



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: June 24, 2016

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**Title**

Language Access: Translation and Educational Products, Development Plan for Remaining Materials, and Video Remote Interpreting Pilot Project

**Agenda Item Type**

Action Required

**Effective Date**

June 24, 2016

**Rules, Forms, Standards, or Statutes Affected**

N/A

**Date of Report**

June 13, 2016

**Recommended by**

Language Access Plan Implementation Task Force

Hon. Mariano-Florentino Cuéllar, Chair

Hon. Manuel J. Covarrubias, Vice-chair

Hon. Terence L. Bruiniers, Chair,  
Technological Solutions Subcommittee

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## Executive Summary

The Judicial Council charged the Language Access Plan Implementation Task Force with overseeing and ensuring implementation of the *Strategic Plan for Language Access in the California Courts*. The plan provides a comprehensive and systematic approach to expand language access in the California courts. The task force recommends that the council adopt a number of translation and educational products that task force subcommittees have developed in collaboration with the National Center for State Courts. The task force also proposes a technology solutions pilot project for video remote interpreting (VRI) in order to validate and finalize technical and programmatic guidelines that will help the California judicial branch determine where and how VRI can help meet the needs of court users over the next few years.

## Recommendation

The Language Access Plan Implementation Task Force recommends that the council:

1. Adopt a *Translation Protocol* and *Translation Action Plan*. These documents address Recommendations 36, 39, and 40 in the *Strategic Plan* approved by the council on January 22, 2015, and are attached to this report as Attachments 1 and 2 respectively.
2. Adopt a *Bench Card: Working with Court Interpreters*, Benchguide Outline, and training curricula outlines for judicial officers and court staff. These documents address *Strategic Plan* Recommendations 50, 51, and 52, and are attached to this report as Attachments 3–5.
3. Adopt a *Development Plan for Remaining Language Access Plan Materials*. This document addresses *Strategic Plan* Recommendations 38, 39, and 42, and is attached to this report as Attachment 6.
4. Proceed with a video remote interpreting (VRI) pilot project, which will build on previous work to test technology solutions and equipment, preapprove vendors if appropriate, and finalize statewide technical guidelines while taking into account the needs of different courts throughout the state. This project addresses Recommendations 12 through 16 in the *Strategic Plan*.

## Previous Council Action

In January 2015, following an extensive stakeholder participation process that included public hearings and comment, the Judicial Council adopted the *Strategic Plan for Language Access for the California Courts*.<sup>1</sup> The Language Access Plan (LAP) provides a comprehensive set of 75 recommendations to help create a branchwide approach to providing language access services to California's 7 million limited-English-proficient (LEP) residents and potential court users throughout the state while accommodating an individual court's need for flexibility in implementing the plan recommendations.

A primary goal of the plan is to develop and support a culture in which language access is considered a core court service in every courthouse. Adoption of the plan included the creation of the Language Access Plan Implementation Task Force, which would take the recommendations of the *Strategic Plan* and help bring them to fruition.

In August 2015, the council approved a task force request to submit a Budget Change Proposal (BCP) to the administration seeking fiscal year (FY) 2016–2017 funding for key aspects of the LAP.

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<sup>1</sup> *California's Language Access Plan: Strategic Plan for Language Access in the California Courts*, Item K for the Jan. 22, 2015, Judicial Council business meeting, available at <http://www.courts.ca.gov/documents/jc-20150122-itemK.pdf>.

In February 2016, the council approved a model notice translated into at least eight languages that will inform LEP court users about the availability of language services.

### **Rationale for Recommendation**

The Chief Justice established the Language Access Plan Implementation Task Force in March 2015, pursuant to recommendations in the plan. Chaired by Supreme Court Justice Mariano-Florentino Cuéllar, with Judge Manuel J. Covarrubias of the Superior Court of Ventura County serving as vice-chair, the task force has a three- to five-year charge and is overseen by the council's Executive and Planning Committee. Beginning in July 2015, the National Center for State Courts (NCSC) has been working as a consultant with the task force to help develop a number of "phase 1" language access-related products, including translation and educational products.

### **Translation Products: Translation Protocol and Translation Action Plan**

In developing the *Translation Protocol*, the task force's Translation, Signage and Tools for Courts Subcommittee and NCSC were guided by the LAP, in particular Recommendation 36, which addresses the creation of a formalized translation protocol. A translation protocol is necessary to ensure that accurate and high quality translations are available statewide and that standards exist for all translations obtained by the Judicial Council and the courts. Other relevant LAP recommendations include Recommendations 37, 38, 65, and 66, addressing the sharing and dissemination of translated materials as well as complaints regarding the quality of translations.

The *Translation Protocol* includes requirements for translator qualifications, guidance regarding second translator review, and quality control processes. In addition, the protocol addresses recommendations regarding the prioritization of materials for translation depending on the criticality and frequency of use of documents per the U.S. Department of Justice, other guidance regarding creation and maintenance of translation glossaries, and the dissemination of translated materials.

NCSC developed the *Translation Action Plan* with the subcommittee to catalog and describe the wide range of documents that are appropriate for translation. While there are recommendations regarding translation throughout the LAP, the *Translation Action Plan* brings those recommendations together in a single document to allow for planning and budgeting for translation. The *Translation Action Plan* includes identification and prioritization of materials to be translated; recommendations as to the use of technologies (such as document completion and assembly programs, and video/audio tools); recommendations regarding the posting and sharing of translations for statewide use by local courts; and suggestions for maximizing limited translation resources by creating standardized information adaptable for local use.

### **Educational Products: Bench Card (Working with Court Interpreters), Benchguide Outline, and Training Curricula Outlines for Judicial Officers and Court Staff**

The LAP recommended the creation of sample bench cards to assist bench officers in courtroom management and for decisions regarding language service provision when an LEP court party,

witness, or interested person (as defined in the LAP) is involved. See LAP Recommendation 52. The sample bench card includes information, consistent with the LAP, as to the appointment of an interpreter, waiver of an interpreter, the provisional qualification process and restrictions on the use of noncertified/nonregistered interpreters, and recommendations on the use of court interpreters. It also includes sample language for judges to use in proceedings with an LEP person.<sup>2</sup>

Goal 6 of the LAP provides that, “Judicial officers, court administrators, and court staff will receive training on language access policies, procedures, and standards, so they can respond consistently and effectively to the needs of LEP court users, while providing culturally competent language access services.” To help address this goal, the sample benchguide outline describes the processes and protocols for conducting proceedings with LEP court users and identifying and providing language access services in the courts. The benchguide focuses on a bench officer’s responsibilities in identifying the need for language access services, tools for courtroom management, guidance related to cultural competence, and guidance regarding the use of remote technologies.

The creation of training curricula outlines for the training of judicial officers and all court staff also helps address LAP Recommendation 50, which covers language access policies and procedures. The training curricula cover areas such as processes related to working with interpreters, issues related to cultural competence, and the use of technology to provide language access services. The curricula outlines also include sample materials and related resources to be used when training staff and judicial officers.

### **Development Plan for Remaining Language Access Plan Materials**

The *Development Plan for Remaining Language Access Plan Materials* is a roadmap for the development of informational and training materials recommended in the LAP but not included in the current NCSC contract with the Judicial Council. The Development Plan includes a description of general content for remaining materials to be developed, proposed mediums for the materials (written, audio, or video), and phasing for the possible development in accordance with the LAP.

### **Video Remote Interpreting Pilot Program**

Given the state’s size and population, appropriate uses of video remote technology that allow for remote access to the courts while protecting due process remains one of the most critical recommendations of the *Strategic Plan*. Identifying VRI equipment that meets technical and programmatic guidelines, at the best value, is a critical step in the Task Force’s Technological Solutions Subcommittee’s efforts to create a VRI Pilot Project, per the LAP’s Recommendation 16, which states:

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<sup>2</sup> A separate sample VRI bench card is under development to assist bench officers with recommended practices for conduct of court proceedings that utilize video remote interpreting (VRI). The VRI bench card will be revised and updated during the VRI pilot, and the VRI bench card will be brought separately to the council at a future date.

16. The Judicial Council should conduct a pilot project, in alignment with the Judicial Branch's Tactical Plan for Technology 2014–2016. This pilot should, to the extent possible, collect relevant data on: due process issues, participant satisfaction, whether remote interpreting increases the use of certified and registered interpreters as opposed to provisionally qualified interpreters, the effectiveness of a variety of available technologies (for both consecutive and simultaneous interpretation), and a cost-benefit analysis. The Judicial Council should make clear that this pilot project would not preclude or prevent any court from proceeding on its own to deploy remote interpreting, so long as it allows LEP court users to fully and meaningfully participate in the proceedings.

The pilot project outcomes will define statewide technical standards for remote interpreting (LAP Recommendation 14),<sup>3</sup> validate programmatic guidelines (as outlined in LAP Recommendation 13 and Appendix B),<sup>4</sup> and preapprove acceptable vendors so courts have an appropriate method to expand access to interpreters for limited-English-proficient litigants. Remote interpreting allows for the prompt availability of language access for litigants by providing certified and registered interpreter services with less waiting time and fewer postponements, thus saving both the court user's and the court's valuable time. In addition, having qualified interpreters more readily available through remote interpreting can decrease the use of less qualified interpreters, can decrease dismissals for failure to meet court deadlines, and can decrease the frequency of attorneys or parties waiving interpreter services or proceeding as if the LEP person were not present in order to avoid delays. By decreasing interpreter travel time between venues and increasing the number of events being interpreted by individual interpreters, remote interpreting allows more LEP litigants to be served in more areas, utilizing the same personnel and financial resources, thereby greatly expanding language access.

The proposed VRI pilot for spoken language would not preclude trial courts from identifying and implementing alternative solutions which are consistent with the technical requirements as approved by the Judicial Council and meet the programmatic guidelines established in the LAP.

Once the Judicial Council has approved the project, the Task Force, working with Judicial Council staff, will finalize and post the VRI Pilot Project Request for Proposals (RFP) on the judicial branch public website. The pilot project will be at zero cost to the court, with the vendor(s) providing equipment and training for an assessment period of up to six months. We hope

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<sup>3</sup> LAP Recommendation 14 states, "The Implementation Task Force will establish minimum technology requirements for remote interpreting which will be updated on an ongoing basis and which will include minimum requirements for both simultaneous and consecutive interpreting." (Footnote omitted.)

<sup>4</sup> LAP Recommendation 13 states, "When using remote interpreting in the courtroom, the court must satisfy, to the extent feasible, the prerequisites, considerations, and guidelines for remote interpreting set forth in Appendix B." Appendix B contains suggested guidelines for remote interpreting in court proceedings based on current best practices and, as such, should be subject to updating and revision to accommodate advances in technology that will help ensure quality communication with LEP court users.

to engage up to three vendors who are experienced and capable of executing an efficient project. The RFP seeks to utilize vendor equipment in multiple courtrooms in possibly more than one jurisdiction for both consecutive and simultaneous interpretation, and use California certified and registered interpreters employed by, or contracting with, California courts. The RFP also seeks a leveraged procurement agreement which will allow for purchase of a vendor's goods and services at the conclusion of the pilot if the goods and services are found to allow for effective communication.

As part of the VRI pilot project, stakeholders will collaborate to collect data and evaluate a live VRI environment. After the project concludes, the council may use this data and information to update its statewide technical standards and programmatic guidelines as outlined.

The U.S. Department of Justice specifically mentions VRI as an efficient tool that can improve and increase language accessibility for LEP court users for the California courts.<sup>5</sup> The NCSC, in conjunction with the Conference of State Court Administrators (COSCA), launched their own remote interpreting RFP in 2015, creating technical guidelines that the subcommittee has leveraged as a starting point for minimum standards. California courts already use VRI technology, including in Fresno, whose technical guidelines and best practices are also being leveraged for the VRI pilot project RFP.

The council's Technology Committee and Information Technology Advisory Committee have approved the VRI pilot project concept.

Long-term expansion of the VRI pilot will require supplemental funding for equipment and operational costs. If approved, the Court Innovations Grants may be one possible source of such funding, as outlined in the Governor's proposed 2016–2017 Budget.

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

### **Translation Products: Translation Protocol and Translation Action Plan**

NCSC analyzed a number of resources to inform the development of the *Translation Protocol*. Their research included a careful review of U.S. Department of Justice guidance, the ABA Standards for Language Access in Courts, the NCSC Guide to Translation of Legal Materials, and other publications addressing how to ensure high quality and effective translations. A list of resources is provided for further guidance as Appendix E of the *Translation Protocol*. After reviewing an early draft of the *Translation Protocol*, the subcommittee asked for revisions that would more explicitly outline the underlying policies for the recommendations and practices contained in the protocol. The document now states upfront the guiding principles, drawn from the LAP, upon which the protocols are based. The subcommittee also engaged in a lengthy discussion regarding the recommended prioritization for the translation of documents, and the

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<sup>5</sup> See Attachment C, May 22, 2013, letter from the U.S. Department of Justice, at p. 9, attached to *California's Language Access Plan: Status Report*, Item J for the October 25, 2013, Judicial Council business meeting, available at <http://www.courts.ca.gov/documents/jc-20131025-itemJ.pdf>.

outcome of this discussion was incorporated into the *Translation Action Plan*. The subcommittee requested a specific recommendation regarding a process that will allow judicial entities that provide translations to track the usage levels of those documents.

At its May 20, 2016, open meeting, the full task force discussed these translation products (*Translation Protocol* and *Translation Action Plan*), and recommended that they be submitted to the Judicial Council for its approval at its June 23–24, 2016, business meeting.

**Educational Products: Bench Card (Working with Court Interpreters), Benchguide Outline, and Training Curricula Outlines for Judicial Officers and Court Staff**

NCSC researched and reviewed a number of national resources to inform the development of the sample bench card included in this report. Research included a review of several bench cards for the use of interpreters in the courtroom developed by other state courts, a model bench card developed by the NCSC for protection order hearings, and materials discussing best practices with regard to courtroom management in interpreted proceedings.

In developing the sample benchguide and curricula outlines, NCSC staff reviewed the LAP and its several recommendations addressing: language access at all points of contact with the court, working with interpreters in the courtroom, language access service providers, and the use of technology for providing language access. NCSC also reviewed and incorporated, where appropriate, existing training materials developed by the Judicial Council’s Center for Judicial Education and Research (CJER) in its efforts to train and provide education to the judicial branch on language access and cultural competency issues. In addition, NCSC staff reviewed federal law and California statutes, rules of court, and other sources addressing processes and procedures for the use of interpreters in the courtroom and language access providers generally.

Finally, NCSC researched and reviewed national resources to inform the development of the sample benchguide and curricula attached to this report. Research included a review of training curricula developed by other states, as well as educational materials developed for court staff and judicial officers nationally to address language access issues. Research included identification of resource materials for further information to accompany the benchguide and the curricula, including videos of proper interpreter use, articles regarding interpreting and cultural competence, and other tools to improve language access awareness and familiarity.

The draft sample outlines have been written with general and specific recommendations for training efforts, teaching tips and techniques, teaching resources, and further reading resources for participants in the training and benchguide users. Sample materials that will be included with the training curricula and the benchguide are referenced in the teaching tips, and include sample PowerPoint slides with suggestions for engaging participants, sample training exercises for in-person workshops, sample common scenarios for working with LEP court users and suggested responses, and sample videos for communicating information included in the training.

In addition to the full membership of the task force’s Language Access Education and Standards Subcommittee, a working group of judges experienced in developing judicial education, and appointed by the subcommittee judicial co-chair, reviewed the draft bench card as well as the draft benchguide and judicial curriculum developed by NCSC. With the exception of very minor edits and revisions, both groups found these draft products to be of excellent quality. Given this, the subcommittee and the judicial workgroup felt that these materials, once reviewed and formally accepted by the task force, could serve as the foundation for future judicial education materials, courses, and other products. Although further behind in scheduling, the subcommittee chairs have authorized a similar process for developing the court staff curriculum with NCSC and have also developed a working group comprised of court staff and management with experience in developing education. The working group will review and comment on the draft curriculum for these audiences.

The bench card is considered by the subcommittee to be a very useful tool for judges and in fact mirrors the content provided in a recently released video on the process of appointing and using credentialed and provisionally qualified interpreters in court. It has been written to fit in a double-sided page for convenience and ease of use and reproduction, and is designed for courtroom use by judicial officers. As an additional aid, the Judicial Council and/or local courts may want to develop reference cards to be used by court staff as well.

With a slight modification, at its May 20, 2016, open meeting, the full task force adopted the recommendation of the subcommittee to present these educational items to the Judicial Council for its approval at its June 23–24, 2016, business meeting.

As the task force develops a policy for waiver of an interpreter, per LAP Recommendation 75, the corresponding language on the sample bench card may need to be adjusted.

### **Development Plan for Remaining Language Access Plan Materials**

In drafting the *Development Plan for Remaining Language Access Plan Materials* (“Development Plan”), NCSC staff referred to the LAP and identified informational and/or training materials referenced in the recommendations and materials that could be developed in support of the goals of the recommendations. The Translation, Signage and Tools for Courts Subcommittee reviewed drafts of this document and requested the addition of some language to clarify both the origin of the products listed (the LAP) and the importance of considering local needs and local budgets in setting priorities for the development of the materials contained in the plan.

Given the excellent curriculum developed by the NCSC, the task force’s Language Access Education and Standards Subcommittee chairs feel that it has sufficient materials at this time for revising the existing judicial curriculum and administrative curriculum for the foreseeable future in satisfaction of LAP Recommendation 50. The Development Plan identifies additional educational products that will still need to be developed, such as multilingual standardized videos for high-volume case types to assist LEP court users; training and guidance for court staff



on the critical points of contact between LEP court users and the court; training for interpreters on civil cases and remote interpreting; and training for bilingual staff.

At its May 20, 2016, open meeting, the full task force discussed the Development Plan and recommended that it be submitted to the Judicial Council for its approval at its June 23–24, 2016, business meeting.

### **Video Remote Interpreting Pilot Program**

The VRI pilot will enable the Judicial Council to collect data, determine best practices, promote efficiencies and cost savings for courts (potentially when sharing interpreter resources between courts), increase court user satisfaction, and identify and remedy any due process concerns. The 2011–2012 American Sign Language (ASL) pilot assisted the judicial branch in developing recommended guidelines on the appropriate use of VRI, helping courts to identify appropriate use of VRI for ASL-interpreted events.<sup>6</sup> The anticipated VRI pilot for spoken language will similarly establish appropriate technical guidelines, serve to validate LAP programmatic guidelines, and will assist trial courts in implementing VRI in appropriate instances to expand access to interpreters. At its May 20, 2016, open meeting, the full task force discussed the VRI pilot and recommended that the Judicial Council approve moving forward with the VRI pilot project.

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

#### **Translation Products: Translation Protocol and Translation Action Plan**

The *Translation Protocol* and *Translation Action Plan* hold translated materials to a high standard of quality. Both documents are designed to assist judicial entities with the prioritization of documents and materials to maximize their language access efforts. When developing court user materials in English, including necessary forms, courts and the Judicial Council will be able to use these documents to help determine their priorities for making materials available in languages other than English. There will be costs associated with obtaining professional translations and conducting the linguistic and/or legal review necessary to ensure the accuracy of written, translated materials produced by courts and the Judicial Council.

#### **Educational Products: Bench Card (Working with Court Interpreters), Benchguide Outline, and Training Curricula Outlines for Judicial Officers and Court Staff**

We will disseminate the educational materials developed by the NCSC, once they are approved by the Judicial Council, to the relevant CJER curriculum committees and faculty teams who develop and teach judicial education courses so that they can incorporate those materials into their curricula and courses. Courts may have costs associated with implementation of training.

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<sup>6</sup> See *Recommended Guidelines for Video Remote Interpreting (VRI) for ASL-Interpreted Events* (Nov. 2012), available at <http://www.courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf>.

### **Development Plan for Remaining Language Access Plan Materials**

This document will assist the branch and local courts to prioritize the development of additional materials to address local language access needs. This is a planning document and a roadmap for the full implementation of the LAP designed for local priority-setting and local decisionmaking with regard to costs and operational impacts.

### **Video Remote Interpreting Pilot Program**

The pilot project will last up to six months. It is anticipated that the VRI pilot will launch in one or more courts, utilizing equipment either loaned, leased, or rented for evaluation at no cost to the courts, and will include provision of technical support to courts. The participating court(s) and Judicial Council staff will collaborate to collect data and evaluate the project, as appropriate. After the conclusion of the pilot, the council will have technical standards for statewide use of VRI as well as updated programmatic guidelines already developed in the LAP.

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

The *Strategic Plan for Language Access* supports Goal I of the Judicial Council's 2006–2016 strategic plan—Access, Fairness, and Diversity—which sets forth that:

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

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

- Increase qualified interpreter services in mandated court proceedings and seek to expand services to additional court venues; and
- Increase the availability of language access services to all court users.

The plan also aligns with the Chief Justice's Access 3D framework and enhances equal access by serving people of all languages.

### **Attachments**

1. *Translation Protocol*
2. *Translation Action Plan*
3. *Bench Card: Working with Court Interpreters*
4. Benchguide Outline
5. Training curricula outlines for judicial officers and court staff
6. *Development Plan for Remaining Language Access Plan Materials*

## **Attachment 1**

## **Translation Protocol**

### **Judicial Council of California**

The Judicial Council of California is the policymaking body of the California judicial branch. It is responsible for the provision of statewide judicial branch information in a manner that ensures meaningful access to the information for all Californians. The Council is responsible for the development and online publication of Judicial Council forms, the [California Courts](#) website and all of its content, statewide informational publications, and other written and audiovisual resources of statewide applicability.

The Council is committed to providing quality language access services to limited English proficient (LEP) individuals in California, including the translation of statewide materials into the languages most commonly spoken in the state. This Translation Protocol sets forth comprehensive policies and procedures regarding the identification of resources for translation, languages into which designated information will be translated, quality standards for translations, translation processes, and the availability and dissemination of translated materials.

This Translation Protocol addresses the following:

- I. [Policy Guidelines and Directives](#)
- II. [Identification of Documents for Translation](#)
- III. [Determination of Languages for Translation](#)
- IV. [Qualifications of Translation Providers](#)
- V. [Consideration of Translation Costs](#)
- VI. [Machine Translation](#)
- VII. [Translation Glossaries](#)
- VIII. [The Translation Process](#)
- IX. [Posting and Dissemination of Translated Materials](#)
- X. [Contact Information for Translation Requests and Issues](#)
- XI. [Appendices](#)

#### **Policy Guidelines and Directives**

The [Strategic Plan for Language Access in the California Courts](#) (LAP) requires, under Recommendation #36, that the Judicial Council “develop and formalize a translation protocol for Judicial Council translations of forms, written materials and audiovisual

tools.”<sup>1</sup> The same recommendation discusses the inclusion in the protocol of required qualifications for translators, the prioritization and coordination of the materials to be translated, and oversight of any translation efforts.

Once the protocol is established, the LAP encourages individual courts to establish similar procedures for the development and translation of local forms, as well as written and audiovisual materials (including web-based information). Other recommendations in the LAP address the posting of Judicial Council translated materials for the public, as well as the creation of samples and templates of informational materials to share with local courts for their adaptation to meet local needs and resources.

In accordance with the Language Access Plan as well as existing federal guidelines and best practices, this Translation Protocol is predicated on the following policy determinations:

1. The Judicial Council will establish a standing Translation Advisory Committee in charge of administering this Translation Protocol and all translation processes and quality-assurance mechanisms established herein. This committee will be charged with implementing a standardized translation process for all Judicial Council translations, including providing oversight of translation requests from local courts, Judicial Council departments, and the public. The Translation Advisory Committee will also be in charge of the continued monitoring, maintenance, and updating of existing translations.
2. Every translation service provider contracting with the Judicial Council must meet minimum qualification requirements as established in the Translation Protocol.
3. Statewide standardization of forms, informational and educational materials, and other tools to increase access is central to the cost-efficient deployment of translation resources. Creating statewide translations that can be adapted by local courts with no or minimal cost will reduce costs at the local level while ensuring that translation initiatives are successful in providing access to court users throughout California.

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<sup>1</sup> While not written documents, audio or video information, resources, and instructions are based on written scripts, which themselves must be translated. As encouraged in the LAP and this Translation Protocol, alternative ways of delivering educational information to the public, especially to low literacy populations and speakers of languages that do not have a written component, are key for successful language access strategies. Therefore, for purposes of this Translation Protocol, the term “documents” and “written materials” includes written content that may be delivered through audiovisual means, not just in printed or text form. It is also intended to include signage at the various Judicial Council locations.

4. The prioritization of translations must be based on a number of factors as delineated in the Translation Protocol, including need, frequency of use, and usability of the document by its intended user. Plain language documents addressing high-volume case types and processes will be prioritized.
5. Steps taken in the prioritization process will identify “vital documents” as defined under federal and LAP guidelines and should address the most effective manner (from the LEP user’s perspective) of delivering the information in other languages. While full translation of a vital document may often be appropriate, the translation assessment process will include usability and other factors to determine if other strategies for delivering the information to LEP users are more appropriate.
6. While the LAP recommends that translation efforts target up to 5 languages other than English,<sup>2</sup> Judicial Council translations of materials with statewide applicability should target as many languages as feasible, with at minimum enough languages to address the top 5 languages in every jurisdiction in the state. The determination of the number of languages into which a particular document will be translated must include an analysis of factors such as criticality of the document, frequency of use (including use by particular LEP populations), statewide applicability of the information, and others as laid out in the Translation Protocol.
7. Standardized multilingual glossaries are critical to ensuring consistent and high-quality translations. Glossaries should be available not only in all languages for which translations are provided, but also for those languages for which translation resources do not yet permit full document translation. The Translation Advisory Committee will establish mechanisms for obtaining input on glossary terms from language experts such as translators, court interpreters and other experienced linguists.
8. Automatic machine translation programs should not be used as the sole mechanism for translating Judicial Council information and materials. When their use is determined to provide adequate language access where none would otherwise be available, clear disclaimer language must be provided to users to alert them about the lack of quality control with machine translation. These disclaimer messages must be in the user’s primary language, translated by qualified translation providers.

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<sup>2</sup> See definition of “Language threshold,” at LAP, p. 27.

### Identification of Documents for Translation

The Judicial Council has a significant volume of written information and resources it provides to court users and legal professionals, primarily via the [California Courts](#)<sup>3</sup> website. The information provided to the public varies significantly, not only with regard to the intended audience for the documents (such as lawyers, litigants, jurors, court staff, judicial officers, etc.), but also subject matter, scope, and intent of the information provided (e.g., educational, historical, instructional, etc.).

Because the goal of this Translation Protocol is to establish a process for ensuring that LEP court users have meaningful access to the California judicial branch, the protocol focuses on those vital documents<sup>4</sup> regularly encountered by LEP persons accessing Judicial Council information. In particular, this protocol primarily addresses:<sup>5</sup>

- [Judicial Council forms](#);
- The [California Courts Online Self-Help Center](#) and all its informational, instructional and educational written and audiovisual content; and
- Judicial Council educational or outreach communications intended at informing the public of their legal rights and obligations, language access services, and language access complaints.

The Translation Advisory Committee will, at all times, have the responsibility of ensuring that the list of possible written resources to translate is updated regularly to include any additional vital documents under the purview of the Judicial Council that should be considered for translation.

### *Determination of Vital Documents – Factors to Consider*

There are several factors that should be taken into consideration when determining if a particular document or other tool is vital for the purposes of translation:

- The criticality of a document to a particular process (e.g., a summons, which is used when initiating a case and to inform the parties of the commencement of the action and their rights and responsibilities);

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<sup>3</sup> At <http://www.courts.ca.gov/>.

<sup>4</sup> See Appendix A for DOJ and other guidance regarding what constitutes a “vital” document.

<sup>5</sup> Because the Judicial Council itself is not involved in individual cases filed with the courts of the state, this protocol does not address translation issues related to individual case-specific documents.

- The criticality of the information provided to an LEP court user's access to the court system (e.g., information about availability of self-help services, legal relief, court locations, language services available, etc.);
- The criticality of a document from an informational or educational perspective (e.g., instructions to complete a critical form; instructions for complying with a court order);
- The overall frequency of use of a document by all litigants, either because the document is common to all or many case types (e.g., fee waiver forms, which are common to all civil cases and used by a significant number of litigants) or because it is a required document for all filings in a particularly common case type (e.g., petition for divorce/legal separation/nullity, which is a required first step in all divorce filings).
- The frequency of use by self-represented litigants given that, without a lawyer, LEP self-represented litigants face additional obstacles to obtaining access to the court system;
- The frequency of use by LEP litigants in particular, such as in cases that regularly require interpreters (e.g., Special Immigrant Juvenile Status petitions);
- The practicality of translating a form or document that may be, in its original English format, not accessible from a readability perspective or would, when translated, be inaccessible from the perspective of a particular LEP group;
- The intent and effect of the document. Possible questions to consider include:
  - Does the document help court users address safety concerns, such as protection from abuse, harm to a child, or protection for victims or vulnerable adults?
  - Does that document include information regarding possible loss of liberty (incarceration)?
  - Does the document address matters involving children (e.g., paternity, custody and parenting time; removal from home)?
  - Does the document address possible loss of real or personal property (eviction) or loss of a license or other benefit?
- The consistency or longevity of the document—will the document remain consistent for a considerable amount of time? If not, can translation of updates be done in ways that minimize expense?

Given limited resources and the significant expense of translation efforts, it is important to prioritize the translations to be undertaken, in order to ensure that those documents that are most in demand and will be most useful to the LEP population are addressed first. Before significant resources are invested in translation work, the Translation



Advisory Committee should develop a priority ranking of documents for translation (possibly through a translation rubric or other tool), based on the factors discussed.

In addition to utilizing the factors above to assess if a document is “vital” for purposes of translation, DOJ guidance specifically cites the following as vital documents:

- Educational or outreach communications intended to inform the public of their legal rights and obligations,
- Information regarding language access services,
- Language access complaints,
- Written notices of rights and responsibilities,
- Letters that require the LEP person to respond, and
- Information delivered on court websites.

To the extent Judicial Council forms include the type of information and notices addressed in this specific DOJ guidance, they may be considered to be vital documents for purposes of translation. An effective strategy already utilized by the Judicial Council on a number of its forms is to target particularly critical documents that contain important warnings to parties regarding their rights and obligations (e.g., a summons), and translate them in a bilingual format (English and the other language side by side, or one above the other). In the example of the summons, this bilingual format ensures that upon service of the summons, LEP users are immediately informed that the action filed can affect their legal rights and obligations. Existing examples of these strategies are the *Summons – Family Law* ([Form FL-110](#)) and *Summons* ([Form SUM-100](#)).

In certain instances, a document may contain vital information but not be considered vital in its totality, or it may simply be too large to translate entirely. In those situations, it may be more cost-efficient and effective to only translate the critical information, as contemplated by DOJ Guidance. It may also prove more effective to produce shorter texts with the critical information and have those translated.<sup>6</sup> Other strategies to address the provision of critical notices in additional languages or to warn litigants of the importance of a document, as well as the inclusion of notices and locations of available translations, should be explored to expand the accessibility of vital materials in as many languages as feasible.

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<sup>6</sup> For example, the California LAP, which though highly relevant to LEP court users, is over 100 pages. In this situation, the Judicial Council translated only the Executive Summary into the top 10 languages spoken in the state. See Appendix A for a more in-depth discussion of DOJ Guidance in this respect.

Once the initial identification and assessment of documents for translation are completed, the Translation Advisory Committee will create a plan to phase in additional documents and languages over time, especially as new materials are developed. Any additional documents targeted for translation should undergo the evaluation process regarding criticality and appropriateness of translation as set forth in this protocol.

### *Tools for Reaching Low Literacy Populations or Speakers of Oral Languages*

As acknowledged in the Language Access Plan and elsewhere in this protocol, the development of translated materials is not limited to content delivered in printed or written form. In efforts to reach all Californians, including low literacy English speakers, low literacy LEP persons, and speakers of languages with no written component, it is critical that alternative methods of delivering information be instituted. Short, simple, and user-friendly video and audio recordings must be included in all translation efforts as the Judicial Council, in accordance with LAP Recommendation #18, continues its efforts to create standardized videos for court users.

Some strategies utilized by the Judicial Council to provide multilingual information in non-written form range from the simple audio recording of the reading of critical Judicial Council information forms<sup>7</sup> to more in-depth videos on the mediation process in various case types.<sup>8</sup> Local courts have developed audiovisual PowerPoint presentations to assist litigants with completing Judicial Council forms, as well as extensive tutorials and orientation videos.<sup>9</sup> To the extent feasible, the Judicial Council should continue to employ these methods and coordinate with courts already working on these tools, to provide standardized information for statewide use and easily adaptable by all courts. Whenever these tools are developed in plain English, they should be designated for translation and undergo the translation process as delineated in this protocol. Additionally, for videos and other audiovisual information, translation initiatives should incorporate sign language interpreters on the screen to interpret the narration to deaf

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<sup>7</sup> See available recordings of domestic violence information forms at <http://www.courts.ca.gov/1271.htm#acc15131> and Spanish at <http://www.courts.ca.gov/1271.htm#acc15131?rdeLocaleAttr=es>.

<sup>8</sup> AT <http://www.courts.ca.gov/20614.htm>.

<sup>9</sup> Contra Costa Superior Court's Virtual Self-Help Center has these tools and more. See for e.g., <http://basic.cc-courthelp.org/index.cfm?fuseaction=Page.viewPage&pageId=3138&parentID=2999&stopRedirect=1>

and hard of hearing viewers. Any interpreters used for this purpose should be certified by the Judicial Council and qualified to interpret the material in question.<sup>10</sup>

### Determination of Languages for Translation

Once written and audiovisual tools are identified for translation, the Judicial Council must determine the languages into which materials should be translated. The LAP addresses the language threshold for translations as “[i]n English and up to five other languages, based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations and other entities working with LEP populations.”<sup>11</sup>

In the case of the Judicial Council, which provides materials and forms for statewide use, the languages for translations should, at minimum, include the top 5 languages other than English spoken in every county in the state, which in practicality may mean translating beyond the top 5 languages other than English statewide. The *Language Need and Interpreter Use Study*,<sup>12</sup> carried out by the Judicial Council every 5 years, can provide the demographic information needed to determine the languages that meet an established threshold for translation. In addition, efforts undertaken by the Judicial Council, in response to LAP recommendations addressing expansion of data sources to more accurately identify changing language needs throughout the state,<sup>13</sup> will provide the Translation Advisory Committee information regarding emerging trends to determine if the languages delineated for translation should be updated and modified with more frequency than the five-year period in between language need and interpreter use studies.

These language threshold numbers are minimum requirements only; it is the intent of this protocol that, whenever possible, as many languages as practicable be included, particularly for critical documents and information. To that end, the Translation Advisory Committee will coordinate with the above-referenced implementation efforts under the LAP regarding the improvement and augmentation of data collection efforts to determine whether certain critical materials should be translated into additional

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<sup>10</sup> Best practices in the production of videos for use by the general public, including any special considerations for the use of non-spoken language professionals, should be followed.

<sup>11</sup> [LAP](#) at 27.

<sup>12</sup> The most recent study was concluded in 2015, and is available at <http://www.courts.ca.gov/documents/lr-2015-Language-Need-and-Interpreter-Use-Study.pdf>.

<sup>13</sup> See LAP Recommendations #6 and #7, addressing data collection expansion and the need to look at sources of data beyond the more traditional U.S. Census and ACS data.

languages.<sup>14</sup> Where translation costs become prohibitive, alternatives, such as those discussed elsewhere in the Translation Protocol and Translation Action Plan,<sup>15</sup> should be explored to provide at least critical information and informational resources in more languages.

### Qualifications of Translation Providers

As the LAP reiterates throughout its provisions, to ensure meaningful language access the Judicial Council and the courts must provide high-quality language access services. Therefore, all Judicial Council translations must be performed by highly qualified translators.

The LAP recommends that translators be accredited by the American Translators Association (ATA)<sup>16</sup> and have a court or legal specialization; in the alternative, translators must have been determined to be qualified based on experience, education, and references.<sup>17</sup> Generally, when not ATA certified, translators should possess a degree or certificate from an accredited university (if in the USA), or the equivalent (in a foreign country) in translation and/or linguistic studies, or equivalent experience as a translator.

Key factors to consider when choosing a qualified translator include:<sup>18</sup>

- Language match: Ensure the translator's language match is the appropriate one required for the job. ATA certification, for example, is provided not only for a particular language pair (such as English and Spanish) but also in a particular direction, such as *from* English *to* Spanish (or vice versa, or both). The translator chosen should be certified or otherwise qualified in both the relevant language pair and the appropriate direction.

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<sup>14</sup> The Judicial Council should consider enhancing the scope of the *Language Need and Interpreter Use Study* to capture data that may be particularly useful in making translation decisions.

<sup>15</sup> A Translation Action Plan for prioritization of translations during Phases 1 and 2 of the LAP Implementation has been created as a complement to this Translation Protocol. It includes overall document categories for prioritization and strategies for creating cost-efficient and effective translations.

<sup>16</sup> At [www.atanet.org](http://www.atanet.org).

<sup>17</sup> Though a credentialed court interpreter may also be a qualified translator, the skills required for competency in translation are very different from those required of interpreters. Therefore, not all certified interpreters are qualified to perform translation of legal documents, and therefore should only be used as translators when also qualified, through education and/or experience, to translate.

<sup>18</sup> See discussion in [Guide to Translation of Legal Materials](#), National Center for State Courts (April 2011).

- **Level of qualification:** The translator's level of qualification, education, experience and specialization should be carefully examined given the level of complexity of Judicial Council forms, and the specialized nature of the information provided in Judicial Council informational and educational materials and tools.
- **Membership in a professional body:** As recommended by the LAP, translators used should be certified by the American Translators Association (ATA), which has a translation certification exam (currently available in more than 25 language pairs), Code of Ethics, continuing education requirements, and disciplinary power over its members. For languages for which there are no certified translators, the Judicial Council should employ a translator who is an ATA member, and has therefore agreed to adhere to the ATA's Code of Ethics.
- **Access to translation technology tools:** Most professional translators have advanced translation software and technologies that enable them to work more efficiently and effectively. Translation memory software, for example, uses stored memory to reuse already-translated content in subsequent translations, obviating the need to re-translate the same text over and over again and making translations more standardized, efficient, and cost-effective.

In addition, qualified translation providers should incorporate into their services a quality assurance process and review by a second, similarly certified and qualified translator. It is necessary, then, that qualifications of both primary and secondary translators be closely examined before entering into a translation contract.

### **Consideration of Translation Costs**

Translation work consists of a great deal more than the standard "per word" charge (or "per hour" depending on the translation provider), which itself can vary widely between translators and languages to be translated. In addition to charges per word of original text or per hour of work, other common costs to expect as part of a translation contract (or to ensure are included in the quoted "per word" or "per hour" charge) include:

- **Editing**, including tailoring language to readers; ensuring smoothness of text; checking syntax and idioms, style, spelling, typography, and punctuation; and copyediting and proofreading for consistency.
- **Reviewing**, which ensures that the translated text accurately reflects the original text, meets the readability criteria appropriate for the text in question, and is

culturally competent. The reviewer must compare the source text with the translation, making corrections and editorial improvements where necessary.

- Proofreading, which is the final check for any typographical, spelling, or other errors. It does not address the accuracy of the translation, which should already be complete and accurate.
- Formatting, which results in uniformity in the presentation, organization and arrangement of the document, as well as its layout and style. Formatting may also include the redesign of a document so that a bilingual format can be followed, as opposed to the more standard monolingual format.<sup>19</sup>

For translation of texts that are delivered via tools other than print or web, such as audio scripts or videos, some of these costs may be different. For example, whereas formatting of a document may not be critical for a video script, the translation vendor may have to assist with adaptation of the captions, fitting the images/video provided, particularly for languages for which the Judicial Council does not already have staff that can assist with those steps. Similarly, some translation vendors may offer voice talent services for recording of audio or video voiceover in the various languages into which the material has been translated.

### Translation Glossaries

Translation, like interpretation, is not an exact science. In their work, translators focus primarily on translating the meaning of a given text, not on a word-by-word rendition of content. In addition, different translators may prefer different word choices for their translations. Having inconsistent terminology used on Judicial Council forms and materials can be very confusing for consumers of court information, whether in English or in any other language. It is essential that court users, already facing an unfamiliar and

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<sup>19</sup> As briefly discussed above, a bilingual (or multilingual) format displays the English and the non-English translation side by side or one above the other on the document. An example of a bilingual format (English/Spanish) is the *Summons – Family Law* ([Form FL-110](#)). With monolingual formatting, one language appears on the document; the document is essentially a “mirror” to the English. Bilingual formats allow all participants to have a clear understanding of the information, since the same form contains all the same information. Other advantages: It allows English-speaking staff to assist LEP persons with form completion; providing the text in English next to the foreign language text reduces the risk of using a form in error and increases the likelihood that the form will be filled out in English. However, bilingual formatting presents challenges with formatting of the original English document, as space for the English text is severely reduced and the form can become overwhelming and confusing with text in various languages.

complex court system, be provided with user-friendly, understandable and consistent information throughout their encounter with the system.

In order to ensure that all the terminology used in Judicial Council translations is standardized and consistent, the Judicial Council should develop and maintain glossaries in all languages supported by the Judicial Council, including plain English. The Council has already developed a plain language [English](#) glossary and an [English-Spanish glossary](#) that provide consistent legal terminology in English and Spanish. Other possible current sources of standardized legal terminology that may form the basis for glossaries in other target languages include the Superior Court of Sacramento's [12 foreign language glossaries](#) and the NCSC's [legal terminology glossaries in four languages](#) on its public website. Several state court interpreter programs have also developed legal glossaries in a number of languages. In addition to creating glossaries for those languages addressed by Judicial Council translations, the Judicial Council should strive to create glossaries in other languages in order to provide them as a resource to speakers of those languages. They should also be available to courts that may need to target those languages for additional translation to address local LEP court user needs so that they may benefit from standardization and consistency.

As detailed below in the steps of the translation process, the Judicial Council should make available any existing glossaries to its translation vendors and require those glossaries to be used. Where glossaries have not yet been developed, part of the translation contract should include the requirement that translation agencies and translators build legal terminology glossaries. Translation contracts should clearly specify that the glossaries are to be the property of the Judicial Council and made freely available to the public, the courts throughout the state, and all other translation vendors employed by the Judicial Council.

The work of glossary development and maintenance involves close collaboration with translation contractors to continually add to and refine the glossary based on new documents translated. The Translation Advisory Committee will develop a process for obtaining feedback and suggestions from court interpreters in the field on changes and improvements to the various glossaries. Similarly, subject matter experts, bilingual in the various languages targeted by the Council, should be engaged to assist in legal review of translated terminology and to ensure accuracy of developed glossaries.

## Machine Translation

Machine translation, the process of translation of text by a computer, with no human involvement, is increasingly in use by businesses, government agencies, courts, and others to make content (primarily web content) accessible in other languages. Although machine translations can be fast and cost-effective, they often include inaccuracies, especially with regard to complex text such as legal content. Not only are words and phrases mistranslated, the systems and rules used by the technology cannot solve ambiguity or translate nuances since they are unable to utilize experience and cultural or content expertise in the manner that a translator can. In the legal system, these translation errors can have dire consequences for LEP persons.

Machine translation can help with an initial translation of text, to expedite the process, as long as a qualified human translator then carefully and fully reviews and edits the translation as needed. Where machine translation features are used on the Judicial Council website to give LEP users multi-lingual access to information beyond the languages the Judicial Council is able to support through the work of qualified translation providers, users of the machine translation features should be notified of the possibility for errors and misinformation, as a result. Disclaimer language regarding the potential for mistranslation when using machine translation should be available in the user's primary language.

## The Translation Process<sup>20</sup>

### Step 1: Review and Prepare Document Prior to Translation

Before a document is sent out for translation, the English version must itself be of high quality. This means the document must be:

- Reviewed for grammatical and typographical issues, having undergone the type of rigorous copyediting generally performed for Judicial Council publications;
- Written in plain language,<sup>21</sup> with no or minimal (if necessary) use of legalese, in the active voice, with simple sentences, short paragraphs, no jargon, no abbreviations, and no use of acronyms.
- Within readability goals for the intended population, which for instructional and educational materials should be aimed at a fifth-grade reading level.

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<sup>20</sup> See Appendix B for an overview of the translation process.

<sup>21</sup> See Appendix D for a discussion of plain language principles.



- Formatted as to allow for variances in other languages, such as longer text (many languages can expand the required space for text by up to 30% for the same content as in English), direction of text, etc.
- Checked for the use of consistent terminology within the document and consistency with other documents in the same or related case types.
- Written with language that is general enough that it applies across courts and counties, avoiding room numbers, locations, office designations, or other specific language that changes from court to court. (This is particularly important for documents that the Judicial Council intends to provide as templates or as samples for local court adaptation.)
- Culturally competent, avoiding idiomatic expressions or colloquialisms (expressions that do not have the same meaning in other languages and cultures). If certain text is unavoidable, then special consideration should be given to finding the best possible translation.

In addition to ensuring that the English document to be translated is of a high quality, there are other steps in the preparation of the document that can assist the translation process, particularly in terms of identifying efficiencies and cost savings. There may be similar documents for which translation is needed that have only slight differences. Repetitive language can be streamlined so that it can be translated only once. For example, language that appears on most Judicial Council forms and has already been translated can be provided to the translator (e.g., oaths, signature lines, warnings, etc.). Additionally, repetitive language on form sets (such as divorce forms) need only be translated once. Identification of these instances, before submitting a document or set of documents for translations, will contribute to making the translation work most cost-effective.

As the Judicial Council expands its efforts to develop information in alternative formats to increase accessibility, such as audio or video recordings of generally applicable information or other materials, particular care must be taken in the development of the source English script. Script preparation and translation will have to consider cultural and linguistic elements that might affect how the spoken word should be presented. For example, a spoken word presentation might be in a different register than a form or an information sheet.

## **Step 2. Select and Contract with Translation Vendor**

As discussed above and recommended in the LAP, the Judicial Council should select a professional translator, certified by the American Translators Association in the

language(s) in which they work, with a court or legal specialization. For languages that are less common or for which there is a smaller market of professionals, a translator may demonstrate competence through experience, education, and references.

When selecting and contracting with a translation agency or professional translator, the agency or translator should agree to provide the initial translation and commit to using any existing glossaries (or develop new ones) as described above, in order to ensure consistency and standardization of translated terms. The translation agency or translator should also commit to having a second independent professional translator review the translation before delivering it to the Judicial Council. The qualifications of the second translator should meet the requirements established in this protocol for all translators. This secondary translator should also perform a cultural competency review for the material being translated, to ensure it is appropriate for the intended LEP population(s). After delivery to the Judicial Council, the agency or translator should be willing to make corrections based on any concerns regarding the communication of legal concepts and any errors found in the work of the translator or agency.

To best ensure the quality, accuracy and consistency of translations, the Judicial Council should provide the translator or translation vendor with the following:

- Background on the purpose of the document, the audience, and other relevant information,
- Any existing legal terminology glossaries already developed by the Judicial Council,
- Instructions for consistent naming and identification of documents, so that all translated documents include a footer with the name of the document, the date of translation, and the language of translation, and
- A contact person to whom to direct inquiries regarding the translation process, product, or subject matter questions regarding the English source material.

Depending on the material to be translated, the Judicial Council may request that the translation contract include document formatting. If so, the contractor must adhere to Judicial Council formatting standards and the final copy of the document must be housed with, and be the property of, the Judicial Council. If the translation vendor is approached by another entity requesting use of the material, the vendor must refer that entity to the Judicial Council for permission to utilize the content and delineation of how material may be used and/or modified, if at all.

### **Step 3. Legal Review of Translation**

Once the final translation is received from the translation vendor, the Judicial Council should conduct a legal review of the translation to ensure that all legal concepts have been accurately communicated and no meaning has been lost in the translation.

Although highly qualified translators with legal or court specialization may be able to adequately produce technical translations, professional translators are often not attorneys and may miss legal nuances or distinctions that could significantly alter the meaning of a document, especially court forms, which can be highly technical.

Therefore, it is critical that this additional review process be built in to any translation projects. Attorneys on staff with the Judicial Council, bilingual and with near-native fluency in the non-English language, may conduct this legal review. If no staff is available for this task, the Judicial Council may have to hire an independent contractor to conduct the review.

If errors are found through the legal review process, the Judicial Council will send the edited documents to the translation vendor for correction and finalization. As detailed above in the discussion on selecting and contracting with translation providers, this additional step should be part of any translation contract.

### **Step 4. Finalization of Translated Documents by the Judicial Council**

If formatting of the translation was not part of the deliverable by the translation provider, the Judicial Council's Editing and Graphics Group should format and finalize the documents for posting and distribution. Documents that will be made available to the public by the Judicial Council should be formatted according to the standards of the agency. As discussed earlier, formatting can play a critical role in overall readability of a document, so any formatting or graphics completed outside of the work of the translation provider should be reviewed again in final format by a near-native speaker of the language to ensure that readability has been maintained.

### **Step 5. Posting and Dissemination of Translated Documents**

When a document is formally finalized, it may be made publicly available on the Judicial Council's website and/or on local court websites. A document may also be directly provided to the local courts, justice partners, and community-based organizations throughout the state, depending on the type of document and its intended use.

As provided for in several LAP recommendations, it is critical that there be communication regarding the availability of multilingual information and the

dissemination of materials aimed at LEP court users. Recommendation #38 requires Judicial Council staff to post on the California Courts website written translations of forms and other materials for the public as they become available; Recommendation #54 recommends the use of multilingual videos and audio recordings in court outreach efforts; and Recommendation #67 recommends the creation of a statewide repository of language access resources.

#### **Step 6. Monitoring of Existing Translations, Updates Needed, and Identification of Additional Materials for Translation**

Statutes, court rules, policies and procedures change, as do court forms, instructions and informational guides. While minor edits are generally easy to make on English documents, those changes must be reflected on translated documents as well. Edits and updates to existing translations should be completed by qualified translators, edited and reviewed as previously described. While typically the fees charged for such updates are much lower than the original translation, it is important to budget for these costs so that translated forms and documents continue to be made available to LEP court users.

The Translation Advisory Committee will track these needed updates and ensure completion, preferably at the same time or soon after changes are made to the English source document. In order for updates to occur in a timely manner, the Translation Advisory Committee will have to actively coordinate internally with the various Judicial Council departments and committees in charge of developing forms and other educational information.

In addition to ensuring all existing translations are maintained and up to date, the Translation Advisory Committee will apply an approved evaluation rubric to identify additional vital documents for translation as they are developed in English. Any database or other system for maintaining records of translations shall be routinely updated to reflect latest document versions, languages translated, and prospective translations to be undertaken. The database should contain the following information about each document:

- Name
- Date of creation of original document
- Author/Source of document
- Current location/URL for document
- Date of translation/language of translation
- Date of most recent update
- Translator/Reviewer
- Legal Reviewer, if any

- Any date-sensitive information (i.e., a particular piece of legislation or reference that may change over time)

To ensure that the translation efforts of the Judicial Council result in actual improvements in language access for LEP users throughout the state, any monitoring efforts should include periodic reviews of the documents and their usage. Continued review of the usability and accessibility of translated documents should be conducted by holding focus groups of LEP court users, community-based agencies, and justice partners and through surveys of courts and other providers. This data will help inform further translation efforts by the Council.

### **Posting and Dissemination of Translated Materials**

Once print and audio-visual materials are translated and finalized, the Judicial Council will make them available to all local courts, justice partners and the public at large. Those materials appropriate for inclusion in the online living tool kit will be immediately posted in any of the tool kit sections for which they may be relevant. To the extent the Judicial Council establishes other online repositories of translated information and resources, multilingual materials will also be shared and made available on those repositories as early as feasible.

Judicial Council staff will notify local courts and justice partners of the availability of these translations via any established avenues of communication, including existing listservs. Communications to courts and justice partners will encourage those agencies and organizations to share the materials with community service providers in their area and ensure dissemination of the information to LEP court users and the California public at large.

### **Contact Information for Translation Requests and Issues**

To request a translation, to report errors in existing translations, and for translation policy questions, contact the Judicial Council's Language Access Coordinator. Complaints related to existing Judicial Council translations or failure by the Judicial Council to provide translations of vital documents may be submitted using the Complaint Form and Process available at \_\_\_\_\_ or by requesting the Complaint Form from the Language Access Coordinator at the contact information below.

Judicial Council of California  
455 Golden Gate Avenue  
San Francisco, CA 94102  
Attn: Language Access Coordinator

## Appendix A: Guidance on What Constitutes “Vital” Documents

The Department of Justice (DOJ) has issued guidance on the translation of documents by recipients of federal funds (which includes courts and the Judicial Council). Under DOJ guidance, written materials that are considered vital should be translated into the non-English language of each regularly encountered LEP group eligible to be served or likely to be affected by the program or activity, in this case the Judicial Council. Per the DOJ, a document is vital if it contains information that is critical for obtaining services or providing awareness of rights, or is required by law.<sup>22</sup> Some examples of vital documents under DOJ guidance applicable to the Judicial Council context include: notices of rights; notices advising LEP persons of the availability of free language services; complaint forms; and letters or notices that require a response from the LEP court user. DOJ guidance discusses the factors to take into account when deciding if a particular document is “vital” for purposes of translation, with the overall consideration that vital documents are those that ensure an LEP person has “meaningful access” to a particular program or service.<sup>23</sup>

When documents contain both vital and non-vital information, such as documents that are very large, or when a document is sent out to the general public and cannot reasonably be translated into many languages, DOJ guidance provides that it may be reasonable to simply translate the vital portion of the information. Programs may also decide to provide multilingual information regarding where a LEP person might obtain an interpretation or translation of the full document.<sup>24</sup>

The [\*ABA Standards for Providing Language Access in Courts\*](#) (ABA Standards) provide best practices for determining whether a document is vital for purposes of translation. The ABA Standards divide vital documents into 3 categories: (1) court information, (2) court forms, and (3) individualized documents. Since the Judicial Council does not deal with case-specific information, as cases are handled at the local court level, only the first two categories are applicable for purposes of this Translation Protocol. Local courts developing their own translation protocols will want to address the handling of case-specific documents, standards for translation of those materials, and admissibility of the translations per statutory and rule of court requirements.

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<sup>22</sup> *Commonly Asked Questions and Answers Regarding Limited English Proficient (LEP) Individuals*, at <http://www.lep.gov/faqs/faqs.html#OneQ9>.

<sup>23</sup> 67 Fed. Reg. 41455, 41463 (June 18, 2002).

<sup>24</sup> *Ibid.*

Under the ABA Standards, written information about court services or programs, including the use of written information to provide audio or video information, is critical to meaningful access for LEP court users. Judicial Council web and printed materials and videos, primarily posted in the Online Self-Help Center and also provided in other areas of the California Courts site, provide information for court users about court processes, rights, responsibilities, and how to seek relief. The ABA Standards go on to list educational guides, self-help materials, and instructions as documents that should be translated and widely distributed. Other documents to prioritize are those related to the protection and safety of a litigant or a child. A court's website content, to the extent it is informational in nature, should be considered for translation as well and include plans for regular updates and multilingual content development.

Court forms, per the ABA Standards, are vital to accessing the courts and protecting rights. The Standards discuss pleading forms used to initiate or respond to a case as vital. Although discussed in the context of case-specific documents, the ABA Standards also address court orders as vital documents, critical to enforceability of court orders and the administration of justice. While case-specific documents are not under the purview of this protocol, Judicial Council forms, including court order forms, are, and would likely be considered, vital documents for purposes of translation. Local courts would then be responsible for translating any additional orders and findings not printed on the Judicial Council form itself.

## **Appendix B – Overview of the Translation Process**

### **Step 1: Review and Prepare Document Prior to Translation**

When submitting a document for translation, the English version must be of high quality. The document must be: (1) copyedited and free of errors; (2) in plain language; (3) accessible from a readability perspective; (4) properly formatted; (5) consistent with regard to terminology and other related documents; and (6) culturally competent.

### **Step 2. Select and Contract with Translation Vendor**

The Judicial Council should select a professional translator, certified by the American Translators Association in the language(s) in which they work with a court or legal specialization. For languages that are less common or for which there is a smaller market of professionals, a translator may demonstrate competence through experience, education, and references. The contract with the translation provider should include: (1) initial translation by a qualified translator; (2) use of a glossary of common terms; (3) review by a second independent professional translator; and (4) formatting, if requested.

### **Step 3. Legal Review of Translation**

Once the final translation is received from the translation provider, the Judicial Council should conduct a legal review of the translation through a bilingual attorney, or similarly qualified subject matter expert, to ensure that all legal concepts have been accurately communicated and no meaning has been lost in the translation.

### **Step 4. Finalization of Translated Documents by the Judicial Council**

If formatting of the translation was not part of the deliverable by the translation provider, the Judicial Council's Editing and Graphics Group should format and finalize the documents for posting and distribution.

### **Step 5. Posting and Dissemination of Translated Documents**

When a document is formally finalized, it will be made publicly available on the Judicial Council's website and/or on local court websites. It may also be directly provided to the local courts, justice partners, and community-based organizations throughout the state, depending on the type of document and its intended use.

### **Step 6. Monitoring of Existing Translations, Updates Needed, and Identification of Additional Materials for Translation**

The Translation Advisory Committee will track any needed updates to translated forms and materials in a timely fashion. In addition to ensuring that all existing translations are maintained and up to date, the Translation Advisory Committee will apply an approved evaluation rubric to identify vital documents as needed and as translation resources become available.



## Appendix C: Glossary of Terms

**Bilingual or Multilingual Format**—Formatting a translated document so that the English and the foreign language text are provided together on one document. The non-English translation is positioned directly under or after each English word, sentence or paragraph, or side by side with the English content.

**Local Court Forms**—Forms created by a superior court specifically for use in that court, when a Judicial Council mandatory form does not exist or a court’s procedures require additional information not provided on the statewide form.

**Mandatory Judicial Council Forms**—Judicial Council forms that have been adopted for mandatory statewide use, as opposed to optional forms, which, as their name implies, are statewide forms that may be used by court users but are not required as the only means for filing a particular pleading.

**Monolingual Format**—Developing the translated version using the same format, font and size as the original English document (a “mirror image”).

**Optional Judicial Council Forms**—Judicial Council forms that have been approved for optional statewide use, as opposed to mandatory forms. As their name implies, optional forms may be used by court users but are not required as the only means for filing a particular pleading.

**INFO Court Forms**—Judicial Council forms provided for informational purposes only. They describe a particular process to the court user, usually applicable to a particular court proceeding. Examples are [FL-107-INFO](#), describing the overall process of a divorce or legal separation in California, [DV-500-INFO](#), describing domestic violence restraining orders, and many more. They are usually designated by the suffix “INFO”.

## Appendix D: Plain Language

Plain language is communication that the intended audience can understand the first time they read or hear it. Plain language principles include:

- Text at the reading level of the average user
- Useful headings
- Addressing the reader directly (e.g., “you”)
- Use of the active voice
- Short, simple sentences
- No excess words
- Concrete, familiar words
- Use of “must” to express requirements; avoiding “shall”
- Consistent, accurate punctuation
- Short paragraphs and bullet lists
- Placing words carefully (avoiding large gaps between the subject, verb and object; putting exceptions last; placing modifiers correctly)
- Avoiding foreign words, jargon, acronyms, colloquialisms, idioms, and abbreviations
- Saving longer or complex words for when they are essential
- Presenting information intuitively
- Testing of draft document on sample users

Content can be checked for readability to determine if the material is written at a level that the intended audience can understand. Microsoft Word allows for an author to check a document using its readability testing tools, including the Flesch and Flesch-Kincaid tests. Accessing these tools may vary between different versions of Microsoft Word, including the Mac versus PC versions. To use these tools, users can look for preferences or options related to spelling and grammar, and make sure the feature called “Show readability statistics” is enabled. After the grammar and spell check are completed, a screen titled “Readability Statistics” will appear, giving the author information regarding the accessibility of the material. Currently, web material aimed at self-represented litigants in California on the Online Self-Help Center is aimed at a fifth-grade reading level, to ensure that most audiences in the state can fully understand the material.

For more information and tools for plain language writing, see *The Plain Language Act of 2010*, H.R. 946, 111<sup>th</sup> Cong. (2010). The Act is applicable to executive branch federal agencies, but the Act and the [www.plainlanguage.gov](http://www.plainlanguage.gov) site provide information regarding the usefulness and movement toward plain language documents.

In the next two pages, see samples of Judicial Council form DV-110 before plain language translation and after plain language translation, as prepared by Transcend.

**Before:**

|  |                       |
|--|-----------------------|
| PERSON SEEKING ORDER (name):<br>_____    | CASE NUMBER:<br>_____ |
| PERSON TO BE RESTRAINED (name):<br>_____ |                       |

**NOTICE REGARDING ENFORCEMENT OF THIS ORDER**

This order is effective when made. It is enforceable anywhere in California by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If proof of service on the restrained person has not been received, and the restrained person was not present at the court hearing, the law enforcement agency shall advise the restrained person of the terms of the order and then shall enforce it.

Violation of this restraining order may be punished as a contempt of court; a misdemeanor, punishable by one year in jail, a \$1,000 fine, or both; or a felony. Taking or concealing a child in violation of this order may be a felony and punishable by confinement in state prison, a fine, or both.

This order is enforceable in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an order of that jurisdiction. Violations of this order are subject to state and federal criminal penalties.

If you travel across state or tribal boundaries with the intent to violate the order (including committing a crime of violence causing bodily injury), you may be convicted of a federal offense under VAWA (section 2261(a)(1)). You may also be convicted of a federal offense if you cause the protected person to cross a state or tribal boundary for this purpose (section 2262(a)(2)).

**NOTICE REGARDING FIREARMS**

**Any person subject to a restraining order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. At the hearing on this matter, the court will order that the person subject to these orders shall relinquish any firearms and not own or possess or purchase or receive or attempt to purchase or receive any firearms during the period of the restraining order. Under federal law, the issuance of a restraining order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. A violation of this prohibition is a separate federal crime.**

**WHAT FORMS YOU SHOULD FILE IN RESPONSE AND WHEN TO FILE THEM**

You do not have to pay any fee to file responsive declarations in response to this *Order to Show Cause* (including a completed *Income and Expense Declaration* or *Financial Statement (Simplified)*) that will show your finances). The original of the *Responsive Declaration* must be filed with the court and a copy served on the other party at least ten court days before the hearing date (unless the judge has shortened time; see item 13 above in this *Order to Show Cause and Temporary Restraining Order*).

**NOTICE REGARDING CHILD SUPPORT**

If you have children from this relationship, the court is required to order payment of child support based on the income of both parents. The amount of child support may be large and normally continues until the child is 18. You should supply the court with information about your finances. Otherwise the child support order will be made without your input.

**CLERK'S CERTIFICATE**

[SEAL]

I certify that the foregoing *Order to Show Cause and Temporary Restraining Order (CLETS)* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

*RGL: 12, Word Count: 584*

**After:**

Protected person's name: \_\_\_\_\_

Case Number: \_\_\_\_\_

- 17 Warning!** If you have been served with a restraining order, you must obey all orders. Read the Notices on this page carefully.

- It is a felony to take or hide a child against this order. You can go to prison and/or pay a fine.
- If you travel to another state or to tribal lands, or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime under the Violence Against Women Act.



**18 Guns**



**If ⑨ is checked, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get a gun until this order ends.**

**If you do, you can go to jail and pay a \$1,000 fine.**

**If the court approves the restraining orders at a hearing, you must sell to a gun dealer or turn in to police any guns, firearms, or ammunition that you have or control. The judge will ask you for proof that you did so.**

**If you do not obey this order, you can be charged with a crime.**

**19 What to do after you have been served with a Restraining Order:**

- Obey all the orders.
- If you want to answer, fill out Form FL-820. Take it to the court clerk with the forms listed in ⑳b below.
- File FL-820 and have all papers served on the protected person by the date indicated in ⑯ of this form.
- You do not have to pay to file Form FL-820 or other forms needed to answer.
- At the hearing, tell the judge if you agree to or disagree with the orders requested.

**20 Child Custody, Visitation, and Child Support:**

- a. Child Custody and Visitation: If you do not go to the hearing, the judge can make custody and visitation orders for your children without hearing your side.
- b. Child Support: The judge can order child support based on the income of both parents. The judge can also have that support taken directly from your paycheck. Child support can be a lot of money and usually you have to pay until the child is 18. File and serve a *Financial Statement* (FL-155) or an *Income and Expense Declaration* (FL-150) so the judge will have information about your finances. Otherwise, the court will make support orders without hearing your side.

|                            |     |
|----------------------------|-----|
| Flesch-Kincaid Grade Level | 7.6 |
| Word Count                 | 389 |

## Appendix E: Translation Resources

[ABA Standards for Language Access in Courts](#), American Bar Association (Feb. 2012).

[Equal Access as it Relates to Interpretation and Translation Services](#), National Association of Judiciary Interpreters and Translators (NAJIT) (May 2006).

[Guide to Translation of Legal Materials](#), National Center for State Courts (NCSC) (April 2011).

[Language Access Planning and Technical Assistance Tools for Courts](#), U.S. DOJ (Feb. 2014).

[PlainLanguage.Gov](#)

[Translation Getting it Right: A guide to buying translation](#), American Translators Association (ATA) (2011).

[Useful Resources and Links About Court and Legal Interpreting and Translation](#), with links to several state and local translator associations, educational institutions, and more.

## **Attachment 2**

## Translation Action Plan

This Translation Action Plan is intended to complement the Judicial Council's Translation Protocol and provide recommendations as to the prioritization of materials to be translated by the Judicial Council in Phases 1 and 2 of LAP implementation. This action plan utilizes the policies and guidance established in the Translation Protocol with regard to the identification of documents for translation, as well as recommendation plans for the translation process and the dissemination of final materials.<sup>1</sup>

### 1. Identification and prioritization of materials to be translated

As delineated in the Translation Protocol, the Judicial Council should make a case-by-case determination as to the written information it provides for the public (via court forms, informational and educational materials, website, etc.) to assess if the materials provided constitute "vital documents" for purposes of translation. The Protocol discusses a number of factors to be considered when making that determination.<sup>2</sup> Additionally, NCSC is in the process of developing an interactive translation analysis tool<sup>3</sup> that will assist the Judicial Council and individual courts with decisions regarding translations. The online tool will have functionality to estimate language needs and document filings by case type; rank documents based on a number of factors to help assess their viability and prioritization for translation; and estimate costs for translation of actual documents based on language, number of words, and formatting or other desired features.

The materials that may be selected for translation vary widely, from Judicial Council forms to informational pamphlets and brochures, from video scripts to web-based information. Any analysis for purposes of translation should take into account the statewide applicability, usability (including focus groups and user testing), and accessibility of the information provided, to determine whether translation of the document itself is the most effective and efficient way of providing access for LEP court users to the information contained therein. Monitoring efforts should also include periodic reviews of the actual usage of translated documents by LEP court users, in order to ensure that the Judicial Council's translation efforts are effective in improving language access throughout the state. This analysis will help inform future translation initiatives

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<sup>1</sup> The materials recommended for translation in this action plan do not include those already slated for development and translation under the Judicial Council's contract with the NCSC, such as the notice of availability of language services and the complaint form and procedure.

<sup>2</sup> See Translation Protocol (in DRAFT form) pp. 3-4.

<sup>3</sup> The Translation Analysis Tool is currently in draft form but will be finalized as projected under the NCSC contract.



by the Council, as well as strategies for dissemination and community education regarding the availability of translations.

A careful determination of the actual usefulness of translated forms should be conducted. Consideration should be given to the overall complexity of the form, even in the original English, and/or whether legal concepts included may have equivalents in other languages. If possible, the analysis should also consider literacy levels in the non-English language of the LEP court users who would be using the form. While having a particular form translated in 10 languages may appear to provide equal access to speakers of those languages, if the forms are particularly inaccessible in those languages or to particular LEP court users, the translation of forms may not help to ensure or address actual access. Therefore, where forms are proposed for translation in this action plan, plain language forms are addressed as a priority. For those critical forms that are not (yet) in plain language, alternative strategies for providing language access to the form are suggested.

For example, the following approaches can be used, either alone or combined, in order to ensure LEP court users' ability to access the content on a form that is otherwise determined to be impractical to translate due to its complexity, cost, or lack of usability:

- Bilingual formatting for documents and forms, where key information is provided side-by-side in 2 or more languages. This approach can be particularly efficient for limiting translation to important warnings and notices appearing on forms.<sup>4</sup>
- Translating instructions (whether separate from the forms, or on the forms themselves as shown in [Appendix A](#)). Providing multilingual instructions on an English form may be more effective from both a language access and cost-effectiveness standpoint.
- Creating plain language multilingual (including English) summaries of the most critical portions of court forms, so users can understand the form's content in plain language. Any efforts to provide summary or explanatory language directly on, or explicitly related to, a court form should clearly specify that where the language used in the summary or explanation is different from the form, the language and terms on the form are controlling; summaries and explanations are provided as an aid but are not intended to replace or alter the meaning of the form itself.

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<sup>4</sup> As discussed in the Translation Protocol, the use of bilingual or multilingual formatting may also be an effective translation strategy generally, for any form or document lending itself to the format. For example, translations of plain language forms and court orders may be determined to be more accessible by LEP users when a bilingual format is utilized and users can see the content of the form in the original English and their primary language side-by-side. In the summons forms for which it is currently applied, the bilingual format is applied to (non-plain language) forms that provide important warnings to court users about their case.

- Use of multilingual “Babel notices,” or tag lines, which consist of a brief important message or short description of a document translated on the same page into several languages. A page with Babel notices to alert court users to the significance of the document can be attached to the English document (for example, a summons form or a court order), alerting users in their primary language of the content or importance of the document and where to seek help or additional information.<sup>5</sup>
- Creation of [Quick Response \(QR\) codes](#). QR codes can be placed on forms, Babel notices, and other materials to allow users to be directed to a webpage or online document with translated information. Informational documents, even forms, can be formatted to allow for inclusion by local courts of QR Codes or other localized information for securing language access services and other key instructions.
- Development of document completion and document assembly programs, discussed in more detail below.<sup>6</sup> These programs allow users to complete court forms by answering questions (which can be provided in their primary language) without having to directly interact with the forms themselves.

As materials are prioritized, a determination will also have to be made as to the languages that will be targeted for translation. Some of the more vital documents identified may have already been translated into Spanish and, in fewer cases, into other languages. In those situations and as long as translation resources are limited, the determination to target additional languages for translation will have to include an assessment of the accessibility (from a user-friendly perspective) of the document, the frequency of document use, and the criticality of the document, to determine whether it should be prioritized for translation into additional languages over initial translation efforts for other materials that currently exist in English only (or over creating new simplified materials that may be more accessible to all users generally).<sup>7</sup>

## Recommendations for Prioritization of Translation in Phases 1 and 2

Based on the factors listed in the Translation Protocol and the analysis tool, it is recommended that among the documents to be translated, the Judicial Council prioritize materials within a number of distinct categories. While the overall categories are enumerated based on the

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<sup>5</sup> See a sample Babel notice at <http://www.dol.gov/oasam/programs/crc/Babel-Notice-Samples-UI.pdf>.

<sup>6</sup> See [Recommendations for providing multilingual services using technology](#) in this Action Plan.

<sup>7</sup> For example, several Judicial Council forms have been translated into Chinese, Korean, Spanish and Vietnamese. A careful analysis of language needs and efficient allocation of resources should be performed in order to determine whether the Judicial Council should target additional languages for translation for those same forms in order to meet language thresholds established in the LAP and in the Translation Protocol (which addresses as a priority to translate materials into as many languages as possible, either in full or through the use of more cost-effective strategies), or should instead identify other forms for initial translation efforts.

factors established in the Translation Protocol, in particular the decision to prioritize the most accessible and information-rich documents in the most common and critical case types and processes affecting LEP court users, the intent of this action plan is that decisions on translation efforts remain flexible and responsive to the needs of court users and to allocated translation resources. The more critical materials from each category should be targeted as appropriate, without a need to exhaust one category of documents before addressing the next.

The categories of documents<sup>8</sup> for translation prioritization during Phases 1 and 2 of the Language Access Plan Implementation are as follows:

1. Judicial Council “INFO” forms<sup>9</sup> provided for litigants to understand requirements for case filing, particular processes, or other critical information.
  - Information or “INFO” forms provided by the Judicial Council to inform court users and provide instructions for different case types or processes are optimum targets for translation resources. They also allow for flexibility in the inclusion of resources and referrals, as well as links to educational content on court websites.
  - INFO forms are often written in plain language, using accessible formats, defining legal terminology, and addressing the more important aspects of a case type or legal process, such as service of process (e.g., [SC-104b](#)), filing steps for a restraining order (e.g., [CH-100-INFO](#)), overview of the steps in a divorce or legal separation ([FL-107-INFO](#)), or the process for requesting a fee waiver ([FW-001-INFO](#)).
  - See Table 1 in [Appendix B](#) for a sample of suggested INFO forms for translation prioritization under this category.
2. Judicial Council court order and judgment forms for high-volume case types, particularly mandatory order/judgment forms and those in which important rights and responsibilities are determined, as well as forms that are used for cases for which significant numbers of self-represented litigants are involved.<sup>10</sup>

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<sup>8</sup> While tables with suggested documents are provided in the appendix items related to each category, the documents should not be seen as an exhaustive list. This documents listed here have been provided to illustrate the types of documents intended by the recommendations and to assist with the process of prioritizing and identifying key materials currently in existence.

<sup>9</sup> Not all informational forms have been renamed to include “INFO” in the form number, so some of the recommended “INFO” forms for translation may not, at first glance, appear to be informational in nature.

<sup>10</sup> Targeting court order and judgment forms is consistent with LAP Recommendation #40, which reads: “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.*” (emphasis added)

- a. Within this category, plain language Judicial Council order and judgment forms should be prioritized for translation in the format deemed most appropriate for the document and its content.
  - b. Non-plain language Judicial Council order and judgment forms that meet the factors below should be made linguistically accessible through the use of alternative approaches as discussed above and in the Translation Protocol, such as: bilingual formats for critical segments of order forms; translated instructions on or attached to the form (see [Appendix A](#) as an example); plain language multilingual summaries<sup>11</sup> of critical content on the order/judgment forms; and Babel notices with links to translated informational material on court self-help sites and other resources.
- Case types and court order forms to target include:
    - Civil restraining orders (temporary and “permanent”), including domestic violence, civil harassment, elder and dependent adult abuse;
    - Guardianship and conservatorship order forms (temporary and “permanent”);
    - Unlawful detainer judgment, stipulation for judgment, and writ of possession (same form as a writ of execution, so it has cross-case type applicability);
    - Family law, in particular judgment forms for dissolution, parental relationship, and parental obligation, and order forms regarding child custody/parenting time, child support, and spousal support, including wage/earnings assignment instructions and orders;
    - Small claims judgment forms; and
    - Earnings withholding orders and instructions, applicable to civil cases.
  - A number of these court order/judgment forms (particularly in family law, restraining orders, and guardianship/conservatorship matters) have already been translated into Spanish (and into additional languages in the case of domestic violence and civil harassment restraining orders, and many juvenile dependency and delinquency forms).
  - See Table 2 in [Appendix B](#) for a sample of suggested forms for translation prioritization under this category. Plain language forms to prioritize are identified for easy reference.

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<sup>11</sup> As specified above, summary or explanatory language on or related to a court form should specify that the language and terms on the form are controlling and that summaries provided are not intended to replace or alter the meaning of the form itself.

3. Judicial Council forms containing notices advising litigants of critical rights and responsibilities (in addition to court orders/judgments described above).
    - a. Within this category, plain language Judicial Council forms should be prioritized for translation. Although none of these forms currently exist in a plain language format, several have been simplified to some degree.
    - b. Non-plain language Judicial Council forms that meet the factors below should be made linguistically accessible through the use of alternative approaches as discussed above and in the Translation Protocol, such as: bilingual formats for critical notices and warnings; translated instructions on or attached to the form (see [Appendix A](#) as an example); plain language multilingual summaries<sup>12</sup> of critical content on the order/judgment forms; and Babel notices with links to translated informational material on court self-help sites and other resources.
  - Certain Judicial Council mandatory forms such as summonses, orders to show cause, advisement and waiver of rights forms, notices of rights and responsibilities, etc. may contain critical information that a court user must know in order to protect his or her rights. Where possible, these forms should be translated or at least include, in a bilingual or multilingual format, information in other languages alerting the court user that important rights are at stake.
  - All the Judicial Council summons forms contain, either in full or in part, translated text in Spanish advising the reader of important rights or the need to take action. Translation into additional languages should be prioritized.
  - See Table 3 in [Appendix B](#) for a sample of suggested forms for translation prioritization under this category. Those forms that have been simplified to a degree that makes them good candidates for complete translation are identified for easy reference.
4. Judicial Council informational video and audio recordings.
    - There are a number of videos on the California Online Self-Help Center, including the “[Resolve Your Case](#)” series hosted in the ADR program section of the California Courts’ website, that provide useful information to court users regarding their rights and responsibilities in various case types.
    - Several of the videos have been translated into Spanish (and the “[Resolve Your Case](#)” series has been recorded in additional languages). These videos have wide

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<sup>12</sup> See footnote 11.

applicability and usability statewide and are used by local courts to provide information to court users.

- Audio recordings may also be provided in multilingual formats at a relatively low cost. For example, INFO forms translated into Spanish and other languages can be made into audio recordings with native speakers (Judicial Council staff or hired voice talent) reading the forms aloud. Examples of audio recordings in English and Spanish that are currently available on the California Online Self-Help Center can be found at: <http://www.courts.ca.gov/1271.htm#acc15131>.
- In instances for which dubbing of videos in other languages is not feasible, captioning should be available. Although YouTube and other video platforms may provide captioning using automatic machine translation, it is advisable that the actual scripts be translated by qualified translation providers, per the Translation Protocol, so that the captioning provided is guaranteed to be accurate and complete.
- For development and production of new video and audio tools, the Translation Protocol's guidance on the drafting of plain language scripts that take into consideration the format for delivering information (oral vs. written), should be followed for the English script and, accordingly, all translations undertaken.
- See Table 4 in [Appendix B](#) for a sample of suggested videos and audio recordings for translation prioritization under this category.

#### 5. Information on the California Online Self-Help Center.

- Although the California Online Self-Help Center has a parallel Spanish site for all of its web-based information, there are very few existing resources in other languages. Those that exist primarily consist of existing translated forms and outdated guides.
- Web analytics should be analyzed to identify the most-visited pages on the Online Self-Help Center. In addition, a review of the online center will help single out pages providing clear, plain language information regarding particular case processes or general case information, step-by-step instructions, and other useful tools for self-represented litigants. Those pages, or more concise versions of them where appropriate, should be targeted for translation into additional languages.
- See Table 5 in [Appendix B](#) for a sample of suggested web resources for translation prioritization under this category.

6. Judicial Council mandatory case initiation forms for high volume case types, forms required for protection and safety, and forms required to secure language access services or to inform litigants of language access services.<sup>13</sup>
  - a. Within this category, plain language Judicial Council forms should be prioritized for translation.
  - b. Non-plain language Judicial Council forms that meet the factors below should be made linguistically accessible through the use of alternative approaches as discussed above and in the Translation Protocol, such as: bilingual formats for key information; translated instructions on or attached to the form (see [Appendix A](#) as an example); plain language multilingual summaries<sup>14</sup> of critical content on the order/judgment forms; translated document completion programs; and Babel notices with links to translated informational material on court self-help sites and other resources.
- Forms (not addressed above) to consider for translation under this category include:
  - mandatory case initiation and related forms for all protective orders,
  - case initiation and response forms for high volume case types with significant percentages of self-represented litigants (e.g., petitions and responses for divorce, parental relationship, and child custody and support; small claims plaintiff's claims and defendant's claims; unlawful detainer complaints and answers; answer forms for debt collection matters; etc.),
  - forms that must be used by court users for all case types, particularly if they include provisions for obtaining language access services, such as fee waiver forms, and
  - forms that are already in plain language format and address relatively simple processes affecting court users generally, such as name change forms and gender change forms.
- As advised above, given the volume of forms fitting these categories and the likely expense of translation, it is particularly important that alternative strategies for providing language accessibility to these forms be explored, such

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<sup>13</sup> The DOJ guidance and ABA standards address certain court forms as vital documents, such as case initiation forms, forms related to the protection and safety of a litigant or a child, and forms advising litigants of their rights. Many of these are addressed in the recommendations above regarding court order forms, summonses, and notices of rights.

<sup>14</sup> See footnote 11.

as multilingual instructions, bilingual formats, translated INFO forms, document completion programs, and others.

- See Table 6 in [Appendix B](#) for a sample of suggested forms for translation prioritization under this category. Plain language forms to prioritize are identified for easy reference.

As advised above, the suggestions for prioritization provided in this action plan provide a starting point. Each category, as well as the individual documents listed in each category, should be considered holistically with other categories and language resources to comprehensively ensure access to the most important information for court users. Instead of exhausting each category before moving on to the next, a determination of which materials will be targeted for translation should include the most vital and critical documents within each category, in the most requested languages and formats.

In addition to the recommendations in this plan for the translation of existing materials, any efforts to develop new materials (including new or revised court forms) should include a plan for translation. When tools recommended in the LAP are developed (e.g., sample informational or wayfinding signage, generalized notices for court users, new videos, language access information, document completion and assembly programs, etc.), translation of those tools may take precedence over any of the materials identified in this action plan if indicated under the Translation Protocol's guidelines for prioritization of translations.

### **Recommendations for providing multilingual services using technology**

Technological approaches to the provision of multilingual information should be part of any efforts to provide linguistically accessible services to court users. As discussed in the Language Access Plan and the Translation Protocol, alternatives to the written delivery of information are essential for ensuring meaningful language access by LEP court users. To that end, audio recordings and videos of court processes, legal rights, and information of general applicability throughout the state are the target of LAP recommendations and of development under the Translation Protocol. Recommendations for initial prioritization of video and audio tools are provided in this plan.

Document completion and document assembly programs should also be targeted for translation since they can provide an important role in the provision of language access. These programs use an interview format to elicit information from court users in order to complete court forms. They allow users to complete form sets by answering questions only once, assemble forms, and, in some cases, electronically submit those forms to the appropriate court. Because the court user interfaces with the program through a set of questions (and not through



the forms themselves), document completion programs can obviate the need to translate the forms, which can be very costly and ineffective. Instead, the interviews can be translated in a culturally and linguistically competent manner, allowing the user to focus on the relevant information without becoming overwhelmed by large numbers of court forms with often complicated language and format. Where necessary for compliance with interstate treaties or the Hague Convention, forms may need to be translated, but the LEP user is able to complete the English forms for filing as required without having to actually interact with the form itself.

The provisions and recommendations stated in the Translation Protocol should be followed with regard to these tools and the role they play in providing language access. Plain language scripts and interviews, usability, and accessibility all play a critical role in ensuring that technology can in fact be a viable solution, at least in part, to improving language access in the courts.

### **Posting and dissemination of translated materials for statewide use by local courts**

As provided for in the Translation Protocol, once materials are translated and finalized, the Judicial Council will make them available to all local courts, justice partners and the public at large. For usability, ease of access, monitoring and updating of materials, posting in one online publicly available location is preferable. If needed, materials can be cross-referenced from different sites or web pages, but maintained and updated in one location only. In Recommendation #66, the LAP addresses a statewide repository of language access resources to include all the materials and tools identified and/or created in response to the plan.

While there is not (yet) one clear location to host all of the materials that may in fact be developed and translated, the online living toolkit, already in existence in its first iteration, will be a natural repository for posting many of the translated materials and existing resources. As the toolkit evolves, it is possible it may be able to hold all of the information and tools envisioned under the plan. However, in order to ensure that the toolkit remains accessible to court users, court staff, interpreters, and others, toolkit designers should ensure that documents are organized and easy to locate and access as resources continue to be added.

In addition to the toolkit, materials specifically aimed at LEP court users statewide should also be posted and disseminated through the California Online Self-Help Center, which provides a contextual repository for information and instructions (in print and audio/visual formats) for the public at large under relevant sections and legal topics. Materials that may be more appropriate for legal services providers, from self-help centers to legal aid to other court staff, may also be posted on the [Equal Access](#) program page on the California Courts' site, either by cross-referencing the toolkit (particularly if the toolkit is designed as the statewide repository)

or by duplicating content (less desirable given the need to update materials on both locations). The type of information that may be most relevant for sharing on the Equal Access page includes templates or samples of instructions, information, educational material, notices, and other materials that have been developed at the statewide level or by local courts but need tailoring to local needs or resources.

In addition to ensuring access to materials on the various online resources, Judicial Council staff should notify local courts, justice partners, and community-based organizations of the availability of these translations, using listservs, established networks, and media.

## Appendix A – Screenshot of Fee Waiver Form with Instructions in Spanish

**FW-001** **Request to Waive Court Fees**

**CONFIDENTIAL**  
**SÓLO PARA MUESTRA**  
**No llene este formulario**  
**Escriba la dirección de la corte aquí.**

If you are getting public benefits, are a low-income person, or do not have enough income to pay for household's basic needs and your court fees, you may use this form to ask the court to waive all or part of your court fees. The court may order you to answer questions about your fees. If you do not answer the questions, you may still have to pay later if:

- You cannot give the court proof of your eligibility,
- Your financial situation improves during this case, or
- You settle your civil case for **\$10,000** or more. The trial court that waives your fees will have a lien on any such settlement in the amount of the waived fees and costs. The court may also charge you any collection costs.

**1 Your Information** (person asking the court to waive the fees):

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_

**2 Your Job**, if you have one:

Name of employer: \_\_\_\_\_  
Employer's address: \_\_\_\_\_

**3 Your Lawyer**, if you have one (name, firm or affiliation, address, phone number, and State Bar number):

\_\_\_\_\_

a. The lawyer has agreed to advance all or a portion of your fees or costs (check one): Yes ☐ No ☐

b. (If yes, your lawyer must sign here) Lawyer's signature: \_\_\_\_\_  
If your lawyer is not providing legal-aid type services based on your low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.

**4 What court's fees or costs are you asking to be waived?**

☐ Superior Court (See Instructions)  
☐ Supreme Court, Court of Appeal, or Court of Appellate Court Fees

**5 Why are you asking the court to waive your fees?**

a. ☐ I receive (check all that apply) \_\_\_\_\_  
Assistance ☐ IHSS (In-Home Supportive Services) ☐ Medi-Cal (Medicaid) ☐ Food Stamps (SNAP) ☐ Housing Assistance for Needy Families (HAFN) ☐ Other \_\_\_\_\_

b. ☐ My gross monthly household income is less than the amount shown in the table below. If you check 5b, you must fill in the table.

| Family Size | Family Income | Family Size | Family Income | Family Size | Family Income | If more than 6 people at home, add \$422.92 for each extra person. |
|-------------|---------------|-------------|---------------|-------------|---------------|--|
| 1           | \$1,215.63    | 3           | \$2,061.46    | 5           | \$2,907.30    |  |
| 2           | \$1,638.55    | 4           | \$2,484.38    | 6           | \$3,330.21    |  |

c. ☐ I do not have enough income to pay for my household's basic needs and the court fees. I ask the court to (check one): ☐ waive all court fees ☐ waive some of the court fees ☐ let me make payments over time (Explain): \_\_\_\_\_

**6** ☐ Check here if you have asked the court to waive your fees in the last 6 months. (If your previous request was denied, you must check here.)

**Marque el no. 6 si ha pedido una exención de cuotas en los últimos 6 meses. Adjunte esa petición si la tiene, y marque la segunda casilla.**

I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct.

Date: \_\_\_\_\_ Escriba la fecha de hoy \_\_\_\_\_ Escriba su nombre completo en letra de molde. **Firme aquí**

Print your name here \_\_\_\_\_ Sign here \_\_\_\_\_

Judicial Council of California, www.courts.ca.gov  
Revised February 20, 2014, Mandatory Form  
Government Code, § 68633 Cal. Rules of Court,  
rules 3.51, 8.26, and 8.818

**Request to Waive Court Fees** FW-001, Page 1 of 2

## Appendix B: Tables for Sample Document Prioritization

The tables provided below suggest sample documents to be prioritized under each of the categories identified in this translation action plan. As stated above, these tables are not exhaustive lists. They contain only some of the more critical and frequently used materials. A careful analysis should be conducted of all materials beyond those offered here. In addition, please note the following:

- A number of forms belong to a set applicable to a particular procedure (e.g. forms required to file and obtain a domestic violence restraining order, fee waiver application and order forms, etc.). The tables below may single out a form that belongs to a form set due to its particular priority (such as a court order form, for example), but an analysis for purposes of translation may conclude that translating the entire form set is more effective (there may be cost savings in the translation of form sets, in part, because of the repetitive language found across forms).
- Certain form sets may be good candidates for document completion and assembly programs instead of translation of all the individual forms.
- Juvenile forms have been left out of these sample lists because many critical forms and instructions have already been translated into several languages. See <http://www.courts.ca.gov/forms.htm?filter=JV>.

| <b>Table 1- JC INFO Forms</b>  |                              |
|--|------------------------------|
| <b>Documents for Translation</b>   | <b>Existing translations</b> |
| Information Sheet on Waiver of Superior Court Fees and Costs ( <a href="#">Form FW-001-INFO</a> )                          | Yes: Spanish, Tagalog        |
| Can a Restraining Order To Prevent Elder or Dependent Adult Abuse Help Me? ( <a href="#">Form EA-100-INFO</a> )            | No                           |
| How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders? ( <a href="#">Form EA-120-INFO</a> ) | No                           |
| Can a Civil Harassment Restraining Order Help Me? ( <a href="#">Form CH-100-INFO</a> )                                     | No                           |
| How Can I Respond to a Request for Civil Harassment Restraining Orders? ( <a href="#">Form CH-120-INFO</a> )               | No                           |

|  |  |
|--|--|
| Legal Steps for a Divorce or Legal Separation ( <a href="#">FL-107-INFO</a> )  | Yes: Spanish, Chinese, Korean, Vietnamese  |
| How Do I Turn In, Sell, or Store My Firearm? <i>For all of the protective orders (800-INFO forms) for civil harassment, elder abuse, firearms, and domestic violence</i> | Yes: the domestic violence form has been translated to Spanish, Chinese, Korean and Vietnamese. Translation of the CH, EA and GV form should be very cost-effective given repetitive language. |
| What Is “Proof of Personal Service”? <i>For all of the protective orders (200-INFO forms) for civil harassment, elder abuse, firearms, and domestic violence</i>         | Yes: the DV and civil harassment forms have been translated to Spanish, Chinese, Korean and Vietnamese. Translation of the EA & GV form should be cost-effective given repetitive language.    |
| Information Sheet for Request for Order ( <a href="#">Form FL-300-INFO</a> )   | No   |
| Income Withholding for Support (Instructions) ( <a href="#">Form FL-196</a> )  | No   |
| Child Custody Information Sheet—Recommending Counseling ( <a href="#">Form FL-313-INFO</a> )   | Yes: Spanish, Chinese, Korean, Tagalog, Vietnamese   |
| Child Custody Information Sheet—Child Custody Mediation ( <a href="#">Form FL-314-INFO</a> )   | Yes: Spanish, Chinese, Korean, Vietnamese  |
| Information Sheet – Simplified Way to Change Child, Spousal or Family Support ( <a href="#">Form FL-391</a> )  | No   |
| How to Adopt a Child in California ( <a href="#">Form ADOPT-050-INFO</a> )   | No   |
| Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home) ( <a href="#">Form NC-400-INFO</a> )                                  | No   |

|  |              |
|--|--------------|
| Summary Dissolution Information ( <a href="#">Form FL-810</a> ) ( <i>Given length of booklet, good candidate for multilingual document completion/assembly program</i> ) | Yes: Spanish |
| Information Sheet for Proof of Personal Service ( <a href="#">Form FL-330-INFO</a> )   | No           |
| Information Sheet for Proof of Service by Mail ( <a href="#">Form FL-335-INFO</a> )  | No           |
| What Is “Proof of Service”? (Small Claims) ( <a href="#">Form SC-104B</a> ) and How to Serve a Business or Public Entity (Small Claims) ( <a href="#">Form SC-104C</a> ) | No           |
| Employee Instructions ( <a href="#">Form WG-003</a> ) (Instructions for Earnings Withholding Order, Form WG-002)   | No           |
| Instructions to Defendant (Trial by Written Declaration) ( <a href="#">Form TR-200</a> )   | No           |
| Information on Appeal Procedures for Infractions ( <a href="#">Form CR-141-INFO</a> )  | No           |
| Instructions – Defendant’s Statement of Assets ( <a href="#">Form CR-117</a> )   | No           |
| Instructions for Victim Restitution Order ( <a href="#">Form CR-112</a> )  | No           |

| <b>Table 2- JC Forms for Judgments &amp; Orders</b><br>(some stipulation and order forms are included in more common case types with SRLs given their frequent use)      |                       |                              |
|--|-----------------------|------------------------------|
| <b>Documents for Translation</b>   | <b>Plain Language</b> | <b>Existing translations</b> |
| Civil Harassment Restraining Order After Hearing ( <a href="#">Form CH-130</a> ) (many civil harassment forms are translated but the entire form set should be analyzed) | Yes                   | No                           |
| Temporary Restraining Order (CLETS-TCH) ( <a href="#">Form CH-110</a> )  | Yes                   | No                           |

|  |                      |   |
|--|----------------------|---|
| Elder or Dependent Adult Abuse Restraining Order After Hearing (CLETS-EAR or EAF) ( <a href="#">Form EA-130</a> ) (the elder/dependent abuse form set should be analyzed and the main forms likely targeted for translation) | Yes                  | No  |
| Temporary Restraining Order (CLETS-TEA or TEF) ( <a href="#">Form EA-110</a> )   | Yes                  | No  |
| Restraining Order After Hearing (CLETS-OAH) ( <a href="#">Form DV-130</a> )  | Yes                  | Yes:<br>Spanish,<br>Chinese,<br>Korean,<br>Vietnamese |
| Temporary Restraining Order (CLETS-TRO) ( <a href="#">Form DV-110</a> )  | Yes                  | Yes:<br>Spanish,<br>Chinese,<br>Korean,<br>Vietnamese |
| Notice of Entry of Judgment (Small Claims) ( <a href="#">Form SC-130</a> )   | No (but simple form) | Yes: limited Spanish in bilingual format.             |
| Judgment for Dissolution and Notice of Entry of Judgment ( <a href="#">Form FL-825</a> ) (may be best to include all forms for Summary Dissolution, or document assembly program for efficiency)                             | No (but simple form) | No  |
| Findings and Order After Hearing ( <a href="#">Form FL-340</a> )   | No (but simple form) | No  |
| Judgment—Unlawful Detainer ( <a href="#">Form UD-110</a> )   | No                   | No  |
| Stipulation for Entry of Judgment (Unlawful Detainer) ( <a href="#">Form UD-115</a> )  | No                   | No  |
| Judgment (Family Law) ( <a href="#">Form FL-180</a> )  | No                   | Yes:<br>Spanish                                       |
| Judgment (Uniform Parentage—Custody and Support) ( <a href="#">Form FL-250</a> )   | No                   | Yes:<br>Spanish                                       |
| Temporary Emergency Court Orders ( <a href="#">Form FL-305</a> )   | No                   | No  |
| Child Custody and Visitation (Parenting Time) Order Attachment ( <a href="#">Form FL-341</a> )   | No                   | Yes:<br>Spanish                                       |

|  |    |                 |
|--|----|-----------------|
| Child Support Information and Order Attachment ( <a href="#">Form FL-342</a> )   | No | No              |
| Spousal, Partner, or Family Support Order Attachment ( <a href="#">Form FL-343</a> )   | No | No              |
| Stipulation to Establish or Modify Child Support and Order ( <a href="#">Form FL-350</a> )   | No | Yes:<br>Spanish |
| Stipulation and Order for Custody and/or Visitation of Children ( <a href="#">Form FL-355</a> )  | No | Yes:<br>Spanish |
| Special Immigrant Juvenile Findings ( <a href="#">Form FL-357</a> )/ Request (Form FL-356) should also be included, as well as the guardianship version, GC-220 and GC-224 | No | Yes:<br>Spanish |
| Judgment Regarding Parental Obligations (Governmental) ( <a href="#">Form FL-630</a> )   | No | No              |
| Order Appointing Guardian of Minor ( <a href="#">Form GC-240</a> ) and other related forms, such as Letters of Guardianship, for enforcement.                              | No | No              |
| Order Appointing Probate Conservator ( <a href="#">Form GC-340</a> ) and other related forms, such as Letters of Conservatorship, for enforcement.                         | No | No              |
| Writ of Execution (Writ of Possession) ( <a href="#">Form EJC-130</a> )  | No | No              |
| Earnings Withholding Order ( <a href="#">Form WG-002</a> )   | No | No              |
| Earnings Withholding Order for Support (Wage Garnishment) ( <a href="#">Form WG-004</a> )  | No | No              |
| Criminal Protective Order–Domestic Violence (CLETS - CPO) ( <a href="#">Form CR-160</a> )  | No | Yes:<br>Spanish |
| Order for Victim Restitution ( <a href="#">Form CR-110</a> )   | No | No              |

Table 2 additional notes:

- The civil harassment and elder abuse order forms identified are part of larger form sets which may be prioritized under other categories in this action plan, so translation initiatives may conclude that the complete form set should be targeted for translation.



- The domestic violence temporary and permanent restraining order forms have been translated into Spanish, Chinese, Vietnamese and Korean but were included in this list for prioritization if analysis yields the need to prioritize additional languages.
- There are a series of additional forms related to child custody and parenting time orders, including abduction orders, that may also be considered for translation but are not as widely used.

| <b>Table 3- JC Forms with Notices Advising Litigants of Critical Rights and Responsibilities</b>   |                         |  |
|--|-------------------------|--|
| <b>Documents for Translation</b>   | <b>Plain Language</b>   | <b>Existing translations</b>                                   |
| Summons (Family Law) ( <a href="#">Form FL-110</a> )   | No (but simple in part) | Yes: Spanish in bilingual format                               |
| Summons (Parental Relationship) ( <a href="#">Form FL-210</a> )  | No (but simple in part) | Yes: Spanish in bilingual format; Chinese in bilingual format. |
| Advisement and Waiver of Rights re. Establishment of Parental Relationship ( <a href="#">Form FL-235</a> )   | No (but simple in part) | Yes: Spanish   |
| Notice of Rights and Responsibilities (Health-Care Costs and Reimbursement Procedures) ( <a href="#">FL-192</a> )  | No (but simple in part) | Yes: Spanish   |
| Duties of Guardian ( <a href="#">Form GC-248</a> )   | No (but simple in part) | Yes: Spanish   |
| Notice of Conservatee's Rights ( <a href="#">Form GC-341</a> )   | No (but simple in part) | No   |
| Summons—Unlawful Detainer ( <a href="#">Form SUM-130</a> )   | No                      | Yes: Spanish in bilingual format                               |
| Summons ( <a href="#">Form SUM-100</a> )   | No                      | Yes: Spanish in bilingual format                               |
| Summons and Complaint or Supplemental Complaint Regarding Parental Obligations ( <a href="#">Form FL-600</a> ) ( <i>and if chosen, then should translate Answer to Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)</i> ) ( <a href="#">Form FL-610</a> ) | No                      | Yes: Limited Spanish in bilingual format                       |

|   |    |  |
|---|----|--|
| Child Support Case Registry Form ( <a href="#">Form FL-191</a> )                                    | No | Yes: Spanish                             |
| Order to Show Cause and Affidavit for Contempt ( <a href="#">Form FL-410</a> )                      | No | Yes: Limited Spanish in bilingual format |
| Plea Form, With Explanations and Waiver of Rights-Felony (Criminal) ( <a href="#">Form CR-101</a> ) | No | No                                       |
| Domestic Violence Plea Form With Waiver of Rights (Misdemeanor) ( <a href="#">Form CR-102</a> )     | No | No                                       |

| <b>Table 4- JC Videos and Audio Recordings</b>  |   |
|---|---|
| <b>Materials for Translation</b>  | <b>Existing translations</b>                          |
| DV INFO Forms audio recordings, in English at <a href="http://www.courts.ca.gov/1271.htm#acc15131">http://www.courts.ca.gov/1271.htm#acc15131</a>   | Yes: Spanish  |
| Family Court Services Orientation Video at <a href="http://www.courts.ca.gov/1189.htm">http://www.courts.ca.gov/1189.htm</a>  | Yes: Spanish  |
| Juvenile Dependency Court Orientation Video at <a href="http://www.courts.ca.gov/selfhelp-childabuse.htm">http://www.courts.ca.gov/selfhelp-childabuse.htm</a>  | Yes: Spanish  |
| Juvenile Delinquency Orientation Video at <a href="http://www.courts.ca.gov/selfhelp-delinquency.htm">http://www.courts.ca.gov/selfhelp-delinquency.htm</a>   | Yes: Spanish  |
| Families Change Parenting After Separation Online Course at <a href="http://parenting.familieschange.ca.gov/">http://parenting.familieschange.ca.gov/</a>   | Yes: Spanish  |
| Traffic Amnesty video at <a href="http://www.courts.ca.gov/trafficamnesty.htm">http://www.courts.ca.gov/trafficamnesty.htm</a>  | No  |
| Resolve Your Case: Small Claims at <a href="http://www.courts.ca.gov/20129.htm">http://www.courts.ca.gov/20129.htm</a><br><i>(additional languages may be identified and provided via captioning)</i>     | Yes: Chinese, Korean, Russian, Spanish and Vietnamese |
| Resolve Your Case: Civil Harassment at <a href="http://www.courts.ca.gov/20131.htm">http://www.courts.ca.gov/20131.htm</a><br><i>(additional languages may be identified and provided via captioning)</i> | Yes: Chinese, Korean, Russian, Spanish and Vietnamese |

|  |   |
|--|---|
| Resolve Your Case: Debt Collection at <a href="http://www.courts.ca.gov/24610.htm">http://www.courts.ca.gov/24610.htm</a><br><i>(additional languages may be identified and provided via captioning)</i> | Yes: Chinese, Korean, Russian, Spanish and Vietnamese |
| Resolve Your Case: Eviction at <a href="http://www.courts.ca.gov/20130.htm">http://www.courts.ca.gov/20130.htm</a><br><i>(additional languages may be identified and provided via captioning)</i>        | Yes: Chinese, Korean, Russian, Spanish and Vietnamese |

| <b>Table 5- California Courts Online Self-Help Center Pages</b>   |   |
|---|---|
| <b>Materials for Translation</b>  | <b>Existing translations</b>                            |
| Lawyers and Legal Help at <a href="http://www.courts.ca.gov/1001.htm">http://www.courts.ca.gov/1001.htm</a>   | Yes: Spanish  |
| Family Law Facilitator Quick Reference Guide at <a href="http://www.courts.ca.gov/documents/ENFLFQuickRefGuide.pdf">http://www.courts.ca.gov/documents/ENFLFQuickRefGuide.pdf</a>                     | Yes: Spanish  |
| Fee Waiver instructions (or simplified version) at <a href="http://www.courts.ca.gov/selfhelp-feewaiver.htm">http://www.courts.ca.gov/selfhelp-feewaiver.htm</a>                                      | Yes: Spanish  |
| Excerpts of “Going to Court” at <a href="http://www.courts.ca.gov/1094.htm">http://www.courts.ca.gov/1094.htm</a>   | Yes: Spanish  |
| Additional translations of How to Work with an Interpreter at <a href="http://www.courts.ca.gov/documents/Tri-CutUseInterpreter.pdf">http://www.courts.ca.gov/documents/Tri-CutUseInterpreter.pdf</a> | Yes: Spanish, Chinese, Vietnamese, Russian, and Tagalog |
| Small Claims Checklist – Suing someone at <a href="http://www.courts.ca.gov/1007.htm">http://www.courts.ca.gov/1007.htm</a>   | Yes: Spanish  |
| Small Claims Plaintiff’s Post-Trial Checklist at <a href="http://www.courts.ca.gov/1111.htm">http://www.courts.ca.gov/1111.htm</a>  | Yes: Spanish  |
| Small Claims Checklist – Being sued at <a href="http://www.courts.ca.gov/1010.htm">http://www.courts.ca.gov/1010.htm</a>  | Yes: Spanish  |
| Small Claims Defendant’s Post-Trial Checklist at <a href="http://www.courts.ca.gov/1116.htm">http://www.courts.ca.gov/1116.htm</a>  | Yes: Spanish  |
| Demand letter program at <a href="http://www.courts.ca.gov/11145.htm">http://www.courts.ca.gov/11145.htm</a>  | No  |

|   |              |
|---|--------------|
| Demand letter asking for security deposit at<br><a href="http://www.courts.ca.gov/11150.htm">http://www.courts.ca.gov/11150.htm</a>                                       | No           |
| Small Claims –Going to Court<br>at <a href="http://www.courts.ca.gov/1013.htm">http://www.courts.ca.gov/1013.htm</a>  | Yes: Spanish |
| Simplified (one page) information re. Small Claims Collection, beginning<br>at <a href="http://www.courts.ca.gov/1178.htm">http://www.courts.ca.gov/1178.htm</a>          | Yes: Spanish |
| Simplified (one-page) information re. Small Claims Paying the Judgment,<br>beginning at <a href="http://www.courts.ca.gov/1015.htm">http://www.courts.ca.gov/1015.htm</a> | Yes: Spanish |
| Summarized version of Special Immigrant Juvenile Status at<br><a href="http://www.courts.ca.gov/selfhelp-sijs.htm">http://www.courts.ca.gov/selfhelp-sijs.htm</a>         | Yes: Spanish |
| Alternatives to Guardianship<br>at <a href="http://www.courts.ca.gov/1210.htm">http://www.courts.ca.gov/1210.htm</a>  | Yes: Spanish |
| Duties of a Guardian<br>at <a href="http://www.courts.ca.gov/1211.htm">http://www.courts.ca.gov/1211.htm</a>  | Yes: Spanish |
| Summarized version of Becoming a Guardian<br>at <a href="http://www.courts.ca.gov/1212.htm">http://www.courts.ca.gov/1212.htm</a>   | Yes: Spanish |
| Simplified versions of requesting custody/parenting time orders<br>at <a href="http://www.courts.ca.gov/1185.htm">http://www.courts.ca.gov/1185.htm</a>                   | Yes: Spanish |
| Simplified versions of requesting child support orders<br>at <a href="http://www.courts.ca.gov/1194.htm">http://www.courts.ca.gov/1194.htm</a>                            | Yes: Spanish |
| Simplified information on Parental Relationship<br>at <a href="http://www.courts.ca.gov/selfhelp-parentage.htm">http://www.courts.ca.gov/selfhelp-parentage.htm</a>       | Yes: Spanish |
| Simplified version of Filing for Divorce or Legal Separation<br>at <a href="http://www.courts.ca.gov/1229.htm">http://www.courts.ca.gov/1229.htm</a>                      | Yes: Spanish |
| Simplified guide for Summary Dissolution instructions<br>at <a href="http://www.courts.ca.gov/1241.htm">http://www.courts.ca.gov/1241.htm</a>                             | Yes: Spanish |
| Making a Safety Plan (abuse cases)<br>at <a href="http://www.courts.ca.gov/1263.htm">http://www.courts.ca.gov/1263.htm</a>  | Yes: Spanish |
| Eviction process for Tenants<br>at <a href="http://www.courts.ca.gov/27798.htm">http://www.courts.ca.gov/27798.htm</a>  | Yes: Spanish |

|  |              |
|--|--------------|
| Summary of Security Deposit Issues at <a href="http://www.courts.ca.gov/1049.htm">http://www.courts.ca.gov/1049.htm</a>  | Yes: Spanish |
| Summarized version of Name Change and Gender Change at <a href="http://www.courts.ca.gov/22489.htm">http://www.courts.ca.gov/22489.htm</a> and <a href="http://www.courts.ca.gov/genderchange.htm">http://www.courts.ca.gov/genderchange.htm</a> | Yes: Spanish |
| A to Z index at <a href="http://www.courts.ca.gov/29044.htm">http://www.courts.ca.gov/29044.htm</a> and Glossary at <a href="http://www.courts.ca.gov/selfhelp-glossary.htm">http://www.courts.ca.gov/selfhelp-glossary.htm</a>                  | Yes: Spanish |

| <b>Table 6- JC Forms for Case Initiation, Protective Orders, Plain Language Frequently Used Forms</b>  |                       |  |
|--|-----------------------|--|
| <b>Documents for Translation</b>   | <b>Plain Language</b> | <b>Existing translations</b>                 |
| Request to Waive Court Fees ( <a href="#">Form FW-001</a> ) (additional relevant fee waiver forms may be targeted)   | Yes                   | Yes: Spanish, Tagalog                        |
| Request to Waive Court Fees (Ward or Conservatee) ( <a href="#">Form FW-001-GC</a> ) (additional relevant fee waiver forms for guardianships/conservatorships may be targeted) | Yes (in part)         | Yes: Spanish                                 |
| Request for Civil Harassment Restraining Orders ( <a href="#">Form CH-100</a> )  | Yes                   | No   |
| Response to Request for Civil Harassment Restraining Orders ( <a href="#">Form CH-120</a> )  | Yes                   | No   |
| Request for Elder or Dependent Adult Abuse Restraining Orders ( <a href="#">Form EA-100</a> )  | Yes                   | No   |
| Response to Request for Elder or Dependent Adult Abuse Restraining Orders ( <a href="#">Form EA-120</a> )  | Yes                   | No   |
| <a href="#">Domestic violence</a> case initiation (DV-100), response (DV-120), and several other critical forms  | Yes                   | Yes: Spanish, Chinese, Korean and Vietnamese |
| Other <a href="#">civil harassment forms</a>   | Yes                   | Yes: Spanish, Chinese, Korean and Vietnamese |

|   |     |  |
|---|-----|--|
| Other <a href="#">elder and dependent adult abuse forms</a>   | Yes | No                                       |
| Plaintiff's Claim and Order to Go to Small Claims Court ( <a href="#">Form SC-100</a> )   | Yes | Yes: limited Spanish in bilingual format |
| Defendant's Claim and ORDER to Go to Small Claims Court (Small Claims) ( <a href="#">Form SC-120</a> )  | Yes | Yes: limited Spanish in bilingual format |
| Petition for Appointment of Guardian of The Person ( <a href="#">Form GC-210(P)</a> )   | Yes | Yes: Spanish                             |
| Complaint—Unlawful Detainer ( <a href="#">Form UD-100</a> )   | No  | No                                       |
| Answer—Unlawful Detainer ( <a href="#">Form UD-105</a> )  | No  | No                                       |
| Name change and gender change group of forms at <a href="http://www.courts.ca.gov/forms.htm?filter=NC">http://www.courts.ca.gov/forms.htm?filter=NC</a> | No  | No                                       |
| Petition for Appointment of Guardian of Minor ( <a href="#">Form GC-210</a> )   | No  | No                                       |
| Petition for Appointment of Probate Conservator ( <a href="#">Form GC-310</a> )   | No  | No                                       |
| Petition (Marriage/Domestic Partnership) ( <a href="#">Form FL-100</a> )  | No  | Yes: Spanish                             |
| Response (Marriage/Domestic Partnership) ( <a href="#">Form FL-120</a> )  | No  | Yes: Spanish                             |
| Petition to Establish Parental Relationship ( <a href="#">Form FL-200</a> )   | No  | Yes: Spanish                             |
| Response to Petition to Establish Parental Relationship ( <a href="#">Form FL-220</a> )   | No  | Yes: Spanish                             |
| Petition for Custody and Support of Minor Children ( <a href="#">Form FL-260</a> )  | No  | Yes: Spanish                             |
| Response to Petition for Custody and Support of Minor Children ( <a href="#">Form FL-270</a> )  | No  | Yes: Spanish                             |
| Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) ( <a href="#">Form FL-105</a> ), also Form GC-120.                    | No  | Yes: Spanish                             |

|  |    |    |
|--|----|----|
| Answer (Contract) ( <a href="#">Form PLD-C-010</a> ), which may be used to defend debt collection case.  | No | No |
| Claim of Exemption (Enforcement of Judgment ) ( <a href="#">Form EJC-160</a> ) and Claim of Exemption (Wage Garnishment) ( <a href="#">Form WG-006</a> ) | No | No |

Table 6 notes:

- Domestic violence restraining order forms and several civil harassment forms are included in this list although they have already been translated to Spanish, Chinese, Vietnamese and Korean. Translation into additional languages, given their criticality and the fact that they are in plain language, may be considered a priority.
- The translation of petition/response forms for all restraining order forms, including elder abuse and civil harassment, may best be addressed when translating the orders (recommended in Table 1), given the amount of repetitive language, or through document completion/assembly programs so that the forms themselves do not have to be translated.

## **Attachment 3**



# Judicial Council of California

## Bench Card: Working with Court Interpreters

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### Who can get an interpreter?

LEP party, witness or person with significant interest or involvement in a case or with legal decision-making authority, or whose presence or participation in the matter is necessary or appropriate as determined by a judicial officer.

Examples: Victims, legal guardians or custodians of a minor or an adult involved as a party, witness or victim.

### Waiver of an interpreter by the LEP user must be:

- Knowing, intelligent & voluntary
- After consultation with counsel, if represented
- Approved by judicial officer, in his/her discretion
- Entered on record or other writing
- Revocable by party or judicial officer at any time.

### Who cannot serve as interpreter?

- Minors, with no exception
- Persons with conflict of interest
- Bilingual staff

### How Do I Determine if a Person Needs an Interpreter?

- Interpreter was needed at prior proceeding
- Limited English proficient (LEP) person requests interpreter
- Attorney requests an interpreter
- When person not able to communicate because of an apparent language barrier
- Court staff determines there is a need

#### Sample questions to assess understanding of English:

*(Ask on the record. Avoid questions easily answered with yes or no replies.)*

- What is your name?
- How did you come to court today?
- What kind of work do you do?
- How did you learn English?
- What is the reason for you being in court today?
- You have the right to a free interpreter to help you communicate and understand the proceedings today. Would you like the help of an interpreter?

### What To Do if I Determine a Person Needs an Interpreter?

1. Before the proceeding, request a certified or registered interpreter.
2. If no certified or registered interpreter is available after diligent search ([Form INT-120](#)), may for good cause appoint provisionally qualified ([Form INT-110](#)) interpreter for proceeding. [CRC Rule 2.893](#); [Gov. Code § 68560 et seq.](#)
3. If interpreter NOT provisionally qualified, may appoint to prevent burdensome delay (or other unusual circumstance) only for brief, routine matter and indicate on record:
  - a. Party waives certified/registered and provisionally qualified interpreter,
  - b. Good cause to appoint non-certified/non-registered, non-provisionally qualified interpreter,
  - c. Interpreter is qualified to interpret the proceeding.

See forms [INT-100-INFO](#), [INT-110](#), and [INT-120](#) for provisional qualification process.

#### Sample voir dire questions to assess non-credentialed interpreter qualifications:

- What training or credentials do you have as an interpreter?
- How did you learn English?
- How did you learn your other language?
- What is your experience interpreting in court? What types of cases?
- Describe your familiarity with legal terminology.
- Do you know any of the parties in this case? If so, how?
- Are you able to remain neutral and impartial?
- Do you understand you are only here to facilitate communication and should not give advice or your opinion?
- **To the parties:** Does either party have any questions for the interpreter?

### **Required Statements Establishing an Interpreter's Credentials on the Record**

#### For certified/registered interpreters (Gov. Code, § 68561(g)):

1. Name of interpreter (as listed on court interpreter certification or registration)
2. Current certification/registration no.
3. Statement that identification verified with badge or certification/registration documentation and photo ID
4. Language to be interpreted
5. Statement that oath administered or on file with court

#### For non-certified/non-registered interpreters (Gov. Code, § 68561(f)):

1. Certified/registered interpreter not available (form INT-120)
2. Name of qualified interpreter
3. Statement that good cause exists and required procedures and guidelines followed (forms INT-110, INT-120)
4. Statement that oath administered pursuant to required procedures and guidelines

### **Communicating Through Interpreters**

Before the proceeding begins:

- Allow the interpreter to converse briefly with the LEP person to ensure understanding of accents, dialect or pronunciation differences.
- Whenever possible, allow the interpreter to review the court file prior to the hearing, to become familiar with names, dates and technical vocabulary.
- If you anticipate a long proceeding (one hour or more), consider appointing two or more interpreters.

During the proceeding:

- Instruct all participants to speak loudly and clearly, and to speak one at a time.
- Speak directly to the LEP person, not to the interpreter.
- Speak/read slowly and clearly, avoiding compound questions, double negatives, jargon and legalese.
- Pause during consecutive interpretation (witness testimony) so the interpreter can keep the pace.
- Don't ask the interpreter to independently explain or restate anything said by the party.
- Take into account the fatigue factor. Allow for breaks or alternate interpreters every 30 minutes.
- Monitor the interpreter so that side conversations with the LEP person do not take place.
- Check in periodically with LEP person to make sure s/he understands. Do so with substantive questions, not just a simple "yes" or "no".
- Recognize that court proceedings can be confusing and intimidating for a non-English speaker since other countries' legal systems and concepts often vary from those of the U.S.

### **Sample language to explain the interpreter's role**

#### For the Party/Witness:

The court interpreter is a neutral person who is here only to interpret the proceedings and allow us to communicate. The interpreter will interpret only what is said, without adding, omitting, or summarizing anything. The interpreter will say in English everything you say in your language, so do not say anything you do not want everyone to hear.

When speaking, please speak directly to the attorney or to me. Do not ask the interpreter for advice. If you do not understand the interpreter, then tell me. If you need a question or answer repeated, please tell me. Wait until the entire question has been interpreted before you answer, even if you understand some English. And speak only in your language to avoid confusion. Do you have any questions?

#### For the Jury:

You may hear languages other than English during this trial. You must only consider the evidence provided through the official court interpreter. Some of you may understand the non-English language used, but it is important for all jurors to consider the same evidence. Therefore, you must base your decision on the evidence presented in the English interpretation. You must not rely in any way on your own interpretation of the witness' words.

## **Attachment 4**

## Providing Language Access in California Courts Benchguide OUTLINE

### Chapters:

1. [The Need for Language Access](#)
2. [Language Access Laws & Policies](#)
3. [Understanding Language Access Service Providers](#)
4. [Working with Court Interpreters in the Courtroom](#)
5. [Remote Interpreting \(RI\)](#)
6. [Cultural Competence](#)

### Overview of Benchguide Outline

This Benchguide Outline consists of 6 chapters, each addressing a different component of the provision of language access in the California Courts of particular relevance and concern to judicial officers. Each chapter is outlined below. Where appropriate, a textbox at the beginning of a chapter provides suggestions for the addition of graphics, tables, or other references to highlight the topic discussed. In addition, at the end of every chapter outline, there are resources for further reading for those interested in obtaining more information, or to assist in full development of the benchguide. Where applicable, a list of possible appendix items to be considered for supplementing a chapter is also provided.

Although the topics addressed in the benchguide outline largely correspond to those provided for the training curriculum for judicial officers, the delivery, format, and depth of the material should be handled differently. The benchguide can provide more in-depth information that can be referenced by bench officers whenever needed. The use of design features, such as graphics or special formatting of certain information will help deliver information effectively. Appendix A includes suggestions for graphics or formatted language to break up text in the benchguide and deliver important information concisely.

Note -the topic of cultural competence may warrant a benchguide of its own, or be incorporated as another tool separate from language access. Although it overlaps with language access, it is a much broader topic of great applicability to courts and all court staff and judicial officers. There are numerous publications discussing cultural competence within the court system, in addition to national experts that lead trainings and develop materials on this topic. However, if a brief overview and exposure to the topic is appropriate, the chapter outline included below will help provide that more cursory introduction to raise awareness as it relates to language access.

### **Chapter 1 Suggestions for Benchguide Graphics or Other Tools:**

- Consider using graphs/tables to demonstrate language diversity in California (see, as samples only, graphics used by Judicial Council staff and the LAP, and a table from New Judge's College PPT, provided in Appendix A, [Chapter 1--Graphics](#)). Note that graphics may need to be updated or verified.
- [2015 Language Need and Interpreter Use Study](#) is a source of tables which may also be useful for inclusion in this chapter. Examples include:
  - Page 25, Table 15 and 16: LEP Populations, ACS and Projected, by Language Spoken at Home;
  - Study at page 7, Table 4, showing 30 most interpreted spoken languages in California;
  - Table 5, page 9 showing the breakdown by year (showing a significant increase for some of the languages from year to year).

## **Chapter 1. The Need for Language Access**

### **1. California as a diverse state**

- a. Linguistic diversity: California is the most linguistically diverse state in the country.
  - Approx. 7 million LEP persons in the state
    - LEP: speak English "less than very well"
  - 27% (over 10 million) are foreign born
  - Over 43% speak a language other than English at home
  - Over 200 languages spoken throughout state
    - Including Latin American indigenous languages whose speakers are often not educated to read and write in their languages and languages with no written form
  - 10% linguistically isolated households
    - Linguistic isolation: households where every member 14 or older is LEP.
  - 185 languages in LA alone (2<sup>nd</sup> only to NY with 192)
  - 10 most-interpreted languages in California trial courts:
    - Spanish (71.9%); Vietnamese (3.9%); Korean (2.4%); Mandarin (2.2%); Farsi (1.8%); Cantonese (1.7%); Russian (1.6%); Tagalog (1.4%); Arabic (1.4%); Punjabi (1.2%).
- b. Cultural diversity:
  - 38.6% Latino
    - 37% foreign-born; 83% of Mexican origin; 17% non-Mexican origin
  - 38.5 % White (non-Hispanic)
  - 14.4% Asian

- Highest percentages among foreign born: China, Philippines, Vietnam, India, Korea
    - 6.5 % Black or African-American
    - 1.7 % Native American
    - 0.5% Native Hawaiian or Pacific Islander
    - 3.2% LGBT
    - Great socio-economic diversity. E.g. 11 out of 15 most diverse cities in the U.S. are in California<sup>1</sup>
      - Socio-economic diversity among all ethnic, immigrant and other groups.
  - c. Geographic diversity:
    - Rural vs. urban counties
    - Diversity within counties themselves, with mix of urban, rural, and large distances to travel to nearest courthouse or nearest services
    - Second largest city in the U.S. (City of Los Angeles)
  - d. Court diversity—58 trial courts with different needs, resources, court cultures, and diverse communities
    - Alpine: 2 judges; 1 courthouse; 1,159 people; 743 square miles
    - Los Angeles: over 500 judges, 38 courthouses, 10 million people; 4,272 square miles
    - San Francisco: Approx. 54 judges, 4 courthouses, 837,000 people; 49 square miles
2. LEP persons encounter barriers to access to the court system.  
These barriers include:
- Literacy, lack of education, low income
  - Geographic and linguistic isolation
  - Distrust in government, courts & fear of law enforcement
  - Immigration status & fear of deportation
  - Lack of knowledge of US legal system, legal rights, legal assistance
  - Different cultural attitudes and beliefs
  - Limited availability of services that are linguistically and culturally appropriate
3. Language access is critical to access to justice.  
Language access:
- a. Ensures effective communication, and
  - b. Allows all Californians to have access to the system that exists to protect and enforce their rights.
  - c. Lack of access generates lack of trust in the system.

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<sup>1</sup> See 2015's *Cities with the Most & Least Economic Class Diversity* at <https://wallethub.com/edu/cities-with-the-most-least-economic-class-diversity/10321/#highes-lowest>.

- Misunderstandings, frustration, anger and confusion
- Conflicts may escalate
- Issues may not get resolved
- [Trust and Confidence in the California Courts](#) –Survey of the Public and Attorneys
  - Recent immigrants tend to have low levels of contact, and of familiarity, with the courts
  - “African-Americans and Latinos significantly less positive about outcome fairness than Asian-Americans or whites.”
  - “Outcomes are seen by all respondents as least fair for persons who are low-income or who do not speak English.”

**Chapter 1—Further Reading:**

- [2015 Language Need and Interpreter Use Study](#)
- [Language Barriers to Justice in California](#) (2005)
- [Trust and Confidence in the California Courts](#) (2005)
- John Martin, et al., [What Does the Intersection of Language, Culture, and Immigration Status Mean for Limited English Proficiency Assistance in State Courts?](#) (October 2, 2012)

### Chapter 2 Suggestions for Benchguide Graphics or Other Tools:

- Consider inserting graphic on case type prioritization per Evidence Code 756 in CJER's "Using a Court Interpreter: The Basics" used for the New Judge's College (included below in Appendix A, [Chapter 2--Graphics](#). Graphic showing 8 goals of the LAP also provided.
- Consider use of some of the graphics at <http://www.courts.ca.gov/languageaccess.htm> or developed by EGG for the [Strategic Plan for Language Access in the California Courts](#).
- See appendix items suggested at end of Chapter outline, including relevant statutory authority, DOJ guidance, and other rules relevant to this chapter.

## Chapter 2. Language Access Laws & Policies

### 1. California Language Access Plan (LAP)

#### a. Background to LAP development

- DOJ guidance for recipients of federal funding (e.g. courts)
- Language access efforts such as:
  1. Robust system for credentialing court interpreters,
  2. Individual LEP Plans in all 58 counties,
  3. Translated Judicial Council forms,
  4. Bilingual (English-Spanish) California Courts Online Self-Help Center, and
  5. Individual courts' efforts, online and in print materials, together with bilingual staffing.
- Joint Working Group formation, leadership and task
- Stakeholder involvement, including judicial officers and court executive officers on working group and listening sessions, in addition to extensive public comment and involvement.
- Judicial Council approved LAP in Jan. 2015, and appointed Implementation Task Force to begin process of implementation and oversight of the LAP.

#### b. Overview of LAP:

- LAP provides for full language access by 2020, with all 75 recommendations being implemented over a 5-year period, in 3 different phases.
- The plan sets out 8 goals for providing comprehensive language access:
  1. Improve Early Identification of and Data Collection on Language Needs
  2. Provide Qualified Language Access Services in All Judicial Proceedings



3. Provide Language Access Services at All Points of Contact Outside Judicial Proceedings
  4. Provide High Quality Multilingual Translation and Signage
  5. Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers
  6. Provide Judicial Branch Training on Language Access Policies and Procedures
  7. Conduct Outreach to Communities Regarding Language Access Services
  8. Identify Systems Funding and Legislation Necessary for Plan Implementation and Language Access Management
- Addresses all points of contact between LEP court users and the court, such as:
    1. Clerk's offices and cashier windows
    2. Alternative dispute resolution programs
    3. Self-help centers
    4. Telephone lines (and recorded messages) accessed by the public when contacting the court
    5. Websites
  - Delineates provision of services for LEP parties, witnesses and persons with significant interest.
    - "Persons with significant interest": "[P]ersons with a significant interest or involvement in a case or with legal decision-making authority, or whose presence or participation in the matter is necessary or appropriate as determined by a judicial officer." <sup>2</sup>
  - Addresses the various language access providers: (1) Qualified<sup>3</sup> interpreters at no cost; (2) Qualified translators; and (3) Qualified bilingual staff.
- c. How the LAP affects a judicial officer's job—Recommendations most directly relevant to judicial officers: *[[May be included in a table, in summary form. Most relevant ones will be discussed in depth in other chapters]]*
- Rec. # 4: Establishes the affirmative duty for judicial officers to ascertain a court user's language needs if no self-identification.
  - Rec. # 8: By 2017, qualified court interpreters in all courtroom proceedings (discuss Evidence Code §756 below) and Family Court Services mediation/child custody recommending counseling.

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<sup>2</sup> Strategic Plan for Language Access in the California Courts, p. 30, FN. 12.

<sup>3</sup> The term "qualified" as used throughout this benchguide is to follow the definitions as delineated in the Language Access Plan. LAP p. 27 defines "qualified interpreters;" LAP Recs. #47 & 48, establish standards (and direct for further development of standards) for qualified bilingual staff; LAP Rec. #36 establishes qualifications of translators.

- Rec. #9: Pending CRC amendment, provisional qualification requirements must be followed in civil matters as well, in manner akin to Rule 2.893.
- Rec. #10: By 2020, qualified interpreters for all court ordered, court operated programs, services and events.
- Rec. #11: LEP should not be ordered to program if program not linguistically accessible. Should order appropriate alternative program. Court should inquire if programs provide services when making findings and orders.
- Rec. #12-15: In person interpreter preferred but several recommendations re. video remote interpreting in the courtroom.
- Rec. #19: Interpreter qualifications on the record (Govt. Code §68561(g) and (f)).
- Rec.# 22-24: Cannot appoint as interpreters: minors (#23), persons with conflict of interest absent exigent circumstances (#22); bilingual staff, unless exigent circumstances and provisionally qualified (#24).
- Rec. #25: Each court will designate an office or person as language access resource for all court users and court staff/judicial officers.
- Rec. #33: Judge must determine court appointed professionals can provide language access before ordering or referring LEP.
- Rec. #40: Sight translation of court orders by qualified court interpreters, and written if possible (at least JC order/judgment form if translation available).
- Rec. #50: Judicial branch training
- Rec. #61-65: Establishment of complaint mechanism and procedures re. language access services.

## 2. California Statutes Related to Language Access/Interpreters

- a. Government Code 68092—Payment of court interpreters
  - Court interpreters and translator fees must be paid by the court in criminal cases.
  - By litigants in civil cases, as court may direct (but see Govt. Code §68092.1 and Evidence Code §756, below)
- b. Government Code 68092.1—Provides for court interpreters in civil cases at no cost
  - Imperative that courts provide interpreters to all parties who require one.
  - Notwithstanding 68092 or any other, court may provide interpreter in civil cases at no cost to the parties, regardless of income. Until sufficient funds, priority established in Evidence Code §756.
- c. Evidence Code §756—Establishes priority order for interpreters in civil matters
  - Interpreters continue in proceedings where previously mandated: Criminal, traffic, juvenile delinquency and dependency, mental competency, hearings with appointed counsel, other mandated civil.

- Priority order in civil matters, including fee waiver eligibility
    - *[Handout used by CJER's New Judge's College training with graphics re. priorities, included in Chapter 2-Graphics below]*
    - Can deviate from priority if: qualified interpreter present and available at location AND no higher priority action taking place at same location during time for which interpreter already compensated.
  - d. Government Code §68561—Requirement regarding use of qualified interpreters and establishing interpreter credentials on the record *[[Discussed in more in depth with outline instructions in chapter 4 under "Establishing an interpreter's credentials on the record (Govt. Code 68561 (f) and (g))"]]*
    - Must use certified or registered interpreters in court proceedings, unless good cause.
    - New (2015)—Sets forth requirements for:
      - Establishing unavailability of credentialed interpreter and good cause for appointing non-credentialed; and
      - Establishing a certified or registered interpreter credentials on the record.
3. Other California authority related to the appointment of court interpreters.
- a. California Rule of Court 2.893- Appointment of noncertified interpreters in criminal and juvenile delinquency proceedings.
    - Requires provisional qualification of non-credentialed interpreters. *[[Discussed in more in depth with outline instructions in chapter 4 under "Appointing a qualified interpreter"]]*
    - LAP Rec. #9 requires similar procedure for civil matters, pending amendment of CRC.
  - b. Standard of Judicial Administration 2.10
    - Establishes the procedures for determining the need for an interpreter and a pre-appearance interview. *[[Discussed in more in depth with outline instructions in chapter 4 under "Examination of party or witness to determine need—Std. of Judicial Administration 2.10"]]*
4. Federal law and guidance regarding language access:
- a. Title VI of the Civil Rights Act of 1964: prohibits discrimination on the basis of race, color, or national origin in any program, service or activity receiving financial assistance from the federal government.

- b. Executive Order 13166 (2000) regulations, established that denying access to federally funded programs to LEP individuals violates Title VI.
  - Corresponding implementing regulations (28 C.F.R. Part 42, Subpart C)
  - Department of Justice (DOJ) guidance documents

***Suggested appendix items to include in Chapter 2:***

- [Evidence Code §756](#) and Priority List Graphic Document (in resources for New Judge's College curriculum by CJER, if not included in actual Chapter text itself), unless included as a graphic in Chapter 2.
- [Government Code §68092](#)
- [Government Code §68092.1](#)
- [Government Code §68561](#)
- [California Rule of Court 2.893](#)
- [Standard of Judicial Administration 2.10](#)
- [Executive Summary – California Language Access Plan](#)

***Chapter 2—Further Reading:***

- [Strategic Plan for Language Access in the California Courts](#) (2015)
- [AB 1657- Courts: interpreters.](#)
- [Title IV of the Civil Rights Act of 1964](#)
- [Executive Order 13166 implementing regulations](#)
- [Enforcement of Title VI of the Civil Rights Act of 1964 – National Origin Discrimination Against Persons with Limited English Proficiency.](#) (Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.)
- [Attorney General's Letter to Chief Justices/State Court Administrators \(August 2010\)](#)

**Chapter 3 Suggestions for Benchguide Graphics or Other Tools:**

- Consider using graphics such as samples provided in Appendix A, [Chapter 3—Graphics](#).
- Consider adding videos to the Further Reading list, such as those provided in [Videos on Working with Interpreters](#) and those used in New Judges' College.

**Chapter 3. Understanding Language Access Service Providers**

**A. The Role of Qualified Court Interpreters in Language Access**

1. What court interpreters do:

- Interpret an oral communication from a source language (language of the speaker) to the target language (language of the listener)
- Enable LEP person to understand the proceedings and to communicate effectively with the court.
- Enable judicial officers, attorneys and court personnel to communicate with and understand the LEP person.
- Act as a linguistic conduit and accurately convey the meaning from the source language into the target language.

2. Knowledge, skills, and training required of court interpreters.

- a. Interpreting requires a high degree of language proficiency, skills, training, and experience. Critical abilities for an interpreter include:
  - High level proficiency in both languages,
  - Mastery of English and foreign language equivalent to educated native speaker,
  - Ability to understand and follow different regional accents, dialects, and rates of speech,
  - Strong comprehension skills and ability to perform quick analysis of meaning,
  - Concentration, processing information quickly, short term memory, and accuracy,
  - Ability to self-monitor and self-correct,
  - Ability to read (and sight-translate) a broad range of texts, quickly, with little or no preparation, and
  - Training and practice in: memory building and note-taking skills for consecutive interpretation; sight translation techniques; simultaneous interpretations skills; and interpreter ethics.
- b. Interpreters must also possess:
  - Knowledge and awareness of cultural aspects that affect language.
  - Knowledge, and continued learning of social, technological, and legal changes that affect language.

### 3. Credentialing of court Interpreters by Judicial Council

#### a. Certification of court interpreters. Interpreters can be certified in 15 designated languages:

- Arabic, Cantonese, Eastern Armenian, Japanese, Khmer, Korean, Mandarin, Portuguese, Punjabi, Russian, Spanish, Tagalog, Vietnamese, Western Armenian and American Sign Language (ASL)

##### i. To become certified, must:

- Pass the English-only written exam.
- Pass the bilingual oral interpreting exam in English and the designated language demonstrating proficiency in the 3 modes of interpretation (see description of modes below).
- Enroll with the Judicial Council & pay the annual fee.
- Attend a Code of Ethics Workshop.

##### ii. For ongoing certification, must:

- Complete ongoing continuing education requirements of 30 approved hours every two years.
- Comply with Professional Standards and Ethics for Court Interpreters.
- Complete 40 professional interpreting assignments every two years.
- Pay Judicial Council annual fee.

#### b. Registration of court interpreters: Credentialing for spoken languages for which there is no certification

##### i. To become registered must:

- Pass the English written and English oral proficiency exams.
- Pass the oral proficiency exam in second language, where available (currently available for 70 languages).
- Enroll with the Judicial Council & pay the annual fee.
- Attend a Judicial Council Code of Ethics Workshop.
- Attend a Judicial Council Orientation Workshop.

##### ii. For ongoing registration, must:

- Complete ongoing continuing education requirements of 30 approved hours every two years.
- Comply with Professional Standards and Ethics for Court Interpreters.
- Complete 40 professional interpreting assignments every two years.
- Pay Judicial Council annual fee.

2. How interpreters do what they do—There are three modes of interpretation:

- a. Simultaneous: The interpreter interprets at the same time the speaker is speaking (lagging slightly behind).
  - Usually used in courtrooms when LEP person only listening and not expected to respond.
  - It is highly demanding. Studies show that after 30 minutes interpreter accuracy decreases and does so exponentially, even with the most qualified and experienced interpreters. Team interpreting is therefore a best practice (see discussion in Chapter 4).
  - Also after approximately 30 minutes, ability to self-monitor and self-correct diminishes (while errors increase).
  - Greater potential for mistakes and less time to correct them.
- b. Consecutive: The interpreter begins interpreting after the speaker finishes speaking.
  - Used for testimony on the record, interviews, and much of the work outside of the courtroom.
  - Often considered most accurate because allows interpreter to capture the entire message before delivering it in the other language.
  - Allows interpreter to adjust for manners of speech and make a more accurate judgment about the meaning of the message and make better choices re. how to render it into the other language.
  - Requires excellent memory and note-taking skills, developed through training.
  - Accuracy is also affected by fatigue in consecutive interpretation, and team interpreting is recommended for lengthy witness testimony.
- c. Sight translation: The interpreter renders an oral interpretation of a document or text.
  - Given the wide range of texts that may have to be sight translated, interpreters should be given an opportunity to read and review the text and look up necessary terminology if necessary.

3. All credentialed interpreters must follow Professional Standards & Code of Ethics for Court Interpreters.

- a. Nine Canons (California Rule of Court 2.890)
  - 1) Accurate representation of qualifications
  - 2) Complete and accurate interpretation
  - 3) Impartiality and avoidance of conflicts of interest
  - 4) Confidentiality of privileged communications
  - 5) Not giving legal advice

- 6) Impartial professional relationships
- 7) Continuing education and duty to the profession
- 8) Assessing and reporting impediments to performance
- 9) Duty to report ethical violations

b. Complete & accurate interpretation includes:

- Complete interpretation of all communications, on and off the record (including slang, idioms, obscenities, comments/questions)
- No additions or embellishments
- No omissions or editing
- No paraphrasing, summarizing or simplifying
- Same register
- Same meaning
- Same tone/emotion

c. Assessing and reporting impediments to performance includes interpreter intervening when:

- i. Needed to preserve accuracy and completeness
  - Speaker talking too quickly, too noisy, no pauses, need break
  - To look up terminology
- ii. Message must be clarified:
  - To clear up a misunderstanding
  - When interpreter does not understand a question/statement or slang/regionalism
  - When no linguistic equivalent exists and must explain
- iii. Needed to clear up a cultural misunderstanding (limited)
  - To explain commonly known things (e.g., names, dates, holidays)
    - Interpreters can only provide objective, factual and relevant information
    - Cannot act as a cultural expert.

4. Dangers of using untrained interpreters

a. Untrained interpreters are not qualified because:

- Lack of language proficiency (English or other)
- Unfamiliar with interpreting techniques, ethical standards, and legal process
- Unable to provide a complete and accurate interpretation
- Conflicts of interest
- Minors
- Difficulty understanding and interpreting legal terminology
- Fluency/proficiency does NOT equal ability to interpret in court



- b. Problems with untrained interpreters:
  - Between 23% to 53% of words incorrectly interpreted
  - Omissions, substitutions and mistakes distort the message
  - Frustration, confusion, and anger (for all participants, including bench officer), can result in escalation of conflict
  - LEP person and other participants (judge, lawyers, jury, etc.) lack skills to judge accuracy of interpreting and may not realize miscommunication is taking place.
- c. Consequences of bad interpretation
  - Barriers to access
  - Loss of legal protections and legal recourse
  - Dissatisfaction with court process/justice system
  - Inaccurate record created & possible challenges to proceedings/rulings

5. Payment for court interpreters

- a. Per the LAP, full expansion for interpreter provision timeline:
  - Qualified interpreters to be provided in all court proceedings, at no cost to the parties, by 2017.
  - Qualified interpreters to be provided, at no cost, in all court-ordered, court-operated events by 2020.
- b. Explanation of Program 45.45.
  - Under Program 45.45, courts pay for interpreters in all previously mandated cases: criminal, traffic, juvenile, mental competency, domestic violence in family court.
  - Under Program 45.45, if funds available, courts pay for interpreters in civil matters according to priority list under Evidence Code §756. Court, through its designated person or office, to determine which case types it can pay for.
- c. Pending full expansion:
  - Courts are authorized to provide interpreters at no cost to parties in civil matters regardless of fee waiver eligibility, if court chooses to allocate other funding for interpreter services not covered by Program 45.45.
  - Parties pay for court interpreter costs in civil matters for which the court does not provide court interpreters.
- d. Several recommendations in the LAP address seeking additional funding for provision of comprehensive language access (See. LAP Recs. #56-59).

**B. The Role of Qualified Translators in Language Access**

1. What translators do:

- a. Render a written communication from a source language to the target language, utilizing the appropriate style and terminology in the target language.

2. Knowledge, skills, and training required of translators:

- Proficiency in reading English and the foreign language,
- Mastery of foreign language equivalent to educated native speaker,
- Knowledge of formal writing, common grammar, syntax and dialectical aspects in both English and foreign language,
- Knowledge of legal writing and legal terminology in both languages,
- Knowledge and awareness of cultural aspects that affect language, and
- Knowledge, and continued learning of social, technological, and legal changes that affect language.

A credentialed or otherwise qualified interpreter is not automatically a qualified translator. Interpreting and translating require different skills.

3. Credentialing/establishing qualifications of translators

- American Translators Association (ATA): Certifies translators for a particular language pair (such as English and Spanish) and in a particular direction, such as *from* English *to* Spanish (or vice versa, or both).
- For court translations, court may want to also require a court or legal specialization.
- When not ATA certified, translators should possess a degree or certificate from accredited university (if in the US), or equivalent in a foreign country, in translation and/or linguistic studies, or equivalent experience as a translator and translating legal and/or court documents.

3. Judicial Council Translation Protocol requirements *[[Not in place yet]]*

### **C. The Role of Qualified Bilingual Staff in Language Access**

1. Bilingual staff play a critical role in making courts linguistically accessible

- a. They assist LEP court users in their native/preferred language directly (as opposed to interpreting between a court user and other court staff).
- b. They help courts ensure multilingual capacity at the more critical points of contact with the court.

2. Bilingual staff may be in the courtroom, clerk's office, court information kiosks or offices, cashiers, or any other court department or office.

- Examples include bilingual attorneys or paralegals in self-help offices; bilingual mediators; bilingual courtroom clerks; bilingual filing clerks; etc.

3. Bilingual staff must meet language proficiency requirements for their position.

- Rec. #47: The LAP provides for objective measure of a bilingual staff's proficiency in all working languages, suggesting a base proficiency of "Intermediate Mid" as

defined under the American Council on the Teaching of Foreign Languages (ACTFL). Existing Oral Proficiency Interview available through CLASP may be used.

- Staff member's self-evaluation is not sufficient.
4. Different points of contact with the public will require higher levels of proficiency (See LAP Rec. #48).
- Bilingual staff at those points of contact should demonstrate higher proficiency levels to be determined in a standardized objective manner.
  - Example: Self-help centers where instructions to litigants can be complex and detailed, will likely require higher proficiency than a cashier's window.
5. Limitations of bilingual staff with respect to interpretation and translation:
- Bilingual staff should not be used to interpret or translate unless otherwise credentialed or found to meet the necessary qualifications by provisional qualification (for interpreters) or by standards established by the relevant translation protocol.
  - Even when provisionally qualified, calling on bilingual staff to provide interpreting or translation services may cause them to compromise their professional standards or could create a conflict of interest.
    - E.g., bilingual staff may have assisted a litigant in a self-help center and learned certain facts which may be contradicted when that same staff person is acting as an interpreter for litigant, putting staff in difficult situation.

**Chapter 3—Further Reading:**

- [Compliance Requirements for Court Interpreters](#)
- [Search for Court Credentialed Interpreter](#)
- [California Rule of Court, Rule 2.890](#)
- [Professional Standards and Ethics for California Court Interpreters](#)
- [ACTFL Oral Proficiency Interview](#)
- [Knowledge, Skills and Abilities Essential for Court Interpretation](#)
- *Judicial Council's Translation Protocol (when available)*

**Chapter 4 Suggestions for Benchguide Graphics or Other Tools:**

- Consider using graphics such as samples provided in Appendix A, [Chapter 4—Graphics](#).
- Consider adding videos to the Further Reading list, such as those provided in [Videos on Working with Interpreters](#) and those used in New Judges' College.
- Consider inclusion of the Interpreter forms referenced in the chapter as appendix items, for convenience and easy reference.

**Chapter 4. Working with Court Interpreters in the Courtroom**

1. Determining the need for an interpreter

a. Request by the LEP user

- LEP user may be party, witness, or person with significant interest in the case
- "Persons with significant interest": "[P]ersons with a significant interest or involvement in a case or with legal decision-making authority, or whose presence or participation in the matter is necessary or appropriate as determined by a judicial officer."<sup>4</sup>
  - Examples: victims, legal guardians or custodians of a minor involved as a party, witness or victim; legal guardians or custodians of an adult involved as a party, witness or victim; adult children of family law litigants.

b. Request by the LEP user's attorney or advocate

c. Indication in court file or case management system of need for interpreter

d. Judicial officer concludes that need to appoint interpreter to ensure communication and understanding by LEP court user, courtroom participants, and jury

e. Examination of party or witness to determine need—Std. of Judicial Administration 2.10

- Examination required when a party or attorney requests, or
- When appears to court that party may not understand English well enough to participate fully (or, for witness, when cannot speak English so as to be understood by attorneys, court and/or jury)
- Examination of party/witness – SJA 2.10(c), with conclusion on the record.

f. Waiver of interpreter by LEP user—LAP Rec. #75 asks the Council to develop a policy to address waivers. Policy must ensure that waiver is:

- Knowing, intelligent and voluntary
- Made after consultation with counsel, if represented
- Approved by judicial officer, in his/her discretion

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<sup>4</sup> Strategic Plan for Language Access in the California Courts, p. 30, FN. 12.

- Entered on the record or other writing
- Revocable by party or judicial officer at any time
- When accepting a waiver on the record, judicial officer should ensure LEP person fully understands ability to revoke waiver at any time.  
*[Note that policy has not yet been developed, so benchguide may need to be updated to reflect actual policy for waivers, and not just the recommendations in the LAP. Policy may address with more specificity how to handle waivers with self-represented litigants who are unable to consult with counsel]*

## 2. Appointing a qualified interpreter

- a. Preference for certified/registered in-person interpreter.
  - See [Remote Interpreting](#) section for appropriateness of appointing remote interpreter.
  - Certified interpreter required for court proceedings in 14 designated languages.
  - Registered interpreters are required for other languages.
  - An in-person interpreter is preferred.
- b. When no certified or registered interpreter available after diligent search, court may continue the matter or appoint a provisionally qualified interpreter. *[[Note: Full “How-to” instructions to be fleshed-out in benchguide content as it is developed]]*
  - 1) Rule 2.893 for criminal and juvenile delinquency proceedings
  - 2) Pending rule amendment, must follow same procedure for civil matters (LAP Rec. #9)
  - 3) Judicial Officer in proceeding makes findings related to good cause based on process described in, and review of, following Judicial Council Forms:
    - *Procedures and Guidelines to Appoint a Noncertified or Nonregistered Interpreter in Criminal and Juvenile Delinquency Proceedings*, [INT-100-INFO](#),
    - *Qualifications of a Noncertified or Nonregistered Interpreter*, [INT-110](#),
    - *Certification of Unavailability of Certified or Registered Interpreter*, [INT-120](#) and
    - *Foreign Language Interpreter’s Duties—Civil and Small Claims*, [INT-200](#)
- c. Restrictions on appointment of noncertified, nonregistered interpreters under LAP:
  - 1) No minors (Rec. #23), without exception.
  - 2) No persons with conflict of interest (Rec. #22) absent exigent circumstances.
  - 3) No bilingual staff (Rec. #24) unless provisionally qualified and exigent circumstances.

3. Provisional qualification of an interpreter:

- 1) Court staff responsible for assigning interpreters performs diligent search for certified or registered interpreter, and signs *Certification of Unavailability of Certified or Registered Interpreter* (Form INT-120)
- 2) Noncertified/nonregistered interpreter is provisionally qualified by PJ or judicial designee after review of proposed interpreter's *Qualifications of a Noncertified or Nonregistered Interpreter* (Form INT-110)
- 3) Judge at proceeding finds good cause to use noncertified/nonregistered interpreter
- 4) Judge finds noncertified/nonregistered interpreter is provisionally qualified (may review Form INT-110 and may conduct additional examination or require additional information of interpreter, if desired).
- 5) If judge at the proceeding finds that interpreter NOT provisionally qualified, may use interpreter if brief, routine matter and judge, on the record:
  - i. Indicates defendant or minor waives certified/registered and provisionally qualified interpreter,
  - ii. Finds good cause to appoint noncertified/nonregistered non-provisionally qualified interpreter, and
  - iii. Finds interpreter is qualified to interpret the proceeding.
- 6) Requirements for the record on Form INT-100-INFO, p. 3.

4. Establishing an interpreter's credentials on the record (Govt. Code 68561 (f) and (g))

- a. For certified and registered interpreters, on the record:
  - 1) Name of interpreter (as listed on credentials)
  - 2) Current certification or registration number
  - 3) Statement that identification verified by court with interpreter badge issued by the Judicial Council or other similar documentation
  - 4) Language to be interpreted
  - 5) Statement that oath administered or that it's on file with court
- b. For provisionally qualified interpreters, on the record:
  - 1) Finding that certified or registered interpreter not available
  - 2) Name of provisionally qualified interpreter
  - 3) Statement that required procedures and guidelines followed
  - 4) Statement that oath administered

5. Handling challenges to interpretation

- 1) Address as a side bar (include interpreter in side bar or otherwise inform interpreter of substance of challenge)
- 2) Have court reporter read back question & answer
- 3) Request basis for objection and proposed interpretation
- 4) Determine if relevant and material

- 5) Ask interpreter if s/he accepts challenged interpretation
  - Allow interpreter to clarify with witness
  - Allow interpreter to use dictionary/resources
  - Interpreter states basis for interpretation (initial one, or agreement with proposed)
- 6) If proposed interpretation accepted, instruct jury to disregard earlier and re-ask question.
- 7) If interpreter does not accept proposed interpretation, burden on challenging party.
- 8) Judicial officer to make determination.

#### 4. Courtroom management in interpreted events—Best practices

- a. Pre-appearance interview and preparation
  - 1) SJA 2.10 provides, for good cause: authorization of pre-appearance interview between interpreter and LEP person.
  - 2) Good cause: If interpreter needs “clarification on interpreting issues, including colloquialisms, culturalisms, dialects, idioms, linguistic capabilities and traits, regionalisms, register, slang, speech patterns or technical terms.” (SJA 2.10)
  - 3) Best practices:
    - Provide interpreter relevant case information before assignment, including nature of proceeding, possible technical terms or concepts, emotionally charged content, etc.
    - Access to police reports and written pleadings in advance or at the time of hearing helps interpreter prepare more completely.
    - Provide for pre-appearance (or pre-session) interview so interpreter may ensure adequate communication and language compatibility.
    - Interpreters are neutral officers of the court and must maintain confidentiality as part of their code of ethics, so privacy should not be an issue here. Having more information and context greatly improves the quality and accuracy of the interpretation.
- b. Explanation of interpreter role to all courtroom participants—Best practices:
  - Judge should explain the role of the interpreter to all courtroom participants, and make sure LEP person has understood.
    - May be done by video/script before calendar call to ensure consistent and accurate information.
      - Possible strategies are: having interpreters interpret the video as it plays (using headsets) since presumably the interpreters have already been secured; or having the video recorded in various languages and participants can wear headsets for their particular language.

- Explain interpreter is impartial. S/he is not the interpreter for one side or another; interpreter interprets for the court.
- Explain interpreter is a highly qualified language professional and is certified (or registered) based on demonstrated skills and knowledge (does not apply when using provisionally qualified interpreters).
- If jury, explain to jurors that, even if they speak the LEP person's language, they must rely on the interpreter's rendition to English only, as that is the official record.
  - [California Criminal Jury Instruction \(CalCrim\) 121](#), California Jury Instructions Criminal (CALJIC) 1.03, [California Civil Jury Instructions \(CACI\) 5008](#)
  - If juror believes interpreter committed error, should let judge know by writing a note (CALCRIM 121)
- Interpreter cannot, and should not be asked to, offer opinions.
- Explain participants must address LEP person directly.
- Interpreter will refer to him/herself, if needed, in the third person.
- Ensure all participants understand interpreter is conduit only.
- Interpreter must interpret everything that is said out loud.
- Interpreter cannot interpret non-verbal communications.
- Interpreter may have to intervene to notify the court if s/he does not understand or needs a slower pace or repetition.
- Explain interpreter may position him/herself slightly behind the LEP person, or in a location that improves audibility, and that interpreter may be using equipment and LEP person will be wearing headphones.
- Explain interpreter may need to pause interpretation to clarify, look terminology up, or for some other reason to comply with ethics.

c. Managing all court participants—Best practices:

1) General practices:

- Ensure proper direct address of LEP person by all participants.
- Ensure all speakers talk slowly, loudly and clearly, and pause to give interpreter opportunity to interpret (especially if consecutive mode).
  - In addition to initial instruction, enforce the practice and remind participants if not following the instruction.
- Before getting underway, establish ground rules for challenge to interpretation to be handled as sidebar.
  - Party challenging the interpretation has burden to show it was inaccurate.
  - Interpreter should be involved during conversation.



2) Instruction for LEP persons

- Inform LEP persons using an interpreter to inform you (judge) if they do not understand the interpreter.
- Check in with LEP person periodically to ensure s/he understands. Check for understanding with substantive questions, not just a simple “yes” or “no”
  - Though judges, if they do not speak the LEP person’s language, may not be able to monitor the accuracy of the actual interpretation, they can monitor the LEP person’s understanding.
- Instruct LEP witnesses to wait for question to be interpreted in full before answering and answer in their language only, and not go back and forth between English and their language, even if they speak some English.
  - Instruct LEP witnesses to listen to the question as interpreted, not in English, even if they speak some English.
  - You may have to remind LEP person of this repeatedly, since it is common for someone who understands some English to answer before the interpretation is complete.
  - Keep in mind that even if the LEP person does at times seem to understand or speak English (and does so), it does not mean he or she is not LEP or does not require the assistance of an interpreter.

3) Managing the proceeding

- Ensure courtroom noise is kept at a minimum. Remove distractions.
- Allow only one speaker at a time.
- Ask simple, not compound, questions.
- Avoid double negatives.
- Avoid idioms, regionalisms, jargon, acronyms, and jokes
- Avoid legalese and “short-hand” talk.
- Allow interpreter to interpret objections before ruling.
- Instruct attorneys to allow interpret to finish interpretation before asking the next question.
- Ensure most appropriate positioning for interpreter, in consultation with interpreter and LEP person.

4) Awareness of the interpreter

- Be aware interpreter may have to interrupt, intervene, look up terminology, to comply with ethical guidelines and ensure accurate communication.
  - Remain patient
  - If you deem interpreter is interrupting more than customary, consider pausing proceeding to ascertain problem.
    - Interpreter may be having challenges understanding the LEP person.
    - LEP person may not, even in native language, be forming complete sentences or thoughts.

- Interpreter may not be qualified for particular assignment (if so, obtain another interpreter or continue the matter to another date).
  - Assure interpreter that, if so requested, unheard testimony or statements can be repeated.
  - If asking LEP person to review a written document, give interpreter time to quickly review the writing before asking him/her to sight translate.
  - Whenever possible, provide interpreter with written materials such as jury instructions to facilitate lengthy interpretation.
  - Allow interpreter to use note pad for taking notes while interpreting.
  - Be aware of needing to give interpreter breaks (if no team interpreting). Ask interpreter.
- d. Team interpreting and interpreter appointment considerations
- 1) Interpreting is highly demanding and interpreter fatigue (and errors) set in after approx. 30 minutes of sustained simultaneous interpreting.
  - 2) For long proceedings, appoint a team of interpreters so interpreters take turns and ensure accurate interpretation.
  - 3) Appoint a different interpreter for LEP witnesses than for parties.
  - 4) Appoint different interpreters for opposing parties, if possible.
  - 5) Ensure no conflict in using interpreter. If interpreter interpreted for a party in preparation for trial (e.g., in his/her attorney's office), that interpreter may be perceived as biased if interpreting at the court proceeding.
    - If must use interpreter, inform parties interpreter is bound by confidentiality, is under oath, and acts as a neutral party and not advocate for either side.

#### **Chapter 4—Further Reading**

- Court Interpreting articles provided below under [Additional Resources for Language Access Benchguide](#)
- [ABA Standards for Language Access in Courts](#)
- *Determining Need for an Interpreter* (from CJER New Judge's College)
- *Interpreter Information and Judge's Scripts* (from CJER New Judge's College)
- *10 Tips for Working with Interpreters* (provided as part of CJER New Judge's College, by Mary Lou Aranguren)
- [Working with Court Interpreters](#), adapted from *Bench Orientation: Working with Interpreters* developed by the Superior Court of California, Contra Costa County (2004)
- See list of videos provided in [Videos re. Working with Court Interpreters](#)
- Bench cards developed by NCSC, when available
- Tool-kit once developed by Translation subcommittee may also provide one location for resources helpful to judicial officers when working with LEP court users.

**Chapter 5 Suggestions for Benchguide Graphics or Other Tools:**

- Consider using graphics such as samples provided in Appendix A, [Chapter 5—Graphics](#).

**Chapter 5. Remote Interpreting (RI)**

**1. What is remote interpreting?**

- Remote Interpreting allows the interpreter to appear remotely to interpret in a courtroom proceeding.
  - Video remote interpreting (VRI) allows for interpreters to interpret via video.
  - Telephonic remote interpreting provides for the interpreter to interpret via phone only (no video).
- Several LAP recommendations include pilot projects to explore new and evolving technologies.
- LAP Rec. #14 requires the Language Access Plan Implementation Task Force to establish minimum technological requirements for RI, including requirements for both simultaneous and consecutive interpretation.
- If using RI, courts should use video for courtroom interpretations (LAP Rec. #15)
- Rec. #16 establishes a pilot project for using VRI in courtroom proceedings. Plans are underway to develop the VRI pilot.

**2. Appointment of remote interpreter for courtroom proceedings**

- a. In-person, certified and registered court interpreters preferred for courtroom proceedings (LAP Rec. #12)
- b. LAP allows courts to “consider the use of remote interpreting where appropriate for a particular event. Remote interpreting may only be used if it will allow LEP court users to fully and meaningfully participate in the proceedings.” (LAP Rec. #12)

**3. Guidelines for use of RI in the courtroom**

Courts must satisfy, as feasible, guidelines on Appendix B of LAP. Summarized as:

- a. Minimum technology requirements for high quality communications
- b. Training for all persons who will be involved in the RI event, related to:
  - Equipment
  - Interpreting protocols
  - Interactions with LEP persons
- c. In determining appropriateness of RI for court event, examine:
  - Length and complexity of event (and communications involved)

- Relative convenience/inconvenience to the LEP court user
- Whether matter uncontested
- Whether proceeding is of immediate nature (e.g. arraignment, bail reduction, TROs)
- Whether LEP party present in courtroom
- Number of court users to receive interpretation from same interpreter during event
- Efficient deployment of court resources
- Whether relay interpreter is required

d. During the court proceeding:

- Need to interrupt or clarify, or suspend and reschedule
  - Interpreter may need to interrupt, clarify. Judge should acknowledge this at start of proceeding and provide a mechanism in advance to allow for this.
  - Judge should check in with LEP party frequently to ensure he/she is hearing and understanding.
  - Judge may need to suspend and reschedule for variety of reasons (e.g. technology, interpreter finds it ineffective, etc.)
- RI Challenges
  - Particular challenges for interpreters, which may include increased fatigue and stress (and lead to decreased accuracy).
  - May need shorter sessions and more breaks.
- Participants who must have access
  - Remote interpreter must be heard and must be able to hear all speakers.
- Visual/Auditory Issues, Confidentiality and Modes of Interpreting
  - Auditory/visual issues and confidentiality must be considered when implementing RI. All parties must understand in advance what procedure and technical set up will be used to allow for confidential communications as needed.
- Documents and Other Information
  - Ensure availability of technology to communicate written information to interpreter
- Professional Standards and Ethics
  - All interpreters bound by same standards and ethics.

- Interpreters are required to interpret everything completely and accurately.
  - Interpreters are required to report impediments to performance.
  - Data Collection
    - Monitor effectiveness of technology and satisfaction of participants, including LEP persons and interpreters, during the proceeding and through evaluations.
    - Track benefits and problems experienced on ongoing basis.
4. Objections Related to RI
- a. When explaining RI event, ask if parties and attorneys have objections.
  - b. If no objections, state so on the record.
  - c. If objections:
    - If overrule objection, state so on the record.
    - If uphold objection, state so on the record and continue the matter to have an in-person interpreter present.

***Suggested appendix items to include in Chapter 5:***

- Appendix items B, C, D in [Strategic Plan for Language Access in the California Courts \(2015\)](#)
- *Technological Solutions Subcommittee of the Implementation Task Force*
- *Sample bench card developed by NCSC*

**Chapter 6 Suggestions for Benchguide Graphics or Other Tools:**

- Consider using graphics such as samples provided in Appendix A, [Chapter 6—Graphics](#).
- Consider adding videos to the Further Reading list that address cultural competence in the state courts. E.g. San Joaquin county video.

## 6. Cultural Competence

### 1. Why culture is important in the state courts

#### a. Great diversity of cultures represented in state courts

- There are ethnic/national cultures (groups whose members have a common affiliation defined by reference to ethnicity or nation); professional culture (groups with affiliations defined by occupation or profession, e.g. lawyers, judges); organizational culture (groups interactive within a particular unit or agency, e.g. courts, district attorneys), and more.
- Vast differences in behaviors, values, fundamental beliefs and the assumptions of court users (and court staff and judicial officers) with regard to the court system and court culture.
- Great diversity within cultures as well. Culture is not monolithic. Even members of the same culture will have great diversity in perceptions, behavior, interactions with the court etc. based on socio-economics, geographic location, educational levels, age, gender, individual characteristics, personal background and experiences, etc.
- For LEP persons, having a country in common does not guarantee similar notions, perspectives, etc.
  - Diversity of dialects, regionalisms, local languages, immigration status, time in the U.S., level of acculturation, as well as other factors already addressed.

#### b. Individuals often are part of various cultural groups. In the court context, culture affects:

- Court users
- Court staff
- Judicial officers
- Justice partner agencies interacting with the court
- Public at large in its perception of the justice system

### 2. How might culture affect a court user?

Culture may:

- Impact their perception of the court system.
- Impact their understanding of the legal process.

- Influence their definition of justice and conflict.
- Affect their willingness to identify as LEP.
- Affect how they describe events that occurred (e.g., may have different concepts of past, present and future).
- Impact their views of authority figures in legal proceedings.
- Affect their willingness to seek help or accept help when offered.
- Affect their expectations of “free” help (that it is “lesser than” paid/contracted for).
  - May affect their willingness to accept free interpreter, appointed counsel, self-help services, or legal aid.
- Affect their expectations (of the court, the judge, the law).
- Affect their behavior in court.
  - Their relationship to authority may cause them not to speak up, or contradict a lawyer or judicial officer, or assent in understanding but not in agreement.
  - May act submissive, or aggressive.
  - May say they understand when they don’t.
- Influence their motivations and strategies.
- Affect their perspectives or understanding on compliance with court orders.

3. What is cultural competence?

- Responding to people in ways that recognize, value, and respect their cultures, languages, classes, races, ethnic backgrounds, religions and other factors.
- Cultural competence requires that organizations have a defined set of values/principles, and demonstrate behaviors, attitudes and policies that allow them to work cross-culturally.
- It does not mean assuming all individuals appearing to belong to a given culture will behave the same, understand the same, and relate in the same manner to the court and its participants.

4. Steps to cultural competence

- Awareness of own cultural background (including ethnic/national, professional and organizational), and how one’s culture may influence own worldview, behaviors, thoughts, ways of communicating, and, while on the bench, the perspectives one has and decisions made.
- Awareness of own biases
  - Implicit bias and Implicit Association Tests
  - Examine how your own implicit biases may affect the decisions you make on the bench with regard to credibility, punishment, outside services ordered, etc.
- Be aware that LEP person’s culture may impact their perception of the court system, their understanding of legal process, etc.

- Do not assume that by understanding an LEP person's identified culture you understand their perceptions, views, behavior, etc.
  - Listen closely.
  - Be open.
  - Be patient.
  - Continue learning.
5. How does cultural competence make a difference?
- Better communication
  - Increased procedural fairness
  - Increased and more meaningful participation
  - Better compliance with court orders by improving information for making orders and ensuring orders and communication is culturally appropriate as well as tailored to the individual's needs, without blanket cultural assumptions
  - Increased public trust and confidence
  - Improved access to justice

#### Chapter 6—Further Reading:

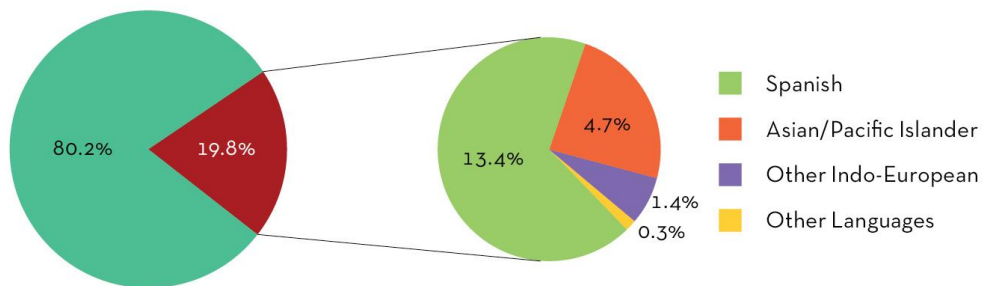
- [Implicit Association Test](#)
- “Tools for Cross Cultural Communication” excerpt from [Handling Cases Involving Self-Represented Litigants, a Benchguide for Judicial Officers](#) (2008)
- [www.ethnomed.org/culture](http://www.ethnomed.org/culture): Univ. of Washington website that provides “cultural profiles” of immigrant and linguistic groups in Seattle area.
- [Cultural Competence in Legal/Judicial Services](#)
- [Cultural Orientation Resource Center](#)
- [National Center for Cultural Competence](#)
- [Comparisons between two legal systems \(Mexico and U.S.\)](#) (Superior Court of California, County of Imperial)
- [Borderland Justice: Working With Culture in Courts Along the US/Mexico Border](#) by John A. Martin, Jose Guillen and Diane Altamirano (March 16, 2007)
- [Additional Resources for Language Access Benchguide on Cultural Competence](#)



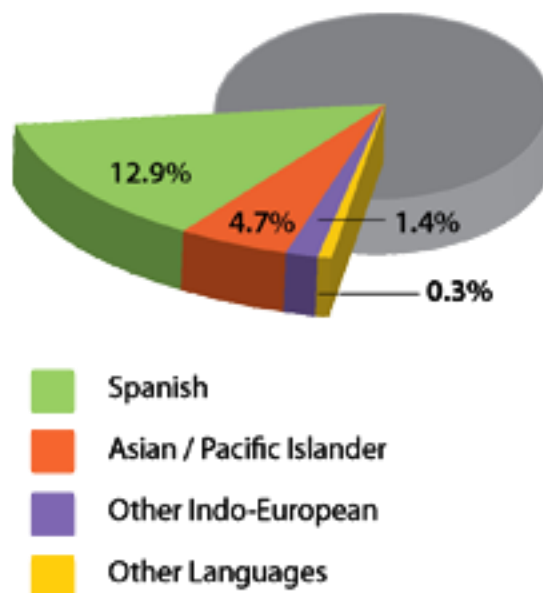
## Appendix A: Possible Graphics or Other Tools for Inclusion in various chapters

### Chapter 1—Graphics

LIMITED ENGLISH PROFICIENCY IN CALIFORNIA  
19.8% (n=6,792,119) speak English less than very well



***OR***



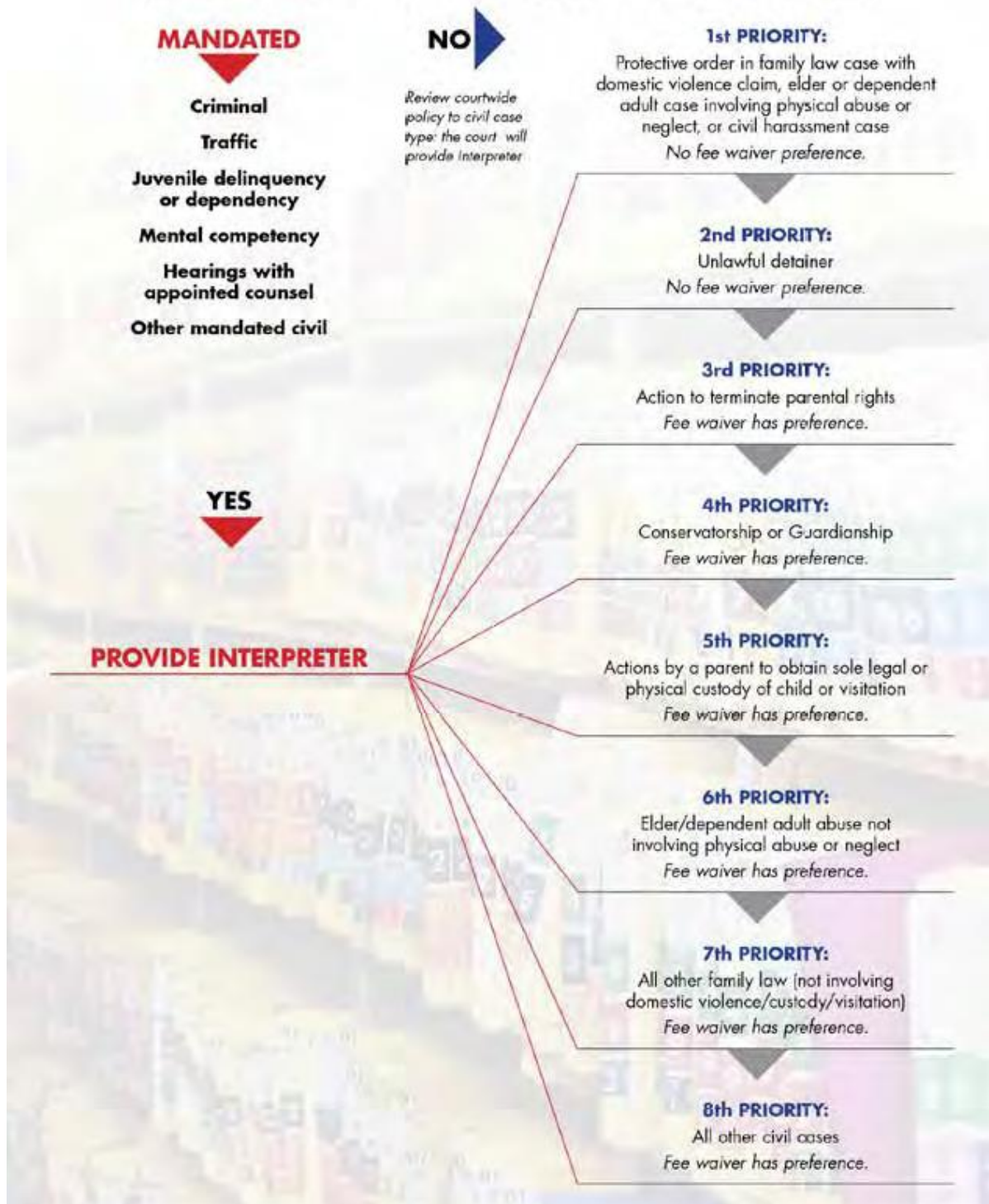
| Location                            | Spoke a language other than English at home | Language spoken of those who speak a language other than English at home: |                               |       |
|-------------------------------------|---|---|-------------------------------|-------|
|                                     |   | Spanish   | Asian/<br>Pacific<br>Islander | Other |
| Los Angeles, Long Beach, Santa Ana  | 54%   | 67%   | 21%                           | 12%   |
| Salinas                             | 54  | 88  | 8                             | 4     |
| Fresno                              | 44  | 76  | 16                            | 8     |
| Riverside, San Bernardino, Ontario  | 41  | 82  | 11                            | 7     |
| San Francisco, Oakland, Fremont     | 41  | 41  | 41                            | 18    |
| San Diego, Carlsbad, San Marcos     | 38  | 66  | 21                            | 13    |
| Sacramento, Arden-Arcade, Roseville | 28  | 46  | 30                            | 24    |
| San Jose, Sunnyvale, Santa Clara    | 51  | 38  | 43                            | 18    |
| California                          | 44  |   |                               |       |
| United States                       | 21  |   |                               |       |

## Chapter 2—Graphics

### California Language Access Plan

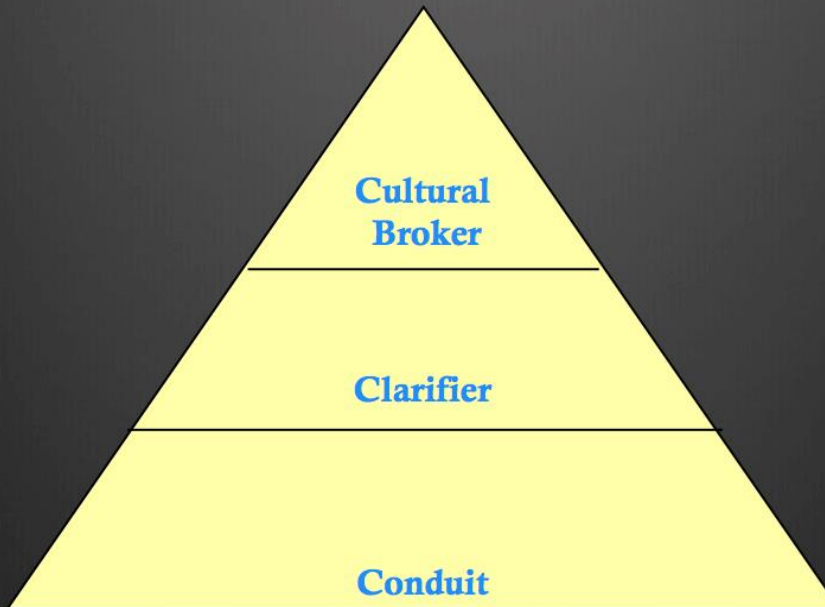
- Goal 1:** Improve Early Identification of and Data Collection on Language Needs
- Goal 2:** Provide Qualified Language Access Services in All Judicial Proceedings
- Goal 3:** Provide Language Access Services at All Points of Contact Outside Judicial Proceedings
- Goal 4:** Provide High Quality Multilingual Translation and Signage
- Goal 5:** Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers
- Goal 6:** Provide Judicial Branch Training on Language Access Policies and Procedures
- Goal 7:** Conduct Outreach to Communities Regarding Language Access Services
- Goal 8:** Identify Systems Funding and Legislation Necessary for Plan Implementation and Language Access Management

## CASE TYPE PRIORITY ORDER PARTY INTERPRETER



## Chapter 3—Graphics

### Role of the Interpreter



### Code of Ethics for Court Interpreters

1. Accurate representation of qualifications
2. Complete & accurate interpretation
3. Impartiality & avoidance of conflicts of interest
4. Maintain confidentiality
5. Must not give legal advice
6. Impartial professional relationships
7. Continuing education
8. Assess & report impediments to performance
9. Duty to report ethical violations



## Chapter 4—Graphics

### Sample questions to assess understanding of English:

*(Ask questions on the record. Avoid questions easily answered with yes or no replies.)*

- What is your name?
- How did you come to court today?
- What kind of work do you do?
- How did you learn English?
- What is the reason for you being in court today?
- You have the right to a free interpreter to help you communicate and understand the proceedings today. Would you like the help of an interpreter?

### Who cannot serve as interpreter?

- Minors, without exception
- Persons with conflict of interest
- Bilingual staff

### How Do I Appoint an Interpreter?

1. Appoint a certified or registered court interpreter.
2. If no certified or registered interpreter available after diligent search, may for good cause appoint provisionally qualify an interpreter for proceeding.  
[CRC Rule 2.893](#)
3. If interpreter NOT provisionally qualified, may use if brief, routine matter and indicate on record:
  - a. Party waives certified/registered & provisionally qualified interpreter,
  - b. Good cause to appoint non-licensed, non-provisionally qualified interpreter,
  - c. Interpreter is qualified to interpret the proceeding.

See forms [INT-100-INFO](#) and [INT-110](#) for provisional qualification process.

### Sample voir dire questions to assess interpreter qualifications:

- What training or credentials do you have as an interpreter?
- How did you learn English?
- How did you learn your other language?
- Are you familiar with the Professional Standards and Ethics for California Court Interpreters? What are its main points?
- What is your experience interpreting in court? What types of cases?
- Describe your familiarity with legal terminology.
- Do you know any of the parties in this case? If so, how?
- Are you able to remain neutral and impartial?
- Do you understand you are only here to facilitate communication and should not give advice or your opinion?
- **To the parties:** Does either party have any questions for the interpreter?

### **Establishing an Interpreter's Credentials on the Record**

#### **For certified/registered interpreters:**

1. Name of interpreter
2. Current certification/registration no.
3. Statement that identification verified with badge or similar documentation
4. Language to be interpreted
5. Statement that oath administered or on file with court

#### **For provisionally qualified interpreters:**

1. Certified/registered interpreter not available
2. Name of qualified interpreter
3. Statement that required procedures and guidelines followed
4. Statement that oath administered

### **Communicating Through Interpreters**

#### **Before the proceeding begins:**

- Allow the interpreter to converse briefly with the LEP person to ensure understanding of accents, dialect or pronunciation differences.
- Whenever possible, allow the interpreter to review the court file prior to the hearing, to become familiar with names, dates and technical vocabulary.
- If you anticipate a long proceeding (1 hour or more), consider appointing 2 or more interpreters.

#### **During the proceeding:**

- Instruct all participants to speak loudly and clearly, and to speak one at a time.
- Speak directly to the LEP person, not to the interpreter.
- Speak/read slowly and clearly, avoiding compound questions, double negatives, jargon & legalese.
- Pause during consecutive interpretation (witness testimony) so the interpreter can keep the pace.
- Don't ask the interpreter to independently explain or restate anything said by the party.
- Take into account the fatigue factor. Allow for breaks or alternate interpreters every 30 minutes.
- Monitor the interpreter so that side conversations with the LEP person don't take place.
- Check in periodically with LEP person to make sure s/he understands. Do so with substantive questions, not just a simple "yes" or "no".
- Recognize that court proceedings can be confusing and intimidating for a non-English speaker since other countries' legal systems and concepts often vary from those of the U.S.

## Chapter 5—Graphics

### Remote Interpreting (RI) May Be Considered When:

- In person certified or registered interpreter not reasonably available.
- The interpreter coordinator has conducted analysis of legal and linguistic demands of the case, in consultation with potential remote interpreter.
- All minimum technology requirements are met.
- All persons involved in the RI event are trained.
- All parties consent on the record.

The court has the discretion to determine if remote interpreting is appropriate.

### Courtroom Checklist for the Judge

- ☒ Make sure court clerk has the equipment in place.
- ☒ Have equipment operator test equipment with interpreter.
- ☒ Indicate when interpreter should begin.
- ☒ Confirm visibility and audibility of both the LEP person and the interpreter.
- ☒ Establish consent to using a remote interpreter, on the record.
- ☒ Ask everyone to inform you immediately if there are any technical difficulties.
- ☒ If court documents have not been shared with remote interpreter ahead of time, provide a brief introduction of the case.
- ☒ Be prepared to assist if a confidential attorney-client communication is requested. Describe the reason for any long silences or interruptions in the proceedings so that the remote interpreter knows what is going on.
  - Example: “Attorney Smith is looking for information in the defendant’s deposition transcript before asking his next question.”
- ☒ Make sure the court clerk speaks into an amplifying microphone that can be heard by the interpreter when administering oaths and when calendaring hearings.
- ☒ Indicate when interpreter is released.
- ☒ Indicate when equipment and connection may be disconnected.



## Chapter 6—Graphics

### The Iceberg Concept of Culture

Like an iceberg, the majority of culture is below the surface.

#### Surface Culture

Above sea level

Emotional load: relatively low

food ▪ dress ▪ music ▪  
visual arts ▪ drama ▪ crafts  
dance ▪ literature ▪ language  
celebrations ▪ games



#### Deep Culture

##### Unspoken Rules

Partially below sea level

Emotional load: very high

courtesy ▪ contextual conversational patterns ▪ concept of time  
personal space ▪ rules of conduct ▪ facial expressions  
nonverbal communication ▪ body language ▪ touching ▪ eye contact  
patterns of handling emotions ▪ notions of modesty ▪ concept of beauty  
courtship practices ▪ relationships to animals ▪ notions of leadership  
tempo of work ▪ concepts of food ▪ ideals of childrearing  
theory of disease ▪ social interaction rate ▪ nature of friendships  
tone of voice ▪ attitudes toward elders ▪ concept of cleanliness  
notions of adolescence ▪ patterns of group decision-making  
definition of insanity ▪ preference for competition or cooperation  
tolerance of physical pain ▪ concept of "self" ▪ concept of past and future  
definition of obscenity ▪ attitudes toward dependents ▪ problem-solving  
roles in relation to age, sex, class, occupation, kinship, and so forth

##### Unconscious Rules

Completely below sea level

Emotional load: intense



**"We do not see things as they  
are, we see things as we are."  
- The Talmud**

## Additional Resources for Language Access Benchguide

### Overall Language Access Training

[Language Access Basic Training](#), New Mexico Center for Language Access

### Court Interpreting

Elena M. de Jongh, [Court Interpreting: Linguistic Presence v. Linguistic Absence](#), Florida Bar Journal, Vol. 82, No. 7 (July/August 2008).

Holly Mikkelsen, [Evolving Views of the Court Interpreter's Role: Between Scylla and Charybdis](#) (2008)

Holly Mikkelsen, [Verbatim Interpretation: an Oxymoron](#) (1999)

Holly Mikkelsen, [Interpreting Is Interpreting—Or is it?](#) (1999)

Holly Mikkelsen, [Awareness of the Language of the Law and the Preservation of Register in the Training of Legal Translators and Interpreters](#)

[Equal Access as it Relates to Interpretation and Translation Services](#), NAJIT Position Paper (2006)

[Team Interpreting in the Courtroom](#), NAJIT Position Paper (2007)

[Modes of Interpreting: Simultaneous, Consecutive, and Sight Translation](#), NAJIT Position Paper (2006)

[Telephone Interpreting in Legal Settings](#), NAJIT Position Paper (2009)

### Cultural Competence

John Martin, et al., [What Does the Intersection of Language, Culture, and Immigration Status Mean for Limited English Proficiency Assistance in State Courts?](#) (October 2, 2012)

[A Community of Contrasts: Asian Americans in the United States: 2011](#), published by Asian American Center for Advancing Justice.

William Y. Chin, [Multiple Cultures, One Criminal Justice System: the Need for a "Cultural Ombudsman" in the Courtroom](#), 53 Drake L. Rev. 651 (2005)

Katherine Frink-Hamlett, [The Case for Cultural Competency](#), New York Law Journal (2011)

Shiv Narayan Persaud, [\*Is Color Blind Justice Also Culturally Blind?\*](#) 14 Berkeley J. Afr.-Am. L. & Pol'y 23 (2012)

John Martin, et al., [\*Becoming a Culturally Competent Court\*](#), The Court Manager, Vol. 22, Issue 4.

Gail S. Tusan & Sharon Obialo, [\*Cultural Competence in the Courtroom: A Judge's Insight\*](#), 15 Georgia Bar Journal 39 (Dec. 2009) *reprinted in* Precedent, 2010.

Laurie Olsen et al., [\*Cultural Competency What It Is and Why It Matters\*](#) (2007)

Jim McCaffree, *Language: A Crucial Part of Cultural Competency*, 108 Journal of the American Dietetic Association 611 (2008)

Ratna Sarkar, [\*Namaste or Assalaam-Alaikum? Cultural Difference Begins with Hello\*](#), Proteus Vo. XIV, No. 2 (Summer 2005)

Maria Cristina Castro, [\*Effective Communication with Non-English Speaking Litigants\*](#). Discusses differences between some of the unique characteristics of the US legal system, comparing it and other cultural aspects with that of other countries.

Victoria Kim, [\*American Justice in a Foreign Language\*](#), Los Angeles Times (February 21, 2009)

## **Implicit Bias and the Courts**

[\*Implicit Bias in the Courtroom\*](#), 2012 Article, UCLA Law Review, Professor Jerry Kang, Judge Mark Bennett, et. al.

[\*Helping Courts Address Implicit Bias – Resources for Education\*](#), National Center for State Courts

- a. NCSC: [\*Implicit Bias – A Primer for State Courts\*](#), 2009 article, National Center for State Courts, Professor Jerry Kang
- b. NCSC: [\*Implicit Bias Project Report\*](#)
- c. NCSC: [\*Addressing Implicit Bias in the Courts\*](#)
- d. NCSC: [\*Strategies to Reduce the Influence of Implicit Bias\*](#)

[\*Dangers of Implicit Bias and Decision Fatigue – Benchcard\*](#), Minnesota Judicial Branch, 2015

## VIDEOS on Working with Court Interpreters

### **Judicial Officer Training Vignettes** at

[https://www.courts.state.co.us/Administration/Custom.cfm?Unit=interp&Page\\_ID=410](https://www.courts.state.co.us/Administration/Custom.cfm?Unit=interp&Page_ID=410)

Vignette 1—Obligation of the Interpreter to limit work to their scope of practice and of the Judge to address parties in first person

Vignette 2—Obligation of the Judge to ensure appointment of a qualified and approved Interpreter, and example of Interpreter for the deaf & hard of hearing

Vignette 3—Obligation of the Interpreter to remain impartial and to avoid conflicts of interest

Vignette 4—Obligation of the Interpreter to be accurate and complete

Vignette 5—Obligation of the Interpreter to be accurate and complete, interpreting everything that is said, and to remain within scope of practice

Vignette 6—Obligation of the Interpreter to avoid an appearance of bias

Vignette 7—Obligation of the Judge to allow Interpreter to interpret prior to ruling on objection

### **Federal Judiciary Channel – Youtube**

<https://www.youtube.com/playlist?list=PL4bcxoLSIaXfPvX9FXws4S6XirPhUObBQ>

18 videos on court interpreting:

1. Right to a Court Interpreter
2. Court Interpreters are Officers of the Court
3. Court Interpreter Credentials
4. Example of Court Interpreter's Interview to Verify Credentials
5. Simultaneous and Consecutive Interpreting
6. Simultaneous Interpreting Usage
7. Example of Simultaneous Interpreting
8. Consecutive Interpreting Usage
9. Example of Consecutive Interpreting
10. Direct Speech Interpreting
11. Summary Interpreting
12. Example of Improper Summary Interpreting
13. Example of Inaccurate Legal Interpretation
14. Court Interpreters Can Consult Reference Materials
15. Team Interpreting
16. Correcting Interpreting Inaccuracies
17. Court Interpreters and Conflicts of Interest
18. Ethical Obligations for Court Interpreters

[UCS \[Unified Court System – NY\] Judge's Guide to Working with Court Interpreters](#) Video (18 mins)

[Ethical Challenges for Court Interpreters](#). Interpreter training 8-module video series produced in Vancouver in 2012. Although designed for interpreter training, provides scenarios you may use to illustrate the judge's role in ensuring best practices.

## **Attachment 5**

## Language Access Training Curriculum – Judicial Officers

### Training Modules/Sections:

1. [The Need for Language Access](#)
2. [Language Access Laws & Policies](#)
3. [Understanding Language Access Service Providers](#)
4. [Working with Court Interpreters in the Courtroom](#)
5. [Remote Interpreting \(RI\)](#)
6. [Cultural Competence](#)

### Recommendations for Training

#### *Overall recommendations:*

1. Because of the interrelation between most of the topics, it would be most efficient and effective to teach all modules at the same time. There are two possible exceptions, given the particular subject matter: Remote Interpreting and Cultural Competence.
  - The Remote Interpreting module will likely undergo significant modifications and include additional information as the Implementation Task Force's Technological Solutions Subcommittee establishes guidelines for technological improvements in this area. In the meantime, the module can be included with the rest of the training components as a more abridged version.
  - The Cultural Competence module can be a training effort of its own. Although it overlaps with language access, it is a much broader topic of great applicability to courts and all court staff and judicial officers. There are experts nationally to speak on this topic, and Judicial Council staff have worked with these trainers and/or attended these focused trainings in the past. However, if a brief overview and exposure to the topic is appropriate, the module below will help provide a more cursory introduction to raise awareness.
2. Training should be ongoing, with an initial substantive and extended training, offered once per year, and supported with online modules and ongoing updates and refresher trainings, as well as offerings for further study.

3. All judicial officers should be trained on an ongoing basis. Some of the topics may be covered in more detail in more focused and specialized trainings directly applicable to a judge's assignment.
4. In addition to a language access specific training as laid out in this sample curriculum outline, it is important that language access training be incorporated into any training efforts addressing practice areas where language access issues may arise. For example, judicial officer trainings and orientation classes regarding matters with self-represented litigants, or case types such as family law, small claims, juvenile dependency and delinquency, traffic, and criminal court generally, should include modules addressing language access, working with interpreters, and cultural competence.

*Recommended Time Estimates for Training for each Module:*

1. **The Need for Language Access & Language Access Laws & Policies**—1.5 hours: to allow explanation of the more relevant Recommendations under the LAP (especially if training will not include all modules at once, since other modules provide detailed information on some of the recommendations).
2. **Understanding Language Access Service Providers**—1.5 hours: to fully understand the appropriateness of language access service providers, challenges and limitations, and the importance of utilizing the language access service providers in the most appropriate manner.
3. **Working with Court Interpreters**—2 hours: most judicial officers will need to have in-depth knowledge of the courtroom interpretation process, working with qualified interpreters, and courtroom management techniques when an interpreter is needed.
4. **Remote Interpreting (RI)**—1 hour: the time allotted is for an introduction to the process to provide judicial officers with familiarity with existing recommendations and policies, and a court's particular use, if any, of remote interpreting.
5. **Cultural Competence**—1.5 to 3 hours: depending on whether it is just covered as part of a language access training, with further more specialized trainings in the future, or whether it is intended as a stand-alone program. In the case of the latter, 3 hours would be the minimum appropriate length.



### Teaching Tips and Techniques for Module 1:

- See sample PowerPoint Slides.
- Ask participants if they speak another language, and if so, how they learned it. For those whose parents/relatives are LEP speakers, may want to engage about what experiences their relatives experienced with regard to the legal system or other government. May also want to ask if they ever had to interpret for a relative.
- Ask participants to identify on their own some possible barriers to access that LEP court users may experience.
- Ask participants why they believe language access is important for (a) the court system, (b) LEP court users, (c) their jobs.

## 1. The Need for Language Access

### 1. California as a diverse state

- Linguistic diversity:
  - Approx. 7 million LEP persons in the state
    - LEP: speak English “less than very well”
  - 27% (over 10 million) are foreign born
  - Over 43% speak a language other than English at home
  - Over 200 languages spoken throughout state
    - Including Latin American indigenous languages whose speakers are often not educated to read and write in their languages and languages with no written form
  - 10% linguistically isolated households
    - Linguistic isolation: households where every member 14 or older is LEP.
  - 185 languages in LA alone (2<sup>nd</sup> only to NY with 192)
  - 10 most-interpreted languages in California trial courts:
    - Spanish (71.9%); Vietnamese (3.9%); Korean (2.4%); Mandarin (2.2%); Farsi (1.8%); Cantonese (1.7%); Russian (1.6%); Tagalog (1.4%); Arabic (1.4%); Punjabi (1.2%).
- Cultural diversity:
  - 38.6% Latino
    - 37% foreign-born; 83% of Mexican origin; 17% non-Mexican origin
  - 38.5 % White (non-Hispanic)
  - 14.4% Asian
    - Highest percentages among foreign born: China, Philippines, Vietnam, India, Korea

- 6.5 % Black or African-American
  - 1.7 % Native American
  - 0.5% Native Hawaiian or Pacific Islander
  - 3.2% LGBT
  - Great socio-economic diversity. E.g. 11 out of 15 most diverse cities in the U.S. are in California<sup>1</sup>
- Geographic diversity:
    - Rural vs. urban counties
    - Diversity within counties themselves, with mix of urban, rural, and large distances to travel to nearest courthouse or nearest services
    - Second largest city in the U.S. (City of Los Angeles)
  - Court diversity – 58 trial courts with different needs, resources, court cultures, and diverse communities:
    - Alpine: 2 judges; 1 courthouse; 1,159 people; 743 square miles
    - Los Angeles: over 500 judges, 38 courthouses, 10 million people; 4,272 square miles
    - San Francisco: Approx. 54 judges, 4 courthouses, 837,000 people; 49 square miles
2. Barriers to access by LEP persons
- Literacy, lack of education, low income
  - Geographic and linguistic isolation
  - Distrust in government, courts & fear of law enforcement
  - Immigration status & fear of deportation
  - Lack of knowledge of US legal system, legal rights, legal assistance
  - Different cultural attitudes and beliefs
  - Limited availability of services that are linguistically and culturally appropriate
3. Language access is critical to access to justice
- Ensures effective communication.
  - Allows all Californians to have access to the system that exists to protect and enforce their rights.
  - Lack of access generates lack of trust in the system:
    - Misunderstandings, frustration, anger and confusion
    - Conflicts may escalate
    - Issues may not get resolved

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<sup>1</sup> See *2015's Cities with the Most & Least Economic Class Diversity* at <https://wallethub.com/edu/cities-with-the-most-least-economic-class-diversity/10321/#highest-lowest>.

- [Trust and Confidence in the California Courts](#) –Survey of the Public and Attorneys:
  - Recent immigrants tend to have low levels of contact, and of familiarity, with the courts
  - “African-Americans and Latinos significantly less positive about outcome fairness than Asian-Americans or whites.”
  - “Outcomes are seen by all respondents as least fair for persons who are low-income or who do not speak English.”

***Trainer Resources:***

- [U.S. Census; Pew Research Center; Migration Policy Institute](#)
- [2015 Language Need and Interpreter Use Study](#)
- [Language Barriers to Justice in California](#) (2005)
- [Trust and Confidence in the California Courts](#) (2005)

**Teaching Tips and Techniques for Module 2:**

- See sample PowerPoint Slides.
- Handout with Key recommendations and notes.
- If training split up to other days, may want to cover key recommendations in more detail. If part of larger training with subsequent modules, many of key recs discussed in more depth later.
- Consider involving a member of original working group or of the Implementation Task Force to discuss development of LAP and meaning/decision-making behind recommendations.

## 2. Language Access Laws & Policies

### 1. California Language Access Plan (LAP)

#### a. Background to LAP development

- DOJ guidance for recipients of federal funding (e.g. courts)
- DOJ investigation of LA Superior Court and Judicial Council
- Joint Working Group formation, leadership and task
  - Stakeholder involvement, including judicial officers and court executive officers on working group and listening sessions, in addition to extensive public comment and involvement.
- LAP approved by Judicial Council in Jan. 2015, establishing Implementation Task Force
- Task Force membership and leadership; subcommittees; and mandate

#### b. Overview of 8 goals and 3 phases for implementation

- Full language access by 2020
- Addressing all points of contact between LEP court users and the court
- Services for LEP parties, witnesses and persons with significant interest
  - “Persons with significant interest”: “[P]ersons with a significant interest or involvement in a case or with legal decision-making authority, or whose presence or participation in the matter is necessary or appropriate as determined by a judicial officer.”<sup>2</sup>
- Various language access services: (1) Qualified<sup>3</sup> interpreters at no cost; (2) Qualified translators; and (3) Qualified bilingual staff.

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<sup>2</sup> Strategic Plan for Language Access in the California Courts, p. 30, FN. 12.

<sup>3</sup> The term “qualified” as used throughout this curriculum is to follow the definitions as delineated in the Language Access Plan. LAP p. 27 defines “qualified interpreters;” LAP Recs. #47 & 48, establish standards

- c. Highlight recommendations most directly relevant to judicial officers: [*Many discussed in depth later*]
- Rec. # 4: Establishes the affirmative duty for judicial officers to ascertain a court user's language needs if no self-identification.
  - Rec. # 8: By 2017, qualified court interpreters in all courtroom proceedings (discuss Evidence Code §756 below) and Family Court Services mediation/child custody recommending counseling.
  - Rec. #9: Pending CRC amendment, provisional qualification requirements must be followed in civil matters as well, in manner akin to Rule 2.893.
  - Rec. #10: By 2020, qualified interpreters for all court ordered, court operated programs, services and events.
  - Rec. #11: LEP should not be ordered to program if program not linguistically accessible. Should order appropriate alternative program. Court should inquire if programs provide services when making findings and orders.
  - Rec. #12-15: In person interpreter preferred but several recommendations re. remote interpreting in the courtroom.
  - Rec. #19: Interpreter qualifications on the record (Govt. Code §68561(g) and (f)).
  - Rec. # 22-24: Cannot appoint as interpreters: minors (#23), persons with conflict of interest absent exigent circumstances (#22); bilingual staff, unless exigent circumstances and provisionally qualified (#24).
  - Rec. #25: Each court will designate an office or person as language access resource for all court users and court staff/judicial officers.
  - Rec. #33: Judge must determine court appointed professionals can provide language access before ordering or referring LEP.
  - Rec. #40: Sight translation of court orders by qualified court interpreters, and written if possible (at least JC order/judgment form if translation available).
  - Rec. #50: Judicial branch training.
  - Rec. #61-65: Establishment of complaint mechanism and procedures re. language access services.

2. Government Code 68092

- a. Court interpreters and translator fees must be paid by the court in criminal cases.

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(and direct for further development of standards) for qualified bilingual staff; LAP Rec. #36 establishes qualifications of translators.

- b. By litigants in civil cases, as court may direct (but see Govt. Code §68092.1 and Evidence Code §756, below).
- 3. Government Code 68092.1
  - a. Imperative that courts provide interpreters to all parties who require one.
  - b. Notwithstanding 68092 or any other, court may provide interpreter in civil cases at no cost to the parties, regardless of income. Until sufficient funds, priority established in Evidence Code §756.
- 4. Evidence Code §756
  - a. Establishes priority order for appointment of interpreters in civil matters.
  - b. Interpreters continue in proceedings where previously mandated: Criminal, traffic, juvenile delinquency and dependency, mental competency, hearings with appointed counsel, other mandated civil.
  - c. Priority order in civil matters, including fee waiver eligibility.
    - *[Handout used by CJER's New Judge's College training with graphics re. priorities]*
    - Can deviate from priority if: qualified interpreter present and available at location AND no higher priority action taking place at same location during time for which interpreter already compensated.
- 5. Government Code §68561 (Discussed in more in depth in Chapter 4 "Working with Court Interpreters" below)
  - a. Must use certified or registered interpreters in court proceedings, unless good cause.
  - b. New (2015)—Sets forth requirements for:
    - Establishing unavailability of credentialed interpreter and good cause for appointing non-credentialed; and
    - Establishing a certified or registered interpreter credentials on the record.
- 6. California Rule of Court 2.893- Appointment of noncertified interpreters in criminal and juvenile delinquency proceedings
  - a. Requires provisional qualification of non-credentialed interpreters. (Discussed in more in depth in Chapter 4 "Working with Court Interpreters" below.)
  - b. LAP Rec. #9 requires similar procedure for civil matters, pending amendment of CRC.

7. Standard of Judicial Administration 2.10
  - a. Establishes the procedures for determining the need for an interpreter and a pre-appearance interview. (Discussed in more in depth in Chapter 4 “Working with Court Interpreters” below.)
8. Federal Law and Guidance
  - a. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in any program, service or activity receiving financial assistance from the federal government.
  - b. Executive Order 13166 (2000) regulations, established that denying access to federally funded programs to LEP individuals violates Title VI.
    - Corresponding implementing regulations (28 C.F.R. Part 42, Subpart C)
  - c. Department of Justice (DOJ) guidance documents.

***Trainer Resources:***

- [Strategic Plan for Language Access in the California Courts \(2015\)](#)
- [AB 1657- Courts: interpreters.](#)
- [Evidence Code §756](#) and Priority List Graphic Document (in resources for New Judge’s College curriculum by CJER)
- [Government Code §68092](#)
- [Government Code §68092.1](#)
- [Government Code §68561](#)
- [California Rule of Court 2.893](#)
- [Standard of Judicial Administration 2.10](#)
- [Title IV of the Civil Rights Act of 1964](#)
- [Executive Order 13166 implementing regulations](#)
- [Enforcement of Title VI of the Civil Rights Act of 1964 – National Origin Discrimination Against Persons with Limited English Proficiency.](#) (Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.)

### **Teaching Tips and Techniques for Module 3:**

- Consider having a certified or registered interpreter help teach this module (together with module on working with interpreters).
- See sample PowerPoint Slides on Court Interpreters.
- See videos provided in sample materials. May be helpful to insert in the sections discussing those issues:
  - Modes of interpreting, from the US AOC,
  - Role of the interpreter clip, from JCC CIP videos, and
  - Importance of Accuracy, from JCC CIP videos.
  - See also videos in [Videos re. Working with Court Interpreters](#) demonstrating different aspects of interpretation.
- Consider having participants do a “shadowing exercise” where they shadow an English speaker, preferably an engaging courtroom scene, in English simulating simultaneous interpretation. (US AOC video will show participants how to do this, so playing that video first will assist with exercise.)
- Consider having participants practice consecutive interpreting (from English to English) with provided sample scripts.
- Many of these tips and videos may also be very relevant to the next module on Working with Interpreters in the Courtroom, so if training done in same sitting, sections can be taught in sequence and videos and other tools spread out between both modules.

## **3. Understanding Language Access Service Providers**

### **A. Court Interpreters**

1. Court interpreters: *[[Video on Role of Interpreter- See Teaching Tips above]]*
  - a) Interpret an oral communication from a source language (language of the speaker) to the target language (language of the listener).
  - b) Enable LEP person to understand the proceedings and to communicate effectively with the court.
  - c) Enable judicial officers, attorneys and court personnel to communicate with and understand the LEP person.
  - d) Act as a linguistic conduit and accurately convey the meaning from the source language into the target language, and vice versa.
  - e) Interpreting requires:
    - High level proficiency in both languages,



- Mastery of English and foreign language equivalent to educated native speaker,
- Ability to understand and follow different regional accents, dialects, and rates of speech,
- Ability to interpret at high rates of speed to follow speech in real time,
- Strong comprehension skills and ability to perform quick analysis of meaning,
- Concentration, processing information quickly, short term memory, accuracy,
- Self-monitoring and self-correction,
- Ability to read (and sight-translate) a broad range of texts, quickly, with little or no preparation,
- Training and practice in: memory building and note-taking skills for consecutive interpretation; sight translation techniques; simultaneous interpretations skills; and interpreter ethics.

## 2. Credentialing of court interpreters by Judicial Council

### a) Certified court interpreters:

- For 15 designated languages: Arabic, Cantonese, Eastern Armenian, Japanese, Khmer, Korean, Mandarin, Portuguese, Punjabi, Russian, Spanish, Tagalog, Vietnamese, Western Armenian and American Sign Language (ASL)

#### i. To become certified, must:

- Pass the English-only written exam,
- Pass the bilingual oral interpreting exam in English and the designated language demonstrating proficiency in the 3 modes of interpretation (see description of modes below),
- Enroll with the Judicial Council & pay the annual fee, and
- Attend a Code of Ethics Workshop.

#### ii. For ongoing certification, must:

- Complete ongoing continuing education requirements of 30 approved hours every 2 years,
- Comply with Professional Standards and Ethics for Court Interpreters,
- Complete 40 professional interpreting assignments every 2 years, and
- Pay Judicial Council annual fee.

- b) Registered court interpreters
  - For spoken languages for which there is no certification
- i. To become registered must:
  - Pass the English written and English oral proficiency exams,
  - Pass the oral proficiency exam in second language, where available (currently available for 70 languages),
  - Enroll with the Judicial Council & pay the annual fee,
  - Attend a Judicial Council Code of Ethics Workshop, and
  - Attend a Judicial Council Orientation Workshop.
- ii. For ongoing registration, must:
  - Complete ongoing continuing education requirements of 30 approved hours every 2 years,
  - Comply with Professional Standards and Ethics for Court Interpreters,
  - Complete 40 professional interpreting assignments every 2 years, and
  - Pay Judicial Council annual fee.

3. Modes of interpretation: *[[Video on Modes of Interpretation – See Tips above]*

- a) Simultaneous: the interpreter interprets at the same time the speaker is speaking (lagging slightly behind).
  - Usually used in courtrooms when LEP person only listening and not expected to respond.
  - It is highly demanding. Studies show that after 30 minutes interpreter accuracy decreases and does so exponentially, even with the most qualified and experienced interpreters. Team interpreting is therefore a best practice (see discussion in Chapter 4).
  - Studies also show that after 30 minutes, ability to self-monitor and self-correct diminishes (while errors increasing).
  - Greater potential for mistakes and less time to correct them.
- b) Consecutive: the interpreter begins interpreting after the speaker finishes speaking.
  - Used for testimony on the record, interviews, and much of the work outside of the courtroom.

- Often considered most accurate because allows interpreter to capture the entire message before delivering it in the other language.
  - Allows interpreter to adjust for manners of speech and make a more accurate judgment about the meaning of the message and make better choices re. how to render it into the other language.
  - Requires excellent memory skills and note-taking skills, developed through training.
  - Accuracy is also affected by fatigue in consecutive interpretation, and team interpreting is recommended for lengthy witness testimony.
- c) Sight translation: the interpreter renders an oral interpretation of a document or text.
- Given the wide range of texts that may have to be sight translated, interpreters should be given an opportunity to read and review the text and look up necessary terminology if necessary.

4. Code of ethics for court interpreters—

- a) 9 Canons (California Rule of Court 2.890)
- 1) Accurate representation of qualifications
  - 2) Complete and accurate interpretation
  - 3) Impartiality and avoidance of conflicts of interest
  - 4) Confidentiality of privileged communications
  - 5) Not giving legal advice
  - 6) Impartial professional relationships
  - 7) Continuing education and duty to the profession
  - 8) Assessing and reporting impediments to performance
  - 9) Duty to report ethical violations
- b) Complete & accurate interpretation includes: *[[Video on Accuracy-See Teaching Tips above]]*
- Complete interpretation of all communications, on and off the record (including slang, idioms, obscenities, comments/questions)
  - No additions or embellishments
  - No omissions or editing
  - No paraphrasing, summarizing or simplifying
  - Same register
  - Same meaning
  - Same tone/emotion

- c) Assessing and reporting impediments to performance includes interpreter intervening when:
- i. Needed to preserve accuracy and completeness
    - Speaker talking too quickly, too noisy, no pauses, need break
    - To look up terminology
  - ii. Message must be clarified
    - To clear up a misunderstanding
    - When interpreter does not understand a question/statement or slang/regionalism
    - When no linguistic equivalent exists and must explain
  - iii. Needed to clear up a cultural misunderstanding (limited)
    - To explain commonly known things (e.g., names, dates, holidays)
    - Interpreters can only provide objective, factual and relevant information
    - Cannot act as a cultural expert.

5. Dangers of using untrained interpreters

- a) Untrained interpreters are not qualified because:
- Lack of language proficiency (English or other)
  - Unfamiliar with interpreting techniques, ethical standards, and legal process
  - Unable to provide a complete and accurate interpretation
  - Conflicts of interest
  - Minors
  - Difficulty understanding and interpreting legal terminology
  - Fluency/proficiency does NOT equal ability to interpret in court
- b) Problems with untrained interpreters:
- Between 23% to 53% of words incorrectly interpreted
  - Omissions, substitutions and mistakes distort the message
  - Frustration, confusion, and anger (for all participants, including bench officer), can result in escalation of conflict
  - LEP person and other participants (judge, lawyers, jury, etc.) lack skills to judge accuracy of interpreting and may not realize miscommunication is taking place.

- c) Consequences of Bad interpretation
  - Barriers to access
  - Loss of legal protections and legal recourse
  - Dissatisfaction with court process/justice system
  - Inaccurate record created & possible challenges to proceedings/rulings
- 6. Payment for court interpreters
  - a) Per the LAP, full expansion for interpreter provision timeline:
    - Qualified interpreters to be provided in all court proceedings, at no cost to the parties, by 2017.
    - Qualified interpreters to be provided, at no cost, in all court-ordered, court-operated events by 2020.
  - b) Explanation of Program 45.45
    - Under Program 45.45, courts pay for interpreters in all previously mandated cases: criminal, traffic, juvenile, mental competency, domestic violence in family court.
    - Under Program 45.45, if funds available, courts pay for interpreters in civil matters according to priority list under Evidence Code §756. Court to determine which case types it can pay for.
  - c) Pending full expansion:
    - Courts are authorized to provide interpreters at no cost to parties in civil matters regardless of fee waiver eligibility, if court chooses to allocate other funding for interpreter services not covered by Program 45.45.
    - Parties pay for court interpreter costs in civil matters for which the court does not provide court interpreters.
  - d) Several recommendations in the LAP address seeking additional funding for provision of comprehensive language access (See. LAP Recs. #56-59).

## **B. Translators**

- 1. Role of translators
  - a. Render a written communication from a source language to the target language, utilizing the appropriate style and terminology in the target language.

- b. A credentialed or otherwise qualified interpreter is not automatically a qualified translator. Interpreting and translating require different skills.
  - c. Translating requires:
    - Proficiency in reading English and the foreign language
    - Mastery of foreign language equivalent to educated native speaker
    - Knowledge of formal writing, common grammar, syntax and dialectical aspects in both English and foreign language
    - Knowledge of legal writing and legal terminology in both languages
2. Credentialing/Establishing Qualifications of Translators
- American Translators Association (ATA): Certifies translators for a particular language pair (such as English and Spanish) and in a particular direction, such as *from* English *to* Spanish (or vice versa, or both).
  - May want to also require a court or legal specialization.
  - When not ATA certified, should possess a degree or certificate from accredited university (if in the US), or equivalent in a foreign country, in translation and/or linguistic studies, or equivalent experience as a translator and translating legal and/or court documents.
3. Judicial Council Translation Protocol Requirements [[Not in place yet]]

### **C. Bilingual Staff**

1. Bilingual staff play a critical role in making courts linguistically accessible
- Bilingual staff assist LEP court users in their native/preferred language directly (as opposed to interpreting between a court user and other court staff).
  - They help courts ensure multilingual capacity at the more critical points of contact with the court.
2. Bilingual staff may be in the courtroom, clerk's office, court information kiosks or offices, cashiers, or any other court department or office.
- Examples include bilingual attorneys or paralegals in self-help offices; bilingual mediators; bilingual courtroom clerks; bilingual filing clerks; etc.

3. Rec. #47: The LAP provides for objective measure of a bilingual staff's proficiency in all working languages, suggesting a base proficiency of "Intermediate Mid" as defined under the American Council on the Teaching of Foreign Languages (ACTFL). Existing Oral Proficiency Interview available through CLASP may be used.
  - Staff member's self-evaluation is not sufficient.
4. Different points of contact with the public will require higher levels of proficiency (Rec. #48).
  - E.g. self-help centers where instructions to litigants can be complex and detailed, will likely require higher proficiency than a cashier's window.
5. Bilingual staff should not be used to interpret or translate unless otherwise credentialed or found to meet the necessary qualifications by provisional qualification (for interpreters) or by standards established by the translation protocol.
  - Even when provisionally qualified, calling on bilingual staff to provide interpreting or translation services may cause them to compromise their professional standards or could create a conflict of interest.
    - E.g., bilingual staff may have assisted a litigant in a self-help center and learned certain facts that may be contradicted when that same staff person is acting as an interpreter for litigant, putting staff in difficult situation.

***Trainer Resources:***

- [Court Interpreter Program](#)
- [Compliance Requirements for Court Interpreters](#)
- [Search for Court Credentialed Interpreter](#)
- [California Rule of Court, Rule 2.890](#)
- [Professional Standards and Ethics for California Court Interpreters](#)
- *Judicial Council's Translation Protocol (if avail)*
- *CJER New Judge's College Training Materials*
- [American Council on the Teaching of Foreign Languages \(ACTFL\)](#)
- [ACTFL Oral Proficiency Interview](#)
- [Guide to Translation of Legal Materials](#) (NCSC)

**Teaching Tips and Techniques for Module 4:**

- Best practice---Certified or registered interpreter to help teach this module.
- See videos provided in sample materials. May be helpful to insert in the sections discussing those issues:
  - See videos in [Videos re. Working with Court Interpreters](#) demonstrating different aspects of interpretation.
- Consider having participants do a role-play between judicial officer listening to an attorney ask questions of an LEP party or witness, using a fourth participant as the interpreter. Can all be done in English.
  - Encourage participant playing the interpreter role to ask for pauses, or clarification.
  - Encourage participant playing attorney role to object or rephrase often, stop mid sentence, not pause, hesitate in speech, etc.
  - Encourage participant playing LEP witness role to address interpreter directly or try to carry side conversation, or to say s/he does not understand, etc.
  - After exercise, discuss issues that arose from different distractions or issues arising during exercise.

**4. Working with Court Interpreters in the Courtroom**

1. Determining need for an interpreter:
  - a. LEP user's request of interpreter.
    - LEP user may be party, witness, or person with significant interest in the case.
    - "Persons with significant interest": "[P]ersons with a significant interest or involvement in a case or with legal decision-making authority, or whose presence or participation in the matter is necessary or appropriate as determined by a judicial officer."<sup>4</sup>
      - Examples: victims, legal guardians or custodians of a minor involved as a party, witness or victim; legal guardians or custodians of an adult involved as a party, witness or victim.
  - b. LEP user's attorney or advocate's request.
  - c. Indication in court file or case management system of need for interpreter.
  - d. Judicial officer concludes that need to appoint interpreter to ensure communication and understanding by LEP court user, courtroom participants, and jury.

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<sup>4</sup> Strategic Plan for Language Access in the California Courts, p. 30, FN. 12.



- e. Examination of party or witness to determine need-Std. of Judicial Administration 2.10.
  - Examination required when a party or attorney requests, or
  - When appears to court that party may not understand English well enough to participate fully (or, for witness, when cannot speak English so as to be understood by attorneys, court and/or jury).
  - Examination of party/witness – SJA 2.10(c), with conclusion on the record.
- f. Waiver of interpreter by LEP user—LAP Rec. #75 to develop a policy to address waiver that states waiver is:
  - Knowing, intelligent and voluntary,
  - Made after consultation with counsel,
  - Approved by judicial officer, in his/her discretion,
  - Entered on the record or other writing, and
  - Revocable by party or judicial officer at any time.
  - When accepting a waiver on the record, judicial officer should ensure LEP person fully understands ability to revoke waiver at any time.

*[Note that policy has not yet been developed, so benchguide may need to be updated to reflect actual policy for waivers, and not just the recommendations in the LAP. Policy may address with more specificity how to handle waivers with self-represented litigants who are unable to consult with counsel]*

## 2. Appointment of qualified interpreters

- a. Preference for certified/registered in-person interpreter
  - See [Remote Interpreting](#) section for appropriate use of remote interpreting.
  - Certified interpreter required for court proceedings in 14 designated languages.
  - Registered interpreters are required for other languages.
  - An in-person interpreter is preferred.
- b. When no certified or registered interpreter available after diligent search, court may continue the matter or appoint a provisionally qualified interpreter.
  - Rule 2.893 for criminal and juvenile delinquency proceedings
  - Pending rule amendment, same procedure for civil matters under LAP Rec. #9.

- Judicial Officer in proceeding makes findings related to good cause based on process described in, and review of, following Judicial Council Forms:
  - *Procedures and Guidelines to Appoint a Noncertified or Nonregistered Interpreter in Criminal and Juvenile Delinquency Proceedings*, [INT-100-INFO](#),
  - *Qualifications of a Noncertified or Nonregistered Interpreter*, [INT-110](#),
  - *Certification of Unavailability of Certified or Registered Interpreter*, [INT-120](#) and
  - *Foreign Language Interpreter's Duties—Civil and Small Claims*, [INT-200](#)
  - *Practice pointer*: If a prospective provisionally qualified interpreter is unable to complete the INT forms for any reason (such as lack of written literacy in English), courts may want to provide for a staff person to act as a scribe for the prospective interpreter, or have interpreter coordinator or other designee assist with form completion for purposes of compliance with provisional qualification requirements.

Procedure for provisional qualifications:

- 1) Court staff responsible for assigning interpreters performs diligent search for certified or registered interpreter, and signs *Certification of Unavailability of Certified or Registered Interpreter* (Form INT-120).
- 2) Noncertified/nonregistered interpreter is provisionally qualified by PJ or judicial designee after review of proposed interpreter's *Qualifications of a Noncertified or Nonregistered Interpreter* (Form INT-110).
- 3) Judge at proceeding finds good cause to use noncertified/nonregistered interpreter.
- 4) Judge finds noncertified/nonregistered interpreter is provisionally qualified (may review Form INT-110 and may conduct additional examination or require additional information of interpreter, if desired).
- 5) If judge at the proceeding finds that interpreter NOT provisionally qualified, may use interpreter if brief, routine matter and judge, on the record:
  - a. Indicates defendant or minor waives certified/registered and provisionally qualified interpreter,
  - b. Finds good cause to appoint noncertified/nonregistered non-provisionally qualified interpreter, and
  - c. Finds interpreter is qualified to interpret the proceeding.
- 6) Requirements for the record on Form INT-100-INFO, p. 3.

- c. Restrictions on appointment of noncertified, nonregistered interpreters under LAP:
  - No minors (Rec. #23), without exception
  - No persons with conflict of interest (Rec. #22) absent exigent circumstances
  - No bilingual staff (Rec. #24) unless provisionally qualified and exigent circumstances. [Phase 2 recommendation]
- d. Procedure for entering interpreter credentials on the record (Govt. Code 68561 (f) and (g))
  - For certified and registered interpreters, on the record:
    - 1) Name of interpreter (as listed on credentials)
    - 2) Current certification or registration number
    - 3) Statement that identification verified by court with interpreter badge issued by the Judicial Council or other similar documentation
    - 4) Language to be interpreted
    - 5) Statement that oath administered or that it's on file with court
  - For provisionally qualified interpreters, on the record:
    - 1) Finding that certified or registered interpreter not available
    - 2) Name of provisionally qualified interpreter
    - 3) Statement that required procedures and guidelines followed
    - 4) Statement that oath administered
- e. Procedure for handling challenges to interpretation
  - Address as a side bar (include interpreter in side bar or otherwise inform interpreter of substance of challenge),
  - Have court reporter reach back question & answer,
  - Request basis for objection and proposed interpretation,
  - Determine if relevant and material,
  - Ask interpreter if s/he accepts challenged interpretation:
    - Allow interpreter to clarify with witness
    - Allow interpreter to use dictionary/resources
    - Interpreter states basis for interpretation (initial one, or agreement with proposed)
  - If proposed interpretation accepted, instruct jury to disregard earlier and re-ask question.
  - If interpreter does not accept proposed interpretation, burden on challenging party.
  - Judicial officer to make determination.

### 3. Courtroom management in interpreted events

#### a. Pre-appearance interview and preparation

- SJA 2.10 provides, for good cause: authorization of pre-appearance interview between interpreter and LEP person.
- Good cause: if interpreter needs “clarification on interpreting issues, including colloquialisms, culturalisms, dialects, idioms, linguistic capabilities and traits, regionalisms, register, slang, speech patterns or technical terms.” (SJA 2.10)
- Best practices:
  - Provide interpreter relevant case information before assignment, including nature of proceeding, possible technical terms or concepts, emotionally charged content, etc.
  - Access to police reports and written pleadings in advance or at the time of hearing helps interpreter prepare more completely.
  - Provide for pre-appearance (or pre-session) interview so interpreter may ensure adequate communication and language compatibility.
  - Interpreters are neutral officers of the court and must maintain confidentiality as part of their code of ethics, so privacy should not be an issue here. Having more information and context greatly improves the quality and accuracy of the interpretation.

#### b. Explanation of interpreter role to all courtroom participants. Best practices:

- Judge should explain the role of the interpreter to all courtroom participants, and make sure LEP person has understood.
- May be done by video/script before calendar call to ensure consistent and accurate information.
- Explain interpreter is impartial. S/he is not the interpreter for one side or another; interpreter for the court.
- Explain interpreter is a highly qualified language professional and is certified (or registered) based on demonstrated skills and knowledge (does not apply when using provisionally qualified interpreters).
- If jury, explain to jurors that, even if they speak the LEP person’s language, they must rely on the interpreter’s rendition to English only, as that is the official record.
  - [California Criminal Jury Instruction \(CalCrim\) 121](#), California Jury Instructions Criminal (CALJIC) 1.03, [California Civil Jury Instructions \(CACI\) 5008](#)
  - If juror believes interpreter committed error, should let judge know by writing a note (CALCRIM 121)

- Interpreter cannot, and should not be asked to, offer opinions.
- Explain participants must address LEP person directly.
- Interpreter will refer to him/herself, if needed, in the third person.
- Ensure all participants understand interpreter is conduit only.
- Interpreter must interpret everything that is said out loud.
- Interpreter cannot interpret non-verbal communications.
- Interpreter may have to intervene to notify the court if s/he does not understand or needs a slower pace or repetition.
- Explain interpreter may position him/herself slightly behind the LEP person, or in a location that improves audibility, and that interpreter may be using equipment and LEP person will be wearing headphones.
- Explain interpreter may need to pause interpretation to clarify, look terminology up, or for some other reason to comply with ethics.

c. Managing all court participants—Best practices

i. Overall Best Practices

- Ensure proper direct address of LEP person by all participants.
- Ensure all speakers talk slowly, loudly and clearly, and pause to give interpreter opportunity to interpret (especially if consecutive mode).
  - In addition to initial instruction, enforce the practice and remind participants if not following the instruction.
- Before getting underway, establish ground rules for challenge to interpretation to be handled as sidebar.
  - Party challenging the interpretation has burden to show it was inaccurate.
  - Interpreter should be involved during conversation.

ii. Instruction for LEP persons – Best practices

- Inform LEP persons using an interpreter to inform you (judge) if they do not understand the interpreter.
- Check in with LEP person periodically to ensure s/he understands. Check for understanding with substantive questions, not just a simple “yes” or “no”.
  - Though judges, if they do not speak the LEP person’s language, may not be able to monitor the accuracy of the actual interpretation, they can monitor the LEP person’s understanding.
- Instruct LEP witnesses to wait for question to be interpreted in full before answering and answer in their language only, and

not go back and forth between English and their language, even if they speak some English.

- Instruct LEP witnesses to listen to the question as interpreted, not in English, even if they speak some English.
- You may have to remind LEP person of this repeatedly, since it is common for someone who understands some English to answer before the interpretation is complete.
- Keep in mind that even if the LEP person does at times seem to understand or speak English (and does so), it does not mean he or she is not LEP or does not require the assistance of an interpreter.

iii. Managing the proceeding

- Ensure courtroom noise is kept at a minimum. Remove distractions.
- Allow only one speaker at a time.
- Ask simple, not compound, questions.
- Avoid double negatives.
- Avoid idioms, regionalisms, jargon, acronyms, and jokes
- Avoid legalese and “short-hand” talk.
- Allow interpreter to interpret objections before ruling.
- Instruct attorneys to allow interpreter to finish interpretation before asking the next question.
- Ensure most appropriate positioning for interpreter, in consultation with interpreter and LEP person.

iv. Awareness of interpreter

- Be aware interpreter may have to interrupt, intervene, look up terminology, to comply with ethical guidelines and ensure accurate communication.
  - Remain patient.
  - If you deem interpreter is interrupting more than customary, consider pausing proceeding to ascertain problem:
    - Interpreter may be having challenges understanding the LEP person.
    - LEP person may not, even in native language, be forming complete sentences or thoughts.
    - Interpreter may not be qualified for particular assignment (if so, obtain another interpreter or continue the matter to another date).

- Assure interpreter that, if so requested, unheard testimony or statements can be repeated.
  - If asking LEP person to review a written document, give interpreter time to quickly review the writing before asking him/her to sight translate.
  - Allow interpreter to use note pad for taking notes while interpreting.
  - Be aware of needing to give interpreter breaks (if no team interpreting). Ask interpreter.
- d. Team interpreting and interpreter appointment considerations
- Interpreting is highly demanding and interpreter fatigue (and errors) set in after approx. 30 minutes of sustained simultaneous interpreting.
  - For long proceedings, appoint a team of interpreters so interpreters take turns and ensure accurate interpretation.
  - Appoint a different interpreter for LEP witnesses than for parties.
  - Appoint different interpreters for opposing parties, if possible.
  - Ensure no conflict in using interpreter. If interpreter interpreted for a party in preparation for trial (e.g., in his/her attorney's office), that interpreter may be perceived as biased if interpreting at the court proceeding.
    - If must use interpreter, inform parties interpreter is bound by confidentiality, is under oath, and acts as a neutral party and not advocate for either side.

**Trainer Resources:**

- [ABA Standards for Language Access in Courts](#)
- *Determining Need for an Interpreter* (from CJER New Judge's College)
- *Interpreter Information and Judge's Scripts* (from CJER New Judge's College)
- *10 Tips for Working with Interpreters* (provided as part of CJER New Judge's College, by Mary Lou Aranguren)
- [Working with Court Interpreters](#), adapted from Bench Orientation: Working with Interpreters developed by the Superior Court of California, Contra Costa County (2004)
- See list of videos provided in [Videos re. Working with Court Interpreters](#)
- Bench cards developed by NCSC, when available
- Tool-kit once developed by Translation subcommittee may also provide one location for resources helpful to judicial officers when working with LEP court users.

**Teaching Tips and Techniques for Module 6:**

- Consider having a certified or registered interpreter, experienced in RI, help teach this module.
- Provide a demonstration of remote interpreting.

## 5. Remote Interpreting (RI)

1. Remote Interpreting allows interpreter to appear remotely to interpret in a courtroom proceeding.
  - Video-remote interpreting (VRI) allows for interpreter to interpret via video.
  - Telephonic remote interpreting provides for the interpreter to interpret via phone only (no video).
  - LAP Rec. #14 requires the Language Access Plan Implementation Task Force to establish minimum technological requirements for RI, including requirements for both simultaneous and consecutive.
  - If using RI, courts should use video for courtroom interpretations (LAP Rec. #15).
  - Rec. #16 establishes a pilot project for using VRI in courtroom proceedings. Plans are now underway to develop the VRI pilot.
2. In-person, certified and registered court interpreters preferred for courtroom proceedings (LAP Rec. #12).
  - LAP allows courts to “consider the use of remote interpreting where appropriate for a particular event. Remote interpreting may only be used if it will allow LEP court users to fully and meaningfully participate in the proceeding.” (LAP Rec. #12)
3. When using RI in courtroom, courts must satisfy, as feasible, guidelines on Appendix B of LAP. Summarized as:
  - a) Minimum technology requirements for high quality communications
  - b) Training for all persons who will be involved in the RI event, related to:
    - Equipment
    - Interpreting protocols
    - Interactions with LEP persons
  - c) In determining appropriateness of RI for court event, examine:
    - Length and complexity of event (and communications involved)
    - Relative convenience/inconvenience to the LEP court user
    - Whether matter uncontested



- Whether proceeding is of immediate nature (e.g. arraignment, bail reduction, TROs)
- Whether LEP party present in courtroom
- Number of court users to receive interpretation from same interpreter during event
- Efficient deployment of court resources
- Whether relay interpreter is required

d) Guidelines for using RI in a court proceeding:

- Need to interrupt or clarify, or suspend and reschedule
  - Interpreter may need to interrupt, clarify. Judge should acknowledge this at start of proceeding and provide a mechanism in advance to allow for this.
  - Judge should check in with LEP party frequently to ensure he/she is hearing and understanding.
  - Judge may need to suspend and reschedule for variety of reasons (e.g. technology, interpreter finds it ineffective, etc.)
- RI Challenges
  - Particular challenges for interpreters, which may include increased fatigue and stress (and lead to decreased accuracy).
  - May need shorter sessions and more breaks.
- Participants who must have access
  - Remote interpreter must be heard and must be able to hear all speakers.
- Visual/Auditory Issues, Confidentiality and Modes of Interpreting
  - Auditory/visual issues and confidentiality must be considered when implementing RI. All parties must understand in advance what procedure and technical set up will be used to allow for confidential communications as needed.
- Documents and Other Information
  - Ensure availability of technology to communicate written information to interpreter.

- Professional Standards and Ethics
    - All interpreters bound by same standards and ethics.
    - Interpreters are required to interpret everything completely and accurately.
    - Interpreters are required to report impediments to performance.
  - Data Collection
    - Monitor effectiveness of technology and satisfaction of participants, including LEP persons and interpreters, during the proceeding and through evaluations.
    - Track benefits and problems experienced on ongoing basis.
4. Objections Related to RI
- a) When explaining RI event, ask if parties and attorneys have objections.
  - b) If no objections, state so on the record.
  - c) If objections:
    - If overrule objection, state so on the record.
    - If uphold objection, state so on the record and continue the matter to have an in-person interpreter present.

**Trainer Resources:**

- *Appendix items B, C, D in [Strategic Plan for Language Access in the California Courts](#) (2015)*
- *Technological Solutions Subcommittee of the Implementation Task Force*
- *Bench card developed by NCSC*

**Teaching Tips and Techniques for Module 6:**

- Consider having diverse perspectives teaching this module, especially staff experienced in teaching cultural competence.
- See sample PowerPoint slides.
- Engage participants throughout (ppt. slides provide some suggestions) to ensure open communication and raising awareness of the impact of implicit bias (positive and negative) and cultural assumptions in the courtroom, and in every day court interactions with the public and with other colleagues.
- Use icebreakers and other activities to address competency. See examples at:
  - [http://www.tapartnership.org/docs/CLC%20Icebreakers%20and%20Exercises%20-%20FINAL%20\(5\).pdf](http://www.tapartnership.org/docs/CLC%20Icebreakers%20and%20Exercises%20-%20FINAL%20(5).pdf)
  - <http://www.edchange.org/multicultural/activityarch.html>

## 6. Cultural Competence

### 1. Why culture is important in the state courts

#### a. Great diversity of cultures represented in state courts

- There are ethnic/national cultures (groups whose members have a common affiliation defined by reference to ethnicity or nation); professional culture (groups with affiliations defined by occupation or profession, e.g. lawyers, judges); organizational culture (groups interactive within a particular unit or agency, e.g. courts, district attorneys), and more.
- Vast differences in behaviors, values, fundamental beliefs and the assumptions of court users (and court staff and judicial officers) with regard to the court system and court culture.
- Great diversity within cultures as well. Culture is not monolithic. Even members of the same culture will have great diversity in perceptions, behavior, interactions with the court etc. based on socio-economics, geographic location, educational levels, age, gender, individual characteristics, personal background and experiences, etc.
- For LEP persons, having a country in common does not guarantee similar notions, perspectives, etc.
  - Diversity of dialects, regionalisms, local languages, immigration status, time in the U.S., level of acculturation, as well as other factors already addressed.

b. Individuals often are part of various cultural groups. In the court context, culture affects:

- Court users
- Court staff
- Judicial officers
- Justice partner agencies interacting with the court
- Public at large in its perception of the justice system

2. How might culture affect a court user? Culture may:

- Impact their perception of the court system
- Impact their understanding of the legal process
- Influence their definition of justice and conflict
- Affect their willingness to identify as LEP
- Affect how they describe events that occurred (e.g., may have different concepts of past, present and future)
- Impact their views of authority figures in legal proceedings
- Affect their willingness to seek help or accept help when offered
- Affect their expectations of “free” help (that it is “lesser than” paid/contracted for)
  - May affect their willingness to accept free interpreter, appointed counsel, self-help services, or legal aid
- Affect their expectations (of the court, the judge, the law)
- Affect their behavior in court
  - Their relationship to authority may cause them not to speak up, or contradict a lawyer or judicial officer, or assent in understanding but not in agreement
  - May act submissive, or aggressive
  - May say they understand when they don’t
- Influence their motivations and strategies
- Affect their perspectives or understanding on compliance with court orders

3. What is cultural competence?

- Responding to people in ways that recognize, value, and respect their cultures, languages, classes, races, ethnic backgrounds, religions and other factors.
- Cultural competence requires that organizations have a defined set of values/principles, and demonstrate behaviors, attitudes and policies that allow them to work cross-culturally.
- It does not mean assuming all individuals appearing to belong to a given culture will behave the same, understand the same, and relate in the same manner to the court and its participants.

4. Steps to cultural competence

- Awareness of own cultural background (including ethnic/national, professional and organizational), and how one's culture may influence own worldview, behaviors, thoughts, ways of communicating, and, while on the bench, the perspectives one has and decisions made.
- Awareness of own biases.
  - Implicit bias and Implicit Association Tests
  - Examine how your own implicit biases may affect the decisions you make on the bench with regard to credibility, punishment, outside services ordered, etc.
- Be aware that LEP person's culture may impact their perception of the court system, their understanding of legal process, etc.
- Do not assume that by understanding an LEP person's identified culture you understand their perceptions, views, behavior, etc.
- Listen closely.
- Be open.
- Be patient.
- Continue learning.

5. How does cultural competence make a difference?

- Better communication
- Increased procedural fairness
- Increased and more meaningful participation
- Better compliance with court orders by improving information for making orders and ensuring orders and communication is culturally appropriate as well as tailored to the individual's needs, without blanket cultural assumptions
- Increased public trust and confidence
- Improved access to justice

**Trainer Resources:**

- [Implicit Association Test](#)
- "Tools for Cross Cultural Communication" excerpt from [Handling Cases Involving Self-Represented Litigants, a Benchguide for Judicial Officers](#) (2008)
- Beyond the Bench Workshop Materials on [Unconscious Bias and decision-making](#) (Contact Kyanna Williams at CFCC).
- [www.ethnomed.org/culture](http://www.ethnomed.org/culture): Univ. of Washington website that provides "cultural profiles" of immigrant and linguistic groups in Seattle area.
- [Cultural Competence in Legal/Judicial Services](#)
- [Cultural Orientation Resource Center](#)
- [National Center for Cultural Competence](#)

- Comparisons between two legal systems (Mexico and U.S.) (Superior Court of California, County of Imperial)
- Borderland Justice: Working With Culture in Courts Along the US/Mexico Border by John A. Martin, Jose Guillén and Diane Altamirano (March 16, 2007)
- *Handout on the Iceberg Concept of Culture* (what we see is only 10% of what makes up an individual's culture)

## VIDEOS on Working with Court Interpreters

### Judicial Officer Training Vignettes at

[https://www.courts.state.co.us/Administration/Custom.cfm?Unit=interp&Page\\_ID=410](https://www.courts.state.co.us/Administration/Custom.cfm?Unit=interp&Page_ID=410)

Vignette 1—Obligation of the Interpreter to limit work to their scope of practice and of the Judge to address parties in first person.

Vignette 2—Obligation of the Judge to ensure appointment of a qualified and approved Interpreter.

Vignette 3—Obligation of the Interpreter to remain impartial and to avoid conflicts of interest.

Vignette 4—Obligation of the Interpreter to be accurate and complete.

Vignette 5—Obligation of the Interpreter to be accurate and complete, interpreting everything that is said, and to remain within scope of practice.

Vignette 6—Obligation of the Interpreter to avoid an appearance of bias.

Vignette 7—Obligation of the Judge to allow Interpreter to interpret prior to ruling on objection.

### Federal Judiciary Channel – YouTube—18 videos on court interpreting:

<https://www.youtube.com/playlist?list=PL4bcxoLSIaXfPvX9FXws4S6XirPhUObBQ>

- |   |  |
|---|--|
| 1. Right to a Court Interpreter                                   | 10. Direct Speech Interpreting                         |
| 2. Court Interpreters are Officers of the Court                   | 11. Summary Interpreting                               |
| 3. Court Interpreter Credentials                                  | 12. Example of Improper Summary Interpreting           |
| 4. Example of Court Interpreter's Interview to Verify Credentials | 13. Example of Inaccurate Legal Interpretation         |
| 5. Simultaneous and Consecutive Interpreting                      | 14. Court Interpreters Can Consult Reference Materials |
| 6. Simultaneous Interpreting Usage                                | 15. Team Interpreting                                  |
| 7. Example of Simultaneous Interpreting                           | 16. Correcting Interpreting Inaccuracies               |
| 8. Consecutive Interpreting Usage                                 | 17. Court Interpreters and Conflicts of Interest       |
| 9. Example of Consecutive Interpreting                            | 18. Ethical Obligations for Court Interpreters         |

[UCS \[Unified Court System – NY\] Judge's Guide to Working with Court Interpreters](#) Video (18 mins)

[Ethical Challenges for Court Interpreters](#). Interpreter training 8-module video series produced in Vancouver in 2012. Although designed for interpreter training, provides scenarios you may use to illustrate the judge's role in ensuring best practices.



## Language Access Training Curriculum – Court Staff

### Training Modules/Sections:

1. [The Need for Language Access](#)
2. [Language Access Laws & Policies](#)
3. [Understanding Language Access Service Providers](#)
4. [Providing Language Access Services Outside the Courtroom](#)
5. [Working with Court Interpreters](#)
6. [Remote Interpreting \(RI\)](#)
7. [Cultural Competence](#)

### Recommendations for Training

#### *Overall recommendations:*

1. Because of the interrelation between most of the topics, it would be most efficient and effective to teach all modules at the same time. There are 2 possible exceptions, given the particular subject matter: Remote Interpreting and Cultural Competence.
  - The Remote Interpreting module will likely undergo modifications and further development as the ITF's Technological Solutions Subcommittee establishes guidelines for future enhancements in this area. In the meantime, the module can be included with the rest of the training as a more abridged version.
  - The Cultural Competence module can be a training effort of its own. Although it overlaps with language access, it is a much broader topic of great applicability to courts and all court staff and judicial officers. There are experts nationally to speak on this topic, and Judicial Council staff have worked with these trainers and/or attended these focused trainings in the past. However, if a brief overview and exposure to the topic is appropriate, the module below will help provide that more cursory introduction to raise awareness.
2. Training should be ongoing, with an initial substantive and extended training, offered once per year, and supported with online modules and ongoing updates and refresher trainings, as well as offerings for further study.
3. All court staff should be trained. Some of the information more particular to staff at the points of contact most critical to LEP court users, including bilingual staff and court staff

interpreters, may be further covered in more detailed in more focused and specialized trainings.

4. In addition to a language access specific training as laid out in this sample curriculum outline, it is important that language access training be incorporated into any training efforts addressing practice areas where language access issues may arise. For example, court staff trainings and orientation classes regarding matters with self-represented litigants, or case types such as family law, small claims, juvenile dependency and delinquency, traffic, and criminal court generally, should include modules addressing language access, working with interpreters, and cultural competence.
5. Note that the [Language Access Basic Training](#) (New Mexico Center for Language Access) may be a useful training resource for court staff, including bilingual staff.

*Recommended Time Estimates for Training for each Module:*

1. **The Need for Language Access & Language Access Laws & Policies**—1.5 hours: to allow explanation of the more relevant Recommendations under the LAP (especially if training will not include all modules at once, since other modules provide detailed information on some of the recommendations).
2. **Understanding Language Access Service Providers**—1.5 hours: to fully understand the appropriateness of language access service providers, challenges and limitations, and the importance of utilizing language access service providers in the most appropriate manner.
3. **Providing Language Access Services Outside the Courtroom**—1.5 hours: including providing a full understanding of tools available, how and when to use them, how working with LEP court user may present particular challenges to the work of court staff, and awareness of the criticality of language access outside the courtroom, where most LEP users will actually interact with the court system.
4. **Working with Court Interpreters**—1 hour: most court staff, except for courtroom clerks and at times line staff using an interpreter, will not need to have in-depth knowledge of the courtroom interpretation process, but should nevertheless be aware of the process to be followed, and most importantly for their work, of how to best communicate with LEP users through an interpreter.

5. **Remote Interpreting (RI)**—30 minutes: if the training is simply an introduction to the process to provide court staff with familiarity with existing recommendations and policies, and a court’s particular use, if any, of remote interpreting.
6. **Cultural Competence**—1.5 to 3 hours: depending on whether it is just covered as part of a larger language access training, with further more specialized trainings in the future, or whether it is intended as a standalone program. In the case of the latter, 3 hours would be the minimum appropriate length.

**Teaching Tips and Techniques for Module 1:**

- See sample PowerPoint Slides.
- Ask participants if they speak another language, and if so, how they learned it. For those whose parents/relatives are LEP speakers, may want to engage about what experiences their relatives experienced with regard to the legal system or other government. May also want to ask if they ever had to interpret for a relative.
- Ask participants to identify on their own some possible barriers to access that LEP court users may experience.
- Ask participants why they believe language access is important for (a) the court system, (b) LEP court users, (c) their jobs.

## 1. The Need for Language Access

### 1. California as a Diverse State

- Linguistic diversity:
  - Approx. 7 million LEP persons in the state
    - LEP: speak English “less than very well”
  - 27% (over 10 million) are foreign born
  - Over 43% speak a language other than English at home
  - Over 200 languages spoken through out state
    - Including Latin American indigenous languages whose speakers are often not educated to read and write in their languages and languages with no written form
  - 10% linguistically isolated households
    - Households where every member 14 or older is LEP
  - 185 languages in LA alone (2<sup>nd</sup> only to NY with 192)
  - 10 most-interpreted languages in California trial courts:
    - Spanish (71.9%); Vietnamese (3.9%); Korean (2.4%); Mandarin (2.2%); Farsi (1.8%); Cantonese (1.7%); Russian (1.6%); Tagalog (1.4%); Arabic (1.4%); Punjabi (1.2%)
- Cultural diversity:
  - 38.6% Latino
    - 37% foreign-born; 83% of Mexican origin; 17% non-Mexican origin
  - 38.5 % White (non-Hispanic)
  - 14.4% Asian
    - Highest percentages among foreign born: China, Philippines, Vietnam, India, Korea
  - 6.5 % Black or African-American

- 1.7 % Native American
  - 0.5% Native Hawaiian or Pacific Islander
  - 3.2% LGBT
  - Great socio-economic diversity. E.g. 11 out of 15 most diverse cities in the U.S. are in California<sup>1</sup>
  - Geographic diversity:
    - Rural vs. urban counties
    - Diversity within counties themselves, with mix of urban, rural, and large distances to travel to nearest courthouse or nearest services
    - Second largest city in the U.S. (City of Los Angeles)
  - Court diversity – 58 trial courts with different needs, resources, court cultures, and diverse communities
    - Alpine: 2 judges; 1 courthouse; 1,159 people; 743 square miles
    - Los Angeles: over 500 judges, 38 courthouses, 10 million people; 4,272 square miles
    - San Francisco: Approx. 54 judges, 4 courthouses, 837,000 people; 49 square miles
2. Barriers to Access by LEP Persons
- Literacy, lack of education, low income
  - Geographic and linguistic isolation
  - Distrust in government, courts & fear of law enforcement
  - Immigration status & fear of deportation
  - Lack of knowledge of US legal system, legal rights, legal assistance
  - Different cultural attitudes and beliefs
  - Limited availability of services that are linguistically and culturally appropriate
3. Language Access Is Critical to Access to Justice
- Ensures effective communication.
  - Allows all Californians to have access to the system that exists to protect and enforce their rights.
  - Lack of access generates lack of trust in the system:
    - Misunderstandings, frustration, anger and confusion,
    - Conflicts may escalate,
    - Issues may not get resolved.
  - [Trust and Confidence in the California Courts](#) –Survey of the Public and Attorneys:

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<sup>1</sup> See *2015's Cities with the Most & Least Economic Class Diversity* at <https://wallethub.com/edu/cities-with-the-most-least-economic-class-diversity/10321/#highest-lowest>.

- Recent immigrants tend to have low levels of contact, and of familiarity, with the courts.
- “African-Americans and Latinos significantly less positive about outcome fairness than Asian-Americans or whites.”
- “Outcomes are seen by all respondents as least fair for persons who are low-income or who do not speak English.”

***Trainer Resources:***

- [U.S. Census; Pew Research Center; Migration Policy Institute](#)
- [2015 Language Need and Interpreter Use Study](#)
- [Language Barriers to Justice in California](#) (2005)
- [Trust and Confidence in the California Courts](#) (2005)

**Teaching Tips and Techniques for Module 2:**

- See sample PowerPoint Slides.
- If training split up to other days, may want to cover key recommendations in more detail. If part of larger training with subsequent modules, many of key recommendations are discussed in more depth below.
- Consider involving a member of original working group or of the Implementation Task Force to discuss development of LAP and meaning/decision-making behind recommendations.

## 2. Language Access Laws & Policies

### 1. California Language Access Plan (LAP)

#### a. Background to LAP development

- DOJ guidance for recipients of federal funding (e.g. courts)
- DOJ investigation of LA Superior Court and Judicial Council
- Joint Working Group formation, leadership and task
  - Stakeholder involvement, including judicial officers and court executive officers on working group and listening sessions, in addition to extensive public comment and involvement.
- LAP approved by Judicial Council in Jan. 2015, establishing Implementation Task Force
- Task Force membership and leadership; subcommittees; and mandate

#### b. Overview of 8 goals and 3 phases for implementation

- Full language access by 2020
- Addressing all points of contact between LEP court users and the court:
  - Points of contact include: Courthouse entrance, security screening, clerk's office, cashier's offices/windows, court administration, records offices, courtrooms, court alternative dispute resolution programs/offices, self-help centers, information kiosks.
    - Includes: offsite points of contact such as website, telephone lines, and offsite workshops and clinics operated by the court.
- Services for LEP parties, witnesses and persons with significant interest:
  - "Persons with significant interest": "[P]ersons with a significant interest or involvement in a case or with legal decision-making authority, or whose presence or participation in the matter is necessary or appropriate as determined by a judicial officer." <sup>2</sup>
    - Examples: victims, legal guardians or custodians of a minor involved as a party, witness or victim; legal guardians or custodians of an adult involved as a party, witness or victim.

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<sup>2</sup> Strategic Plan for Language Access in the California Courts, p. 30, FN. 12.

- Various language access services: (1) Qualified<sup>3</sup> interpreters at no cost; (2) Qualified translators; and (3) Qualified bilingual staff.

c. Highlight recommendations most directly relevant to court staff by category:  
Recommendations re. LEP identification and information:

Recommendations re. use of interpreters:

- Rec. # 8: By 2017, qualified court interpreters in all courtroom proceedings (discuss Evidence Code §756 below).
- Rec. #9: Pending CRC amendment, provisional qualification requirements must be followed in civil matters as well, in manner akin to Rule 2.893.
- Rec. #10: By 2020, qualified interpreters for all court ordered, court operated programs, services and events.
- Rec. #12-15 and #17: In person interpreter preferred but several recommendations re. video remote interpreting in the courtroom, for self-help services (workshops, etc.), and other court services (see recs. # 31-33, discussed below).
- Rec. #19: Interpreter qualifications on the record (Govt. Code §68561(g) and (f)).
- Rec.# 22-24: Cannot appoint as interpreters: minors (#23), persons with conflict of interest absent exigent circumstances (#22); bilingual staff, unless exigent circumstances and provisionally qualified (#24).
- Rec. #40: Sight translation of court orders, and written if possible (at least JC order/judgment form if translation available).
- Rec. #43: Continue standards for certified and registered interpreters, with regular review by CIAP.

Recommendations regarding language services outside of court proceedings:

- Rec. # 4: Addresses LEP users self-identifying (e.g., via I-Speak Cards) need for language access services at all points of contact. Establishes the affirmative duty for court staff to ascertain a court user's language needs if no self-identification.
- Rec. #5: Inform court users of available services at earliest (and all) points of contact.
- Rec. #11: LEP should not be ordered to program if program not linguistically accessible. Should order appropriate alternative program. Court should inquire if programs provide services when making findings and orders.

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<sup>3</sup> The term "qualified" as used throughout this curriculum is to follow the definitions as delineated in the Language Access Plan. LAP p. 27 defines "qualified interpreters;" LAP Recs. #47 & 48, establish standards (and direct for further development of standards) for qualified bilingual staff; LAP Rec. #36 establishes qualifications of translators.



- Rec. #25: Each court will designate an office or person as language access resource for all court users and court staff.
  - Rec. #26: Courts should identify most critical points of contact for LEP users and place bilingual staff, whenever possible.
  - Rec. #27: All court staff engaging with public should have language assistance tools (e.g. I-speak cards, translated resources, glossaries, etc.).
    - Rec. #51 and Tool kit discussed later will assist with this.
  - Rec. #29: Courts to develop written protocols to ensure LEP court users obtain services where bilingual staff not available (e.g. on-call interpreter to assist in clerk's office or self-help center; telephonic interpreting).
  - Rec. #50: Judicial branch training (all, court staff, staff interpreters and judicial officers).
  - Rec. #61-65: Establishment of complaint mechanism and procedures re. language access services at every point of contact with the court, including failure to provide translated materials and help in their language, interpreters, bilingual staff, etc.
2. Government Code 68092.1
- a. Court may provide interpreter in civil cases at no cost to the parties, regardless of income. Until sufficient funds, priority established in Evidence Code §756.
3. Evidence Code §756
- a. Establishes priority order for appointment of interpreters in civil matters.
  - b. Interpreters continue in proceedings where previously mandated: Criminal, traffic, juvenile delinquency and dependency, mental competency, hearings with appointed counsel, other mandated civil.
  - c. Priority order in civil matters, including fee waiver eligibility
    - *[Handout used by CJER's New Judge's College training with graphics re. priorities]*
    - Can deviate from priority if: qualified interpreter present and available at location AND no higher priority action taking place at same location during time for which interpreter already compensated.
4. Government Code §68561 – Discussed in more in depth in section under “How to Work with Court Interpreter” below.
- a. Must use certified or registered interpreters in court proceedings, unless good cause.
  - b. New (2015)—Sets forth requirements for:
    - Establishing unavailability of credentialed interpreter and good cause for appointing non-credentialed; and
    - Establishing a certified or registered interpreter credentials on the record.

5. California Rule of Court 2.893- Appointment of noncertified interpreters in criminal and juvenile delinquency proceedings:
  - a. Requires provisional qualification of non-credentialed interpreters.
  - b. LAP Rec. #9 requires similar procedure for civil matters, pending amendment of CRC.
6. Federal Law and Guidance:
  - a. Title VI of the Civil Rights Act of 1964 prohibiting discrimination on the basis of race, color, or national origin in any program, service or activity receiving financial assistance from the federal government
  - b. Executive Order 13166 (2000) regulations, established that denying access to federally funded programs to LEP individuals violates Title VI
    - Corresponding implementing regulations (28 C.F.R. Part 42, Subpart C)
  - c. Department of Justice (DOJ) guidance documents

***Trainer Resources:***

- [Strategic Plan for Language Access in the California Courts](#) (2015)
- [AB 1657- Courts: interpreters.](#)
- [Evidence Code §756](#) and Priority List Graphic Document (in resources for New Judge's College curriculum by CJER)
- [Government Code §68092](#)
- [Government Code §68092.1](#)
- [Government Code §68561](#)
- [California Rule of Court 2.893](#)
- [Standard of Judicial Administration 2.10](#)
- [Title IV of the Civil Rights Act of 1964](#)
- [Executive Order 13166 implementing regulations](#)
- [Enforcement of Title VI of the Civil Rights Act of 1964 – National Origin Discrimination Against Persons with Limited English Proficiency.](#) (Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.)

**Teaching Tips and Techniques for Module 3:**

- Consider having a certified or registered interpreter help teach this module (together with module on *Working with Interpreters*).
- See sample PowerPoint Slides on court interpreters.
- See videos provided in sample materials. May be helpful to insert in the sections discussing those issues:
  - Modes of interpreting, from the US AOC,
  - Role of the interpreter clip, from JCC CIP videos, and
  - Importance of Accuracy, from JCC CIP videos.
  - See also [Videos re. Working with Court Interpreters](#) demonstrating different aspects of interpretation.
- Consider having participants do a “shadowing exercise” where they shadow an English speaker, preferably an engaging courtroom scene, in English simulating simultaneous interpretation. (US AOC video will show participants how to do this, so playing that video first will assist with exercise.)
- Consider having participants practice consecutive interpreting (from English to English) with provided sample scripts.

### 3. Understanding Language Access Service Providers

#### A. Court Interpreters

1. Court Interpreters: *[[Video on Role of Interpreter- See Teaching Tips above]]*
  - a) Interpret an oral communication from a source language (language of the speaker) to the target language (language of the listener).
  - b) Enable LEP person to understand the proceedings and to communicate effectively with the court.
  - c) Enable judicial officers, attorneys and court personnel to communicate with and understand the LEP person.
  - d) To act as a linguistic conduit and accurately convey the meaning from the source language into the target language.
  - e) Interpreting requires:
    - High level proficiency in both languages,
    - Mastery of English and foreign language equivalent to educated native speaker,

- Ability to understand and follow different regional accents, dialects, and rates of speech,
- Ability to interpret at high rates of speed to follow speech in real time,
- Strong comprehension skills and ability to perform quick analysis of meaning
- Concentration, processing information quickly, short term memory, accuracy,
- Self-monitoring and self-correction,
- Ability to read (and sight-translate) a broad range of texts, quickly, with little or no preparation,
- Training and practice in: memory building and note-taking skills for consecutive interpretation; sight translation techniques; simultaneous interpretations skills; and interpreter ethics.

## 2. Credentialing of Court Interpreters by Judicial Council

### a) Certified court interpreters:

- For 15 designated languages: Arabic, Cantonese, Eastern Armenian, Japanese, Khmer, Korean, Mandarin, Portuguese, Punjabi, Russian, Spanish, Tagalog, Vietnamese, Western Armenian and American Sign Language (ASL)

#### i. To become certified, must:

- Pass the English-only written exam,
- Pass the bilingual oral interpreting exam in English and the designated language demonstrating proficiency in the 3 modes of interpretation (see description of modes below),
- Enroll with the Judicial Council & pay the annual fee, and
- Attend a Code of Ethics Workshop.

#### ii. For ongoing certification, must:

- Complete ongoing continuing education requirements of 30 approved hours every 2 years,
- Comply with Professional Standards and Ethics for Court Interpreters,
- Complete 40 professional interpreting assignments every 2 years, and
- Pay Judicial Council annual fee.

- b) Registered court interpreters
  - For spoken languages for which there is no certification
- i. To become registered must:
  - Pass the English written and English oral proficiency exams
  - Pass the oral proficiency exam in second language, where available (currently available for 70 languages),
  - Enroll with the Judicial Council & pay the annual fee,
  - Attend a Judicial Council Code of Ethics Workshop, and
  - Attend a Judicial Council Orientation Workshop.
- ii. For ongoing registration, must:
  - Complete ongoing continuing education requirements of 30 approved hours every 2 years,
  - Comply with Professional Standards and Ethics for Court Interpreters,
  - Complete 40 professional interpreting assignments every 2 years, and
  - Pay Judicial Council annual fee.

3. Modes of Interpretation: *[Video on Modes of Interpretation – See Tips above]*

- a) Simultaneous: the interpreter interprets at the same time the speaker is speaking (lagging slightly behind).
  - Usually used in courtrooms when LEP person only listening and not expected to respond.
  - It is highly demanding. Studies show that after 30 minutes interpreter accuracy decreases and does so exponentially, even with the most qualified and experienced interpreters. Team interpreting is therefore a best practice (see discussion in Chapter 4).
  - Studies also show that after 30 minutes, ability to self-monitor and self-correct diminishes (while errors increasing).
  - Greater potential for mistakes and less time to correct them.
- b) Consecutive: the interpreter begins interpreting after the speaker finishes speaking.
  - Used for testimony on the record, interviews, and much of the work outside of the courtroom.
  - Often considered most accurate because allows interpreter to capture the entire message before delivering it in the other language.

- Allows interpreter to adjust for manners of speech and make a more accurate judgment about the meaning of the message and make better choices re. how to render it into the other language.
  - Requires excellent memory skills and note-taking skills, developed through training.
  - Accuracy is also affected by fatigue in consecutive interpretation, and team interpreting is recommended for lengthy witness testimony.
- c) Sight translation: the interpreter renders an oral interpretation of a document or text.
- Given the wide range of texts that may have to be sight translated, interpreters should be given an opportunity to read and review the text and look up necessary terminology if necessary.
4. Code of Ethics for Court Interpreters—
- a) 9 Canons (California Rule of Court 2.890)
- 1) Accurate Representation of qualifications
  - 2) Complete and accurate interpretation
  - 3) Impartiality and avoidance of conflicts of interest
  - 4) Confidentiality of privileged communications
  - 5) Not giving legal advice
  - 6) Impartial professional relationships
  - 7) Continuing education and duty to the profession
  - 8) Assessing and reporting impediments to performance
  - 9) Duty to report ethical violations
- b) Complete & accurate interpretation includes: *[[Video on Accuracy-See Teaching Tips above]]*
- Complete interpretation of all communications, on and off the record (including slang, idioms, obscenities, comments/questions)
  - No additions or embellishments
  - No omissions or editing
  - No paraphrasing, summarizing or simplifying
  - Same register
  - Same meaning
  - Same tone/emotion
- c) Assessing and reporting impediments to performance includes interpreter intervening when:
- i. Needed to preserve accuracy and completeness
    - Speaker talking too quickly, too noisy, no pauses, need break
    - To look up terminology

- ii. Message must be clarified
  - To clear up a misunderstanding
  - When interpreter does not understand a question/statement or slang/regionalism
  - When no linguistic equivalent exists and must explain
- iii. Needed to clear up a cultural misunderstanding (limited)
  - To explain commonly known things (e.g., names, dates, holidays)
  - Interpreters can only provide objective, factual and relevant information
  - Cannot act as a cultural expert

#### 5. Dangers of Using Untrained Interpreters

- a) Untrained interpreters are not qualified because:
  - Lack of language proficiency (English or other)
  - Unfamiliar with interpreting techniques, ethical standards, and legal process
  - Unable to provide a complete and accurate interpretation
  - Conflicts of interest
  - Minors
  - Difficulty understanding and interpreting legal terminology
  - Fluency/proficiency does NOT equal ability to interpret in court
- b) Problems with untrained interpreters:
  - Between 23% and 53% of words are incorrectly interpreted.
  - Omissions, substitutions and mistakes distort the message.
  - Frustration, confusion, and anger (for all participants, including court staff and judicial officer), can result in escalation of conflict.
  - LEP person and other participants (judge, lawyers, jury, etc.) lack skills to judge accuracy of interpreting and may not realize miscommunication is taking place.
- c) Consequences of Bad interpretation:
  - Barriers to access
  - Loss of legal protections and legal recourse
  - Dissatisfaction with court process/justice system
  - Inaccurate record created & possible challenges to proceedings/rulings

## **B. Translators**

### **1. Role of Translators**

- a. Render a written communication from a source language to the target language, utilizing the appropriate style and terminology in the target language.
- b. A credentialed or otherwise qualified interpreter is not automatically a qualified translator. Interpreting and translating require different skills.
  - a) Translating requires:
    - Proficiency in reading English and the foreign language
    - Mastery of foreign language equivalent to educated native speaker
    - Knowledge of formal writing, common grammar, syntax and dialectical aspects in both English and foreign language
    - Knowledge of legal writing and legal terminology in both languages

### **2. Credentialing/Establishing Qualifications of Translators**

- American Translators Association (ATA): Certifies translators for a particular language pair (such as English and Spanish) and in a particular direction, such as *from* English *to* Spanish (or vice versa, or both).
- May want to also require a court or legal specialization.
- When not ATA certified, should possess a degree or certificate from accredited university (if in the US), or equivalent in a foreign country, in translation and/or linguistic studies, or equivalent experience as a translator and translating legal and/or court documents.

### **3. Judicial Council Translation Protocol Requirements [[*Not in place yet*]]**

## **C. Bilingual Staff**

### **1. Bilingual staff play a critical role in making courts linguistically accessible**

- Bilingual staff assist LEP court users in their native/preferred language directly (as opposed to interpreting between a court user and other court staff).
- Bilingual staff help courts ensure multilingual capacity at the more critical points of contact with the court.



2. Bilingual staff may be in the courtroom, clerk's office, court information kiosks or offices, cashiers, or any other court department or office.
  - Examples include bilingual attorneys or paralegals in self-help offices; bilingual mediators; bilingual courtroom clerks; bilingual filing clerks; etc.
3. Rec. #47: The LAP provides for objective measure of a bilingual staff's proficiency in all working languages, suggesting a base proficiency of "Intermediate Mid" as defined under the American Council on the Teaching of Foreign Languages (ACTFL). Existing Oral Proficiency Interview available through CLASP may be used.
  - Staff member's self-evaluation is not sufficient.
4. Different points of contact with the public will require higher levels of proficiency (Rec. #48).
  - E.g. self-help centers where instructions to litigants can be complex and detailed, will likely require higher proficiency than a cashier's window.
5. Bilingual staff should not be used to interpret or translate unless otherwise credentialed or found to meet the necessary qualifications by provisional qualification (for interpreters) or by standards established by the translation protocol.
  - Even when provisionally qualified, calling on bilingual staff to provide interpreting or translation services may cause them to compromise their professional standards or could create a conflict of interest.
    - E.g., bilingual staff may have assisted a litigant in a self-help center and learned certain facts that may be contradicted when that same staff person is acting as an interpreter for litigant, putting staff in difficult situation.
6. Bilingual staff should be knowledgeable of terminology likely to arise in course of their work, in their particular position or department.
  - Resources available include multilingual glossaries, translated Judicial Council forms, California Online Self-Help Center, translated brochures and other information, community college terminology classes and terminology training provided by interpreter educational providers and organizations.
  - *[See sample PowerPoint slides with resources for bilingual staff to improve language skills in different areas of law/court system]*

7. Bilingual volunteers subject to same limitations/expectations as bilingual staff.
- Must only be used where appropriate, per court's policy or procedures.
  - Must be properly trained.
  - Must be properly supervised.
  - Must not be used as interpreters.

***Trainer Resources:***

- [Court Interpreter Program](#)
- [Compliance Requirements for Court Interpreters](#)
- [Search for Court Credentialed Interpreter](#)
- [California Rule of Court, Rule 2.890](#)
- [Professional Standards and Ethics for California Court Interpreters](#)
- *Judicial Council's Translation Protocol (if avail)*
- *CJER New Judge's College Training Materials*
- [American Council on the Teaching of Foreign Languages \(ACTFL\)](#)
- [ACTFL Oral Proficiency Interview](#)
- [Guide to Translation of Legal Materials](#) (NCSC)

#### **Teaching Tips and Techniques for Module 4:**

- Consider having a knowledgeable and experienced court staff help teach this module (especially if particularly familiar with court user points of contact, and challenges faced by staff and bilingual staff in particular, when assisting LEP court users). Bilingual self-help center court staff with intimate knowledge of clerk's office as well, may work well.
  - If Language Access Office created at the court level, that staff person may also be a good trainer on these issues, particularly when training done at local court level.
- See PowerPoint sample slides showing staff how to use some existing web resources to help LEP court users.
- Consider having group do exercises such as "Sample Scenarios When Working with LEP Court users" [included in curricula sample materials] to explore different mechanisms and possible "scripts" to help staff handle challenging situations.

## **4. Providing Language Access Services Outside the Courtroom**

### **1. Awareness of points of contact outside the courtroom**

- [*Mentioned earlier*] Points of contact include (but different courts may have additional ones, or different ones): Courthouse entrance, security screening, clerk's offices/counters, cashier's offices/windows, court administration, records offices, courtrooms, court alternative dispute resolution programs and offices, self-help centers, information kiosks.
- Includes: Public telephone access lines, offsite workshops and clinics operated by the court, and community outreach events conducted by the court. Court websites and court-issued documents, forms and materials are also possible points of contact with the court for purposes of providing language access services.

### **2. Knowledge of and access to language access services available at your court**

- i. Existence/contact information of language access office or designated person.
- ii. Tools available to court staff. E.g.:
  - Language Identification cards
  - Intranet resources
  - Language access contact person
  - Interpreter coordinator/on-call interpreters
  - Telephone interpreters and services such as LanguageLine or other
  - Bilingual staff listings
  - Multilingual information (written, web, audio/visual)

- iii. Availability of online tool-kit for court staff, LEP court users, court interpreters, judicial officers, etc.

### **3. Identifying LEP court users and the need for language access services**

- a. Mechanisms to allow LEP court users to learn of language access services and self-identify available at all points of contact:
  - i. Notices re. availability of language access services
  - ii. Multi-lingual signage throughout courthouse
  - iii. Language Identification cards (I-Speak Cards) – at each staffed location—These cards allow LEP court user to point to primary language to enable court staff to identify and secure the necessary language access services
  - iv. Mailed court notices, educational/informational court brochures
  - v. Website information
- b. Court staff has affirmative duty to ascertain language need of court user
  - i. If court user appears to have difficulties communicating in, or understanding, English, inquire if would prefer to communicate in another language.
  - ii. If court user communicating via a third person with you (and they communicate in another language), inquire if they would like assistance in their language.
  - iii. Inform court user of the availability of language access services at the court.
    - If relevant and available, provide multilingual materials to assist LEP person with understanding process in case/proceeding or program/service need.
  - iv. Use tools available to assist LEP court user in his/her language.
  - v. Ascertain, whenever relevant, the language access needs of any other anticipated participants in a case or event. E.g.:
    - Inquire if opposing party or any witnesses will require language access services.
    - Inquire if other persons with significant interest in the case (as defined in LAP and by particular court) will require language access services.
- c. Ensuring effective tracking of an LEP court user's language needs
  - i. Understand court's mechanisms for recording in case management system or other case record an LEP litigant's need for language access services.
  - ii. Designate, whenever appropriate, an LEP person's language need in relevant records.

**4. When court staff do not speak the LEP person's language:**

- a. Identify language needed.
- b. Identify whether court has resources to address such as:
  - Available bilingual staff person to assist
  - Available interpreter to assist
  - Telephone interpreting service
  - Relevant information in the requested language
- c. Depending on the criticality of the service to be provided, determine if service may proceed without language access provider.
  1. Per LAP Rec. #39, courts must develop procedures to provide language access when bilingual staff not available (Phase 2). In meantime, each court, based on existing resources, may have different procedure for handling situations when no bilingual assistance available at the requested moment. Staff should know existing protocols/procedures.
  2. May be able to proceed if request is straight forward and relatively language neutral: E.g. simple cashier transaction, requesting basic directional information or particular court form.
  3. May be able to rely on person accompanying LEP person (if in fact accompanied) to relay basic information.
  4. May need to ask LEP person to return at a different time/day in order to secure appropriate language access services.
  5. May be able to direct LEP court user to community providers or services (including web-based) to help provide needed information.
  6. If can assist partially in English:
    - Avoid references which may be confusing to a non-English speaker, such as cultural references (e.g. to TV shows or media), idiomatic expressions, U.S. –specific holidays.
    - Do not make assumptions based on nonverbal cues which may differ from what you are most familiar with, nor make cultural generalizations about another's culture based on what you may have heard or learned.
    - Be patient. You may get frustrated or stressed trying to communicate. Try to take a step back and stay open and helpful. Understand that your frustration is not the court user's fault, and if possible, get help from an interpreter or bilingual staff member.
- d. If an interpreter is needed, note language access needs in any court records or case management system.

**5. When court staff speaks LEP person's language:**

- a. Communicate directly with LEP person, even if s/he brought assistance to communicate.
- b. Be aware of existing court resources, including available translated materials and forms for LEP person.
- c. If referring LEP person to another office or department, ensure destination will have language capabilities (and indicate for LEP person the language he or she will require).
  - If referral destination does not have language capacity, follow court's protocol for ensuring language access.
- d. Self-monitor ability to communicate in other language. If communication exceeds language ability or lack knowledge of some terminology, identify issue to supervisor in order to find most appropriate solution.
- e. Speaking the LEP person's language may exacerbate some concerns that all staff have in maintaining professionalism and upholding ethical standards, such as avoiding the appearance of impropriety and remaining neutral and unbiased at all times.
  - In small linguistic communities, you may cross paths with potential, or actual LEP court users more often.
  - LEP users, upon finally finding someone they can communicate with, may ask more of you than of an English-speaking colleague, including questions beyond the scope of your work or even their business with the court.
  - Whereas an English speaking litigant may generally be able to write out information requested, etc., an LEP person may need your assistance in writing information intended for the court in English.
    - Depending on your duties at the court, you may be able to act as a "scribe" only to assist the court user.
    - Make sure you know your department's procedures for addressing these instances.
  - LEP user may identify you as a member of their culture and treat you differently, or have different expectations of you that may be in conflict with your duties as court staff.
  - At all times, follow your ethical duties as a court employee.
  - Have strategies ahead of time for handling difficult situations.
  - Talk to your supervisor or court administrator for guidance and approved procedures for handling difficult situations.
- f. Consistently work on improving language skills
  - Use internet, glossaries, translated forms, and other study aids to acquire terminology in all working languages.

- Build your own glossary relevant to your work, on an ongoing basis.
- Practice your language skills in various registers (formal, colloquial, etc.).
- Identify areas of improvement and seek training.
- Ask local court interpreters about available interpreter training seminars on terminology.

***Trainer Resources:***

- [Language Identification Cards](#)
- Tool kit, when available
- Court LanguageLine (or other) instructions/policies
- Multilingual notice of available language access services, when available
- Multilingual court signage that may have been created or mocked up by JC court construction or other staff

#### **Teaching Tips and Techniques for Module 5:**

- Best practice—Certified or registered interpreter to help teach this module.
- See videos provided in sample materials. May be helpful to insert in the sections discussing those issues.
  - See also [Videos re. Working with Court Interpreters](#) demonstrating different aspects of interpretation.
- Consider having participants do a role-play between court staff and LEP user, using a third participant as the interpreter. Can all be done in English, replicating a common interaction at a clerk's office or other point of contact the participants choose given their particular assignment. After exercise, discuss issues like positioning, pausing to allow interpretation, dealing with noise or interruptions, or person playing the LEP role not knowing how to address interpreter, etc. May use Consecutive Interpreting Exercises provided.
- Show video from New Jersey Legal Aid "[Working with an Interpreter](#)" is helpful for staff working having to use interpreters outside the courtroom.

### **5. Working with Court Interpreters**

#### **1. Determining Need for an Interpreter in the Courtroom or Court-Ordered/Court-Operated Event\*\***

- a. LEP user's request of interpreter
  - LEP user may be party, witness, or person with significant interest in the case.
- b. LEP user's attorney or advocate's request
- c. Indication in court file or case management system of need for interpreter
- d. Judicial officer concludes that need to appoint interpreter to ensure communication and understanding by LEP court user, courtroom participants, and jury
- e. Examination by judicial officer of party or witness to determine need
- f. Waiver of interpreter by LEP user—LAP Rec. #75 to develop a policy to address waiver

**\*\*Court-ordered/court-operated events are those programs, services or events that the court orders an LEP person to participate in AND which are also operated by the court.**

- E.g.: If court orders party to participate in settlement conference or mediation AND the court operates the mediation/settlement program, it is a court-ordered/court-operated event.
- It does not include programs not operated by the court, such as parenting classes or supervised visitation programs or anger management programs that are operated by outside agencies and community providers. Those programs, where a court may order a party, are included under Rec. #11.



## 2. Appointment of Qualified Interpreters

- a. Preference for certified or registered in-person interpreter.
  - See [Remote Interpreting](#) section for appropriate use of remote interpreting.
  - Certified interpreter required for court proceedings in 14 designated languages.
  - Registered interpreters are required for other languages.
  - An in-person interpreter is preferred.
- b. When no certified or registered interpreter available after diligent search, court may continue the matter or appoint a provisionally qualified interpreter.
  - Rule 2.893 for criminal and juvenile delinquency proceedings
  - Pending rule amendment, same procedure for civil matters under LAP Rec. #9
  - Judicial Officer in proceeding makes findings related to good cause based on process described in, and review of, following Judicial Council Forms:
    - *Procedures and Guidelines to Appoint a Noncertified or Nonregistered Interpreter in Criminal and Juvenile Delinquency Proceedings*, [INT-100-INFO](#),
    - *Qualifications of a Noncertified or Nonregistered Interpreter*, [INT-110](#),
    - *Certification of Unavailability of Certified or Registered Interpreter*, [INT-120](#) and
    - *Foreign Language Interpreter's Duties—Civil and Small Claims*, [INT-200](#)
    - *Practice pointer*: If a prospective provisionally qualified interpreter is unable to complete the INT forms for any reason (such as lack of written literacy in English), courts may want to provide for a staff person to act as a scribe for the prospective interpreter, or have interpreter coordinator or other designee assist with form completion for purposes of compliance with provisional qualification requirements.
- c. If judge at the proceeding finds that interpreter NOT provisionally qualified, may use interpreter if brief, routine matter and judge, on the record:
  - a. Indicates defendant or minor waives certified/registered and provisionally qualified interpreter,
  - b. Finds good cause to appoint noncertified/nonregistered non-provisionally qualified interpreter, and
  - c. Finds interpreter is qualified to interpret the proceeding.

- d. Restrictions on appointment of noncertified, nonregistered interpreters under LAP:
  - No minors (Rec. #23), without exception
  - No persons with conflict of interest (Rec. #22) absent exigent circumstances
  - No bilingual staff (Rec. #24) unless provisionally qualified and exigent circumstances. [Phase 2 recommendation]
- e. Procedure for entering interpreter credentials on the record (Govt. Code 68561 (f) and (g)):
  - For certified and registered interpreters, on the record:
    - 1) Name of interpreter (as listed on credentials)
    - 2) Current certification or registration number
    - 3) Statement that identification verified by court with interpreter badge issued by the Judicial Council or other similar documentation
    - 4) Language to be interpreted
    - 5) Statement that oath administered or that it's on file with court
  - For provisionally qualified interpreters, on the record:
    - 1) Finding that certified or registered interpreter not available
    - 2) Name of provisionally qualified interpreter
    - 3) Statement that required procedures and guidelines followed
    - 4) Statement that oath administered

### **3. Best Practices When Working With Interpreters in Court or During Other Interpreted Services/Events**

- a. Preparation and pre-session interview. When using an interpreter:
  - Provide interpreter relevant information before interpretation begins, including topic to be discussed or addressed; and if relevant, the nature of proceeding/session, possible technical terms or concepts, emotionally charged content, etc.
  - If there are written documents that may help quickly explain to interpreter what subject/topic is, may share with interpreter (e.g. before mediation session, share each party's position or requests).
  - Provide for pre-session interview so interpreter may ensure adequate communication and language compatibility with LEP person.
- b. Explanation of interpreter role to all relevant participants in session or service. Best practices:

- Explain the role of the interpreter and make sure LEP person and all other participants have understood.
- Explain interpreter is impartial. S/he is not the interpreter for one side or another; interpreter for the court or court representative.
- Explain interpreter is a highly qualified language professional and is certified (or registered) based on demonstrated skills and knowledge (does not apply when using provisionally qualified interpreters).
- Interpreter cannot, and should not be asked to, offer opinions.
- Interpreter must interpret everything that is said out loud.
- Interpreter cannot interpret non-verbal communications.
- Interpreter may have to intervene to notify the court if s/he does not understand or needs a slower pace or repetition.
- Explain interpreter may need to pause interpretation to clarify, look terminology up, or for some other reason to comply with ethics.

c. Managing all participants—Best practices

i. Overall Best Practices

- Ensure proper direct address of LEP person by all participants.
- Ensure all speakers talk slowly, loudly and clearly, and pause to give interpreter opportunity to interpret (especially if consecutive mode, which is most appropriate for sessions such as mediation, question/answer interactions, etc.).
  - Enforce the practice and remind participants.

ii. Instruction for LEP persons – Best practices

- Inform LEP persons using an interpreter to inform court staff/representative if they do not understand the language of the interpreter.
- Check in with LEP person periodically to ensure s/he understands. Check for understanding with substantive questions, not just a simple “yes” or “no”.
  - Even if court staff/representative does not speak the LEP person’s language, and may not be able to monitor the accuracy of the actual interpretation, they can monitor the LEP person’s understanding.
- Instruct LEP person to wait for question to be interpreted in full before answering and answer in their language only, and not go back and forth between English and their language, even if they speak some English.
  - Instruct LEP person to listen to the question as interpreted, not in English, even if they speak some English.

- You may have to remind LEP person of this repeatedly, since it is common for someone who understands some English to answer before the interpretation is complete.
- Keep in mind that even if the LEP person does at times seem to understand or speak English (and does so), it does not mean he or she is not LEP or does not require the assistance of an interpreter.

iii. Managing the session

- Ensure noise is kept at a minimum.
- Allow only one speaker at a time.
- Ask simple, not compound, questions.
- Avoid double negatives.
- Avoid idioms, regionalisms, jargon, acronyms, and jokes.
- Avoid legalese and “short-hand” talk.
- Ensure most appropriate positioning for interpreter, in consultation with interpreter and LEP person.

iv. Awareness of interpreter

- Be aware interpreter may have to interrupt, intervene, look up terminology, to comply with ethical guidelines and ensure accurate communication.
  - Remain patient.
  - If you deem interpreter is interrupting more than customary, consider pausing proceeding to ascertain problem.
    - Interpreter may be having challenges understanding the LEP person.
    - LEP person may not, even in native language, be forming complete sentences or thoughts.
    - Interpreter may not be qualified for particular assignment (if so, obtain another interpreter or continue the matter to another date).
- If asking LEP person to review a written document, give interpreter time to quickly review the writing before asking him/her to sight translate.
- Be aware of needing to give interpreter breaks to avoid fatigue.
  - Interpreting is highly demanding and interpreter fatigue (and errors) set in after approx. 30 minutes of sustained simultaneous interpreting.

**Trainer Resources:**

- [ABA Standards for Language Access in Courts](#)
- *Determining Need for an Interpreter (from CJER New Judge's College)*
- *10 Tips for Working with Interpreters (provided as part of CJER New Judge's College, by Mary Lou Aranguren)*
- [Working with Court Interpreters](#), adapted from Bench Orientation: *Working with Interpreters* developed by the Superior Court of California, Contra Costa County (2004)
- See list of videos provided in [Videos re. Working with Court Interpreters](#)

**Teaching Tips and Techniques for Module 6:**

- Consider having a certified or registered interpreter, experienced in RI, help teach this module.
- Provide a demonstration of telephonic interpreting, using a typical clerk's office interaction as an example.

## 6. Remote Interpreting (RI)

1. Remote Interpreting allows interpreter to appear remotely to interpret in a courtroom proceeding or other event requiring an interpreter.
  - Video-remote interpreting (VRI) allows for interpreter to interpret via video.
  - Telephonic remote interpreting provides for the interpreter to interpret via phone only (no video).
  - LAP Rec. #14 requires the Language Access Plan Implementation Task Force to establish minimum technological requirements for RI, including requirements for both simultaneous and consecutive.
  - If using RI, courts should use video for courtroom interpretations (LAP Rec. #15).
  - Rec. #16 establishes a pilot project for using VRI in courtroom proceedings. Plans are now underway to develop the VRI pilot.
2. Telephone interpretation is useful tool for language assistance at clerk's offices or other brief informational/transactional sessions that are brief and relatively simple.
  - Many courts have procedures for use of LanguageLine, Language Select, or other telephone interpreting providers.
  - If using telephonic interpreter, ensure LEP person understands and is able to communicate with the interpreter in order to relay information to you, and you to LEP person.
3. In-person, certified and registered court interpreters preferred for courtroom proceedings (LAP Rec. #12)
4. Several LAP recommendations address use of remote interpreting and sharing of staff:
  - a. Rec. #30: Consideration of policies to promote sharing of bilingual staff and credentialed interpreters among courts, using remote technologies for services outside the courtroom.
  - b. Rec. #31: Pilot to use remote interpreting for clerk's office help and self-help centers (with court bank of bilingual staff or other service).
  - c. Rec. #32: Pilot for remote attendance at workshops, trainings, etc. in other languages.

5. When using RI in the courtroom, courts must satisfy, as feasible, guidelines on Appendix B of LAP. Summarized as:
  - a) Minimum technology requirements for high quality communications
  - b) Training for all persons who will be involved in the RI event, related to:
    - Equipment
    - Interpreting protocols
    - Interactions with LEP persons
  - c) In determining appropriateness of RI for court event, examine:
    - Length and complexity of event (and communications involved)
    - Relative convenience/inconvenience to the LEP court user
    - Whether matter uncontested
    - Whether proceeding is of immediate nature (e.g. arraignment, bail reduction, TROs)
  - d) Guidelines for using RI in a court proceeding:
    - Need to interrupt or clarify, and suspect and reschedule
      - Interpreter may need to interrupt, clarify. Judge should acknowledge this at start of proceeding and provide a mechanism in advance to allow for this.
      - Judge should check in with LEP party frequently to ensure he/she is hearing and understanding.
      - Judge may need to suspect and rescheduling for variety of reasons (e.g. technology, interpreter finds it ineffective, etc.)
    - RI Challenges
      - Particular challenges for interpreters, which may include increased fatigue and stress (and lead to decreased accuracy).
      - May need shorter sessions and more breaks.
    - Participants who must have access
      - Remote interpreter must be heard & must be able to hear all speakers.
    - Visual/Auditory Issues, Confidentiality and Modes of Interpreting
      - Auditory/visual issues and confidentiality must be considered when implementing RI. All parties must understand in advance what procedure and technical set up will be used to allow for confidential communications as needed.
    - Documents and Other Information
      - Ensure availability of technology to communicate written information to interpreter.
    - Professional Standards and Ethics
      - All interpreters bound by same standards and ethics.

- Interpreters are required to interpret everything completely and accurately.
- Interpreters are required to report impediments to performance.

***Trainer Resources:***

- Appendix items B, C, D in [Strategic Plan for Language Access in the California Courts](#) (2015)
- *Technological Solutions Subcommittee of the Implementation Task Force*



**Teaching Tips and Techniques for Module 7:**

- Consider having diverse perspectives teaching this module, especially staff experienced in teaching cultural competence.
- See sample PowerPoint slides.
- Engage participants throughout (ppt. slides provide some suggestions) to ensure open communication and raising awareness of the impact of implicit bias (positive and negative) and cultural assumptions in every day court interactions with the public and with other colleagues.
- Use icebreakers and other activities to address competency. See examples at:
  - [http://www.tapartnership.org/docs/CLC%20Icebreakers%20and%20Exercises%20-%20FINAL%20\(5\).pdf](http://www.tapartnership.org/docs/CLC%20Icebreakers%20and%20Exercises%20-%20FINAL%20(5).pdf)
  - <http://www.edchange.org/multicultural/activityarch.html>

## 7. Cultural Competence

### 1. Why Is Culture Important in the State Courts?

#### a. Great diversity of cultures represented in state courts

- There are ethnic/national cultures (groups whose members have a common affiliation defined by reference to ethnicity or nation); professional culture (groups with affiliations defined by occupation or profession, e.g. lawyers, judges); organizational culture (groups interactive within a particular unit or agency, e.g. courts, district attorneys), and more.
- Vast differences in behaviors, values, fundamental beliefs and the assumptions of court users (and court staff and judicial officers) with regard to the court system and court culture.
- Great diversity within cultures as well. Culture is not monolithic. Even members of the same culture will have great diversity in perceptions, behavior, interactions with the court etc. based on socio-economics, geographic location, educational levels, age, gender, individual characteristics, personal background and experiences, etc.
- For LEP persons, having a country in common does not guarantee similar notions, perspectives, etc.
  - Diversity of dialects, regionalisms, local languages, immigration status, time in the U.S., level of acculturation, as well as other factors already addressed.

#### b. Individuals often are part of various cultural groups. In the court context, culture affects:

- Court users
- Court staff

- Judicial officers
- Justice partner agencies interacting with the court
- Public at large in its perception of the justice system

2. How might culture affect an LEP court user? Culture may:

- Impact their perception of the court system
- Impact their understanding of the legal process
- Influence their definition of justice and conflict
- Affect their willingness to identify as LEP
- Affect how they describe events that occurred (e.g., may have different concepts of past, present and future)
- Impact their views of authority figures in legal proceedings
- Affect their willingness to seek help or accept help when offered
- Affect their expectations of “free” help (that it is “lesser than” paid/contracted for)
  - May affect their willingness to accept free interpreter, appointed counsel, self-help services, or legal aid
- Affect their expectations (of the court, the judge, the law)
- Affect their behavior in court
  - Their relationship to authority may cause them not to speak up, or contradict a lawyer or judicial officer, or assent in understanding but not in agreement
  - May act submissive, or aggressive
  - May say they understand when they don’t
- Influence their motivations and strategies

3. What is cultural competence?

- Responding to people in ways that recognize, value, and respect their cultures, languages, classes, races, ethnic backgrounds, religions and other factors.
- Cultural competence requires that organizations have a defined set of values/principles, and demonstrate behaviors, attitudes and policies that allow them to work cross-culturally.
- It does not mean assuming all individuals appearing to belong to a given culture will behave the same, understand the same, and relate in the same manner to the court and its participants.

4. Steps to cultural competence

- Awareness of own cultural background (including ethnic/national, professional and organizational), and how one’s culture may influence own worldview, behaviors, thoughts, ways of communicating, how we provide assistance to diverse court users, respond to perspectives and challenges about our organization and role, etc.

- Awareness of own biases:
  - Be aware of your implicit biases in order to ensure the assistance you provide is appropriate and objective.
  - Implicit bias and Implicit Association Tests
- Be aware that LEP culture may impact their perception of the court system, their understanding of legal process, etc.
- Do not assume that by understanding an LEP person's identified culture you understand their perceptions, views, behavior, etc.
- Listen closely.
- Be open.
- Be patient.
- Continue learning.

5. How does cultural competence make a difference?

- Better communication
- Increased procedural fairness
- Increased and more meaningful participation
- Better compliance with court orders by improving information for making orders and ensuring orders and communication is culturally appropriate
- Increased public trust and confidence
- Improved access to justice

***Trainer Resources:***

- [Implicit Association Test](#)
- "Tools for Cross Cultural Communication" excerpt from [Handling Cases Involving Self-Represented Litigants, a Benchguide for Judicial Officers](#) (2008)
- Beyond the Bench Workshop Materials on [Unconscious Bias and decision-making](#) (Contact Kyanna Williams at CFCC)
- [www.ethnomed.org/culture](http://www.ethnomed.org/culture): Univ. of Washington website that provides "cultural profiles" of immigrant and linguistic groups in Seattle area.
- [Cultural Competence in Legal/Judicial Services](#)
- [Cultural Orientation Resource Center](#)
- [National Center for Cultural Competence](#)
- [Comparisons between two legal systems \(Mexico and U.S.\)](#) (Superior Court of California, County of Imperial)
- [Borderland Justice: Working With Culture in Courts Along the US/Mexico Border](#) by John A. Martin, Jose Guillén and Diane Altamirano (March 16, 2007)

## VIDEOS on Working with Court Interpreters

### Judicial Officer Training Vignettes at

[https://www.courts.state.co.us/Administration/Custom.cfm?Unit=interp&Page\\_ID=410](https://www.courts.state.co.us/Administration/Custom.cfm?Unit=interp&Page_ID=410)

Vignette 1—Obligation of the Interpreter to limit work to their scope of practice and of the Judge to address parties in first person.

Vignette 2—Obligation of the Judge to ensure appointment of a qualified and approved Interpreter.

Vignette 3—Obligation of the Interpreter to remain impartial and to avoid conflicts of interest.

Vignette 4—Obligation of the Interpreter to be accurate and complete.

Vignette 5—Obligation of the Interpreter to be accurate and complete, interpreting everything that is said, and to remain within scope of practice.

Vignette 6—Obligation of the Interpreter to avoid an appearance of bias.

Vignette 7—Obligation of the Judge to allow Interpreter to interpret prior to ruling on objection.

### Federal Judiciary Channel – YouTube –18 videos on court interpreting:

<https://www.youtube.com/playlist?list=PL4bcxoLSIaXfPvX9FXws4S6XirPhUObBQ>

- |   |  |
|---|--|
| 1. Right to a Court Interpreter                                   | 11. Summary Interpreting                               |
| 2. Court Interpreters are Officers of the Court                   | 12. Example of Improper Summary Interpreting           |
| 3. Court Interpreter Credentials                                  | 13. Example of Inaccurate Legal Interpretation         |
| 4. Example of Court Interpreter's Interview to Verify Credentials | 14. Court Interpreters Can Consult Reference Materials |
| 5. Simultaneous and Consecutive Interpreting                      | 15. Team Interpreting                                  |
| 6. Simultaneous Interpreting Usage                                | 16. Correcting Interpreting Inaccuracies               |
| 7. Example of Simultaneous Interpreting                           | 17. Court Interpreters and Conflicts of Interest       |
| 8. Consecutive Interpreting Usage                                 | 18. Ethical Obligations for Court Interpreters         |
| 9. Example of Consecutive Interpreting                            |  |
| 10. Direct Speech Interpreting                                    |  |

[UCS \[Unified Court System – NY\] Judge's Guide to Working with Court Interpreters](#) Video (18 mins)

[Ethical Challenges for Court Interpreters](#). Interpreter training 8-module video series produced in Vancouver in 2012. Although designed for interpreter training, provides scenarios you may use to illustrate the judge's role in ensuring best practices.

## **Attachment 6**

## Development Plan for Remaining Language Access Plan Materials<sup>1</sup>

| No. | Materials to be developed  | Suggested sample content  | LAP Rec. | Format for materials   | Phase/<br>Timing   | Entities |
|-----|--|---|----------|--|--|----------|
| 1   | Multilingual standardized videos for high volume case types providing generalized information (translated into top 8 languages and captioned in as many other languages as feasible) | <ul style="list-style-type: none"> <li>• Overview of divorce process</li> <li>• Overview of guardianship process</li> <li>• Service of process</li> <li>• Fee waiver instructions</li> <li>• Requests for orders in all FL cases (form FL-300 requests)</li> <li>• How to work with/use an interpreter</li> <li>• Overview videos of small claims, eviction and civil harassment processes (these may be developed through editing and updating of the “Resolve your Case” video series, which contain overview chapters for the covered case types)</li> </ul> | #18      | <ul style="list-style-type: none"> <li>• Videos</li> <li>• Flow charts with limited amount of text</li> <li>• PowerPoint or Prezi-type recorded presentations to walk viewers through processes</li> </ul> <p>Note: For videos that require inclusion of information that may become outdated, use strategies for easy updating of information without rendering video obsolete (e.g. voiceover than can be re-recorded, inserted graphics that can be updated/changed).</p> | Phases 1, 2, 3<br><br>(Video creation process likely to be ongoing process of creating new videos and updating existing ones.) | TBD      |

<sup>1</sup> The list of materials to be developed is based on the 75 recommendations of the Strategic Plan for Language Access in the California Courts, as is the phasing for creating the materials. The suggested sample content and format for materials, however, are intended at providing a starting point for creation of the materials in question, but are not intended to limit additional content or tools for development. It is the intent of this development plan that suggested content and format remain flexible and responsive to the needs of the courts, to court users, and to allocated translation resources.

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| 2 | Training and guidance on critical points of contact between LEP users and the court | <ul style="list-style-type: none"> <li>• Graphic demonstrating all possible points of contact with court and available resources for staff at each point (including online toolkit), that each court can adapt to reflect local resources</li> <li>• Online module showing court staff what is available to them at each point of contact, what tools will be most effective and relevant, and how to use those tools</li> </ul>  | #26 | <ul style="list-style-type: none"> <li>• Written/graphics</li> <li>• Online training and recorded presentations and/or webinar demonstrating how to access resources (can be combined with modules suggested below regarding use of the toolkit and accessing available resources)</li> </ul>                        | Phases 1, 2<br><br>(Once created, training to be required and updated regularly) | TBD  |
| 3 | Language assistance tools (furthering toolkit)                                      | <ul style="list-style-type: none"> <li>• Online multilingual glossaries (either existing or as they are developed)</li> <li>• Guidelines/flowcharts showing when particular tools are appropriate for use (e.g. written policy and clear guidelines re. use of telephone interpreting service and video remote interpreting; location of glossaries and how to use)</li> <li>• Training module on resources available on the toolkit and how to access for staff use or for LEP user referral</li> <li>• Training module regarding policy for using telephone interpreting</li> </ul> | #27 | <ul style="list-style-type: none"> <li>• Flowcharts/graphics</li> <li>• Online training module re. use of different tools, policies, and toolkit (can be combined with training above)</li> <li>• Online glossaries hosted on toolkit and cross-referenced in court's intranet and website if appropriate</li> </ul> | Phases 2, 3<br><br>(Once created, training to be required and updated regularly) | TBD<br><br>For glossaries, collaborate with interpreter working groups and translation vendors |

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|   |  | <ul style="list-style-type: none"> <li>• Training module regarding policies and procedures for using video remote interpreting, including tech requirements, etc.</li> <li>• Sample multilingual employee listing that courts can adapt for local use.</li> </ul>  |     |   |  |     |
| 4 | Training curriculum for bilingual volunteers     | <ul style="list-style-type: none"> <li>• Training modules, written materials and presentations addressing particular issues and challenges facing bilingual volunteers when working with LEP court users</li> <li>• Creation and provision of comprehensive resources specifically for volunteers to understand role, expand language skills, and provide linguistically accessible resources and referrals</li> </ul> | #34 | <ul style="list-style-type: none"> <li>• Online training modules</li> <li>• Written training materials and resources</li> <li>• In-person training for more significant volunteer training efforts (e.g. JusticeCorps)</li> </ul> | Phases 1, 2<br><br>(Once created, training to be required and updated regularly)               | TBD |
| 5 | Guidance for supervision of bilingual volunteers | <ul style="list-style-type: none"> <li>• Guidance materials to assist supervisors of bilingual volunteers with properly supervising volunteers, including: <ul style="list-style-type: none"> <li>○ discussion of particular challenges involved when assisting LEP court users,</li> <li>○ how to ensure bilingual volunteers are in fact</li> </ul> </li> </ul>  | #34 | <ul style="list-style-type: none"> <li>• Written training materials and resources</li> <li>• Online training modules</li> <li>• In-person training – Participation in training of bilingual volunteers</li> </ul>                 | Phases 1, 2<br><br>(Once created, training to be required, and reviewed and updated regularly) | TBD |



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|   |  | <p>proficient for particular tasks or points of contact,</p> <ul style="list-style-type: none"> <li>○ most effective and efficient utilization of bilingual volunteers,</li> <li>○ how to supervise a volunteer while s/he is assisting in a language in which the supervisor is not proficient,</li> <li>○ how to properly support bilingual volunteers when challenged in relation to language skills,</li> <li>○ how to encourage and provide resources for bilingual volunteers to further develop language skills,</li> <li>○ how to provide mentorship opportunities for bilingual volunteer to encourage him/her to become bilingual staff or interpreter</li> </ul> |     |  |   |     |
| 6 | Samples and templates of multilingual information applicable for statewide use and adaptable for local use | <ul style="list-style-type: none"> <li>● How to work with/use an interpreter</li> <li>● How to request an interpreter</li> <li>● How to present your case in court</li> <li>● How to try to resolve a case out of court</li> </ul>  | #37 | <ul style="list-style-type: none"> <li>● Written templates and samples</li> <li>● Online availability of templates and samples</li> <li>● Videos (see Rec. #18 materials above)</li> </ul> | Phases 1, 2, 3<br><br>(Process of creating and updating templates and samples to be | TBD |

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|   |  | <ul style="list-style-type: none"> <li>• Service of process information</li> <li>• Overview of major case types</li> </ul>  |     |   | ongoing)   |     |
| 7 | Standard notice and procedure for notifying courts of new postings of multilingual materials and resources | <ul style="list-style-type: none"> <li>• A standard notice that alerts courts of new materials available in the statewide repository, with fillable information regarding new materials, languages, and format</li> <li>• Include listserv addresses and other resources for ease of dissemination/distribution of the notices</li> </ul> | #38 | <ul style="list-style-type: none"> <li>• Written template notice</li> <li>• Template email message</li> <li>• Written procedure (available online) for notification (and adaptable by courts who may want to issue notifications to local partners)</li> <li>• Available online for staff to have ready access</li> </ul> | Phase 1<br><br>(With ongoing review and update, as listservs and other contacts are developed) | TBD |
| 8 | Common and relevant signs translated into top languages  | <ul style="list-style-type: none"> <li>• List of relevant signs most common to all (or the majority) of courthouses or court service buildings translated into 8 languages,</li> <li>• Sample standardized signs for courthouse placement, with translation and/or use of icons (see next task)</li> </ul>                                | #39 | <ul style="list-style-type: none"> <li>• Written/graphics sample signs</li> <li>• Online availability of samples/templates</li> </ul>   | Phase 2<br><br>(With regular review and update as needs identified)                            | TBD |
| 9 | Guidance documents on use of icons, symbols and displays   | <ul style="list-style-type: none"> <li>• Guidance regarding the use of icons and symbols for communicating wayfinding and other locations</li> <li>• Guidance regarding the most effective use of visual displays, including electronic (dynamic)</li> </ul>  | #39 | <ul style="list-style-type: none"> <li>• Written guidance, examples, and templates</li> <li>• Online availability of written guidance</li> </ul>  | Phase 2<br><br>(With regular review and update as needs identified)                            | TBD |

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|    |   | displays in courthouse buildings to improve access generally and language access specifically   |     |   |   |     |
| 10 | Translated court order/judgment forms                 | <ul style="list-style-type: none"> <li>• In accordance with prioritization guidelines in the Translation Protocol, translated court order and judgment forms most commonly used in high volume cases, especially in cases where self-represented litigants and/or LEP court users may appear</li> <li>• Examples include: family law cases (especially divorce, custody/visitation, child and spousal support), small claims, domestic violence, civil harassment, elder and dependent adult abuse, unlawful detainers, debt collection civil judgment forms</li> </ul> | #40 | <ul style="list-style-type: none"> <li>• Written forms available in print form</li> <li>• Online forms and their translations</li> </ul>        | Phases 1, 2, 3<br><br>(Form translation process likely to be ongoing as new forms are developed and existing ones require updating) | TBD |
| 11 | Wayfinding strategies for new courthouse construction | <ul style="list-style-type: none"> <li>• Guidance for courts to improve accessibility and wayfinding for all users, including LEP court users</li> <li>• Guidance (see above task) regarding the most effective use of visual displays, including electronic (dynamic) displays in courthouse buildings to</li> </ul>   | #42 | <ul style="list-style-type: none"> <li>• Written guidance and samples/templates with graphics</li> <li>• Online guidance and samples</li> </ul> | Phase 2<br><br>(Ongoing as new construction efforts are undertaken and guidance is updated)   | JCC |

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|    |  | improve access  |     |  |  |   |
| 12 | Training programs for interpreters focusing on civil cases and remote interpreting       | <ul style="list-style-type: none"> <li>• Web-based JC training modules and orientations for new and existing court interpreters on general common concepts in all civil cases, civil terminology, and resources for developing those language skills</li> <li>• Learning tools, such as civil terminology glossaries, flow charts showing civil processes and case types, etc.</li> <li>• Guidance for interpreters on interacting with self-represented LEP persons</li> <li>• Training modules for remote interpreting, to train interpreters on the equipment, its proper use, how to comply with ethical standards in the remote interpreting context, and how to familiarize themselves with the process to reduce possible increases in fatigue or stress.</li> </ul> | #46 | <ul style="list-style-type: none"> <li>• Written tools such as civil terminology, glossaries, case type information, etc.</li> <li>• Online training modules</li> <li>• In-person training efforts</li> <li>• Videos demonstrating processes and skills/tools for interpreting in civil matters with SRLs</li> </ul> <p>For the remote interpreting training, some of the training must include hands-on practical experience, using the equipment and interpreting with the use of the equipment.</p> | Phases 1, 2<br><br>(Once created, training to be reviewed and updated regularly) | JCC in collaboration with interpreter organizations and educational providers |
| 13 | Guidance on language proficiency standards needed for different points of contact in the | <ul style="list-style-type: none"> <li>• Clear guidance regarding the proficiency levels required for bilingual staff at various points of contact</li> </ul>   | #48 | <ul style="list-style-type: none"> <li>• Written guidance and sample tests</li> <li>• Online access to guidance, sample tests, and resources.</li> </ul>   | Phase 1<br><br>(Once created, guidance to be                                     | JCC in collaboration with courts  |

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|    | courts                                       | <ul style="list-style-type: none"> <li>• Guidance regarding the testing of bilingual staff to ensure requisite levels of proficiency for the point of contact/position</li> <li>• Guidance for courts on assisting bilingual staff with improving language skills and resources for language skills development.</li> </ul>   |     |  | analyzed & adjusted if needed, on a regular basis)                               |     |
| 14 | Online training programs for bilingual staff | <ul style="list-style-type: none"> <li>• Training modules and written materials and presentations addressing particular issues and challenges facing bilingual staff when working with LEP court users</li> <li>• Comprehensive resources specifically for bilingual staff to understand role, improve language skills, and provide accessible resources and referrals</li> </ul> | #48 | <ul style="list-style-type: none"> <li>• In-person training on a regular basis for all bilingual staff placed in points of contact with public</li> <li>• Online training modules</li> <li>• Written training materials and resources</li> </ul> | Phases 1, 2<br><br>(Once created, training to be reviewed and updated regularly) | JCC |
| 15 | Possible additional bench cards              | As implementation and training efforts move forward, additional topics may be identified for inclusion in bench cards and/or modifications to existing bench cards may be needed.   | #52 | <ul style="list-style-type: none"> <li>• Written</li> <li>• Online</li> </ul>  | Phases 1, 2, 3   | JCC |

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| 16 | Multilingual video and audio recordings as part of outreach to provide the public general information                                    | <ul style="list-style-type: none"> <li>• See materials suggested above under Rec. #18.</li> <li>• Video and audio information orienting the public to: <ul style="list-style-type: none"> <li>○ the court system,</li> <li>○ the services available at the court to assist court users, legal aid and other low cost or free legal assistance available,</li> <li>○ availability of language access services and how to access them.</li> </ul> </li> <li>• Additional multilingual audio recordings of INFO forms and other materials such as the existing ones of the DV Info forms.</li> </ul> | #54 | <ul style="list-style-type: none"> <li>• Videos to be hosted online on websites and available for viewing at court locations, self-help centers and community providers</li> <li>• Audio recordings similarly hosted</li> <li>• May use ethnic and local media to disseminate information, record scripted interviews and other information provision, in radio, tv and print media</li> </ul> | Phase 3   | JCC |
| 17 | Statewide repository for language access resources and materials (if toolkit is used as repository, then this task is already under way) | <ul style="list-style-type: none"> <li>• If tool kit is intended as the repository for all language access resources developed throughout the state, may only require continued development and design to ensure it is user-friendly and accessible</li> <li>• If toolkit will only host a certain number or type of resources, this recommendation may require development of a separate repository, or the redesign of existing ones (such as the Equal Access site) to host</li> </ul>   | #66 | <ul style="list-style-type: none"> <li>• Online repository accessible to the public, all court staff, court interpreters, and justice partners and community-based organizations</li> </ul>  | Phases 1, 2<br><br>(Ongoing posting and sharing as new and updated resources are developed) | JCC |

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|    |  | all the resources, including templates and samples for providers to adapt, policy documents, translated documents, etc.  |     |   |  |     |
| 18 | Training (once rules and guidelines are developed) for determining good cause for appointing a non-certified, non-registered interpreter | <ul style="list-style-type: none"> <li>• Clear document with check boxes or other tool to assist bench officers in following proper procedures when dealing with a finding of good cause to appoint a non-credentialed interpreter</li> <li>• May be inserted in courtroom bench card if feasible, or as an accompanying document</li> <li>• Should be incorporated into judicial officer training curriculum</li> </ul> | #69 | <ul style="list-style-type: none"> <li>• Written guidance and easy-to-follow instructions or checklist</li> <li>• Online availability of guidance and tool</li> <li>• Online training module or incorporated information into existing trainings (online or in person trainings)</li> </ul> | Phase 1, after Rec. #69 is implemented | JCC |
| 19 | Training on process/policy for waiver of a court interpreter (once policy is developed by the ITF)                                       | <ul style="list-style-type: none"> <li>• Clear document with check boxes or other tool to assist bench officers in following proper procedure when dealing with waiver of a court interpreter</li> <li>• May be inserted in courtroom bench card if feasible, or as an accompanying document.</li> <li>• Should be incorporated into judicial officer training curriculum</li> </ul>                                     | #75 | <ul style="list-style-type: none"> <li>• Written guidance and easy-to-follow instructions or checklist</li> <li>• Online availability of guidance and tool</li> <li>• Online training module or incorporated information into existing trainings (online or in person trainings)</li> </ul> | Phase 1 after Rec. #75 is implemented  | JCC |