

## **Limited English Proficiency (LEP) Plan**

The Superior Court of California, County of Sonoma (the "Court") takes notice of the findings by the California Commission on Access to Justice, "Nearly seven million Californians cannot access the courts without significant language assistance, cannot understand pleadings, forms or other legal documents, and cannot participate meaningfully in court proceedings without a qualified interpreter." California's courts are doing much to try to meet the needs of those persons with limited English proficiency. Effective January 2009, this Court developed a Limited English Proficiency (LEP) plan to increase access to justice for the public by identifying resources and materials that are available to the courts and to ensure that all court staff are aware of those resources and our commitment to increasing public trust and confidence among all Californians. The LEP Plan is reviewed as needed in order to determine its effectiveness and whether new programs, services and activities are needed in order to better serve the LEP population.

Please see following Limited English Proficiency plan.

# **Superior Court of California, County of Sonoma Limited English Proficiency (LEP) Plan**

## **I. Legal Basis and Purpose**

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

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

## **II. Needs Assessment**

### **A. Statewide**

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

According to the Administrative Office of the Courts (AOC) Court Interpreter Data Collection System (CIDCS), which aggregates court interpreter usage data received from the California trial courts, the most frequently used languages for interpreters in California courts in 2010 were (in descending order of frequency):

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

### **B. Superior Court of California, County of Sonoma**

The Superior Court of California, County of Sonoma will make every effort to provide services to all LEP persons. The following list shows the foreign languages that were most frequently used in FY 2011-12 in this court's jurisdiction.

1. Spanish
2. Thai
3. Laotian
4. Cantonese and Mandarin
5. Vietnamese

This information is based on data collected from the AOC's Court Interpreters Data Collection System.

### **III. Language Assistance Resources**

#### **A. Interpreters Used in the Courtroom**

##### **1. Providing Interpreters in the Courtroom**

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

- For litigants and witnesses in criminal hearings and proceedings, including DUI Court;
- For litigants and witnesses in juvenile hearings and proceedings;
- For litigants who need a psychological or psychiatric evaluation, pursuant to PC 1368, PC 288.1 or W&I Code 3051;
- For litigants and witnesses in hearings involving domestic violence and elder abuse, family law and child support cases, to the extent that funding is provided; and
- For litigants who need assistance when using family court services, to the extent that funding is provided.

##### **2. Determining the Need for an Interpreter in the Courtroom**

The Superior Court of California, County of Sonoma may determine whether an LEP court customer 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 LEP person or on the LEP person's behalf by psychologists, family members and friends of the LEP person, counter staff, self-help center staff, family court services, district attorneys or outside justice partners such as private attorneys, social workers or correctional facilities staff.

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

To determine if an interpreter is needed, standard 2.10(c) provides that "the court should normally ask questions on the following: (1) identification (for example: name, address, birth date, age, place of birth); (2) active vocabulary in vernacular English (for example: 'How did you come to the court today?' 'What kind of work do you do?' 'Where did you go to school?' 'What was the highest grade you completed?' 'Describe what you see in the courtroom.' 'What have you eaten today?') Questions should be phrased to avoid 'yes' or 'no' replies; (3) the court proceedings (for example: the nature of the charge or the type of case before the court), the purpose of the proceedings and function of the court, the rights of a party or criminal defendant, and the responsibilities of a witness." Standard 2.10(d) calls on the court to state its conclusion on the record regarding the need for an interpreter. "The file in the case should be clearly marked and data entered electronically when appropriate by court personnel to ensure that an interpreter will be present when needed in any subsequent proceeding."

Many people who need an interpreter will not request one because they do not realize that interpreters are available or because they do not recognize the level of English proficiency or communication skills needed to understand the court proceeding. The court can provide some language assistance within its existing funding restrictions and will endeavor to do so for non-mandated proceedings. In a case where the court is mandated to provide an interpreter, but one is not available at the time of the proceeding, the case will be continued to a date when an interpreter can be provided.

## **2. Court Interpreter Qualifications**

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

### **B. Language Services Outside the Courtroom**

The Superior Court of California, County of Sonoma is also responsible for taking reasonable steps to ensure that LEP individuals 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 LEP individuals without an interpreter present. LEP individuals may come in contact with court personnel via the phone, the public counter, in the self-help center, or in the Family Court Services facility.

The two 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 counter by the placement of bilingual staff as is practical. The court also periodically calls on other bilingual staff from elsewhere in the court to assist at a public counter. Similarly, the court’s self-help center recruits and employs bilingual staff to provide self-represented litigants with assistance in understanding and completing necessary forms.

Providing language services outside the courtroom entails both daily communications and interactions between court staff and LEP individuals to provide accessibility of court services, such as self-help and mediation services to LEP court users.

To facilitate communication between LEP individuals and court staff, the Superior Court of California, County of Sonoma uses the following resources to the degree that resources are available:

- Employee court interpreters--to the extent permitted under the active memorandum of understanding--or independent interpreter contractors for mandated services. To the extent funding is provided, the Court will provide LEP support for non-mandated services, such as mediations.

- Spanish –speaking bilingual staff at the public counters;
- Written information in Spanish on how to access and navigate the court;
- Bilingual signage throughout courthouse locations in English and Spanish;
- A court public phone line with key instructions provided in Spanish.

To provide linguistically accessible services for LEP individuals, the Superior Court of California, County of Sonoma provides the following:

- Self-help center services that include: bilingual staff, telephonic language assistance, and volunteers that provide self-help services to LEP persons in Spanish;
- Written informational and educational materials and instructions in Spanish.

### **C. Translated Forms and Documents**

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

These translated forms are available at the court's Web site for internal use and are available to the public at <http://www.courts.ca.gov/selfhelp.htm> 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 <http://www.courts.ca.gov/partners/equalaccess.htm>.

The court provides instructions and assistance in Spanish for the following documents located in the Self Help Center:

- a. Information for Declaration under UCCJEA – used to assist in completing the attached FL-105 regarding the residence history for minor children in a divorce or parentage case;
- b. An explanation of English vocabulary with instructions for FL -142 Schedule of Assets and Debts;
- c. PowerPoint explaining divorce process and forms;
- d. Fax Cover Sheet;
- e. Instructions for various self-help issues – financial information required for child support modifications; history of residence of custody issues; translation of definitions of legal and physical custody; sole and joint custody legal terminology;
- f. Court hours of operation and other community based programs frequently used by self-help litigants;
- g. Declaration of Diligence – translation and instructions for local form PR-7 – explains why a person must ask the court for an order for alternate method of service of process because they have diligently tried to locate the person;
- h. Instructions for service of process for an incarcerated person;
- i. Common vocabulary for Spanish-English forms;
- j. PowerPoint instructions for custody clinic;
- k. Check list for divorce forms in preparing for appointments;
- l. Checklist for child support modification financial forms before an appointment; and

- m. Checklist for paternity custody forms to be used before an appointment.

The court provides instructions and help in Spanish for the following documents located in Family Court Services:

- a. Intake Form;
- b. Domestic violence procedure form;
- c. Domestic violence acknowledgment form;
- d. Informational sheet on Family Court Services mediation;
- e. Support person form;
- f. Referral form FL017;
- g. Evaluation questionnaire;
- h. Any correspondence (i.e., letters) that need to convey important information to parties regarding their appointments, if telephone contact is not an option;
- i. Orientation handbook;
- j. Orientation evaluation form; and
- k. Orientation slide show

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

#### **IV. Court Staff Recruitment**

##### **Recruitment of Bilingual Staff for Language Access**

The Superior Court of California, County of Sonoma is an equal opportunity employer and recruits and hires bilingual staff to serve its LEP constituents. Primary examples include but are not limited to:

- Court interpreters to serve as permanent employees of the court;
- Bilingual staff to serve at public counters;
- Bilingual staff in the court's self-help centers; and,
- Bilingual staff that is on call to assist with contacts from LEP individuals, as needed.

#### **V. Public Notification and Evaluation of LEP Plan**

##### **A. LEP Plan Approval and Notification**

The Superior Court of California, County of Sonoma's LEP plan is subject to approval by the presiding judge and court executive officer. Upon approval, a copy will be forwarded to the AOC, LEP Coordinator. Any revisions to the plan will be submitted to the presiding judge and court executive officer for approval, and then forwarded to the AOC. Copies of Superior Court of California, County of Sonoma's LEP plan will be provided to the public on request. In addition, the court will post this plan on its public website, and the AOC will post a link to it on the Judicial Council's public Web site at <http://www.courts.ca.gov/>.

##### **B. Annual Evaluation of the LEP Plan**

The Superior Court California, County of Sonoma will routinely assess whether changes to the LEP plan are needed. The plan may be changed or updated at any time but reviewed not less frequently than once a year. Each year, the Court Operations Manager responsible for the Court Interpreter Unit will review the effectiveness of the court's LEP plan and update it as necessary. The evaluation will

include identification of any problem areas and development of remedial action strategies, to extent necessary. This assessment will be based, in part, on feedback received from customers, court employees, judges and other judicial officers.

**C. Trial Court LEP Plan Coordinator:**

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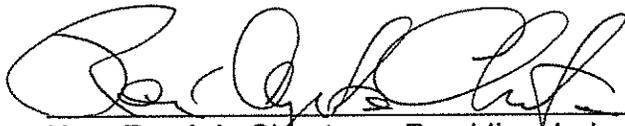
**D. LEP Plan effective date:** 01/15/2009

**E. LEP Plan revised:** 04/15/2013

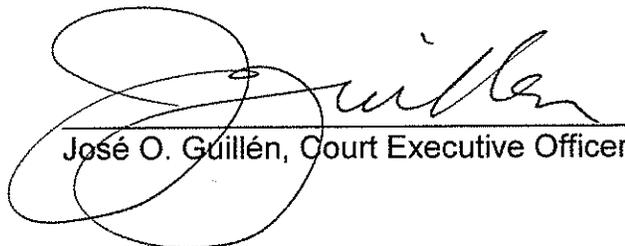
**F. Approved by:**

**Presiding Judge:** Hon. René A. Chouteau  
**Court Executive Officer:** José O. Guillén

Date: 04/15/2013  
Date: 04/15/2013



Hon. René A. Chouteau, Presiding Judge



José O. Guillén, Court Executive Officer

## 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 bulleted items below regarding interpreters in small claims matters.)

Witnesses with limited English proficiency must also be provided with an interpreter. Under Evidence Code section 752, the court must appoint an interpreter whenever “a witness is incapable of understanding the English language or is incapable of expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury. . . .” Appointment of a translator is also required whenever “the written characters in a writing offered in evidence are incapable of being deciphered or understood directly.” (Evid. Code, § 753.)

In small claims proceedings, if the court determines that a litigant does not speak or understand English sufficiently to comprehend the proceedings or give testimony and needs assistance in doing so, the court may permit another individual (other than an attorney) to assist that party. (Code Civ. Proc., § 116.550(a).) If a competent interpreter is not available at the first hearing of the case, the small claims court shall postpone the hearing one time only to allow the party the opportunity to obtain another individual to assist that party. Any additional continuances shall be at the court’s discretion. (Code Civ. Proc., § 116.550(b)). Rule 3.61 (5) of the California Rules of Court provides that any costs for a court-appointed interpreter in a small claims action must be waived if an application to proceed in forma pauperis is granted.

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