

1 **Superior Court of Mono County**

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

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6 **I. Legal Basis and Purpose**

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

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

23
24 **II. Needs Assessment**

25 **A. Statewide**

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

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

- 36
37 1. Spanish
38 2. Vietnamese
39 3. Mandarin

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42 **B. Superior Court of Mono County**

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44 The Superior Court of Mono County makes every effort to provide

45 services to all LEP persons. However, Mono County is a remote
46 rural area that is sparsely populated, where the predominant
47 language is overwhelmingly English. According to United States
48 Census Bureau data, Spanish is the next most frequently used
49 language. Due to the lack of available bilingual resources in the
50 area, providing services can be challenging. However, the court
51 takes LEP person's needs seriously and attempts to make every
52 reasonable effort to provide meaningful access to them.

53
54 According to the United States 2000 census for Mono County,
55 2,104 people or 17.4 percent of the people five years of age and
56 older over speak a language other than English. Of these, 1,113
57 people reported speaking English less than very well, with 1,050
58 speaking Spanish, 30 speaking an indo-European language, 15
59 speaking an Asian or Pacific Island language and 18 speaking
60 something else.

61 **III. Language Assistance Resources**

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

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

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

- 70 • For litigants and witnesses in criminal hearings;
- 71 • For litigants and witnesses in juvenile hearings;
- 72 • For litigants and witnesses in hearings involving domestic
73 violence and elder abuse, family law and child support
74 cases, to the extent that funding is provided; and,
- 75 • For litigants who need assistance when using family court
76 services, to the extent that funding is provided.

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78
79 Responsibility for the cost for spoken-language interpreters for
80 litigants and witnesses in other civil proceedings will be
81 determined at the discretion of the officiating judge. Additionally,
82 courts may use interpreters who are providing mandated
83 interpreting services for issues such as criminal or juvenile cases for
84 incidental use in civil courtrooms. The Superior Court of Mono
85 County recognizes the significant benefits to both the public and
86 the court by providing interpreters in civil cases and will attempt

87 whenever possible to provide such interpreters through incidental
88 use.

89

90 **2. Determining the Need for an Interpreter**
91 **in the Courtroom**

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93 The Superior Court of Mono County may determine whether an
94 LEP customer needs an interpreter for a court hearing in
95 various ways.

96

97 The need for a court interpreter may be identified prior to a court
98 proceeding by the LEP person or on the LEP person's behalf by
99 counter staff, self-help center staff, family court services, or
100 outside justice partners.

101

102 The need for an interpreter may also be made known in the
103 courtroom at the time of the proceeding. The judge may determine
104 that it is appropriate to provide an interpreter for a court matter.
105 California's Standards of Judicial Administration offer instruction
106 to judges for determining whether an interpreter is needed. Section
107 2.10 provides that an "interpreter is needed if, after an examination
108 of the party or a witness, the court concludes that: (1) the party
109 cannot understand and speak English well enough to participate
110 fully in the proceedings and to assist counsel, or (2) the witness
111 cannot speak English so as to be understood directly by counsel,
112 court, and jury." The court is directed to examine the party or
113 witness "on the record to determine whether an interpreter is
114 needed if: (1) a party or counsel requests such examination or (2) it
115 appears to the court that the person may not understand or speak
116 English well enough to participate fully in the proceedings."

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

130
131 Standard 2.10(d) calls on the court to state its conclusion on the
132 record regarding the need for an interpreter. “The file in the case
133 should be clearly marked and data entered electronically when
134 appropriate by court personnel to ensure that an interpreter will be
135 present when needed in any subsequent proceeding.”

136
137 Many people who need an interpreter will not request one because
138 they do not realize that interpreters are available or because they
139 do not recognize the level of English proficiency or
140 communication skills needed to understand the court proceeding.
141 The court does not have funding to provide interpreters for non-
142 mandated proceedings. However, the court can provide some
143 assistance within existing funding restrictions and will endeavor to
144 do so for non-mandated proceedings.

145
146 In a case where the court is mandated to provide an interpreter, but
147 one is not available at the time of the proceeding, even after the
148 court has made all reasonable efforts to locate one, as outlined in
149 this plan, the case will be postponed and continued on a date when
150 an interpreter can be provided. The AOC will be developing a
151 generic continuance form that will be translated into several
152 frequently used languages and will be providing them to the trial
153 courts for their use.

154
155 When an interpreter is unavailable for a case in which the court is
156 not mandated to provide one, the court determines and follows the
157 best option that is appropriate for the situation, including:

- 158 • Appointing an individual to act as an interpreter for the
159 proceeding;
- 160 • Continuing the proceeding to a day when the calendar
161 shows the incidental availability of an interpreter for that
162 language; or
- 163 • Continuing the proceeding and informing the party that
164 they must provide an interpreter at their own expense.

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167 **3. Court Interpreter Qualifications**

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169 The Superior Court of Mono County hires interpreters for
170 courtroom hearings in compliance with the rules and policies set
171 forth by Government Code section 68561 and California Rules of
172 Court, rule 2.893. The AOC maintains a statewide roster of
173 certified and registered interpreters who may work in the courts.

174 This roster is available to court staff and the public on the Internet
175 at www.courtinfo.ca.gov/programs/courtinterpreters/master.htm.

176
177 When the court has made a “due diligence” effort to find a certified
178 or registered court interpreter and none is available, the court then
179 seeks a noncertified or nonregistered court interpreter, in
180 accordance with the governing local labor agreement. Whenever a
181 noncertified interpreter is used in the courtroom, to either
182 provisionally qualify the interpreter or find cause to permit him or
183 her to interpret the proceeding, judges must, pursuant to rule 2.893,
184 inquire into the interpreter’s skills, professional experience, and
185 potential conflicts of interest. A provisionally qualified interpreter
186 is one who, upon findings prescribed in the rule, is designated by
187 the judge as eligible to interpret in a criminal or juvenile
188 delinquency proceeding for a period of six months.

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

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192 The Superior Court of Mono County is also responsible for taking
193 reasonable steps to ensure that LEP individuals have meaningful
194 access to services outside the courtroom. This is perhaps the most
195 challenging situation facing court staff, because in most situations
196 they are charged with assisting LEP individuals without an
197 interpreter present. LEP individuals may come in contact with
198 court personnel via the phone, the public counter, or other means.

199

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

- 203 • Court interpreters, to the extent permitted under the active
204 memorandum of understanding or independent interpreter
205 contract;
- 206 • Bilingual employees;
- 207 • “I Speak” cards, to identify the individual’s primary
208 language;
- 209 • Multilingual signage is being developed by the AOC and a
210 working group of trial courts. Once available, signage with
211 applicable messages for this court will be posted in the
212 court in [list languages];
- 213 • Language Line services, which are available to provide
214 assistance in the clerk’s office and at the court’s self-help
215 center and court mediation services. The Language Line
216 contract services provides interpretation services via the
217 telephone in over 170 languages; and,

- 218 • Bilingual family court services mediators for custody and
219 visitation matters.
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222 **C. Translated Forms and Documents**

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224 The California courts understand the importance of translating
225 forms and documents so that LEP individuals have greater access
226 to the courts’ services. The Superior Court of Mono County and
227 the public have access to Judicial Council forms and instructional
228 materials translated into commonly used languages at
229 www.courtinfo.ca.gov/selfhelp/languages. The court also has
230 access to instructional materials that have been translated by other
231 courts at www.courtinfo.ca.gov/programs/equalaccess/trans.htm.

232
233 Interpreters at court hearings are expected to provide sight
234 translations of court documents and correspondence associated
235 with the case.

236
237 **IV. Bilingual Court Staff**

238 The Superior Court of Mono County is an equal opportunity
239 employer and recruits and hires bilingual staff to serve its LEP
240 constituents whenever possible. The court also looks for
241 opportunities to include bilingual skills in any contractor that
242 provides self-help assistance.

243
244 **V. Judicial and Staff Training:**

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246 The Superior Court of Mono County is committed to providing
247 LEP training opportunities for all judicial officers and staff
248 members. Training and learning opportunities currently offered by
249 the Superior Court of Mono County will be expanded or continued
250 as needed. Those opportunities include:

- 251 • Diversity Training;
252 • Cultural competency training;
253 • LEP plan training;
254 • Statewide conferences on language access or conferences
255 that include sessions dedicated to topics on language
256 access, when offered;
257 • New employee orientation training; and,
258 • Judicial officer orientation on the use of court interpreters
259 and language competency.
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VI. Public Notification and Evaluation of LEP Plan

A. LEP Plan Approval and Notification

The Superior Court of Mono 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 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 Mono 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 AOC will post a link to it on the Judicial Council’s public Web site at www.courtinfo.ca.gov.

B. Annual Evaluation of the LEP Plan

The Superior Court of Mono 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 court staff will review and consider the effectiveness of the court’s LEP plan and update it as necessary.

In reviewing the plan the following points will be considered:

- Any related changes in court procedures or in the LEP public’s needs;
- Changes in the numbers of LEP persons requesting services;
- Changes in applicable technology that might be made available to the court;
- Review of services and translated materials provided; and,
- Consideration of feedback provided about the court’s LEP services;

C. Trial Court LEP Plan Coordinator:

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317

318 **E. LEP Plan Effective date: October 1, 2012**
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321 **F. Approved by:**
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323 Presiding Judge: [] Date:
324 []

325
326 Court Executive Officer: [] Date:
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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.