

Superior Court of California, County of El Dorado

Limited English Proficiency (LEP) Plan

I. Legal Basis and Purpose

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

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

II. Needs Assessment

A. Statewide

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

According to the Judicial Council of California's (JCC) Court Interpreter Data Collection System (CIDCS), which aggregates court interpreter usage data received from the California superior courts, the most frequently used languages for interpreters in California courts in 2010 were (in descending order of frequency):

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

B. Superior Court of El Dorado County

The Court will make every effort to provide services to all persons with LEP. However, the following list shows the foreign languages that are most frequently used in this court's geographic area.

1. Spanish
2. American Sign Language (ASL)
3. Russian
4. Vietnamese
5. Tagalog/Mandarin

This information is based on data collected from the JCC's CIDCS.

III. Language Assistance Resources

A. Interpreters Used in the Courtroom

1. Providing Interpreters in the Courtroom

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

- For litigants and witnesses in criminal (including traffic) hearings; and
- For litigants and witnesses in juvenile hearings.

The Court is permitted to provide interpreter services for all civil case types (except for small claims) pursuant to Evidence Code section 756 and Government Code section 68092.1, as summarized in Attachment A. The Court is not always able to provide or pay for an interpreter in every language or in every civil case. Acknowledging funding limitations, the Legislature has set priorities for civil cases. Courts with limited funds are to try to provide court interpreters based on these priorities. The first priority is to try to provide interpreters in the following case types:

1. Domestic violence cases
2. Family law cases in which there is a domestic violence issue
3. Elder or dependent adult physical abuse cases
4. Unlawful detainer or eviction cases

Even in those cases, interpreters will not always be available for all hearings or in all languages.

The Court recognizes the significant benefits to both the public and the court by providing interpreters in civil cases. The Court is working to provide spoken-language interpreters for litigants and witnesses in other civil proceedings in the upcoming year, to the extent that funding is provided. As outlined in Attachment A, the Legislature has set priorities in these cases.

Interpreters are referred to other court departments when their assistance is no longer needed for statutorily required calendars/hearings.

2. Determining the Need for an Interpreter in the Courtroom

The Court may determine whether a person with a LEP needs an interpreter for a court hearing in various ways.

The need for a court interpreter may be identified prior to a court proceeding by the person with LEP or on the person with LEP behalf by counter staff, self-help center staff, family court services, or outside justice partners such as El Dorado County Jail and Probation. The need for a court interpreter also may be made known in the courtroom at the time of the proceeding.

The Court will display a signage translated in the five (5) most frequently used languages informing court users that interpreters are available at no cost/free and to ask/contact court staff. The Court will display this sign at the following locations: South Lake Tahoe Branch, 1354 Johnson Blvd., South Lake Tahoe, CA;96150; Placerville Main Street Branch, 495 Main Street, Placerville, CA 95667; Placerville Fair Lane Branch, 2850 Fairlane Court, Placerville, CA 95667; Placerville Building C Branch, 295 Fair Lane, Placerville, CA 95667; Cameron Park Branch, 3321 Cameron Park Drive, Cameron Park, CA 95682. Signage will be displayed when it is made available by the JCC.

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

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

Standard 2.10(d) calls on the court to state its conclusion on the record regarding the need for an interpreter. “The file in the case should be clearly marked and data entered electronically when appropriate by Court personnel to ensure that an interpreter will be present when needed in any subsequent proceeding.”

Many people who need a court interpreter will not request one because they do not realize that interpreters are available or because they do not recognize the level of English proficiency or communication skills needed to understand the court proceeding. The court does not always have funding to provide interpreters for non-mandated proceedings. However, the Court can provide some assistance within existing funding restrictions and will endeavor to do so for non-mandated proceedings pursuant to Evidence Code section 756 and Government Code section 68092.1, as outlined in Appendix A.

In a case where the court is mandated to provide an interpreter, but one is not available at the time of the proceeding, even after the Court has made all reasonable efforts to locate one, as previously outlined in this plan, the case will be postponed and continued on a date when an interpreter can be provided.

When an interpreter is unavailable for a case in which the court is not mandated to provide one, the court takes the following actions: (1) provides an interpreter for priority civil matters (Appendix A) when funding is available, or (2) provides a list of interpreters to the parties for direct contact per the JCC roster if an interpreter cannot be provided by the Court, or (3) utilizes Language Select or a comparable telephonic interpreter service.

2. Court Interpreter Qualifications

The Court hires court interpreters for courtroom hearings in compliance with the rules and policies set forth by Government Code section 68561 and California Rules of Court, rule 2.893. The JCC maintains a statewide roster of certified and registered interpreters who may work in the courts. This roster is available to court staff and the public on the Internet at <https://www.courts.ca.gov/35273.htm>.

When an interpreter coordinator has made a “due diligence” effort to find a certified or registered court interpreter and none is available, the interpreter coordinator then seeks a noncertified, nonregistered court interpreter, in accordance with the governing local labor agreement. Whenever a noncertified interpreter is used in the courtroom, to either provisionally qualify the interpreter or find cause to permit him or her to interpret the proceeding, judges must, pursuant to rule 2.893, inquire into the interpreter’s skills, professional experience, and potential conflicts of interest. A provisionally qualified interpreter is one who, upon findings prescribed in the rule, is designated by the judge as eligible to interpret in a criminal or juvenile delinquency proceeding for a period of six (6) months.

B. Language Services Outside the Courtroom

The Court is also responsible for taking reasonable steps to ensure that persons with LEP have meaningful access to services outside the courtroom. This is perhaps the most challenging situation facing Court staff, because in most situations they are charged with assisting persons with LEP without an interpreter present. Persons with LEP may come in contact with Court personnel via the phone, the public counter, or other means.

The most common points of service outside the courtroom are at the Court's public counters and Self-Help Center. Bilingual assistance is provided at the public counters by the placement of bilingual staff as is practical and available. The Court also periodically calls on other bilingual staff from elsewhere in the Court to assist at a public counter.

Providing language services outside the courtroom entails both daily communications and interactions between Court staff and persons with LEP to provide accessibility of court services, such as self-help, assistance at the public counter, and to participate in child custody recommending sessions.

To facilitate communication, the Court uses the following resources to the degree resource are available:

- Court interpreters are used to the extent permitted under the active memorandum of understanding or independent interpreter contract.
- The Court will first try to use bilingual employees to assist persons with LEP needs outside of the courtroom.
- Language Select contract services are available to provide interpretation services via the telephone in over 170 languages.

To provide linguistically accessible services for persons with LEP, the Court provides the following:

- Language Select contract services for child custody recommending counselor services that address family law custody and visitation matters.
- Judicial Council Domestic Violence forms in Chinese, Korean, Spanish, and Vietnamese.

C. Translated Forms and Documents

The California courts understand the importance of translating forms and documents so that persons with LEP have greater access to the courts' services. The Court currently uses JCC forms and instructional materials translated into commonly used languages.

- This information is accessible through the Court's website at <http://www.eldoradocourt.org/selfhelp/interactiveforms.html> as well as at the Court's Self-Help Center.

- The Court also has access to instructional materials that have been translated by other courts at <https://www.courts.ca.gov/partners/53.htm>.
- The State Bar of California provides the Court with multiple informational documents, pamphlets, booklets and forms in other languages that are made available in our clerk's offices or lobby areas within our branches.

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

IV. Court Staff and Volunteer Recruitment

A. Recruitment of Bilingual Staff for Language Access

The Court is an equal opportunity employer and recruits and hires a limited number of bilingual staff to assist persons with LEP outside of the courtroom (e.g., public counter, self-help center, or child custody recommending session).

V. Judicial and Staff Training

The Court is committed to providing LEP training opportunities for all judicial officers and employees. These opportunities include, but are not limited to the following topics:

- Diversity
- Language Select
- Courtroom Processing Procedures for Interpreter Services
- Using a Court Interpreter: The Basics
- For judicial officers - Use of Court Interpreters and Language Competency

VI. Public Notification and Evaluation of LEP Plan

A. LEP Plan Approval and Notification

The Court's LEP Plan, including revisions, is subject to approval by the Presiding Judge and Court Executive Officer. Upon approval, a copy of the LEP Plan will be forwarded to the JCC's LEP Coordinator. In addition, the LEP Plan accessible through the Court's website at <http://www.eldoradocourt.org/generalinfo/court-interpreters.html> and interested persons may request a copy from the Court.

B. Annual Evaluation of the LEP Plan

The Assistant Court Executive Officer will review the LEP Plan no less than annually to make sure it remains effective and is up to date. The evaluation will include identification of any problem areas and development of corrective action strategies. Elements of the evaluation will include:

- Assessment of current language needs to determine if additional services or translated materials should be provided.
- Assessment of whether Court staff adequately understand LEP policies and procedures and how to carry them out.
- Review of feedback from Court employee training sessions.
- Customer satisfaction feedback.

C. Trial Court LEP Plan Coordinator:

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Superior Court of El Dorado County
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D. Judicial Council of California LEP Plan Coordinator:

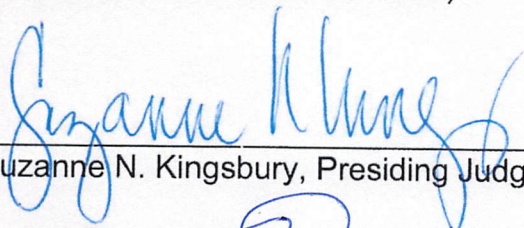
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E. LEP Plan Effective date:

January 15, 2021

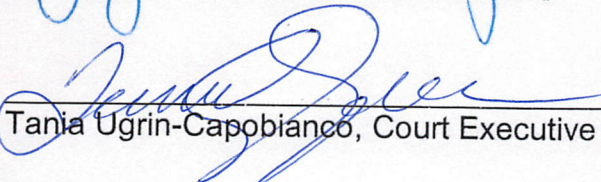
F. Approved by:

(Signatures on file with the Court)



Suzanne N. Kingsbury, Presiding Judge

1/19/2021
Date



Tania Ugrin-Capobianco, Court Executive Officer

1-19-2021
Date

Attachment A to Trial Court Limited English Proficiency Plan

Citations on the Use and Payment of Interpreters in Court Proceedings

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

- Article 1, section 14 of the California Constitution provides that a “person unable to understand English who is charged with a crime has the right to an interpreter throughout the proceedings.” There is no corresponding right in civil proceedings. *Jara v. Municipal Court* (1978) 21 Cal.3d 181 held that non-English-speaking indigent civil litigants do not have a right to a court interpreter appointed at public expense. However, the court does have the inherent right to waive filing fees if justice so requires.
- *Jara* let stand an earlier opinion, *Gardiana v. Small Claims Court* (1976) 59 Cal.App.3d 412, which held that in small claims proceedings, the court has a statutory duty to appoint an interpreter free of charge if it finds the litigant unable to speak or understand English. *Jara* reasoned that because attorneys are not permitted in small claims proceedings, non-English-speaking small claims litigants without an interpreter are “effectively barred from access to the small claims proceedings.” (*Jara*, 21 Cal.3d 185.) (See also the two (2) bulleted items below regarding interpreters in small claims matters.)
- Witnesses with limited English proficiency must also be provided with an interpreter. Under Evidence Code section 752, the court must appoint an interpreter whenever “a witness is incapable of understanding the English language or is incapable of expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury....” Appointment of a translator is also required whenever “the written characters in a writing offered in evidence are incapable of being deciphered or understood directly.” (Evid. Code, § 753.)
- In small claims proceedings, if the court determines that a litigant does not speak or understand English sufficiently to comprehend the proceedings or give testimony and needs assistance in doing so, the court may permit another individual (other than an attorney) to assist that party. (Code Civ. Proc., § 116.550(a).) If a competent interpreter is not available at the first hearing of the case, the small claims court shall postpone the hearing one (1) time only to allow the party the opportunity to obtain another individual to assist that party. Any additional continuances shall be at the court’s discretion. (Code Civ. Proc., § 116.550(b)). Rule 3.61 (5) of the California Rules of Court provides that any costs for a court-appointed interpreter in a small claims action must be waived if an application to proceed in forma pauperis is granted.

- In proceedings involving domestic violence and proceedings regarding parental rights, dissolution of marriage, or legal separation involving a protective order, a party who does not proficiently speak or understand English shall have a certified interpreter present to assist communication between the party and his or her attorney (Evid. Code, § 755(a)). The interpreter's fees shall be paid by the litigants "in such proportions as the court may direct," except that the fees shall be waived for a party who has a fee waiver (Evid. Code, § 755(b) and Gov. Code, § 68092). However, the authorizing statute (Evid. Code, § 755) provides that compliance with its requirements is mandatory only if funds are available under the Federal Violence Against Women Act (P.L. 103–322) or from sources other than the state. The Judicial Council provides special funding through its Trial Court Improvement Fund to allow courts to provide interpreters for these matters and for elder abuse cases. This funding may also be used for general family law matters in and out of the courtroom, on a priority basis and to the degree funding is available.
- AB 1657, which went into effect January 1, 2015, repeals Evidence Code § 755, and instead enacts § 756 of the Evidence Code requiring the Judicial Council, to the extent required by other state or federal laws, to reimburse courts for court interpreter services provided in civil actions and proceedings to any party who is present in court and who does not proficiently speak or understand the English language for the purpose of interpreting the proceedings in a language the party understands, and assisting communications between the party, his/her attorney, and the court. Provides that if sufficient funds are not appropriated to provide an interpreter to every party that meets the standard of eligibility, court interpreter services in civil cases reimbursed by the Judicial Council, pursuant to the provision above, shall be prioritized by case type by each court in the following order:
 1. Actions and proceedings under Division 10 (commencing with § 6200) of the Family Code, actions or proceedings under the Uniform Parentage Act (Part 3 (commencing with § 7600) of Division 12 of the Family Code) in which a protective order has been granted or is being sought pursuant to § 6221 of the Family Code, and actions and proceedings for dissolution or nullity of marriage or legal separation of the parties in which a protective order has been granted or is being sought pursuant to § 6221 of the Family Code; actions and proceedings under subdivision (w) of § 527.6 of the Code of Civil Procedure; and actions and proceedings for physical abuse or neglect under the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11 (commencing with § 15600) of Part 3 of Division 9 of the Welfare and Institutions Code).
 2. Actions and proceedings relating to unlawful detainer.
 3. Actions and proceedings to terminate parental rights.

4. Actions and proceedings relating to conservatorship or guardianship, including the appointment or termination of a probate guardian or conservator.
5. Actions and proceedings by a parent to obtain sole legal or physical custody of a child or rights to visitation.
6. All other actions and proceedings under § 527.6 of the Code of Civil Procedure or the Elder Abuse and Dependent Adult Civil Protection Action (commencing with W&I Code § 15600).
7. All other actions and proceedings related to family law.
8. All other civil actions or proceedings.

If funds are not available to provide an interpreter to every party that meets the standard of eligibility, preference shall be given for parties proceeding *in forma pauperis* pursuant to GC § 68631 in any civil action or proceeding described in paragraph (3), (4), (5), (6), (7) or (8) above.

Authorizes courts to provide an interpreter to a party outside the priority order above when a qualified interpreter is present and available at the court location and no higher priority action is taking place at that location during the period of time for which the interpreter has already been compensated.