

Superior Court of California, County of San Bernardino

Limited English Proficiency (LEP) Plan

I. Legal Basis and Purpose

This document serves as the plan for the Superior Court of San Bernardino County 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 San Bernardino County.

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 January 2015 Language Need and Interpreter Use Study prepared by the National Center for State Courts for the Judicial Council of California (JCC), the most frequently used languages for interpreters in California courts are (in descending order of frequency):

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

B. Superior Court of San Bernardino County

The Superior Court of San Bernardino County will make every effort to provide services to all LEP persons. The following list shows the most frequently used spoken languages in 2015 in this court's geographic area.

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

This information is based on data collected from the JCC Court Interpreters Data Collection System (CIDCS).

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 San Bernardino County, interpreters will be provided at no cost to court users who need such assistance under the following circumstances:

- For litigants and witnesses in criminal (including traffic) hearings;
- For litigants and witnesses in juvenile dependency and delinquency hearings;
- For litigants and witnesses in mental competency hearings or other matters in which an interpreter at court cost is required by other state or federal laws (mandated case types);
- For litigants and witnesses in hearings involving domestic violence and elder abuse, and civil harassment cases under Code of Civil Procedure §527.6(w).

Additionally, courts may use interpreters who are providing mandated interpreting services for issues such as criminal or juvenile cases in civil matters, as funding is available pursuant to the priority order set forth in Evidence Code §756.

The Superior Court of San Bernardino County recognizes the significant benefits to both the public and the court by providing interpreters in civil cases and will attempt whenever possible to provide such interpreters if they are available and no longer needed for the mandated areas and 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.

2. Determining the Need for an Interpreter in the Courtroom

The Superior Court of San Bernardino County tries to determine whether an LEP court user

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 counter staff, self-help center staff, family court services, or outside justice partners such as local attorneys, law enforcement agencies, district attorney, public defender, conflict panel, department of social services, juvenile defense panel, probation, county counsel, or correctional facilities staff.

The need for an interpreter may be made known in the courtroom at the time of the proceeding, at which time the judge would determine the need for an interpreter for a court matter and request an interpreter to be present.

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 court proceedings. The National Center for State Courts developed a model notice for LEP court users in plain language and containing a graphic symbol that represents language access services. It may be produced as a poster, leaflet or any number of other formats. In order to inform court users about the availability of language access

services, once the model notice is formatted and translated, the Superior Court of San Bernardino County will display it in all clerk's offices courtwide, Self-Help Resource Centers, and Family Court Services.

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

The court does not have funding to provide interpreters for all non-mandated proceedings. However, the court can provide some assistance within existing funding restrictions and will endeavor to do so for non-mandated proceedings.

When an interpreter is unavailable for a case in which the court is not mandated to provide one, but one is not expected to be available, the court will continue the case to allow the party time to bring an interpreter to assist in the court proceeding or use bilingual volunteers, a friend or relative for assistance.

3. Court Interpreter Qualifications

The Superior Court of San Bernardino County 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 JCC maintains a statewide roster of certified and registered interpreters who may work in the courts. This roster is available on the Internet at: www.courtinfo.ca.gov/programs/courtinterpreters/master.htm for use by court staff and the public.

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 San Bernardino County 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, or self-help center staff.

The three most common points of service outside the courtroom are at the court's public counters, jury assembly rooms and self-help centers. Bilingual assistance is provided at the public counter and jury assembly rooms by the placement of bilingual staff as is practical. The court also periodically calls on other bilingual staff as bilingual resources are available, and by using an internal roster to contact bilingual staff from elsewhere in the court to assist. Similarly, the court's Self-Help Resource Center 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 family court services.

The Memorandum of Understanding with the California Federation of Interpreters allows them to assist the clerical staff with interpreting between the court user and court staff at the Clerk's Office, Self-Help Resource Center, Family Court Services, and at any other court unit when not interpreting for court proceedings.

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

- Court interpreters, to the extent permitted under the active memorandum of understanding or independent interpreter contract;
- Bilingual employees in Spanish and Mandarin;
- Bilingual family members, friends or other court users who volunteer to interpret for the LEP individual at the public counter or in small claims court;
- Internal phone list of bilingual employees courtwide who may provide assistance to LEP court user when necessary.
- Telephonic interpreting service (Language Line), which is available to provide assistance in the clerk's offices, Family Court Services and at the court's Self-Help Resource Center. The service provides interpretation services via the telephone in over 240 languages.
- Court staff trying to determine the language of a court user is speaking can assist that LEP individual by using the court's Language ID Guide. The guide displays the top 99 common languages, grouped by the geographical region of the world, to allow the LEP individual to point at their native language.

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

- Permanent flagging of cases in the case management system with interpreter needs as

- soon as they are identified;
- Bilingual Child Custody Recommending Counselors (Spanish) for custody and visitation matters;
- Court phone system with the option to hear information in Spanish;
- Self-Help Resource Center services that include bilingual self-help center staff, telephonic language assistance and volunteers that provide self-help services to LEP persons in their primary language;
- Family Court Services Orientation 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 San Bernardino County currently uses JCC forms and instructional materials translated into commonly used languages.

- These translated forms are available at the court's Web site for internal use.
- Translated self-help information is available to the public at <http://www.courts.ca.gov/selfhelp-languages.htm>.
- The court also has access to instructional materials that have been translated by other courts at <http://www.courts.ca.gov/partners/305.htm>.
- The court has translated the following documents into Spanish:
 - What is an Unlawful Detainer Action?
 - How to Answer Your Unlawful Detainer
 - Your Next Step – Landlord/Plaintiff's Checklist
 - Your Next Step – Tenant/Defendant's Checklist
 - Service of Process
 - Naming Parties (Small Claims)
 - How to Collect Your Judgment

These documents are available at information display areas courtwide or upon request from Self-Help Resource Center staff.

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

IV. Recruitment of Bilingual Staff for Language Access

The Superior Court of San Bernardino County 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 and in the Self-Help Resource Centers; and,
- Bilingual staff that is on call to assist with contacts from LEP individuals, as needed.

V. Judicial and Staff Training:

The Superior Court of San Bernardino County is committed to providing LEP training opportunities for all judicial officers and staff members. Training and learning opportunities currently offered by the Superior Court of San Bernardino County will be expanded or continued as needed. These opportunities include, but are not limited to:

- Interpreter coordinator training;
- Beyond Bias Training;
- Customer Service Training;
- CORE Training;
- LEP plan training;
- Statewide conferences on language access or conferences that include sessions dedicated to topics on language access;
- New employee orientation training; and,
- Judicial officer orientation on the use of court interpreters and language competency

VI. Public Outreach and Education

To communicate with the court's LEP constituents on various legal issues of importance to the community and to make them aware of services available to all language speakers, the Superior Court of San Bernardino County provides community outreach and education and seeks input from its LEP constituency to further improve services. Outreach and education efforts have included:

- Court-Clergy Community Meeting
- Inland Counties Association of Paralegals
- Participation in career fairs at local universities, colleges, and community organizations to raise awareness about opportunities to use bilingual skills with the court

VII. Public Notification and Evaluation of LEP Plan

A. LEP Plan Approval and Notification

The Superior Court of San Bernardino County's LEP plan is subject to approval by the presiding judge and court executive officer. Upon approval, a copy will be forwarded to the JCC 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 JCC. Copies of Superior Court of San Bernardino County's LEP plan will be provided to the public on request. In addition, the court will post this plan on its public Web site, and the JCC will post a link to it on its public Web site at www.courtinfo.ca.gov.

B. Annual Evaluation of the LEP Plan

The Superior Court of San Bernardino County 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's LEP Plan Coordinator 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 corrective action strategies. Elements of the evaluation will include:

- Number of LEP persons requesting court interpreters and language assistance;
- Assessment of current language needs to determine if additional services or translated materials should be provided;
- Solicitation and review of feedback from LEP communities within the county;
- 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; and,
- Customer satisfaction feedback.

C. Trial Court LEP Plan Coordinator:

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Superior Court of California, County of San Bernardino
Interpreter Services
247 W. Third Street
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(909) 708-8816, JDeLaCruz@sb-court.org

D. JCC LEP Plan Coordinator:


Manager of Statewide Language Access Coordination
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688
(415) 865-7783

E. LEP Plan Effective Date

The LEP Plan Effective Date is July 1, 2016.

This plan is approved.

Effective: July 1, 2016.



Raymond L. Haight III
Presiding Judge

Date: 9/1/16



Nancy CS Eberhardt
Interim Court Executive Officer

Date: 9-1-16

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 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.
- 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. It provides that if sufficient funds are not appropriate 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) or 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 Welfare and Institutions Code §15600).
7. All other actions and proceedings related to family law.
8. All other civil actions or proceedings.