the ongoing monitoring of the overall implementation and success of the Language Access Plan.

### **Rationale for Recommendation**

Consistent with LAP Recommendation 25, rule 2.850 requires that each superior court designate a Language Access Representative to serve as the language access resource for all court users, as well as court staff and judicial officers. As of January 2016, each of the 58 superior courts has already designated a Language Access Representative. The rule will make clear that this is an ongoing requirement for courts.

Rule 2.851 implements Recommendations 62 and 63 of the Language Access Plan. It requires each court to adopt a language access services complaint form and related procedures for the Language Access Representative to respond to complaints. The Task Force developed a model complaint form and procedures for LEP court users to register language access complaints, and individual courts may choose to adopt their form and process on the model form.

Rule 2.851 will make clear that all courts must develop a complaint form and process. The rule preserves court flexibility by establishing minimum requirements for the complaint form. Under those requirements, the complaint form must be written in plain language; allow court users to specify that the complaint is related to a court interpreter, other staff, or local translation; and that it be available for free at the courthouse and online. The rule provides procedures for courts to receive and respond to complaints, and requires that complaints be submitted to the court at issue and reported to the Judicial Council to assist in the ongoing monitoring of the overall implementation and success of the Language Access Plan.

As long as an individual court's complaint form is consistent with the minimum requirements of rule 2.851(c), that court may continue to use its existing language access complaint form and procedures. A court may also decide to create a new complaint form and/or procedures after the rule, and may adopt the model form and recommended procedures that were developed by the task force. Adoption of rule 2.851 will benefit the judicial branch, justice partners, attorneys, self-represented litigants, and others by (1) ensuring that LEP court users who may not have been provided a court interpreter will, as appropriate and needed, receive a court interpreter; and (2) alerting the court of any other language access services that may need to be provided, remedied, or improved upon.

### **Comments, Alternatives Considered, and Policy Implications**

#### **Comments**

This proposal was circulated for public comment from February 27 to April 28, 2017. The Task Force received 12 comments. Commenters included six superior courts; the State Bar of California, Office of Legal Affairs, Standing Committee on the Delivery of Legal Services; a local bar association; several legal services organizations; and the Joint Rules Subcommittee of

the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee (JRS).

There were no specific comments regarding rule 2.850. Three commenters (Superior Court of Los Angeles County, Superior Court of Orange County, and the Orange County Bar Association) agreed with proposed rules 2.850 and 2.851 with no modifications. The other nine commenters agreed with rule 2.851 if modifications were made. A chart with the full text of the comments received and the Task Force's responses is attached at pages 14–34.

In response to commenters' suggestions, rule 2.851 has been modified to:

- Add the following language: “Language access complaints may be submitted orally or in other written formats; however, use of the court’s local form is encouraged to ensure tracking and that complainants provide full information to the court.”
- Indicate that the complaint form that is available in hard copy at the courthouse and online on the courts’ website must be free.
- Add that the form must include an e-mail contact to show court users how to submit a language access complaint.
- Add a provision that allows courts one year for implementation—up to December 31, 2018—to address court concerns regarding additional staff workload, including training, under the rule’s provisions.
- Provide that each court, through a preliminary review process, should strive to resolve language access complaints within 60 days after receipt of the complaint. The rule also provides that court user complaints regarding denial of a court interpreter for a courtroom proceeding for pending cases should be given priority.

To address comments regarding implementation, the Task Force added an advisory committee comment to indicate that for simple language access–related complaints that can be resolved quickly, a written response to the complainant indicating that the complaint has been resolved will suffice as both acknowledgement of the complaint and notice of outcome. The advisory committee comments also provide that (1) courts should maintain the privacy of individuals named in the complaint; and (2) reporting to the Judicial Council regarding the overall numbers, kinds, and disposition of language access–related complaints will not include the names of individuals or any other information that may compromise an individual’s privacy concerns.

To address reporting of language access complaints, the proposed rule has been modified to say: “The court must report to the Judicial Council on an *annual* basis the number and kinds of complaints received, the resolution status of all complaints, and any additional information about complaints requested by Judicial Council staff to facilitate the monitoring of the *Strategic Plan for Language Access in the California Courts*.” Judicial Council staff will provide guidance to courts regarding the kind of information concerning any language access complaints that will be requested on an annual basis following implementation of the rule.

Legal services providers and other commenters provided a number of suggestions that require clarification of the scope and intent of the rule and the language access complaint process. These include the following clarifications, which are highlighted below and included in the comment chart:

- The language access complaint process is administrative in nature and complaints will not be included in case files. As with any court user complaint, courts will maintain court records and maintain the privacy of individuals who submitted a complaint outside the context of the complaint.
- Some courts may find that having language access complaints submitted in English may expedite processing, but the Task Force recognizes the importance of not placing court users who are limited-English speakers in a position where — because of limited English proficiency — they are not able to submit a complaint in English. Depending on their available translation resources, individual courts should consider whether they can most effectively meet the needs of court users by accepting language access complaints in specified non-English languages, or, if they are unable to do so, by helping LEP individuals complete and submit the court’s language access complaint form in English. For example, if resources are available, the court can provide either in-person or telephonic language access assistance to help a LEP individual fill out and submit the language access complaint form in English. Moreover, to assist court users, the Judicial Council plans to translate the model form into at least the state’s top eight languages. It will be at the discretion of local courts to determine if the form should be translated into additional languages based on their local population needs.
- The Task Force expects that the model complaint form or something equivalent to it will be a useful means for superior courts to implement this rule. Although the proposed rule does not require court users to use the model complaint form, each court must have a form and establish procedures for submission of complaints. However, the rule does not provide that the form is the exclusive means of submitting a complaint. (See above for modification to rule 2.851.)
- The language access complaint process is meant to be administrative in nature, not adjudicative. Because language access complaints are administrative in nature, they do not require judicial review. The Task Force does not recommend instituting a higher level of review nor publishing outcomes of complaints.
- Courts may decide whether notices for court users should include language regarding submission of court user complaints on language access; however, this is not recommended as a requirement of the proposed complaint form rule.

- When needed, additional information regarding language access complaint(s) will be limited to Judicial Council staff asking the court for clarification regarding the nature of the specific complaint(s) received.

### **Alternatives considered**

The Task Force's role is to advise the Judicial Council on implementation of the LAP's recommendations. The Task Force leadership determined that any failure to adopt either of these rules may result in inconsistent practices across the state and would not support statewide implementation of LAP Recommendations 25, 62, and 63. At an open meeting on August 9, 2017, the Task Force discussed the public comments received and the proposed modifications to the rules described here. The Task Force voted unanimously (19–0) in favor of rule 2.850, and voted (16–3) in favor of rule 2.851. Regarding rule 2.851, concerns were raised about the languages in which complaints could be submitted (i.e., whether courts must accept language access complaints submitted in non-English languages). The Task Force decided that adding a requirement that courts must accept language access complaints in non-English languages was not appropriate for the rule at this juncture, due to the limited translation resources that each court possesses. (Over 200 languages are spoken in the California courts.) In addition, the proposal did not include such a requirement when it circulated for public comment.

The Task Force determined that the version of rule 2.851 included in this report is an important foundational step for the branch and a reasonable framework to require each court to establish a language access complaint form and related procedures to respond to complaints. The Task Force anticipates that superior courts will monitor and assess their language access complaint process, and revise their procedures as appropriate and needed. The Judicial Council will also solicit feedback from and assist courts during implementation of the complaint rule, and will share best practices to assist individual courts and encourage uniformity across the branch.

### **Policy implications**

The Language Access Plan emphasizes that a multifaceted language access services complaint process is essential to ensure the quality of the language access services delivered by the courts. As a foundational step, rule 2.851 addresses LAP Recommendations 62 and 63, which are Phase 1 recommendations. Rule 2.851 will require each superior court to establish a complaint form and procedures to allow LEP court users, their advocates and attorneys, or other interested persons to submit a complaint to the Language Access Representative about the court's provision of, or failure to provide, appropriate language access services, including issues related to superior court-produced translations. Each court must comply with the requirements by December 31, 2018.

For Phase 2 of implementation, pursuant to LAP Recommendation 64, the Professional Standards and Ethics Subcommittee of the Court Interpreters Advisory Panel (CIAP) is currently developing a process by which the quality and accuracy of an interpreter's skills and adherence

to ethical requirements can be reviewed.<sup>2</sup> The Task Force is partnering with the Professional Standards and Ethics Subcommittee of CIAP, as appropriate, to ensure consistency between (1) the model complaint form and proposed rules, and (2) CIAP’s development of related policies and procedures regarding interpreter review and discipline. The National Center for State Courts (NCSC) is working in consultation with the Judicial Council staff to assist the CIAP on LAP Recommendation 64, but their work is not anticipated to be completed, including any public comment and revision regarding new rules or procedures, until 2019 or 2020.

The Task Force also added an Advisory Committee Comment to the rule that states, “If a complaint alleges action against a court employee that could lead to discipline, the court will process the complaint consistent with the court’s applicable Memoranda of Understanding, personnel policies, and/or rules.”

Requiring each superior court to develop a language access complaint form and complaint process will support the successful monitoring and implementation of the LAP. Task Force members (court staff and judicial officers) have informed us that several courts throughout the state, including several large courts, have already successfully implemented a language access complaint process: those courts receive relatively few complaints, and any complaints received are promptly addressed at the local court level. Pending completion of the court interpreter review and/or disciplinary process being undertaken by the CIAP, courts should continue to handle court interpreter complaints under their existing procedures and those to be adopted pursuant to the rule. Courts are encouraged to consult the Judicial Council’s Court Interpreters Program for guidance if a substantiated complaint rises to a level that may require corrective action, including revoking a court interpreter’s status as a certified or registered interpreter. Court interpreter complaints that rise to this level are rare, but a court should address and remedy such complaints following their existing procedures, working closely with the staff at the Judicial Council, as appropriate.

The Task Force views a language access–related complaint process as essential to overall LAP implementation success, since it assists in monitoring and remedying any language access–related issues, and provides a protocol for court users or their advocates to identify issues concerning the court’s provision of, or failure to provide, appropriate language access services, including issues related to locally produced translations.

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<sup>2</sup> LAP Recommendation 64 states, “The Judicial Council, together with stakeholders, will develop a process by which the quality and accuracy of an interpreter’s skills and adherence to ethical requirements can be reviewed. This process will allow for appropriate remedial action, where required, to ensure certified and registered interpreters meet all qualification standards. Development of the process should include determination of whether California Rule of Court 2.891 (regarding periodic review of court interpreter skills and professional conduct) should be amended, repealed, or remain in place. Once the review process is created, information regarding how it can be initiated must be clearly communicated to court staff, judicial officers, attorneys, and in plain language to court users (e.g., LEP persons and justice partners). (Phase 2)”

## **Implementation Requirements, Costs, and Operational Impacts**

Commenters noted that rule 2.851 might result in additional training that will require the commitment of staff time and court resources. For example, court-assigned Language Access Representatives will require training on the use of the language access complaint form and procedures to ensure complaints are answered in a timely manner, and the handling of complaints may result in additional workload. As noted above, depending on their available translation resources, individual courts may consider whether they want to accept language access complaints submitted in specified non-English languages, or, if they are unable to do so, whether they are able to provide in-person or telephonic language assistance to non- and limited-English speakers to help them fill out and submit the court's language access complaint form in English. The council's Language Access Services and Court Interpreters Program staff anticipate they will begin conducting regular meetings (via phone calls or WebEx) with the courts' Language Access Representatives to provide guidance and answer questions that will help all courts develop best practices regarding language access services, including handling any language access-related complaints.

Following adoption of rule 2.851, Judicial Council staff plan to update the model language access complaint form and procedures, translate the model form into at least the state's top eight languages, and share the translations with the courts to use or adapt for their language access complaint form and/or process as appropriate. The council will also begin collecting information from courts on an annual basis regarding the numbers and kinds of language access-related complaints received to assist with ongoing monitoring and successful implementation of the LAP. In its implementation efforts, a court can choose to continue to use its existing language access complaint form and procedures, or it may model a new complaint form and/or procedures after the rule and the model form and recommended procedures that were developed by the Task Force.

## **Relevant Strategic Plan Goals and Operational Plan Objectives**

The Language Access Plan recommendations furthered by this proposal support Goal I of the Judicial Council's 2006–2016 strategic plan—Access, Fairness, and Diversity—which sets forth that:

- All persons will have equal access to the courts, and court proceedings and programs;
- Court procedures will be fair and understandable to court users; and
- Members of the judicial branch community will strive to understand and be responsive to the needs of court users from diverse cultural backgrounds.

The LAP also aligns with the 2008–2011 operational plan for the judicial branch, which identifies additional objectives, including that the branch:

- Increase qualified interpreter services in mandated court proceedings and seek to expand services to additional court venues; and



- Increase the availability of language access services to all court users.

Finally, the LAP also aligns with the Chief Justice’s Access 3D framework and enhances equal access to justice for court users with limited English proficiency.

### **Attachments and Links**

1. Cal. Rules of Court, rules 2.850 and 2.851, at pages 10–13
2. Chart of comments, at pages 14–34

Rules 2.850 and 2.851 of the California Rules of Court are adopted, effective January 1, 2018, to read:

1 **Title 2. Trial Court Rules**

2  
3 **Chapter 4. Language Access**

4  
5 **Article 1. General Provisions**

6  
7  
8 **Rule 2.850. Language Access Representative**

9  
10 **(a) Designation of Language Access Representative**

11  
12 The court in each county will designate a Language Access Representative. That  
13 function can be assigned to a specific job classification or office within the court.

14  
15 **(b) Duties**

16  
17 The Language Access Representative will serve as the court’s language access  
18 resource for all court users, as well as court staff and judicial officers, and should  
19 be familiar with all the language access services the court provides; access and  
20 disseminate all of the court’s multilingual written information as requested; and  
21 help limited English proficient (LEP) court users and court staff locate language  
22 access resources.

23  
24 **Advisory Committee Comment**

25  
26 Subdivision (a), see Recommendation No. 25 of the [Strategic Plan for Language Access in](#)  
27 [the California Courts](#), adopted by the Judicial Council on January 22, 2015.

28  
29 **Rule 2.851. Language access services complaints**

30  
31 **(a) Purpose**

32  
33 The purpose of this rule is to ensure that each superior court makes available a form  
34 on which court users may submit a complaint about the provision of, or the failure  
35 to provide, language access and that each court has procedures for handling those  
36 complaints. Courts must implement this rule as soon as reasonably possible but no  
37 later than December 31, 2018.

38  
39 **(b) Complaint form and procedures required**

40  
41 Each superior court must adopt a language access services complaint form and  
42 complaint procedures that are consistent with this rule.

1  
2 **(c) Minimum requirement for complaint form**

3  
4 The language access services complaint form adopted by the court must meet the  
5 following minimum requirements:

- 6  
7 (1) Be written in plain language;  
8  
9 (2) Allow court users to submit complaints about how the court provided or  
10 failed to provide language services;  
11  
12 (3) Allow court users to specify whether the complaint relates to court  
13 interpreters, other staff, or local translations;  
14  
15 (4) Include the court's mailing address and an e-mail contact to show court users  
16 how they may submit a language access complaint;  
17  
18 (5) Be made available for free both in hard copy at the courthouse and online on  
19 the courts' website, where court users can complete the form online and then  
20 submit to the court by hand, postal mail, or e-mail; and  
21  
22 (6) Be made available in the languages spoken by significant portions of the  
23 county population.

24  
25 **(d) General requirements for complaint procedures**

26  
27 The complaint procedures adopted by the court must provide for the following:

- 28  
29 (1) Submission and referral of local language access complaints  
30  
31 (A) Language access complaints may be submitted anonymously.  
32  
33 (B) Language access complaints may be submitted orally or in other written  
34 formats; however, use of the court's local form is encouraged to ensure  
35 tracking and that complainants provide full information to the court.  
36  
37 (C) Language access complaints regarding local court services should be  
38 submitted to the court's designated Language Access Representative.  
39  
40 (D) A complaint submitted to the improper entity must immediately be  
41 forwarded to the appropriate court, if that can be determined, or, where  
42 appropriate, to the Judicial Council.  
43

1           (2) Acknowledgment of complaint

2  
3           Except where the complaint is submitted anonymously, within 30 days after  
4           the complaint is received, the court's Language Access Representative must  
5           send the complainant a written acknowledgment that the court has received  
6           the complaint.

7  
8           (3) Preliminary review and disposition of complaints

9  
10           Within 60 days after receipt of the complaint, the court's Language Access  
11           Representative should conduct a preliminary review of every complaint to  
12           determine whether the complaint can be informally resolved or closed, or  
13           whether the complaint warrants additional investigation. Court user  
14           complaints regarding denial of a court interpreter for a courtroom proceeding  
15           for pending cases should be given priority.

16  
17           (4) Procedure for complaints not resolved through the preliminary review

18  
19           If a complaint cannot be resolved through the preliminary review process  
20           within 60 days after receipt of the complaint, the court's Language Access  
21           Representative should inform the complainant (if identified) that the  
22           complaint warrants additional review.

23  
24           (5) Notice of outcome

25  
26           Except where the complaint is submitted anonymously, the court must send  
27           the complainant notice of the outcome taken on the complaint.

28  
29           (6) Promptness

30  
31           The court must process complaints promptly.

32  
33           (7) Records of complaints

34  
35           The court should maintain information about each complaint and its  
36           disposition. The court must report to the Judicial Council on an annual basis  
37           the number and kinds of complaints received, the resolution status of all  
38           complaints, and any additional information about complaints requested by  
39           Judicial Council staff to facilitate the monitoring of the Strategic Plan for  
40           Language Access in the California Courts.

41  
42           (8) Disagreement (Disputing) Notice of Outcome

1  
2 If a complainant disagrees with the notice of the outcome taken on his or her  
3 complaint, within 90 days of the date the court sends the notice of outcome,  
4 he or she may submit a written follow-up statement to the Language Access  
5 Representative indicating that he or she disagrees with the outcome of the  
6 complaint. The follow-up statement should be brief, specify the basis of the  
7 disagreement, and describe the reasons the complainant believes the court’s  
8 action lacks merit. For example, the follow-up statement should indicate why  
9 the complainant disagrees with the notice of outcome or believes that he or  
10 she did not receive an adequate explanation in the notice of outcome. The  
11 court’s response to any follow-up statement submitted by complainant after  
12 receipt of the notice of outcome will be the final action taken by the court on  
13 the complaint.

14  
15  
16 **Advisory Committee Comment**

17  
18 **Subdivision (a)** Judicial Council staff have developed a model complaint form and model  
19 local complaint procedures, which are available in the Language Access Toolkit at  
20 [www.courts.ca.gov/33865.htm](http://www.courts.ca.gov/33865.htm). The model complaint form is posted in numerous languages.  
21 Courts are encouraged to base their complaint form and procedures on these models. If a  
22 complaint alleges action against a court employee that could lead to discipline, the court will  
23 process the complaint consistent with the court’s applicable Memoranda of Understanding,  
24 personnel policies, and/or rules.

25  
26 **Subdivision (d)(1)** Court user complaints regarding language access that relate to Judicial  
27 Council meetings, forms, or other translated material hosted on [www.courts.ca.gov](http://www.courts.ca.gov), should be  
28 submitted directly to the Judicial Council at [www.courts.ca.gov/languageaccess.htm](http://www.courts.ca.gov/languageaccess.htm).

29  
30 **Subdivision (d)(2) and (d)(5)** For noncomplicated language access–related complaints that  
31 can be resolved quickly, a written response to the complainant indicating that the complaint  
32 has been resolved will suffice as both acknowledgement of the complaint and notice of  
33 outcome.

34  
35 **Subdivision (d)(5)** When appropriate, a written response to the complainant indicating that  
36 the language access complaint has been resolved will suffice as notice of outcome. Courts  
37 should maintain the privacy of individuals named in the complaint.

38  
39 **Subdivision (d)(7)** Reporting to the Judicial Council regarding the overall numbers, kinds,  
40 and disposition of language access–related complaints will not include the names of  
41 individuals or any other information that may compromise an individual’s privacy concerns.  
42

SPR17-21

**Language Access: Designation of Language Access Representative and Handling Complaints** (Proposed Rule: Adopt California Rules of Court, Rules 2.850 and 2.851)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commenters, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Legal Services of Northern California by Stephen E. Goldberg, Regional Counsel	AM	See comments on specific provisions below.	
2.	National Housing Law Project by Renee Williams, Staff Attorney	AM	See comments on specific provisions below.	
3.	Orange County Bar Association by Michael L. Baroni, President	A	Yes, the proposal addresses the stated purpose.	No response required.
4.	Other Legal Services Providers: <ul style="list-style-type: none"> <li>- Asian Americans Advancing Justice – Los Angeles</li> <li>- Asian Americans for Community Involvement</li> <li>- Asian Law Alliance</li> <li>- Asian Pacific Islander Legal Outreach</li> <li>- California Rural Legal Assistance</li> <li>- Center for the Pacific Asian Family</li> <li>- Child Care Law Center</li> <li>- Family Violence Appellate Project</li> <li>- Kids in Need of Defense</li> <li>- Korean American Family Services</li> <li>- Korean Resource Center</li> <li>- Law Foundation of Silicon Valley</li> <li>- Legal Aid Association of California</li> </ul>	AM	See comments on specific provisions below.	

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR17-21

**Language Access: Designation of Language Access Representative and Handling Complaints** (Proposed Rule: Adopt California Rules of Court, Rules 2.850 and 2.851)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
	<ul style="list-style-type: none"> <li>- Legal Aid at Work</li> <li>- Legal Aid Foundation of Los Angeles</li> <li>- Los Angeles Center for Law and Justice</li> <li>- San Diego Volunteer Lawyer Program</li> <li>- Thai Community Development Center</li> </ul>			
5.	State Bar of California Office of Legal Affairs, Standing Committee on the Delivery of Legal Services by Sharon Djemal, Chair, Standing Committee on the Delivery of Legal Services	AM	See comments on specific provisions below.	
6.	Superior Court of Los Angeles County (no name provided)	A	In 2016, the Los Angeles Superior Court implemented LAP Recommendations 25, 62 and 63. These requirements under proposed new rules 2.850 and 2.851 have been met.	No response required.
7.	Superior Court of Orange County (no name provided)	A		No response required.
8.	Superior Court of Placer County by Jake Chatters, Court Executive Officer	AM	See comments on specific provisions below.	
9.	Superior Court of Riverside County (no name provided)	AM	See comments on specific provisions below.	

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

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	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
10.	Superior Court of San Bernardino County (no name provided)	AM	See comments on specific provisions below.	
11.	Superior Court of San Diego County by Mike Roddy, Court Executive Officer	AM	See comments on specific provisions below.	
12.	TCPJAC/CEAC Joint Rules Subcommittee (JRS) by Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee	AM	See comments on specific provisions below.	

Positions: A = Agree; AM = Agree if modified; N = Do not agree.



**Language Access: Designation of Language Access Representative and Handling Complaints** (Proposed Rule: Adopt California Rules of Court, Rules 2.850 and 2.851)

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<b>Proposed Rule: Adopt California Rules of Court, Rules 2.850 and 2.851 — To require each superior court to: 1. Designate a Language Access Representative; and 2. Adopt a language access services complaint form and complaint procedures.</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Legal Services of Northern California by Stephen E. Goldberg, Regional Counsel</p>	<p>LSNC does have some concerns about the proposed Rules of Court.</p> <p>1. The proposed rules at least imply that the official form will be the only mechanism to file a formal language access complaint. While LSNC agrees there should be a standard complaint form, that form should not be the only mechanism to file a formal complaint. Any complaint about language access should be accepted and processed, even if that complaint is not on the complaint form. This is particularly important for this form because, while the proposed rule requires that the form be translated into languages spoken by a significant portion of the county population, there will be languages spoken by court users for which the complaint form has not been translated, and there will be court users who are unable to understand the form even in their primary language. These court users must be able to submit complaints in a manner other than the complaint form. In addition, court users who speak a language that the complaint form is not translated into must be allowed to submit the complaint in their primary language, and requiring use of the complaint form will prevent those court users from submitting complaints. Allowing alternative mechanisms was the approach taken for the interpreter request form by designating that form as a model form. The same approach should be used for the complaint form. LSNC acknowledges that the current complaint form is designated as a model form. However, the court rule should specify that the complaint form is exclusive and that a written complaint is not required.</p>	<p>The Task Force thanks the commenter for its comments and suggestions.</p> <p>Rule 2.851 has been modified to include the following language: “Language access complaints may be submitted orally or in other written formats; however, use of the court’s local form is encouraged to ensure tracking and that complainants provide full information to the court.”</p> <p>The proposed rule does not require that court users must use the model form for a complaint; each court must have a form and establish procedures for submission of complaints; the rule does not say that the form is the exclusive means of submitting a complaint.</p> <p>Some courts may find that having language access complaints submitted in English may expedite processing, but the Task Force recognizes the importance of not placing court users who are limited-English speakers in a position where — because of limited English proficiency — they are not able to submit a complaint in English. Depending on their available translation resources, individual courts should consider whether they can most effectively meet the needs of court users by accepting language access complaints in specified non-English languages, or, if they are unable to do so, by helping LEP individuals complete and submit the court’s language access complaint form in English. For example, if resources are</p>

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**Language Access: Designation of Language Access Representative and Handling Complaints (Proposed Rule: Adopt California Rules of Court, Rules 2.850 and 2.851)**

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>2. The new rules should specify that the complaint form be made available at local courts free of charge. While the rule states that the form must be available both in paper and electronically, it does not specify that the paper form or a printout of the electronic version be available free of charge.</p> <p>3. The translation requirement for the complaint form is vague. The proposed rule states the complaint form should be translated into languages spoken by a “significant portion of the county population” without defining what a “significant portion” is. The translation requirement for the form should be the translation standard under Title VI of the Civil Rights Act of 1964, which requires translation for languages spoken by 5% of the population in the area served by the court branch, or 1,000 speakers in the area served by the court branch, whichever is less.</p>	<p>available, the court can provide either in-person or telephonic language access assistance to help a LEP individual fill out and submit the language access complaint form in English. Moreover, to assist court users, the Judicial Council plans to translate the model form into at least the state’s top eight languages. It will be at the discretion of local courts to determine if the form should be translated into additional languages based on their local population needs.</p> <p>The rule has been modified to indicate that the complaint form should, “Be made available for free both in hard copy at the courthouse and online on the courts’ website, where court users can complete the form online and then submit to the court by hand, postal mail or e-mail;”</p> <p>To assist court users, the Judicial Council plans to translate the model form into at least the state’s top eight languages. It will be up to local courts to determine if the form should be translated into additional languages based on their local population needs.</p>

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	<p>4. The new rules should specify that the court signage stating the right to an interpreter include the right to file a complaint regarding interpreter access.</p> <p>5. The data gathering requirement should be more detailed. The rules should specify that the data to be gathered includes, at a minimum, the language at issue in the complaint, in order to track if there any particularly problematic languages; the subject of the complaint (courtroom services, counter services, other court services such as family law facilitators etc.); the reason for the complaint; and the number and disposition of second level appeals. For the first two years, this data should be reviewed quarterly instead of semi-annually to ensure that the complaint process is proceeding in each court.</p> <p>6. The 90 day review time is too long. Given that there will be a designated court employee to review these complaints, it should be possible to investigate and respond to complaints in 30 to 45 days. In addition, there must be a mechanism to request an expedited resolution of a complaint when there is an upcoming hearing or an emergency need for court services such as the family law facilitator.</p>	<p>Courts may decide whether notices for court users should include language regarding court user complaints; however, this is not recommended to be a requirement of the proposed complaint form rule.</p> <p>The rule indicates that reporting to the Judicial Council will be limited to the numbers, kinds and disposition of language access-related complaints. To not overly burden courts, the rule has been modified to indicate that the Judicial Council will ask courts for this information regarding language access-related complaints once a year (on an annual basis). The language access complaint process is meant to be administrative in nature, not adjudicative. The Task Force does not recommend instituting a higher level of review or publishing outcomes of complaints. Because language access complaints are administrative in nature, they do not require judicial review.</p> <p>The proposed rule has been modified to indicate that each court should respond to complaints within 60 days after receipt of the complaint. Additional changes to the rule have been made to give courts more time to respond to language access-related complaints (see Rule 2.851(d)(2) and (d)(4)). An Advisory Committee Comment has also been added to the rule to indicate that for non-complicated language access-related complaints that can be resolved quickly, a written response to complainant indicating that the complaint has been resolved will suffice as both acknowledgement of the</p>

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	<p>7. The second level appeal should be to someone other than the court Language Access Representative because that is the person who already adversely decided the complaint. An appeal to the same person who already adversely decided the complaint is not an appropriate or impartial appeal. LSNC recommends that the second level appeal be to either a designated judge, or to the presiding judge who can either decide the complaint or delegate that decision to available judges on a case-by-case basis.</p>	<p>complaint and notice of outcome.</p> <p>The language access complaint process is meant to be administrative in nature, not adjudicative. The Task Force does not recommend instituting a higher level of review or publishing outcomes of complaints. Because language access complaints are administrative in nature, they do not require judicial review.</p>
National Housing Law Project by Renee Williams, Staff Attorney	<p>Proposed rule 2.851 should include a provision mandating that all personally identifiable information regarding court users provided in the context of a language access complaint will be subject to strict confidentiality measures. Specifically, the rule should require that complainants' personally identifiable information submitted as part of a court's language access complaint procedures (such as name, address, phone number, and e-mail address) not be disclosed to a third party outside the context of the language access complaint procedures without the court user's (complainant's) consent. Personally identifiable information should be removed from written decisions, appeals, or reports issued by an individual court or the Judicial Council regarding language access complaints before such documents are made publicly available.</p>	<p>The Task Force thanks the commenter for its comments and suggestions. The language access complaint process is administrative in nature and complaints will not be included in case files. As with any court user complaint, courts will maintain court records and maintain the privacy of individuals who submitted a complaint outside the context of the complaint. An Advisory Committee Comment has been added to the rule to indicate that (1) courts should maintain the privacy of individuals named in the complaint, and (2) reporting to the Judicial Council regarding the overall numbers, kinds and disposition of language access-related complaints will not include the names of individuals or any other information that may compromise an individual's privacy.</p>

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<p>Other Legal Services Providers (signed by several legal services organizations)</p>	<p>(*Excerpt provided below)</p> <p>We would like to highlight the recommendations below, which we believe will greatly enhance Proposed Rule of Court 2.851 in its efforts to establish a multifaceted complaint procedure and ensure the quality of language access services delivered.</p> <p><b>1. Complaints Should Be Accepted &amp; Processed in Other Languages</b></p> <p>We recognize that that the proposed rule notes that the complaint form must be available in languages spoken by significant proportions of the county population. The proposed rule should also make clear that the court must accept forms and any follow-up statements that complainants complete and submit in different languages. The court should translate the completed forms and other statements and process them accordingly and without undue delay.</p> <p>Further, complainants should be allowed to choose the language in which they prefer to receive the court’s written acknowledgement and the results of their complaint. All correspondence to complainants regarding their complaints should be in the preferred language and English.</p>	<p>The Task Force thanks the commenters for their comments and suggestions.</p> <p>Rule 2.851 has been modified to include the following language: “Language access complaints may be submitted orally or in other written formats; however, use of the court’s local form is encouraged to ensure tracking and that complainants provide full information to the court.” The proposed rule does not require that court users must use the model form for a complaint; each court must have a form and establish procedures for submission of complaints; the rule does not say that the form is the exclusive means of submitting a complaint.</p> <p>Some courts may find that having language access complaints submitted in English may expedite processing, but the Task Force recognizes the importance of not placing court users who are limited-English speakers in a position where — because of limited English proficiency — they are not able to submit a complaint in English. Depending on their available translation resources, individual courts should consider whether they can most effectively meet the needs of court users by accepting language access complaints in specified non-English languages, or, if</p>

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<p><b>Commenter</b></p>	<p><b>Comment</b></p>	<p><b>Committee Response</b></p>
	<p><b>2. Clear Notice of Complaint Process Must Be Posted</b>                      Each court should be required to post multilingual notices, visibly and prominently, throughout the courthouse. The notices must contain information on the right to file a complaint if LEP court users are denied languages accessible services, or receive inadequate interpretation and translation services. An example of such a notice can be found here: <a href="http://www.lep.gov/resources/012314_NC_lang.Acc.Poster.pdf">http://www.lep.gov/resources/012314_NC_lang.Acc.Poster.pdf</a></p> <p><b>3. Review and Processing Period Should Be Much Shorter</b>                      The proposed rule’s 90-day period within which the court’s Language Access Representative must respond should be shortened due to the likelihood that any delay greater than 30</p>	<p>they are unable to do so, by helping LEP individuals complete and submit the court’s language access complaint form in English. For example, if resources are available, the court can provide either in-person or telephonic language access assistance to help a LEP individual fill out and submit the language access complaint form in English. Moreover, to assist court users, the Judicial Council plans to translate the model form into at least the state’s top eight languages. It will be at the discretion of local courts to determine if the form should be translated into additional languages based on their local population needs.</p> <p>Courts may decide whether notices for court users should include language regarding court user complaints; however, this is not recommended to be a requirement of the proposed complaint form rule.</p> <p>The proposed rule has been modified to indicate that each court should respond to complaints within 60 days after receipt of the complaint. Additional changes to the rule have been made to give courts more time to respond</p>

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	<p>days could negatively impact a complainant’s case. The period should be between 15 and 30 days, and there should be a method for requesting expedited review, ideally within 7 days, if there is an upcoming hearing where an interpreter is required or other critical deadline.</p> <p><b>4. There Must Be a Higher Level of Review for Appeals</b>                      In the proposed rule, the only mechanism to address an unsatisfactory outcome is to submit a written follow-up statement to the Language Access Representative. The court’s response is then the final action. This process is fundamentally unfair as the follow-up goes to the same individual who issued the initial unsatisfactory decision for resolution. There must be a higher level of review within the local court who will review the Language Access Representative’s decision upon appeal and issue a written decision in a timely manner. This addition is not only to provide an unbiased appeals process to the complainant, but to document systemic issues and potential problems with the court’s complaint process.                      Upon exhausting this higher level of review within the court, the complainant should have another opportunity to appeal at a statewide level. The Judicial Council should create or designate an existing entity to review such complaints and issue written decisions, which can serve as binding precedent.</p>	<p>to language access-related complaints (see Rule 2.851(d)(2) and (d)(4)). An Advisory Committee Comment has also been added to the rule to indicate that for non-complicated language access-related complaints that can be resolved quickly, a written response to complainant indicating that the complaint has been resolved will suffice as both acknowledgement of the complaint and notice of outcome.</p> <p>The language access complaint process is meant to be administrative in nature, not adjudicative. The Task Force does not recommend instituting a higher level of review or publishing outcomes of complaints. Because language access complaints are administrative in nature, they do not require judicial review.</p>

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	<p><b>5. Documentation of Complaint Process Data and Information</b>                      The proposed rule indicates that the court should maintain information on complaints and their dispositions and report information to the Judicial Council on a semiannual basis. This practice should be expanded to include quarterly reporting as well as more details regarding the bases for complaints, their specific resolutions, and any subsequent appeals or requests for further review. All of this information should be made available to the public.                      Further, with an expanded system for appeals as recommended above, the Judicial Council should publish written decisions of appeals on the Judicial Council website, available to the public. The Implementation Task Force or similar entity should review all records quarterly for the first two years of the administration, then annually to identify problems with implementation and corrective action.</p> <p><b>6. The Complaint Form Should Be Accessible and Complaints in Alternate Methods Must Also Be Accepted</b>                      The complaint form must also be available in paper at the courthouse because many low-income litigants may not have internet access. The complaint form must be available free of charge both in person at the courthouse and when downloaded from court websites, and it should be accepted in person, by mail, by fax, or electronically. Standard court charges for website searches and downloads must not apply to the complaint form because that will deprive low-income litigants of the right to file a complaint.</p>	<p>The rule indicates that reporting to the Judicial Council will be limited to the numbers, kinds and disposition of language access-related complaints. To not overly burden courts, the rule has been modified to indicate that the Judicial Council will ask courts for this information regarding language access-related complaints once a year (on an annual basis). The language access complaint process is meant to be administrative in nature, not adjudicative. The Task Force does not recommend instituting a higher level of review or publishing outcomes of complaints. Because language access complaints are administrative in nature, they do not require judicial review.</p> <p>The rule has been modified to include the following language: “Language access complaints may be submitted orally or in other written formats; however, use of the court’s local form is encouraged to ensure tracking and that complainants provide full information to the court.”</p>



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	Further, the official complaint form should be an optional vehicle for filing a complaint, rather than the mandatory procedure for doing so. Any complaint about language access should be accepted and processed, even if that complaint not conveyed via the complaint form.	
State Bar of California Office of Legal Affairs, Standing Committee on the Delivery of Legal Services by Sharon Djemal, Chair, Standing Committee on the Delivery of Legal Services	<p>SCDLS offers the following suggestions regarding the language access services complaint form requirements and procedures contained in proposed new rule 2.851:</p> <ul style="list-style-type: none"> <li>- Add language to the rule that allows all complaints, even if submitted in languages other than English, so that the court can translate them and process them accordingly.</li> </ul>	<p>The Task Force thanks the commenter for their comments and suggestions.</p> <p>Some courts may find that having language access complaints submitted in English may expedite processing, but the Task Force recognizes the importance of not placing court users who are limited-English speakers in a position where — because of limited English proficiency — they are not able to submit a complaint in English. Depending on their available translation resources, individual courts should consider whether they can most effectively meet the needs of court users by accepting language access complaints in specified non-English languages, or, if they are unable to do so, by helping LEP individuals complete and submit the court’s language access complaint form in English. For example, if resources are available, the court can provide either in-person or telephonic language access assistance to help a LEP individual fill out and submit the language access complaint form in English. Moreover, to assist court users, the Judicial Council plans to translate the model form into at least the state’s top eight languages. It will</p>

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	<ul style="list-style-type: none"> <li>- Clarify what can be included in the complaint: (1) quality or accuracy of an interpreter’s skills and adherence to ethical requirements; (2) the quality of translations approved by the Judicial Council; or (3) provision of, or failure to provide, appropriate language access services.</li> <li>- Make the official complaint form an optional vehicle for filing a complaint, rather than a mandatory one. Any complaint about language access should be accepted, even if it was not submitted on the complaint form.</li> </ul>	<p>be at the discretion of local courts to determine if the form should be translated into additional languages based on their local population needs.</p> <p>Rule 2.851 indicates that the complaint form must allow court users to specify whether the complaint relates to court interpreters, other staff or local translations. See 2.851(c)(3). The task force declines to require specificity in the rule concerning the permissible types of complaints.</p> <p>The rule has been modified to include the following language: “Language access complaints may be submitted orally or in other written formats; however, use of the court’s local form is encouraged to ensure tracking and that complainants provide full information to the court.” The proposed rule does not require that court users must use the model form for a complaint; each court must have a form and establish procedures for submission of complaints; the rule does not say that the form is the exclusive means of submitting a complaint.</p>

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	<ul style="list-style-type: none"> <li>- Add a higher level of review of local complaints where the outcome can be appealed to another centralized body (Judicial Council or Task Force), where there can be published decisions as binding precedent.</li>   <li>- The 90 day response period is too long. SCDSL suggests a priority system be in place. For example, if a person was denied an interpreter and has a hearing coming up, this should be given priority. Otherwise, the response period should be shortened to 30 days.</li>   <li>- Monitor the complaint process and areas for improvement by storing appeal filings and decisions in a public database.</li>   <li>- Add a requirement for each court to post a visible notification for LEP individuals on the right to file a</li> </ul>	<p>The language access complaint process is meant to be administrative in nature, not adjudicative. The Task Force does not recommend instituting a higher level of review or publishing outcomes of complaints. Because language access complaints are administrative in nature, they do not require judicial review.</p> <p>The proposed rule has been modified to indicate that each court should respond to complaints within 60 days after receipt of the complaint. Additional changes to the rule have been made to give courts more time to respond to language access-related complaints (see Rule 2.851(d)(2) and (d)(4)). An Advisory Committee Comment has also been added to the rule to indicate that for non-complicated language access-related complaints that can be resolved quickly, a written response to complainant indicating that the complaint has been resolved will suffice as both acknowledgement of the complaint and notice of outcome.</p> <p>The language access complaint process is meant to be administrative in nature, not adjudicative. The Task Force does not recommend instituting a higher level of review or publishing outcomes of complaints. Because language access complaints are administrative in nature, they do not require judicial review.</p> <p>Courts may decide whether notices for court users should include language regarding court user complaints; however, this is not recommended to be a</p>

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	<p>complaint if they are denied language accessible services, or receive inadequate interpretation or translation services. Please see an example of a notice from North Carolina:  <a href="http://www.lep.gov/resources/012314_NC_lang.Acc.Poster.pdf">http://www.lep.gov/resources/012314_NC_lang.Acc.Poster.pdf</a></p> <ul style="list-style-type: none"> <li>- It would be very helpful if courts could translate responses into the language of the original complaint, and maintain a resource list with local community based organizations or minority bar associations that may be able to assist with finding and/or vetting qualified interpreters.</li> </ul>	<p>requirement of the proposed complaint form rule.</p> <p>Some courts may find that having language access complaints submitted in English may expedite processing, but the Task Force recognizes the importance of not placing court users who are limited-English speakers in a position where — because of limited English proficiency — they are not able to submit a complaint in English. Depending on their available translation resources, individual courts should consider whether they can most effectively meet the needs of court users by accepting language access complaints in specified non-English languages, or, if they are unable to do so, by helping LEP individuals complete and submit the court’s language access complaint form in English. For example, if resources are available, the court can provide either in-person or telephonic language access assistance to help a LEP individual fill out and submit the language access complaint form in English. Moreover, to assist court users, the Judicial Council plans to translate the model form into at least the state’s top eight languages. It will be at the discretion of local courts to determine if the form should be translated into additional languages based on their local population needs.</p>

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Superior Court of Riverside County (no name provided)	<p>Will the proposed complaint form be mandatory or optional? If a complaint form has already been created can we continue to use our internal form?</p> <p>If the proposed form is a mandatory form, we would suggest more space be allotted to give a detailed descriptions as requested on the complaint form.</p>	<p>The Task Force thanks the commenter for its comments and suggestions. The model complaint form is for optional use. Each court may create its own form, as long the form complies with the requirements of this rule. Based on commenters’ suggestions, the model form will be revised to include more space for descriptions.</p>
Superior Court of Placer County by Jake Chatters, Court Executive Officer	<p>The court offers two comments for consideration by the Task Force:</p> <ol style="list-style-type: none"> <li>Request deletion of proposed CRC, rule 2.851 (c) (4).</li> </ol> <p>The requirement to include the contact information of the language access representative seems more detailed than necessary and could have unintended consequences. This requirement reduces flexibility for courts and may limit their ability to use a general feedback form that can be amended to accommodate language access complaints. This in turn creates an unnecessary requirement to have multiple feedback forms and procedures, which is particularly impactful for smaller courts.</p> <p>We would suggest deleting this requirement. The balance of the rule requires courts to route language access complaints to the Language Access Representative, which can be accomplished by the court without the need to identify the language access representative's information on the complaint form itself.</p>	<p>The Task Force thanks the commenter for its comments and suggestions.</p> <p>Contact information for the court is necessary to include on the form to ensure that complaints are properly routed. However, to address this commenter’s concern, the rule regarding form requirements has been modified as follows:</p> <p>“Include the court’s mailing address and an e-mail contact to show court users how they may submit a language access complaint;”</p> <p>Courts may use a non-identifying e-mail contact, such as “LanguageAccess@ XX.court.org”</p>

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>2. Request revisions to proposed CRC, rule 2.851 (d) (8).</p> <p>The court has two concerns with this rule as written. First, the proposed rule requires courts to report on the "status of all complaints" to the Judicial Council. While there may be interest in the number of complaints received throughout the state, the specific status of each complaint being addressed at the local level seems onerous. We would suggest this portion of the rule be removed. Second, the rule states that the court must provide "any additional information" to Judicial Council staff. This statement is subject to interpretation and is overly broad. The Task Force may wish to consider softening the language to encourage court participation in assessing statewide issues related to language access. Modifying the language may also avoid any inadvertent future interpretation that the rule grants unilateral rights to the Judicial Council staff to increase reporting requirements.</p>	<p>Only when needed, additional information regarding complaint(s) will be limited to Judicial Council staff asking the court for clarification regarding the nature of the specific complaint(s) received. The rule indicates that reporting to the Judicial Council will be limited to the numbers, kinds and disposition of language access-related complaints. The rule has also been modified to indicate that the Judicial Council will ask courts for this information regarding language access-related complaints once a year (on an annual basis).</p>
<p>Superior Court of San Bernardino County (no name provided)</p>	<p>Our court would request further information on what the Judicial Council audit would consist of in order to ensure that our tracking will be designed properly.</p>	<p>The Task Force thanks the commenter for its comments and suggestions. The rule indicates that reporting to the Judicial Council will be limited to the numbers, kinds and disposition of language access-related complaints. To ease the burden on courts, the rule has also been modified to indicate that the Judicial Council will ask courts for this information regarding language access-related complaints once a year (on an annual basis). Only when needed, additional information regarding</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR17-21

**Language Access: Designation of Language Access Representative and Handling Complaints** (Proposed Rule: Adopt California Rules of Court, Rules 2.850 and 2.851)

All comments are verbatim unless indicated by an asterisk (\*).

<b>Proposed Rule: Adopt California Rules of Court, Rules 2.850 and 2.851 — To require each superior court to: 1. Designate a Language Access Representative; and 2. Adopt a language access services complaint form and complaint procedures.</b>		
<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Our court also requests clarification about the requirement to submit complaints and respond in writing; will the courts have the option to accept verbal complaints and respond verbally, if a pre-translated form letter will not suffice?</p> <p>Generally, the model form suggested for the complaint should make better use of the white space and have more ample writing room between lines or more checkboxes to select whenever possible, as these may often be completed by hand. It should also clarify that it can be completed by somebody on behalf of the complainant.</p>	<p>complaint(s) will be limited to Judicial Council staff asking the court for clarification regarding the nature of the specific complaint(s) received.</p> <p>The Judicial Council’s Language Access Services and Court Interpreters Program staff anticipate they will begin conducting regular meetings (via phone calls or WebEx) with the courts’ Language Access Representatives to provide guidance and answer questions that will help all courts to develop best practices regarding language access services, including handling any language access-related complaints. It is fine for courts to respond verbally to spoken complaints, depending on the nature of the complaint. The rule has been modified to include the following language: “Language access complaints may be submitted orally or in other written formats; however, use of the court’s local form is encouraged to ensure tracking and that complainants provide full information to the court.”</p> <p>Based on commenters’ suggestions, the model form will be revised to include more space for descriptions.</p>

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Superior Court of San Diego County by Mike Roddy, Court Executive Officer</p>	<ul style="list-style-type: none"> <li>• Agree with the option that each trial court create a local complaint form and process consistent with the rule (courts may utilize the Judicial Council model)</li> <li>• Rule 2.851(c)(6) requires that the complaint form be made available in the languages spoken by a significant proportion of the county population. This will be a hardship for most courts due to ongoing budget challenges and the fact that document translation is not a reimbursable cost under Program 0150037 (formerly Program 45.45)</li> <li>• Clarification is needed for Rule 2851(d)(3). It reads; “complaints regarding denial of a court interpreter for pending cases should be addressed promptly.” This may be interpreted to mean that a court interpreter (as opposed to a bilingual staff member or telephone/video interpreter, etc.) must be provided for court services outside of the courtroom (clerk’s office, mediation services, etc.) for pending cases. Our court proposes the following be reworded for clarity that “court interpreters for pending cases” pertains to <b>courtroom proceedings</b>. Proposed change to Rule 2.851(d)(3):”...Court user complaints regarding denial of court interpreter <b>for a courtroom proceeding</b> for pending cases should be...”</li> <li>• The requirement of acknowledgment of complaint in Rule 2851 (d)(2) outlines the Language Access Representative must: send an acknowledgment within 10 days of receipt of</li> </ul>	<p>The Task Force thanks the commenter for their comments and suggestions.</p> <p>The Judicial Council plans to translate the model form into at least the state’s top eight languages; it will be up to local courts to determine if the form should be translated into additional languages based on their local population needs.</p> <p>The Task Force agrees with the suggested language regarding “court proceedings” and has made this modification to the proposed rule.</p> <p>The proposed rule has been modified to indicate that each court should respond to complaints within 60 days after receipt of the complaint. Additional changes to the rule have been made to give courts more time to respond</p>

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>complaint; send notice if complaint cannot be resolved within 90 days, send notice of outcome, and send notice if complainant submits a written disagreement to complaint outcome. This is excessive. The process should be streamlined and eliminate the requirement for the 90-day notice as outlined in the Judicial Council’s Best Practices – Superior Court Language Access Complaints.</p>	<p>to language access-related complaints (see Rule 2.851(d)(2) and (d)(4)). An Advisory Committee Comment has also been added to the rule to indicate that for non-complicated language access-related complaints that can be resolved quickly, a written response to complainant indicating that the complaint has been resolved will suffice as both acknowledgement of the complaint and notice of outcome.</p>
<p>TCPJAC/CEAC Joint Rules Subcommittee (JRS) by Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee</p>	<p>General Comment: The JRS agrees that the proposed changes provide a forum for the public for any complaints regarding interpreting services provided by the court that are of poor quality or involving bilingual staff, interpreter employees or when written translation is needed.</p> <p>The JRS notes the following impact to court operations:</p> <ul style="list-style-type: none"> <li>• Results in additional training, which requires the commitment of staff time and court resources – Court assigned language access representatives will require training on the use of and follow up of the complaint form to ensure complaints are answered timely.</li> <li>• Increases court staff workload – This proposal will result in additional workload.</li> </ul>	<p>The Task Force thanks the commenter for its comments and suggestions.</p> <p>To address concerns regarding additional staff workload, including training, proposed rule 2.851 has been modified to ease up on the final implementation date (court must implement provisions of the rule by December 31, 2018). Additional changes to rule 2.851 have been made to give courts more time to respond to language access-related complaints (see Rule 2.851(d)(2) and (d)(4)). Additionally, more guidance has been added to the Advisory Committee Comment section on how courts should respond to basic complaints in order to ease the administrative burden.</p>

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<b>Commenter</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>The JRS agrees with the additional proposed revisions to rule 2.851 as provided in the version of the draft rule that was submitted to the JRS on July 5, 2017 for its additional review and feedback.</p> <p>Also, the JRS recommends adding clarification on the second page of the attached Model Statewide Complaint form. Please see the yellow highlighted area.</p>	<p>The current version of rule 2.851 was reviewed by JRS. Work by the CIAP on the interpreter review and disciplinary procedures is not anticipated to be completed until 2019 or 2020. Courts should continue to handle court interpreter complaints under their existing procedures, and may ask the Judicial Council’s Court Interpreters Program for guidance if the complaint rises to a level that may require corrective action, including revoking a court interpreter’s status as a certified or registered interpreter.</p> <p>Page two of the model complaint form will be modified as suggested to say, “Other problem with court staff related to language access:”</p>

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