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R E P O R T T O T H E J U D I C I A L C O U N C I L

For business meeting on: May 17, 2019

Title	Agenda Item Type
Language Access Plan: Language Services in Noncourtroom Settings	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Adopt Cal. Rules of Court, rule 1.300; approve forms LA-350, LA-400, and LA-450	September 1, 2019
Recommended by	Date of Report
Advisory Committee on Providing Access and Fairness Hon. Kevin C. Brazile, Cochair Hon. Laurie D. Zelon, Cochair	April 10, 2019
	Contact
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Executive Summary

The Advisory Committee on Providing Access and Fairness recommends the adoption of a new rule of court and the approval of three optional forms to satisfy a series of recommendations from the *Strategic Plan for Language Access in the California Courts* (LAP) focusing on the provision of language services outside the courtroom.

Recommendation

The Advisory Committee on Providing Access and Fairness recommends that the Judicial Council, effective September 1, 2019:

1. Adopt California Rules of Court, rule 1.300, titled “Access to programs, services, and professionals,” to be located within a new chapter of title 1, “Language Access Services”; and
2. Approve *Notice of Available Language Assistance—Service Provider* (form LA-350); *Service Not Available in My Language: Request to Change Court Order* (form LA-400); and

Service Not Available in My Language: Order (form LA-450), to be identified by a new forms category titled “Language Access,” having the prefix LA.

The text of the new rule and the new forms are attached at pages 9–15.

Relevant Previous Council Action

The LAP was adopted by the Judicial Council on January 22, 2015. It provides a comprehensive and systematic approach to expanding language access in the California courts, consistent with title VI of the Civil Rights Act of 1964, and contains 75 recommendations for branchwide implementation to enhance language access for limited-English-proficient (LEP) court users.

Four LAP recommendations specifically address the provision of language assistance in court-ordered services and programs—and the use of technology to achieve language access in activities that occur outside the courtroom:

- Recommendation 10 calls for the use of “qualified court interpreters in all court-ordered, court operated programs”;
- Recommendation 11 contains a statement indicating that LEP court users should not be required to participate in court-ordered programs and services if those programs are unavailable in the language of the court user or if language services are not provided to enable access to the programs;
- Recommendation 30 calls for the Judicial Council to “consider adopting policies” that will encourage the use of remote technologies to promote the sharing of bilingual human resources among courts to meet the needs of LEP court users in noncourtroom proceedings;¹ and
- Recommendation 33 requires courts to ascertain whether court-appointed professionals “can provide linguistically accessible services” before ordering court users to avail themselves of those programs, services, and professionals. This recommendation also calls for courts to make reasonable efforts to enter into contracts with providers who can provide linguistically accessible services.

The council charged the Language Access Plan Implementation Task Force with overseeing and ensuring implementation of the plan.² As part of that effort, the task force was the original proponent of and developed this proposal; the task force concluded its work in March 2019. The

¹ As an initial response to Recommendation 30, the Translation, Signage, and Tools for Courts Subcommittee developed the report, *Technological Options for Providing and Sharing Court Language Access Services Outside the Courtroom*, which provides a survey of current practices in California courts and other courts across the country with respect to the use of technology to maximize existing human resources and enhance language services. This report was approved by the task force on January 30, 2018, for posting on the Language Access Toolkit, and is referenced in the Advisory Committee comment in the proposed rule of court.

² Judicial Council of Cal., mins. (Jan. 22, 2015), p. 15, www.courts.ca.gov/documents/jc-20150122-minutes.pdf.

Advisory Committee on Providing Access and Fairness succeeded the task force for purposes of this proposal and similar work.

Recent case law: abuse of discretion in ordering parent to participate in programs without language access

In 2017, the Court of Appeal, Second Appellate District, Division Eight reversed a lower court’s dispositional order requiring a father who had been denied custody of his children to participate in alcohol treatment and parenting classes that were not available in a language he spoke.

Factual and procedural background

The father in the case was a recent immigrant from Myanmar who spoke only Burmese and Karen. In May 2016, the Department of Children and Family Services (DCFS) removed his two children because his alcohol use rendered him unable to properly care for them. The father expressed a desire and willingness to participate in alcohol treatment in order to be reunified with his children. Over the course of several dependency hearings, DCFS reported back to the court that no residential alcohol treatment could be located that would provide language assistance and that the father struggled to comply with alcohol testing because of his communication barrier. At a later hearing, DCFS reported that the agency had been unable to identify any treatment options for him that were offered in Burmese. At the disposition hearing, DCFS proposed a case plan that recommended a full alcohol treatment program, a 12-step program, and a parenting course. In June 2017, full legal and physical custody was granted to the mother and the father was allowed supervised visitation only. The lower court found that DCFS had made reasonable efforts to reunify the father with his children, but that his progress had been “minimal.” (*In re J.P.* (2017) 14 Cal.App.5th 616, 619–623.)

Appellate court holding and decision

The appellate court held that “the order that [Father] attend a drug treatment program, a 12-step program, and a parenting program, without any further detail as to how such programs could be attended, given his known language difficulties, constituted an abuse of discretion.” (*In re J.P.*, *supra*, 14 Cal.App.5th at pp. 629–630.) The court reversed this portion of the dispositional order and remanded the case to the dependency court for reconsideration of its order terminating jurisdiction. (*Id.* at pp. 630–631.)

In addition to finding an abuse of discretion by the dependency court, the decision emphasized the dire consequences of failing to provide language assistance in conjunction with court-ordered services in a dependency case, not only for parents who risk being denied the care, custody, and control of their children, but for the children themselves, whose health and safety are at stake:

The remedy is for DCFS and the court to provide language assistance of some sort. Our dependency laws require reasonable reunification services for parents (§ 361.5) but those services are fundamentally for the protection of the children. A dependent child is at risk if a parent with an untreated serious alcohol problem is given custody of, or visitation with, such child, without a program to address the problem. That DCFS could not easily arrange for services in a language a

parent could understand is of no consolation to a child who has been abused or neglected.

(*In re J.P.*, *supra*, 14 Cal.App.5th at p. 626.)

Analysis/Rationale

The advisory committee recommends the adoption of rule 1.300 (Access to programs, services, and professionals) and approval of three forms:

- *Notice of Available Language Assistance—Service Provider* (form LA-350);
- *Service Not Available in My Language: Request to Change Court Order* (form LA-400); and
- *Service Not Available in My Language: Order* (form LA-450).

The rule of court and forms were designed to assist courts with the operational challenges of connecting LEP litigants with court-ordered programs, services, and professionals offering services directly in the language spoken by the litigant or providing language assistance to facilitate access to their content.

New rule 1.300

The rule requires courts, as soon as feasible, to adopt procedures to enable limited-English-proficient court litigants to access court-ordered and court-provided services to the same extent as persons who are proficient in English. The rule discourages courts, to the extent feasible, from ordering an LEP litigant to access a private service or program that is not available in the litigant's language.

The rule authorizes an LEP litigant who is unable to timely comply with a court order to participate in a private service or program because of a language barrier to use *Service Not Available in My Language: Request to Change Court Order* (form LA-400) to notify the court of the situation. In response, the court may modify its order or extend the deadline for compliance using *Service Not Available in My Language: Order* (form LA-450).

In addition, the rule encourages courts to provide information to LEP court litigants about services, programs, and professionals offering language assistance. Courts may require private providers who would like to be included on a list maintained by the court to confirm annually with the court that they provide language services to LEP court litigants, using *Notice of Available Language Assistance—Service Provider* (form LA-350).

The advisory committee recommends placing rule 1.300 in title 1 (Rules Applicable to All Courts). This title addresses issues such as court holidays, the filing of rules, and the format of papers, and contains rules for public access to court proceedings and accommodations for disability. The committee recommends the addition of a new chapter (Language Access Services), which in addition to rule 1.300, would be appropriate for the placement of any future

rules of court developed to address general issues related to language access that are applicable to all courts.

New forms and a Language Access forms category

The advisory committee further recommends the development of a new category of forms (LA) for language access–related resources. The council may consider, in a future rule proposal, consolidating Interpreter (INT) forms into this Language Access category. The numbers of the three optional forms in this recommendation are intentionally high enough (350–450) to allow for the transfer of INT forms into this series by simply changing the letters of their name from INT to LA:

- Form LA-350. *Notice of Available Language Assistance—Service Provider* can be used by courts to receive information about providers that are geographically accessible to their court users and offer language assistance in conjunction with services that may be ordered by a court. The form can be filled out on paper or electronically and allows the provider to indicate the types of services, languages offered, types of language assistance, and service area covered (usually a county or region). This form can be filled out and submitted by service providers who wish to receive referrals from the court and can be consulted by the court when the need to connect an LEP court user with a court-ordered service arises.
- Form LA-400. *Service Not Available in My Language: Request to Change Court Order* is intended for use by an LEP litigant who is unable to comply with a court order to participate in a private service or program because of a language barrier. The form is fillable and allows the user to describe the issue with accessing the service and to request that the court either modify its order or extend the deadline for completion.
- Form LA-450. *Service Not Available in My Language: Order* can be used by the court to respond to the *Request to Change Court Order* and contains fields for the court to enter an alternative order or extend the deadline for participation in the program or service. This form includes a clerk’s certificate of service, which will allow the court to notify the applicant and other interested parties if it modifies the order or extends the deadline.

Comments

The proposal circulated for public comment from December 12, 2018, to February 12, 2019. A total of 47 comments were received, as follows:

- 25 comments from individuals
- 6 comments from American Sign Language (ASL) interpreters
- 5 comments from representatives of schools and universities
- 4 comments from individual service organizations for Deaf and hard of hearing persons
- 3 comments from superior courts
- 1 comment from 16 legal advocacy organizations
- 1 comment from 8 consumer groups representing deaf and hard of hearing Americans

- 1 comment from a legal advocacy organization for parents in dependency court
- 1 comment from the Joint Rules Subcommittee (JRS) of the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committees

Two major themes emerged from the comments. Many of the comments (41) focused on the importance of including interpreter services for Deaf and hard of hearing court users in the rule of court and in the process for collecting information about language assistance offered by private service providers. The commenters expressed that court users who rely on ASL interpreters to access court processes and services struggle to obtain the services of an interpreter in court-ordered programs such as parenting classes, anger management classes, and batterer intervention classes. The committee amended form LA-350 in response to these concerns. Further discussion of the intersections between language access protections in title VI and protections afforded under the Americans with Disabilities Act (ADA) is provided under “Policy implications,” below.

Additional concerns about form LA-350 included the usability of both a paper and an electronic version of the form and the ability to indicate several languages and several types of services. Based on this feedback, the form was revised to eliminate the drop-down boxes (which did not work on the paper version of the form) and to replace them with a series of check boxes. The electronic version will allow for multiple items to be checked in each section, as appropriate. An “Other” option was added to each list, which allows for a free text entry for any selection not included in the lists.

Several commenters also expressed concerns regarding the challenge of communicating to LEP court users that they may use form LA-400 to notify the judge that a court-ordered service is not available in their language. Commenters recommended the inclusion of notices at different stages of a case and the translation of both form LA-400 and form LA-450. In its responses, the advisory committee recommended that courts provide copies of both forms to LEP litigants when a private service is ordered. In addition, the committee recommends the translation of both forms into the top eight languages in the state, in accordance with the Translation Protocol adopted by the Language Access Plan Implementation Task Force in July 2016.³

The superior courts that submitted comments provided helpful information regarding potential operational impacts and costs to the courts of establishing and maintaining a list of providers who offer language access services in conjunction with private court-ordered services.

The chart of comments and committee responses is attached at pages 16-65.

³ The *Translation Protocol* is available at www.courts.ca.gov/documents/lap-Translation-Protocol.pdf.

Policy implications

The *Strategic Plan for Language Access in the California Courts* envisions a state court system that provides equal access to the state courts for all Californians, regardless of language status, consistent with title VI of the Civil Rights Act of 1964 and Executive Order 13166. The federal Americans with Disabilities Act⁴ prohibits discrimination against persons with disabilities in a variety of contexts, including access to public services. To avoid discrimination, the ADA requires public entities, including courts, to accommodate disabilities, including, when appropriate, the provision of American Sign Language interpreters.

The LAP addresses the intersection between services provided under title VI and those provided in compliance with the ADA as follows:

The legal requirements relating to access for deaf or hard of hearing court users are governed by the Americans with Disabilities Act (ADA) and other relevant statutes. However, deaf or hard of hearing court users and their interpreters should be considered as part of any language access plan implementation whenever appropriate, by, for example, including deaf or hard of hearing court users and their interpreters on “I speak” cards or in centralized pilots. Provision of standards related to language access for deaf or hard of hearing court users will not be included in this plan since courts are already legally mandated to provide deaf or hard of hearing court users with disability and related language access (see ADA and section 504 of the Rehabilitation Act of 1973). Where access may not be provided to deaf or hard of hearing court users under the ADA, the courts will provide access as part of their compliance with this plan.⁵

The LAP makes clear that the setting of *standards* for ASL interpretation and other services for deaf or hard of hearing court users is not within the scope of the branch’s language access implementation work. However, ASL interpretation should be considered during implementation efforts and included when appropriate in tools and resources designed to enhance language access. In addition, to the extent that ASL interpretation is not provided based on the requirements of the ADA, the *Strategic Plan* indicates that access for deaf or hard of hearing court users will be provided as part of a court’s language access efforts.

Given this direction to include ASL interpretation services as part of language access implementation efforts, and to ensure access when services are not provided under the ADA, the advisory committee determined that the inclusion of American Sign Language as a language option on form LA-350 was appropriate, thus giving private providers the opportunity to notify the court that they make their services available to people who use ASL as their primary means of communication.

⁴ Americans with Disabilities Act of 1990, Pub.L. No. 101-336 (July 26, 1990) 104 Stat. 328.

⁵ Judicial Council of Cal., *Strategic Plan for Language Access in the California Courts* (2015), p. 15, fn. 8.

Alternatives considered

One alternative to this proposal would be not to develop a rule of court to address this issue; however, the advisory committee determined that the courts would benefit from guidance and support with this issue, in part because of the appellate court decision in *In re J.P.*

The committee could have opted *not* to include American Sign Language as an option on form LA-350. However, doing so would have directly opposed the many comments received from the public and the statement in the LAP directing the inclusion of ASL interpreting as part of language access efforts.

Another alternative would have been to implement a mandatory process for obtaining and maintaining information about local providers. However, local courts were determined to have a wide variety of approaches to this issue, including maintaining lists of private providers recommended by the court. Because local courts have varying approaches based on their size and local community resources, the committee decided to make the use of form LA-350 optional. The form and the maintenance of a list of private providers that offer language services is envisioned as a tool that may be used by courts as appropriate for the local environment.

The committee initially recommended circulation of a rule that would have had an implementation date of January 1, 2019. However, after input from numerous sources, including the JRS, the Advisory Committee on Providing Access and Fairness determined that courts would benefit from additional time to ensure the development and implementation of appropriate processes to fully meet the objectives of the rule.

Fiscal and Operational Impacts

Implementation may require procedural changes in those courts that regularly order LEP parties to participate in programs or obtain services. The provision of language services should be accounted for in any new memoranda of understanding between the court and agencies or service providers, and added to existing memoranda on the regular cycle of renewal of these documents. If a court chooses to compile information about language assistance available in conjunction with court-ordered services, it could develop a process for distribution, receipt, and processing of the copies it collects of *Notice of Available Language Assistance–Service Provider* (form LA-350). If the court opts to manage the distribution and receipt of this form on paper, there will be photocopying costs and paper storage considerations; if the process is managed electronically, documents can be distributed, received, and stored using existing server capacity.

Attachments and Links

1. Cal. Rules of Court, rule 1.300, at pages 9–12
2. Forms LA-350, LA-400, and LA-450, at pages 13–15
3. Chart of comments, at pages 16–65
4. Attachment A: Full letters submitted as public comments, excerpted in comment chart
5. Link A: *Strategic Plan for Language Access in the California Courts*, www.courts.ca.gov/documents/CLASP_report_060514.pdf

Rule 1.300 of the California Rules of Court is adopted, effective September 1, 2019, to read:

1 **Chapter 8. Language Access Services**

2
3 **Rule 1.300. Access to programs, services, and professionals**

4
5 **(a) Definitions**

6
7 As used in this chapter, unless the context or subject matter otherwise requires, the
8 following definitions apply:

- 9
10 (1) “Court-provided programs, services, and professionals” are services offered
11 and provided by court employees or by contractors or vendors under
12 agreement with the court.
- 13
14 (2) “Court litigant” is a person who is a party in a court case or other legal
15 proceeding.
- 16
17 (3) “Language services” are services designed to provide access to the legal
18 system to limited English proficient court litigants and may include in-person
19 interpretation, telephonic interpreter services, video remote interpreting
20 services, and services provided by assigned bilingual employees and
21 bilingual volunteers.
- 22
23 (4) “Limited English proficient” describes a person who speaks English “less
24 than very well” and who, as a result, cannot understand or participate in a
25 court proceeding.
- 26
27 (5) “Private programs, services, and professionals” are services provided by
28 outside agencies, organizations, and persons that court litigants may be
29 required to access by court order.

30
31 **(b) Provision of language services in court-ordered and court-provided programs,**
32 **services, and professionals**

33
34 As soon as feasible, each court must adopt procedures to enable limited English
35 proficient court litigants to access court-ordered and court-provided programs,
36 services, and professionals to the same extent as persons who are proficient in
37 English.

1 **(c) Provision of language services in private programs and services, and by**
2 **private professionals**

3
4 To the extent feasible, a court should avoid ordering a limited English proficient
5 court litigant to a private program, service, or professional that is not language
6 accessible.

7
8 **(d) Delay in access to services**

9
10 If a limited English proficient court litigant is unable to access a private program,
11 service, or professional within the time period ordered by the court due to
12 limitations in language service availability, the court litigant may submit a
13 statement to the court indicating the reason for the delay, and the court may, for
14 good cause, enter an alternative order or extend the time for completion. Court
15 litigants may use *Service Not Available in My Language: Request to Change Court*
16 *Order* (form LA-400) for this purpose. The court may respond to the request using
17 *Service Not Available in My Language: Order* (form LA-450).

18
19 **(e) Use of technology**

20
21 Courts should seek out opportunities to collaborate with each other and with
22 community partners in the provision of language services, and should employ
23 technology to promote the sharing of bilingual staff and certified and registered
24 court interpreters among courts, as appropriate.

25
26 **Advisory Committee Comment**

27
28 **Subdivision (b).** The goal of this rule is to connect limited English proficient court litigants
29 ordered by courts to access programs or professionals with services in the languages spoken by
30 the litigants. Recognizing that not all program providers will be willing or able to meet the
31 language needs, the rule is intended to help courts become aware of those language services
32 available in the community so that limited English proficient court litigants are not placed in a
33 position where they are unable to comply with court orders because the required services are not
34 available in a language they understand.

35
36 To facilitate equal access to justice, when courts order limited English proficient litigants to
37 access court-provided programs, services, and professionals, to the greatest extent possible, courts
38 should ensure that the services are language accessible.

39
40 To the extent feasible and as permitted by law, any memorandum of understanding or other
41 written agreement for agency-referred programs, services, and professionals that trial courts enter
42 into or amend after the implementation date of this rule should include the goals of providing
43 language services in the languages spoken by limited English proficient court users and of

1 notifying the court if the language needs of a limited English proficient court litigant referred to
2 the program, service, or professional cannot be accommodated.

3
4 **Subdivision (c).** Courts are encouraged to offer neutral, nonendorsing information about private
5 programs, services, and professionals providing multilingual services or language assistance to
6 enable limited English proficient court litigants to access their programs. Private programs,
7 services, and professionals that would like to be included on a court’s informational list may
8 confirm in writing to the court annually that they offer language services, indicating the
9 languages covered by the program, service, or professional. Courts may require providers to use
10 *Notice of Available Language Assistance—Service Provider* (form LA-350) for this purpose.

11
12 **Subdivision (d).** When a defendant is required to participate in a batterer intervention program
13 under section 1203.097(a)(6) of the California Penal Code, the court may order “another
14 appropriate counseling program” if a batterer’s program is unavailable in the language spoken by
15 the court litigant. In addition, a judge may, for good cause, excuse the requirement to complete
16 the 52-week program within 18 months. The application of a similar standard to all orders to
17 participate in noncourtroom services, whereby the unavailability of language assistance would
18 constitute good cause to make an alternative order or to excuse delay in completion, would
19 provide the court with flexibility to address situations in which a program or service is
20 unavailable in the language spoken by a limited English proficient court user.

21
22 Two optional forms, *Service Not Available in My Language: Request to Change Court Order*
23 (form LA-400) and *Service Not Available in My Language: Order* (form LA-450), were
24 developed to facilitate communication between the court and a limited English proficient court
25 litigant who is unable to comply with a court order because of a lack of language assistance.

26
27 Form LA-400 allows the court litigant to notify the court of the unavailability of language
28 assistance in a court-ordered program and to request a modified order or an extension of the time
29 for completion of the program. Form LA-450 allows the court to issue a modified order or to
30 extend the time for completion of a court-ordered program or service. A request may be denied if
31 the court receives information that a program is available in the language of the court litigant or
32 that language assistance is available to help the court litigant access the program, and that the
33 program or service may be accessed within the time mandated by the court for completion. If a
34 request is denied on this basis, the court should provide contact information that will allow the
35 court litigant to access the program. In addition, a request may be denied if the court finds there is
36 good cause to believe that the request was brought for an improper purpose or that the court
37 litigant knowingly provided false information on form LA-400.

38
39 **Subdivision (e).** It is the policy of the California courts to encourage the efficient and effective
40 use of human and technological resources in the provision of language services while ensuring
41 meaningful access for limited English proficient court users. For noncourtroom interpretation
42 events, courts may consult the report, [Technological Options for Providing and Sharing Court](#)

- 1 [*Language Access Services Outside the Courtroom*](#) (January 2018) for opportunities to collaborate
- 2 with other courts and service providers to enhance language access for LEP court users.

Notice of Available Language Assistance—Service Provider

Clerk stamps date here when form is received.

Use this form to:

- Tell the court that you are a service provider, program, or professional offering language assistance with services that may be ordered by a court; and
- Provide information about the services you provide, the languages and types of language assistance available, and your service area.

1 This form should be filed with the court by January 31 of each year to indicate services that will be provided during the calendar year. You may also submit this form to let the court know your services have changed. The information in this form describes services available during calendar year: _____

2 Name of service provider: _____

Address: _____

Telephone: _____ Web address: _____

Contact name: _____ E-mail: _____

3 Information about the services provided: Check here to attach a narrative description of the services offered.

Services <i>(select all that apply)</i>
<input type="checkbox"/> Mediation
<input type="checkbox"/> Child custody recommending counseling
<input type="checkbox"/> Professional supervised child visitation
<input type="checkbox"/> Parenting education classes
<input type="checkbox"/> Anger management classes
<input type="checkbox"/> Mental health counseling
<input type="checkbox"/> Batterer intervention—MEN
<input type="checkbox"/> Batterer intervention—WOMEN
<input type="checkbox"/> Alcohol/substance abuse treatment
<input type="checkbox"/> Other
Specify: _____


Languages Available <i>(select all that apply)</i>
<input type="checkbox"/> Any language
<input type="checkbox"/> American Sign Language
<input type="checkbox"/> Spanish
<input type="checkbox"/> Mandarin
<input type="checkbox"/> Cantonese
<input type="checkbox"/> Farsi
<input type="checkbox"/> Korean
<input type="checkbox"/> Punjabi
<input type="checkbox"/> Russian
<input type="checkbox"/> Tagalog
<input type="checkbox"/> Vietnamese
<input type="checkbox"/> Other
Specify: _____

Types of Language Assistance <i>(select all that apply)</i>
<input type="checkbox"/> Program offered directly in language
<input type="checkbox"/> In-person interpreter
<input type="checkbox"/> Telephone interpreter
<input type="checkbox"/> Translated materials
<input type="checkbox"/> Other
Specify: _____

Service Area <i>(county or region)</i>

Date: _____

Type or print your name



Sign your name

Clerk stamps date here when form is filed.

Use this form if:

- The court has ordered you to participate in a program or service;

AND

- The program or service is not available in a language you speak, and language assistance is not available or is delayed.

This form will allow you to explain your language need to the court and request a different order.

Fill in court name and address:

Superior Court of California, County of

1 Your full name: _____

Address: _____

Telephone: _____ E-mail: _____

Language or languages you speak: _____

Case Number:

2 Program or service ordered: _____

Date of the order: _____

Date the court ordered you to **complete** participation in the program or service: _____

(Optional) Describe your efforts to participate in the program or service:

3 Select one of the following options:

I ask the court to modify the order because the program or service ordered is not available in a language I speak, and no language assistance has been offered or provided to help me access the program or service.

I ask the court to extend the deadline for participation in the program or service ordered by the court because there is a delay in providing language assistance.

Date when language assistance will be available *(if you know)*: _____

Date: _____

Type or print your name

Sign your name

Clerk stamps date here when form is filed.

1 The court received a request to change an order from:

Full Name: _____

Address: _____

Telephone: _____ E-mail: _____

Fill in court name and address:

Superior Court of California, County of

Case Number:

2 The court:

a. Makes the following alternative order, which replaces the order described in the request:

b. Orders the required completion date of the program or service described in the request extended to: _____

c. Makes the following additional order or orders:

d. Denies the request because:

(1) The service is available in the language spoken by the litigant and may be accessed by the required completion date. The service may be accessed by contacting:

(2) Language assistance for this service is available and may be accessed by the required completion date. Language assistance may be accessed by contacting:

(3) Other good cause (*specify*): _____

Date: _____

Judge of the Superior Court

Clerk's Certificate of Service

I am not a party to this action. I caused the *Request* and *Order* to be served by:

Enclosing a copy in an envelope addressed as shown below and causing the envelope to be deposited with the U.S. Postal Service with first-class postage fully prepaid

Sending a copy electronically from the following electronic service address: _____ to the electronic service address as shown below

on (date): _____ at (city): _____, California.

APPLICANT (*name and mailing or electronic service address*):

AGENCY, if applicable (*name and mailing or electronic service address*):

OPPOSING PARTY (*name and mailing or electronic service address*):

I certify that the foregoing is true and correct. Clerk, by _____, Deputy

W19-09**Language Access: Language Services in Non-courtroom Programs and Services** (adopt Cal. Rule of Court, rule 1.300; approve forms LA-350, LA-400, and LA-450)

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

	Commenter	Position	Comment	Committee Response
	Comments from Individuals			
1.	Steven Barnard		To those it concerns, it has been brought to my attention that there is a rule of court that is being considered to be put into action that is unfair and unjust to the Deaf community, it deserves an alternative wording. Specifically in section 1.300 portions C and D. This is unfair to Deaf people specifically because it is difficult to find court-ordered programs that are ASL based or willing to provide interpreters. The inequity of it stems in its limitations to the Deaf/Hard of Hearing individual, if a judge orders Deaf parents to take parenting classes and there are no classes available in ASL, Deaf parents must either pay for interpreters, sue the private program for ADA violations or risk court-ordered separation from their children. Alternatively if the court orders them to get Domestic Violence education, but no private program will provide certified interpreters or offer an ASL environment, then the Deaf person must either pay for interpreters or risk being jailed for not complying with the court order. Deaf people should be included in Rules of Court 1.300, particularly under (c) "...a court should avoid ordering a limited English proficient court litigant to a private program, service or professional that is not language accessible." And (d) The court may "enter an alternative order or extend time for completion." Please do not punish Deaf people because it is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.	The committee appreciates this input. The Language Access Plan indicates that the "provision of standards related to language access for deaf or hard of hearing court users will not be included in this plan," but also calls for the inclusion of "deaf or hard of hearing court users and their interpreters" in plan implementation "whenever appropriate." Therefore, the committee has revamped the LA-350 to allow service providers to indicate whether they provide ASL as part of their language services.
2.	Rachel Blake		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. My	See Committee Response to Comment 1 above.

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			<p>experience trying to get classes, workshops or public gatherings interpreted and accessed via ASL in general has always been difficult wherever and whenever I go. Imagine how much harder it must be to find access for very specific classes ordered by the court. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because it is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.</p>	
3.	Ivonne Bogen		<p>Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf</p>	See Committee Response to Comment 1 above.

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			People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people	
4.	Robert Bogen		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because it is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people	See Committee Response to Comment 1 above.
5.	Tina Jo Breindel		Hi, as I just learned about this, I'd like to stress the importance regarding Deaf people in the non-courtroom programs proposal Rule 1.300. Please include the needs of Deaf people. Courts should maintain a list of court-ordered programs that provide access to American Sign Language (ASL) for Deaf people (like how it is dealt when people get a traffic ticket and they get a list of approved/certified traffic schools to attend in California). Even with the ADA and constitutional guarantees, too many Deaf people have their rights violated daily. They are denied access to certified sign language interpreters for court hearings, disciplinary meetings, or educational classes. There are	See Committee Response to Comment 1 above.

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			<p>numerous overworked and underpaid public defenders, who do not have a clue about Deaf people and ASL, represent most Deaf people in court. That they are unable to advise or lead such. Sad to say many stories were shared with me about court-ordered private programs that refused to provide ASL interpreters or a CDI (Certified Deaf Interpreter, that in any CDI interpretation, a conversation is facilitated from a hearing person to the hearing interpreter to relay to the deaf interpreter then s/he conveys to the deaf person for clarity, and vice a versa. This should give you a better idea of a situation, https://www.courtlistener.com/opinion/1450801/linton-v-state). We need certified interpreters for any and all programs and services ordered by court. It is insufficient, illegal and wrong to expect a family member to provide interpreting for these important services or to ask the Deaf person to cover costs for interpreters. When the court requires attendance in private programs and services, please ensure that the agencies offering services provide certified interpreters for Deaf people. Also to ensure that court will remove those agencies from approved list for not meeting the needs of deaf people. Because it is so difficult to find ASL provided court-ordered programs, courts should not punish Deaf people who are unable to get ASL services. This is an ongoing issue of fairness and justice for Deaf people. Thanks for “hearing” this plea.</p>	
6.	Jeniffer Elias		<p>Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified</p>	See Committee Response to Comment 1 above.

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			interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.	
7.	Rochelle Greenwell		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.	See Committee Response to Comment 1 above.
8.	Denise Gruber		Please include Deaf people in the Non-Courtroom proposed rule 1.300. ASL needs to be included for court-ordered access. It is vital that the Deaf and Hard of Hearing community be provided interpreters for court-ordered classes such as parenting classes. Typically these side programs do not provide	See Committee Response to Comment 1 above.

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			language access and the court program is inaccessible to members of the Deaf and Hard of Hearing Community. This puts their compliance with the Court in real jeopardy as they have no access. Families then are at risk and everything can snowball. Please include Deaf people in the Non-Courtroom proposed rule 1.300. ASL needs to be included for court-ordered access. I am an ASL interpreter and I see the fallout of this problem daily. The courts need to make this simple change to ensure equal access for those they are trying to help.	
9.	Christine Kanta		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.	See Committee Response to Comment 1 above.
10.	Halie Kook		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it	See Committee Response to Comment 1 above.

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			should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.	
11.	Terri Manning		I urge you to include Deaf people in Rule 1.300. Without language access, Deaf people are unfairly and disproportionately punished when trying to right their lives under court order. I believe that judges have good intentions and legitimate grounds for ordering non-courtroom programs and services, but the judge's order without language support (such as the provision of certified ASL interpreters) is unfair and made without proper care that these programs are largely inaccessible to Deaf people. Many court-ordered private programs refuse to provide interpreters under the ADA claiming hardship. It is insufficient and wrong to expect a deaf person to bring a family member (not a trained interpreter) to interpret for these important services. Also it is unfair to expect all deaf people to pay for interpreters to access the same programs that a hearing person can attend. I have many deaf friends who have been denied services from private non-courtroom programs simply because the private program does not have interpreting services in their budget. The programs say, "Oh no, we don't provide interpreters. You have to bring your own or go somewhere else." There is no where else that provides interpreters. Access for deaf people is pervasively	See Committee Response to Comment 1 above.

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			limited. To have a mandatory program deny access is common in the deaf lived experience! Please INCLUDE DEAF PEOPLE in the Non-Courtroom programs proposal RULE 1.300. Deaf people need language access for non-courtroom programs and services.	
12.	Celeste Matias		Please include Deaf people in Non-courtroom programs proposal Rule 1.300. Courts should have a list of court ordered programs that provide ASL for Deaf people. It makes no sense to order them to a program and they wont be able to understand what is going on! If private programs refuse to provide certified interpreters, they should be removed from the court program list. This is not compliant with ADA. A Deaf person should NOT have to pay for interpreting services for something the court has ordered especially if no one else that speaks a different has to pay for their interpreters. Please make this change!	See Committee Response to Comment 1 above.
13.	Mona Mehrpour and Bella Munoz		We hope this email finds you well. Ours names are Mona Mehrpour and Bella Munoz and we are both daughters of immigrant, deaf parents. We would like to thank you in advance for taking the time in reading our thoughts and concerns on language access and language services in non-courtroom programs and services. As children of deaf parents, watching them navigate on how to gain language accessibility and accommodations, to say the least, has been a struggle. To put it in to perspective, when denying to provide sign language interpreters for programs such as parenting classes or domestic violence education courses, it would then result that the deaf person would either have to pay out of pocket for interpreters, risk being jailed for when not complying with the court order, or rely on their	See Committee Response to Comment 1 above.

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		<p>children/family/friends who are not properly trained to interpret such circumstances. When having to rely on those friends or family members, this causes personal conflict, high stress, potential vicarious trauma and a high-risk factors with miscommunication for all parties involved including the deaf consumer, the individual providing the program, and anyone else that would be apart of this experience.</p> <p>Again, as daughters of deaf parents, we understand what it means to be put in that predicament because we once had to do so at such a young age due to the courts failure in providing interpreters in a non-court environment. Looking back, we now recognize how appropriate it was for us to take such a task and how much heavy of a responsibility that is for one to carry.</p> <p>With California proposing a new rule of court that which does not include Deaf people, would cause a lot of harm if one were wanting the opportunity to redeem themselves from the law. Though California provides certified interpreters to Deaf people in court, they often have court orders to complete classes and programs provided by private agencies outside of the court. This is where the code has failed to provide resources and accessibility for Deaf individuals to complete these courses. Under the Rules of Court 1.300, particularly under (c) "...a court should avoid ordering a limited English proficient court litigant to a private program, service or professional that is not language accessible," and (d) The court may "enter an alternative order or extend time for completion," supports the intent of utilizing a sign language interpreter. It is imperative for courts to ensure that private court-ordered programs follow ADA guidelines. California's new proposal for interpreting services for court-ordered programs and services does not include Deaf people, only hearing people who do not know</p>	

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			English. We ask that you take this time to consider what great changes could impact within the deaf community and that this is taken seriously. The thought of having someone, like our parents, go to jail all due to lack of communication which could be easily avoided.	
14.	Mary Kathryn Monahan		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters.	See Committee Response to Comment 1 above.
15.	Michelle Monahan		My parents are both Deaf. I now work to train interpreters to provide access to education and services for Deaf people. My parents went without interpreters too often when I was a child and I often had to interpret for services that no child should be expected to interpret, or they went without. With the ADA in place for nearly 30 years, we still see instances that exclude Deaf people from access to important services. Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Thank you for your time.	See Committee Response to Comment 1 above.
16.	Aimee Morley		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the	See Committee Response to Comment 1 above.

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			<p>court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.</p>	
17.	Matthew Moyers		<p>Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. A few of my Deaf acquaintances' experience trying to get court-ordered classes was one of very great difficulty. Court-ordered classes would not provide ASL Interpreters thus these Deaf acquaintances reported to me "I attend the class because the court ordered me to. I didn't learn anything because I did not hear what was being taught. At least by attending, I meet the requirements of the court order". Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for</p>	See Committee Response to Comment 1 above.

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			these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people. Thank you for your time.	
18.	Jennifer O'Donnell		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because it is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.	See Committee Response to Comment 1 above.
19.	Erica West Oyedele		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies	See Committee Response to Comment 1 above.

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			from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.	
20.	Cristina Ramos		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists.	See Committee Response to Comment 1 above.
21.	Hillary Smith		Please include Deaf people in regards to non-court room programs and services as referenced in the Rule of Court 1.300 Proposal. The order should have a list of programs that have ready access for Deaf people. I am a hearing person who has a Deaf spouse, and I have personally witnessed how often private programs and services do not have accessible classes or material for Deaf consumers. This is a widespread issue that all Deaf people experience, and should be taken into serious consideration when creating court orders. Even with the ADA, many court-ordered private programs wont provide services for Deaf participation. When the court orders mandatory attendance to private programs in order to take a required class, and the court is provided with a full attendance report from the Deaf person, that should be taken to mean that those particular	See Committee Response to Comment 1 above.

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			<p>programs did provide interpreters and access to material. If the Deaf person providing an attendance sheet reports back that the required programs did not provide access, those programs should be removed from the list. Deaf people need certified interpreters for any program or service ordered by the court. It is not ethical, sufficient, or legal for a family member to interpret for them. Please, do not punish Deaf people for the severe lack of programs which provide classes in ASL or are willing to provide a certified ASL interpreter. This issue is an issue of equality and justice for Deaf people. Thank you so much for your time and consideration.</p>	
22.	Andrea Spaugh		<p>According to your proposal: Rule of Court 1.300, under section d. and c., there is not fair language access to people who are Deaf. They are being excluded from being incorporated in this action while other people who don't speak English will be accommodated. This rule would mean that any type of class, service, or program that the court orders a family or individual that is Deaf to take, will not provide them with interpreting services. There will be a court order for something to be done, but no interpreting services will come with that court order. So, the result would be that the family or individual would have to pay out of pocket to finish a task that the court has ordered them to do. Plus, some services or programs will not have an interpreter or refuse to have one, the court should put into effect with the order that an interpreter must be provided for the service that is required. This rule would be punishing people for being Deaf. With this rule, they would not have language access to programs and services that they are required to finish. Please, reconsider and rethink how people who are Deaf can be included and incorporated into this process.</p>	See Committee Response to Comment 1 above.
23.	Rachael Studebaker		<p>Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-</p>	See Committee Response to Comment 1 above.

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			<p>ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. Family member are not appropriate choices to provide interpretation for these important services. Nor is it equal treatment ask the Deaf person to pay out of pocket for interpreters. It is difficult to find court-ordered programs that are ASL based or willing to provide interpreters. Courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.</p>	
24.	Shree Walker		<p>Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.</p>	See Committee Response to Comment 1 above.

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25.	Darrell Utley By phone call via interpreter on February 6, 2019 at 2:10 pm		*4th Generation deaf person, born and raised in California. Has good access compared to other states. I am fortunate to live in this environment. My friend warned me about the proposal and the rules and I have some concerns. I went to traffic school for a ticket and it was out of the courtroom and I needed to go to court. They always provided an interpreter for me. My kid's booster chair, I got a ticket for that. I was in Riverside County courthouse and I requested an interpreter and they provided a certified ASL interpreter and they also provide interpreters for medical, there are different requirements. So, then I have another interpreter that does educational, community interpreters. I have no problem with the court system, but when they refer an interpreter, they did not refer for traffic school. Told me I had to get an interpreter myself for traffic school. They have a captions option for videos. I am skilled in English but other Deaf people are not. If there was a conviction for drugs and they were required to go to NA or AA or rehab services of some kind, they are court mandated for them. There are many organizations that will not provide interpreters. There is a big struggle to get services for deaf people. Some of these places aren't mandated to provide interpreters, but there are many of these organizations that do not offer services, but it is a court-mandated requirement. My concern is about the language in your bill, because I was reading through it, but it doesn't say anything about ASL. ASL should be added to the rule. Because I know in CA there are many people who speak Spanish and they are provided with foreign language interpreters but Deaf people have a hard time getting the services they need. What if the court mandates the organizations to include those types of interpreters. That way, these people can fulfill their court requirements and then you have equal access. I'm speaking for the ASL community and I	See Committee Response to Comment 1 above.

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			want to make sure the resources you have available for providers or agencies that they can provide these types of resources for these people in the deaf community that are mandated. And you can't just get anybody, they have to be certified. We need an ASL interpreter who is certified RID or NAD. Those are what the courts have the requirements to use inside the court, that way the communication access all runs smoothly during the exchange.	
	Comments from Interpreters			
26.	Eboni Gaytan Nationally Certified Interpreter for the Deaf		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.	See Committee Response to Comment 1 above.
27.	Cathrael Hackler Certified ASL Interpreter		I'm writing you to implore you to include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts need to maintain a list of court-ordered programs that provide ASL access for Deaf people, to only order participants go to those programs and to keep it up to date with oversight. Deaf people	See Committee Response to Comment 1 above.

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			have always struggled to access programs and services, even with ADA laws in place, and many court-ordered private programs refuse to provide ASL interpreters for Deaf participants. If they're unable to access the programs, that leads to compliance problems and only worsens their legal issues but through no fault of their own if it's due to access issues. Courts should not punish Deaf people who are unable to get services in ASL. It is a question of justice for Deaf people. There must be Certified ASL interpreters for any court-ordered programs and services as well. Family members, or staff that know a little sign language are not sufficient, nor legal or ethical, for these important services. Thank you for your time and all you do.	
28.	Stefanie O'Brien ASL Interpreting Preparation Program Student		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because it is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people. Thank you for your support.	See Committee Response to Comment 1 above.
29.	Tara Potterveld Nationally Certified Legal		My name is Tara Potterveld. I am a certified court interpreter and a member of the California Court Interpreters Advisory	See Committee Response to Comment 1 above.

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	Interpreter		<p>Panel (CIAP). I have been studying the proposed rule of court 1.300 to see if it would also benefit Deaf people who rely on American Sign Language (ASL). I was most interested in whether Deaf people should be included under (c) "...a court should avoid ordering a limited English proficient court litigant to a private program, service or professional that is not language accessible." And (d) The court may "enter an alternative order or extend time for completion." Page 15 of the Strategic Plan for Language Access in the California Courts discusses Deaf people. Footnote 8 states: "The legal requirements relating to access for deaf or hard of hearing court users are governed by the Americans with Disabilities Act (ADA) and other relevant statutes . However, deaf or hard of hearing court users and their interpreters should be considered as part of any language access plan implementation whenever appropriate... Where access may not be provided to deaf or hard of hearing court users under the ADA, the courts will provide access as part of their compliance with this plan." I had heard for years how difficult it is for Deaf people to access court-ordered outside services. As part of my study of this issue, between January 28 and February 4, 2019, I called a random sample of private agencies that offered court-ordered parenting classes and domestic violence education. I chose the agencies from a variety of county court approved lists that I found on court websites from Placer County to San Diego County Superior Courts. The results were disheartening. The services that I called either did not know anything about how to obtain interpreters or told me that the Deaf person must bring a family member to interpret. Some programs directed me to County Human Service Agencies and others hung up when I made my inquiry. I spoke to a former colleague who currently works for a Human Service Agency in Northern California. She</p>	

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		<p>is a Protective Services Worker. I told her about my research in regard to the proposed rule of court 1.300. She confirmed that the Deaf parents she works with have often had their cases drastically delayed because there were no services to accommodate their special needs. These delays meant that Deaf parents were separated from their children longer than parents who can hear. Her most recent client required a Certified Deaf Interpreter as well as an ASL interpreter. Her preference is to find therapists and counselors who can provide direct services in ASL, but there are none in her county. Although the ADA is designed to cover Deaf people’s rights to accommodation, it is ineffective or not applied by many court-ordered programs and services. Part of the problem is the expense of providing interpreters, particularly for 52-week domestic violence or anger management education. The ADA states that entities are required to provide aids and services unless doing so would result in an “undue burden”, defined as significantly difficult or expensive. Thus many of the private service providers can legally refuse to provide services for Deaf people. In addition, most Deaf people do not have the knowledge or resources to challenge an ADA violation. A Deaf person can attend a class to satisfy the court’s requirement, yet, without interpreters, the Deaf person learns little from the class. Even on-line classes require a level of English reading skills that many Deaf people do not possess. It is vital that courts know that the lists of private providers they give very often do not provide accommodations for Deaf people. Under the proposed rule 1.300, the court could make allowances for Deaf people who are having difficulty satisfying court orders due to communication barriers. By including Deaf people in rule 1.300, the court can help ensure that Deaf people can obtain court ordered services without being significantly penalized.</p>	

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			<p>The cost to the court would involve utilization of court personnel time to verify that programs on court-approved lists of service providers accommodate ASL users. The list should then have that information clearly stated. This work will be no different than the resources being expended for Limited English Proficient court users who are not Deaf. The savings to the court would include fewer interpreted court hearings since rule 1.300 would encourage the court to find suitable alternatives for court-ordered services in order to move Deaf people more efficiently through the legal system.</p>	
30.	<p>Jennie Saunders CODA RID Certified CI/CT</p>		<p>It has come to my attention that the CA court system is not understanding the needs and plight of deaf people in its consideration of its new rules. I am the daughter of two deaf parents who have both suffered within your system. I am also a nationally RID certified sign language interpreter fo the deaf who has worked in both the CA and NY legal and court systems. The problems deaf people are facing is that courts do not order private programs (which provide services demanded by the court system) to provide ASL sign language interpretation services for deaf people. Thus, there is no way deaf people can complete these programs in a fair manner on par with hearing people. Deaf people are asked to pay for interpreters themselves, which can run into the hundreds if not thousands of dollars, which is clearly prohibitive for most if not all Deaf people.</p> <p>These court ordered programs ARE expected, under the federal ADA Law (Americans with Diabilities Act) to PROVIDE services to deaf people in order to provide communication access in the deaf person’s preferred language. This means it is not up to the deaf programs to decide how communication is provided rather it is up to the DEAF person to decide. Also the programs are financially responsible to pay for interpreters to</p>	<p>See Committee Response to Comment 1 above.</p>

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			<p>give deaf equal access to their programs. But your courts are not understanding nor enforcing this. Please DO SO when considering the new Rules, including Rules of Court 1.300. These new rules have deaf people very fearful and concerned that they will be court ordered to programs they cannot understand nor afford to complete, all because of their disability. Deaf folks deserve to complete the mandatory programs just like anyone else without losing their “shirts” in the process. Deaf people mostly genuinely want to follow the law but have no means to do so. CA Courts MUST and SHOULD rectify this gap by ordering AND enforcing court ordered programs to pay for any and all communication access for deaf who wish to participate and complete their programs! Deaf people should be included in Rules of Court 1.300, particularly under (c) “...a court should avoid ordering a limited English proficient court litigant to a private program, service or professional that is not language accessible.” And (d) The court may “enter an alternative order or extend time for completion.” Please consider the needs of these marginalized and historically oppressed people. It’s truly unfair to them to inhibit their ability to comply with the law.</p>	
31.	Churyl Zeviar Daughter of Deaf parents, and Interpreter		<p>My experience with trying to get court-ordered classes with interpreters has been that it is next to impossible. Just today I worked with a 20 year old male who has actually wanted to take Domestic Violence classes to better himself, but cannot find a place to pay for the interpreters. He is already so marginalized in life. Not learning how to deal with his anger may result in recidivism, and a greater burden to the court and society in the long term. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies</p>	See Committee Response to Comment 1 above.

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			<p>offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.</p>	
	<p>Comments from Organizations (Service organizations, advocacy organizations and universities)</p>			
32.	<p>American Civil Liberties Union of California (Kevin G. Baker) Asian Americans Advancing Justice-Los Angeles (Carolyn Kim) Asian Pacific Institute of Gender Based Violence (Wendy Lau-Ozawa) Bet Tzedek Legal Services (Diego Cartagena)</p>		<p><i>(The full text of this letter is available as an attachment to this comment chart; specific recommendations have been excerpted.)</i></p> <p>We appreciate the efforts of the Judicial Council in proposing rule 1.300, which we believe will greatly enhance language access and justice for litigants, and we offer the comments and recommendations below. The language of the proposed rule must be stronger to impose more accountability on the courts to be proactive in ensuring that litigants are able to comply with court orders. Currently, it places the burden on the litigants to notify the court and does not articulate a protocol to find alternative language services. The case cited in the memo, <i>In re J.P.</i> states:</p> <p>The due process considerations also inform</p>	<p>Specific recommendations and responses have been numbered for convenience.</p>

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<p>Center for the Pacific Asian Family (Debra Suh) Family Violence Appellate Project (Erin Smith) Justice in Aging (Denny Chan) Korean American Family Services (Connie Chung Joe) Korean Resource Center (Jenny Seon) Legal Aid Association of California (Zach Newman) Legal Aid Foundation of Los Angeles (Joann Lee) Legal Services of Northern California (Stephen E. Goldberg) LevittQuinn Family Law Center (Ana Storey) Los Angeles Center for Law and Justice (Jimena Vasquez) Public Law Center</p>		<p>our conclusion that it is an abuse of discretion to make a dispositional order with the knowledge that a parent cannot participate in the ordered services. No parent should be placed in this trap. The remedy is for DCFS and the court to provide language assistance of some sort.</p> <p><i>In re J.P.</i>, 14 Cal. App. 5th 616, 626 (2017) (emphasis added).</p> <p>The courts must be responsible for ultimately providing the needed language assistance if no other alternatives exist. The litigants should not be forced into the “trap” of being bounced around to determine whether services are available in their language, when they are already unable to communicate proficiently in English. (1) The court must also be equipped and responsible for exploring these alternatives, rather than placing the burden on the litigants to raise the issue. It is not currently clear from the draft form LA-350 what types of language assistance will be listed in the drop-down options, (2) but this part should be modified to allow providers, programs, and professionals to more easily check multiple types, which should be strongly encouraged in the Advisory Committee Comment to Subdivision (c). It will also help ascertain whether the language assistance is only oral (and should specify whether through bilingual</p>	<p>(1) The Committee appreciates this concern and seeks to equip courts with information about local providers that will allow them to make an appropriate response.</p> <p>(2) The Committee appreciates this feedback and agrees that the form should be usable both in paper and electronic format. The Committee has amended the form to list potential services, languages and types of language assistance, and instruct the provider to “select all that apply.” The Committee declines to amend Advisory</p>

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<p>(Jorge Alvarado) Thai Community Development Center (Chanchanit Martorell)</p>		<p>providers, qualified in-person interpreters, or remote interpreter services), or whether it also includes professionally translated written materials or other audio/visual methods, if they are part of the program’s instruction or services.</p> <p>Further, (3) the court should be required to provide notice to litigants that they can file form LA-400, and have this form, as well as form LA-450, translated into the court’s top eight languages. It is not realistic to require persons, who are by definition limited English proficient, to complete a form that is written in English.</p> <p>(4) For languages outside the top eight, the court should provide sight translations of the forms and orders in the litigant’s primary language. LAP Recommendation #40 supports such a directive, in stating, “Courts will provide sight translation of court orders and should consider providing written translations of those orders to LEP persons when needed. At a minimum, courts should provide the translated version of the relevant Judicial Council form to help litigants compare their specific court order to the translated template form. (Phase 1)” Please find below suggested changes to the language of proposed rule 1.300 reflecting these recommendations.</p> <p>(b) Provision of language services in court-ordered and court-provided programs, services, and professionals</p>	<p>Committee Comment Subdivision (c).</p> <p>(3) The Committee appreciates this suggestion and recommends that when a service is ordered, the court provide LEP court users with information about this process and copies of these forms. The Committee considers these forms a high priority for translation into the state’s top eight languages.</p> <p>(4) The Committee appreciates this suggestion but declines to issue a mandate on sight translation through this rule proposal. The Committee agrees that sight translation of a court document is an appropriate service for interpreters to undertake in this circumstance.</p>

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		<p>As soon as feasible, each court must adopt procedures to enable limited English proficient court litigants to access court-ordered and court-provided programs, services, and professionals to the same extent as persons who are proficient in English. (5) <u>These procedures must include methods to track and maintain records of language services offered by each program, service, and professional, including those offered by the court and through private providers.</u></p> <p>(c) Provision of language services in private programs and services, and by private professionals</p> <p>To the extent feasible, a (6) <u>Each court should shall</u> avoid ordering a limited English proficient court litigant to a private program, service, or professional that is not language accessible. <u>If no language services are available in a litigant’s language, the court must either provide the language services or propose a meaningful alternative to allow the litigant to participate.</u></p> <p>(d) Delay in access to services</p> <p>If a limited English proficient court litigant is unable to access a (7) <u>court-provided program, service, or professional or unable to access a court-ordered private program, service, or professional within the time period ordered by the court due to limitations in language service</u></p>	<p>(5) The Committee appreciates this suggestion but declines to make this specific process mandatory on courts, given the wide range of court approaches to this issue, depending on size and existing community resources.</p> <p>(6) The Committee appreciates this suggestion but declines to make this change.</p> <p>(7) The Committee appreciates this suggestion but declines to include court-provided programs in this subdivision of the rule. These services are addressed in subdivision (b).</p>

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			<p>availability, the court litigant may submit a statement to the court indicating the reason for the delay and the court may, for good cause, enter an alternative order or extend the time for completion. Court litigants may use <i>Service Not Available in My Language: Request to Change Court Order</i> (form LA-400) for this purpose. The court may respond to the request using <i>Service Not Available in My Language: Order</i> (form LA-450). <u>(8) The court must notify limited English proficient litigants, when ordering a court-provided or court-ordered private program, service, or professional, of the litigant’s ability to submit a statement or form LA-400 to the court regarding limitations in language availability. Further, each court shall translate the form LA-400 and form LA-450 into the county’s top eight languages. For other languages, each court must provide sight translation of the contents of the forms and orders in the litigant’s primary language.</u></p>	<p>(8) The Committee appreciates this suggestion but declines to insert these mandates. Because these are Judicial Council forms, the Committee encourages local courts to use as many Judicial Council translations as apply to their local service area.</p>
33.	Patty Albee, School Psychologist California School for the Deaf		<p>Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don’t punish Deaf</p>	<p>See Committee Response to Comment 1 above.</p>

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			<p>People. Because it is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of language access, fairness, and justice for Deaf people.</p>	
34.	Michelle Bronson, Executive Director Deaf and Hard of Hearing Service Center (Fresno, CA)		<p>Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf individuals.</p> <p>Our DHHSC Client Services Specialists are often faced with many challenges trying to assist clients who are required to participate in court-ordered classes, including those for anger management, nurturing parenting, domestic violence and/or sexual assault, and batterers’ intervention, due to finding organizations that will provide ASL interpreters. While the clients are required to take such classes, many of the court-approved organizations do not provide interpreters, often leading to the clients being punished by the judge for non-compliance, delays in finding a suitable class that meets the court requirements, clients being forced to pay for both the classes and interpreters for which they do not have funds, and their court cases being extended over time due to delays in getting the requirements fulfilled.</p> <p>Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists.</p>	See Committee Response to Comment 1 above.

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			<p>We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters.</p> <p>Don't punish Deaf people for programs not providing ASL interpreters that would make court-ordered classes accessible to them. Due to court-approved classes not being in compliance with ADA laws, it is very challenging for Deaf individuals to be compliant with court orders. Because it is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.</p>	
35.	Michelle Camara, Day Program Manager Deaf Plus Adult Community		<p>Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. My experience trying to get court-ordered classes was really challenging and baffled. Information and knowledge is being taken away as I didn't have any direct access to the information. I was eager and hungry to gain my knowledge by classes but no interpreter. I was disappointed and had to paid out of my pocket for me being able to have access to important sensitive informations. I also know many of my other Deaf peers who in the same boat and faced a lot of hardship with being their access to the languages being taken away. Especially under court of the state that serves people. This area is critical and important to provide equal language access. Also hold all private agencies accountability for not meeting their end and violates ADA laws as well. Even with ADA laws, many court-ordered private programs refuse to provide</p>	See Committee Response to Comment 1 above.

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			<p>interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people. Thank you for your time to listen this important matter.</p>	
36.	<p>Rosemary R. Wanis Rosemary R. Wanis, Ed. D., MSW, CDI Full-Time Lecturer <i>and Grant Project Coordinator</i> <i>USDE Federal Grant: Deaf Education Personnel Preparation - H325K130407</i> <i>USDE Federal Grant: Educational Interpreter Preparation Program - H325K140404</i> Communicative Sciences and Deaf Studies Fresno State University</p>		<p>I am a Certified Deaf Interpreter and I am a Deaf faculty member at CSU Fresno. I work with the Deaf community at large and with students who seek to be future professionals working with the Deaf community as interpreters, educators, advocates, lawyers, nurses, doctors, and more. Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. The court has often required court-ordered classes for Deaf individuals in the criminal justice and family law system. Classes include domestic violence batterer treatment, anger management, parenting classes, counseling services, and more. However, when asking the court who will cover the cost of interpreting services, either the court says that is not their issue or they drop the service citing undue hardship and the person is placed at risk for re-offending due to not receiving any intervention or access to intervention. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf</p>	<p>See Committee Response to Comment 1 above.</p>

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			<p>participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. I have seen stories of Deaf individuals just sitting the classroom and learning nothing. Even though they are required to pay for every class Agencies asking family members to come in and "interpret" when often family members do not know sign language or are not fluent enough to interpret formal context. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Please put a stop to this unethical and unlawful practice. Don't punish Deaf People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people. If we want the world to be a better place, we need to make our services accessible and inclusive to all.</p>	
37.	Dennis Smeal, Chair Legislation Committee Supervising Attorney Los Angeles Dependency Lawyers, Inc.		<p><i>(The full text of this letter is available as an attachment to this comment chart; specific recommendations have been excerpted)</i></p> <p>We applaud the efforts of the Language Access Plan Implementation Task Force and the speed with which they are attempting to provide a response to situations such as the one identified in <i>In re J.P.</i> As you know, <i>J.P.</i> arose out of a Dependency Court matter and can only be understood in the context of Dependency Court. Our concern is that the proposed Rule of Court and the new forms, while effective in some court</p>	Specific recommendations and responses have been numbered for convenience.

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		<p>systems, will be ineffective in Dependency. Below, we suggest some changes to the proposed Rule but believe a preferable solution would be amending Welfare & Institutions Code (WIC) Sections 361.5(e)(1)(D)(ii), 361.5(a)(3)(B) and 366.22(b). These amendments would add Limited English Proficient Parents to the list of populations, such as detained, incarcerated, and institutionalized parents, for whom programs can be ordered only if “actual access to these services is provided”, who must have a specifically tailored case plan when programs are court-ordered, and for whom the court may grant an additional reunification period due to the difficulty in accessing services.</p> <p>(1) [W]e propose changes to Rule 1.300 (a)(4) to read “Limited English proficient” describes a person who speaks English “less than very well” or who cannot fully understand or participate in an English language court proceeding.” This change is recommended to reflect the difference between conversational understanding and a legal understanding of English. All of us at LADL have had clients who understand English “more or less” and can make it through a simple conversation in English. There is a vast difference between this, and understanding the legal terms and sophisticated language used by the bench. Often these parents, trying to cooperate with the system or show allegiance to the dominant culture, assert that they are “very well” able to speak English, but in post-hearing review of the court imposed requirements with their lawyer, it is clear that their understanding is woefully inadequate.</p>	<p>(1) The Committee appreciates this suggestion and acknowledges that there are a wide range of language abilities among those who acquire English as a second language. Because this rule addresses <i>non-courtroom</i> programs and services (such as counseling and training classes), and because even with an additional criterion, there is a risk of court users overestimating their language abilities, the Committee declines to expand the definition at this time.</p>

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			<p>(2) 1.300(c). As currently drafted, it is a mere suggestion, but, in <i>J.P.</i>, the Court of Appeal has made clear that we are talking about a due process right, and due process is not a “when feasible” thing. We propose (c) read “A court shall not order a limited English proficient court litigant to a private program, service, or professional that is not language accessible or that can’t be made language accessible.”</p> <p>(3) While the worth of the forms is clear for other courts, the timelines and procedures outlined in the WIC make them impractical for use in Dependency Court where a parent’s reunification services may be terminated for lack of compliance only six months after the case plan is first ordered. Use of the LA-400 here would be argued to illegally flip the burden of tailoring the case plan to the parents, and it is unlikely that limited English parents would know to seek out or have the ability to fill in and file this form. (4) (How many languages will it be translated into?)</p>	<p>(2) The Committee appreciates this feedback but declines to make this change.</p> <p>(3) The Committee appreciates this perspective and the unique challenges that arise in the dependency context. The Committee recommends that when a service is ordered, the court provide LEP court users with information about this process and copies of these forms.</p> <p>(4) The Committee considers these forms a high priority for translation into the state’s top eight languages.</p>
38.	<p>Howard A. Rosenblum, Chief Executive Officer National Association of the Deaf (NAD)</p> <p>Claude Stout, Executive Director Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)</p>		<p><i>(The full text of this letter is available as an attachment to this comment chart; specific recommendations have been excerpted)</i></p> <p>The undersigned member organizations of Consumer Groups represent 48 million deaf and hard of hearing¹ Americans who are accorded protection under the U.S. Constitution as well as federal and state laws to have equal access to courtrooms. Accordingly, a deaf or hard of hearing participant in court proceedings must be able to effectively communicate with all relevant personnel in the courtroom. Such equal access</p>	<p>Specific recommendations and responses have been numbered for convenience.</p>

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Commenter	Position	Comment	Committee Response
<p>Nancy B. Rarus, President Deaf Seniors of America (DSA)</p> <p>“The Unstoppable” René G Pellerin, President American Association of the DeafBlind (AADB)</p> <p>Mark Hill, President Cerebral Palsy and Deaf Organization (CPADO)</p> <p>Melvin A. Walker President, RID Board of Directors Registry of Interpreters for the Deaf, Inc. (RID)</p> <p>John Gournaris, Ph.D., President American Deafness and Rehabilitation Association (ADARA)</p> <p>The Hon. Richard Brown (retired), President Association of Late- Deafened Adults (ALDA)</p> <p>Zainab Alkebsi, Esq. <i>Policy Counsel</i> National Association of</p>		<p>includes: understanding what is being communicated by the judge, attorneys, witnesses, or jurors; having the ability to respond; and having that response be understood by everyone in the courtroom. Unfortunately, to this day across the country, deaf and hard of hearing individuals continue to encounter communication barriers that deny them an opportunity to participate fully in the judicial process. The issue of communication access in legal settings is so prevalent that the American Bar Association issued guidance to courts on improving access for individuals who are deaf and hard of hearing ("ABA Guide").²</p> <p>The Council’s Language Access Plan Implementation Task Force proposes a new rule as part of what the Council terms "a comprehensive and systematic approach to expanding language access in the California courts."³ This new rule focuses on the provision of language services outside the courtroom, namely in court-ordered/court-operated programs. However, the Language Access Plan ("LAP") recommendations has a glaring omission in that it fails to include deaf and hard of hearing people as part of the populations needing language access to such programs and services. We would like to remind the Council of footnote 8 on page 15 of the Strategic Plan for Language Access in the California Courts⁴ ("CLASP Report"), which indicates that the LAP implementation applies to deaf and hard of hearing court users. It states that although the legal requirements relating to access for deaf or hard of hearing court users are governed by the Americans with Disabilities Act (ADA) and other relevant statutes, "deaf and hard of hearing court users and their interpreters should be considered as part of any language access plan implementation." The 2015 strategic plan even includes a photograph of an American Sign Language (ASL) interpreter. Yet the recent Invitation to</p>	

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	the Deaf		<p>Comment fails to include deaf and hard of hearing court users as part of its LAP recommendations. This is a critical omission given the communication access issues described above; moreover, California's own Rules of Court state: "It is the policy of the courts of this state to ensure that persons with disabilities have equal and full access to the judicial system."⁵ It is imperative to include the needs of deaf and hard of hearing users in a plan for persons with Limited English Proficiency as "many of the same underlying issues that apply to create accommodations for deaf and hard of hearing persons also apply to persons with Limited English Proficiency."⁶ In many legal proceedings, deaf and hard of hearing participants are ordered to complete classes and programs outside of the courtroom, such as anger management classes or parenting classes. Yet when a private court-ordered program refuses to provide an ASL interpreter despite the federal and state laws requiring access, the deaf person under court order to complete the program can suffer the consequences in court even though the failure is a result of the program's inaccessibility. This kind of punishment to deaf individuals for the failure of court-ordered programs to be accessible is a devastating Catch-22 for such deaf individuals. For example, deaf parents risk judicially mandated separation from their children even when the deaf parents try to participate in any court-ordered parenting program that refuse to provide communication access. Similarly, a court might incarcerate a deaf person simply because of a perceived lack of compliance with a court-ordered program when the blame lies in the program's inaccessibility. While the Council's proposal is for language access services specifically, we are gravely concerned about deaf and hard of hearing court users suffering similar consequences when court-ordered programs deny auxiliary aids</p>	

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		<p>and services other than ASL interpreters- such as Communication Access Real-Time Translation (“CART” or “real-time captioning) and assistive listening devices (ALDs) - despite already-existing legal mandates. It is absolutely critical that California courts take steps to ensure that private court-ordered programs meet their legal obligations. Yet, under the proposed rules, the Council fails to include deaf and hard of hearing people for such situations. Without including protections for the deaf and hard of hearing population, the Council is not meeting its goal of all persons having "equal access to the courts and court proceedings and programs."⁷ Listed are certain recommendations that "specifically address the provision of language assistance in court-ordered services and programs [...] in order to achieve language access in activities that occur outside the courtroom."⁸ We do concur with the principles listed in the following three recommendations but urge that these principles be also applied to deaf and hard of hearing court users.</p> <p>-Recommendation 10, which calls for the use of qualified court interpreters in all court-ordered/court operated programs This recommendation should be interpreted to apply to deaf and hard of hearing users. (1) We urge the Council to require the use of certified ASL interpreters with a specialist certificate for legal settings ("SC:L") as well as require the use of Certified Deaf Interpreters (CDIs) where appropriate. For all court-ordered/court operated programs, every effort should be made to secure interpreters with the SC:L certification, which demonstrates proficiency in both generalist interpreting skills and legal interpreting skills. The ABA Guide urges that if an interpreter possessing SC:L is not available, "interpreters who have professional certification or licensure; 80 hours of training for interpreting in legal</p>	<p>(1) The Committee appreciates this feedback but is unable to address issues of interpreter certification within the scope of this rule proposal.</p>

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		<p>settings; and experience interpreting in legal settings (particularly where such experience is supervised)"⁹ should be secured. Such minimum standards comport with the requirements of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act, which include a definition of "qualified interpreters" as follows: "interpreters who are able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary."¹⁰ This definition means that in no situation should a court-ordered/court operated program rely on family members to interpret. Family members typically lack the techniques, skills, training, and experience needed to effectively, accurately, and impartially interpret such activities. Moreover, family members may be the perpetrators or victims of the situation leading to the court proceeding in the first place. California law defines a "qualified interpreter" in court settings as one who "has been certified as competent to interpret court proceedings by a testing organization, agency, or educational institution approved by the Judicial Council as qualified to administer tests to court interpreters for individuals who are deaf or hearing impaired."¹¹</p> <p>(2) It is also imperative that the rules recognize the need for CDIs to ensure equal access to the judicial process for some deaf and hard of hearing people. Some deaf and hard of hearing people have certain language needs that a generalist sign language interpreter cannot meet. As the ABA Guide explains: Some individuals who are deaf or hard of hearing lack fluency in a standard ASL dialect, or have limited familiarity with ASL due to any number of reasons. They may use a foreign sign language, idiosyncratic non-standard signs or gestures recognized by only those who communicate with the</p>	<p>(2) The Committee appreciates this input but is unable to address issues regarding the use of Certified Deaf Interpreters through this rule proposal.</p>

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		<p>individual regularly (“home signs”), or signs particular to a given region, ethnic or age group. Other factors may affect these individuals’ ability to communicate in ASL such as delayed language acquisition, minimal or limited communication skills, mental health conditions, substance abuse, learning disabilities, developmental disabilities, cognitive impairments, blindness or limited vision, or limited education.</p> <p>These individuals may require both a conventional sign language interpreter and a Certified Deaf Interpreter (CDI), sometimes called “relay or intermediary interpreters.” CDIs are individuals who are deaf or hard of hearing and have been certified as interpreters by RID. They have excellent communication skills in both ASL and English, as well as extensive knowledge and understanding of being deaf, the Deaf community, and/or Deaf culture. CDIs may also have specialized training and/or experience in the use of gesture, mime, props, drawings, and other tools to enhance communication.¹² Without the use of a CDI working in tandem with an ASL interpreter, these individuals would not gain meaningful access to court-ordered/court operated programs.</p> <p>-Recommendation 11, which contains a statement indicating that "LEP court users should not be required to participate in court-ordered programs and services if those programs are unavailable in the language of the court user or if language services are not provided to enable access to the programs".¹³</p> <p>If a private court-ordered program refuses to provide ASL interpreters or other auxiliary aids and services, the deaf person who has been mandated to attend the program by court order should not be required to participate in the program or be penalized by the court for being unable to complete the program. Instead, the court should determine the optimal</p>	

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		<p>rehabilitation method for the deaf person, such as an appropriate alternative program that provides the necessary access. During this process, (3) the court should, prior to ordering any rehabilitative program for any deaf or hard of hearing person, take steps to determine whether the program in question provides the necessary access for the deaf litigant to be able to meet the requirements of the court. -Recommendation 33 requires courts to "ascertain whether court-appointed professionals can provide 'linguistically accessible services' before ordering court users to avail themselves of those programs, services, and professionals."</p> <p>While the previous recommendation refers to court-ordered programs, Recommendation 33 refers to "court-appointed professionals, such as psychologists, mediators, and guardians."¹⁴ If such professionals refuse to provide "linguistically accessible services" for deaf or hard of hearing individuals such as in the form of ASL interpreters, then the deaf person should not be required to utilize said professional to meet the requirements of the court's order. Instead, (4) courts should make every effort to identify and maintain a database of professionals who can provide the service directly in the language that the deaf person is best able to understand and communicate, or if this is not possible, then the court should ensure that the professionals provide qualified ASL interpreters and other auxiliary aids and services to ensure effective communications with the provision of services.</p> <p>The LAP also lists Recommendation 30, which calls for the Judicial Council to "consider adopting policies that will encourage the use of remote technologies to promote the sharing of bilingual human resources among courts to meet the</p>	<p>(3) The Committee appreciates this recommendation and has added "ASL interpretation" as a language option on form LA-350.</p> <p>(4) The Committee appreciates this suggestion and is looking at ways that a database could help courts access and maintain information about local providers.</p>

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			<p>needs of LEP users in non-courtroom proceedings." The CLASP Report touts the benefits of remote interpreting. (5) We strongly caution against such encouragement in the deaf and hard of hearing context. Interpreter services can be delivered remotely, and this has been provided in the deaf and hard of hearing community through a technology known and referred to as "Video Remote Interpreting" (VRI). However, ASL is a three-dimensional language and individuals who are deaf or hard of hearing often struggle to understand ASL on a two-dimensional flat screen. For this reason, VRI is not effective for lengthy or complex situations. Court-ordered and court operated programs are usually extremely complex. The use of VRI can be confusing for some deaf or hard of hearing individuals, and lead to a belief that the deaf or hard of hearing individuals are being uncooperative leading to potentially adverse court decisions against them.</p> <p>Furthermore, in a situation where CDIs may be needed, providing CDI services through VRI is not advisable due to the gestures involved and the "need for exceptionally clear visual communication."¹⁵ Moreover, VRI is not effective at all for DeafBlind individuals who rely on tactile interpreting.</p> <p>(6) If VRI must be used for the lack of better alternatives, we recommend that it only be used with the consent of the deaf or hard of hearing user. More importantly, the entity providing the program in question must ensure that the VRI technology provides pursuant to federal law: “[r]eal-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images; sharply delineated images that are large enough to display the interpreter’s face, arms, hands and fingers and the participant’s face, arms, hands, and fingers, regardless of his or her body position; a clear, audible</p>	<p>(5) The Committee appreciates this concern but declines to address best practices on the use of remote interpretation services within this rule proposal.</p> <p>(6) Please see response to Comment No. 5, above.</p>

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		<p>transmission of voices; and adequate training for staff using the equipment in court or elsewhere on how to quickly and efficiently set up and operate the VRI."¹⁶</p> <p>The CLASP Report acknowledges that "courts must exercise care to ensure that the use of technology is appropriate for the setting involved, that safeguards are in place for ensuring access without deprivation of due process rights, and that high quality is maintained."¹⁷ The Council has already created guidelines on the appropriate use of VRI in California courtrooms and we urge the Council to refer to these guidelines for court-ordered/court operated programs as well.¹⁸ We urge the Council to incorporate the above considerations in its implementation plan and take steps to ensure that any effort to ensure meaningful access includes partnerships with deaf and hard of hearing stakeholders.</p> <p>Endnotes:</p> <p>¹ The use of the term "deaf and hard of hearing" is intended to encompass all deaf, hard-of-hearing, late-deafened, and DeafBlind individuals, including those with additional disabilities.</p> <p>² American Bar Association, Commission on Disability Rights, Court Access for Individuals Who Are Deaf and Hard of Hearing (2017) available at https://www.americanbar.org/content/dam/aba/administrative/commission-disability-rights/court-access-guide-lr-intractv-accsb-rev022317.authcheckdam.pdf ("ABA Guide").</p> <p>³ Judicial Council, Invitation to Comment, W19-09, page 1, available at: http://www.courts.ca.gov/documents/W19-09.pdf ("Invitation to Comment").</p> <p>⁴ Judicial Council of California, Strategic Plan for Language Access in the California Courts (January 22, 2015), available at</p>	

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			<p>http://www.courts.ca.gov/documents/CLASP_report_060514.pdf. ("CLASP Report.")</p> <p>⁵ CAL. Rules of Court, Rule 1.100(b) (2007).</p> <p>⁶See ABA Standards for Language Access in Courts (Feb. 2012), available at http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/language_access.html ("Language Access Standards").</p> <p>⁷ CLASP Report at 21.</p> <p>⁸Invitation to Comment at 1.</p> <p>⁹ ABA Guide at 15.</p> <p>¹⁰28 C.F.R. § . § 35.104.</p> <p>¹¹ Cal. Evid. Code § 754(f).</p> <p>¹²ABA Guide at 16.</p> <p>¹³Invitation to Comment at 2.</p> <p>¹⁴ CLASP Report at 48.</p> <p>¹⁵ABA Guide at 16.</p> <p>¹⁶ 28 C.F.R..§ 35.160(d)(1)–(4).See also Minimum Standards for Video Remote Interpreting Services in Medical Settings (Feb. 13, 2018), https://www.nad.org/about-us/position-statements/minimum-standards-for-video-remote-interpreting-services-in-medical-settings. [Although this guidance is for the medical setting, many of the same principles apply here.]</p> <p>¹⁷ CLASP Report at 20.</p> <p>¹⁸See Recommended Guidelines for Video Remote Interpreting (VRI) for ASL-Interpreted Events, Administrative Office of the Courts: Court Interpreters Program, Judicial Council of California, available at http://www.courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf ("VRI Guidelines").</p>	
39.	Sheri A. Farinha, CEO NorCal Services for Deaf &		NorCal Services for Deaf and Hard of Hearing (NorCal) submits the following comments to the Judicial Council’s	See Committee Response to Comment 1 above.

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Hard of Hearing		<p>Invitation to Comment #W19-09, specifically on the proposed Rule 1.300. Although not formally recognized as Limited English proficient (LEP), Deaf individuals have the same needs for interpreting services, e.g., American Sign Language (ASL) interpreters. For this reason, the proposed rule 1.300 must apply to Deaf people who use ASL interpreters for access.</p> <p>NorCal is one of eight social service and advocacy organizations contracted with the California Department of Social Services to provide “Deaf Access” services to Deaf and Hard of Hearing residents. NorCal routinely assists Deaf individuals with access issues including those who have court orders to receive services such as anger management, alcohol and dependency treatment, mental health counseling, or supervised visitations from outside agencies or service providers.</p> <p>Based on our experience assisting Deaf litigants, we know firsthand that the single and foremost barrier for a Deaf litigant with a court-ordered services is finding a program that will provide ASL interpreters. Our staff have worked with litigants to call every provider on the court list, only to find that none will provide an ASL interpreter, even when provided with information about the Americans with Disabilities Act (ADA). The ramification faced by the Deaf litigant is steep: either pay for the interpreters which many cannot afford or risk failing to comply with court orders that can result in jail time or separation from their children. Although service providers are required to be accessible in accordance with the ADA, the reality is that most providers do not have a policy to provide</p>	

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			<p>accommodations. Many providers claim to be on a shoestring budget and not able to afford paying for such accommodations. Although Deaf people have ADA protection, it is not reasonable to expect Deaf litigants to pursue ADA violations in court, just to have access to court-ordered service.</p> <p>Deaf litigants face the same barriers as LEP litigants in accessing court-ordered services and therefore, the proposed rule 1.300 should clearly include Deaf litigants in addition to LEP litigants to ensure they are not penalized for private service or program that is not accessible.</p>	
40.	Dominika Bednarska, PhD SF State		Please maintain deaf people’s basic civil rights to language access and include them in non courtroom programs proposed rule 1.300. Private programs and services must either provide ASL interpretation services or be removed from court approved lists. Anything else is a civil rights violation for deaf and disabled people.	See Committee Response to Comment 1 above.
41.	Nancy Cayton Registry of Interpreters for the Deaf (RID) Certified Interpreter		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don’t punish Deaf People. Because is is so difficult to find court-ordered programs	See Committee Response to Comment 1 above.

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			that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.	
42.	Karen Nakamura, Robert and Colleen Haas Distinguished Chair in Disability Studies and Professor of Anthropology Graduate Advisor, UCB-UCSF Joint Program in Medical Anthropology University of California Berkeley		I am the Robert and Colleen Haas Distinguished Chair in Disability Studies and Professor of Anthropology at the University of California Berkeley. I have conducted research in Deaf communities and published in these areas. I am considered an expert in the field of Disability Studies. I have read the proposal to Adopt Cal. Rules of Court, rule 1.300; approve forms LA-350, LA-400, and LA-450. The current proposal as it stands has no mention of the situation of Deaf litigants who require ASL interpretation if they were required to attend private court-ordered programs and services. The absence of such a rule suggests that these Deaf litigants would have to follow the new proposed procedures, which places a disproportionate burden on the litigants to obtain interpreters themselves. Many private court-ordered services are not providing appropriate ASL interpreters for their programs and services, in violation of the Americans with Disabilities Act. The court is thus placing Deaf litigants in the uncomfortable position of first having to either: sue these providers under the ADA in order to motivate provision of ASL interpretation; or to pay out of pocket for the ASL interpretation; or, to not attend the court-ordered services and programs and thus fall in contempt of court. By forcing Deaf litigants into this position, the California court system is placing itself in violation of Title II of the Americans with Disabilities Act and ADA-AA and the 14th Amendment of the Constitution of the United States. The Court is urged to reject the current proposal to Adopt Cal. Rules of Court, rule 1.300 and to return the proposal to committee so that it may either explicitly exclude ADA interpretation from these rules, or to adopt language that	See Committee Response to Comment 1 above.

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			specifically spells out the requirement that any court-ordered service (whether private or public) must be accessible to all individuals with disabilities, including ASL interpretation. I am happy to clarify any of the statements above, if requested.	
43.	Susan Schweik Professor of English UC Berkeley		Please include Deaf people in the Non-Courtroom programs proposal Rule 1.300. Courts should maintain a list of court-ordered programs that provide ASL access for Deaf people. My experience trying to get court-ordered classes was (Please include your own experience.) Even with ADA laws, many court-ordered private programs refuse to provide interpreters for Deaf participants. When the court requires attendance in private programs and services, it should ensure that the agencies offering services will provide certified interpreters for Deaf people or remove those agencies from court approved lists. We need certified interpreters for any program or services ordered by the court. It is insufficient, illegal and wrong to expect a family member to provide interpretation for these important services or to ask the Deaf person to pay out of pocket for interpreters. Don't punish Deaf People. Because is is so difficult to find court-ordered programs that are ASL based or willing to provide interpreters, courts should not punish Deaf people who are unable to get services in ASL. This is an issue of fairness and justice for Deaf people.	See Committee Response to Comment 1 above.
	Comments from Courts and Advisory Committees			
44.	Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory	A	The JRS notes the following impact to court operations: <ul style="list-style-type: none"> • Results in additional training, which requires the commitment of staff time and court resources. • Increases court staff workload. • Impact on local or statewide justice partners. 	The Committee appreciates this feedback.

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	Committee (CEAC)		The JRS also notes that the proposal should be implemented to provide equal access to litigants/parties with limited English proficiency.	
45.	Superior Court of California, County of Los Angeles	A	The proposed LA-350 will not be useful for our Court. Our Court has multiple referral lists informed by, and used in, a range of contexts. Adding the LA-350 information would require a cumbersome and unnecessary procedure.	The Committee appreciates this feedback and notes that form LA-350 is an optional form in recognition of the fact that some courts may already have well-developed processes for identifying community providers that offer language services and connecting litigants to those services.
46.	Superior Court of California, County of Orange		<p>Comments on the proposal as a whole: The JCC should consider making General Counsel and/or financial resources available to courts for actions arising from this proposal.</p> <p>Does the proposal appropriately address the stated purpose? Yes</p> <p>Will the proposed forms assist the court in providing language assistance with non-courtroom services and programs?</p> <p>No. The forms can assist in identifying the language need only, but not in providing language assistance. The forms do not address who is financially responsible for cost associated with the language services.</p> <p>Would the proposal provide cost savings? If so please</p>	<p>The Committee appreciates this suggestion.</p> <p>The Committee appreciates this feedback on costs and local court operational impacts.</p>

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			<p>quantify. No</p> <p>What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.</p> <p>Minimal training and communication on how to submit a formal request for review.</p>	
47.	Superior Court of California, County of San Diego Mike Roddy, CEO	AM	<p>Does the proposal appropriately address the stated purpose? Yes.</p> <p>Will the proposed forms assist the court in providing language assistance with non-courtroom services and programs? Yes.</p> <p>Would the proposal provide cost savings? If so, please quantify.</p> <p>Our court does not foresee the proposal providing a cost saving. Courts will incur administrative costs developing processes to identify programs that offer language services and confirming the information annually.</p> <p>What would the implementation requirements be for courts – for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? Courts will be required to create administrative processes to identify and maintain lists of programs and to</p>	<p>The Committee appreciates this feedback on costs and local court operational impacts.</p> <p>The Committee appreciates this feedback and notes that the use of form LA-350 is optional in recognition of the fact that some courts may already have well-developed alternative processes</p>

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Commenter	Position	Comment	Committee Response
		<p>confirm annually what language services those programs may provide. Keeping lists like this updated will require significant administrative time for large counties.</p> <p>The implementation requirements would mean training for business office, courtroom, and administrative staff as well as judicial officer training. The initial training would be approximately two hours for each court staff person and judicial officers, and ongoing training as needed. Changes in processes, procedures, dockets and changes to computer case management system codes may be required.</p> <p>How well would this proposal work in courts of different sizes? Section (e) of the proposal may be a benefit for smaller and remotely located courts as it pertains to employing technology to share staff among courts in providing language services. The remainder of the proposal increases the workload for courts of all sizes. The increased amount of work will likely be proportional to the size of the court.</p> <p>General Comments: Rule 1.300</p> <p>(a)(1) "...by a contractor or vendor under agreement with the court." Clarification is needed as to "contractors or vendors under agreement with the court."</p> <p>(e) Courts... should employ technology to promote the sharing</p>	<p>for identifying community providers that offer language services and connecting litigants to those services.</p> <p>The Committee appreciates the opportunity to clarify anything that is unclear in the proposal but is unsure how to define "contractors or vendors" in a way that will be applicable in all courts.</p> <p>The Committee appreciates this feedback but</p>

W19-09

Language Access: Language Services in Non-courtroom Programs and Services (adopt Cal. Rule of Court, rule 1.300; approve forms LA-350, LA-400, and LA-450)

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

	Commenter	Position	Comment	Committee Response
			<p>of bilingual staff and certified and registered court interpreters among courts, as appropriate This portion of the proposed rule be removed or incorporated into area (b). The verbiage is not in keeping with the whole of the rule to provide access to programs, services and professionals to limited English proficient court litigants outside of the court setting.</p> <p>LA-350: Item #3 refers to a “drop-down box,” but it is not visible on the form.</p> <p>LA-400: Proposed retitling: “Request to Modify Court Order Due to Lack of Language Access”</p> <p>LA-450: Proposed retitling: “Order on Request to Modify Court Order Due to Lack of Language Access”</p>	<p>declines to remove this subdivision given the potential for technological solutions to provide access and enable communications in non-courtroom encounters.</p> <p>The Committee appreciates this feedback and has revised the form to work in both electronic and paper formats.</p> <p>The Committee appreciates the suggestions provided for form titles but has specifically drafted titles that comport with plain language standards, both for ease of use by LEP court users, and to facilitate translation into multiple languages.</p>



Before the
Judicial Council of California
San Francisco, CA 94102

Language Access: Language Services)
in Non-courtroom Programs and Services) Docket No. W19-09
)

Comments of
National Association of the Deaf (NAD)
Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)
Deaf Seniors of America (DSA)
American Association of the DeafBlind (AADB)
Cerebral Palsy and Deaf Organization (CPADO)
Registry of Interpreters for the Deaf, Inc. (RID)
American Deafness and Rehabilitation Association (ADARA)
Association of Late-Deafened Adults (ALDA)

via electronic filing
February 12, 2019

Zainab Alkebsi, Esq.
Policy Counsel
National Association of the Deaf
zainab.alkebsi@nad.org

The National Association of the Deaf (NAD), Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), Deaf Seniors of America (DSA), the American Association of the DeafBlind (AADB), Cerebral Palsy and Deaf Organization (CPADO), Registry of Interpreters for the Deaf, Inc. (RID), American Deafness and Rehabilitation Association (ADARA), and Association of Late-Deafened Adults (ALDA) (collectively “Consumer Groups”) respectfully submit these comments in response to the invitation by the Judicial Council of California ("the Council") for feedback on its Language Access Plan Implementation.

The undersigned member organizations of Consumer Groups represent 48 million deaf and hard of hearing¹ Americans who are accorded protection under the U.S. Constitution as well as federal and state laws to have equal access to courtrooms. Accordingly, a deaf or hard of hearing participant in court proceedings must be able to effectively communicate with all relevant personnel in the courtroom. Such equal access includes: understanding what is being communicated by the judge, attorneys, witnesses, or jurors; having the ability to respond; and having that response be understood by everyone in the courtroom. Unfortunately, to this day across the country, deaf and hard of hearing individuals continue to encounter communication barriers that deny them an opportunity to participate fully in the judicial process. The issue of communication access in legal settings is so prevalent that the American Bar Association issued guidance to courts on improving access for individuals who are deaf and hard of hearing ("ABA Guide").²

The Council’s Language Access Plan Implementation Task Force proposes a new rule as part of what the Council terms "a comprehensive and systematic approach to expanding

¹ The use of the term “deaf and hard of hearing” is intended to encompass all deaf, hard-of-hearing, late-deafened, and DeafBlind individuals, including those with additional disabilities.

² American Bar Association, Commission on Disability Rights, *Court Access for Individuals Who Are Deaf and Hard of Hearing* (2017) available at <https://www.americanbar.org/content/dam/aba/administrative/commission-disability-rights/court-access-guide-lr-intracv-accsb-rev022317.authcheckdam.pdf> ("ABA Guide").

language access in the California courts."³This new rule focuses on the provision of language services outside the courtroom, namely in court-ordered/court-operated programs. However, the Language Access Plan ("LAP") recommendations has a glaring omission in that it fails to include deaf and hard of hearing people as part of the populations needing language access to such programs and services. We would like to remind the Council of footnote 8 on page 15 of the *Strategic Plan for Language Access in the California Courts*⁴ ("CLASP Report"), which indicates that the LAP implementation applies to deaf and hard of hearing court users. It states that although the legal requirements relating to access for deaf or hard of hearing court users are governed by the Americans with Disabilities Act (ADA) and other relevant statutes, "deaf and hard of hearing court users and their interpreters should be considered as part of any language access plan implementation." The 2015 strategic plan even includes a photograph of an American Sign Language (ASL) interpreter. Yet the recent *Invitation to Comment* fails to include deaf and hard of hearing court users as part of its LAP recommendations. This is a critical omission given the communication access issues described above; moreover, California's own Rules of Court state: "It is the policy of the courts of this state to ensure that persons with disabilities have equal and full access to the judicial system."⁵ It is imperative to include the needs of deaf and hard of hearing users in a plan for persons with Limited English Proficiency as "many of the same underlying issues that apply to create accommodations for deaf and hard of hearing persons also apply to persons with Limited English Proficiency."⁶

In many legal proceedings, deaf and hard of hearing participants are ordered to complete classes and programs outside of the courtroom, such as anger management classes

³ Judicial Council, *Invitation to Comment*, W19-09, page 1, available at: <http://www.courts.ca.gov/documents/W19-09.pdf> ("Invitation to Comment").

⁴ Judicial Council of California, *Strategic Plan for Language Access in the California Courts* (January 22, 2015), available at http://www.courts.ca.gov/documents/CLASP_report_060514.pdf. ("CLASP Report.")

⁵ CAL. Rules of Court, Rule 1.100(b) (2007).

⁶ See ABA Standards for Language Access in Courts (Feb. 2012), available at http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/language_access.html ("Language Access Standards").

or parenting classes. Yet when a private court-ordered program refuses to provide an ASL interpreter despite the federal and state laws requiring access, the deaf person under court order to complete the program can suffer the consequences in court even though the failure is a result of the program's inaccessibility. This kind of punishment to deaf individuals for the failure of court-ordered programs to be accessible is a devastating Catch-22 for such deaf individuals. For example, deaf parents risk judicially mandated separation from their children even when the deaf parents try to participate in any court-ordered parenting program that refuse to provide communication access. Similarly, a court might incarcerate a deaf person simply because of a perceived lack of compliance with a court-ordered program when the blame lies in the program's inaccessibility. While the Council's proposal is for language access services specifically, we are gravely concerned about deaf and hard of hearing court users suffering similar consequences when court-ordered programs deny auxiliary aids and services other than ASL interpreters- such as Communication Access Real-Time Translation ("CART" or "real-time captioning) and assistive listening devices (ALDs) - despite already-existing legal mandates. It is absolutely critical that California courts take steps to ensure that private court-ordered programs meet their legal obligations. Yet, under the proposed rules, the Council fails to include deaf and hard of hearing people for such situations. Without including protections for the deaf and hard of hearing population, the Council is not meeting its goal of all persons having "equal access to the courts and court proceedings and programs."⁷

Listed are certain recommendations that "specifically address the provision of language assistance in court-ordered services and programs [...] in order to achieve language access in activities that occur outside the courtroom."⁸ We do concur with the principles listed in the following three recommendations but urge that these principles be also applied to deaf and hard of hearing court users.

⁷ CLASP Report at 21.

⁸ Invitation to Comment at 1.

-Recommendation 10, which calls for the use of qualified court interpreters in all court-ordered/court operated programs

This recommendation should be interpreted to apply to deaf and hard of hearing users. We urge the Council to require the use of certified ASL interpreters with a specialist certificate for legal settings ("SC:L") as well as require the use of Certified Deaf Interpreters (CDIs) where appropriate. For all court-ordered/court operated programs, every effort should be made to secure interpreters with the SC:L certification, which demonstrates proficiency in both generalist interpreting skills and legal interpreting skills. The ABA Guide urges that if an interpreter possessing SC:L is not available, "interpreters who have professional certification or licensure; 80 hours of training for interpreting in legal settings; and experience interpreting in legal settings (particularly where such experience is supervised)"⁹ should be secured. Such minimum standards comport with the requirements of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act, which include a definition of "qualified interpreters" as follows: "interpreters who are able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary."¹⁰ This definition means that in no situation should a court-ordered/court operated program rely on family members to interpret. Family members typically lack the techniques, skills, training, and experience needed to effectively, accurately, and **impartially** interpret such activities. Moreover, family members may be the perpetrators or victims of the situation leading to the court proceeding in the first place. California law defines a "qualified interpreter" in court settings as one who "has been certified as competent to interpret court proceedings by a testing organization, agency, or educational institution approved by the Judicial Council as qualified to administer tests to court interpreters for individuals who are deaf or hearing impaired."¹¹

⁹ ABA Guide at 15.

¹⁰ 28 C.F.R. § . § 35.104.

¹¹ Cal. Evid. Code § 754(f).

It is also imperative that the rules recognize the need for CDIs to ensure equal access to the judicial process for some deaf and hard of hearing people. Some deaf and hard of hearing people have certain language needs that a generalist sign language interpreter cannot meet. As the ABA Guide explains:

Some individuals who are deaf or hard of hearing lack fluency in a standard ASL dialect, or have limited familiarity with ASL due to any number of reasons. They may use a foreign sign language, idiosyncratic non-standard signs or gestures recognized by only those who communicate with the individual regularly (“home signs”), or signs particular to a given region, ethnic or age group. Other factors may affect these individuals’ ability to communicate in ASL such as delayed language acquisition, minimal or limited communication skills, mental health conditions, substance abuse, learning disabilities, developmental disabilities, cognitive impairments, blindness or limited vision, or limited education.

These individuals may require both a conventional sign language interpreter and a Certified Deaf Interpreter (CDI), sometimes called “relay or intermediary interpreters.” CDIs are individuals who are deaf or hard of hearing and have been certified as interpreters by RID. They have excellent communication skills in both ASL and English, as well as extensive knowledge and understanding of being deaf, the Deaf community, and/or Deaf culture. CDIs may also have specialized training and/or experience in the use of gesture, mime, props, drawings, and other tools to enhance communication.¹²

Without the use of a CDI working in tandem with an ASL interpreter, these individuals would not gain meaningful access to court-ordered/court operated programs.

-Recommendation 11, which contains a statement indicating that "LEP court users should not be required to participate in court-ordered programs and services if those programs are unavailable in the language of the court user or if language services are not provided to enable access to the programs".¹³

¹²ABA Guide at 16.

¹³Invitation to Comment at 2.

If a private court-ordered program refuses to provide ASL interpreters or other auxiliary aids and services, the deaf person who has been mandated to attend the program by court order should not be required to participate in the program or be penalized by the court for being unable to complete the program. Instead, the court should determine the optimal rehabilitation method for the deaf person, such as an appropriate alternative program that provides the necessary access. During this process, the court should, prior to ordering any rehabilitative program for any deaf or hard of hearing person, take steps to determine whether the program in question provides the necessary access for the deaf litigant to be able to meet the requirements of the court.

-Recommendation 33 requires courts to "ascertain whether court-appointed professionals can provide 'linguistically accessible services' before ordering court users to avail themselves of those programs, services, and professionals."

While the previous recommendation refers to court-ordered programs, Recommendation 33 refers to "court-appointed professionals, such as psychologists, mediators, and guardians."¹⁴ If such professionals refuse to provide "linguistically accessible services" for deaf or hard of hearing individuals such as in the form of ASL interpreters, then the deaf person should not be required to utilize said professional to meet the requirements of the court's order. Instead, courts should make every effort to identify and maintain a database of professionals who can provide the service directly in the language that the deaf person is best able to understand and communicate, or if this is not possible, then the court should ensure that the professionals provide qualified ASL interpreters and other auxiliary aids and services to ensure effective communications with the provision of services.

¹⁴ CLASP Report at 48.

The LAP also lists Recommendation 30, which calls for the Judicial Council to "consider adopting policies that will encourage the use of remote technologies to promote the sharing of bilingual human resources among courts to meet the needs of LEP users in non-courtroom proceedings." The CLASP Report touts the benefits of remote interpreting. We strongly caution against such encouragement in the deaf and hard of hearing context. Interpreter services can be delivered remotely, and this has been provided in the deaf and hard of hearing community through a technology known and referred to as "Video Remote Interpreting" (VRI). However, ASL is a three-dimensional language and individuals who are deaf or hard of hearing often struggle to understand ASL on a two-dimensional flat screen. For this reason, VRI is not effective for lengthy or complex situations. Court-ordered and court operated programs are usually extremely complex. The use of VRI can be confusing for some deaf or hard of hearing individuals, and lead to a belief that the deaf or hard of hearing individuals are being uncooperative leading to potentially adverse court decisions against them.

Furthermore, in a situation where CDIs may be needed, providing CDI services through VRI is not advisable due to the gestures involved and the "need for exceptionally clear visual communication."¹⁵ Moreover, VRI is not effective at all for DeafBlind individuals who rely on tactile interpreting.

If VRI must be used for the lack of better alternatives, we recommend that it only be used with the consent of the deaf or hard of hearing user. More importantly, the entity providing the program in question must ensure that the VRI technology provides pursuant to federal law: "[r]eal-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images; sharply delineated images that are large enough to display the interpreter's face, arms, hands and fingers and the participant's face, arms, hands, and fingers, regardless of his or her body

¹⁵ABA Guide at 16.

position; a clear, audible transmission of voices; and adequate training for staff using the equipment in court or elsewhere on how to quickly and efficiently set up and operate the VRI."¹⁶

The CLASP Report acknowledges that "courts must exercise care to ensure that the use of technology is appropriate for the setting involved, that safeguards are in place for ensuring access without deprivation of due process rights, and that high quality is maintained."¹⁷ The Council has already created guidelines on the appropriate use of VRI in California courtrooms and we urge the Council to refer to these guidelines for court-ordered/court operated programs as well.¹⁸

We urge the Council to incorporate the above considerations in its implementation plan and take steps to ensure that any effort to ensure meaningful access includes partnerships with deaf and hard of hearing stakeholders.

Respectfully submitted,

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¹⁶ 28 C.F.R. § 35.160(d)(1)–(4). *See also* Minimum Standards for Video Remote Interpreting Services in Medical Settings (Feb. 13, 2018), <https://www.nad.org/about-us/position-statements/minimum-standards-for-video-remote-interpreting-services-in-medical-settings>. [Although this guidance is for the medical setting, many of the same principles apply here.]

¹⁷ CLASP Report at 20.

¹⁸ *See* Recommended Guidelines for Video Remote Interpreting (VRI) for ASL-Interpreted Events, Administrative Office of the Courts: Court Interpreters Program, Judicial Council of California, available at <http://www.courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf> ("VRI Guidelines").

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February 14, 2019

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Re: Language Access – Proposed Cal. Rule of Court 1.300
Forms LA-350, 400 and 450

Dear Ms. Glick;

On behalf of Los Angeles Dependency Lawyers, I am submitting the following comments in regards to Invitation to Comment W19-09.

We applaud the efforts of the Language Access Plan Implementation Task Force and the speed with which they are attempting to provide a response to situations such as the one identified in *In re J.P.* As you know, *J.P.* arose out of a Dependency Court matter and can only be understood in the context of Dependency Court. Our concern is that the proposed Rule of Court and the new forms, while effective in some court systems, will be ineffective in Dependency. Below, we suggest some changes to the proposed Rule but believe a preferable solution would be amending Welfare & Institutions Code (WIC) Sections 361.5(e)(1)(D)(ii), 361.5(a)(3)(B) and 366.22(b). These amendments would add Limited English Proficient Parents to the list of populations, such as detained, incarcerated, and institutionalized parents, for whom programs can be ordered only if “actual access to these services is provided”, who must have a specifically tailored case plan when programs are court-ordered, and for whom the court may grant an additional reunification period due to the difficulty in accessing services. I am attaching a suggested Fact Sheet which discusses this issue and includes the actual proposed amendments. The support of, or co-sponsorship by, the Judicial Council would assist us in finding an author for such a bill which would ensure access to justice for parents speaking any of the more than 225 languages spoken in California.

Page Two
Letter to Diana Glick

That said, we propose changes to Rule 1.300 (a)(4) to read “‘Limited English proficient’ describes a person who speaks English “less than very well” *or* who cannot fully understand or participate in *an English language* court proceeding.” This change is recommended to reflect the difference between conversational understanding and a legal understanding of English. All of us at LADL have had clients who understand English “more or less” and can make it through a simple conversation in English. There is a vast difference between this, and understanding the legal terms and sophisticated language used by the bench. Often these parents, trying to cooperate with the system or show allegiance to the dominant culture, assert that they are “very well” able to speak English, but in post-hearing review of the court imposed requirements with their lawyer, it is clear that their understanding is woefully inadequate.

Moving on to 1.300(c). As currently drafted, it is a mere suggestion, but, in *J.P.*, the Court of Appeal has made clear that we are talking about a due process right, and due process is not a “when feasible” thing. We propose (c) read “A court shall not order a limited English proficient court litigant to a private program, service, or professional that is not language accessible or that can’t be made language accessible.”

While the worth of the forms is clear for other courts, the timelines and procedures outlined in the WIC make them impractical for use in Dependency Court where a parent’s reunification services may be terminated for lack of compliance only six months after the case plan is first ordered. Use of the LA-400 here would be argued to illegally flip the burden of tailoring the case plan to the parents, and it is unlikely that limited English parents would know to seek out or have the ability to fill in and file this form. (How many languages will it be translated into?)

I look forward to further discussion with you or anyone you might recommend. Thank you for your consideration and for the earnest work these proposals evidence.

Very truly yours,

Dennis Smeal
Chair, Legislation Committee
Supervising Attorney
LOS ANGELES DEPENDENCY LAWYERS, INC.



February 12, 2019



Judicial Council of California
Attn: Invitation to Comment
455 Golden Gate Avenue
San Francisco, CA 94102



RE: Item Number: W19-09
Adopt Cal. Rules of Court, rule 1.300
Approve Forms LA-350, LA-400, LA-450



Submitted via Electronic Mail to invitations@jud.ca.gov



CENTER FOR THE
PACIFIC ASIAN FAMILY
NURTURING CHANGE TOGETHER



To Whom It May Concern:

We are writing on behalf of the undersigned groups to provide public comment to the Judicial Council as it considers the proposed rule on the provision of language services in court-ordered services and programs. Thank you for taking the time to consider the effects of the proposed rule 1.300 on California's litigants.

Introduction



California is a state that is racially, ethnically, and linguistically diverse. Over 27 percent of Californians are foreign-born, compared to nearly 13 percent nationally.¹ Californians speak over 220 languages² and 44 percent of Californians speak a language other than English in their homes.³ The top five primary languages spoken at home after English include Spanish (10.5 million speakers), Chinese (1.2 million speakers), Tagalog (795,154 speakers), Vietnamese (547,165 speakers), and Korean (367,658 speakers).⁴ While the wide variety of languages spoken in the state enriches California culturally, individuals who speak languages other than English at home may also be limited-English proficient (LEP). Limited-English proficiency impacts one's "ability to access fundamental necessities such as employment, police protection, and healthcare."⁵ While underrepresented groups among native



¹ See U.S. Census Bureau, State & County QuickFacts, available at <https://www.census.gov/quickfacts/fact/table/US,losangelescountycalifornia.ca/POP645217> (listing 2013-2017 figures for foreign-born individuals).

² See California Commission on Access to Justice, *Language Barriers to Justice in California* at 1 (2005), available at <http://www.calbar.ca.gov/LinkClick.aspx?fileticket=79bAIYydnho%3D&tabid=216>.

³ See U.S. Census Bureau, State & County QuickFacts, available at https://factfinder.census.gov/bkmk/table/1.0/en/ACS/17_5YR/B16001/0400000US06 (listing percentage of people over age 5 speaking language other than English at home, 2013-2017).

⁴ *Id.*

⁵ Asian Pacific American Legal Center of Southern California and APIAHF, *California Speaks: Language Diversity and English Proficiency by Legislative District*, at 2 (2009), available at https://www.apiahf.org/wp-content/uploads/2011/02/APIAHF_Report05_2009-1.pdf.



English speakers often face similar challenges, these challenges are compounded for LEP individuals who must also contend with an incredible language barrier. Unsurprisingly, access to the courts has proven difficult for LEP individuals, who have higher rates of poverty than the general population in California.⁶

Significant improvements have been made for LEP individuals accessing the judicial system with the adoption of the Strategic Plan for Language Access in the California Courts (LAP) in 2015. Before this effort, many LEP litigants could not utilize the courts, resulting in large numbers of individuals unable to seek legal remedies and have their day in court. As the California Commission on Access to Justice observed in its 2005 report, “[f]or Californians not proficient in English, the prospect of navigating the legal system is daunting, especially for the growing number of litigants who have no choice but to represent themselves in court and therefore cannot rely on an attorney to ensure they understand the proceedings.”⁷ The report noted that approximately 7 million Californians “cannot access the courts without significant language assistance, cannot understand pleadings, forms or other legal documents and cannot participate meaningfully in court proceedings without a qualified interpreter.”⁸ Although improvements have been made in many California courts, some are still struggling to implement the new LAP. To ensure that the California state court system is promoting justice for all Californians regardless of language ability, qualified language assistance must be ensured in all court-ordered services and programs, including those provided by private organizations and professionals.

Legal Background and Mandates

Safeguards protecting LEP individuals in accessing the courts can be found in both state and federal statutes. California Government Code §§ 11135, *et seq.* and its accompanying regulations provide that no one shall be “denied full and equal access to benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state,” on the basis of “linguistic characteristics.”⁹

Federally, Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations prohibit direct and indirect recipients of federal financial assistance from discriminating on the basis of national origin, which has been interpreted to include meaningful language access.¹⁰ As recipients of federal financial assistance, California courts are subject to

⁶ See U.S. Census Bureau, American Fact Finder, available at https://factfinder.census.gov/bkmk/table/1.0/en/ACS/17_1YR/S1603/0400000US06 (listing characteristics of people by language spoken at home, 2017 American Community Survey 1-Year Estimates).

⁷ “Language Barriers to Justice” at 1.

⁸ *Id.*

⁹ California Government Code §§ 11135, 11139; Cal. Code Regs. Title 22, Section 98210(b).

¹⁰ 42 U.S.C. § 2000d (2004); *Lau v. Nichols*, 414 U.S. 563, 568-569 (1974) (“Chinese-speaking minority receive fewer benefits than the English-speaking majority from respondents' school system which denies them a meaningful opportunity to participate in the educational program—all earmarks of the discrimination banned by the [Title VI] regulations.”).

the mandates of Title VI and its implementing regulations to ensure equal access to the courts by providing necessary language assistance services. The Department of Justice (DOJ), the federal agency that enforces Title VI requirements, provides financial assistance to California courts and on June 18, 2002 issued guidance to recipients of such funding that details these mandates.¹¹ The DOJ has released a number of guidance letters to funding recipients on this issue, including one on August 16, 2010, maintaining that Title VI requires state courts to provide free interpreter services in all civil, criminal, and administrative proceedings.¹²

To ensure compliance with legal mandates, proper implementation of the LAP must ensure meaningful language assistance for *all* litigants in *all* court-ordered programs and services, including those provided by private organizations and professionals. The LAP specifically states at Recommendation #11:

An LEP individual should not be ordered to participate in a court-ordered program if that program does not provide appropriate language accessible services. If a judicial officer does not order participation in services due to the program's lack of language capacity, the court should order the litigant to participate in an appropriate alternative program that provides language access services for the LEP court user. In making its findings and orders, the court should inquire if the program provides language access services to ensure the LEP court user's ability to meet the requirements of the court.

Recommendations on Proposed Court Rule 1.300

We appreciate the efforts of the Judicial Council in proposing rule 1.300, which we believe will greatly enhance language access and justice for litigants, and we offer the comments and recommendations below. The language of the proposed rule must be stronger to impose more accountability on the courts to be proactive in ensuring that litigants are able to comply with court orders. Currently, it places the burden on the litigants to notify the court and does not articulate a protocol to find alternative language services. The case cited in the memo, *In re J.P.* states:

The due process considerations also inform our conclusion that it is an abuse of discretion to make a dispositional order with the knowledge that a parent cannot participate in the ordered services. No parent should be placed in this trap. The remedy is for DCFS and **the court to provide language assistance of some sort.**

In re J.P., 14 Cal. App. 5th 616, 626 (2017) (emphasis added).

The courts must be responsible for ultimately providing the needed language assistance if no other alternatives exist. The litigants should not be forced into the “trap” of being bounced around to determine whether services are available in their language, when they are already

¹¹ 67 Fed. Reg. 41455-41471 (2002).

¹² http://www.lep.gov/final_courts_ltr_081610.pdf.

unable to communicate proficiently in English. The court must also be equipped and responsible for exploring these alternatives, rather than placing the burden on the litigants to raise the issue. It is not currently clear from the draft form LA-350 what types of language assistance will be listed in the drop-down options, but this part should be modified to allow providers, programs, and professionals to more easily check multiple types, which should be strongly encouraged in the Advisory Committee Comment to Subdivision (c). It will also help ascertain whether the language assistance is only oral (and should specify whether through bilingual providers, qualified in-person interpreters, or remote interpreter services), or whether it also includes professionally translated written materials or other audio/visual methods, if they are part of the program's instruction or services.

Further, the court should be required to provide notice to litigants that they can file form LA-400, and have this form, as well as form LA-450, translated into the court's top eight languages. It is not realistic to require persons, who are by definition limited English proficient, to complete a form that is written in English. For languages outside the top eight, the court should provide sight translations of the forms and orders in the litigant's primary language. LAP Recommendation #40 supports such a directive, in stating, "Courts will provide sight translation of court orders and should consider providing written translations of those orders to LEP persons when needed. At a minimum, courts should provide the translated version of the relevant Judicial Council form to help litigants compare their specific court order to the translated template form. (Phase 1)" Please find below suggested changes to the language of proposed rule 1.300 reflecting these recommendations.

Proposed Changes to Rule 1.300

(b) Provision of language services in court-ordered and court-provided programs, services, and professionals

As soon as feasible, each court must adopt procedures to enable limited English proficient court litigants to access court-ordered and court-provided programs, services, and professionals to the same extent as persons who are proficient in English. These procedures must include methods to track and maintain records of language services offered by each program, service, and professional, including those offered by the court and through private providers.

(c) Provision of language services in private programs and services, and by private professionals

~~To the extent feasible, a~~ Each court ~~should~~ shall avoid ordering a limited English proficient court litigant to a private program, service, or professional that is not language accessible. If no language services are available in a litigant's language, the court must either provide the language services or propose a meaningful alternative to allow the litigant to participate.

(d) Delay in access to services

If a limited English proficient court litigant is unable to access a court-provided program, service, or professional or unable to access a court-ordered private program, service, or professional within the time period ordered by the court due to limitations in language service

availability, the court litigant may submit a statement to the court indicating the reason for the delay and the court may, for good cause, enter an alternative order or extend the time for completion. Court litigants may use *Service Not Available in My Language: Request to Change Court Order* (form LA-400) for this purpose. The court may respond to the request using *Service Not Available in My Language: Order* (form LA-450). The court must notify limited English proficient litigants, when ordering a court-provided or court-ordered private program, service, or professional, of the litigant's ability to submit a statement or form LA-400 to the court regarding limitations in language availability. Further, each court shall translate the form LA-400 and form LA-450 into the county's top eight languages. For other languages, each court must provide sight translation of the contents of the forms and orders in the litigant's primary language.

Conclusion

We appreciate the Judicial Council's efforts to implement the LAP and drafting proposed rule 1.300 to enhance the provision of language services beyond court proceedings. We believe that the recommendations above will ensure the provision of meaningful language services for all LEP court users in California in all court-ordered programs and services.

If you have any questions regarding these comments, please feel free to contact Joann Lee at (323) 801-7976 or jlee@lafla.org, or any of the individuals listed below. Thank you very much for your consideration.

Sincerely,

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