

1 **Superior Court of Santa Cruz County**
2 **Limited English Proficiency (LEP) Plan**
3
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5 **I. Legal Basis and Purpose**
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7 This document serves as the plan for the Superior Court of Santa Cruz County (“Court”) to
8 provide to persons with limited English proficiency (LEP) services that are in compliance with
9 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
10 28 C.F.R. § 42.101–42.112). The purpose of this plan is to provide a framework for the provision
11 of timely and reasonable language assistance to LEP persons who come in contact with the
12 Court.
13

14 This plan was developed to ensure meaningful access to court services for persons with limited
15 English proficiency. Although interpreters are provided for persons with a hearing loss, access
16 services for them are covered under the Americans with Disabilities Act rather than Title VI of
17 the Civil Rights Act, and therefore will not be addressed in this plan.
18

19 **II. Needs Assessment**

20 **A. Statewide**

21 The State of California provides court services to a wide range of people, including those who
22 speak limited or no English. Service providers include the California Supreme Court, the Courts
23 of Appeal, and the superior courts of the 58 counties.
24

25 According to the Administrative Office of the Courts (AOC) Court Interpreter Data Collection
26 System (CIDCS), which aggregates court interpreter usage data received from the California trial
27 courts, the most frequently used languages for interpreters in California courts in 2005 were (in
28 descending order of frequency):
29

- 30 1. Spanish
 - 31 2. Vietnamese
 - 32 3. Korean
 - 33 4. Armenian
 - 34 5. Mandarin
- 35
36

37 **B. Superior Court of Santa Cruz County**
38

39 The Court will make every effort to provide services to all LEP persons; however, the following
40 list shows the foreign languages that are most frequently used in Santa Cruz:
41

- 42 1. Spanish
- 43 2. Mayan languages
- 44 3. American Sign Language

45 4. Mandarin

46 5. Japanese

47

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

50

51 **III. Language Assistance Resources**

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

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

54

55 Providing spoken-language interpreters in court proceedings are based in whole or in part on
56 statutory and case law. (See Attachment A) Interpreters will be provided in court at no cost to
57 court users who need assistance under the following circumstances:

- 58 • For litigants and witnesses in criminal hearings;
- 59 • For litigants and witnesses in juvenile hearings
- 60 • For litigants and witnesses in hearings involving domestic violence, elder abuse,
61 proceedings involving parental rights, dissolution of marriage, or legal separation
62 involving a protective order, and child support cases, to the extent that funding is
63 provided; and,
- 64 • For litigants who need assistance when using family court services, to the extent that
65 funding is provided.

66

67 Responsibility for the cost for spoken-language interpreters for litigants and witnesses in other
68 civil proceedings will be determined at the discretion of the Court. Additionally, courts may use
69 interpreters who are providing mandated interpreting services for issues such as criminal or
70 juvenile cases for incidental use in civil courtrooms at its discretion, however, the public is
71 instructed to bring their own interpreter in most of these cases.

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

73

74 The Court may determine whether an LEP court user needs an interpreter for a court hearing in
75 various ways.

76

77 The need for a court interpreter may be identified prior to a court proceeding by the LEP person
78 or on the LEP person's behalf by counter staff, Self-Help Center staff, family court services, or
79 outside justice partners such as probation, police/sheriff, child protection or district attorneys for
80 early identification of interpreter needs.

81

82 The need for an interpreter also may be made known in the courtroom at the time of the
83 proceeding. The Court will display a sign translated into the five most frequently used languages

84 that states: “You may have the right to a court-appointed interpreter in a court case. Please check
85 with a court employee for assistance.”

86

87 Also, the judge may determine that it is appropriate to provide an interpreter for a court matter.
88 California’s Standards of Judicial Administration offer instruction to judges for determining
89 whether an interpreter is needed. Section 2.10 provides that an “interpreter is needed if, after an
90 examination of the party or a witness, the court concludes that:

- 91 (1) The party cannot understand and speak English well enough to participate fully in
92 the proceedings and to assist counsel; or
93 (2) The witness cannot speak English so as to be understood directly by counsel, court,
94 and jury.”

95

96 The Court is directed to examine the party or witness “on the record to determine whether an
97 interpreter is needed if:

- 98 (1) A party or counsel requests such examination; or
99 (2) It appears to the court that the person may not understand or speak English well
100 enough to participate fully in the proceedings.”

101

102 To determine if an interpreter is needed, Standard 2.10(c) provides that “the court should
103 normally ask questions on the following:

- 104 (1) Identification (for example: name, address, birth date, age, place of birth);
105 (2) Active vocabulary in vernacular English (for example: ‘How did you come to the
106 court today?’ ‘What kind of work do you do?’ ‘Where did you go to school?’ Questions
107 should be phrased to avoid ‘yes’ or ‘no’ replies;
108 (3) The Court proceedings (for example: the nature of the charge or the type of case
109 before the court), the purpose of the proceedings and function of the court, the rights of a
110 party or criminal defendant, and the responsibilities of a witness.”

111

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

116

117 Many people who need an interpreter will not request one because they do not realize that
118 interpreters are available or because they do not recognize the level of English proficiency or
119 communication skills needed to understand the court proceeding. The Court does not have
120 funding to provide interpreters for non-mandated proceedings. However, the Court may provide
121 some assistance within existing funding restrictions and may endeavor to do so for non-
122 mandated proceedings at its discretion.

123

124 In a case where the Court is mandated to provide an interpreter, but one is not available at the

125 time of the proceeding, even after the Court has made all reasonable efforts to locate one, as
126 previously outlined in this plan, the case will be postponed and continued to a date when an
127 interpreter can be provided. When an interpreter is unavailable for a case in which the
128 Court is not mandated to provide one, the Court may take the following actions: asks the party to
129 provide their own interpreter and may continue the matter to a date when the party can bring in
130 an interpreter.

131

132 **2. Court Interpreter Qualifications**

133

134 The Court hires interpreters for courtroom hearings in compliance with the rules and policies set
135 forth by Government Code section 68561 and California Rules of Court, rule 2.893. The AOC
136 maintains a statewide roster of certified and registered interpreters who may work in the courts.
137 This roster is available to Court staff and the public on the Internet at
138 *www.courts.ca.gov/programs/courtinterpreters/master.htm*.

139

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

149

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

151

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

157

158 The two most common points of service outside the courtroom are at the Court’s public counters
159 and Self-Help Center. Bilingual assistance is provided at the public counter by the placement of
160 bilingual staff as is practical. The Court also periodically calls on other bilingual staff from
161 elsewhere in the Court to assist at a public counter. Similarly, the Court’s Self-Help Center
162 recruits and employs bilingual staff to provide self-represented litigants with assistance in
163 understanding and completing necessary forms.

164

165 Providing language services outside the courtroom entails both daily communications and
166 interactions between Court staff and LEP individuals to provide accessibility of court services,
167 such as Self-Help and mediation services to LEP court users.

168
169 To facilitate communication between LEP individuals and Court staff, the Court uses the
170 following resources to the degree that resources are available:

- 171 • Bilingual employees and volunteers – The Court has some bilingual employees and to a
172 lesser extent volunteers in Spanish;
- 173 • Multilingual signage throughout the Watsonville courthouse in the following languages:
174 *Spanish*
- 175 • *Language Line* services, which are available to provide assistance in the clerk’s office
176 and at the court’s Self-Help Center. (*Language Line* contract services provides
177 interpretation services via the telephone in over 170 languages);
- 178 • Some public phone instructions provided in Spanish; and
- 179 • Court interpreters, to the extent permitted under the active memorandum of
180 understanding or independent interpreter contract.

181 To provide linguistically accessible services for LEP individuals, the Court provides the
182 following:

- 183 • Self-Help Center employs some bilingual staff who speak both English and Spanish. The
184 Self Help Center also works with the *Language Access to Court Project* (LAC), a joint
185 project between the Watsonville Law Center and the Santa Cruz County Superior Court.
186 LAC provides Spanish-speaking, self-represented litigants language access to the courts
187 through the provision of in-language legal information and assistance with court forms
188 and pleadings at the Court's Self-Help Center. LAC does NOT provide legal
189 representation, and may assist multiple parties in obtaining access to forms and
190 information;
- 191 • Family Court mediators use court interpreters for custody and visitation matters;
- 192 • Joint workshops between Self-Help Center staff and community service providers serving
193 LEP populations; and,
- 194 • Written informational and educational materials and instructions in Spanish

195
196 **C. Translated Forms and Documents**
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198 The California courts understand the importance of translating forms and documents so that LEP
199 individuals have greater access to the courts’ services. The Court currently uses Judicial Council
200 forms and instructional materials translated into commonly used languages.

- 201
202 • These translated forms are available at the court’s Web site for internal use and are
203 available to the public at www.courts.ca.gov/selfhelp/languages as well as at the Court’s
204 Self-Help Center;
- 205
206 • The Court also has access to instructional materials that have been translated by other
207 courts at www.courts.ca.gov/programs/equalaccess/trans.htm.

208
209 Interpreters at court hearings are expected to provide sight translations of court documents and
210 correspondence associated with the case.

211
212

213 **IV. Court Staff and Volunteer Recruitment**

214 **A. Recruitment of Bilingual Staff for Language Access**

215 The Court is an equal opportunity employer and recruits and hires bilingual staff to serve its LEP
216 constituents. Primary examples include but are not limited to the following:

- 217
- Court interpreters to serve as permanent employees of the court;
 - 218 • Bilingual staff to serve at public counters;
 - 219 • Bilingual staff in the Self-Help Center; and
 - 220 • Bilingual staff to assist with contacts from LEP individuals, as needed.

221

222 **B. Recruitment of Volunteers for Language Access**

223 The Court also recruits and uses volunteers to assist LEP individuals with language access in the
224 Self-Help Center.

225

226 **V. Judicial and Staff Training**

227

228 The Court is committed to providing LEP training opportunities for all judicial officers and staff
229 members. Staff is instructed about LEP policies and procedures, as described in this LEP on an
230 annual basis and the Court may provide the following:

- 231
- Diversity training;
 - 232 • Cultural competency training;
 - 233 • LEP plan training; and
 - 234 • New employee orientation training; and, judicial officer orientation on the use of court
235 interpreters and language competency.

236

237 **VI. Public Notification and Evaluation of LEP Plan**

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

240 The Court's LEP plan is subject to approval by the Presiding Judge and Court Executive Officer.
241 Upon approval, a copy will be forwarded to the AOC, LEP Coordinator. Any revisions to the
242 plan will be submitted to the Presiding Judge and Court Executive Officer for approval, and then
243 forwarded to the AOC. Copies of Superior Court of Santa Cruz County's LEP plan will be
244 provided to the public on request. In addition, the Court will post this plan on its public Web site,
245 and the AOC will post a link to it on the Judicial Council's public Web site at

246 *www.courts.ca.gov.*

247

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

249 The Court routinely assesses whether changes to the LEP plan are needed. The plan may be
250 changed or updated at any time but reviewed not less frequently than once a year.

251

252 Each year the court's Administrative Services Manager will review the effectiveness of the
253 Court's LEP plan and update it as necessary. The evaluation will include identification of any
254 problem areas and development of corrective action strategies. Elements of the review may also
255 include the following:

- 256 • Number of LEP persons requesting court interpreters;
- 257 • Assessment of current language needs to determine if additional services or translated
258 materials are needed;
- 259 • Assessment of whether Court staff adequately understand LEP policies and procedures
260 and how to carry them out; and
- 261 • Review of feedback from Court employee training sessions.

262

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

264

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266 Administrative Services Manager
267 701 Ocean Street, Room 120
268 Santa Cruz, CA 95060
269 (831)-420-2332 tim.newman@santacruzcourt.org

270

271 **D. AOC LEP Plan Coordinator:**

272

273 Mark Garcia
274 Senior Court Services Analyst
275 Equal Access Program
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280

281 **E. LEP Plan Effective date:** October 31, 2008

282 **F. Approved by:**

283

284 Presiding Judge: Jeffrey Almquist Date: 06/2011 (revised)

285

286

Court Executive Officer: Alex Calvo Date: 06/2011 (revised)

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.